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May 22, 2014

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

Re: Appeal of Certification of Final Environmental Impact Report for the 2004 and 2009 Housing Elements (including Revised Alternatives Analysis) and Related CEQA Findings, Environmental Findings and Statement of Overriding Considerations

Planning Department Case Nos. 2007.1275E and 2007.1275EM

On behalf of Pacific Heights Residents Association, Cow Hollow Association, Francisco Heights Civic Association, Greater West Portal Neighborhood Association, Jordan Park Improvement Association, Lakeshore Acres Improvement Club, Laurel Heights Improvement Association of San Francisco, Inc., Marina-Cow Hollow Neighbors & Merchants, Miraloma Park Improvement Club, Presidio Heights Association of Neighbors, St. Francis Homes Association, Sunset-Parkside Education and Action Committee, Inc., and Westwood Highlands Association, associated in the unincorporated association known as San Franciscans For Livable Neighborhoods (herein collectively referred to as Appellants), I hereby appeal to the San Francisco Board of Supervisors the San Francisco Planning Commission's April 24, 2014 certification of a Final Environmental Impact Report (EIR) for the 2004 and 2009 Housing Elements and adoption of related CEQA findings described above. (See Exhibit A, April 24, 2014 Planning Commission motion rescinding motion 18307 and adopting findings related to the certification of a Final EIR for the proposed 2004 and 2009 Housing Element and adopting environmental findings and a statement of overriding considerations under the California Environmental Quality Act and State Guidelines in connection with the amendment of the San Francisco General Plan Adopting the 2009 Housing Element as the Housing Element of the General Plan (see also related project approval recommendation.)

Appellants are members of San Franciscans for Livable Neighborhoods (SFLN), an unincorporated association. On behalf of Appellants, SFLN presented written objections and statements opposing the Planning Commission's certification of the EIR, failure to comply with the requirements of CEQA and adoption of CEQA findings and statement of overriding considerations. This appeal incorporates by reference all of the Appellants' previous written and oral statements submitted in opposition to certification of the EIR and the related matters

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described above in 2014 and in 2011, including without limitation the comments and expert testimony submitted on behalf of SFLN to the Environmental Review Officer on February 18, 2014 and the comments submitted on behalf of SFLN to the San Francisco Planning Commission on April 24, 2014, true and correct copies of which are attached hereto as Exhibits B and C, respectively. The comments and expert testimony set forth in said Exhibits B and C are incorporated by reference in this appeal in their entirety. Those written statements are attached and discussed herein. Appellants will further document the bases for this appeal in testimony at the appeal hearing before the Board of Supervisors and may submit supplemental written statements to the Board.

SFLN secured an Order of the Superior Court finding that the City violated the requirements of the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.*, because the discussion of alternatives in the EIR for the 2009 Housing Element was conclusory and lacking in factual support. The Court held that the City abused its discretion by rejecting alternatives in conclusory Findings that lacked factual support and that the EIR's discussion of alternatives was also conclusory and inadequate. The Board of Supervisors must now give genuine consideration to alternatives, and since the Court set aside the City's approval of the 2009 Housing Element, the Board of Supervisors must consider an alternative Housing Element that contains policies which would reduce or eliminate the proposed project's significant impact on transit and the other effects that the EIR should have deemed significant.

Pertinent excerpts from the Court Order finding the EIR for the 2009 Housing Element inadequate are attached hereto as Exhibit 2 to Exhibit B hereto (SFLN's February 18, 2014 comment letter) and the Peremptory Writ of Mandate issued by the Court is attached as Exhibit 3 to Exhibit B.

The bases for this appeal are that the discussion of alternatives in the revised Final EIR ("the Revision" or the "EIR") is still conclusory, unsupported by fact and contradictory, and substantial evidence does not support the rejection of alternatives to the proposed 2009 and 2004 Housing Element in the EIR and in the findings which the City adopted.

Since the proposed 2009 and 2004 Housing Elements would both have a significant impact on transit, it is the policy of the state that the City should not approve the 2009 or 2004 Housing Elements as proposed because there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." Public Resources Code section 21002; 14 CCR section 15021(a)(2); Public Resources Code sections 21081(a)(1)-(3). A public agency is required "to mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." Public Resources Code section 21002.1(b). As explained in the accompanying Statement of City Planner David Golick, Exhibit 1 to Exhibit B hereto, there are feasible alternatives to the proposed 2009 Housing Element that the City must adopt if the City does not adopt one of the feasible alternatives described in the EIR or in SFLN's comments. Thus, the City's actions rejecting alternatives fail to comply with the Court Order and Writ issued in relation to the

defective alternatives analysis in the EIR for the 2009 Housing Element.

Also, the Planning Commission's certification of the revised EIR as to the 2004 Housing Element fails to comply with the decision of the Court of Appeal and the mandates of the Peremptory Writ of Mandate issued in the pending litigation known as *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, San Francisco Superior Court Action number CPF04 504-780. Copies of the Court of Appeal decision, Peremptory Writ of Mandate, and Amendment to Peremptory Writ of Mandate have been submitted in connection with previous comments as to the adequacy of the EIR. With respect to the Planning Commission's certification of the revised EIR as to the 2004 Housing Element, SFLN incorporates by reference all its comments previously submitted as to the EIR for the proposed 2009 or 2004 Housing Elements.

Some of the principal bases for this appeal, as discussed further herein, and in SFLN's prior submissions, are as follows:

**1. FEASIBLE ALTERNATIVES ARE AVAILABLE SINCE THE 2009 HOUSING ELEMENT WOULD PRODUCE FAR MORE NEW HOUSING UNITS THAN NEEDED TO ACCOMMODATE THE RHNA FOR THE 2007-2014 PLANNING PERIOD.**

"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." Public Resources Code section 21002; 14 CCR section 15021(a)(2). A public agency is required "to mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." Public Resources Code section 21002.1(b). Reflecting these policies, Public Resources Code sections 21081(a)(1)-(3) provide 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.

The 2009 Housing Element would have a significant impact on transit, so the City must adopt a feasible alternative to the proposed project.

As explained in the accompanying Statement of City Planner David Golick, Exhibit 1 to Exhibit B hereto, there are feasible alternatives to the proposed 2009 Housing Element that the City must adopt if the City does not adopt one of the feasible alternatives described in the EIR or in SFLN's comments. The alternatives described herein are feasible alternatives that would reduce the 2009 Housing Element's significant impact on transit and its significant impacts on land use and neighborhood character. The 2009 Housing Element is projected to produce excess housing production, which can be feasibly scaled back to meet, but not exceed, the RHNA for the 2007-2014 planning period.

**1.A. FEASIBLE ALTERNATIVES ARE AVAILABLE SINCE THE 2009 HOUSING ELEMENT WOULD PRODUCE FAR MORE NEW HOUSING UNITS THAN NEEDED TO ACCOMMODATE THE RHNA FOR THE 2007-2014 PLANNING PERIOD.**

**Introduction and Factual Background**

The EIR states that the pipeline units anticipated to be developed total 25,000 more than the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period and further rezoning and area planning processes would allow the additional capacity of 27,844 units. Exhibit B to Ex. B-1 AR 328. In 2007 and 2008, 5,830 new housing units were produced and as of 2009, 56,435 additional units were in the development pipeline. Exhibit B to Ex. B-1 AR 170; 18 AR 9430. Production trends show that 75-80% of pipeline units are completed within 5-7 years, so 42,326 additional new units could be expected. *Id.*

The EIR also admits that “the total number of units identified in the RHNA can be accommodated under the existing zoning capacity and/or through development currently in the City’s pipeline.” Exhibit B to Ex. B-Final EIR p. VIII-207. Thus, there is no need for rezoning to accommodate the RHNA.

The revised DEIR states that the “2004 and 2009 Housing Element do not include any changes to the land use objectives and policies in the City’s Area Plans or Redevelopment Plans. (VII-2) The revised DEIR states that similar to new housing development under the 2009 Housing Element “development under Alternative B would not substantially conflict with the policies and land uses in current Area Plans and Redevelopment Plans.” (VII-50) The revised DEIR also states that similar to the 2004 Housing Element that “development under Alternative B would be subject to existing Area Plans and Redevelopment Plans and would serve to complement (and not conflict with) the policies and land uses in an Area Plan or Redevelopment Plan.” (VII-49)

Alternatives A and B and C would use the 2009 Data and Needs Analysis and the updated RHNA allocation of 31,193 for the January 2007 through June 2014 planning period. (Revised DEIR, p. VII-4-6, 19-20; Executive Summary p. 1; Final EIR IV-11) The revised DEIR states that “under all alternatives, it is assumed that the 2009-2014 RHNA and Part I (Data and Needs Analysis) of the 2009 Housing Element are in effect.” (VII-4) Both the 2004 and 2009 Housing Elements discussed in the EIR utilized the 2009 Housing Element Part I Data and Needs Analysis and sought to achieve the 2007-2014 RHNA. (Final EIR IV-13-14)

The 2009 Housing Element states that:

“In order to increase the supply and affordability of housing, the City has engaged in significant planning for housing through Area Plans (portions of the General Plan which



focus on a particular part of the City), Redevelopment Plans (community revitalization plans authorized and organized under the provisions of the California Community Redevelopment law), and major development projects created in partnership with private sponsors. Adopted community plans include Balboa Park, Market and Octavia and the Central Waterfront neighborhoods; the Eastern Neighborhoods program including the Mission, South of Market, Showplace Square and Potrero Hill; Candlestick, and Hunters Point Shipyard; and several Redevelopment Area Plans, most recently Visitacion Valley/Schlage Lock.

