



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Appeal of Planning Case No. 2011.1300E 901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street Project

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**DATE:** July 18, 2016

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

**FROM:** Sarah B. Jones, Environmental Review Officer – (415) 575-9034

Chris Thomas, Environmental Coordinator – (415) 575-9036

Wade Wietgreffe, Senior Planner – (415) 575-9050

**RE:** File No. 160683, Planning Department Case No. 2011.1300E – Appeal of the Environmental Impact Report Certification for 901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street Project. Block/Lot: 3949/001, 001A, 002, and 3950/001

**PROJECT SPONSOR:** Josh Smith, Potrero Partners, LLC

**APPELLANT:** Save the Hill (Rod Minott) and Grow Potrero Responsibly (Alison Heath)

**HEARING DATE:** July 26, 2016

**ATTACHMENTS:** A – Appeal letter(s)

B – Planning Commission Motion 19643 (Certification)

C – Planning Commission Motion 19644 (CEQA Findings)

---

### INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the Board) regarding the issuance of a Final Environmental Impact Report (final EIR) under the California Environmental Quality Act (“CEQA Determination”) for the 901 16th Street and 1200 17th Street project (the proposed project). The final EIR was certified by the Planning Commission (the Commission) on May 12, 2016. The appeal to the Board was filed on June 10, 2016 by Rachel Mansfield-Howlett on behalf of Appellants Save the Hill and Grow Potrero Responsibly.

The two-page appeal letter from Ms. Mansfield-Howlett incorporates by reference two letters sent to the Planning Commission from the Appellants prior to the May 12, 2016 hearing as evidence in support of

the appeal: a May 1, 2016 letter from Alison Heath on behalf of Grow Potrero Responsibly and a May 4, 2016 letter from Rodney Minott on behalf of Save The Hill (see Exhibit B). Numerous other letters and emails (supporting materials) are also incorporated by reference in Exhibit B to the June 10, 2016 appeal letter as evidence in support of the appeal. Additional material was sent to the Board of Supervisors by Ms. Mansfield-Howlett on July 15, 2016, including an 18-page cover letter that contains a variety of evidence in support of the Appellant's appeal. The appeal letter is included with this Appeal Response as Attachment A. The final EIR, which consists of the draft Environmental Impact Report (draft EIR) and the Response to Comments (RTC) document, was provided to the Clerk of the Board on July 6, 2016.

The decision before the Board is whether to uphold the certification of the final EIR by the Commission and deny the appeal, or to overturn the Commission's decision to certify the final EIR and return the project to the Planning Department for additional environmental review.

For the reasons set forth in this Appeal Response, the Planning Department believes that the final EIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, and provides an adequate, accurate, and objective analysis of the potential environmental impacts of the proposed project. Therefore, the Planning Department respectfully recommends that the Board uphold the Planning Commission's certification of the final EIR.

The appeal letter also purports to appeal the CEQA Findings adopted by the Planning Commission on May 12, 2016, as part of the Commission's approval of a Large Project Authorization for the proposed project. However, Large Project Authorization approvals are appealable to the Board of Appeals within 15 days of the Commission action pursuant to Planning Code Section 329(e)(5), not to the Board of Supervisors. No party, including Appellants, appealed the Large Project Authorization approval (and its incorporated CEQA Findings) to the Board of Appeals within 15 days of May 12, 2016. Accordingly, the Planning Department respectfully recommends that the Board also reject the purported appeal of the Planning Commission's CEQA Findings.

## SITE DESCRIPTION

The 3.5-acre project site consists of four parcels bounded by 16<sup>th</sup> Street to the north, Mississippi Street to the east, 17<sup>th</sup> Street to the south, and residential and industrial buildings to the west. The project site currently contains four existing buildings: two metal shed industrial warehouse buildings (102,500 square feet), a vacant brick office building (1,240 square feet), and a modular office structure (5,750 square feet). The vacant brick office building was originally constructed by the Pacific Rolling Mill Company in 1926 to house the office functions of the company's steel fabricating operation at the site, while the modular office structure was until recently occupied by the Cor-O-Van Moving and Storage Company. In total, the four existing buildings encompass approximately 109,500 gross square feet. Surrounding the modular office structure is an open surface parking lot which is also used for access by the University of California, San Francisco to its on-site storage.

## PROJECT DESCRIPTION

The proposed project would merge four lots into two lots, demolish two metal shed warehouses and a modular office structure, preserve the brick office building, and construct two new mixed use buildings on site. The “16<sup>th</sup> Street Building” at 901 16<sup>th</sup> Street would consist of a new six-story, approximately 402,943 gross square foot residential mixed use building with 260 dwelling units and 20,318 gross square feet of retail on the northern lot. The “17<sup>th</sup> Street Building” at 1200 17<sup>th</sup> Street would consist of a new four-story, approximately 213,509 gross square foot residential mixed use building with 135 dwelling units and 4,650 gross square feet of retail on the southern lot. The historic brick office building would be rehabilitated for retail or restaurant use. Combined, the two new buildings would contain a total of 395 dwelling units and approximately 24,698 gross square feet of retail space, with a total of 388 vehicular parking spaces, 455 off-street bicycle parking spaces, and approximately 14,669 square feet of public open space, 33,149 square feet of common open space shared by project occupants, and 3,114 square feet of open space private to units.

## ENVIRONMENTAL REVIEW PROCESS

An environmental evaluation application (Case No. 2011.1300E) for the proposed project was filed by the project sponsor, Josh Smith of Potrero Partners, LLC on March 23, 2012, and a revised environmental evaluation application was filed on June 17, 2014. CEQA State Guidelines Section 15183 provides an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the proposed project or its site. The project site is located within the Showplace Square / Potrero Subarea of the Eastern Neighborhoods Rezoning and Area Plan (Eastern Neighborhoods Plan), for which a comprehensive program-level EIR was prepared and certified (*Eastern Neighborhoods PEIR*).<sup>1</sup> Therefore, the proposed project was initially evaluated under a Community Plan Exemption (CPE) Checklist (published on February 11, 2015 and included as Appendix A to the draft EIR). The CPE Checklist determined that the proposed project would not result in new, project-specific environmental impacts, or impacts of greater severity than were already analyzed and disclosed in the *Eastern Neighborhoods PEIR* for the following issue topics: land use and land use planning; aesthetics; population and housing; paleontological and archeological resources; noise; air quality; greenhouse gas emissions; wind and shadow; recreation; utilities and service systems; public services; biological resources; geology and soils; hydrology and water quality; hazards and hazardous materials; mineral and energy resources; and agriculture and forest resources. The CPE Checklist incorporated seven Mitigation Measures from the *Eastern Neighborhoods PEIR* to avoid impacts previously identified in the *PEIR* with regard to archeological resources, air quality, noise, and hazardous materials. The CPE Checklist further

---

<sup>1</sup> San Francisco Planning Department. San Francisco Planning Commission Motion 17659, August 7, 2008. The *Eastern Neighborhoods PEIR* is included in the Board of Supervisors files.

determined that a focused EIR would be prepared to address potential project-specific impacts to transportation and circulation and historic architectural resources that were not identified by the *Eastern Neighborhoods PEIR*.

Pursuant to and in accordance with the requirements of Section 21094 of CEQA and Sections 15063 and 15082 of the CEQA Guidelines, the San Francisco Planning Department, as lead agency, published and circulated (with the CPE Checklist) a Notice of Preparation ("NOP") on February 11, 2015, that solicited comments regarding the scope of the EIR for the proposed project. The Planning Department held a public scoping meeting on March 4, 2015, at the Potrero Hill Neighborhood House, 953 De Haro Street, San Francisco to receive comments on the scope and content of the EIR.

On August 12, 2015, the Planning Department published a draft EIR for the proposed project. On October 1, 2015, the Planning Commission held a duly noticed public hearing on the draft EIR (continued from the original date of September 17, 2015). The 54-day-period for acceptance of written comments ended on October 5, 2015. The Planning Department then prepared a Responses to Comments (RTC) document, published on April 28, 2016, to address environmental issues raised by written and oral comments received during the public comment period and at the public hearing for the draft EIR. The RTC contained additional analysis and reports that verified and expanded upon the draft EIR contents. The RTC includes 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, and corrected nonsubstantive errors in the draft EIR.

The final EIR consists of the draft EIR together with the RTC document. On May 12, 2016, at a duly noticed public hearing, the San Francisco Planning Commission certified the final EIR. This was based on the determination that the contents of the final EIR and the procedures through which it was prepared, publicized, and reviewed complied with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The Planning Commission found the final EIR to be adequate, accurate and objective, that it reflects the independent analysis and judgment of the City, and that the RTC document contains no significant revisions to the draft EIR. Planning Commission Motion No. 19643 (Attachment B) certified the final EIR for the proposed project in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

## **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 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 judgement 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 overriding benefits of the project) is part of the Large Project Authorization approval of 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). Rather, an appeal of a Large Project Authorization approval and its associated CEQA Findings must be made to the Board of Appeals.

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.”

Unlike the appeal of a negative declaration, where an appellant need only set forth a fair argument that a project could result in an unmitigated significant impact to prevail, pursuant to CEQA Guidelines Section 15151, “[d]isagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts.” In this case, one expert, Katherine Petrin, disagreed with the other experts relied upon by the Planning Department in reaching the conclusion that the metal shed warehouses are not historic resources because they do not retain their integrity from the period of significance. Per CEQA Guidelines Section 15151, disagreement among experts is one reason a lead agency is compelled to prepare an EIR. A lead agency is not required to conclude that an impact is significant if there is substantial evidence to the contrary. The EIR summarized the main points of the disagreement but rejected Ms. Petrin’s conclusion. Accordingly, the Board should not reject the final EIR’s certification on the basis of any contrary evidence offered by the Appellants unless the Board finds that the evidence relied upon by the Planning Department and Commission could not support the final EIR’s conclusions, even if contradicted by such other evidence.

#### **CONCERNS RAISED AND PLANNING DEPARTMENT RESPONSES:**

As noted under Introduction above, the two-page appeal letter incorporated two letters to the Planning Commission from the Appellants and other supporting materials. The two-page June 10, 2016 appeal letter contains seven bulleted items expressing the general bases for the appeal of the EIR certification and adoption of Findings and a Statement of Overriding Considerations for the proposed project. These seven general concerns are listed in order below. Beneath each general concern are more specific issues raised in

the two Appellants' letters and supporting materials, and the additional material sent by Ms. Mansfield-Howlett to the Board of Supervisors on July 15, 2016 that are applicable to the general concern. Additional concerns expressed in a March 12 2015 email from Save The Hill to the Planning Department Environmental Review Officer (but not itemized in Ms. Mansfield-Howlett's June 10, 2016 appeal letter) regarding the adequacy of review for potential noise, air quality, soils and geology, parks and open space, and hazardous materials impacts are also addressed.

**Concern 1: The EIR is inadequate and incomplete.**

**Response 1: The process by which the proposed project was evaluated complies with applicable sections of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.**

The two Appellants' letters, supporting materials and the additional materials sent on July 15, 2016 contain numerous specific concerns that reflect upon the alleged inadequacy and incompleteness of the final EIR. These specific concerns, including inconsistency with applicable plans and regulations, loss of Production, Distribution and Repair (PDR) space, and inadequate project and cumulative impact analyses, are addressed in responses to Concerns 2 through 7 below. The immediately following discussion is in response to the general concern regarding the inadequacy and incompleteness of the final EIR expressed in Concern 1.

As discussed under Environmental Review Process above, the proposed project would be implemented within the Eastern Neighborhoods Plan area and was therefore first evaluated under a CPE Checklist pursuant to CEQA Guidelines Section 15183. The CPE Checklist, included as Appendix A to the draft EIR, fully described the proposed project (consistent with CEQA Guidelines Section 15124), its environmental setting (consistent with CEQA Guidelines Section 15125), and its potential impacts to the environment (consistent with CEQA Guidelines Section 15126). Consistent with CEQA Guidelines Section 15183, the CPE Checklist evaluated whether the proposed project would result in significant impacts that: (1) are peculiar to the project or project site; (2) were not identified as significant project-level, cumulative, or off-site effects in the *Eastern Neighborhoods PEIR*; or (3) are previously identified significant effects, which as a result of substantial new information that was not known at the time that the *Eastern Neighborhoods PEIR* was certified, are determined to have a more severe adverse impact than discussed in the PEIR.

As discussed in greater detail under Response 2, potential impacts to the environment were analyzed in the CPE Checklist according to the project's potential impacts upon the specific setting for each environmental topic, clearly stated significance criteria, and substantial evidence in the form of topic-specific analyses. Consistent with CEQA Guidelines Section 15130, the CPE Checklist also includes analysis of the proposed project's potential cumulative impacts for each environmental topic. The CPE Checklist determined that the proposed project would not have a significant impact that was not previously identified in the *Eastern Neighborhoods PEIR* for the following environmental topics: Land Use and Land Use Planning, Population and Housing, Paleontological Resources, Air Quality, Greenhouse Gas Emissions, Wind and Shadow, Recreation, Utilities and Service Systems, Public Services, Biological

Resources, Geology and Soils, Hydrology and Water Quality, Hazards and Hazardous Materials, Mineral and Energy Resources, and Agriculture and Forest Resources. Seven Mitigation Measures from the *Eastern Neighborhoods PEIR* were incorporated in the CPE Checklist to avoid impacts previously identified in the *PEIR*.

The CPE Checklist determined that the proposed project could have potential project-specific impacts with regard to Transportation and Circulation and Cultural (Historic Architectural) Resources. Accordingly, the EIR was prepared to evaluate these two topics. The role and standards for a project EIR (as an informational document, its degree of specificity, and the standards for adequacy) are provided on page I.2 of the draft EIR. Again (and as discussed in more detail under Response 2), the draft EIR contains a complete description of the project, its setting and provides project-specific and cumulative analyses of potential impacts related to transportation and circulation (Chapter IV.A) and historic architectural resources (Chapter IV.B). The respective analyses are based upon substantial evidence in the form of a Transportation Impact Study and a Historic Resource Evaluation prepared by qualified experts that were reviewed and prepared under the direction of the Planning Department. Evaluation of potential impacts is based upon clearly identified significance criteria and includes analysis of feasible mitigation measures and those impacts that cannot be mitigated due to lack of funding or infeasibility. Consistent with CEQA Guidelines Section 15126.6 (and as discussed in greater detail under Response 3), the draft EIR contains a complete analysis of alternatives to the proposed project in Chapter VI, including an alternative advanced by Appellant Save the Hill. The *Eastern Neighborhoods PEIR* identified significant and unavoidable impacts for land use (loss of PDR), transportation (traffic delay and transit), historical resources (demolition of historical architectural resources), and shadow (impacts to parks subject to Planning Code Section 295). Of these significant and unavoidable impacts, the proposed project contributes only to the loss of PDR space.

The RTC document responds to comments made regarding the draft EIR during the October 1, 2015 Planning Commission hearing and the 54 day comment period. The inclusion of this new information in the RTC does not automatically require recirculation of the draft EIR, as the CEQA process is premised on the idea that the final EIR will, by definition, include new information. Rather, pursuant to CEQA Guidelines Section 15088.5(a), a draft EIR needs to be recirculated if the revisions constitute "significant new information." As explained on page RTC.1 of the RTC document, none of the changes or clarifications presented in the RTC document constitute "significant new information" as defined by the CEQA Guidelines Section 15088.5(a). "Significant new information" is defined there as a disclosure showing that:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
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.

3. A feasible project alternative or mitigation measure considerably different from other previously analyzed would clearly lessen the environmental impacts of the project, but project's proponents decline to adopt it.
4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

None of these circumstances apply here. There are no new impacts identified in the RTC, and there is not a substantial increase in the severity of the already identified impacts. On the contrary and as explained below under Response 2, Transportation and Circulation, with the inclusion of the Vehicle Miles Travelled metric, the proposed project and the alternatives would not have any significant impact with respect to traffic congestion. There are no newly presented feasible project alternatives or mitigation measures.

To conclude, the final EIR was prepared in accordance with CEQA and the CEQA Guidelines. The final EIR's determinations are based upon substantial evidence, feasible mitigation measures, significant and unavoidable impacts are discussed, and the proposed project is considered in relation to a reasonable range of alternatives. As discussed further in the responses to Concerns 2 through 7, the Appellants do not provide substantial evidence or argument to establish how the final EIR is inadequate and incomplete. For the reasons stated in the draft EIR and the RTC document, including but not limited to the Responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

**Concern 2: The EIR failed to analyze and disclose significant environmental impacts in the areas of:**

- **Aesthetics and Views**
- **Cultural and Historic Resources**
- **Land Use**
- **Shade and shadow**
- **Traffic and Circulation**
- **Transit**
- **Inconsistencies with Area Plans and Policies**
- **Cumulative**

Response 2:

Aesthetics and Views

**On page 5 of their May 4, 2016 letter to the Planning Commission, appellant Save The Hill alleges that aesthetics are not adequately addressed or analyzed in the final EIR.** Save The Hill asserts that "the scale, height, and density of the proposed project (72 feet to 83 feet and 395 residential units) remain inconsistent with numerous terms set out in the Showplace / Potrero Hill Area Plan...In fact, all of the analyses completed for the Eastern Neighborhoods EIR anticipated a height on the Corovan parcel of 45



feet to 50 feet – not 72 feet to 83 feet as proposed by the developer.” Save The Hill also asserts that “the visual simulations offered in the DEIR remain inadequate and highly misleading” and that the proposed project is inconsistent with Showplace Square / Potrero Hill Area Plan Policy 3.1.5 which states: “Respect public view corridors. Of particular interest are the east-west views to the bay or hills, and several north-south views towards downtown and Potrero Hill.” Appellants also argue that the *Eastern Neighborhoods PEIR* did not evaluate a structure with the height and scale as proposed by the project. On page 13 of her 18-page letter sent to the Board of Supervisors on July 15, 2016, Ms. Mansfield-Howlett states: “All of the analyses completed for the Eastern Neighborhoods Plan anticipated a height on this [the project site] parcel of 40 to 45-feet, not 83-feet as proposed by the Project.”

**Contrary to these assertions, the final EIR properly excludes an analysis under CEQA of the proposed project’s potential impacts upon aesthetics (and views), provides adequate discussion and exhibits for the Planning Commission’s and public’s information, and is not inconsistent with Showplace Square / Potrero Hill Area Plan Policy 3.1.5.** As discussed on page 24 of the CPE Checklist, Public Resources Code Section 21099(d), effective January 1, 2014, provides that, “aesthetics and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment.” As demonstrated by the Transit-Oriented Infill Project Eligibility Checklist referenced in Footnote 8 on page 24 of the CPE Checklist, the proposed project meets the three criteria for a transit-oriented infill project: it is in a transit priority area; it is on an infill site; and it is a residential project. Therefore, and consistent with PRC Section 21099(d), the CPE Checklist states that the environmental review for the proposed project does not consider aesthetics (or parking) in determining the significance of its impacts under CEQA. As the CPE Checklist further states on page 24: “For informational purposes, project elevations are included in the project description and additional visual modeling will be included with the EIR, and an assessment of parking demand will be included in the Transportation Impact Study and discussed in the EIR.”

The same information regarding the proposed project’s compliance with PRC Section 21099(d) is again provided on pages I.6, IV.1 and IV.2 of the draft EIR, again noting that “before” and “after” visual simulations are included in Chapter II for informational purposes. Building elevations (see pages II.11 and II.12) and visual simulations of the proposed project from various perspectives (see pages II.29 through II.36) are thus provided to inform the public and decision-makers but not for purposes of determining an environmental impact pursuant to CEQA. The visual simulations, prepared by a qualified consultant, are correctly scaled and provide an accurate and reasonable basis for comparing how the proposed project would look in relation to its surroundings from five viewpoints in the public right-of-way.

Save The Hill’s assertion that the proposed project’s height is inconsistent with the policies of the Showplace Square / Potrero Hill Area Plan is incorrect. Similar comments (including one from Save The Hill) are addressed in the RTC under Comment PO-1 (see pages RTC.35 through 38). As explained in the Response PO-1 on page RTC.36:

“Pursuant to the Eastern Neighborhoods Rezoning and Area Plans as approved on January 19, 2009, and in order to implement Showplace Square/Potrero Area Plan Objective 3.1 and Policies 3.1.1 and 3.1.2, the height and bulk limit of the project site was re-designated from 40-X and 50-X to the 68-X and 48-X height and bulk districts that allow maximum building heights of 68 feet along 16th Street and 48 feet on 17th Street. These height limits were shown in Figure C&R-2 of the Eastern Neighborhoods Final PEIR, including 68-foot designations along 16th Street in the Preferred Project.”

Response PO-1 then observes that the *Eastern Neighborhoods PEIR* “was certified as complete in compliance with CEQA” without a requirement for recirculation per CEQA Guidelines Section 15088.5. On the top of page RTC.37, Response PO-1 notes that Planning Code Section 260(b) provides that certain screening and architectural elements are exempt from height limits and that no special approvals or variances related to height have been requested for the proposed project. The proposed project is consistent with its 68-X and 48-X height and bulk district and with Section 260(b) of the Planning Code as it pertains to permitted exceptions to height limits.

The RTC also responded to comments received regarding the proposed project’s potential impacts upon views (see, for example, the response to comments regarding aesthetics and views in the context of the proposed buildings height on page RTC.37).

In conclusion, the final EIR has not failed to analyze and disclose significant environmental impacts in regards to aesthetics and views. The proposed project qualifies as a transit priority infill development and, per PRC Section 21099(d), aesthetic impacts do not need to be considered in determining the significance of project impacts under CEQA. The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to analyze and disclose significant environmental impacts in regards to aesthetics and views, nor do they demonstrate how aesthetic impacts are significant project-specific impacts not identified in the PEIR. Appellants do not identify specific issues nor provide new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

#### Cultural and Historic Resources

**On page 6 of their May 4, 2016 letter to the Planning Commission, appellant Save The Hill argues that the final EIR is inadequate, citing architectural historian Katherine Petrin’s conclusions that the metal shed buildings should be considered historic resources.** Save The Hill asserts that: “1) a continuity of heritage existed through various mergers of the Potrero Hill company 2) association with important or significant persons other than the company’s original founder, Patrick Nobel 3) expanded Period of Significance (POS) to 1946/1947.” Save The Hill also asserts that the final EIR “fail[s] to address and propose mitigations that would avoid significant and negative impacts due to mass and scale upon the *entire* building site (which includes the metal warehouses) and environment in accordance with the

Secretary of the Interior's standards." Comments and evidence in the materials sent to the Board of Supervisors on July 15, 2016 by Ms. Mansfield-Howlett underscore these concerns.

**The final EIR provides a comprehensive analysis of the proposed project's potential impacts to historic resources, which included a review of the report prepared by the appellant's expert consultant.** The Project Description in Section II of the draft EIR discloses that the proposed project would involve demolition of the two warehouses and one modular office building and rehabilitation of the brick office building. The draft EIR's impact analysis is consistent with the two-step process provided by CEQA Guidelines Section 15064.5. As stated in the Introduction on page IV.B.1:

"The first step determines whether a project may have an effect on a resource that falls within the definition of 'historical resource(s)' under CEQA. If the project is found to potentially affect historical resources, the second step is to determine whether the effects of the project would result in a substantial adverse change to the affected resource(s). A project that may cause a substantial adverse change in the significance of a historical resource is one that may have significant effects on the environment (CEQA Guidelines Section 15064.5(b))."

The draft EIR accordingly provides an analysis of the entire project site and its individual buildings based upon a Historic Resource Evaluation (HRE) prepared by VerPlanck Historic Preservation Consulting and the Historic Resource Evaluation Response (HREER) prepared by the Planning Department (see Footnotes 53 and 54, respectively, on draft EIR page IV.B.1) that concurred with the conclusions of the HRE. The analysis considered the historical context for the project site (Draft EIR pages IV.B.2 through 5), a thorough description of the existing buildings (draft EIR pages IV.B.5 through 10), and the pertinent federal, state and local regulatory framework (draft EIR pages IV.B.11 through 16) by which a site must be evaluated for the presence of historic resources and, if present, potential impacts that may result from a proposed project. Previous surveys and official registers relevant to the project site are presented on draft EIR pages IV.B.17 through 19, including the Historic Preservation Commission's 2011 determination that the metal shed warehouses are not historic resources and a report prepared by Katherine Petrin at the request of appellant Save the Hill that contests the conclusions of the HRE and HREER regarding the metal shed warehouses. Significance criteria and the approach to analysis are provided on draft EIR page IV.B.25 and 26.

As noted on draft EIR page IV.B.20, in order to be eligible for the California Register of Historic Resources (CRHR), "a historic-period resource must be significant at the local or state level under one or more of the four CRHR criteria and retain enough integrity to be recognizable as a historical resource and convey its significance." The draft EIR provides a thorough evaluation of the entire project site and its individual buildings in regards to the four CRHR criteria and the seven aspects used by the California Registry to assess integrity, concluding as follows:

“The brick office building at 1200 17<sup>th</sup> Street is eligible for listing in the California Register under Criterion 1 (Events) for its association with the Pacific Rolling Mill Co. during the time it made its greatest contribution to San Francisco. The period of significance under Criterion 1 is 1906-1928, the period in which the subject property was occupied by the Pacific Rolling Mill Co. and when the company made the bulk of its contribution towards the reconstruction of San Francisco after the 1906 Earthquake. The brick office building is also eligible for listing in the California Register under Criterion 3 (Design/Construction) as a good example of a brick industrial building constructed during the post-1906 reconstruction period in San Francisco, and as a structure that embodies the distinctive characteristics of a type, period, and method of construction...The period of significance under Criterion 3 is 1926, the year the building was constructed.”

The integrity of the metal sheds and the former Pacific Rolling Mill Company site was evaluated on draft EIR pages IV.B.22 through 24. Consistent with Section 4852(c) and the City’s CEQA Review Procedures for Historic Resources, the former Pacific Rolling Mill Company property and its structures were evaluated for integrity with regard to retention of location, design, setting, materials, workmanship, feeling, and association. On page IV.B.24, the draft EIR concludes as follows: “Of the seven aspects of integrity, the entire site retains only the aspects of location and feeling. In contrast, the brick office building retains the aspects of location, design, materials, workmanship, feeling, and association. It does not retain integrity of setting.” Thus while the HRE/HRER established significance under Criterion 1 for a period of significance from 1906 to 1928, the metal sheds were found ineligible due to insufficient integrity.

Ms. Petrin’s report made a contrary conclusion that the metal sheds and the Pacific Rolling Mills site as a whole are eligible for listing on historic registers. As noted on page RTC.119 of the RTC document, she states:

“As you are aware, the integrity of this site, specifically the basic building forms of the steel warehouses, has been much debated. It was my finding that overall the complex contains many key elements of the original construction. Its plan forms massing proportions and architectural vocabulary, and most importantly, the overall expression of a large-scale industrial operation. Because the complex contains these elements, I find it sufficiently intact to convey its historical associations with the Pacific Rolling Mill company, and to convey enough of its historic character to be recognized as a historic resource.”

Ms. Petrin ascribed a longer period of significance for the metal sheds until 1946, as opposed to the HRE’s conclusion that the period of significance extended only to 1928 when Pacific Rolling Mill Company merged with Judson Manufacturing Company and the headquarters was moved off the site. As stated on page RTC.122 of the RTC document, the period of significance was determined to be between 1906 and 1928 because this is the time when the Pacific Rolling Mill Company made the bulk of its contributions

toward reconstruction of San Francisco after the 1906 earthquake. Though Ms. Petrin asserts that “the period of significance should extend to 1946, when the last steel fabricator, Judson Pacific-Murphy, vacated the site, the subsequent owners were larger corporations, whose manufacturing operations took place at multiple plants, diluting the association of the subject property with the fabrication of steel frames for specific projects.”

As noted on draft EIR page IV.B.22: “Of the three pre-1927 structures on the former Pacific Rolling Mill Co. property, only the brick office building has avoided extensive exterior changes.” The Appellants, citing Ms. Petrin’s report, have argued that changes to industrial structures such as the metal sheds are inherent to their function and do not disqualify them from retaining integrity. This assertion is addressed on page RTC.125 of the RTC document, which states that “it was not the mere fact of modifications to the structures that resulted in a determination that the site did not maintain integrity of design, but the substantial changes that were made, both on the interior and exterior, that both changed the look of the structures and their use from manufacturing to warehousing.”

The draft EIR’s eligibility determination is also addressed under Response CP-1 in the RTC. Historic Eligibility Criteria are addressed on pages RTC.121 through 123 and Aspects of Integrity are addressed on pages RTC.123 through 125. Pages RTC.125 and 126 of the RTC also provide a succinct summary of the past opinions and historic determinations considered in the draft EIR, with specific discussion of the historic assessment completed in 2014 by Katherine Petrin asserting that the metal sheds do retain integrity and should therefore be eligible for historic listing. As stated on page RTC.126 of the RTC:

“The VerPlanck HRE utilized for the analysis in the Draft EIR included review of the above Petrin Report, and confirmed the Historic Preservation Commission finding, based on the full record, that the only structure on the site eligible for historic listing was the brick office building. This finding was based on a thorough analysis of changes to the property over time that resulted in a lack of integrity for the metal sheds.”

As stated on page RTC.126 of the RTC document:

“The full record, including the Petrin and VerPlank reports, was reviewed by City preservation staff and a HRER was issued. The HRER represents the independent conclusion of the City after consideration of varying opinions. The HRER specifically concurred with the 2014 VerPlank Report and the previous finding by the HPC that the brick office building is the only structure on the site eligible for historic listing.”

Consistent with CEQA Guidelines Section 15064.5(a), the final EIR concluded that the brick office building is the only eligible historic resource on the project site. The adequacy of the draft EIR’s analysis is also addressed in on pages RTC.121 through 126 of the RTC. Comments raising concerns about the historic determination for the metal sheds are addressed under Response CP-1 (pages RTC.121 through 126).

As stated in Footnote 59 on draft EIR page IV.B.22, this determination was based upon substantial evidence. In evaluating eligibility and integrity, the Planning Department's Preservation staff considered the HRE prepared by VerPlanck Historic Preservation consulting (dated December 4, 2014); an Evaluation of Integrity report by Katherine Petrin (dated February 2014); a 2011 report by Page & Turnbull prepared at the request of the project sponsor; and the Historic Preservation Commission's Motion No. 0134 (August 17, 2011); as well as letters, historic photographs, and other information submitted by neighborhood groups. As noted above, the existence of the Katherine Petrin Integrity report, even if it is considered substantial evidence, does not negate the conclusions of the final EIR, which relied on substantial evidence in other reports, including the HRE, in reaching the conclusion that the metal sheds do not retain integrity from the period of historic significance.

Regarding Save The Hill's contention that the proposed project would impair the eligible status of the brick office building, draft EIR page II.25 provides a description of the rehabilitation of the historic brick office building for retail or restaurant use. The work would be done according to the Secretary of the Interior's Standards for Rehabilitation, noting that "[t]he new building adjoining the brick office building at 1200 17<sup>th</sup> Street is designed to respect and be compatible with the existing brick office building." Response CP-2 on pages RTC.129 and 130 of the RTC address comments asserting that the development of new buildings around the brick office building would impair its status as an eligible historic resource under Secretary of the Interior Rehabilitation Standard 9, which states:

"New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment."

Several similar comments (including one from Save The Hill) expressing concerns regarding the proposed project's purported impact upon the eligible status of the brick office building are addressed under Response CP-2 (pages RTC.129 and 130). On page RTC.129, the RTC details why the proposed new buildings that would be around the brick office building would not impair its eligibility as a historic resource pursuant to the Secretary of the Interior Rehabilitation Standard 9. As noted on page RTC.130, this issue was reviewed by the Architectural Review Committee of the Historic Preservation Commission at a meeting on November 4, 2015. The Architectural Review Committee determined that:

1. The proposed project does not cause an impact to the existing historic resource on the site (the brick office building). The proposed project respectfully incorporates the historic building alongside adjacent new construction and does not overwhelm the historic resource by providing adequate setbacks and open space around the brick office building.
2. The proposed project meets Secretary of the Interior's Rehabilitation Standard No. 9 in regards to materials, scale and massing of the proposed adjacent new construction.

In conclusion, the final EIR has not failed to analyze and disclose significant environmental impacts with regard to cultural and historic resources. The final EIR fully considers the arguments presented by the appellant's expert that fundamentally differs from the conclusion that the metal sheds are not eligible historic resources. Per CEQA Guidelines Section 15151, "[d]isagreement among experts does not make an EIR inadequate..." The final EIR summarizes the main points of disagreement between Mr. VerPlanck and Ms. Petrin, thereby providing the Planning Commission with "a sufficient degree of analysis to...enable them to make a decision which intelligently takes account of environmental consequences." For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

### Land Use

**Save The Hill and Grow Potrero Responsibly both assert the final EIR does not address the loss of PDR space that would occur with construction of the proposed project.** Page 6 of the May 4, 2015 Save The Hill letter states:

"The project would eliminate 109,500 square feet of PDR space. The DEIR and Response to Comments inadequately address the pace of PDR loss and the need for greater diversity of uses (other than residential) in the proposed project. The project should be revised to include light PDR / trade spaces."

Comments in the materials sent to the Board of Supervisors on July 15, 2016 by Ms. Mansfield-Howlett repeat this concern.

**As discussed below, potential project-specific and cumulative land use impacts – including loss of PDR – that could result with the proposed project are fully analyzed in the CPE Checklist according to a clearly stated project description, analytic methodology based on substantial evidence, and significance criteria.** The potential impacts of the project with regard to Land Use and Land Use Planning are analyzed under Topic 1 of the CPE Checklist, on pages 25 to 26. For Land Use and Land Use Planning, the impact analysis evaluates the project according to three significance criteria: would the project (1) physically divide an established community; (2) conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental impact; or (3) have a substantial impact upon the existing character of the vicinity?

The proposed project would not divide an established community (rather, the publically accessible pedestrian alley would provide a new connection between 16<sup>th</sup> and 17<sup>th</sup> Streets). As discussed on page 25 of the CPE Checklist, the Citywide and Current Planning Divisions both determined that the proposed project was consistent with the development density of the Eastern Neighborhoods Area Plan and the City's Planning Code and Zoning Map. Therefore, the CPE Checklist determined that project, proposed for a 3.5 acre infill site, would not conflict with the policies of the Eastern Neighborhoods Area Plan, the

Showplace Square / Potrero Area Plan, the Urban Mixed Use District and the 68-X and 45-X height and bulk districts as it relates to those plans and regulations adopted for the purpose of avoiding or mitigating an environmental impact. Finally, as discussed on page 26 of the CPE Checklist, while the proposed project would intensify uses on the project site, “the addition of new residential and ground floor commercial land uses would not have an impact on the character of the vicinity beyond what was identified in the *Eastern Neighborhoods PEIR*.”

In regards to the loss of production, distribution, and repair (PDR) space, the CPE Checklist (on page 25) states that the proposed project would result in the net loss of approximately 109,500 square feet of PDR building space. The CPE Checklist acknowledges that this PDR loss would contribute to a significant and unavoidable impact on land use due to the cumulative loss of PDR identified in the *Eastern Neighborhoods PEIR*. This impact was addressed in a Statement of Overriding Considerations with CEQA Findings and adopted as part of the Eastern Neighborhoods Rezoning and Area Plans approval on January 19, 2009. A similar discussion regarding PDR loss is provided on pages S.3 and S.4 of the draft EIR and loss of PDR is further considered as part of the alternatives analysis presented in Chapter VI (see pages IV.14 and VI.19 for the Reduced Density Alternative and pages VI.27 and VI.33 for the Metal Shed Reuse Alternative).

The RTC document addresses numerous comments regarding the draft EIR’s analysis of Land Use and Planning under Section F (pages RTC.158 through 164). Several of these comments focus on the loss of PDR space that would occur with construction of the proposed project. Comments regarding the loss of PDR are also addressed in Responses PO-1 and PO-2. The RTC makes the following revision to the draft EIR on page RTC.164 in order to make clear that the project would contribute to an impact previously identified in the *Eastern Neighborhoods PEIR*:

“The proposed loss of 109,500 square feet of existing PDR uses represents a considerable contribution to the loss of the PDR space analyzed in the *Eastern Neighborhoods PEIR*, but would not result in new significant impacts that were not previously identified, or more sever impacts than were analyzed, in the PEIR.”

The effects of the loss of PDR space with the rezoning of the project site from industrial to Urban Mixed Use (UMU) was acknowledged with the approval of both the Eastern Neighborhoods Plan and the proposed project. As explained on page RTC.43 of the RTC document, the UMU district does not require retention of PDR uses. The issue related to loss of PDR space was therefore appropriately considered by the Planning Commission in its deliberations on May 12, 2016.

In conclusion, the final EIR has not failed to analyze and disclose significant environmental impacts in regards to land use. The Appellants do not provide substantial evidence or argument to establish how the EIR failed to analyze and disclose significant environmental impacts in regards to land use, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.



### Shadow

**On pages 2 and 3 of their May 1, 2016 letter to the Planning Commission, appellant Grow Potrero Responsibly observes that the proposed project “adds net and cumulative shadow to Daggett Park, particularly from mid-fall to mid-winter” and asserts that the proposed project should be redesigned to reduce its shadowing.** The Grow Potrero Responsibly letter includes an exhibit showing a purported ‘area of potential project shadow’ that extends off the project site in all directions, shadowing areas that are already shadowed by existing and planned structures. Comments in the materials sent to the Board of Supervisors on July 15, 2016 by Ms. Mansfield-Howlett repeat this concern.

**As discussed below, potential project-specific and cumulative shadow impacts that could result with the proposed project are fully analyzed in the CPE Checklist according to a well-defined baseline (that included the not-then-developed Daggett Park just north of the project site) and project description, an analytic methodology based on substantial evidence, and clearly stated significance criteria.**

The potential impacts of the proposed project with regard to shadow are analyzed under Topic 8 of the CPE Checklist, on pages 42 to 44. The impact analysis in the CPE Checklist evaluates the project’s potential impacts with regard to shadow according to the following criteria: would the project create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas?

The Planning Department employs a two-step process in analyzing potential shadow impacts. First, a preliminary shadow fan is prepared using a Geographic Information System tool. The preliminary shadow fan tool provides an outline of the maximum extent of the shadows that would be cast throughout the year by a proposed structure irrespective of interference that may occur with intervening structures. If the shadow fan indicates that the proposed structure has the potential to cast new shadow on a park or open space subject to Planning Code Section 295 or Section 147 (Reduction of Shadows on Certain Public or Publically Accessible Open Spaces in C-3, South of Market Mixed Use, and Eastern Neighborhoods Mixed Use Districts) of the Planning Code, then a more precise shadow analysis is required.

The CPE Checklist shadow analysis begins with a discussion of the applicable requirements with regards Planning Code Section 295 and shadowing of publically-accessible open space under the jurisdiction of the San Francisco Recreation and Parks Commission. The analysis then states:

“The threshold for determining the significance of impacts under CEQA is whether the proposed project would create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas, regardless of whether those facilities or areas are protected by Section 295 or not (i.e., under jurisdiction of departments other than the Recreation and Parks Commission or privately owned). In addition, the CEQA analysis takes into account a broader array of shadow-related considerations in

determining significance compared to Section 295 that may include not only quantitative criteria, but also open space usage; time of day and/or time of year; physical layout and facilities affected; the intensity, size, shape, and location of the shadow; and the proportion of open space affected.”

As noted on page 43 of the CPE Checklist, there are no parks or publically accessible open spaces within the potential shadow area of the proposed project that are subject to Section 295 of the Planning Code. However, consistent with its standard preliminary analysis of potential shadow impacts, the Planning Department prepared a shadow fan that indicated the proposed project could shadow Daggett Park, a new publically-accessible open space in the Daggett Street right-of-way across 16<sup>th</sup> Street from the project site. Daggett Park is not subject to the jurisdiction of the Recreation and Park Commission but is subject to the shadow analysis requirements of Planning Code Section 147. Accordingly, a shadow analysis was prepared by a qualified consultant to determine the character and extent of shadowing on Daggett Park, as well as other public areas. As stated on page 43 of the CPE Checklist:

“The shadow analysis compared baseline shadows (i.e., shadows cast by the under-construction EQR Potrero development) with the proposed project’s net new shadow for four representative days of the year beginning at one hour after sunrise and continuing hourly until one hour before sunset. The four days analyzed are: Summer Solstice (June 21), when the sun is at its highest; Spring/Fall Equinox (March 21 or September 21), when day and night are of equal length; Winter Solstice (December 21), when the sun is at its lowest; and a ‘worst case’ shadow day (October 19 or February 24) when the project generated net new shadow is the greatest.”

The shadow analysis determined the proposed project would add net new shadow to Daggett Park “primarily in the mornings during the days between mid-fall and mid-winter.” The net new shadowing would occur in the southern half of the planned park, away from the dog run and on a limited portion of a play area. The shadow analysis in the CPE Checklist concludes that the proposed project’s net new shadow on Daggett Park would not substantially affect the public’s use of the park because it would be limited in both time of day and time of year and because the park is already shadowed by the EQR Potrero project and the Interstate 280 viaduct. Therefore, the CPE Checklist correctly concludes that the proposed project would have no significant impact not previously identified in the *Eastern Neighborhoods PEIR*.

Additional discussion regarding potential shadow impacts of the proposed project are provided in the RTC document on pages RTC.37 (Response PO-1), RTC.44 (Response PO-2), RTC.155 (Response AL-4), and RTC.179 (Response RE-2).

In conclusion, the final EIR has not failed to analyze and disclose significant environmental impacts in regards to shade and shadow. The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to analyze and disclose significant environmental impacts in regards to shade and shadow, nor do they identify specific issues or new information that would result in the need

for recirculation. In particular, the exhibit included on page 3 of the May 1, 2016 Grow Potrero Responsibly letter to the Planning Commission suggests that the proposed project would significantly shadow a large area all around the project site without respect to either existing shadows from other structures or seasonal and time-of-day changes to the shadow that would be cast by the proposed project. In fact, and as discussed above, the net new shadow that would be created by the proposed project would be less-than-significant. For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

### Transportation and Circulation

**Page 7 of the May 4, 2016 letter from appellant Save The Hill to the Planning Commission identifies the following three issues in regards to its assertion that the final EIR's analysis of transportation and circulation is inadequate and inaccurate:**

1. The change in traffic study impact methodology from LOS to VMT distorts and minimizes real and significant traffic congestion impacts....Moreover, the change in study methodology to VMT occurred after the DEIR comment period...closed and thus without adequate opportunity for public comment.
2. Mississippi to 17<sup>th</sup> is a designated truck route heavily used by trucks – especially trucks exiting off or entering I-280. Mariposa Street between Connecticut and Mississippi is a restricted truck route (no vehicles over three tons). The EIR does not adequately address significant impacts of the proposed project regarding truck traffic.
3. The EIR and Response to Comments do not address impacts of the project related to SFMTA's proposal to place a commuter shuttle stop at the 17<sup>th</sup> and Mississippi Street intersection.

Grow Potrero Responsibly also asserts on page 4 of their May 1, 2016 letter that “[t]he requested exemption of a 0.85 ratio on residential parking will bring more cars to the neighborhood and contribute to already intolerable congestion at key intersections.”

In addition, in a March 12, 2015 email from Save The Hill to the Planning Department Environmental Review Officer (included in the supporting materials), Save The Hill asserts that the EIR did not analyze the impacts that could occur with the potential teardown of the elevated portion of I-280 near the project site.

**As discussed below, potential project-specific and cumulative transportation and circulation impacts, including those listed in the Appellants' letters, are fully analyzed in Chapter IV.A of the draft EIR according to a well-defined baseline and project description, an analytic methodology based on substantial evidence, and clearly stated significance criteria.**

As discussed above, because of the potential for project-specific significant impacts related to transportation and circulation that was not identified in the *Eastern Neighborhoods PEIR*, the CPE Checklist determined that transportation and circulation would be further analyzed in the EIR (see page 25). Accordingly, a discussion of the anticipated effects of the proposed project on the transportation and circulation system within the vicinity of the project site is provided in Section IV.A of the draft EIR (pages IV.A.1 through IV.A.72). As explained on draft EIR page IV.A.1, the discussion and analysis are based upon the Transportation Impact Study (TIS) prepared for the proposed project and are consistent with the Planning Department's Transportation Impact Analysis Guidelines for Environmental Review (SF Guidelines) and the *Eastern Neighborhoods PEIR*. Development of mitigation measures was coordinated with San Francisco Municipal Transportation Agency (SFMTA) staff and summarized in the June 4, 2015 Findings of Feasibility of Traffic Mitigation Measures Proposed for 901 16<sup>th</sup> Street/1200 17<sup>th</sup> Street referenced in Footnote 35 on page IV.A.42 of the draft EIR.

The existing transportation and circulation setting (roadway network, current intersection operating conditions, transit network, pedestrian network, and bicycle, loading and parking conditions) are provided on draft EIR pages IV.A.1-25. As stated on draft EIR page IV.A.8, intersection vehicle, bicycle, and pedestrian counts included in the draft EIR were conducted on July 18, 2012 and July 17, 2014 during the weekday PM peak hour. The applicable regulatory framework (San Francisco General Plan, Bicycle Plan, Better Streets Plan, and Transit First Policy) is provided on draft EIR pages IV.A.25 and 26. Specific significance criteria and the analytic approach (regarding potential impacts related to traffic, transit, pedestrian, bicycle, loading, emergency access, construction and parking) are provided on draft EIR pages IV.A.26 through 30. The proposed project's trip generation, mode split, trip distribution, loading and parking demand are quantified on draft EIR pages IV.A.30 through 34 as a basis for comparing the proposed project's transportation and circulation effects with existing conditions.

Again, quantification of the proposed project's travel demand is based upon the methodology provided by the SF Guidelines. To summarize, the proposed project's impacts were analyzed as follows:

- For traffic impact analysis, project-specific impacts are based upon the Level of Service (LOS) methodology described in the Highway Capacity Manual 2000 (see analysis under Impact TR-1 and TR-2 on draft EIR pages IV.A.38 through 45).
- For transit impact analysis, Muni and regional transit service capacity and delays were analyzed in terms of a series of screenlines that describe the magnitude of travel to or from the greater downtown area, and provide a comparison of estimated transit volumes with available capacities (see analysis under Impact TR-3 on draft EIR pages IV.A.45 through 48).
- Analysis of pedestrian and bicycle conditions were qualitatively assessed as they relate to the project site, including safety, capacity, right-of-way issues and conflicts with other modes of transportation (see analysis under Impact TR-4 and Impact TR-5, respectively, on pages IV.a.49 through 55).

- Loading and potential vehicular, pedestrian and bicyclist hazards associated with loading were analyzed by comparing the proposed on-site and on-street loading spaces with the projected loading demand (see analysis under Impact TR-6 on pages IV.A.55 through 57).
- Emergency vehicle access was also assessed qualitatively to determine if any of the proposed project elements would preclude adequate emergency vehicle access (see analysis under Impact TR-7 on pages IV.A.57).
- Potential impacts of construction activities related to transportation and parking were assessed qualitatively, including the potential for overlapping construction activities from other projects (see impact analysis under Impact TR-8 on pages IV.A.58 and 59).
- Parking was analyzed by comparing the existing on-street parking supply to the projected parking demand and any proposed changes to parking supply (see analysis under Impact TR-9 on pages IV.A.59 through 63).

The analysis determined that the proposed project would not result in a significant impact related to transit, pedestrian and bicycle conditions, loading, emergency vehicle access, construction activities or parking. As stated on draft EIR page S.3 and pages IV.A.41 through 44, the proposed project would result in significant and unavoidable project-specific traffic impacts to three study intersections (17<sup>th</sup> Street and Mississippi Street, Mariposa Street and Pennsylvania Street, and Mariposa Street and Mississippi Street), because of the deterioration of LOS at those intersections. Mitigation measures for each intersection are evaluated on pages IV.A.42 through 45. For two of the intersections (17<sup>th</sup> Street and Mississippi Street, Mariposa Street and Pennsylvania Street), mitigation measures (signalization) supported by SFMTA staff were identified to reduce impacts to a less-than-significant level, but because full funding for these measures has not been identified, the impacts were identified as significant and unavoidable. To mitigate poor operating conditions at the intersection of Mariposa Street and Mississippi Street various options to reduce automobile delay were considered by the SFMTA staff; however, none of the options were considered feasible and the impact to this intersection was identified as significant and unavoidable.

The approach to the cumulative analysis is provided on pages IV.A.34 through 38 and includes consideration of the Eastern Neighborhoods PEIR 2025 Cumulative Conditions traffic volumes and the pedestrian, bicycle and construction impacts resulting from cumulative growth; numerous transportation network changes; and other relevant plans and projects, such as the Mission Bay Redevelopment Plan and UCSF Mission Bay Medical Center. The potential impacts discussed above at the project level were also analyzed for their contribution to 2025 cumulative-level impacts (see pages IV.A.63 through 72). The cumulative analysis determined that the proposed project would contribute to significant and unavoidable cumulative impacts to the three study intersections previously noted and an additional fourth intersection at 7<sup>th</sup> Street/16<sup>th</sup> Street/Mississippi Street intersection, and would not contribute to cumulative impacts with respect to transit, pedestrians, bicyclists, and construction.

Comments on the draft EIR with respect to transportation and circulation are reproduced and responded to in Section C of the RTC document (pages RTC.58 through 112). The comments and their specific responses are grouped under 23 topics that cover aspects of the Transportation and Circulation analysis provided by the draft EIR (see page RTC.58). The RTC document also includes impact analysis as a result of the Planning Commission's adoption of Resolution 19579 on March 3, 2016, that replaced automobile delay (as described solely by Level of Service (LOS) with Vehicle Miles Traveled (VMT) criteria as a factor in determining significant transportation-related impacts pursuant to CEQA. Because the public comment period for the draft EIR ended before the Planning Commission's adoption of Resolution 19579, the analysis of automobile delay as described by LOS was retained in the draft EIR Section IV.A Transportation and Circulation analysis, even though, pursuant to Planning Commission Resolution 19579, automobile delay is no longer considered a significant impact on the environment under CEQA.