Plans underway include Japantown, Glen Park, Western SoMa and Executive Park. Other major projects in development with the City include Treasure Island, Park Merced and the Transbay Transit Center. These ongoing community planning efforts should continue. These projects could result in a community accepted housing vision for the neighborhood, related zoning changes and neighborhood specific design guidelines that will encourage housing development in appropriate locations.

Together, these planning efforts could provide capacity for significantly more than the 31,000 units allocated for this planning period (2007-2014). ” Ex. B to Ex. B- AR 53137-53140.

The Final EIR states that the City “has recently updated zoning controls for the following neighborhoods: Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park. These planning efforts have developed updated zoning, heights, bulks, and densities in balance with infrastructure. A number of other planning efforts are currently underway including, but not limited to the Transit Center District Plan, Treasure Island, and West SoMa, which could result in increased residential development potential in those areas. Under existing zoning capacity, these planning areas could accommodate 3,669 net new housing units, representing approximately six percent of the total citywide existing capacity of 60,995 units as described previously. The additional potential capacity with rezoning initiatives currently underway is approximately 28,844 units (Ex. B to Ex. B- AR 169, p. IV-22 and Table IV-6). Should these rezoning initiatives be adopted and implemented, the City would be able to accommodate 89,829 net new housing units, which, if developed, would represent a 25 percent increase in the City’s housing stock.” (Ex. B to Ex. B- AR 169, Final EIR IV-22) Table IV-6 estimates that a total of 28,844 additional units could be added with rezoning in the Executive Park, Glen Park, Park Merced, Transit Center District, Western Soma, India Basin, Hunters Point Shipyard, Candlestick Park and Treasure Island neighborhoods, but states that the additional units that could be added with rezoning in Japantown are “To be Determined.” (Ex. B to Ex. B- AR 169, Final EIR IV-22; see also AR 9499-2009 Housing Element, Part I, p. 95)

The 2009 Housing Element estimates that the total estimated new housing construction potential in the “Adopted Plans & Projects” of Balboa Park Area Plan, Market/Octavia Area Plan, Central Waterfront Area Plan, Mission Area Plan, East SOMA Area Plan, Showplace Square/Potrero Hill Area Plan, Rincon Hill Area Plan, Visitacion Valley Area Redevelopment

Plan, Transbay Redevelopment Plan, Mission Bay Redevelopment Plan and Hunters Point Shipyard/Candlestick Point is 39,500 housing units. (Ex. B to Ex. B-AR 53139-2009 Housing Element Part 2 p. 9)

The EIR portrayed the “recently updated zoning controls” for the Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park neighborhoods as providing the “existing zoning capacity” and claimed that the 2004 and 2009 “do not include any changes” to land use policies in the City’s area or Redevelopment plans and that the “rezoning efforts will increase the existing capacity” in target neighborhoods.” Ex. B to Ex. B-1 AR 169, 202, 161. The new area plans adopted after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others “potentially increase housing capacity by over 55,000” units, and the “Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Ex. B-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486. Capacity was significantly increased, as Better Neighborhoods and Eastern areas identified as 2004 Housing Element Work Programs had existing capacity for 8,628 new units before 2004 and would add 18,285-38,835 additional potential units with rezoning. Ex. C to Ex. B-2004 Housing Element Administrative Record-1 A 180. The 2004 Housing Element acknowledged that its “[n]ew policies strive to expand land capacity necessary to increase housing production, will direct new housing to appropriate locations, especially in areas well served by transit” and seek to achieve a “far greater” rate of new housing construction than was previously produced. Ex. C to Ex. B-1 A 82, 16, 283, 328.

The Court of Appeal held that the “Housing Element identifies areas for potential development,” and the Peremptory Writ enjoined policies calling for increased density development in areas well served by transit in 2004 Housing Element Policy 11.1 (minimum density requirements and maximum parking standards), modified Policy 11.6 (flexible land use controls and increased residential densities), Policy 1.2 (increased housing densities and reduced residential parking requirements in neighborhood commercial districts), new language added to Policy 1.1 (modification of residential parking requirements), new implementation 1.1 (higher density, mixed-use residential development in transit-rich areas and reduced parking requirements in Downtown areas or through a Better Neighborhoods type planning process), language added to Implementation 1.3 (floor-to-area ratio exemptions in Downtown areas and areas subject to a Better Neighborhoods type planning process). Ex. D to Ex. B-Excerpts from Court of Appeal decision, p. 12 and Peremptory Writ of Mandate and Amendment to Peremptory Writ of Mandate.

2009 Housing Element Policy 1.4 is to “Ensure community based planning processes are used to generate changes to land use controls,” and the policy text states that “Such plans can be used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate.” (Ex. B to Ex. B-AR 53139-2009 Housing Element Part 2

p. 9)

The EIR admits that the “2009 Housing Element generally promotes increased density through community planning processes (Policies 1.4, 1.6, and Implementation Measures 13 and 79) and for affordable housing (Policy 7.5 and Implementation Measures 36 and 64). The 2009 Housing Element also includes a strategy designed to reduce the amount of space required for non-housing functions (Implementation Measure 12). Ex. B to Ex. B- 2 AR 769- Final EIR p. V.L-36. The Final EIR further explains: “While implementation of the proposed Housing Elements would not directly affect existing Area Plans or Redevelopment Plans, it would encourage new Area Plans with similar planning -related strategies that may be designed to accommodate growth.” Ex. B to Ex. B-1 AR 257; Final EIR p. V.B.-28.

For the prior 1999-2006 planning period, market rate housing was overproduced at the rate of 153% of the market rate production target, whereas only 13% of the moderate rate, 52% of the low income and 83% off the very low income targets were met. Ex. B to Ex. B- AR 53118 and 1 AR 323.

The 2009 Housing Element states that San Francisco’s fair share of the regional housing need for January 2007 through June 2014 was calculated as 31,190 units, which seeks to accommodate forecast household and employment growth “as well as allocating regional household and employment growth to jurisdictions with established or planned transit infrastructures.” Ex. B to Ex. B-18 AR 9445-2009 Housing Element Part I, p. I.41. However, the 2009 Housing Element and the EIR do not disclose the amount of the 2007-2014 RHNA goal that allocated regional household and employment growth to jurisdictions with established or planned transit infrastructures.

The Revised DEIR states that two primary objectives of the project are to provide “a vision for the City’s housing and growth management through 2014” and to ensure “capacity for the development of new housing to meet the RHNA at all income levels.” (VII-3-4)

In general, the EIR continually repeats that it does not directly cause housing production. However, the 2009 Housing Element acknowledges that its aim is to increase the supply of housing. Since its aim is to increase the supply of housing, the 2009 Housing Element certainly accommodates increased housing production through implementation of its principal strategy of ensuring that community based planning processes are used to generate changes to land use controls. (Policies 1.4 and 1.2) As explained by the Legislative Analyst, the increased density-related building standards that the 2009 Housing Element supports are known to increase housing production, and therefore indirectly induce population growth. Ex. C to Ex. B-1 A 2936-2945. It is recognized in the planning community that “If you build them, they will come,” which means that if additional housing is built in the City, it will attract additional residents. If additional housing is not built in the City, the potential additional residents will go elsewhere or not move from their present locations.

**1B. THE NO UNLIMITED AREA PLAN OR UNLIMITED PLANNING PROCESSES ALTERNATIVE IS FEASIBLE.**

A feasible alternative is to eliminate unlimited area plans and community based planning processes from Policy 1.2 and limit new area plans and community based planning processes only to those areas identified in the 2009 Housing Element, except for Japantown.

The EIR states that the “2009 Housing Element generally promotes increased density through community planning processes (Policies 1.4, 1.6, and Implementation Measures 13 and 79) and for affordable housing (Policy 7.5 and Implementation Measures 36 and 64). The 2009 Housing Element also includes a strategy designed to reduce the amount of space required for non-housing functions (Implementation Measure 12). Ex. B to Ex. B-2 AR 769- Final EIR p. V.L-36. The Final EIR further explains: “While implementation of the proposed Housing Elements would not directly affect existing Area Plans or Redevelopment Plans, it would encourage new Area Plans with similar planning -related strategies that may be designed to accommodate growth.” Ex. B to Ex. B-1 AR 257- Final EIR p. V.B.-28.

Also as part of this alternative, the process by which a new community based planning process is initiated should be revised to eliminate burying it in the budgetary process since Policy 1.4 provides that: “The process should be initiated by the Board of Supervisors, with the support of the District Supervisor, through their adoption of the Planning Department’s or other overseeing agency’s work program, and the scope of the process should be approved by the Planning Commission.” Ex. B to Ex. B-AR 53140. The approval of budgetary support for a departmental work program is not an appropriate venue for initiation of a planning process. The public does not expect initiation of a planning process in a budgetary process and Policy 1.4's language provides for a potentially deceptive initiation process that lacks transparency. As an adjunct to elimination of unlimited community based planning processes, Policy 1.4 should be revised to require that the process of initiating a new community based planning process should first be initiated only by a publicly noticed meeting of the Planning Commission that clearly discloses the intent to initiate a new community based planning process and that delineates the scope of the new planning process. In addition, notice of the proposed initiation of a new community based planning process should be mailed to each known neighborhood organization that serves areas located within one mile of the land that would be affected by the new community based planning process, and such notice should be mailed thirty to sixty days before the meeting of the Planning Commission at which the intent to initiate a new community based planning process would be discussed.

Such an alternative would provide for the growth that is needed to accommodate the 2007-2014 planning period. If the 2009 Housing Element aims to accommodate growth for a later period, the 2009 Housing Element needs to identify the period for which the 2009 Housing Element seeks to accommodate growth and the amount of additional housing production it seeks to accommodate for each income level.

Eliminating new area plans or planning processes beyond those needed to accommodate growth for the period covered by the 2007-2014 RHNA would reduce impacts on transit, land use and visual resources and neighborhood character. As stated in the March 24, 2011 statement of David Golick, the City's lack of funds to enhance transit was the basis of the EIR's rating as a significant impact the 2009 Housing Element's impact on transit. Eliminating more areas to which bus service would have to be enhanced would mitigate this significant impact on transit.

The EIR states that policies of the 2009, 2004 Housing Elements, and Alternatives B and C that encourage a mode shift toward transit could result in an increase in transit ridership which may exceed Muni's capacity utilization standard of 85 percent and that "[g]enerally, as transit ridership increases, transportation agencies respond by expanding transit service and/or increasing transit frequency. However, given SFMTA fiscal emergencies, Muni may not be able to increase transit service to accommodate increased transit ridership resulting from the 2009 Housing Element policies that encourage residential development in transit-rich areas or other policies that encourage the use of alternative transportation in the City." Ex. B to Ex. B-1 AR 497, 483 as to 2004; 3 AR 1149, 1150, 1175, 1176; see also Ex. J-41 AR 22145, referring to "capital capacity constraints." As explained in the March 24, 2011 statement of David Golick, directing housing to fewer areas or providing a lesser number of housing units would reduce the significant impact on transit. Ex. J-41 AR 22143-22155, 22158. The EIR states that policies of the 2009, 2004 Housing Elements, and Alternatives B and C that encourage a mode shift toward transit could result in an increase in transit ridership which may exceed Muni's capacity utilization standard of 85 percent, and that "[g]enerally, as transit ridership increases, transportation agencies respond by expanding transit service and/or increasing transit frequency. However, given SFMTA fiscal emergencies, Muni may not be able to increase transit service to accommodate increased transit ridership resulting from the 2009 Housing Element policies that encourage residential development in transit-rich areas or other policies that encourage the use of alternative transportation in the City." Ex. B to Ex. B-1 AR 497, 483 as to 2004; 3 AR 1149, 1150, 1175, 1176; see also Ex. J-41 AR 22145, referring to "capital capacity constraints." Thus, as previously explained by expert planner Golick, directing housing to fewer areas or providing a lesser number of housing units would reduce the 2009 Housing Element's significant impact on transit. 41 AR 22143-22155, 22158.

Moreover, the City is currently experiencing serious incapacity problems with Muni. The San Francisco Transportation Plan 2040 states that capacity needs are most acute in the Downtown, South of Market, Market/Octavia and Eastern Neighborhoods and that "Expected growth will significantly increase transit crowding and street congestion downtown." Ex. G. to Ex. B The Mayor's Transportation Task Force 2030 also shows that many Muni routes are at or over capacity in 2012 and that the City's transportation infrastructure is inadequate to meet current demand. Ex. H. to Ex. B, pp. 21, 33. A recent article has also documented current Muni incapacity. (See Ex. I- January 29, 2013 San Francisco Examiner article, *With packed vehicles people opt for private cars, SFMTA says*. Thus, Muni's capacity problem from overcrowded buses is a current impact and not merely a significant impact projected to occur in the future.

This alternative would also reduce other effects related to increased housing production including impacts on transportation, air quality, noise, water supply land use, and visual resources and neighborhood character

**1.C. THE JUNE 2010 DRAFT OF THE 2009 HOUSING ELEMENT ALTERNATIVE IS FEASIBLE.**

The version of the 2009 Housing Element that was included in the draft EIR that was circulated for public comment in 2010 was the June 2010 Draft of the proposed 2009 Housing Element ("June 2010 Draft"). The EIR's analyses of whether impacts of the proposed project would be significant was based on implementation of the policies stated in the June 2010 Draft of the 2009 Housing Element. Public comment was also based on the June 2010 Draft. The set of policies stated in the June 2010 Draft and the amount of increased housing production supported by those policies is a feasible alternative because the EIR stated that "the total number of units identified in the RHNA can be accommodated under the existing zoning capacity and/or through development currently in the City's pipeline." Ex. B to Ex. B-AR 1400-Final EIR p. VIII-207. The EIR's statement that the RHNA can be accommodated was based on the policies in the June 2010 Draft, so that Draft clearly would accommodate the 2007-2014 RHNA. Ex. K. To Ex. B.

The City has not presented any evidence showing that the number of housing units anticipated to be produced would be significantly greater under the version of the 2009 Housing Element that the City subsequently adopted rather than under the June 2010 Draft of the 2009 Housing Element. The City also has not presented any evidence showing that any of the City's project objectives would be better served by the version of the 2009 Housing Element that the City subsequently adopted rather than by the June 2010 Draft of the 2009 Housing Element. As explained below, adoption of the June 2010 Draft would mitigate the significant impact on RH-1 neighborhoods that could result from the changed policy ultimately adopted. The revised alternatives analysis also lacks any evidence that the draft of the 2009 Housing Element ultimately adopted would produce a significantly greater number of housing units or better serve stated project objectives.

The June 2010 Draft stated in Policy 1.6 text that "[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character." In the draft subsequently adopted, this policy text was changed to state "[i]n some areas, such as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character." For the reasons stated in the March 24, 2011 Statement of David Golick, this change would constitute a significant impact on the environment because the policy change to eliminate density limits in RH-1 neighborhoods would degrade the quality of those neighborhoods. Ex. J to Ex. B-AR 22151-22154. Current density limits, such as the one-unit limit in an RH-1 area, maintain the quality of single-family RH-1 neighborhoods. Also, use of "flexibility in the number and size of units" was expanded to apply through "community based planning processes" and therefore

would apply to projects outside plan areas and to individual projects, instead of merely to “community plan areas” as previously proposed in June 2010 Draft Policy 1.6. *Id.* In view of the excess housing production projected under the June 2010 Draft, these changes in policy language are not needed, and the June 2010 Draft is a feasible alternative.

ABAG has granted San Francisco’s application to designate various areas as Priority Development Areas (“PDAs”) that have “plans for significant increases in housing units” and are near transit. Ex. B to Ex. B-20 AR 10511-10512, 10328, 10330, 10532-38, 10463-72; 19 AR 10234-41.

The City plans to accommodate over 90% of the growth to 2035 in the PDAs. Ex. F to Ex. B-December 17, 2010 ABAG letter to SFMTA, Exhibit 6, tenth page.

The City has admitted that the “lion’s share of city’s growth will continue to be focused in its PDAs” and that the adopted and planned PDAs “collectively accommodate over 63,000 new housing units.” Ex. F to Ex. B-December 17, 2010 ABAG letter to SFMTA, Exhibit 6, twelfth page. As to infill opportunity sites outside PDAs, the City has acknowledged that: “The city includes numerous small-scale infill opportunity sites close to transit throughout all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city.” *Id.* In view of the excess housing production projected to occur under the 2009 Housing Element, as stated in the EIR, the City does not need another 17,000 housing units to accommodate the RHNA, much less elimination of density limits in RH-1 areas that would constitute only a portion of those 17,000 units.

The EIR failed to state the number of additional housing units that would be accommodated by the Policy 1.6 text that would maintain existing height and bulk patterns in RH-1 areas rather than density limits in RH-1 areas. The EIR also failed to explain the degree to which any project objectives would not be served by the June 2010 Draft’s Policy 1.6 text that maintained density limits for RH-1 areas. In view of the projected exceedance of the RHNA for the 2007-2014 period, there is no substantial evidence that the significant impact on RH-1 areas is needed to accommodate the 2007-2014 RHNA, and previous policies relating to RH-1 areas should not be disturbed. Therefore, the June 2010 Draft of the 2009 Housing Element is a feasible alternative that would reduce or eliminate the significant impact on the quality of RH-1 neighborhoods. Since the general plan established the controlling policies, and zoning must be brought into conformance with the policies of the housing element of the general plan, it is evasive to state that the zoning has not yet been changed to eliminate the one-unit density limits that protect the single-family character of RH-1 neighborhoods.

In addition, the outlying RH-1 neighborhoods are not well served by transit, so it would not serve the City’s goal of directing new housing units to locations well served by transit to support secondary units in such areas. The San Francisco Transportation Plan 2040 states that the outlying neighborhoods such as the Sunset are less accessible throughout the day by transit,

and that in such lower-density Sunset neighborhoods the transit network is less dense, resulting in fewer transit alternatives and extra waits. Ex. G to Ex. B, p. 12)

Also, the last minute change stating that in RH-1 and RH-2 areas “existing height and bulk patterns should be maintained to protect neighborhood character” was not evaluated by the Community Advisory Body and was not subjected to public review and comment during the Draft EIR comment period. To support the middle class in the City, the Housing Element should maintain the existing single-family neighborhoods.

**1.D. THE EXCESS MARKET-RATE TRANSIT SUBSIDY ALTERNATIVE IS FEASIBLE.**

For the prior 1999-2006 planning period, market rate housing was overproduced at the rate of 153% of the market rate production target, whereas only 13% of the moderate rate, 52% of the low income and 83% of the very low income targets were met. Ex. B to Ex. B-18 AR 9497; 1 AR 323.