As stated on page RTC.85, the VMT analysis determined that the proposed project would have less than significant VMT impacts because the project's average daily VMT is substantially below regional averages. The RTC document also includes discussion on pages RTC.90 and 91 of updated traffic counts that were collected at five intersections on November 3, 2015 to determine whether there had been changes in existing traffic that would affect the assessment of traffic delay. (The November 3, 2015 data and a technical memo titled *Analysis of Traffic Volumes* was included as Attachment C to the RTC document.) The updated counts were compared with those 14 intersections used in the draft EIR to determine if changes have occurred in LOS determinations. As noted on page RTC.91, when utilizing the 2015 traffic counts to estimate LOS with the addition of project traffic, the Mariposa Street and Mississippi Street intersection would operate at LOS E rather than LOS F and the 17<sup>th</sup> Street and Mississippi Street intersection would operate at LOS D rather than LOS F as reported in the draft EIR. While these intersections would not be operating as poorly as previously projected, the conclusions in the draft EIR remained unchanged for these intersections. There would be no change in LOS for the other three intersections based on the updated 2015 traffic counts and the draft EIR conclusions related to these intersections would remain the same. Note that the UCSF hospital had been operating for approximately nine months (since February 2015) when the November 3, 2015 intersection counts were made.

In additional comments delivered to the Board of Supervisors on July 15, 2016 (see page 5 of the Transportation Memo), Appellants argue that the final EIR did not adequately analyze traffic impacts at the intersection of Mariposa Street and the I-280 southbound onramp which "is anecdotally the worst intersection in the area..." However, the RTC document explains why this intersection is not considered one of the four significantly impacted intersections on page RTC.83:

"Improvements to the Mariposa Street/I-280 southbound on-ramp and the Owens Street extension are fully funded, already underway, and expected to be operational in the second half of 2016, well before the proposed project would be completed. With these changes being implemented by others, the proposed project would not have a significant impact at this intersection and there is no need for further mitigation."

Improvements at the Mariposa/I-280 intersection and the Owens Street extension were funded by Mission Bay Project.

In regards to the first Transportation/Circulation comment noted above, Save The Hill's assertion that "[t]he change in traffic impact methodology from LOS to VMT distorts and minimizes real and significant traffic congestion impacts" is not accurate and mischaracterizes the traffic analysis in the draft EIR. There was not a "change in study methodology;" rather the RTC document included the VMT analysis in addition to an LOS (vehicle delay) analysis for the reasons noted in the previous two paragraphs. As explained on page RTC.9, "VMT measures the amount and distance that a project might cause people to drive, accounting for the number of passengers within a vehicle." LOS – not VMT – provides a measure of vehicle delay or traffic congestion. As discussed above in the preceding four paragraphs, the final EIR fully analyzed and disclosed traffic impacts using the LOS metric according to the standard SF Guidelines methodology. The potential traffic (and other transportation) impacts are fully disclosed and were not minimized in the final EIR.

The latter half of Save The Hill's first comment that the public was not provided an adequate opportunity to comment on the inclusion of the VMT analysis is incorrect. VMT analysis was included in the RTC document after the draft EIR public comment period ended on October 5, 2015, in order to make the environmental analysis consistent with the Planning Commission's direction established in Resolution 19579. As is explained on page RTC.9:

"The Draft EIR was prepared prior to Planning Commission Resolution 19579 and, therefore included analysis pertaining to the automobile delay effects of this proposed project and did not include impact analysis pertaining to VMT and induced demand. However, the Draft EIR did include VMT analysis for informational purposes. Because the public comment period for the Draft EIR ended before the Planning Commission's adoption of Resolution 19579, the analysis of automobile delay will be retained in Draft EIR Section IV.A, Transportation and Circulation, even though, pursuant to Planning Commission Resolution 19579, automobile delay as described by LOS is no longer considered a significant impact on the environment pursuant to CEQA."

In fact, a member of the public reviewing the draft EIR did comment on the need to revise the Transportation and Circulation section to include a VMT analysis according to the Office of Planning and Research's draft guidance on Public Resources Code Section 21099:

"This entire analysis must be reframed and bolstered or the document must be recirculated after OPR adopts the new CEQA guidelines which have a comment period which closes AFTER the Oct 5 extended comment period for the draft EIR. The document presents a speculative perspective on establishing significance re section 21099." (Jci Cpuc, e-mail, October 4, 2015, included as Comment GC-8 and responded to on page RTC.208 of the RTC document.)

The RTC document provides the analysis requested by Comment GC-8. Chapter II of the RTC document contains the “Revisions to Draft EIR Analysis Approach,” including a thorough discussion regarding inclusion of the VMT analysis. As stated on page RTC.8, the RTC document correctly notes that inclusion of the VMT analysis does not constitute “significant new information” that would require recirculation (and additional public comment) of the draft EIR:

“CEQA Guidelines Section 15088.5 requires recirculation of an EIR when ‘significant new information’ is added to the EIR after publication of the Draft EIR and before certification. New information is ‘significant’ if ‘... the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect ... that the project proponents have declined to implement.’ Section 15088.5 further defines ‘significant new information’ that triggers a requirement for recirculation as including, but not limited to, identification of a new significant impact, a substantial increase in the severity of an impact (unless mitigation is adopted to reduce the impact to a less-than-significant level), or identification of a new feasible alternative or mitigation measure that would lessen the environmental impacts of the proposed project that the project sponsor is unwilling to adopt.”

The inclusion of the VMT analysis in the RTC document, which found the proposed project’s contribution to VMT and induced automobile travel to be less than significant, triggers none of these requirements for recirculation. Therefore, contrary to the latter half of Save The Hill’s first comment, the public was not denied an opportunity for comment that meets the recirculation requirements of CEQA Guidelines Section 15088.5.

In their second Transportation/Circulation comment, Save The Hill correctly notes that “Truck Route” signage exists at Mariposa and Mississippi streets that directs trucks to turn north onto Mississippi Street from westbound Mariposa Street. This was acknowledged by Planning Department staff at the May 12, 2015 Planning Commission EIR Certification hearing. As stated on page RTC.69 of the RTC document, San Francisco does not have a regulatory truck route map and any such signage is advisory – in this case apparently due to weight limits on westbound Mariposa Street. Regardless, the draft EIR thoroughly analyzed congestion using existing traffic counts of all vehicles – including trucks. The final EIR thus discloses the effects of the proposed project on congestion, including the identified impacts at the intersections of 17<sup>th</sup> and Mississippi and Mariposa and Mississippi Streets.

In their third Transportation/Circulation comment, Save The Hill is again correct that the SFMTA added a permitted commuter shuttle bus zone along the east side of Mississippi Street, north of 17th Street. This commuter shuttle bus zone was not discussed in the final EIR, but was acknowledged by Planning Department staff at the May 12, 2015 Planning Commission EIR Certification hearing. The commuter shuttle bus zone results in the loss of approximately four parking spaces that were considered in the EIR



analysis for existing parking conditions between the hours of 6 and 10 AM and 4 and 8 PM.<sup>2</sup> The loss of the four parking spaces would not change the conclusions of the EIR in regards to unmet parking demand brought about by the project in the vicinity. Nor would the commuter bus change the final EIR's conclusions with regard to traffic congestion in the project vicinity. Save The Hill's Transportation/Circulation comments regarding the truck signage or the commuter bus proposal do not present any new information that would alter the conclusions presented in the final EIR or trigger the need to recirculate the draft EIR pursuant to CEQA Guidelines Section 15088.5.

The Grow Potrero Responsibly comment regarding the requested exemption of a 0.85 ratio on residential parking contributing to "already intolerable congestion at key intersections" is addressed on pages RTC.73 and 74 of the RTC document (which responds to comments objecting to the provision of both too much parking and too little parking by the project). As discussed above, per Public Resources Code Section 21099(d), the adequacy of parking is not considered an impact for infill projects. The parking analysis conducted by the TIS and reported on pages IV.A of the draft EIR is provided for informational purposes. As pointed out on page RTC.74, "[t]he Draft EIR transportation analysis accounts for the potential secondary effects of cars looking for parking spaces in areas with a limited parking supply." The final EIR analyzed the project as proposed and accurately assessed the vehicle trips and resulting traffic expected from the 0.85 parking ratio.

The comment by Save The Hill in their March 12, 2015 email to the Planning Department Environmental Review Officer regarding the final EIR's failure to consider the potential effects of the removal of the elevated portion of I-280 in the vicinity of the proposed project is addressed on page RTC.112 of the RTC document, which states that "it is currently unknown if or how this change to the circulation system would occur." No environmental evaluation application has been filed with the Planning Department, as the potential for the removal of the elevated portion of I-280 is preliminary in nature and is being studied for feasibility, and thus the project is not reasonably foreseeable.<sup>3</sup> Per CEQA Guidelines Section 15145, the RTC properly concludes that it would be speculative to include analysis of the cumulative effects of a potential I-280 teardown at this time.

In conclusion, the final EIR has not failed to analyze and disclose significant environmental impacts in regards to transportation and circulation. The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to analyze and disclose significant environmental impacts in regards to transportation and circulation, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

---

<sup>2</sup> (See <https://www.sfmta.com/sites/default/files/projects/2016/6-20StopList.pdf>)

<sup>3</sup> For more information, see <http://sf-planning.org/railyard-alternatives-and-i-280-boulevard-feasibility-study-rab>.

## Transit

**Appellants assert that the final EIR's analysis of the proposed project's impacts to transit is flawed because it does not account for the alleged lack of adequate transit in the project's vicinity.** In his October 5, 2015 email (incorporated by reference in the June 10, 2016 appeal letter), Rod Minott of Save The Hill states on page 7:

"Adding thousands of residents with inadequate investment in public transit will significantly impact the neighborhood, resulting in further dependence on cars while traffic congestion grows and degrades our quality of life. For example, the 10 Townsend bus is already at 95% capacity yet the Corovan DEIR claims no mitigation measures are needed. Public transit to the site is limited to a single bus future bus line that is already overburdened, underfunded, and suffering maintenance and scheduling difficulties."

On page 1 of their May 1, 2016 letter to the Planning Commission, Grow Potrero Responsibly includes transit as one of several public benefits that they believe the Eastern Neighborhoods Plan has not delivered:

"The Eastern Neighborhoods Plan promised, '...a full array of public benefits, to ensure the development of complete neighborhoods, including...transit...' Unfortunately the City has never provided most of the necessary infrastructure to support anticipated development, particularly in the context of cumulative growth."

**The final EIR's analysis of the proposed project's potential impacts with regard to transit provides a full and complete analysis of the existing setting and the analytic methodology employed for the impact analysis.** The existing transit conditions (service and capacity) are provided on pages IV.A.12 through 18, including the transit lines within one half mile of the project site and, per the SF Guidelines, an analysis of transit-related capacity and demand in the peak direction to or from downtown to other areas of the City (see Table IV.A-4, page IV.A.17). Transit capacity is analyzed according to Planning Department's Transportation Information Analysis Guidelines' 85 percent standard for transit vehicle load.

Significance criteria for a transit impact is provided on draft EIR page IV.A.27: "The project would have a significant effect on the environment if it would cause a substantial increase in transit demand that could not be accommodated by adjacent transit capacity, resulting in unacceptable levels of transit service..." The transit impact methodology is provided on page IV.A.28 and analyzes both the impact of additional transit ridership generated by the proposed project and the impact of additional project-generated vehicle trips on transit routes in the vicinity of the project site.

The potential impact upon Muni transit capacity is evaluated under Impact TR-3 (pages IV.A.45 through 48), with the existing plus project transit capacity provided in Table IV.A-14 on page IV.A.47 supporting a conclusion that the proposed project would not result in a substantial increase in transit demand that

could not be accommodated by Muni (or regional) transit capacity or affect transit operating conditions within the project vicinity.

Several comments similar to those noted above are included under Comment TR-1 on pages RTC.59 through 62. In regards to inadequate provision of transit in the project vicinity, the RTC document summarizes the transit improvements that are planned in the Muni forward program, including upgraded service on the 10 Townsend line and transit priority and pedestrian safety improvements for the 22 Fillmore route along 16<sup>th</sup> Street.

In conclusion, the final EIR has not failed to analyze and disclose significant environmental impacts in regards to transit. The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to analyze and disclose significant environmental impacts in regards to transit, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

#### Inconsistencies with Area Plans and Policies

**The appeal letter and appellant's letters to the Planning Commission raise general and specific concerns with regard to the final EIR's analysis of the potential impacts associated with the proposed project's inconsistency with area plans and policies.** On pages 3 and 4 of their May 4, 2016 letter to the Planning Commission, appellant Save The Hill asserts that the final EIR provided an inadequate and inaccurate analysis of impacts related to land use by failing to take into account the size and scope of the proposed project and by ignoring various planning objectives and policies:

"The DEIR and Response to Comments as well as City Planning's previous environmental studies and projections for Potrero Hill fail to take into account a project of this scope at this site – including its impacts...The proposed project remains inconsistent with many policies and principles of the Potrero Hill Area Plan."

Specifically, Save The Hill asserts that the proposed project is inconsistent with the following objectives and policies:

San Francisco General Plan Objective 3: "Moderation of major new development to complement the city pattern, the resources to be conserved, and the neighborhood environment."

San Francisco General Plan Policy 2: "That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods."

Showplace Square / Potrero Hill Area Plan Objective 1.2: “In areas of Showplace/Potrero where housing and mixed use is encouraged, maximize development potential in keeping with neighborhood character.”

Showplace Square / Potrero Hill Area Plan Policy 3.1.1: “Adopt heights that are appropriate for Showplace Square’s location in the city, the prevailing street width and block pattern, and the anticipated land uses, while respecting the residential character of Potrero Hill.”

Showplace Square / Potrero Hill Area Plan Policy 3.1.2: “Development should respect the natural topography of Potrero Hill.”

Showplace Square / Potrero Hill Area Plan Policy 3.1.6: “New buildings should epitomize the best in contemporary architecture, but should do so with full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.

In their May 4, 2016 letter to the Planning Commission, Save The Hill states on page 9:

“The proposed project remains inconsistent with many policies and principles of the Potrero Hill Area Plan. In accordance with the Showplace Square / Potrero Hill Area Plan policy calling for lowered heights on the south side of 16<sup>th</sup> Street, the underlying final Eastern neighborhoods EIR (which the 901 16<sup>th</sup> / 1200 17<sup>th</sup> Street EIR tiers off from) does address heights rising 65 feet to 68 feet – but only on the north side of 16<sup>th</sup> Street (not the south side of 16<sup>th</sup> where the proposed project is located).

Ms. Mansfield-Howlett’s 18-page letter and the additional materials submitted to the Board of Supervisors on July 15, 2016 repeat these concerns.

**As discussed below, potential impacts that could result with the proposed project due to inconsistencies with area plans and policies as they relate to environmental impacts are fully analyzed in the final EIR according to a well-defined baseline and project description, an analytic methodology based on substantial evidence, and clearly stated significance criteria.**

As discussed above under Land Use, the Planning Department’s Citywide and Current Planning Divisions both determined that the proposed project was consistent with the development density of the Eastern Neighborhoods Area Plan and the City’s Planning Code and Zoning Map. Chapter III of the draft EIR provides a comprehensive summary of the City’s relevant plans and policies that are applicable to the proposed project, including the San Francisco General Plan, the Eastern Neighborhoods Rezoning and Area Plan, the Showplace Square / Potrero Area Plan, the San Francisco Planning Code, Proposition M (Accountable Planning Initiative), the Better Streets Plan, the Transit First Policy, and the Bicycle Plan. The Chapter III discussion observes (on page III.1) that “[t]he determination of whether a project is

consistent with a specific plan or policy can be subjective, and is best made with a broad understanding of the often-competing policy objectives in a planning document.” Consequently, policy consistency determinations are ultimately made by the City’s decision-making bodies such as the Planning Commission and the Board of Supervisors independent of the environmental review process, as part of the decision to approve or reject the project. In its approval of the proposed project’s Large Project Authorization, the Planning Commission determined that the project is generally consistent with the objectives and policies of the General Plan, including the Showplace Square/Potrero Area Plan. As noted above, Appellants did not appeal the Large Project Authorization approval to the Board of Appeals.

Furthermore, and as noted by the draft EIR on page III.1: “Project-related policy conflicts and inconsistencies do not constitute, in and of themselves, significant environmental impacts. Such conflicts or inconsistencies result in environmental impacts only when they would result in direct physical effects.” The final EIR did analyze potential project-related policy conflicts and inconsistencies as they might relate to project-level and cumulative environmental impacts. For example, the Showplace Square / Potrero Area Plan contains policies regarding height and the project site’s applicable 48-X and 68-X height and bulk districts contain more specific regulations regarding those limits. Height and bulk may reasonably be expected to have some effect on potential wind and shadow impacts. The CPE Checklist did analyze the proposed project’s height and bulk with regard to potential project-level and cumulative wind and shadow impacts and both were determined to have no significant impact that was not previously identified in the *Eastern Neighborhoods PEIR* (pages 42 through 48 of the CPE Checklist). Similarly, potential noise impacts were evaluated in regards to the exposure of persons or the generation of noise levels in excess of standards established in San Francisco’s General Plan and Noise Ordinance (pages 31 through 35 of the CPE Checklist) and potential air quality impacts resulting from construction and operation of the proposed project were analyzed for consistency with the 2010 Clean Air Plan (pages 35 through 41 of the CPE Checklist). The CPE Checklist determined that the proposed project would have no significant noise or air quality impacts that were not previously identified in the *Eastern Neighborhoods PEIR*.

Save The Hill’s allegations that the proposed project is inconsistent with various plans and policies are responded to on pages RTC.195 and 196 of the RTC document, which notes that “the Draft EIR’s evaluation of the proposed project’s consistency with both the General Plan and the Planning Code focuses on conflicts with objectives and policies that could result in physical environmental effects.” Save The Hill’s comments largely bear upon height and scale; they do not identify a specific environmental impact that would result with the proposed project’s alleged inconsistency with the objectives and policies cited. Height and scale are generally associated with impacts related to wind and shadow; these impacts are analyzed in the CPE Checklist. As discussed above under Aesthetics and Views, aesthetic issues are not considered a CEQA impact for infill projects in an urban area.

Note that per CEQA Guidelines Section 15168, program EIRs provide a basis for future project-level environmental review. As pointed out on pages RTC.51 and 52 of the RTC document:

“Individual development projects, like the proposed project, that would be implemented under the Eastern Neighborhoods Plan are required to undergo project-level environmental review to determine if they would result in additional impacts specific to the development proposal, the project site, and if the proposed development would be within the development projections and the 20-year timeframe that the Eastern Neighborhoods PEIR analyzes, so as to assess whether additional environmental review is required.”

As previously noted, the proposed project is consistent with its UMU zoning designation and with its height and bulk designations – both of which were adopted in reliance upon the *Eastern Neighborhoods PEIR*.

As a general matter, Area Plan policies such as those cited by the Appellants are not prescriptive. The text following Showplace Square / Potrero Hill Area Plan Policy 3.1.2 (Development should respect the natural topography of Potrero Hill) states: “Consistent with the Urban Design element of the General Plan, building height and form should accentuate the natural topography of the landscape. Lowering heights from the north to the south side of 16th street would help accentuate Potrero Hill.” Such policy language does not require analysis under CEQA as an environmental impact.

Finally, and again as an informational matter, in regards to the policies and objectives in the Showplace Square / Potrero Hill Area Plan, the exhibit titled “Showplace Square / Potrero Hill Generalized Zoning Districts on page 13 of the Plan shows that the project site is within an area identified as the “16<sup>th</sup>-17<sup>th</sup> Street Corridor” which is a distinct area from the “Potrero Hill Residential Area” to the south. The exhibit includes the following language for the 16<sup>th</sup>-17<sup>th</sup> Street Corridor: “Encourage development of new housing here, mixed with remaining PDR uses. Acknowledge this transit corridor with somewhat increased residential density along the south side of 16th Street, while 17th Street remains lower in scale.”

The final EIR makes clear that the proposed project is consistent with applicable area plans and policies as they may relate to potential environmental impacts. As explained on page III.3 of the draft EIR, adoption of the Eastern Neighborhoods Plan in December 2008 resulted in the project site being rezoned to UMU and the 48-foot (17<sup>th</sup> Street) and 68-foot (16<sup>th</sup> Street) height and bulk districts. The rezoning of the project site was evaluated in the *Eastern Neighborhoods PEIR*. As discussed on draft EIR pages III.5-6, the project site zoning designation of Urban Mixed Use (UMU) has no minimum or maximum density requirement for residential use (subject to height and bulk controls consistent with Section 843.24 of the Planning Code). As stated on page III.6 of the draft EIR:

“The proposed project would redevelop the site with a mix of residential and ground floor commercial uses. With approval of the requested exceptions noted below, the proposed project would be consistent with the type and intensity of development envisioned for the site and would not demonstrably conflict with the zoning controls applicable to the project site.”

Again, the proposed project was analyzed by the Citywide and Current Planning Divisions and found to be consistent with development density of the Eastern Neighborhoods Area Plan and the City's Planning Code and Zoning Map.

The RTC document addresses numerous comments regarding the proposed project's compliance with applicable plans and policies under Section A (pages RTC.35 through 44). Specific responses in regards to comments concerning the height and scale of the project are responded to on page RTC.37. In particular, certain rooftop equipment is exempt from applicable height limits pursuant to Planning Code Section 260(b). The proposed project complies with this section. Responses in regards to comments concerning the proposed project's alleged inconsistency with the Eastern Neighborhoods Area Plan and Showplace Square / Potrero Area Plan objectives and policies relating to neighborhood character and environment are responded to on pages RTC.43 and 44. Consistency with the use district and applicable height and bulk districts are discussed with the proposed project's exceptions to the Planning Code under Response PO-2. The RTC document explains that the consistency of the proposed project with plans, policies and regulations that do not relate to physical environmental issues would be considered by the City's decision-makers.

In conclusion, the EIR has not failed to analyze and disclose significant environmental impacts in regards to inconsistencies with area plans and policies. The Appellants do not provide substantial evidence or argument to establish how the EIR failed to analyze and disclose significant environmental impacts in regards to inconsistencies with area plans and policies, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

#### Cumulative Impacts

**Pages 5 and 6 of the May 4, 2016 letter from appellant Save The Hill to the Planning Commission states that the analysis of cumulative impacts is inadequate because "[t]he City failed to anticipate the dramatic pace of development and has not delivered on its promise to provide necessary public improvements (parks, transit, roads, etc.) to support thousands of new residents."** Save The Hill asserts that the *Eastern Neighborhoods PEIR Preferred Project Option*

"planned for up to 3,180 housing units built by 2025 in the Potrero Hill / Showplace Square area. But as of February 2016, recent City Planning analysis shows 3,315 units already in the pipeline or built...City Planning analysis understates the 'cumulative impacts' of large developments throughout Potrero Hill / showplace Square by continuing to rely on outdated data from the 2008 Eastern Neighborhoods Environmental Impact Report to inform analysis of the EIRs in large projects, including the proposed 901 16<sup>th</sup> / 1200 17<sup>th</sup> Street development. Assumptions and mitigation measures provided in that document are simply no longer valid."

Page 1 and 2 of the May 1, 2016 letter from Grow Potrero Responsibly to the Planning Commission also asserts that the final EIR failed to mitigate cumulative and project-specific impacts:

“The environmental analysis for this project relies on outdated analysis and fails to identify adequate mitigations of the impacts of this project, and cumulative impacts of overbuilding, through the Showplace Square / Potrero Hill Area. The Eastern Neighborhoods PEIR ‘Preferred Project’ that was approved by the Planning Commission and Board of Supervisors in 2008 allowed for 3180 residential units in the Showplace Square / Potrero Hill Area. Recent Planning Department analysis indicates that as of February 23, 2016 projects containing 3315 units in the Area have completed or are proposed to complete environmental review. As we have repeatedly said, the impacts of this project and others in the area are not being addressed. Impact fees do not come close to covering costs, while the City has never identified the funding sources to provide the necessary infrastructure and community benefits promised to us in the Eastern Neighborhoods Plan.”

Comments in the materials sent to the Board of Supervisors on July 15, 2016 by Ms. Mansfield-Howlett repeat these concerns. On page 1 of Memo 2, Grow Potrero Responsibly states:

“Cumulative analysis in the project EIR relies on a document (Eastern Neighborhoods PEIR) that is eight years old and is not stale. Given the unanticipated level of development in the Showplace Square / Potrero Hill Area, the assumption that cumulative impacts were addressed is no longer true. As a result, the EIR is deeply flawed.”

**The final EIR discloses and appropriately relies upon the development projections and impact analyses in the *Eastern Neighborhoods PEIR* to address the potential cumulative impacts of the proposed project.** Potential cumulative impacts are analyzed for each topic in the CPE Checklist and final EIR according to a well-defined project description, an analytic methodology based on substantial evidence, and clearly stated significance criteria. For example, for those topics analyzed in the CPE Checklist, refer to the cumulative impact analysis for Noise on pages 31-35; for Air Quality on pages 35 through 41; and Wind and Shadow on pages 42 through 48. The CPE Checklist found that the following potential individual and cumulative environmental effects of the proposed project, as fully analyzed in the CPE Checklist, were adequately covered in the Eastern Neighborhoods PEIR: land use and land use planning; aesthetics; population and housing; paleontological and archeological resources; noise; air quality; greenhouse gas emissions; wind and shadow; recreation; utilities and service systems; public services; biological resources; geology and soils; hydrology and water quality; hazards and hazardous materials; mineral and energy resources; and agriculture and forest resources.

The draft EIR Transportation and Circulation chapter provides an approach to the cumulative analysis on pages IV.A.34 through 38, including consideration of the Eastern Neighborhoods PEIR 2025 Cumulative Conditions traffic volumes and the pedestrian, bicycle and construction impacts resulting from



cumulative growth, numerous transportation network changes, and other relevant plans and projects, such as the Mission Bay Redevelopment Plan and UCSF Mission Bay Medical Center. The project-level impacts were also analyzed for their contribution to 2025 cumulative-level impacts on draft EIR pages IV.A.63 through 72. The cumulative impact analysis determined that the proposed project would contribute to significant and unavoidable cumulative impacts to the four study intersections previously noted and would not contribute to cumulative impacts with respect to transit, pedestrians, bicyclists, and construction.

The draft EIR Historic Architectural Resources chapter also analyzes the proposed project's potential cumulative impacts, in combination with other past, present, and reasonably foreseeable future projects in the project vicinity (Impact C-CP-1 on draft EIR page IV.B.27). The project site is not in or adjacent to any designated or potential historic district and the proposed project would not have a direct or indirect impact upon the potential eligible status of the nearby Bottom of the Hill club.

Comments regarding cumulative impacts are responded to throughout the RTC document. For example, responses to comments regarding cumulative concerns and:

- Plans and Policies are discussed on page RTC.37 ("cumulative impacts associated with population growth were also covered in the *Eastern Neighborhoods PEIR*");
- Loss of PDR space is discussed on pages RTC.43 and 44 ("adoption of the Eastern Neighborhoods Area Plans would result in a significant and unavoidable impact on land use due to the cumulative loss of PDR...");
- Impacts of growth not anticipated by the *Eastern Neighborhoods PEIR* are discussed on pages RTC.54 through 56 ("...the cumulative assumptions provided within the Eastern Neighborhoods PEIR are applicable to development of the project site and the DEIR (and CPE Checklist) analysis does not rely on outdated information..."); and
- Transportation impacts (regarding Golden State Warriors Event Center and Mixed Use Development at Mission Bay) are discussed on pages RTC.97 and 98 ("The cumulative conditions were based on forecasted growth in the study area based on the Eastern Neighborhoods PEIR, which assumed a land use development at the Golden State Warriors project site in Mission Bay (i.e., the former Salesforce proposal) and was therefore considered in the growth projections. Cumulative conditions were also compared for consistency with the UCSF 2014 LRDP EIR.")

The specific assertion by Save The Hill that the final EIR "understates the 'cumulative impacts' of large developments through Potrero Hill / Showplace Square by continuing to rely on outdated data from the 2008" *Eastern Neighborhoods PEIR* is incorrect. Page 23 of the CPE Checklist (under Evaluation of Environmental Effects) describes the analytic relationship between the proposed project and the *Eastern Neighborhoods PEIR* per CEQA Guidelines Section 15183. As stated on page I.4 of the draft EIR:

“The *Eastern Neighborhoods PEIR* was a comprehensive programmatic document that presented an analysis of the environmental effects of implementation of the Eastern Neighborhoods Plan, as well as the potential impacts under several proposed alternative scenarios.”

As discussed in the draft EIR, the *Eastern Neighborhoods PEIR* equally analyzed three rezoning options (A, B and C) that represented a range of potential development and potential loss of PDR space for the Eastern Neighborhoods Plan area and the sub-plan areas, including Showplace Square / Potrero Hill. The Preferred Project adopted by the Planning Commission was a combination of Options B and C that included a total increase of 9,785 dwelling units in the Eastern Neighborhoods area and 3,180 dwelling units within the Showplace Square / Potrero Hill Area Plan.

Note that the *Eastern Neighborhoods PEIR* evaluated a range of development based upon the three options. As explained on page RTC.54 and 55 of the RTC document:

“The Eastern Neighborhoods PEIR found that implementation of the Eastern Neighborhoods Plan could result in a substantial amount of growth within the Eastern Neighborhoods Plan area, resulting in an increase of approximately 7,400 to 9,900 dwelling units and 3,200,000 to 6,600,000 square feet of non-residential uses (excluding PDR loss) through the lifetime of the Plan (year 2025). The Eastern Neighborhoods PEIR projected that this level of development would result in a total population increase of approximately 23,900 to 33,000 people throughout the lifetime of the plan... As of February 23, 2016, projects containing a total of 9,749 dwelling units and 2,807,952 square feet of non-residential space (excluding PDR loss) have been completed or are planned to complete environmental review<sup>14</sup> within the Eastern Neighborhoods Plan area. This level of development corresponds to an overall population increase of approximately 23,760 to 25,330 persons.”

Many comments (including those from the Appellants) regarding the draft EIR’s reliance on the *Eastern Neighborhoods PEIR* and the adequacy of the cumulative impact analysis were responded to under Response ES-1 in the RTC document, on pages RTC.51 through 57. As explained on page RTC.55 of the RTC document, current development has not exceeded the upper limits of the range of development projected for the Showplace Square / Potrero Hill Area Plan:

“In addition, within the Showplace Square/Potrero Hill subarea, the Eastern Neighborhoods PEIR estimated that implementation of the Eastern Neighborhoods Plan could result in an increase of approximately 2,300 to 3,900 dwelling units and 1,500,000 to 1,700,000 square feet of non-residential space (excluding PDR loss) through the year 2025. This level of development corresponds to an overall population increase of approximately 7,860 to 9,890 persons. As of February 23, 2016, projects containing approximately 3,315 dwelling units and 1,138,920 square feet of non-residential space (excluding PDR loss) have completed or are planned to complete environmental review

within the Showplace Square/Potrero Hill subarea. This level of development corresponds to an overall population increase of approximately 6,910 to 7,760 persons.”

As disclosed by final EIR, development has not exceeded the upper limits of the range projected in the *Eastern Neighborhoods PEIR*.

On pages 1 through 4 of Memo 2 in the July 15, 2016 materials sent to the Board of Supervisors by Ms. Mansfield-Howlett, *Grow Potrero Responsibly* cites a draft 2010-2015 Eastern Neighborhoods Monitoring Report being prepared by the Planning Department as evidence that the number of “residential units under construction, entitled or under review [is] well in excess of the ENP Preferred Project level, as well as ENP Options A, B, C for the Area.” In response to this concern, it is important to note that the Monitoring Reports prepared to track development in the Eastern Neighborhoods Plan Area are required (by Administrative Code Section 10E) to track all development activity occurring within Plan Area boundaries during the five-year period, as well as the pipeline projecting future development. Some of this development activity was considered under the *Eastern Neighborhoods PEIR*, certified by the Board of Supervisors in 2008; and *Western SoMa EIR*, certified in 2012. However, a few of the developments that have been completed during this period and some of the proposed projects in the pipeline did not (or will not) receive their environmental clearance through these two EIRs, primarily for these four reasons:

1. The developments were entitled prior to the adoption of the Plans, under zoning designations that were subsequently changed by the Plans.
2. Under the Eastern Neighborhoods Amnesty Program that expired in 2013, legalization of conversions from PDR to office space that took place prior to Plan adoption was allowed.
3. Some large-scale developments and Plan Areas that are within or overlap Project Area boundaries (such as Central SoMa and Pier 70) will undergo separate environmental review processes.
4. Certain smaller projects did not rely on the rezoning under the Eastern Neighborhoods PEIR and are therefore not included.

The Five Year Monitoring Plan approach to tracking development in the Eastern Neighborhoods Plan Area is more inclusive than that required by CEQA and considered in the *Eastern Neighborhoods PEIR*. Per CEQA Guidelines Section 15125(a), the baseline setting for an EIR “must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation (NOP) is published. For example, development that took place between 2005 (or earlier) and 2008 proceeded under the zoning in place at that time, not the rezoning being considered for the Eastern Neighborhoods. Those projects were subject to their own environmental reviews that analyzed and disclosed their impacts. The *Eastern Neighborhoods PEIR* evaluated impacts that would be expected to occur as a result of projects that could proceed with the rezoning. Appropriately, any impacts associated with those projects in the 2005-2008 period were not attributed to the Eastern Neighborhoods Rezoning

and were not considered or analyzed as impacts of the rezoning in the *Eastern Neighborhoods PEIR*. The *Eastern Neighborhoods PEIR* could not and did not analyze the impacts or mitigate for development that had already occurred or was occurring under the rules in place when that planning effort was initiated. The final EIR has properly considered development under the Eastern Neighborhoods Plan as those projects that have occurred or for which an environmental application has been received since its adoption.

The appellant's comments that development within the Eastern Neighborhoods Plan Area has outpaced infrastructure improvements needed to support new development are similar to comments responded to in the RTC on pages RTC.56 and 57. Under *Infrastructure Improvements within the Eastern Neighborhoods Plan Area*, the response details how development impact fees are collected to fund infrastructure improvements within the Eastern Neighborhoods Plan area, including improvements for transit and recreational facilities. As explained on page RTC.57, "[e]ach project is also required to identify and mitigate (to the extent feasible) any substantial impacts associated with infrastructure deficiencies, such that a significant environmental impact would not result."

In conclusion, the EIR has not failed to analyze and disclose significant environmental impacts in regards to cumulative impacts. Save The Hill's assertion that the current development has exceeded that which was considered by the *Eastern Neighborhoods PEIR* is incorrect – the amount of development in both the Eastern Neighborhoods Plan area as a whole and the Showplace Square / Potrero Hill Plan Area has not exceeded the upper limit of the range considered by the *Eastern Neighborhoods PEIR*. The Appellants do not provide substantial evidence or argument to establish how the EIR failed to analyze and disclose significant environmental impacts in regards to cumulative impacts, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

**Concern 3: The EIR's alternatives analysis is inadequate and incomplete.** The Appellants support the Metal Shed Reuse Alternative. Specific comments by Save The Hill on page 2 and 3 of their May 4, 2016 letter to the Planning Commission regarding the feasibility of the Metal Shed Reuse Alternative are also responded to below under Concern 6. In regards to the transportation and circulation analysis for the Metal Shed Reuse Alternative, Ms. Mansfield-Howlett, on page 3 of her May 11, 2016 letter to the Planning Commission (incorporated by reference to her June 10, 2016 appeal letter), also asserts that the "EIR fails to support its allegation that the greater percentage of PDR in the Metal Shed alternative would render higher traffic counts." Similar concerns are expressed in the materials submitted to the Board of Supervisors by Ms. Mansfield-Howlett on July 15, 2016.

**Response 3: Appellants do not provide specific examples as to how the EIR's alternatives analysis is inadequate and incomplete and the EIR did not determine that the Metal Shed Reuse alternative is infeasible.** As discussed below, alternatives to the proposed project are fully analyzed in the Chapter VI (pages IV.1 through 37) of the draft EIR. The alternatives analysis is consistent with CEQA Guidelines Section 15126.6.

As noted on page VI.1 of the draft EIR, the CEQA Guidelines do not require a minimum or maximum number of alternatives that must be analyzed. Rather, they recognize that the range of conceivable alternatives to a proposed project, and variations thereto, is potentially vast. CEQA Guidelines Section 15126.6(a) requires only that an EIR consider a reasonable range of potentially feasible alternatives to the proposed project that will foster informed decision-making, and limits the range of alternatives to the “rule of reason.” The range of potentially feasible alternatives should include those that could feasibly attain most of the basic objectives of the proposed project but would avoid or substantially lessen any of the significant effects of the proposed project. CEQA generally defines “feasible” to mean the ability to be accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. Site suitability, economic viability, availability of infrastructure, General Plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and the ability of the proponent to attain site control may also be taken into consideration when assessing the feasibility of alternatives (CEQA Guidelines Section 15126.6(f)(1)).

The analysis presented in Chapter VI of the draft EIR represents a reasonable range of alternatives and complies with the CEQA Guidelines:

- Per CEQA Guidelines Section 15126.6(c), the draft EIR identifies and briefly discusses alternatives that were considered and rejected as infeasible during the scoping process (see page VI.3);
- Per CEQA Guidelines Section 15126.6(b) and (e), the draft EIR evaluates the No Project alternative and, in addition to the proposed project, a Reduced Density Alternative and a Metal Shed Reuse Alternative (proposed by Appellant Save the Hill) with the intention of reducing the environmental impacts of the proposed project while still meeting most of the project’s basic objectives.
- Per CEQA Guidelines Section 15126.6(d), the draft EIR includes sufficient information about each alternative to allow meaningful evaluation, analysis and comparison with the proposed project. In addition to a consistent analysis of impacts for each alternative, Chapter VI contains a summary of the alternatives on draft EIR pages VI.3 and 4 and a matrix displaying the major characteristics and significant environmental effect of each alternative (Table VI-8 on draft EIR pages VI.34 and 37).

As discussed on pages VI.19 through 32 of the draft EIR, the Reduced Density Alternative would be the environmentally superior alternative because, under the LOS metric, it would reduce traffic-related impacts at two of the four intersections with significant and unavoidable impacts as a result of the proposed project to less-than-significant levels. The draft EIR determined that the Metal Shed Reuse Alternative would not avoid any of the traffic-related significant unavoidable impacts of the proposed project when evaluated under the LOS metric. However, as noted on draft EIR page VI.19, the Reduced Density Alternative would not reduce impacts to PDR space and would have no significant impacts to historic resources as the brick office building would also be rehabilitated under this alternative.

The RTC document determined that the Metal Shed Reuse Alternative would be the Environmentally Superior Alternative when transportation impacts are evaluated under the VMT metric, as opposed to automobile delay using the LOS metric, because the alternative would retain some of the PDR space while meeting Planning Code requirements and most of the basic project objectives (see text changes to Alternatives – Chapter VI on pages RTC.26 through 28). The Metal Shed Reuse Alternative would retain the metal sheds (determined not to be historic resources) and the brick office building and would, similar to the proposed project and other alternatives, have a less than significant impact on the eligibility of the brick office building as a historic resource. Therefore, contrary to Appellants' claims, the EIR did not determine that the Metal Shed Reuse Alternative is infeasible.

The RTC document addresses numerous comments regarding the alternatives analysis presented in the draft EIR in Section E (pages RTC.131-157). Comments regarding the adequacy of the alternatives analysis (AL-4) are responded to on pages RTC.154-156. The response details the consistency of the approach to the alternatives analysis with the CEQA Guidelines, including development of the alternatives considered. The rationale for selection of the Reduced Density Alternative as the environmentally superior alternative is provided in Response AL-6 on pages RTC.156-157.

Ms. Mansfield-Howlett's assertion that the final EIR's analysis of PDR trip generation is flawed is addressed in the response to numerous similar comments under Comment AL-1, on pages 133 and 134 of the RTC document. As Response AL-1 explains, "[t]he trip generation rate used in the analysis of the Metal Shed Reuse Alternative for PDR land use is consistent with the Planning Department's Transportation Impact Analysis Guidelines, using the trip generation rate for Office land use, 18 trips per 1,000 square feet." As the RTC acknowledges, commenters are correct that the City's recent nexus study for the Transportation Sustainability Fee (TSF Nexus Study) used a different, lower trip rate for PDR uses. Accordingly, the RTC analyzed the Metal Shed Alternative using the lower rate of seven trips per 1,000 square feet of PDR land use consistent with the TSF Nexus Study. As stated on page RTC.133 of the RTC document, the analysis showed a relatively small reduction in trips because "the majority of trips under this alternative would be generated by residential or commercial uses and would be unaffected by the change in trip rate for PDR uses." Thus, the lower PDR trip rate did not change the intersection impact conclusions or the environmental superiority related to the Metal Shed Reuse Alternative as reported in the draft EIR.

In conclusion, the final EIR's alternative analysis complies with the CEQA Guidelines and is not inadequate and incomplete. The final EIR provides a complete evaluation of a reasonable range of alternatives. The Appellants do not provide substantial evidence or argument to establish how the FEIR failed to analyze and disclose significant environmental impacts in regards to an inadequate and incomplete analysis of alternatives, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

Concern 4: Proposed mitigation for traffic impacts is inadequate and incomplete. On page 7 of the May 4, 2016 letter to the Planning Commission, Save The Hill states that traffic congestion impacts “are inadequately addressed and mitigated in the DEIR and Responses to Comments. Save The Hill’s concerns regarding traffic congestion are responded to above under Transportation and Circulation; the following response specifically addresses the adequacy of mitigation for impacts related to traffic congestion. In addition to these concerns, Grow Potrero Responsibly raises concerns regarding the final EIR’s alleged failure to evaluate pedestrian safety impacts of the proposed project.

**Response 4: As discussed below, impacts and mitigation measures for the project-specific impacts to three intersections and cumulative impacts to those three intersections and one additional intersection are adequately and completely discussed in Chapter IV.A of the draft EIR on pages 42 through 45 and on pages IV.A.63 through 68. Impacts regarding pedestrian safety are addressed under Impact TR-4 on pages IV.A.49 through 51 of the draft EIR.**

Pursuant to Section 15370 of the CEQA Guidelines, mitigation includes (a) avoiding the impact altogether by not taking a certain action or parts of an action, (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation, (c) rectifying the impact by repairing, rehabilitating, or restoring the impacted environment, (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, and (e) compensating for the impact by replacing or providing substitute resources or environments. The draft EIR’s consideration of mitigation measures for the traffic-related impacts complies with this definition. As discussed under Transportation and Circulation response above and as stated on draft EIR page S.3 and draft EIR pages IV.A41-44, the proposed project would result in significant and unavoidable project-specific traffic impacts to three study intersections (17<sup>th</sup> Street and Mississippi Street, Mariposa Street and Pennsylvania Street, and Mariposa Street and Mississippi Street), under the LOS metric. In addition, the proposed project would result in a considerable contribution to significant cumulative traffic impacts at the same three intersections plus at the 7<sup>th</sup> Street/16<sup>th</sup> Street/Mississippi Street intersection. Mitigation measures for each intersection were evaluated on draft EIR pages IV.A.42-45.

Development of mitigation measures was coordinated with SFMTA staff and summarized in the June 4, 2015 Findings of Feasibility of Traffic Mitigation Measures Proposed for 901 16<sup>th</sup> Street/1200 17<sup>th</sup> Street referenced in Footnote 35 on page IV.A.42 of the draft EIR. For two of the intersections (17<sup>th</sup> Street and Mississippi Street, Mariposa Street and Pennsylvania Street), mitigation measures (signalization) supported by the SFMTA staff were identified to reduce impacts to a less-than-significant level, but because full funding for these measures had not been identified, the project-level and cumulative impacts were identified significant and unavoidable. As stated on page S.13 of the draft EIR, the SFMTA staff determined that no improvements would be feasible at the Mariposa and Mississippi Street intersection as considered improvements would conflict with the desired operation of the intersection. The project-level and cumulative impact at this intersection therefore was identified significant and unavoidable. The SFMTA staff similarly determined that there were no feasible improvements at the already signalized 7<sup>th</sup>/16<sup>th</sup>/Mississippi Street intersection as additional or reconfigured lanes would conflict with goals for

pedestrian and transit usage of the intersection. The cumulative impact at this intersection therefore was identified significant and unavoidable.

As discussed under Concern 3, the draft EIR alternatives analysis provided in Chapter VI includes analysis of each alternative's traffic impacts. As noted above, other than the No Project Alternative, the Reduced Density Alternative is identified as the environmentally superior alternative in regards to the effects of automobile delay as described by LOS. The Metal Shed Reuse Alternative is identified as the environmentally superior alternative in regards to the effects of VMT, where automobile delay would not be considered an impact on the environment. Chapter VI of the draft EIR identified the Reduced Density alternative that would, under Existing Plus Project conditions, reduce the number of significantly-impacted intersections from three to one (at Mariposa and Pennsylvania Street), and under Cumulative Conditions, reduce the number of significantly-impacted intersections from four to two (7<sup>th</sup>/16<sup>th</sup>/Mississippi Street and Mariposa Street and Pennsylvania Street) (see page IV.16).

Responses to comments asserting that mitigation for the intersections was not being properly considered or applied are found under Response TR-17 on pages RTC.104 through 106 of the RTC document. The responses again note that the SFMTA staff considered the possible mitigation measures and issued the aforementioned June 4, 2015 Findings of Feasibility of Traffic Mitigation Measures Proposed for 901 1th Street/1200 17<sup>th</sup> Street. Response TR-17 details the draft EIR's analysis potential mitigation measures for each intersection and, on page RTC.105, states:

"As noted above, impacts would be considered significant and unavoidable, even with project mitigation, at four intersections. CEQA requires consideration of a project's unavoidable environmental risks against other policy goals and allows for certification of an EIR and project approval with a Statement of Overriding Considerations for those impacts demonstrating that the impacts are considered 'acceptable' in light of other policy goals (CEQA Guidelines Section 15093)."

In its approval of the proposed project's Large Project Authorization, the Planning Commission adopted CEQA Findings, including a Statement of Overriding Considerations, concluding that the benefits of the proposed project override the unavoidable environmental impacts associated with the four affected intersections.

In regards to pedestrian safety, the draft EIR concluded on pages IV.A.49 through 55 that potential impacts would be less than significant because the project would not result in overcrowding on sidewalks, or create hazardous conditions for pedestrians due to loading or ingress and egress from the garage. Comments regarding potential impacts to pedestrian safety are also addressed in the RTC document under Comment TR-2 (Bike and Pedestrian Safety) on pages RTC.64 and 65.

In conclusion, the proposed mitigation for traffic impacts is not inadequate and incomplete and potential impacts in regards to pedestrian safety are adequately addressed. As discussed on draft EIR pages IV.A.42 through 45 and draft EIR pages IV.A.66 through 68, and summarized on draft EIR pages S.5



through 8 and draft EIR page S.13, potential mitigation measures were evaluated for each of the four intersections with significant impacts. The final EIR, based upon the expert analysis provided by the Planning Department and SFMTA staff, concluded that mitigation was infeasible due to uncertain funding or conflicts with other policies. The Planning Commission concurred with those findings. The Appellants do not provide substantial evidence or argument to establish the inadequateness and incompleteness of traffic mitigation measures, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

**Concern 5: The final EIR failed to respond adequately to comments on the draft EIR.** In their May, 2016 letter to the Planning Commission, Save The Hill asserts that the RTC document inadequately responded to comments regarding their issues raised under Concerns 1 through 4. Responses 1 through 4 address these concerns, including the adequacy of the RTC document's responses. The following Response 5 provides a discussion demonstrating that the RTC is consistent with applicable CEQA requirements.

**Response 5: Substantive written and oral comments received on the draft EIR are reproduced and adequately responded to in Chapter IV of the RTC document.**

CEQA Guidelines Section 15088 provides the following requirements for the evaluation of and response to comments:

- (a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The Lead Agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.
- (b) The lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report.
- (c) The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.
- (d) The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR. Where the response to comments makes important changes in the information contained in the text of the draft EIR, the Lead Agency should either:
  - (1) Revise the text in the body of the EIR, or

- (2) Include marginal notes showing that the information is revised in the response to comments.

Comments and responses on issues related to both the CPE Checklist and the draft EIR are organized under 14 topics in Chapter IV of the RTC document. Responses demonstrate the draft EIR's adequacy by identifying the pages where relevant information is already presented and justify the information and the analysis as appropriate by explaining the rationale for the approach that addresses the comment. Where necessary, detailed responses are provided giving reasons why specific comments are not accepted. For example, see Response ES-1 on pages RTC.51 through 57, which details how the draft EIR's reliance on the *Eastern Neighborhoods PEIR* is valid. The response includes four sections regarding the *Eastern Neighborhoods PEIR*, including a discussion of program EIRs under CEQA, the rationale for the baseline and existing conditions, the adequacy of the draft EIR's cumulative analysis, and infrastructure improvements within the Eastern Neighborhoods Plan Area. Comments regarding the adequacy of the traffic analysis (TR-12, page RTC.84 through 85) are responded to under Responses TR-12 with a specific recapitulation of the draft EIR's approach to traffic analysis and its consistency with the SF Guidelines.

In order to clarify discussion and conclusions in the environmental analysis, the RTC document includes some revisions to the draft EIR. For example, the RTC document includes the revisions shown on page RTC.213 that updates the draft EIR Chapter IV Environmental Setting and Impacts with the most current estimates of growth.