The overproduction of market rate housing is contrary to the City’s RHNA allocation, and the City is woefully failing to accommodate the RHNA allocation as to moderate rate units. According to the 2009 Housing Element, the City’s estimated shortfall of production of moderate rate units for the 2007-2014 planning period is 3,586 less than the 6,754 moderate units allocated. (Ex. B to Ex. B-AR 9497-2009 Housing Element Part I, p. I. 93) The crisis in the loss of the middle class in the City is now severe. (See Ex. L to Ex. B-January 8, 2014 San Francisco Examiner article, *Are you part of San Francisco’s disappearing middle class?*)

An alternative that would impose an appropriate per unit transit-mitigation fee on all market rate housing units that are produced in the City in excess of the RHNA allocation for market rate units for the applicable RHNA planning period would reduce the significant impact on transit that would result from directing growth to areas near transit. The amount of this fee would be determined by a nexus study that would determine the cost of providing Muni service to the excess market rate housing units that are produced, based on the estimated cost of providing service to such excess market rate units as well as the cost of any capital improvements needed to support such service. Such fee would be in addition to any other fees that the City may impose. It is feasible for the City to pass an ordinance requiring such a fee, since it would support the City’s policies directing housing growth to areas near transit, and the City has successfully passed other ordinances requiring inclusion of affordable housing or payment of a fee in lieu of provision of such housing. Given the estimate that 6,766 market rate units in excess of the RHNA allocation will be produced for the 2007-2014 planning period, such transit-mitigation fee would mitigate the project’s significant impact on transit. Ex. B to Ex. B-AR 9497.



In addition, the overproduction of market rate condominiums is serving technology workers who live in San Francisco and commute to jobs in Silicon Valley and other locations south of San Francisco, especially as to the condominiums being built in the South of Market area near the freeway on-ramps. This has produced a substantial reverse commute which is increasing vehicle emissions in the region, contrary to the regional goals.

**1.E. THE NORMAL POPULATION INCREASE, NO CONCENTRATION, ALTERNATIVE IS FEASIBLE.**

The San Francisco Transportation Plan 2040 states that:

“To meet the SB 375 target, the Regional Transportation Plan, known as Plan Bay Area, calls for concentration of growth in densely developed areas with good transit access especially in San Francisco, San Jose, and Oakland....Concentrating jobs and housing in San Francisco is good for the city’s economy as well as the environment, but will also increase congestion and transit system crowding in downtown San Francisco and Eastern neighborhoods. By 2040, new growth will result in about 300,000 new transit trips per day on a local and regional system that is already strained by crowding and reliability issues. The San Francisco Planning Commission has adopted land use plans that direct much of the city’s projected growth in the central and eastern neighborhoods, where crowding is already acute.” Ex. G to Ex. B, p. 14.

The Revised DEIR states that two primary objectives of the project are to provide “a vision for the City’s housing and growth management through 2014” and to ensure “capacity for the development of new housing to meet the RHNA at all income levels.” (VII-3-4) However, the sixth project objective is to “Develop a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals.” *Id.* The 2009 Housing Element and EIR do not specifically explain how this objective is to be met and only vaguely allude to supporting housing near transit. The 2009 Housing Element states that the City had successfully advocated for “changes that direct more transportation money to jurisdictions, like San Francisco, that take on greater housing growth as part of the 2007-2014” RHNA Process. Ex. B to Ex. B-18 AR 9595, 9581. The 2009 Housing Element and the EIR should disclose how much more housing growth San Francisco accepted in that regard as part of the 2007-2014 RHNA process and for what income categories.

Since the EIR states that the pipeline units anticipated to be developed total 25,000 more than the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period and further rezoning and area planning processes would allow the additional capacity of 27,844 units, the 2009 Housing Element is actually producing more new housing units than called for by the 2007-2014 RHNA. Ex. B to Ex. B-1 AR 328. In view of the excess production, the additional capacity for 27,844 units through rezoning appears directed to accommodate an unexplained objective of the 2009 Housing Element.

The 2009 Housing Element states that San Francisco's fair share of the regional housing need for January 2007 through June 2014 was calculated as 31,190 units, which seeks to accommodate forecast household and employment growth "as well as allocating regional household and employment growth to jurisdictions with established or planned transit infrastructures." Ex. B to Ex. B-18 AR 9445-2009 Housing Element Part I, p. I.41. However, the 2009 Housing Element and the EIR do not disclose the amount of the 2007-2014 RHNA goal that allocated regional household and employment growth to jurisdictions with established or planned transit infrastructures. The EIR, 2009 Housing Element, and the City failed to disclose the estimated number of new housing units that would be needed during the 2007-2014 planning period to accommodate growth from only normal factors such as births and deaths in the City. The EIR, 2009 Housing Element, and the City failed to disclose the estimated number of new housing units that would be needed during the 2007-2014 planning period to accommodate any portion of the projected regional household and employment growth that was allocated to San Francisco in the RHNA for the 2007-2014 planning period. In view of the 25,000 new units anticipated to be produced in excess of the RHNA allocation for 2007-2014, it should be feasible to eliminate from the 2009 Housing Element any portion of the projected regional household and employment growth that was allocated to San Francisco in the 2007-2014 planning period.

## **2. THE REVISED DEIR IS CONCLUSORY AND LACKS FACTUAL SUPPORT.**

All the Alternatives utilize the Data and Needs Analysis, Part I of the 2009 Housing Element, and seek to accommodate the RHNA for the 2007-2014 planning period. The Revision states that: "The number of housing units that would be constructed under each of the project alternatives would be substantially similar, as each alternative reflects the housing needs and population projections provided by ABAG. VII-6. Thus, all the Alternatives seek to produce the same amount of new housing units for the designated income categories. VII-4-5, VII-44, 46, 79, 80.

### **2.A. The EIR's Definition of Alternative A as Subject to the Area Plans Contradicts the Claim that Growth Under Alternative A Would be Dispersed Throughout the City.**

The Revision claims that housing produced under Alternative A "would generally result in patterns of residential development that are relatively dispersed throughout the City, compared to the 2004 Housing Element or the 2009 Housing Element." VII-6 The Revision claims that this is due in part to the particular policies and implementation measures provided in the 1990 Residence Element, including Objective 2 (To increase the supply of housing without overcrowding or adversely affecting the prevailing character of existing neighborhoods).

This conclusion is flatly contradicted by the definition of Alternative A as being subject to all existing Area Plans and Redevelopment Plans, where 90% of the additional housing production is expected to be constructed. The revised DEIR states that: "Similar to 2004

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Housing Element, new development under Alternative A would be subject to the controls in existing Area Plans and Redevelopment Plans, and would serve to complement - and not conflict with - the policies and land uses in an Area Plan or Redevelopment Plan.” (VII-20)

The Final EIR states that the City “has recently updated zoning controls for the following neighborhoods: Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park. These planning efforts have developed updated zoning, heights, bulks, and densities in balance with infrastructure. A number of other planning efforts are currently underway including, but not limited to the Transit Center District Plan, Treasure Island, and West SoMa, which could result in increased residential development potential in those areas.... (Ex. B to Ex. B-Statement of Golick- AR 169, p. IV-22 and Table IV-6). The new area plans approved after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others “potentially increase housing capacity by over 55,000” units, and the “Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Ex. B-Statement of Golick-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486.

As explained by the Legislative Analyst, tools such as height increases, removal of maximum densities, and reduction or elimination of parking requirements are proven development strategies which increase housing production. 1 A 2936-2945, Exhibit C to the accompanying Statement of David Golick. The Revision admits that the rezoning is expected to increase housing production in the Plan Areas, as it states that: “Promoting housing in recently rezoned Plan Areas would likely encourage build out of those areas, as anticipated under those plans.” However, the EIR fails to provide the details as to the general nature of the build out expected in the recently rezoned Plan Areas, even though the EIR is required by law to disclose the general nature of the expected build out and analyze its indirect or cumulative effects. SFLN requests that the City disclose the general nature of the build out expected in the recently rezoned Plan Areas and analyze the effects of that build out as an indirect effect of implementing 2004 and 2009 Housing Element policies or cumulative effects.

The 2004 Housing Element acknowledged that its “[n]ew policies strive to expand land capacity necessary to increase housing production, will direct new housing to appropriate locations, especially in areas well served by transit” and seek to achieve a “far greater” rate of new housing construction than was previously produced. Ex. C to Ex. B-Statement of Golick-1 A 82, 16, 283, 328. It is not true that the area plans approved after the 2004 Housing Element was adopted sought to encourage increased housing production near transit? The Negative Declaration admitted that the 2004 Housing Element policy changes were intended to provide the “policy basis” for the more specific planning efforts, such as adopting numerous area plans containing new zoning controls identified in 2004 Work Programs. 15 A 4185-86, 4199; 1 A 328.

The 2009 Housing Element also directs increased housing production to areas near transit. 2009 Housing Element Policy 1.4 is to “Ensure community based planning processes are used to generate changes to land use controls,” and the policy text states that “Such plans can be used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate.” (Ex. B to Ex. B- Statement of Golick-AR 53139-2009 Housing Element Part 2, p. 9)

ABAG has granted San Francisco’s application to designate various areas as Priority Development Areas (“PDAs”) that have “plans for significant increases in housing units” and are near transit. Ex. B to Ex. B-Statement of Golick-20 AR 10511-10512, 10328, 10330, 10532-38, 10463-72; 19 AR 10234-41. Such Priority Development Areas generally include the areas for which new Area Plans were approved after the 2004 Housing Element was adopted. Thus, the Area Plans approved after the 2004 Housing Element are substantially similar to the PDAs.