In conclusion, the final EIR adequately responds to comments on the draft EIR. Comments are reproduced and the associated responses address in a detailed manner the major environmental issues raised when the draft EIR's position is at variance with the comments. The Appellants do not provide substantial evidence or argument to establish how the RTC document failed to respond adequately to comments on the draft EIR, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC document, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

**Concern 6: The City failed to consider, analyze and adopt feasible mitigations and alternatives.** On pages 2 and 3 of their May 4, 2016 letter to the Planning Commission, appellant Save The Hill asserts that "[t]he DEIR and Response to Comments inadequately address or consider economic feasibility of the Metal Shed Reuse Alternative thus impairing informed decision-making...To date, no substantial evidence finding infeasibility of the Metal Shed Reuse Alternative has been provided/submitted even though the developer continues to assert the Metal Shed Reuse Alternative 'would' or 'could' be infeasible." Appellant Grow Potrero Hill also supports the Metal Shed Reuse Alternative on pages 3 and 4 of their May 1, 2016 letter to the Planning Commission.

**Response 6: As discussed below, feasible mitigation measures were adopted for significant impacts identified in the CPE Checklist and mitigation measures were evaluated for the draft EIR and**

**determined to either lack funding or be infeasible.** Similarly, feasible alternatives to the proposed project were developed and analyzed in a manner consistent with the requirements of CEQA.

As discussed above under Environmental Review Process, the proposed project was initially considered under a Community Plan Exemption pursuant to CEQA Guidelines Section 15183. As provided by CEQA Guidelines Section 15183(c), if an impact is not peculiar to the parcel or to the project and has been addressed as a significant effect in the prior EIR, then an additional EIR need not be prepared for the project solely on the basis of that impact. Potential environmental impacts for each of the environmental topics considered in the CPE Checklist were fully evaluated (see also discussion above under land use, shade and shadow, and Inconsistencies with Area Plans and Policies). The CPE Checklist determined that mitigation measures included in the *Eastern Neighborhoods PEIR* for archeological resources (M-CP-1), noise (M-NO-1, M-NO-2, M-NO-3, M-NO-4), air quality (M-AQ-1, M-AQ-2), and hazardous materials (M-HZ-1) were applicable to the proposed project (see pages 62-70).

Development of mitigation measures in the CPE Checklist was based on substantial evidence as follows:

- Analysis of potential impacts to archeological resources was based on the May 9, 2013 Preliminary Archeological Review prepared by Randall Dean, Planning Department staff archeologist, referenced in Footnote 13 on page 13 of the CPE Checklist.
- Analysis of potential impacts related to noise was based on the October 20, 2014 Eastern Neighborhoods Plan Environmental Noise Assessment, 901 16th Street and 1200 17th Street Mixed-Use Project prepared by Charles Salter Associates, referenced in Footnote 16 on page 32 of the CPE Checklist.
- Analysis of potential impacts related to air quality was based on the project's compliance with applicable codes and regulations (see pages 35 through 40 of the CPE Checklist) and the October 23, 2014 Air Quality Analysis prepared by ENVIRON, referenced in Footnote 28 on page 38 of the CPE Checklist).
- Analysis of potential impacts related to hazardous materials was based on the project's compliance with applicable codes and regulations (see page 57) and the September 26, 2014 Environmental Site Investigation 901 16th Street and Environmental Site Investigation 1200 17th Street reports prepared by Langan Treadwell Rollo, referenced in Footnote 40 on page 59 of the CPE Checklist.

As discussed above, under Cultural and Historic Resources, the project site's eligible historic resource – the brick office building – would be preserved and rehabilitated and no mitigation measures were necessary. As discussed above under the Response to Concern 4, Proposed Mitigation for Traffic Impacts is Inadequate and Incomplete, the potential traffic-related impacts and potential mitigation measures were fully considered. In addition, impacts related to transit, pedestrians, bicyclists, loading, emergency

vehicle access, construction and parking were analyzed in the TIS; no significant impacts were identified and therefore no mitigation measures were determined to be necessary.

In regards to the Appellant's concerns regarding the feasibility of the Metal Shed Reuse Alternative, note again (as discussed above under the Response to Concern 3), the EIR's alternatives analysis is inadequate and incomplete, that the EIR did not determine that the Metal Shed Reuse alternative is infeasible. As discussed above under Standards for Adequacy of an EIR, findings of feasibility are not within the scope of what is appealable to the Board of Supervisors as set forth in Section 31.16(c)(3) of the City's Administrative Code. (Again, an appeal of a Large Project Authorization approval and its associated CEQA Findings must be made to the Board of Appeals.)

The following discussion regarding an analysis of feasibility is added here for informational purposes. The Appellants assert that the Seifel Consulting feasibility report's conclusion that the Metal Sheds Reuse Alternative is financially infeasible is flawed because the analysis was based on current land values, rather than on the price the project sponsor paid for the land over 10 years ago. However, the feasibility of EIR alternatives is based on a comparison of the marginal costs and revenues of the project compared to the alternative, based on a "prudent person" standard, not on the particular circumstances of a project sponsor. This rule is based on the holding in the case of *Uphold our Heritage v. Town of Woodside*, (147 Cal. App. 4th 587 (2007)), a case concerning the feasibility of the rehabilitation of an historic house in Woodside owned by Steve Jobs. The court held that the question was not whether Steve Jobs could afford to rehabilitate the house, but whether a prudent person would do so, given the difference in costs between a new construction project and the rehabilitation alternative. "Ultimately, the question is whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a reasonably prudent person would not proceed with the altered project."

Here, the Seifel Consulting report used a constant land value for all three alternatives analyzed (the proposed project, the Reduced Density Alternative and the Metal Sheds Reuse Alternative) and determined that a prudent person would not proceed with either of the alternatives because their return on investment would be insufficient to meet return thresholds required under current investor and financing requirements.

To conclude, the final EIR did consider and analyze feasible mitigation measures. Mitigation measures that lacked certain funding or were infeasible were analyzed for the significant and unavoidable impacts. The alternatives analysis included analysis of mitigation measures for each alternative consistent with CEQA Guidelines Section 15126.6(d). The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to consider, analyze and adopt feasible mitigations and alternatives, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

**Concern 7: The CEQA Findings and Statement of Overriding Considerations are inadequate and incomplete and are not supported by substantial evidence.** Concerns from the Appellants' letters to the

Planning Commission and other incorporated materials that pertain to the feasibility analysis are addressed above in Concern 6.

**Response 7: The CEQA Findings and Statement of Overriding Considerations are outside the scope of this appeal.** For informational purposes, please note that the CEQA Findings and Statement of Overriding Considerations prepared as part of the approvals for the proposed project are complete and supported by substantial evidence. As noted above under Standards of Adequacy for Certification of an EIR, Chapter 31 of the City's Administrative Code establishes the types of environmental review decisions that may be subject to appeal as well as the grounds for such an appeal. As discussed above under Standards of Adequacy for Certification of an EIR, the CEQA Findings and associated mitigation measures are a component of the Large Project Authorization approval of the project by the Planning Commission and are not within the scope of the grounds for appeal as set forth in Section 31.16(c)(3). Rather, an appeal of the Large Project Authorization approval and its associated CEQA Findings must be made to the Board of Appeals. On the basis of substantial evidence in the Administrative Record, the Planning Commission ultimately rejected the final EIR alternatives as infeasible in its approval of the proposed project's Large Project Authorization. The Large Project Authorization approval is not the subject of this appeal.

Chapter 31.16(c)(3) states that the grounds for appeal of an EIR shall be 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. Pursuant to Planning Code Section 329(e)(5), the decision of the Planning Commission to approve the Large Project Authorization, including its adoption of CEQA Findings and the Statement of Overriding Considerations, may be appealed to the Board of Appeals – not to the Board of Supervisors. Therefore, the issues presented in this concern by the Appellants are not grounds for this appeal.

The CEQA Findings and Statement of Overriding Considerations support the project approvals. The final EIR provides a full and complete analysis, and the Board of Supervisor's role is to conclude whether the final EIR itself was prepared appropriately and adequately, and not to consider whether the approval of the project was correct or desirable. However, the following is provided for informational purposes. The Appellants have not specified in what way the CEQA Findings and Statement of Overriding Considerations are inadequate and incomplete and not supported by substantial evidence. The CEQA Findings included as Attachment A to Planning Commission Motion 19644 adopting Environmental Findings pursuant to CEQA are consistent with the requirements of CEQA Guidelines Section 15091. Within Planning Commission Motion 19644, the Section III findings regarding significant impacts identified in the CPE that can be avoided or reduced to a less-than-significant level through mitigation are supported by substantial evidence, as discussed above under Response 6. Within Planning Commission Motion 19644, the Section IV findings regarding significant impacts that cannot be avoided or reduced to a less-than-significant level are also supported by substantial evidence, as discussed under Response 4 (regarding traffic mitigation measures) and Response 2, Land Use (regarding loss of PDR

space) above. As required by Public Resources Code Section 21083, separate findings are made for each significant effect and the findings are supported by substantial evidence related directly to the facts presented in the EIR. CEQA Findings regarding rejection of the EIR alternatives as infeasible are also supported by substantial evidence, including an economic feasibility report prepared by Seifel Associates and independently review by Planning Department staff.

CEQA Guidelines Section 15093(a) provides that “[i]f the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’” Per CEQA Guidelines Section 15093(a), if significant and unavoidable impacts are to be accepted with approval of a project, the lead agency must “balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project.” The Statement of Overriding Considerations provided in Section VI of Planning Commission Motion 19644 complies with CEQA Guidelines Section 15093(b) by stating the specific reasons why the Planning Commission finds, after consideration of the final EIR and the evidence in the record, that each of the specific overriding economic, legal, social, technological and other benefits of the project independently and collectively outweighs the significant and unavoidable impacts of the project. Those benefits are listed on pages 22 through 24 of Planning Commission Motion 19644.

To conclusion, although the Planning Commission’s adoption of CEQA Findings and a Statement of Overriding Considerations for the proposed project are outside the scope of the appeal per Administrative Code Section 31.16(c)(3), they are nevertheless consistent with Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15093.

**Concern 8: Significant Impacts of Noise Not Adequately Addressed.** In their March 12, 2015 email to the Planning Department Environmental Review Officer (included in the supporting materials), Save The Hill also alleges that the noise assessment prepared for the proposed project is inadequate because it was too limited in scope and did not adequately account for noise from the nearby Bottom of the Hill club.

**Response 8: The noise assessment for the proposed project adequately analyzed potential noise impacts associated with the proposed project, including noise from the Bottom of the Hill club during performances.** Noise impacts were evaluated on pages 31 through 35 of the CPE Checklist. The proposed project was determined to be subject to *Eastern Neighborhoods PEIR* noise mitigation measures F-1 (Construction Noise – pile driving), F-2 (Other Construction Noise), F-4 (Siting of Noise-Sensitive Uses), and F-5 (Siting of Noise-Generating Uses). A noise assessment was prepared by a qualified consultant was reviewed by the Planning Department and, in regards to the Bottom of the Hill club, by the San Francisco Entertainment Commission. The noise assessment made specific recommendations with regard to appropriate Sound Transmission Class ratings to meet Title 24 requirements. With imposition of four mitigation measures, the CPE Checklist determined that the proposed project would not result in a significant impact with regards to noise that was not previously identified in the *Eastern Neighborhoods PEIR*. The scope of the noise assessment was adequate to describe potential noise impacts and provide a

basis for the recommendation of specific mitigation measures with regard to construction, operational and existing noise.

Save The Hill's concerns with regard to noise from the Bottom of the Hill club are addressed under Response NO-1 on page RTC.168 of the RTC document: "As specified in the Environmental Noise Assessment, long-term continuous noise measurements were performed at three locations between Wednesday April 2 and Friday April 4, 2014. These dates included noise measurements of workday rush hour vehicle and pedestrian traffic levels as well as concerts at the Bottom of the Hill nightclub each night."

To conclude, the final EIR did consider and analyze potential noise impacts. With the implementation of mitigation measures from the *Eastern Neighborhoods PEIR* and compliance with the applicable regulations within the San Francisco Noise Ordinance, the proposed project would not result in significant impacts not previously identified by the *PEIR*. The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to consider, analyze and adopt feasible mitigations in regards to potential noise impacts, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

**Concern 9: Insufficient Study of Air Quality Impacts.** In their March 12, 2015 email to the Planning Department Environmental Review Officer (included in the supporting materials), Save The Hill also alleges that potential impacts from the increased traffic from the proposed project "would significantly impact air quality and erode the quality of life in the neighborhood...The project-specific and cumulative impacts on air quality should be fully considered and evaluated in the draft and final EIR."

**Response 9: The Air Quality section of the CPE Checklist (pages 35 through 41) fully analyzed the potential air quality impacts associated with the proposed project, including construction dust, criteria air pollutants, health risk, odors and Clean Air Plan Consistency.** As pointed out on page 35 and 36, fugitive dust resulting from construction would be adequately controlled because the proposed project is subject to the requirements Construction Dust Control Ordinance. In regards to the criteria air pollutants that would result from both construction of the proposed project and new vehicular traffic, an Air Quality Analysis prepared by a qualified consultant and reviewed by the Planning Department determined that only construction NO<sub>x</sub> would exceed daily threshold established by the Bay Area Air Quality Management District. Implementation of *Eastern Neighborhoods PEIR* Mitigation Measure G-1 (Project Mitigation Measure M-AQ-1) would reduce construction NO<sub>x</sub> emissions below the threshold of significance (see CPE Checklist pages 37 and 38). With regards to Health Risk, the CPE Checklist acknowledges that the project site is within the Air Pollutant Exposure Zone as defined by Article 38 of the Health Code and therefore subject to additional scrutiny. Project Mitigation Measure M-AQ-1 would implement the portions of *Eastern Neighborhoods PEIR* Mitigation Measure G-1 by requiring higher emission standards on certain types of construction equipment. In regards to the future project residents, Article 38 of the Health Code requires that the project sponsor provide enhanced ventilation that achieves

protection from fine particulate matter (PM<sub>2.5</sub>). As noted on page 39 of the CPE Checklist, the project sponsor will comply with Article 38.

Similar comments with regard to potential construction and operational air quality impacts are responded to on page RTC.172 through 174 of the RTC document.

To conclude, the final EIR did consider and analyze potential air quality impacts. With the implementation of mitigation measures from the *Eastern Neighborhoods PEIR* and compliance with applicable regulations, the proposed project would not result in significant impacts not previously identified by the *PEIR*. The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to consider, analyze and adopt feasible mitigations in regards to potential air quality impacts, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

**Concern 10: Inadequate Study and Mitigation of Soil Hazards and Geologic Risks.** In their March 12, 2015 email to the Planning Department Environmental Review Officer (included in the supporting materials), Save The Hill also alleges that the draft EIR fails to adequately address risks from the excavation of hazardous materials beneath the project site and risks associated with geologic hazards.

**Response 10: The Hazards and Hazardous Materials section of the CPE Checklist (pages 57 through 60) Geology and Soils section of the CPE Checklist (pages 52 through 54) fully address potential impacts related to contaminated soils becoming air borne and geologic hazards.** On page 57 of the Hazards and Hazardous Materials section notes that the *Eastern Neighborhoods PEIR* “found that there is a high potential to encounter hazardous materials during construction activities in many parts of the project area because of the presence of 1906 earthquake fill, previous and current land uses associated with the use of hazardous materials, and known or suspected hazardous materials cleanup cases.” The *Eastern Neighborhoods PEIR* further found that the existing regulations for subsurface hazardous materials “would ensure implementation of measures to protect workers and the community from exposure to hazardous materials during construction.”

As described on pages 59 and 60 of the CPE Checklist, an Environmental Site Investigation was prepared for the proposed project and disclosed the presence of a variety of contaminants in the soil underlying the project site. As discussed on page 60, the project sponsor would be required to comply with Article 22A of the Health Code in regards to the handling and disposal of contaminated soils during excavation and construction. As the CPE Checklist notes:

“Handling of the soil with asbestos will require dust suppression, air monitoring, and if needed, personal protective equipment. Handling of coal tar will require mixing with dry soil, odor control, and if needed, personal protective equipment. Groundwater treatment during construction dewatering to meet SFPUC sanitary sewer discharge criteria may



include oil/water separation, sediment removal, and removal of VOCs and SVOCs with granulated active carbon filters. A Soil Management Plan and Air Monitoring Plan will be required to demonstrate proposed compliance with requirements.”

Consistent with Planning Department practices for similar mixed use projects in areas with contaminated soils, the CPE Checklist determined that compliance with Health Code Section 22A would not result in a significant impact that was not previously identified by the *Eastern Neighborhoods PEIR*, including potential hazards to construction crew and surrounding residents due to the drift of contaminated dust during construction.

In regards to potential geologic hazards noted by Save The Hill, a geotechnical report prepared by a qualified consultant and reviewed by the Planning Department fully disclosed seismic, liquefaction and other related hazards at the project site. As noted on page 53 of the CPE Checklist, the nearest mapped active fault in the vicinity of the project site is the San Andreas Fault, located approximately 7.4 miles to the west. The northern (16<sup>th</sup> Street) portion of the project site was found to have a “low potential for widespread liquefaction, lateral spreading, and differential compaction because the soil below the groundwater table...is sufficiently stiff, dense and/or cohesive.” The southern (17<sup>th</sup> Street) portion of the project site was found to have a greater potential for liquefaction. As stated on page 53 of the CPE Checklist:

“The geotechnical consultation concluded that, from a geotechnical standpoint, the proposed project would be feasible and preliminary recommendations were made related to subgrade preparation, foundations, shoring, and dewatering, including measures to address potential hazards related to liquefaction. Site-specific geotechnical recommendations, which would be implemented by the project sponsor, would reduce impacts related to unstable or expansive soils and seismic-induced ground failure to less than significant levels.”

Again, consistent with Planning Department practices for similar mixed use projects in areas with similar geologic conditions, the CPE Checklist determined that compliance with the recommendations of the geotechnical report and the San Francisco Building Code would not result in a significant impact that was not previously identified by the *Eastern Neighborhoods PEIR*, including potential hazards related to seismic activity and liquefaction.

To conclude, the final EIR did consider and analyze potential impacts related to geologic hazards. With compliance with applicable regulations and the recommendations of the geotechnical report, the proposed project would not result in significant impacts not previously identified by the *PEIR*. The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to consider, analyze and adopt feasible mitigations in regards to potential geologic hazards or impacts, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

**Concern 11: Recreation and Open Space.** On page 2 of their May 4, 2016 letter to the Planning Commission, appellant Save The Hill asserts that the public open space proposed by the project “remains inadequate.” In their March 12, 2015 email to the Planning Department Environmental Review Officer (included in the supporting materials), Save The Hill also alleges that cumulative impacts on recreation have not been properly evaluated. Appellant Grow Potrero Responsibly echoes this concern on page 2 of their May 1, 2016 letter to the Planning Commission: “Given the size and significant impacts of the project, specific onsite mitigation measures to include more onsite open space should be included.” On page 8 of her October 5, 2015 email to Sara B. Jones, Environmental Review Officer, SF Planning Department, Ms. Heath states that the one acre of additional open space proposed at the EQR Potrero development (Daggett Park, across 16<sup>th</sup> Street from the project site) “is entirely contrary to the 4 acres of new space promised in the Showplace Square / Potrero Hill Plan.”

**Response 11: Contrary to the appellant’s assertion, the proposed project exceeds the Planning Code requirements for the provision of on-site public and private open space.** The open space proposed with the project is depicted in Figure 3 (page 8) and discussed on page 21 of the CPE Checklist. The proposed project’s potential impacts with regard to recreation is addressed on page 49 of the CPE Checklist, which determined that the proposed project would not have a significant impact with regard to recreation that was not previously identified in the *Eastern Neighborhoods PEIR*. Public, common and private open space are quantified in Table II-1 on page II.2 of the draft EIR and again depicted in Figure II.4 on page II.9. Planning Code Section 135 requirements for open space are discussed on pages III.8 and III.9 of the draft EIR, which states in part: “The proposed project would include 50,932 gsf of open space on the project site, an amount that would exceed the open space requirements of the Planning Code for both commercial and residential open space.”

Response RE-1 on page RTC.178 of the RTC document addresses several comments (including those from the Appellants), again explaining that the proposed project is within the development projected by the *Eastern Neighborhoods PEIR* and that its provision of open space exceeds the requirements of the Planning Code. Response RE-1 continues, noting that the proposed project must pay applicable Eastern Neighborhoods Community Improvements Fund fees in support of acquisition and development of opens space in the Showplace Square / Potrero Plan area. Finally, Response RE-1 notes that two new publically accessible parks were under construction near the project site: “...the 0.9-acre Daggett Park across the street and the approximately two-acre Mariposa Park 0.2 miles away at Mariposa and owns Streets.”

As Response RE-1 concludes on page RTC.178, “...the analysis of recreational/open space impacts was adequately covered in the CPE Checklist and no additional environmental review of this topic is required for the proposed project.”

In regards to the four acres of new open space referenced in Ms. Heath’s October 5, 2015 email, the Showplace Square / Potrero Hill Area Plan states:

“Analysis reveals that a total of about 4.0 acres of new space should be provided in this area to accommodate expected growth. Thus, this Plan proposes providing at least one new open space in the area, in addition to widened sidewalks with pocket parks and green streets, and an increased private open space requirement.”

Therefore, the four acres is not just from public open space, but is a combination of one new open space in the area, widened sidewalks, and private open space. Note that the one-acre Daggett Park is now near completion. The Better Streets Plan requires that projects (including the proposed project) widen sidewalks and substantial sidewalk improvements will occur with the SFMTA 22 Fillmore Transit Priority Project. The proposed project and others will, as required by the Planning Code, also provide their own common and private open space (e.g., the proposed project includes over an acre of common and private open space).

To conclude, the final EIR did consider and analyze potential impacts related to recreation and open space. The proposed project would provide public, common and private open space in excess of the requirements in the Planning Code. The Appellants do not provide substantial evidence or argument to establish how the final EIR failed to consider, analyze and adopt feasible mitigations in regards to recreation and parks, nor do they identify specific issues or new information that would result in the need for recirculation. For the reasons stated in the draft EIR and the RTC, including but not limited to the responses identified above, the final EIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines Section 15151.

#### **CONCLUSION:**

The Planning Department conducted an in-depth and thorough analysis of the potential physical environmental effects of the proposed 901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street Project, consistent with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code. The Appellants have not demonstrated that the final EIR is insufficient as an informational document, or that the Commission's findings and conclusions are unsupported by substantial evidence. The Planning Department conducted necessary studies and analyses, and provided the Commission with necessary information and documents in accordance with the Planning Department's environmental checklist and standard procedures, and pursuant to CEQA and the CEQA Guidelines.