The City plans to accommodate over 90% of the growth to 2035 in the PDAs. Ex. F to Ex. B-Statement of Golick-December 17, 2010 ABAG letter to SFMTA, Exhibit 6, tenth page.

The City has admitted that the “lion’s share of city’s growth will continue to be focused in its PDAs” and that the adopted and planned PDAs “collectively accommodate over 63,000 new housing units.” Ex. F to Ex. B-Statement of Golick-December 17, 2010 ABAG letter to SFMTA, Exhibit 6, twelfth page. As to infill opportunity sites outside PDAs, the City has acknowledged that: “The city includes numerous small-scale infill opportunity sites close to transit throughout all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city.” *Id.*

In view of the fact that 90% of the growth is expected in the plan areas, where growth is directed to transit, there is no evidence indicating that a significant amount of growth outside the plan areas would occur in dispersed locations throughout the City during the 2007-2014 planning period. The 2004 and 2009 Housing Elements and the EIR provide no estimate of the amount of growth expected outside the plan areas, and there is no evidence that a substantial amount of new housing development will occur during the 2007-2014 planning period outside the plan areas in locations that are dispersed throughout the City.

For the same reasons, the evidence does not support the Revision’s claim that under Alternative A “most future housing development would take place in established neighborhoods, with the exception of recently rezoned plan areas where such rezoning has substantially increased development capacity. VII-20. Based on the evidence that 90% of the growth is expected in the plan areas, most future housing development would take place in the plan areas, rather than in established neighborhoods.

Similarly, the Revision’s claims that Alternative A would not increase residential densities “to the same extent” as the 2004 Housing Element, promotes housing opportunities

“more generally throughout the entire City,” and would have “less” potential for land use conflicts than under the 2004 Housing Element, are unexplained and unquantified generalizations that are contradicted by the definition of Alternative A as subject to the existing Area Plans. VII-20-21. Also, due to the definition of Alternative A as subject to the existing Area Plans, the evidence does not support the Revision’s claim that development under Alternative A could result in “incrementally fewer” potential land use conflicts because development would continue to be introduced similar to historic patterns. VII-21.

Also because Alternative A was defined as being subject to existing Area Plans, the evidence does not support the Revision’s assertion that the encouragement for housing development, which could result in some land use conflicts, could occur to a greater extent under Alternative A than under the 2009 Housing Element because Alternative A encourages housing throughout the City and according to historical patterns. VII-21. The Revision defines development under Alternative A as “subject to the controls in existing Area Plans and Redevelopment Plans” and states that it would not substantially conflict with the existing policies and land uses in current Area Plans or Redevelopment Plans. VII-21. For the same reasons, the evidence does not support the assertion that “Alternative A could incrementally increase the likelihood of potential land use conflicts due to the encouragement of housing in more locations,” and therefore, “impacts related to land use conflicts could be incrementally greater under Alternative A than the 2009 Housing Element.” VII-21. The Revision’s assertions that any new residential development would be required to be developed in accordance with the City’s Residential Design Guidelines, the Urban Design Element and Chapter 35 of the City’s Administrative Code are also conclusory and not supported by evidence. The Revision fails to explain the manner in which the referenced material could reduce the potential for land use conflicts, and the evidence in the record which SFLN cited in previous comments states that the Residential Design Guidelines had been modified to facilitate infill development.

Also because Alternative A was defined as subject to existing Area Plans, the evidence does not support the Revision’s claim that Alternative A promotes increased growth more generally throughout the entire City than the 2009 Housing Element. VII-22. Also unexplained is the Revision’s assertion that: “Alternative A could result in more developments built to the maximum building heights more generally citywide, potentially increasing the height and number of new developments that affect a scenic vista.” VII-22. The 1990 Residence Element contained policies that strongly maintained neighborhood character and did not contain any policies that encouraged developments built to maximum building heights. The first policies that proposed maximization of density were proposed in the 2004 Housing Element, and the Court enjoined the City from implementing such amendments until the City fully complied with CEQA. See Ex. 5-Peremptory Writ of Mandate. The Revision admits that “Alternative A includes policies and guidelines for development that are intended to preserve neighborhood character and protect existing visual character.” VII-22. The conclusion that such policies are similar to the 2009 Housing Element is not supported by the evidence, since 2009 Housing Element policies respect, rather than maintain, neighborhood character. As the Court of Appeal explained, the policies which allow more subjective interpretation afford less protection than

those which maintain neighborhood character. The Revision's allegation that "Overall, the aesthetic impacts of Alternative A would increase slightly compared to the impacts of the 2009 Housing Element" are also not supported by the evidence. VII-22. The Revision's discussion of the impacts of alternative A is conclusory and internally contradictory.

Also misleading and unsupported by evidence is the Revision's assertion that residential development in the city would occur regardless of the policies contained in Alternative A of the proposed 2004 and 2009 Housing Elements. VII-22. The City is not legally required to adopt a general plan that calls for continued housing development. The Revision's reference to the lack of a substantial change in the workers-to-household ratio "that would occur between 2005 and 2025" erroneously measures impacts against projected future conditions rather than against existing conditions in the environment. VII-23. Further, the assertion that "because the Housing Element does not *cause* housing growth, no additional demand for housing would occur as a result of Alternative A" ignores the indirect effect of implementing the policies of Alternative A. VII-23-24.

Also because Alternative A is defined as subject to existing Area Plans, the evidence does not support the Revision's assertion that "Alternative A would promote increased housing on a broader, citywide scale to a greater extent because the policies of the 2009 Housing Element promote housing at limited locations in the City." VII-23. 90% of the housing growth is expected to occur in the Plan Areas, and there is no evidence that a significant amount of growth would occur throughout the City outside the Plan Areas.

**2.B. The Conclusion that Total Development Potential Under the 2004 Housing Element Would Not Be Substantially Greater than Under the 1990 Residence Element Policies Because the 2004 Housing Element Does Not "Include" Any Changes to Allowable Land Uses Is Misleading and Contradicted by the Evidence.**

The Revision states that:

"The 2004 Housing Element also promotes increased density by reducing or eliminating minimum density restrictions (Implementation Measure 1.3.1), eliminating density requirements (Implementation Measure 1.7.1, reducing parking requirements (Policy 11.7), (which can reduce the amount of space per parcel devoted to parking and increase the amount of space available for housing units); and support for secondary units (which could increase the number of second housing units in San Francisco (Policy 1.8) and flexible land use controls (Policy 11.6)...Together or individually, these housing policies could introduce higher density development in certain areas of the City. However, because the adoption of the 2004 Housing Element does not include any changes to allowable land uses or building heights and bulk - and new residential projects would continue to be constrained by these existing controls - total development potential

under the 2004 Housing Element would not be substantially greater than that under the 1990 Residence Element policies. Rather, the 2004 Housing Element policies would support and encourage development concentrated in certain areas, rather than distributed throughout the City pursuant to the 1990 Residence Element policies.” VII-17.

The evidence in the record shows that the post-2004 Housing Element Area Plans were identified as Work Programs that would implement the 2004 Housing Element policies through rezoning various areas. Ex. C to Ex. B-Statement of Golick- 1 A 328. The 2004 Housing Element acknowledged that its “[n]ew policies strive to expand land capacity necessary to increase housing production, will direct new housing to appropriate locations, especially in areas well served by transit” and seek to achieve a “far greater” rate of new housing construction than was previously produced. Ex. C to Ex. B-Statement of Golick-1 A 82, 16, 283, 328. The Negative Declaration admitted that the 2004 policy changes were intended to provide the “policy basis” for the more specific planning efforts, such as adopting numerous area plans containing new zoning controls identified in 2004 Work Programs. 15 A 4185-86, 4199; 1 A 328. Thus, although the post-2004 Area Plans were not “included” in the resolution approving the 2004 Housing Element, these Area Plans were the indirect result of adoption of the 2004 Housing Element, because they were the means by which the City would implement the 2004 Housing Element policies that were designed to increase the City’s capacity for new housing units.

The evidence also shows that the post-2004 Area Plans greatly increased the development capacity of the plan areas. The new area plans adopted after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others “potentially increase housing capacity by over 55,000” units, and the “Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Ex. B-Statement of Golick-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486. Capacity was significantly increased, as Better Neighborhoods and Eastern areas identified as 2004 Housing Element Work Programs had existing capacity for 8,628 new units before 2004 and would add 18,285-38,835 additional potential units with rezoning. Ex. C to Ex. B-Statement of Golick-2004 Housing Element Administrative Record-1 A 180.

The 1990 Residence Element did not mention rezoning in the areas that the 2004 Housing element identified as Work Programs for implementing the 2004 Housing Element. The 1990 Residence Element also did not contain any increased density-related development standards. Rather, as the Court of Appeal recognized, the 1990 Residence Element contained policies that emphasized preservation of existing neighborhood character. (Ex. D to Ex. B-Statement of Golick.)

As shown above, and as acknowledged in the FEIR, the 2004 Housing Element included numerous increased density-related development standards. Thus, the claim in the Revision that

total development potential would not be substantially greater under the 2004 Housing Element than under the 1990 Residence Element because the 2004 Housing Element did not “include” changes to allowable land uses, ignores the indirect effects of implementing 2004 Housing Element policies and is contradicted by the evidence set forth above as to the 2004 Housing Element’s inducement of the post-2004 Area Plans. No similar Area Plans or rezonings were promulgated under the 1990 Residence Element.

Moreover, the stated purpose of the 2004 Housing Element to implement new policies that strive to expand land capacity, contradicts the Revision’s allegation that total development potential would not be increased under the 2004 Housing Element. The Revision’s statement that “Together or individually, these housing policies could introduce higher density development in certain areas of the City” also contradicts this claim. The EIR also failed to measure the potential impacts of adopting the 2004 Housing Element on existing conditions in the existing environment. The EIR’s use of existing plans as the erroneous baseline against which potential impacts would be measured ignores the indirect effect of carrying out the 2004 Housing Element policies in area plans and erroneously treats the post-2004 area plans as unconnected with the 2004 Housing Element.

The Area Plans are not unconnected with the Housing Element policies since the Area Plans must be consistent with the policies set forth in the general plan. The General Plan is the long-term plan for the physical development of the City, is “atop the hierarchy of local government law regulating land use,” and “embodies an agency’s fundamental policy decisions to guide virtually all future growth and development.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409. Under Planning Code section 101.1(c)-(e), all zoning and project approvals must be consistent with the provisions of the General Plan. Section 4.105 of the San Francisco Charter requires the preparation of “special area, neighborhood and other plans designed to carry out the General Plan.”

Moreover, the City has been enjoined from implementing the 2004 Housing Element policies calling for use of increased density-related standards in the Peremptory Writ of Mandate issued in relation to the 2004 Housing Element amendments. Ex. 5 to Ex. B.

**2.C. The Conclusion that the 2009 Housing Element Does Not Promote Increased Residential Densities More So Than the 1990 Residence Element is Contradicted by the Evidence and Is Misleading.**

The Revision concludes that “Citywide the 2009 Housing Element does not, overall, promote increased residential densities more so than the 1990 Residence Element policies.” VII-17. This allegation is false and contradicted by the evidence.

2009 Housing Element Policy 1.4 is to “Ensure community based planning processes are used to generate changes to land use controls,” and the policy text states that “Such plans can be



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used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate.” (Ex. B to Ex. B-Statement of Golick-AR 53139-2009 Housing Element Part 2 p. 9)

The EIR admits that the “2009 Housing Element generally promotes increased density through community planning processes (Policies 1.4, 1.6, and Implementation Measures 13 and 79) and for affordable housing (Policy 7.5 and Implementation Measures 36 and 64). The 2009 Housing Element also includes a strategy designed to reduce the amount of space required for non-housing functions (Implementation Measure 12).” Ex. B to Ex. B-2 AR 769- Final EIR p. V.L-36. The Final EIR further explains: “While implementation of the proposed Housing Elements would not directly affect existing Area Plans or Redevelopment Plans, it would encourage new Area Plans with similar planning -related strategies that may be designed to accommodate growth.” Ex. B to Ex. B-1 AR 257; Final EIR p. V.B.-28.

The 2009 Housing Element estimates that the total estimated new housing construction potential in the “Adopted Plans & Projects” of Balboa Park Area Plan, Market/Octavia Area Plan, Central Waterfront Area Plan, Mission Area Plan, East SOMA Area Plan, Showplace Square/Potrero Hill Area Plan, Rincon Hill Area Plan, Visitacion Valley Area Redevelopment Plan, Transbay Redevelopment Plan, Mission Bay Redevelopment Plan and Hunters Point Shipyard/Candlestick Point is 39,500 housing units. (Ex. B to Ex. B-Statement of Golick-AR 53139-2009 Housing Element Part 2 p. 9)

The Final EIR states that the City “has recently updated zoning controls for the following neighborhoods: Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park. These planning efforts have developed updated zoning, heights, bulks, and densities in balance with infrastructure. A number of other planning efforts are currently underway including, but not limited to the Transit Center District Plan, Treasure Island, and West SoMa, which could result in increased residential development potential in those areas. Under existing zoning capacity, these planning areas could accommodate 3,669 net new housing units, representing approximately six percent of the total citywide existing capacity of 60,995 units as described previously. The additional potential capacity with rezoning initiatives currently underway is approximately 28,844 units. (Ex. B to Ex. B-Statement of Golick- AR 169, p. IV-22 and Table IV-6). Table IV-6 in the Final EIR estimates that a total of 28,844 additional units could be added with rezoning in the Executive Park, Glen Park, Park Merced, Transit Center District, Western Soma, India Basin, Hunters Point Shipyard, Candlestick Park and Treasure Island neighborhoods, which were identified as areas subject to ongoing community planning processes (Ex. B to Ex. B-Statement of Golick-AR 169, Final EIR IV-22; see also AR 9499-2009 Housing Element, Part I, p. 95)

Thus, key policies 1.4 and 1.6 of the 2009 Housing Element use community planning processes to promote increased density, even though capacity for 39,500 additional housing units had already been added through rezoning in area plans adopted before the 2009 Housing Element. Thus, the principal strategy of the 2009 Housing Element to use community planning

processes as a vehicle to facilitate increased capacity and density disprove the conclusion that the 2009 Housing Element would not overall promote increased residential densities more so than the 1990 Residence Element. The Revision also contradicts the conclusion that the 2009 Housing Element would not overall promote increased residential densities more so than the 1990 Residence Element. The Revision states that the 2009 Housing Element included “density-promoting policies” which can be seen in “Table IV-8 Policies 1.4, 1.5, 1.6, 7.5, and 11.4.” VII-18. In fact, the “density-promoting policies” identified in Table IV-8 as 2009 Housing Element Policies with Potential for Adverse Physical Impacts have been enjoined in the Peremptory Writ of Mandate that the Superior Court issued as to the 2009 Housing Element. (See Exhibit 3 to Ex. B hereto.) Thus, other sections of the Revision contradict the conclusion that the 2009 Housing Element would not overall promote increased residential densities more so than the 1990 Residence Element.

The Revision claims that the 2004 Housing Element and the 2009 Housing Element should be considered alternatives to each other, but the EIR lacks the comparison of the impacts that would result from the 2004 Housing Element as compared with the impacts that would result from the 2009 Housing Element. Such a comparison of impacts of alternatives is required to constitute an evaluation of alternatives in an EIR. (VII-2) The EIR merely compares the alleged impacts of the 2009 Housing Element with the impacts of Alternatives A, B and C. (See VII-6, stating the alternatives analysis compares the impact of each alternative to the two project options, the 2004 Housing Element and the 2009 Housing Element.) The EIR also only compares the alleged impacts of the 2004 Housing Element with the impacts of Alternatives A, B and C.

In addition, the statement that the Housing Element does not “cause” population growth is ambiguous and misleading. VII-3. Since the Housing Element policies have to be carried out, they have indirect effects, but the revision fails to address the indirect effects of carrying out the Housing Element policies, as explained in the accompanying statement of City Planner David Golick, at pages 4-5.

**2.D. The Revision’s Assertions the Alternative A Would Be Less Effective in Meeting Certain Project Objectives Are Not Supported by the Evidence.**

Since Alternative A is defined as subject to the existing Area Plans, the evidence does not support the Revision’s premise that under Alternative A, housing development would continue as encouraged under the 1990 Residence Element. VII-44.

The evidence also does not support the assertion that Alternative A would be less effective at attaining the following project objectives than either the 2004 or 2009 Housing Element. VII-24. Since Alternative A is defined as subject to the existing Area Plans, which encouraged new housing development near transit, the evidence does not support the statement that Alternative A would less actively encourage residential development in areas served by transit than either the 2004 or 2009 Housing Element. VII-25. The evidence also does not

support the conclusion that neither the 2004 or 2009 Housing Elements would demonstrably alter neighborhood character and that the 2009 Housing Element specifically emphasizes development in a manner that does not present conflicts with neighborhood character. The 1990 Residence Element contained policies that maintained neighborhood character, whereas the 2009 Housing Element contains policies that merely respect neighborhood character, and other policies implement increased density-related building standards. VII-45. The Revision fails to provide factual support for the conclusion that Alternative A does not promote the use of strategies for improving the affordability of new housing “to the same degree” as the 2004 or 2009 Housing element. VII-45. Since Alternative A was defined as subject to existing Area Plans, which encouraged new housing development near transit, the Revision lacks support for the conclusion that by not promoting increased density in transit corridors or reduced parking requirements, Alternative A does not encourage a development pattern that maximizes sustainability on a local or regional level. VII-45.

Since the Revision defined Alternative A as subject to existing Area Plans and Redevelopment Plans, the evidence does not support the conclusion that the City would have a decreased ability to meet the RHNA if the 1990 Residence Element policies were in place. VII-24. Similarly, since the 1990 Residence Element had a raft of policies designed to protect historical resources, the evidence does not support the conclusion that there would be a greater risk to historical resources if Alternative A was adopted. VII-24. The Revision acknowledges that the City has well-established criteria and procedures to evaluate impacts to historic resources and that CEQA review procedures would also apply to such resources. VII-24. The 1990 Residence Element contained Policy 5-5 preserving historic buildings, Policy 3-1 that discouraged “demolition of sound housing,” and had incorporated preservation policies in major rezonings. 5 AR 2128, 2139, 2160, 2146, 2195-2196; 6 AR 2754-2755. Alternative A was based on the 1990 Residence Element, and under both Alternatives A and B, the City will continue to implement the Priority Policy “that landmark and historic buildings be preserved,” the City would assist in environmental review of buildings receiving federal assistance, and various surveys would be conducted to document resources, so implementations were substantially similar; the EIR does not identify any implementation measure that would provide greater protection in the 2004 Housing Element or 2009 Housing Element. 5 AR 2195-2196; 6 AR 2754-2755; 3 AR 1140.