Substantial evidence supports the Commission's findings and conclusions. For the reasons provided in this Appeals Response, the Planning Department believes that the final EIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, and provides an adequate, accurate, and objective analysis of the potential environmental impacts of the proposed project. Therefore, the Planning Department respectfully recommends that the Board uphold the Commission's certification of the FEIR and reject Appellant's purported appeal of the Planning Commission's Large Project Authorization approval CEQA Findings

**Attachment A**  
**Appellant Letters**

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

ATTORNEYS AT LAW  
Douglas B. Provencher  
Gail F. Flatt

---

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

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

July 15, 2016

*Via Hand and Electronic Delivery*

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

Dear Members of the Board of Supervisors,

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

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

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

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

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

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

### **Alternatives Analysis**

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

The EIR states

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

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

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

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

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

### **Cumulative Impacts**

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

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

The Project EIR erroneously concludes:

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

(FEIR IV.54)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

### **Traffic / Transportation**

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

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

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

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

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

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

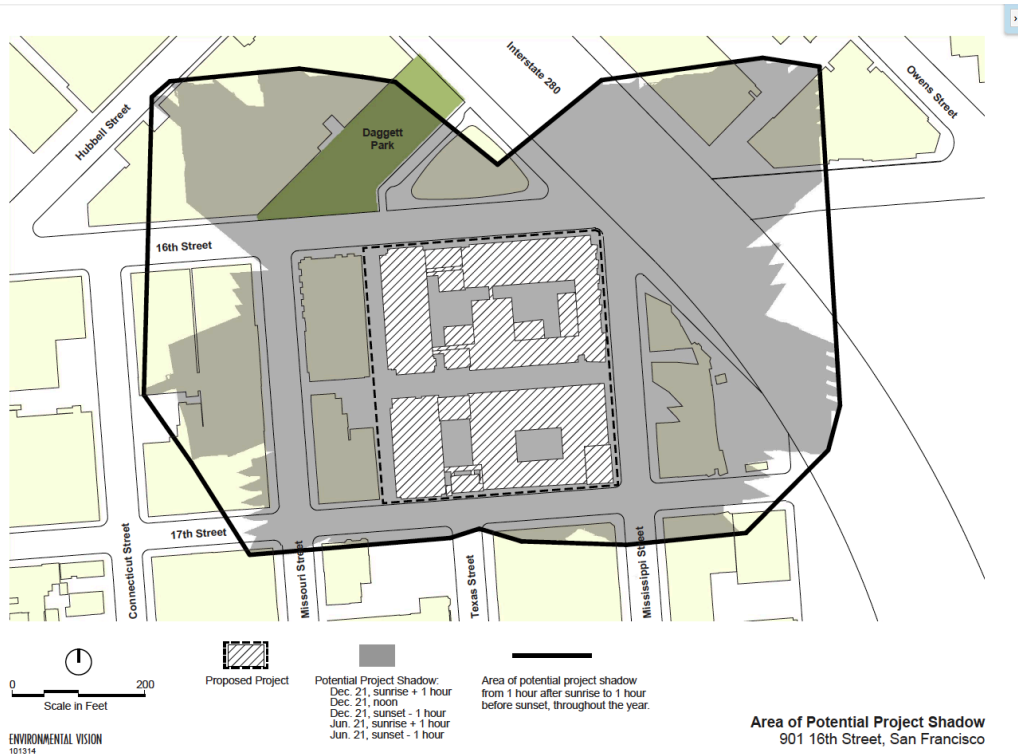
The *only* transit that is currently within a 5-minute walk from 901-16<sup>th</sup> Street is the temporary 55-16<sup>th</sup> route (which will eventually be replaced with the re-routed 22) and all other routes are nearly a half-mile or more away. The 10-Townsend (currently operating at or above capacity)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

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

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

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

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



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

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

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

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

### **Cultural and Historic Resources**

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

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

Thank you for your consideration,

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

Rachel Mansfield-Howlett

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

ATTORNEYS AT LAW  
Douglas B. Provencher  
Gail F. Flatt

---

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

City and County of San Francisco  
Clerk of the Board of Supervisors  
Sarah Jones, Environmental Review Officer  
#1 Dr. Carlton B. Goodlett Place  
Room #244  
San Francisco, CA 94102

June 10, 2016

*Via Hand and Electronic Delivery*

**RE: 901 16th Street and 1200 17th Street Mixed Use Project  
Notice of Appeal of the May 12, 2016 Planning Commission  
Decisions**

Dear Sarah Jones, Clerk of the Board, and Members of the Board of Supervisors,

The public benefit citizens groups, Grow Potrero Responsibly and Save the Hill, appeal the decisions made by the Planning Commission certifying the Environmental Impact Report (EIR) and adopting Findings and a Statement of Overriding Considerations for the "901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street Mixed Use Project" on the following bases. (Attached Planning Commission Motions Nos. 19643-19644 )

- The EIR is inadequate and incomplete.
- The EIR failed to analyze and disclose significant environmental impacts in the areas of:
  - Aesthetics and Views
  - Cultural and Historic Resources
  - Land Use
  - Shade and Shadow
  - Traffic and Circulation
  - Transit
  - Inconsistencies with Area Plans and Policies
  - Cumulative
- The EIR's alternatives analysis is inadequate and incomplete.
- Proposed mitigation for traffic impacts is inadequate and incomplete.
- The Final EIR failed to respond adequately to comments on the Draft EIR.

- The City failed to consider, analyze and adopt feasible mitigations and alternatives.
- The CEQA Findings and Statement of Overriding Considerations are inadequate and incomplete and are not supported by substantial evidence.

**Attached Exhibits:**

The final motions certifying the EIR, adopting findings and a statement of overriding considerations and approving the Project are attached as **Exhibit A**. Evidence in support of the appeal is attached as **Exhibits B** and is also contained in the Draft and Final EIRs and the Planning Commission packet, incorporated here by reference. **Exhibit C** is a link to the May 12, 2016 Planning Commission hearing. **Exhibit D** contains the request for a waiver of fees for appealing the Planning Commission's decisions to the Board of Supervisors.

- Exhibit A:** Final Planning Commission Motions Nos. 19643, 19644 and 19645  
**Exhibit B:** Selected letters and documents  
**Exhibit C:** Link to video of May 12, 2016 Planning Commission hearing in which testimony was given on the Project.  
**Exhibit D:** Request for Appeal Fee Waiver and supporting documents

Thank you,

*Rachel Mansfield-Howlett*

Rachel Mansfield-Howlett  
Attorney for Appellants



May 4, 2016

Rodney Fong, Commission President  
Dennis Richards, Commission Vice President  
Cindy Wu, Commissioner  
Michael J. Antonini, Commissioner  
Rich Hillis, Commissioner  
Christine D. Johnson, Commissioner  
Kathrin Moore, Commissioner

Re: 901 16<sup>th</sup> / 1200 17<sup>th</sup> Streets  
Case No. 2011.1300

Dear Commissioners,

I am writing on behalf of Save The Hill, a grassroots neighborhood group dedicated to the health, culture, heritage and scenic beauty of Potrero Hill.

As of May 4, 2016, 330 people from the Potrero Hill community have signed our petition calling on the developers of 901 16<sup>th</sup> / 1200 17<sup>th</sup> to make a number of reasonable modifications to their proposed project. Each one of you has received a copy of this petition along with more than 135 comments by signers. Many of these community signers have left very thoughtful comments regarding the importance of this project to the future of the neighborhood. Additionally, a number of neighbors have submitted letters to you in support of Save The Hill's proposed project modifications. To date, the developers have offered no concessions or meaningful modifications on any of the points of community concern – concerns that are highlighted below.

We worry that a development much larger in scale and impact than nearby Daggett Place (1010 16<sup>th</sup> Street at 7<sup>th</sup>) will soon rise, despite wide support from the community favoring reasonable modifications. The 3.5-acre development site is a "Gateway" location to the neighborhood but the developer's current proposal fails to treat it as such.

Numerous community meetings and extensive outreach organized by Save The Hill over the past few years have informed the following list of community priorities:

**\* Reduce Height, Scale, Massing On 16<sup>th</sup> Street:**

- Reduce the project's height and massing on 16<sup>th</sup> Street to respect the topography of the hill and to reduce shadowing of the project's proposed pedestrian alleyway and the new Daggett Park. Attendees at multiple Save The Hill meetings over the past few years have called for breaking up the mass of the 16<sup>th</sup> Street buildings. ("Make 16<sup>th</sup> Street look more like 17<sup>th</sup> Street".) The currently proposed 16<sup>th</sup> Street structures have the effect of creating a canyon on 16th and walling off Potrero Hill. Moreover, the Potrero Hill Area Plan specifically calls for following topography and reducing height starting on the south side of 16th Street.

- Reduce or eliminate eyesore rooftop mechanical/elevator/stair penthouses. Cap all heights (including penthouses) on the 16<sup>th</sup> Street side of the project to between 58 feet to 68 feet. The developer's current plan proposes heights of between 72 feet and 83 feet due to sizable clusters

of rooftop mechanical/stair/elevator penthouses. Especially egregious is the Northwest corner building that is adjacent to the pedestrian alleyway and utilizes oversized rooftop elevator and stairway penthouses.

**\* Increase Public Open Space:** Increase publicly accessible open space by widening the proposed North/South pedestrian promenade to at least 40 feet throughout the development site. The proposed public open space in the project remains inadequate; the planned private open space is double the size offered for public open space. The so-called public pedestrian North-South alleyway should be widened from the planned 22 feet to at least 40 feet throughout the passageway. There should be more green soft-scape and less hard-scape for the pedestrian alleyway. A 40-foot wide promenade would significantly improve the pedestrian experience, enlarge publicly accessible open space, encourage public gathering, and mitigate shadowing. The developers of 1601 Mariposa agreed to dramatically widen a similar pedestrian passageway for that project — a model of goodwill that the developers of 901 16<sup>th</sup> / 1200 17<sup>th</sup> have so far refused to emulate.

**\* Amplify Authenticity / Adaptive Reuse:** Reuse distinctive materials and features of the current metal warehouses in order to create visual and historic continuity between old and new uses at the site. The Final Environmental Impact Report (EIR) has now identified the Metal Shed Reuse Alternative as the environmentally superior project. We support this alternative as the preferred choice. The developer should do more to include elements of adaptive reuse in the project that go beyond tokenism. This would entail retaining and incorporating into the proposed project more signature features and materials of the existing metal warehouses. Save The Hill submitted to the developers specific examples of what could be retained and repurposed. As one example, the steel framing of the western metal warehouse (currently the green/red warehouse running between 17<sup>th</sup> and 16<sup>th</sup> Streets) could be retained and utilized as a “canopy” for the pedestrian promenade. The overall effect of incorporating original features and materials would be more respectful of existing neighborhood character.

**\* Increase Commercial / Retail On 17<sup>th</sup> Street, More Diverse Uses:** Replace housing on 17<sup>th</sup> Street with more diverse commercial uses such as space for artists, makers (light PDR), non-profit groups, and neighborhood serving retail, which will help reduce conflicts between the Bottom of the Hill nightclub and new residents, as well as providing neighborhood services and amenities.

**\* Traffic:** Reduce parking and traffic congestion by shrinking the project and limiting the amount of stalls in the off-street parking garage.

**\* Formula Retail:** Prohibit formula retail within the development

A number of other items related to project impacts remain points of controversy and concern. The Environmental Impact Report and Response to Comments for 901 16<sup>th</sup> / 1200 17<sup>th</sup> Street inadequately or inaccurately addressed the following:

### **Metal Shed Reuse Alternative – Economic Feasibility**

The DEIR and Response to Comments inadequately address or consider economic feasibility of the Metal Shed Reuse Alternative thus impairing informed decision-making. Per California

Superior Court case Preservation Action Council v. City of San Jose, 2006, 141 Cal. App.4th 1336, the City of San Francisco needs to independently review and confirm with qualified experts any information provided by the developer regarding economic feasibility or infeasibility. The Planning Department continues to duck this issue. Various drafts of the draft EIR and Response to Comments contain verbal acrobatics in addressing and considering economic feasibility. The following timeline of excerpts from various drafts addressing the Metal Shed Reuse Alternative serves as an example (**bold font my emphasis**):

May 2015 / DEIR: *It is **unknown** if this alternative would meet the objective to develop a financially feasible project.*

August 2015 / DEIR: *The project sponsors contend that this alternative **would fail** to meet the objective to develop a financially feasible project.*

April 2016 / DEIR RTC: *As noted in the Draft EIR, the financial feasibility of the alternatives **has not been proven or disproven** through substantial evidence (Draft EIR pages S.24, VI.5, VI.13, and VI.34), though it was noted that the project sponsor contended the Metal Shed Reuse Alternative **would not be financially feasible** (VI.27). Page IV.27 of the Draft EIR is revised as follows to clarify that the alternative is considered to be **potentially feasible**: ....While the City considers this alternative to be **potentially feasible**, **The project sponsors contend that this alternative ~~✗~~could fail to meet the objective to develop a financially feasible project.***

As seen in the above editing revisions, the Planning Department (under pressure by the developers who were allowed to revise and edit various EIR/RTC drafts) is simply dodging an answer to the economic feasibility issue that would be resolved by further study and analysis. To date, no substantial evidence finding infeasibility of the Metal Shed Reuse Alternative has been provided/submitted even though the developer continues to assert the Metal Shed Reuse Alternative “would” or “could” be infeasible.

### **Inadequate & Inaccurate Study of Land Use (And Planning Policies Ignored)**

The DEIR and Response to Comments as well as City Planning’s previous environmental studies and projections for Potrero Hill fail to take into account a project of this scope at this site – including its impacts. Official environmental analysis currently on record in the Eastern Neighborhoods Plan considered heights of between 45 feet - 50 feet at the property, not 72 feet to 83 feet. There is deficient evidence that the density and height have been adequately or properly evaluated in prior environmental review by the City during the Eastern Neighborhoods EIR process (including in Comments and Responses to both the 901 16<sup>th</sup> Street /1200 17<sup>th</sup> Street and final Eastern Neighborhoods EIRs).

The proposed project remains inconsistent with many policies and principles of the Potrero Hill Area Plan. In accordance with the Showplace Square/Potrero Hill Area Plan policy calling for lowered heights on the south side of 16th Street, the underlying final Eastern Neighborhood EIR (which the 901 16<sup>th</sup> / 1200 17<sup>th</sup> Street EIR tiers off from) does address heights rising 65 feet to 68 feet – but only on the north side of 16<sup>th</sup> Street (not the south side of 16<sup>th</sup> where the proposed project is located). As cited in the Eastern Neighborhood EIR: “Height limits in the established residential areas of Potrero Hill would remain unchanged at 40 feet. The Preferred Project establishes heights of 65-68 feet within the core of Showplace Square between U.S. 101 and I-

280, north of 16<sup>th</sup> and south of Bryant Streets.”

Moreover, this 45 to 50 feet height and density were affirmed, codified and called for in the final Showplace Square/Potrero Hill. Objective 3.1/Policies 3.1.1 & 3.1.2 state: Adopt heights that respect, “the residential character of Potrero Hill.” “Respect the natural topography of Potrero Hill . . . . Lowering heights from the north to the south side of 16th Street would help accentuate Potrero Hill.”

### **Area Plan, City Policy Objectives & Principles Ignored**

The DEIR and Response to Comments remain inadequate and inaccurate because they fail to adequately consider that the proposed project conflicts with the Showplace Square / Potrero Area Plan, and the Urban Design and Housing Elements of the City’s General Plan, by disregarding policies of preserving neighborhood scale and character, providing adequate infrastructure, and preserving PDR uses. Both the Corovan development project and the DEIR/Response to Comments fail to adequately address the following consistency issues:

#### **A. Objective 3 of the San Francisco General Plan’s Urban Design Element:**

“Moderation of major new development to complement the city pattern, the resources to be conserved, and the neighborhood environment.”

The scale and density of the Prado/Walden project are substantially greater than existing surrounding Potrero Hill land uses and the project would be inconsistent with the established land use character of the neighborhood. The DEIR and Response to Comments fail to acknowledge and consider that the Daggett Triangle development at 1010 16<sup>th</sup> Street in Showplace Square, as well as other large developments in nearby Mission Bay, are in separate and distinct neighborhoods that are not part of the Corovan site in Potrero Hill.

#### **B. Objectives of the Showplace Square / Potrero Area Plan:**

The Prado/Walden project conflicts with a number of Area Plan objectives including Objective 1.2, which promotes development in keeping with neighborhood character. This project is inconsistent with the established neighborhood character of Potrero Hill. The Showplace Square/Potrero Hill Area Plan, in Policy 3.1.6, states that, “new buildings should epitomize the best in contemporary architecture, but should do so with a full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.” As proposed, the project’s 16<sup>th</sup> Street building fails to match the height, mass, and articulation of existing buildings in the Potrero Hill vicinity and provides little awareness of surrounding neighborhood structures.

#### **C. Policy 2 of the City’s General Plan: “That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.”**

The Prado/Walden project is not consistent with this policy because scale, mass, bulk and height are inconsistent with and will negatively impact established neighborhood development pattern and character. The proposed development is dramatically out of scale with nearby residences and

small businesses.

### **Aesthetics – Not Adequately Addressed or Analyzed**

As noted above, the scale, height, and density of the proposed project (72 feet to 83 feet and 395 residential units) remain inconsistent with numerous terms set out in the Showplace / Potrero Hill Area Plan. This was not adequately addressed in the DEIR and Response to Comments. Prior study contained in the Eastern Neighborhoods Environmental Impact Report, produced and relied upon by City Planning for all new development, is now eight years old and did not properly and adequately evaluate, analyze, consider or anticipate a project of the size, height, or density proposed by the developer at the Corovan location. In fact, all of the analyses completed for the Eastern Neighborhoods EIR anticipated a height on the Corovan parcel of 45 feet to 50 feet – not 72 feet to 83 feet as proposed by the developer.

The developer's drawings indicate 72' to 83' high mechanical/stair/elevator penthouses that push the building heights well above the 68 feet height limit. These penthouses only serve to enable private views via access to amenity rooftop decks; they should not be credited as legitimate open space. The developer's proposed project and penthouses will also contribute to obscuring a cherished landmark of Potrero Hill – scenic public views of downtown San Francisco. This conflicts with long-standing city and state policies regarding protection of public scenic vistas. Even though the general public and decision-makers rely on an EIR for primary source information to make informed decisions about a project, the Planning Department has failed to provide a robust analysis of aesthetic impacts. City Planning ignored calls to provide accurate and adequate computer generated 3-D modeling visual simulations on the impacts of the project (including stair, elevator, mechanical penthouses) to public scenic views of downtown. The visual simulations offered in the DEIR remain inadequate and highly misleading. The DEIR and Response to Comments do not adequately address the above issues.

### **Inconsistent with Showplace / Potrero Hill Area Plan On Respecting Public View Corridors**

“Respect Public View Corridors”, Policy 3.1.5 of the Showplace Square/Potrero Hill Area Plan states: “San Francisco’s natural topography provides important way finding cues for residents and visitors alike, and views towards the hills or the bay enable all users to orient themselves vis-à-vis natural landmarks. Further, the city’s striking location between the ocean and the bay, and on either side of the ridgeline running down the peninsula, remains one of its defining characteristics and should be celebrated by the city’s built form.”

By proposing a single massive structure at the base of Potrero Hill the developers completely ignore the natural environment surrounding the site. The height, bulk, and mass, of their project will undermine (and in some cases destroy) Potrero Hill’s visual integration with downtown. The significant impacts on aesthetics including public views have not been adequately or properly evaluated in the DEIR and Response to Comments, and have been ignored by the developers.

### **Inadequacy of Addressing Cumulative Impacts**

Recent analysis shows the 395 units proposed for 901 16<sup>th</sup> / 1200 17<sup>th</sup> project will result in the Potrero Hill / Showplace Square area exceeding the number of housing units the City planned and projected for 2025. Under its Preferred Project Option approved in 2008, the Planning

Department planned for up to 3,180 housing units built by 2025 in the Potrero Hill / Showplace Square area. But as of February 2016, recent City Planning analysis shows 3,315 units already in the pipeline or built. The City failed to anticipate the dramatic pace of development and has not delivered on its promise to provide necessary public improvements (parks, transit, roads, etc.) to support thousands of new residents. City Planning analysis understates the “cumulative impacts” of large developments throughout Potrero Hill/Showplace Square by continuing to rely on outdated data from the 2008 Eastern Neighborhoods Environmental Impact Report to inform analysis in the EIRs of large projects, including the proposed 901 16<sup>th</sup> / 1200 17<sup>th</sup> Street development. Assumptions and mitigation measures provided in that document are simply no longer valid. The DEIR and Response to Comments do not adequately address cumulative impacts.

### **Loss of PDR**

The project would eliminate 109,500 square feet of PDR space. The DEIR and Response to Comments inadequately address the pace of PDR loss and the need for greater diversity of uses (other than residential) in the proposed project. The project should be revised to include light PDR / trade spaces.

### **Historic Resource**

Collectively, the Potrero Hill industrial complex at 901 16<sup>th</sup> / 1200 17<sup>th</sup> Streets contains the last remaining structures of the Pacific Rolling Mill, which began operating in the Central Waterfront in 1868 before reorganizing and relocating to Potrero Hill in the early 1900s. The buildings are also the last remaining extant structures of the merged companies, Judson-Pacific Company (1928), and Judson-Pacific-Murphy Company (1945) in San Francisco.

Recently, members of the San Francisco Historic Preservation Commission applauded the DEIR’s “Metal Shed Reuse Alternative” and recommended the project sponsor incorporate more of it into a final design – a recommendation the developer has continued to ignore (see 9/21/15, HPC letter to Sarah B. Jones, SF Planning Department).

The DEIR, Response to Comments, and developers fail to address and propose mitigations that would avoid significant and negative impacts due to mass and scale upon the *entire* building site (which includes the metal warehouses) and environment in accordance with the Secretary of Interiors standards.

Among many other reasons noted by architectural historian Katherine Petrin, the metal steel buildings should be added as historic resources because the 1,200 square foot red-brick office building alone insufficiently conveys the historic significance of the Pacific Rolling Mill site. Moreover, Petrin made other determinations of historic integrity and merit that have been inadequately addressed or ignored by the DEIR and Response to Comments including the following: 1) a continuity of heritage existed through various mergers of the Potrero Hill company 2) association with important or significant persons other than the company’s original founder, Patrick Noble 3) expanded Period of Significance (POS) to 1946/1947. For these and the other above reasons, the DEIR and Response to Comments remain inadequate.

## **Transportation / Circulation – Inadequacies and Inaccuracies:**

1. The change in traffic study impact methodology from LOS to VMT distorts and minimizes real and significant traffic congestion impacts. Thus these impacts are inadequately addressed and mitigated in the DEIR and Response to Comments. Moreover, the change in study methodology to VMT occurred after the DEIR comment period for 901 16<sup>th</sup> Street closed and thus without adequate opportunity for public comment.

2. Under Response TR-8, page RTC.69 in the Response to Comments:

*... neither 17th Street nor Mississippi Street are identified as routes having significant truck traffic and San Francisco does not otherwise designate "Truck Routes."*

This is simply inaccurate. Mississippi to 17<sup>th</sup> is a designated truck route that is heavily used by trucks – especially trucks exiting off or entering I-280. Mariposa Street between Connecticut and Mississippi Street is a restricted truck route (no vehicles over three tons). There is signage on Mariposa at Mississippi Streets stating: "Truck Route" directing large trucks to turn North onto Mississippi. The EIR does not adequately address significant impacts of the proposed project regarding truck traffic.

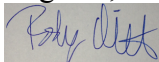
3. The EIR and Response to Comments do not address impacts of the project related to SFMTA's proposal to place a commuter Shuttle stop at the 17<sup>th</sup> and Mississippi Street intersection.

### **Exceptions Should Be Rejected**

The Project Sponsor seeks waivers or exceptions for the following: 1) Rear Yard 2) Parking 3) Horizontal Massing. These exception requests are unnecessary and improper, and, if granted, would contribute to an inferior and poorly designed project.

For all of the above reasons, we respectfully urge you to support and insist on the reasonable modifications called for by the community. I would be happy to discuss this matter with you at your convenience ahead of the May 12<sup>th</sup> hearing – my phone and email are listed below.

Regards,



Rodney Minott  
On behalf of Save The Hill  
[rodneyminnott@outlook.com](mailto:rodneyminnott@outlook.com)  
(415) 407-7115

# BUILD A GATEWAY, NOT A WALL!

*901 16th Street @ Mississippi*



**Before Proposed Development**



**After Proposed Development**



March 12, 2015

**Submitted by email**

Sarah B. Jones  
Environmental Review Officer  
SF Planning Dept.  
Email: [Sarah.B.Jones@sfgov.org](mailto:Sarah.B.Jones@sfgov.org)

**Re: Case No. 2011.1300E**

**Comments on the Notice of Preparation (NOP) of a focused EIR for proposed project 901  
16<sup>th</sup> Street / 1200 – 1210 17<sup>th</sup> Street**

Thank you for the opportunity to comment on the Notice of Preparation for the EIR on 901 16<sup>th</sup> Street & 1200 – 1210 17<sup>th</sup> Street. I am writing on behalf of both myself and Save The Hill, a grassroots coalition of neighbors with approximately 1,000 followers. Save The Hill is dedicated to the health, culture, heritage, and scenic beauty of San Francisco's Potrero Hill neighborhood. Our mission is to protect Potrero Hill's unique identity, to support its locally run businesses, and to ensure that neighborhood growth promotes the highest standards of urban development and planning.

**Overview**

After reviewing the NOP I have a number of comments, detailed below, regarding its adequacy in evaluating significant potential impacts, both peculiar to this proposed project and cumulative, that were not covered or assumed by the Eastern Neighborhoods EIR and should be included in the draft and final EIR for consideration and full analysis. I also focus on the adequacy of the NOP in considering potentially feasible project alternatives that would reduce or avoid those impacts. Save The Hill urges the City recommend against approval of the project in favor of an alternative that significantly reduces impacts while achieving many of the previously declared project objectives.

Save The Hill would like the Planning Department to consider the feasibility of several alternative plans, including one with three options proposed by Save The Hill (see below, “Alternate Plans”). In regards to Save The Hill’s plan and renderings, please understand the following: The proposal reflects only what our group is thinking at this stage. It remains very much a suggestive document and design schematic. We cannot be sure that it meets the Secretary of Interior’s standards, and it has not been reviewed by a historic consultant. Our goal is to give the developers as much flexibility as they need while retaining the integrity of the original structures. We want to work with both the developer and the Planning Department in this regard. We believe City Planning would want to work on this to ensure the proposal meets the Secretary of Interior’s standards as well. Again, Save The Hill’s renderings are simply suggestive and do not represent any final design solutions.

**Land Use / Planning**

**1). Development Density & Height Not Properly/Adequately Evaluated.** As currently proposed, the developer’s project would be one of the largest in Potrero Hill history. But evidence that the density and height have been adequately or properly evaluated in prior environmental review by the City during the Eastern Neighborhoods EIR process (including Comments and Responses) remains deficient. In fact, City Planning’s analysis and study in the Eastern Neighborhoods EIR

neglected taking into account a project of this scale at this specific site – including its potentially significant impacts. The Eastern Neighborhoods EIR considered heights of 45 feet to 50 feet at the site – not 68 feet to 82 feet, which is what the developer is proposing. City Planning recently issued a community plan exemption stating the project was in compliance with development density. But this simply isn't accurate.