**2.E. The Evidence Does Not Support the Revision’s Conclusions as to the Effects of Alternative B.**

After reviewing policies of the 2004 Housing Element that the Court struck in the Peremptory Writ, the Revision asserts without substantiation that the themes of Alternative B focus on increasing housing supply through higher density, encouraging family-sized housing, and reducing parking requirements to make more space available for housing units. VII-49. The Revision fails to cite any remaining unenjoined policy of Alternative B that supports such development. The Peremptory Writ enjoined policies of Alternative B that reduced or eliminated parking requirements, encouraged maximization of density and encouraged family-sized housing.

Ex. 5. The Revision also fails to explain or substantiate the assertion that the 2009 Housing Element contains a number of implementation measures to promote increased density that are not included in Alternative B and that Alternative B would result in smaller/less dense projects “overall.” VII-49.

Since Alternative B was defined as subject to existing Area Plans and Redevelopment Plans, the evidence does not support the claim in the Revision that under Alternative A, areas for future housing development would occur primarily as infill on individual parcels as most future housing development would take place in established neighborhoods. VII-49.

The Revision fails to explain the assertion that due to the elimination of certain policies which the Court struck from Alternative B, “the resulting changes would be more likely to affect the density of housing (i.e. the number of units) within new buildings more than the number of buildings constructed,” and, as such, the potential for land use conflicts from new housing that affect neighborhood character would not substantially differ under Alternative B compared to the 2004 Housing Element. VII-50.

The Revision also does not specify the policies that would support, or provide factual support for, the assertion that Alternative B would encourage housing integrated into all new commercial or institutional projects, near major transit lines, and through community planning efforts. VII-50.

Since Alternative B was defined as subject to existing Area Plans and Redevelopment Plans, the evidence fails to support the claim in the Revision that incrementally smaller residential buildings might be constructed under Alternative A, resulting in incrementally fewer potential impacts to scenic vistas than the 2004 or 2009 Housing Elements. VII-50. There is no evidence that a significant number of new residential buildings would be constructed outside the plan areas.

Also misleading and unsupported by evidence is the Revision’s assertion that similar to the 2004 and 2009 Housing Elements, San Francisco’s population and development to meet that population would occur regardless of the housing development policies included in Alternative B. VII-51. The City is not legally required to adopt a general plan that calls for continued housing development. Also unsubstantiated is the Revision’s assertion that the policies under Alternative B would not cause a substantial change in the workers-to-household ratio that would occur between 2005 and 2025, as compared to the 2004 and 2009 Housing Elements. VII-51. This statement also erroneously measures impacts against projected future conditions rather than against existing conditions in the environment. VII-51.

With respect to Alternative B, the Revision does not contain factual support for the statement that: “Impacts created by increases in population and housing would be the same as under the 2004 Housing Element.” VII-51. Also unsupported by facts is the assertion that “because the Housing Element does not *cause* housing growth, no additional demand for housing

would result from implementation of Alternative B.” VII-51-52

Since Alternative B was defined as subject to existing Area Plans and Redevelopment Plans, the evidence does not support the assertions that housing density would be less under Alternative B than under the 2009 Housing Element and that Alternative B would not induce additional demand for housing. VII-52. Such plans implemented increased density-related building standards and encouraged new housing near transit lines. The Revision fails to disclose the zoning changes and building standards that were implemented in the post-2004 Area Plans and Redevelopment Plans.

With respect to attainment of project objectives, the Revision does not provide factual support for the claim that Alternative B focuses on infill and mixed-use development directed toward specific areas, affordable housing, and utilization of City-owned vacant or underused sites; encourages increased housing in neighborhood commercial districts; and would direct housing to areas in transition with existing or planned infrastructure, as well as capacity and opportunity for new housing development. VII-79-80. 2004 Housing Element policies that encouraged increased housing production in neighborhood commercial areas were stricken by the Court. The evidence also does not support the claim that Alternative B contains several policies designed to ensure that new housing maintains existing neighborhood character, and the Revision does not identify any such policies. VII-80. As explained by the Court of Appeal, the 2004 Housing Element contained policies that merely respected, rather than maintained, neighborhood character.

The Revision also does not explain why a lack of emphasis on increased density and reduced parking requirements would not be as effective as either the 2004 or 2009 Housing Element at concentrating new housing along transit corridors. VII-80. Increased density strategies and reduced parking requirements do not concentrate density in any particular location.

The evidence does not support the allegation that “development under Alternative B would not be expected to meet the income categories in the City’s RHNA as well as the 2004 or 2009 Housing Element,” and the Revision fails to explain the basis for this assertion. VII-80. The evidence shows that the new area plans approved after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others “potentially increase housing capacity by over 55,000” units, and the “Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Ex. B-Statement of Golick-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486. Since Alternative B was defined as subject to existing Area Plans and Redevelopment Plans, the increased-density and reduced parking strategies implemented in those plans would be equally effective at achieving affordability as the 2004 or 2009 Housing Elements. Since 90% of new housing development is expected in the plan areas, there is no evidence that a significantly greater amount of affordable housing would be produced under the

2004 or 2009 Housing Element, as compared with Alternative B.

**2.F. The Evidence Does Not Support the Revision's Conclusions as to the Environmentally Superior Alternative or as to Effects of Alternative A.**

The evidence does not support the conclusion that Alternative A would result in a potentially significant impact to historic resources. VII-106. The 1990 Residence Element contained Policy 5-5 preserving historic buildings, Policy 3-1 that discouraged "demolition of sound housing," and had incorporated preservation policies in major rezonings. 5 AR 2128, 2139, 2160, 2146, 2195-2196; 6 AR 2754-2755. Alternative A was based on the 1990 Residence Element, and under both Alternatives A and B, the City will continue to implement the Priority Policy "that landmark and historic buildings be preserved," the City would assist in environmental review of buildings receiving federal assistance, and various surveys would be conducted to document resources, so implementations were substantially similar; the EIR does not identify any implementation measure that would provide greater protection in the 2004 Housing Element or 2009 Housing Element. 5 AR 2195-2196; 6 AR 2754-2755; 3 AR 1140. New CEQA requirements would also apply to any alternative adopted.

Thus, evidence does not support the Revision's conclusion that Alternative A does not contain policies that identify and protect historical resources to the same degree as either the 2004 or 2009 Housing Element and that Alternative A could result in an "incremental increase" in historic resource impacts. VII-25. The Revision does not even discuss the policies of the 1990 Residence Element that protected historical resources, including those that provided for various surveys to be conducted. The Revision also admits that the 2004 and 2009 Housing Elements and Alternative A "would protect landmark buildings and other historical resources to a similar degree." VII-25. Also, 1990 Residence Element Policy 3-1 discouraged "demolition of sound housing," so the evidence does not support the Argument that Alternative A had an absence of policies that would prevent projects that could cause a substantial change to a historical resource or that there is greater potential for such resources to be indirectly affected by incompatible development. VII-25-26. Thus, substantial evidence does not support the conclusion that Alternative A could result in greater impacts on historic resources than the 2004 and 2009 Housing Elements. VII-25.

**2.G. The Evidence Does Not Support the Revision's Conclusions as to the Effects of the Alternatives on Transportation and Demand for Water.**

Since Alternative A was defined as subject to existing Area Plans and Redevelopment Plans, the evidence does not support the conclusion that under Alternative A "less future housing growth would occur in proximity to these job cores, services and/or along transit lines." VII-26. As explained above, the Area Plans and Redevelopment Plans direct new residential development to such areas and there is no evidence that a substantial amount of new housing will be produced outside such areas. For the same reason and because Alternative A does not "promote increased density as aggressively as: the 2004 or 2009 Housing Elements," the

evidence does not support the conclusion that Alternative A can be expected to result in an overall increase in citywide vehicle trips as compared with the 2004 and 2009 Housing Element. VII-26-28.

Based on the evidence discussed above, substantial evidence also does not support the Revision's conclusion that because Alternative A promotes increased density more generally throughout the City than the 2009 Housing Element, but less so than the 2004 Housing Element, Alternative A policies would result in more multi-family housing units compared to the 2009 Housing Element, but less than the 2004 Housing Element. VII-36. Alternative A policies do not employ increased density-related building standards, as do policies of the 2004 and 2009 Housing Elements.

The evidence does not support the Revision's claim that Alternative B contains policies that would direct growth to certain areas of the City. VII-61. The Revision and the FEIR identified policies that would direct growth to certain areas as "Implementation Measures 1.3.2, 1.6.1, 2.6.4, 1.8.1, 1.9.2, 2.4.2, 8.6.1 and 11.4.2." VII-61; 3 AR 1148-1149. The FEIR shows that Implementation 1.3.2 merely refers to introducing unspecified zoning changes in the Eastern neighborhoods; however, the 2004 Work Program shows that enjoined policies 1.1, 1.2, 1.3, 1.6, 1.7 and 4.4 were proposed to provide a policy basis for the Eastern Neighborhoods rezonings, and Implementation 1.1 calling for "higher density, mixed-use residential development in transit-rich areas" was also enjoined in the Peremptory Writ, so there is no evidence of any remaining policies that would support increased-density rezoning of these areas. 3 AR 1142; 1 A 328.