The project remains inconsistent with many policies and principles of the Potrero Hill Area Plan. The final Eastern Neighborhood's EIR does address heights rising 65 feet to 68 feet -- but only on the north side of 16th Street (not the south side of 16th) — which is consistent with Showplace Square/Potrero Hill Area Plan policy calling for lowered heights on the south side of 16th Street.

All of the height maps and analysis in the Draft Eastern Neighborhoods EIR for Options A, B, and C reflected heights for the 901 16th / 1200-1210 17th Street site at between 45 feet and 50 feet (the Comments & Responses cites Option B as most closely resembling the “Preferred Project” choice). Moreover, this 45' to 50' height and density were affirmed, codified and called for in the final Showplace Square/Potrero Hill. Objective 3.1/Policies 3.1.1 & 3.1.2 state: Adopt heights that respect, “the residential character of Potrero Hill.” “Respect the natural topography of Potrero Hill .... Lowering heights from the north to the south side of 16th Street would help accentuate Potrero Hill.”

The Comments & Responses in the Eastern Neighborhoods EIR document cited a map showing that frontages along 16th Street had been raised to 65 feet in comparison to Option B. Yet the analysis emphasized that the added height would remain on the north side of 16th Street (Showplace Square) and not the south side (Potrero Hill). As stated in “Changes by Neighborhood — Showplace Square/Potrero Hill” page C&R 12: “No changes in height limits are proposed on Potrero Hill. The Preferred Project would establish height limits of 65 - 68 feet within the core of Showplace Square between US-101 and I-280, north of 16th and south of Bryant Streets.” This is repeated on page C&R-21: “In Showplace Square/Potrero Hill plan area, height limits would be similar to those analyzed for Options B, with minor height increases (to 45 feet as opposed to 40 feet in the DEIR) proposed to areas north of Mariposa Street, between De Haro Street and Seventh/Pennsylvania Streets. Height limits in the established residential areas of Potrero Hill would remain unchanged at 40 feet. The Preferred Project establishes heights of 65-68 feet within the core of Showplace Square between U.S. 101 and I-280, north of 16th and south of Bryant Streets.”

Again, this north/south 16<sup>th</sup> Street divide is consistent with policy spelled out in the final Showplace Square/Potrero Hill Area Plan. The increased heights (48 ft. - 68 ft.) for the site were proposed as a zoning amendment late in the game by April of 2008. But again this wasn't reflected in the final Eastern Neighborhoods EIR, which did not properly evaluate or anticipate the density and height specific to the Corovan site. The final Eastern Neighborhoods EIR did not consider, evaluate or anticipate a project of the size, height or density proposed by Walden Development and Prado Group at this specific location. In fact, as stated above, all of the completed analyses anticipated a height on the Corovan parcel of between 45 feet and 50 feet. Moreover, responses to comments in the final EN EIR did not address or analyze issues raised about heights or zoning at 901 16th/1200 - 1210 17th Streets. As stated on C&R page 147: “A number of comments were directed at the proposed rezoning and area plans, and do not address the adequacy or accuracy of the EIR. Because these comments do not address the adequacy or accuracy of the EIR, no responses are required.”

For all of the above reasons, Save The Hill respectfully believes the final Eastern Neighborhoods EIR remains inadequate and did not anticipate, properly evaluate or analyze the height and density specifically at the Corovan site. Consequently, the current EIR for the Corovan property should address and evaluate this as a significant impact within the “Land Use / Planning” category.

**2). Adhere To Policies Of The Potrero Hill Area Plan And City General Plan.** The project conflicts with both Potrero Hill Area Plan and City General Plan objectives and policies to preserve and respect neighborhood character. The surrounding neighborhood and buildings are composed primarily of one to three story residential and commercial spaces. The project would be dramatically taller and dramatically greater in bulk, mass and scale than existing nearby structures. Adequate and robust analysis of the project’s impacts on visual quality and land-use character should be included in the project EIR.

The Prado/Walden proposal remains inconsistent with many policy objectives of both the City General Plan and Showplace/Potrero Hill Area Plan – including the following:

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

**Objectives of the Showplace Square/Potrero Area Plan.** The Prado/Walden project conflicts with a number of the plan objectives including Objective 1.2, which promotes development in keeping with neighborhood character. This project is inconsistent with the established neighborhood character.

**Priority Policies of the City’s General Plan.** The project remains inconsistent with General Plan Priority Policies including:

*Policy 2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.*

The Prado/Walden project is not consistent with this policy because scale is inconsistent with and will severely impact established neighborhood development pattern and character. The proposed development is dramatically out of scale with nearby residences and small businesses. It will destroy culturally significant industrial buildings that have existed on the 3.5-acre site dating back to at least 1908. Separately, the style, size, and use of existing buildings in the immediate vicinity to the proposed site have a distinct neighborhood character that would be greatly undermined by the introduction of a vastly taller, larger, and bulkier high-density multi-unit complex – a complex whose aesthetics and scale cry Mission Bay, not Potrero Hill.

**3). Displacement of Production, Distribution, Repair (PDR).** The proposed project would eliminate rather than retain valuable Production, Distribution and Repair space. According to the Corovan Company, up to 200 jobs would be displaced. The City’s quoted figure of approximately 50 jobs understates the impact. Moreover, the Eastern Neighborhoods EIR study of PDR loss and retention remains outdated and inadequate. The extent of the cumulative loss of PDR and mitigations were not adequately anticipated and evaluated in the Eastern Neighborhood’s final EIR.

Conditions have changed and the City now recognizes a greater need to retain more PDR space and the blue-collar jobs that follow. Additional analysis and consideration on displacement and loss of PDR should be included in the draft and final EIR for the Corovan site and consider cumulative impacts as well. The NOP's contention that PDR impacts have already been anticipated and addressed no longer remains valid.

Moreover, displacement and loss of PDR remain inconsistent with objectives and policies of The Showplace Square/Potrero Hill Area Plan that seek to protect PDR uses. The Urban Mixed Use zoning for this project does not honor the Area Plan's Objective 6.1 to "support the economic well being of a variety of businesses." The Prado/Walden project conflicts with a number of the plan objectives including Objective 1.7 which seeks to protect PDR uses (this project eliminates PDR).

The proposed project would destroy a 3.5 acre industrial / service sector site in Potrero Hill by demolishing existing warehouses now being used by a moving and storage company that has operated there since 1995. The site has been used for industrial purposes for more than a century and could, if protected, continue to be used for Production, Distribution and Repair (PDR) services (i.e., light manufacturing) for years to come. As such, the proposed project significantly undermines existing (and potentially future) PDR businesses that have long been integral to Potrero Hill and the City itself. Alternative plans to the project, including Save The Hill's, would ensure retention of PDR space at this site.

## **Aesthetics**

**1.) Significant Impacts On Visual Environment / Inconsistent With Area Plan.** As noted above, the scale, height, and density of the proposed project (68 feet to 82 feet and 395 residential units) remain inconsistent with numerous terms set out in the Showplace / Potrero Hill Area Plan. Prior study contained in the Eastern Neighborhoods Environmental Impact Report, produced and relied upon by City Planning for all new development, is now eight-years old and did not properly and adequately evaluate, analyze, consider or anticipate a project of the size, height, or density proposed by the developer at the Corovan location. In fact, all of the analyses completed for the Eastern Neighborhoods anticipated a height on the Corovan parcel of 45 feet to 50 feet – not up to 82 feet as proposed by the developer.

The developer's drawings indicate 72' to 82' high mechanical/stair/elevator penthouses that push the building heights well above the 68' height limit. These penthouses only serve to enable private views via access to amenity rooftop decks for high-paying building tenants. The developer's proposed project will obscure a cherished landmark of Potrero Hill – scenic public views of downtown San Francisco. This conflicts with long-standing city and state policies regarding protection of public scenic vistas. The developer's project remains inconsistent with multiple Area Plan principles including provisions to "respect the natural topography of Potrero Hill", to lower building "heights from the north to south side of 16th Street", and to "promote preservation of other buildings and features that provide continuity with past development."

While recent state law has put into question consideration of significant aesthetic impacts during environmental review, City agencies nonetheless retain this authority as a discretionary power. Issues of aesthetics should not be ignored or minimally reviewed. City agencies are still faced with an obligation to consider and address visual impacts to satisfy City General Plan and Showplace Square / Potrero Hill Area Plan neighborhood design and character standards. Since both the

general public and decision-makers rely on an EIR for primary source information to make informed decisions about a project, the Planning Department should provide robust analysis of aesthetic impacts. At the very least, City Planning should provide accurate and adequate visual simulations on the impacts of the project (including stair, elevator, mechanical penthouses) to public scenic views of downtown. The visual simulations offered up by the developer remain inadequate and highly misleading.

**2). Inconsistent with Priority Policy 8 of City General Plan: *That our parks and open space and their access to sunlight and vistas be protected from development.***

Potrero Hill, like San Francisco as a whole, is known for its dramatic city views and sweeping vistas. The height, bulk, and mass of the proposed project would effectively wall off a large portion of lower Potrero Hill from public views of downtown enjoyed by neighborhood visitors for generations. Just like the recent campaign against “walling off” the waterfront, we believe Potrero Hill should be protected from “walls” of out-of-scale development.

**3). Inconsistent with Showplace / Potrero Hill Area Plan On Respecting Public View Corridors.**

“Respect Public View Corridors”, Policy 3.1.5 of the Showplace Square/Potrero Hill Area Plan states: “San Francisco’s natural topography provides important way finding cues for residents and visitors alike, and views towards the hills or the bay enable all users to orient themselves vis-à-vis natural landmarks. Further, the city’s striking location between the ocean and the bay, and on either side of the ridgeline running down the peninsula, remains one of its defining characteristics and should be celebrated by the city’s built form.”

By proposing a single massive structure at the base of Potrero Hill the developers completely ignore the natural environment surrounding the site. The height, bulk, and mass, of their project will undermine (and in some cases destroy) Potrero Hill’s visual integration with downtown.

The significant impacts on public views have not been adequately or properly evaluated in prior environmental review and should be included in a final EIR.

**Population/Housing**

**1). Studies Are Out Of Date / Cumulative Impacts Understated & Not Adequately Evaluated.**

Recent analysis revealed the Potrero Hill / Showplace Square area has already far exceeded the number of housing units and population growth the City planned and projected for 2025. The Planning Department assumed up to 3,891 housing units would be built by 2025 in the Potrero Hill / Showplace Square area. As of late 2014, 4,701 units were already in the pipeline. The Planning Department continues to rely on stale data contained in the now eight-year old Eastern Neighborhoods final Environmental Impact Report to justify limited environmental review of the Corovan site. Moreover, the City has erred by not anticipating the current dramatic pace of development. Nor has the promised necessary public improvements (parks, transit, roads, etc.) to support thousands of new residents been provided. The now outdated Eastern Neighborhoods EIR concluded environmental impacts from growth would be limited -- an assumption that is no longer true. Development continues to outpace necessary upgrades in public infrastructure and services to support growth.

City Planning analysis remains inadequate and understates the “cumulative impacts” of large developments on our community and continues to rely on old and erroneous data from the 2008 Eastern Neighborhoods Environmental Impact Report to inform analysis in the EIRs of large projects. Assumptions and mitigations measures provided in that document are simply no longer valid.

CEQA Guidelines state: “The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.”

Appropriate CEQA analysis of cumulative impacts should address past, present, and reasonably foreseeable future projects. The Community Plan Exemption (CPE) checklist for 901 16<sup>th</sup> / 1200 17<sup>th</sup> Street wrongly concluded that cumulative impact has already been addressed and evaluated in the Eastern Neighborhoods Environmental Impact Report:

*The proposed project’s 395 residential units would be within the amount of housing development anticipated in the Eastern Neighborhoods PEIR. These direct effects of the proposed project on population and housing are within the scope of the population growth anticipated under the Eastern Neighborhoods Rezoning and Area Plans and evaluated in the Eastern Neighborhoods PEIR.*

The Eastern Neighborhood’s EIR failed to reflect or anticipate actual levels of development and a lack of infrastructure to support it. Consequently, the scope of the project EIR should be expanded to include a full analysis of Population and Housing impacts, and address public transit shortcomings, lack of community facilities, new parks and open space, and cumulative impacts related to pedestrian safety, traffic, historic resources, air quality, and hazardous materials.

## **Recreation & Open Space**

**1). Cumulative Impacts On Recreation Not Properly Evaluated.** Potrero Hill suffers from inadequate parks, open space, and recreational facilities. The addition of thousands of residents from this and other large developments will put significant strain on nearby parks including Jackson Playground – already heavily used and lacking in maintenance upgrades. Highly dense development such as the proposed Corovan project will continue to contribute to the deterioration of already underfunded existing neighborhood recreational facilities. Moreover, the 901 16<sup>th</sup> /1200 17<sup>th</sup> Street NOP remains inadequate in addressing the lack of publicly accessible open space in the proposed Corovan development itself. The vast majority of purported open space offered up in the developer’s proposal (e.g., residential mews and roof-top decks) would remain in private hands and off limits to the public. Moreover, the developer’s proposed publicly accessible pedestrian walkway on the western side of the project would be primarily hardscape rather than genuine softscape green open space with recreational opportunities. The project EIR should include full analysis and evaluation of impacts (both peculiar to the project site and cumulative) on Recreation & Open Space. These significant impacts were not adequately covered or anticipated in the underlying final Eastern Neighborhoods EIR.

## Noise

**1). Significant Impacts Of Noise Not Adequately Addressed.** The 901 16<sup>th</sup> Street / 1200 17<sup>th</sup> Street NOP, and the underlying Eastern Neighborhoods EIR, do not specifically address or adequately analyze potential noise impacts on the proposed residential project from the Bottom of The Hill music venue. Mitigations are also not adequately addressed. These should be included for additional analysis in the draft and final EIR. A noise assessment study dated October 20, 2014 provided by City Planning to Save The Hill remains inadequate. The assessment, prepared by Charles M. Salter Associates Inc., was too limited in scope. Only two weekdays in April were sampled ... which were likely not representative of busy weekend or weekday evenings at the Bottom of The Hill. Moreover, only one acoustic monitor was used on 17<sup>th</sup> Street at a mid-block location that was not accurately representative of the planned close proximity of residential housing to Bottom of The Hill. Additional study should be done for the EIR employing monitors at several locations along 17<sup>th</sup> Street over a robust period of time. This additional monitoring should reflect busy weekend and weekday evenings at Bottom of The Hill. The City's current assessment did not disclose which specific weekday evenings were sampled. Without these measures, conflicts with surrounding businesses over noise and parking will remain inevitable given that 135 units of housing are proposed by the developers on 17th Street. Robust mitigations (more than thickened glass treatments for the new residences) need to be identified.

## Soil & Geology Hazards

**1). Significant Impacts Of Soil & Geology Hazards Not Adequately Addressed.** The property site is located on artificial bay in-fill. It sits within designated high tide and liquefaction zones that make it unsuitable and potentially dangerous for oversized development. A seismic fault (Hunters Point Shear Zone) also lies nearby -- a fact that was not addressed and evaluated in the Eastern Neighborhoods EIR or in initial geotechnical study required by the City. An analysis and review of the property by a professional engineering geologist and hydro-geologist in late 2012 raised numerous red flags about soil geology, hazardous waste, and seismic risks at the site (please see review by John O'Rourke submitted by Save The Hill to City Planning via email December 2, 2012). More recent analysis identified elevated levels of chromium, nickel, lead, asbestos, and coal tar wastes in soil and groundwater. The developer plans to excavate and truck nearly 14 million gallons of soil to an off-site landfill. The 901 16<sup>th</sup> / 1200 17<sup>th</sup> Street EIR should more specifically address how these pollutants will be mitigated and prevented from posing significant risks to public health and safety. Many families with children live within several hundred feet of the proposed development. Moreover, the project EIR should more specifically address liquefaction risks and mitigations given the absence of study acknowledging the Hunters Point Shear Zone.

As Save The Hill has previously asserted, the 901 16th & 1200 17th Street site is an environmentally inferior site due (among other reasons) to its location within a City of San Francisco designated "high-tide line" (please see maps #1 Moss Jr., 1985; #2 Bay Fill; #3 USGS 1852 bay boundary in orange in email submitted to City Planning December 16, 2012). Up to 17 feet of artificial fill overlying sandy and clay soils underlie the subject property. Groundwater below the site is encountered within a matter of several feet (Treadwell & Rollo; Harold Lewis & Associates 1997).

**2). The Project Is Inconsistent With Priority Policy 6 of the City General Policy: *That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.***

The proposed site is located within a designated major “Liquefaction Zone” and a City of San Francisco designated “High Tide Line” with a high potential for the presence of hazardous wastes underlying the site (Moss, Jr., 1985, Map of San Francisco showing High-Tide Line: San Francisco Department of Public Works). Apparently, there were a series of oil storage tanks located northwest of the site in 1956 that could have contributed to groundwater contamination in this area. Up to 17-feet of artificial fill overlying sandy soil underlies the subject property (Schlocker, Bonilla & Radbruch, 1958), and groundwater is encountered at a depth of approximately 10 feet (Harold Lewis & Associates, 1997).

Consequently, this area is subject to ground failure due to liquefaction, lurching or differential settlement during a major earthquake (Davis, 2005, revised, Seismic Hazard Zone Report for City & County of SF).

There may also be a concealed, potentially active, northwest-trending fault in this area as indicated by the serpentine bedrock exposed near the site. This bedrock unit also contains asbestos fibers. Excavations for the subterranean parking and drilling for building foundations in this marshy ground could spread groundwater pollution and significantly damage the street and adjacent buildings, making the City and the developer liable for damages.

At least two separate analyses illuminate the hazardous materials underlying the site. First, an environmental risk assessment concluded the hazardous materials did not pose any risk to human health as long as they were “left undisturbed.” Second, a professional engineering geologist and hydrologist, John O’Rourke, concluded in 2012: “This site is highly contaminated with coal tar, volatile organic compounds, and heavy metals (nickel, lead, chrome). The coal tar is up to 10 feet thick and covers most of the northern half of the property; see attached Emcon Drawing No. 4. If this material is excavated, it and the related contaminated soil will have to be transported to a Class 1 Landfill site hundreds of miles away. Contaminated ground water will have to be treated before it can be pumped off site, and treatment will have to be permanent if ongoing pumping of the groundwater is necessary for the underground parking structure. Site excavation and the continual pumping of groundwater for the parking structure may result in significant subsidence of the ground on the surrounding properties. There is also the possibility that the on-site coal tar could catch on fire during the excavation.” None of these potential significant environmental impacts have been adequately addressed and evaluated in prior study. The EIR for the project should cover them.

## **Transportation & Circulation**

**1). Significant Traffic Impacts Cumulative & Specific To Project Not Adequately Evaluated / Data Outdated & Inaccurate.** With close to 400 units of housing and more than 24,000 square feet of commercial retail space, the project will significantly worsen traffic and parking along streets and intersections already plagued by congestion. An estimated 4,235 new trips by car will be generated daily -- with up to 12,361 trips daily by people entering and exiting the project. The Corovan site EIR traffic analysis should include robust monitoring of traffic during Giants baseball games and anticipated traffic from the new Warriors basketball stadium and entertainment events. These have not been included in study to date. Traffic analysis in the EIR should also take into



account cumulative impacts of other recent large developments as well as development in the foreseeable future – including but not limited to: 1601 Mariposa, 88 Arkansas, 1301 16<sup>th</sup>, EQR Potrero/Daggett, the removal of a lane of traffic on 16<sup>th</sup> Street, both the Warriors Stadium project and the Kilroy commercial office high-rise at Block 40 in Mission Bay, and development of the Central Waterfront Pier 70 project. These cumulative impacts should also address pedestrian safety.

The above large projects, along with possible removal of I-280, have the potential to significantly impact both traffic and transit.

Moreover, the preliminary traffic study by DKS for the project relies on “existing conditions” data from 2012 for both traffic and MUNI. This study remains inadequate. In light of accelerated growth that has worsened traffic conditions, the DKS data is no longer valid or accurate and new data on current conditions should be collected. These impacts (both specific to the site and in the cumulative) weren’t anticipated in the Eastern Neighborhoods EIR. Additionally, cumulative impact projections in the DKS study are being used from the Mission Bay Redevelopment Plan that dates back to 1998. These numbers, too, are outdated and do not capture actual current cumulative conditions. New transportation and traffic studies taking these factors into account should be done.

**2). Significant Impacts of I-280 Tear Down & High Speed Rail Not Adequately Addressed.**

The Transportation analysis for Eastern Neighborhood did not take into account the truncation and simultaneous re-routing of I-280 as currently advocated by the Mayor’s Office. This change will directly affect the 16th and 7th Streets intersection and would be a major change with serious implications for this project site. The 901 16<sup>th</sup> / 1200 17<sup>th</sup> Street EIR must be supplemented to incorporate a modification that cuts off the elevated I-280 freeway north of Mariposa and re-routes the traffic on that freeway. Without analysis of the changes indicated in that rerouting near this site, the traffic and circulation analysis in the Eastern Neighborhood’s EIR cannot be relied on by Planning. It is therefore inappropriate and any reliance on that EIR for “tiering” violates CEQA. Additionally, the Eastern Neighborhoods EIR did not evaluate potential significant impacts of routing High Speed Rail (HSR) adjacent to the project site.

**3). Conflicts with Policy 4 of City General Plan: *That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking.***

The proposed project site is located in an area with steep traffic challenges. The significant impact of the proposed project on already bad traffic congestion will be untenable. Muni transit will be impeded by an expected explosion of traffic caused by this and other large nearby development projects. The project’s dependence on Mississippi Street for all vehicle access to the site will severely worsen traffic on this small, two-lane road already crippled by commuting traffic on and off I-280 at Mariposa Street. Additionally, the potential inclusion of a high-speed rail line (HSR) at the intersection of 16th and Mississippi Streets has not been realistically evaluated in prior environmental study. Public transportation to the site is limited to a single future bus line that is already overburdened, underfunded, and suffering maintenance and scheduling difficulties. The San Francisco Municipal Transportation Agency’s (SFMTA) own projections state that the future 22-Fillmore line serving an extended 16th Street transit corridor will be overburdened from the start -- constrained by funding challenges, inadequate bus capacity and service, rising amounts of automobile and truck congestion, and uncertainty about the future of the Caltrain tracks, High Speed Rail, and the I-280 freeway. SFMTA’s own forecast through 2035 projects that the intersection at 7th, 16th, and Mississippi Streets will “degrade” to a

service level of “F” – among the worst in the city.

The project sponsor touts the City’s long-term goal to make 16th Street a “major transit corridor” in a “greener, more transit-friendly city.” But the developer’s proposal does nothing to either support or invest in this vision. Instead, Walden/Prado’s proposed two-story 388-space underground parking garage mocks the City’s “Transit First” policy by perpetuating a car-dependent model of development.

## **Historic / Cultural Resources**

**1). Importance of Cultural/Historic Resource & Significant Cumulative Impacts Not Adequately Or Accurately Evaluated.** The developer’s proposed project would demolish historic industrial metal-skinned buildings that date back to approximately 1908. Constructed for use as the factory headquarters of pioneering San Francisco-based steel fabricator Pacific Rolling Mill, the buildings embody an important part of Potrero Hill's industrial and working-class history. The Showplace / Potrero Hill Area Plan specifically calls for the retention, rehabilitation, and adaptive reuse of significant cultural and historic properties. Katherine Petrin, a highly respected architectural historian hired by Save The Hill concluded that any alterations of the metal buildings happened before the end date of the Period Of Significance, 1947. And regardless, as noted by Petrin, modifications in industrial spaces are to be expected given the utilitarian purpose of these buildings and the need for flexible space. City Planning should embrace the historic integrity conclusions of Katherine Petrin’s report.

Christopher VerPlanck’s follow-up report (completed December 2014) remains, in the view of Save The Hill, fatally flawed on several critical points: 1). As addressed in Katherine Petrin’s March 2014 evaluation of integrity, the Period of Significance for the Pacific Rolling Mill buildings spanned a much greater length of time — from 1899 through 1947. 2). As noted in Petrin’s report, the complex of Pacific Rolling Mill buildings satisfy all legal criteria and standards for retaining historic integrity and eligibility of listing on the California historic register:

*With regard to integrity of the steel warehouses, the document Historic Resource Evaluation Part II, 1200 Seventeenth Street, suggests that the basic building forms were originally constructed as sheds, open along the perimeter; and, that walls were constructed at a later date to transform the sheds into enclosed structures. Additional new information, including historic photographs, indicates that the buildings attained their present form before the end date of the period of significance, 1947.*

*The overall finding of this evaluation is that the steel-frame warehouses retain sufficient integrity to convey the historic significance of the Pacific Rolling Mill Company site during its period of significance, 1899 - 1947.*

Additionally, Petrin’s report concluded that the building complex remains historically significant under both California Register Criterion 1 (association with significant events) and Criterion 2 (association with significant persons).

As we’ve previously noted, the Historic Preservation Commission and City Planning upheld an appeal by the developer in 2011 that was based on incomplete and inaccurate factual information and without adequate public notification. Moreover, the cumulative loss of culturally significant

industrial spaces was not adequately evaluated in the Eastern Neighborhood's EIR and subsequent area surveys of potential historic properties. Assumptions around the loss of these buildings in the Eastern Neighborhood's EIR have turned out to be inaccurate with demolition far more impactful and detrimental than originally anticipated.

## **2). Inconsistent With City General Plan Priority Policy And Showplace / Potrero Hill Area Plan.**

The proposed project conflicts with Priority Policy 7 of the San Francisco General Plan:

*That landmarks and historic buildings be preserved.*

The project sponsor plans to demolish culturally significant industrial buildings erected by the Pacific Rolling Mill between 1908 and 1926.

Policy 3.1.9 of the Showplace / Potrero Hill Area Plan, under Objective 3.1, states: "Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development." As outlined above, the proposed project demonstrates a complete lack of "continuity" with past development in Potrero Hill by introducing large-scale Mission Bay type development into the neighborhood and by destroying existing buildings of historic and cultural value that currently stand on the proposed site.

### **Air Quality**

**Insufficient Study.** Increased traffic from the proposed high-density development will significantly impact air quality and erode quality of life in the neighborhood. This impact was not adequately addressed in previous environmental study both specifically at the Corovan site and in the cumulative because City Planning continues to rely on outdated analysis from the Eastern Neighborhoods Environmental Impact Report produced in 2007 - 2008. The Potrero Hill area continues to develop at a greater pace than originally anticipated by City Planning yet there appears to be no baseline analysis of current air conditions. Recent study and news reports have raised alarm about the growing danger and risk to public health of traffic-related pollution – most especially to children. The project specific and cumulative impacts on air quality should be fully considered and evaluated in the draft and final EIR.

### **Alternate Plans**

**Include Several Alternative Plans.** Several alternative plans to the project sponsor's current proposal should be included for consideration and full analysis in the EIR. Among these would be the following:

- **Save The Hill Alternate Plan.** Save The Hill has proposed an alternate plan (Mixed Reuse Community Gateway Plan) for the site. This urban mixed-use plan contains three options for inclusion of residential housing and would achieve many objectives previously stated by the developer. As previously noted, the Save The Hill proposal reflects only what our group is thinking at this stage. It remains very much a suggestive scheme. We cannot be sure that this proposal meets the Secretary of Interior's standards and it has not been reviewed by a historic consultant. Our goal is to give the developers as much flexibility as they need while retaining the

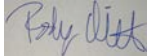
integrity of the original structures. We want to work with both the developer and the Planning Department. We believe that City Planning would want to work on this to ensure the proposal meets the Secretary of Interior's standards as well. Again, Save The Hill's renderings are just suggestive and do not represent any final design solutions.

- **Low-Density Alternate Plan.** A mixed-use project with minimal density.

- **Reduced Density Alternate Plan.** A mixed-use project with moderate density.

In conclusion, we look forward to working with City Planning on the above items of concern.

Respectfully,



Rod Minott, on behalf of Save  
The Hill

May 1, 2016

Rodney Fong, Commission President  
Dennis Richards, Commission Vice President  
Cindy Wu, Commissioner  
Michael J. Antonini, Commissioner  
Rich Hillis, Commissioner  
Christine D. Johnson, Commissioner  
Kathrin Moore, Commissioner

Re: 901-16<sup>th</sup> Street / 1200-17<sup>th</sup> Street

Dear Commissioners:

On May 12 will be the hearing for the largest, and one of the most controversial, projects to be proposed for Potrero Hill. Covering 3.5 acres and serving as a gateway to the neighborhood, this development will define the area for decades to come.

The Eastern Neighborhoods Plan sought to balance the twin goals of providing housing, while preserving and growing a diverse economy:

*People and Neighborhoods:*

- 1) Encourage new housing at appropriate locations and make it as affordable as possible to a range of city residents*
- 2) Plan for transportation, open space, community facilities and other critical elements of complete neighborhoods*

*The Economy and Jobs:*

- 3) Reserve sufficient space for production, distribution and repair activities, in order to support the city's economy and provide good jobs for residents*
- 4) Take steps to provide space for new industries that bring innovation and flexibility to the city's economy (Showplace Square/Potrero Area Plan, p.viii)*

As project after project is approved, all the evidence shows that the Eastern Neighborhoods Plan, though clear in its objectives, never had the means to enforce its goals at a project-specific level. Furthermore, the City has failed to hold up its end of the bargain to plan for and ensure that large swaths of developable land were to be complete neighborhoods.

**Failure to Mitigate Cumulative and Project-Specific Impacts**

The Eastern Neighborhoods Plan promised, "*...a full array of public benefits, to ensure the development of complete neighborhoods, including open space, improved public transit, transportation, streetscape improvements, community facilities, and affordable housing.*" Unfortunately the City has never provided most of the necessary infrastructure to support anticipated development, particularly in the context of cumulative growth.

Similarly, the San Francisco Housing Element requires that infrastructure needs be planned and coordinated to accommodate new development. Objective 12 specifically states that the City must “*balance housing growth with adequate infrastructure that serves the city’s growing population*”.

The environmental analysis for this project relies on outdated analysis and fails to identify adequate mitigations of the impacts of this project, and the cumulative impacts of overbuilding, throughout the Showplace Square/Potrero Hill Area. The Eastern Neighborhoods PEIR “Preferred Project” that was approved by the Planning Commission and Board of Supervisors in 2008 allowed for 3180 residential units in the Showplace Square / Potrero Hill Area. Recent Planning Department analysis indicates that as of February 23, 2016 projects containing 3315 units in the Area have completed or are proposed to complete environmental review. This project, with 395 residential units, is the one that brings us over the top. As we have repeatedly said, the impacts of this project and others in the area are not being addressed. Impact fees do not come close to covering the costs, while the City has never identified the funding sources to provide the necessary infrastructure and community benefits promised to us in the Eastern Neighborhoods Plan.

### **Loss of PDR and the Need for Balance**

Potrero Hill and Showplace Square have already lost 60% of the PDR that was anticipated would be lost over 25 years. This project will displace 109,500 square feet of PDR. UMU zoning lacks the requirements for actual mixed uses, and as a result there is a stark overemphasis on residential development. We ask that the balance be shifted drastically and the project be redesigned to accommodate a large proportion of small businesses, neighborhood services, arts space, and a PDR and maker component.

### **Onsite Open Space and Pedestrian Promenade**

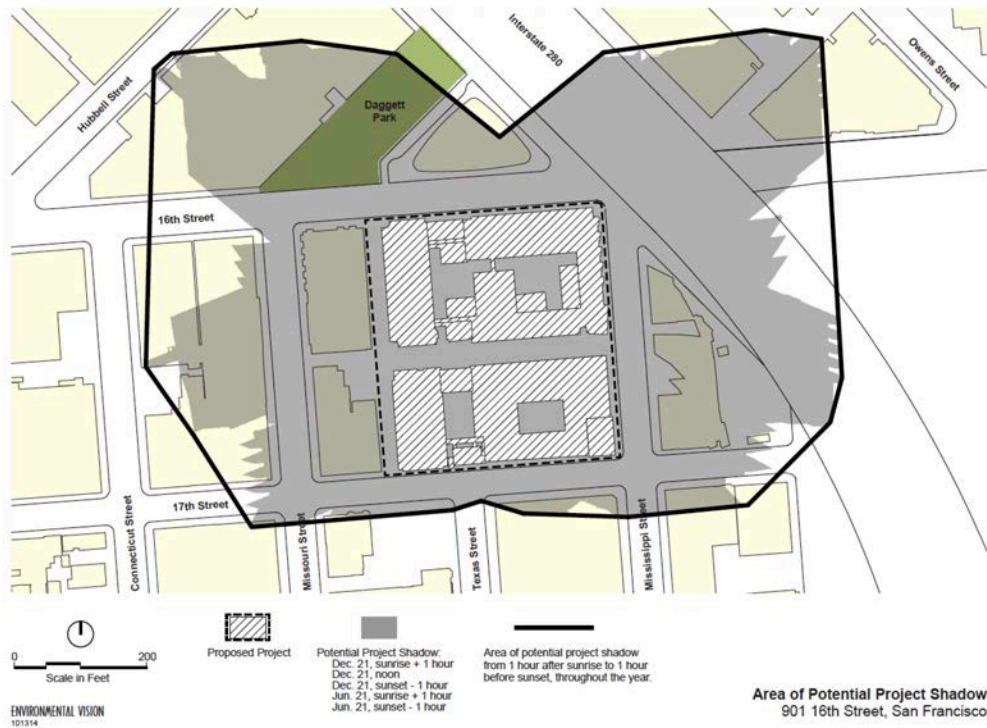
The Showplace Square/Potrero Hill Plan specifically stated that the area has “*comparatively little access to open space compared with the rest of the city and that the addition of new residents makes it imperative to provide more open space to serve both existing and new residents, workers and visitors.*”

Given the size and significant impacts of the project, specific onsite mitigation measures to include more onsite open space should be included. Additional public and private areas with setbacks, plazas and expansion of courtyards, should be included to meet this need. In the proposed design, the public promenade along the western side of the building is 30 feet in places, but then narrows to as little as 22 feet where residential stoops are located. In order to activate the passageway and increase onsite open space and opportunities for gathering, this should be increased to at least 40 feet.

### **Shadowing of Daggett Park**

As noted above, the Showplace Square / Potrero Hill Area is already underserved in terms of open space. Any additional shadowing will compromise the neighborhoods limited recreational opportunities. Daggett Park is now a POPOS (Privately Owned Public

Open Space). As such, it falls under Section 147 of the Planning Code: *“New buildings and additions to existing buildings in C-3, South of Market Mixed Use, and Eastern Neighborhoods Mixed Use Districts where the building height exceeds 50 feet shall be shaped, consistent with the dictates of good design and without unduly restricting the development potential of the site in question, to reduce substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under Section 295. In determining the impact of shadows, the following factors shall be taken into account: The amount of area shadowed, the duration of the shadow, and the importance of sunlight to the type of open space being shadowed. Determinations under this Section with respect to C-3 Districts shall be made in accordance with the provisions of Section 309 of this Code. Determinations under this Section with respect to South of Market Mixed Use and Eastern Neighborhoods Mixed Use Districts shall be made in accordance with the provisions of Section 307 of this Code.”*



Because the proposed project is over 50 feet tall, and adds net and cumulative shadow to Daggett Park, particularly from mid-fall to mid-winter, the design of north side of the building should be refined to reduce shadowing, through a reduction in height along 16<sup>th</sup> Street and setbacks. Additionally the rooftop mechanical structures should be designed to minimize shadow and reduce overall height.

### Support for the Metal Shed Alternative

The “Metal Shed Alternative” identified in the FEIR as the environmentally superior alternative, addresses all of the issues identified here. It provides a more balanced mix of uses, including additional open space, at a density that is notably less impactful than

the proposed project. Additionally, through adaptive reuse of buildings and materials, it honors the neighborhood's industrial past while providing a unique sense of place.

### **Additional Design Considerations**

While the Interim Design Controls provide broad guidance, we urge Planning to carefully review and revise the final design, whatever it may be, following the Urban Design Guidelines, currently in draft form. They provide excellent guidance in terms of things like rooftop design, scale and massing, and street level experience.

### **Hazardous Materials**

We ask that the same process for engagement with the neighbors on construction activities and hazardous materials that were a condition of approval for 1301-16<sup>th</sup> Street be followed for this project. This adds a layer of public notification and accountability that has been sorely lacking in the Maher Program.

### **Limit Residential Parking**

The requested exception for a .85 ratio on residential parking will bring more cars to the neighborhood and contribute to already intolerable congestion at key intersections. We need to plan for the 21<sup>st</sup> century and dramatically reduce the amount of onsite residential parking places, while maintaining the level of parking necessary for businesses to thrive in the area.

### **A Critical Juncture**

Potrero Hill is at the breaking point, facing a doubling of population, with minimal investment in community amenities and necessary infrastructure. Your decision is to continue to the point of no return and approve this project as proposed, or to take a deep breath and insist on a responsible development that will be a legacy and benefit to the neighborhood for years to come.

Thank you for your consideration.

Sincerely,



Alison Heath  
For Grow Potrero Responsibly  
alisonheath@sbcglobal.net



**Showplace Square / Potrero Hill - Projects Completed or Under Environmental Review from 2008 to 2/23/16 (Planning Dept. Data)**

Address	Block/Lot	Case No.	Date of Document	Status of Document	Net Housing Units	Net PDR
1000 16th Street (Daggett Triangle)	3833/001	2003.0527E	16-Apr-09	Published Other	470	8,000
1717 17th Street	3980/007	2004.0946E	10-Mar-10	Published Other	41	-5,000
720 & 740 Illinois Street; 2121 Third Street	4045/006 4045/021	2010.0094E	3-Feb-11	Published CPE	104	0
850-870 Brannan Street (AKA 888 Brannan)	3780/006 3780/007 3780/	2009.1026E & 2011.05	12-Jan-12	Published CPE	0	-259,079
601 Townsend Street	3799/001	2011.1175E	26-Jan-12	Published CPE	0	-72,600
444 DeHaro Street	3979/001	2012.0041E	10-May-12	Published CPE	0	0
752 Carolina Street	4096/110	2011.1086E	5-Sep-12	Published CPE	0	0
1111 8th Street	3808/004 3820/002 3820/	2011.1381E	26-Sep-12	Published Other	0	0
801 Brannan/1 Henry Adams	3783/001 3911/001	2000.618E	9-Jan-13	Published Other	824	-164,549
1001 17th Street/ 140 Pennsylvania	3987/009 3987/010	2011.0187E	9-Sep-13	Published Other	48	-11,475
1601 Mariposa	4005/001B 4006/006 4006/	2012.1398E	14-May-14	Published Other	320	-72,378
520 9th Street	3526/005	2013.0066E	16-Jun-14	Published CPE	12	0
645 Texas Street	4102/026	2012.1218E	23-Jul-14	Published CPE	93	-20,000
100 Hooper	3808/003	2012.0203E	6-Jan-15	Published CPE	1	153,700
540-552 De Haro St.	4008/002	2014.0599E	6-Apr-15	Published CPE	17	-7,147
155 De Haro St.	3913/005	2013.1520E	8-Apr-15	Published CPE	0	15,405
131 Missouri Street	3985/024	2013.0744E	21-Apr-15	Published CPE	9	-4,500
1395 22nd Street/ 790 Pennsylvania Avenue	4167/011 4167/013	2011.0671E	2-Jul-15	Published CPE	251	47,800
502 7th St.	3780/001	2014.1575ENV	6-Jan-16	Published CPE	16	0
88 Arkansas St.	3953/002	2015-000453ENV	14-Jan-16	Published CPE	127	-25,560
98 Pennsylvania Street	3948/002	2013.0517E	18-Feb-16	Active CPE	46	0
1301 16th Street	3954/016	2013.0698E	TBD	Active CPE	176	-38,600
2 Henry Adams	3910/001	2013.0689E	TBD	Active CPE	0	-245,697
249 Pennsylvania Ave.	3999/002	2014.1279ENV	TBD	Active CPE	59	-15,300
580 De Haro St.	4008/003	2013.1671E	TBD	Active CPE	3	0
901 16th Street and 1200 17th Street	3949/001 3949/001A 3949/	2011.1300E	TBD	Active Other	395	-105,000
923-939 Kansas St (951 Kansas St)	4094/044 4094/045 4094/	2013.1856E	TBD	Active CPE	9	0
975 Bryant St.	3780/044	2015-005270ENV	TBD	Active CPE	184	0
1501 Mariposa	4008/003	2014-000534ENV	TBD	Active CPE	0	0
1240 & 1250 17th St.	3950/002	2015-010660ENV	TBD	Active CPE	0	-12,995
75 Arkansas St.	3952/001B	2015-009928ENV	TBD	Active CPE	50	-19,250
828 Brannan St.	3780/004E	2015-015789ENV	TBD	Active CPE	60	-12,605
552 Berry St.	3800/003	2015-015010ENV	TBD	Active CPE	0	47,160
184-188 Hooper	3808/004	2016-001557ENV	TBD	Active CPE	0	-4,000
					<b>3,315</b>	<b>-823,670</b>

Preferred Project (approved 2008) **3180**

Option A	<b>2294</b>	<b>391,980</b>
Option B	<b>2635</b>	<b>-932,369</b>
Option C	<b>3891</b>	<b>-991,463</b>

**Attachment B**  
**Planning Commission Motion 19643**  
**(Certification)**



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Motion NO. 19643

HEARING DATE: May 12, 2016

*Case No.:* 2011.1300E  
*Project Address:* 901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street  
*Zoning:* UMU (Urban Mixed Use) Use District  
48-X (southern portion of project site) and 68-X (northern portion of project site) Height and Bulk District  
Showplace Square/Potrero Subarea of the Eastern Neighborhoods  
Rezoning and Area Plan  
*Block/Lot:* Block 3949/Lots: 001, 001A, 002, and Block 3950/Lots 001  
*Project Sponsor:* Josh Smith for Potrero Partners, LLC – (650) 348-3232  
jsmith@waldendevlopment.com  
*Staff Contact:* Chris Thomas – (415) 575-9036  
[Christopher.thomas@sfgov.org](mailto:Christopher.thomas@sfgov.org)

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

**ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED MIXED-USE PROJECT THAT INCLUDES 395 UNITS AND 24,968 GROSS SQUARE FEET (GSF) OF RETAIL SPACE DISTRIBUTED IN TWO NEW BUILDINGS. THE PROJECT WOULD ALSO INCLUDE VEHICULAR PARKING AND BICYCLE PARKING, PRIVATE- AND PUBLICLY-ACCESSIBLE OPEN SPACE, AND STREETScape AND PUBLIC-REALM IMPROVEMENTS.**

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the final Environmental Impact Report identified as Case No. 2011.1300E, the "901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street Mixed-Use Project" at 901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street and various other parcels, above (hereinafter "Project"), based upon the following findings:

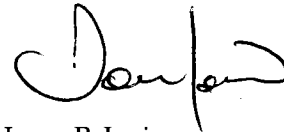
1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
  - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on February 11, 2015.
  - B. The Department held a public scoping meeting on March 4, 2015 in order to solicit public comment on the scope of the 901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street Project's environmental review.
  - C. On August 12, 2015, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the

availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

- D. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site on August 11, 2015.
  - E. On August 12, 2015, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
  - F. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on August 13, 2015.
2. The Commission held a duly advertised public hearing on said DEIR on October 1, 2015 (continued from the original date of September 17, 2015) at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on October 5, 2015.
  3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 54-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on April 28, 2016, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
  4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
  5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
  6. On May 12, 2016, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
  7. The Planning Commission hereby does find that the FEIR concerning File No. 2011.1300E reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.

8. The Commission, in certifying the completion of said FEIR, hereby does find that the project described in the EIR:
  - A. Will have significant, project-specific effects on the environment by contributing considerably to existing LOS F conditions at three study intersections (i.e., 17<sup>th</sup>/Mississippi Streets, Mariposa/Pennsylvania Streets, and Mariposa/Mississippi Streets); and
  - B. Will have significant cumulative effects on the environment by contributing to substantial delays at four study intersections (i.e., 17<sup>th</sup>/Mississippi Streets, Mariposa/Pennsylvania Streets, Mariposa/Mississippi Streets, and 7<sup>th</sup>/16<sup>th</sup>/Mississippi Streets) ; and
  - C. Will contribute considerably to the significant cumulative land use impact related to loss of Production, Distribution and Repair uses that was identified in the Eastern Neighborhoods Programmatic Environmental Impact Report.
9. The Planning Commission reviewed and considered the information contained in the FEIR prior to approving the Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of May 12, 2016.



Jonas P. Ionin  
Commission Secretary

AYES: Fong, Richards, Antonini, Johnson, Hillis, Moore, Wu  
NAYES: None  
ABSENT: None  
ADOPTED: May 12, 2016

**Attachment C**  
**Planning Commission Motion 19644**  
**(CEQA Findings)**



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Motion NO. 19644

HEARING DATE: May 12, 2016

*Case No.:* 2011.1300EX  
*Project Address:* 901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street  
*Zoning:* UMU (Urban Mixed Use) Use District  
48-X (southern portion of project site) and 68-X (northern portion of project site) Height and Bulk District  
Showplace Square/Potrero Subarea of the Eastern Neighborhoods  
Rezoning and Area Plan  
*Block/Lot:* Block 3949/Lots: 001, 001A, 002, and Block 3950/Lots 001  
*Project Sponsor:* Josh Smith for Potrero Partners, LLC – (650) 348-3232  
jsmith@waldendevlopment.com  
*Staff Contact:* Chris Townes – (415) 575-9195  
[christopher.townes@sfgov.org](mailto:christopher.townes@sfgov.org)

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, INCLUDING FINDINGS OF FACT, FINDINGS REGARDING SIGNIFICANT IMPACTS AND SIGNIFICANT AND UNAVOIDABLE IMPACTS, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES, AND A STATEMENT OF OVERRIDING CONSIDERATIONS RELATED TO APPROVALS FOR THE PROJECT, LOCATED AT 901 16<sup>TH</sup> STREET AND 1200 17<sup>TH</sup> STREET, TO MERGE FOUR LOTS INTO TWO LOTS, DEMOLISH TWO WAREHOUSES AND A MODULAR OFFICE STRUCTURE, PRESERVE THE BRICK OFFICE BUILDING, AND CONSTRUCT TWO NEW MIXED USE BUILDINGS ON SITE. THE "16<sup>TH</sup> STREET BUILDING" AT 901 16<sup>TH</sup> STREET WOULD CONSIST OF A NEW SIX-STORY, APPROXIMATELY 402,943 GROSS SQUARE FOOT RESIDENTIAL MIXED USE BUILDING WITH 260 DWELLING UNITS AND 20,138 GROSS SQUARE FEET OF RETAIL ON THE NORTHERN LOT. THE "17<sup>TH</sup> STREET BUILDING" AT 1200 17<sup>TH</sup> STREET WOULD CONSIST OF A NEW FOUR-STORY, APPROXIMATELY 213,509 GROSS SQUARE FEET RESIDENTIAL MIXED USE BUILDING WITH 135 DWELLING UNITS AND 4,650 GROSS SQUARE FEET ON THE SOUTHERN LOT. THE HISTORIC BRICK OFFICE BUILDING WOULD BE REHABILITATED FOR RETAIL OR RESTAURANT USE. COMBINED, THE TWO NEW BUILDINGS WOULD CONTAIN A TOTAL OF 395 DWELLING UNITS AND APPROXIMATELY 24,968 GROSS SQUARE FEET OF RETAIL SPACE, WITH A TOTAL OF 389 VEHICULAR PARKING SPACES, 455 OFF-STREET BICYCLE PARKING SPACES, AND APPROXIMATELY 14,669 SQUARE FEET OF PUBLIC OPEN SPACE, 33,149 SQUARE FEET OF COMMON OPEN SPACE SHARED BY PROJECT OCCUPANTS, AND 3,114 SQUARE FEET OF OPEN SPACE PRIVATE TO UNITS.

### PREAMBLE

On June 17, 2014, Potrero Partners, LLC (Attr: Josh Smith) (hereinafter "Project Sponsor"), filed Application No. 2011.1300EX (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Large Project Authorization to construct one six-story building

and one four-story building, referred to as the "16<sup>th</sup> Street" and "17<sup>th</sup> Street" Buildings (approximately 616,452 gross square feet and 395 dwelling units total) with ground floor retail and open space at 901 16<sup>th</sup> Street and 1200 17<sup>th</sup> Street (Block 3949/Lots: 001, 001A, 002, and Block 3950/Lots 001) in San Francisco, California.

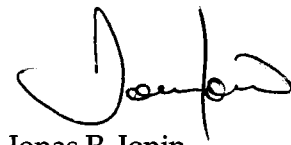
On August 12, 2015, the Department published a Draft Environmental Impact Report ("DEIR") for the Project for public review (Case No. 2011.1300E). The DEIR was available for public comment until October 5, 2015. On October 1, 2015, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the DEIR. On April 28, 2016, the Department published a Comments and Responses document, responding to comments made regarding the DEIR for the Project.

On May 12, 2016, the Commission certified the FEIR for the Project as adequate, accurate and complete.

On May 12, 2016, at a duly noticed public hearing at a regularly scheduled meeting, the Commission adopted findings, including a statement of overriding considerations and a Mitigation, Monitoring and Reporting Program.

MOVED, that the Commission hereby adopts the Project findings required by the California Environmental Quality Act, attached hereto as Attachment A including a statement of overriding considerations and adopts the Mitigation, Monitoring and Reporting Program, included as Exhibit 1 to Attachment A.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of May 12, 2016.



Jonas P. Ionin  
Commission Secretary

AYES: Fong, Richards, Antonini, Johnson, Hillis, Wu  
NAYES: Moore  
ABSENT: None  
ADOPTED: May 12, 2016