The Amendment to Writ enjoined use of "floor-to-area ratio exemptions" in Downtown areas and areas subject to a Better Neighborhoods process under Implementation 1.3, but the Revision and EIR erroneously claim that the City can implement such measures in the Downtown under Implementation Measure 1.6.1. Ex. 5 hereto-Peremptory Writ and Amendment to Peremptory Writ; 3 AR 1142. Implementation 2.4.2 refers to the "citywide action plan" which the Peremptory Writ enjoined in Implementation 1.1. Ex. 5; 3 AR 1144. Implementation Measure 8.6.1 deals with housing to meet the needs of specific groups such as families, but Policy 1.7 encouraging new family housing was enjoined, and language calling for reduction in parking and higher density, mixed-use development in transit rich areas was enjoined under new language in Policy 1.1 and Implementation 1.1. Ex. 5; 3 AR 1144. Implementation 1.6.4 refers to updating the Land Use Element to define areas for mixed-use development focused along transit corridors; however, the 2004 Work Program shows that enjoined policies 1.1, 1.2, 1.3, 1.6, 1.8, 11.1, 11.6, 11.8 and 11.9 were needed to provide the policy basis for this update to the Land Use Element, and the Writ enjoined higher density, mixed-use residential development in transit-rich areas under Implementation 1.1. Ex. 5; 3 AR 1143. Implementation 1.8.1 pertains to legislation as to secondary units that the Board did not adopt, and Implementation 1.9.2 pertains to institutional master plans and Implementation 11.4.2 to housing for workers and students of institutions. 3 AR 1143. Similarly, the EIR erroneously claims that Alternative B may implement Policy 4.4 to consider granting "parking requirement exemptions for the construction of affordable or senior housing," but such policy language was specifically enjoined in the

Amendment to Peremptory Writ. Ex. 5; 3 AR 1146. For these reasons, the record does not support the Revision's unsubstantiated claim that Alternative B includes policies that would direct growth to certain areas of the City or that advocate for zoning changes in many areas of the City that have undergone area planning processes. VII-61.

Also, the conclusion that Alternative B could potentially encourage increased transit ridership, potentially above Muni's capacity utilization standard of 85 percent, is based on the unsubstantiated conclusion that under Alternative B, "it is possible" that encouraging housing in mixed use districts and in industrial and commercial districts where housing is located in proximity to transit could potentially shift "some trips" to transit. VII-61. The Revision provides no support for this conclusion and lacks any evidence that the number of trips potentially shifted to transit would be significant. Further, the Revision contradicts this conclusion by acknowledging that "Alternative B does not include policies that pertain to directing new development to transit-rich areas of the City, neighborhood commercial districts, Downtown and mixed-use areas." VII-61. Such policies contained in the 2004 Housing Element were enjoined in the Peremptory Writ. Thus, there is no evidentiary support for the conclusion that Alternative B contains policies that encourage a mode shift to transit and that Alternative B may result in a potentially significant impact on the City's transit system. VII-63. For the same reasons, there is no evidentiary support for the conclusions that the 2004 Housing Element would generally result in more beneficial impacts to the City transportation network than Alternative B, and Alternative B would have generally similar impacts to the transportation network as the 2009 Housing Element policies. VII-62. Further, since the 2004 Housing Element policies that provide for increased density-related building standards were enjoined in the Peremptory Writ, and Alternative B was defined as subject to existing Area Plans which encourage new housing development near transit, there is no evidence to support the conclusion that Alternative B can be expected to result in an overall increase in citywide vehicle trips as compared to the 2004 and 2009 Housing Elements do, through the inclusion of either policies encouraging increased density or reduced parking strategies. VII-62

Substantial evidence also does not support the Revision's claim the Alternative B includes Policies 2.2 and 2.3 from the 2004 Housing Element that could increase residential density more generally throughout the City, as compared to the 2009 Housing Element. VII-62. 2004 Housing Element Policy 2.2 controls the merger of residential units to retain existing housing and Policy 2.3 restricts the conversion of rental housing to other forms of tenure or occupancy. 1 A 227-228. Thus, neither such policy increases residential density.

Based on the evidence discussed above, since Alternative B was defined as subject to existing Area Plans, the evidence does not support the conclusion that impacts to water supply from Alternative B would be similar, but incrementally smaller than the 2004 and 2009 Housing Elements. VII-70.

The evidence also does not support the conclusion that Alternative B could result in residential development that includes inappropriate alterations or additions to existing housing,



or new construction that detracts from the historical or cultural significance of an existing building or area. VII-52. The evidence also does not support the conclusion that due to the differing policies contained in the 2004 and 2009 Housing Elements, potential impacts (specifically from demolition of non-landmark historic buildings and resources) could be incrementally greater under Alternative B than under the 2004 or 2009 Housing Element, which would be a potentially significant impact. VII-52. Policies that reduced protection for existing neighborhood character were struck from Alternative B by the Court but are contained in the 2004 and 2009 Housing Elements. In addition, the conclusion that the impact would be potentially significant was based on a misstatement of Implementation Measure 11.1.3 from the 2004 Housing Element, which actually states that the Planning Department should encourage “adaptive reuse of older buildings to enhance neighborhood vibrancy.” This Implementation measure fell under enjoined Policy 11.1, to use new housing development as a means to enhance neighborhood vitality and diversity, which was explained in policy text to encourage mixed-use infill housing with minimum density requirements and maximum parking requirements in areas well served by transit and neighborhood retail. 1 A 276-277. That policy and its implementation measures employed increased density-related building standards. Also, the Revision acknowledges that development under Alternative B would be subject to the city’s well-established review criteria and procedures to evaluate impacts to historic resources at the project level and would also be subject to environmental review under CEQA. VII-52.

**2.H. The Revision’s Elimination of the Bayview Waterfront Alternative From Further Analysis Is Conclusory and Not Supported by Facts.**

The Revision states that the Bayview Waterfront Alternative is now known as the Candlestick Point/Hunters Point Shipyard Project and that this project underwent environmental review before the EIR for the 2004 and 2009 Housing Elements was completed. VII-109. The Revision claims that the Housing Element EIR assumed the development of this project as “a reasonably foreseeable project.” VII-109. Therefore, this project is clearly a feasible project which is capable of being successfully implemented. The assertion in the Revision that it was assumed that this project was already within the range of the DEIR analysis and would not provide useful new information evades the controlling legal standard that a feasible alternative must be implemented if it would substantially reduce or eliminate a substantial impact on the environment of the project proposed for adoption.

Given the excess housing production projected for the 2001-2014 planning period, and the great increases in capacity for additional provided in Area Plans approved after the 2004 Housing Element was adopted, an alternative that directed growth to this area but not to other areas to which growth was proposed to be directed, such as Treasure Island, Japantown, Executive Park, Glen Park, Park Merced, Transit Center District, West SOMA, which the 2009 Housing Element projected could accommodate 18,200 additional housing units, would reduce the impact on transit by limiting the areas to which transit would have to be enhanced. The reduction of the transit impact is explained in the accompanying and previous statements of City Planner David Golick. (See accompanying Statement of City Planner David Golick -Ex. B to

Ex. B-AR 53139). The alternative of directing growth to the Candlestick Point/Hunters Point Shipyard Project but not to other new plan areas would certainly be feasible given the projected excess housing production for the 2007-2014 planning period and the amount of increased housing capacity already added as a result of Area Plans approved after the 2004 Housing Element. The Revision has not demonstrated that this alternative would be infeasible.

The evidence also does not support the new claim in the Revision that this alternative “includes the 1990 Residence Element Objectives, Goals and Policies, and assumes the zoning in place at the time the 2009 Notice of Preparation for this EIR was issued.” VII-106, 109. The 2009 Housing Element identifies the Candlestick Point and Hunters Point Shipyard areas as areas where planning efforts were “underway” and details “the estimated additional potential capacity with rezoning” in Candlestick Point as 7,500 units and projects that the capacity of Hunters Point could be increased from 1,500 units to 4,00 units with potential rezoning. Ex. B to Ex. B-Statement of Golick-AR 53120. The 2009 Housing Element also states that the planning efforts underway in the listed areas “will result in increased residential development potential.” *Id.*

Since the evidence shows that the Candlestick Point/Hunters Point Shipyard Project was to be rezoned to increase its capacity for additional housing units, the evidence does not support the claim in the Revision that this alternative included the 1990 Residence Element Objectives, Goals and Policies, because those policies did not call for rezoning of areas to increase their capacity for additional housing units.

## **2.I. The Revision’s Elimination of the Focused Development Alternative From Further Analysis Is Conclusory and Not Supported by Facts.**

The Revision explains that the Focused Development Alternative “would comprise existing zoning at the time of NOP issuance and rezoning connected to area plans in progress at that time.” VII-109. Thus, this Alternative would include the increased capacity provided in Area Plans adopted after the 2004 Housing Element. The new area plans approved after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others “potentially increase housing capacity by over 55,000” units, and the “Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Ex. B-Statement of Golick-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486. It would also include all ongoing area planning efforts. VII-109.

Since the Area Plans approved after the 2004 Housing Element implemented strategies that encourage production of affordable housing, such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements, the evidence does not support the claim in the Revision that the alternative would

compromise the City's ability to achieve the affordability goals of the RHNA or that this alternative would "severely restrict" the amount of land available for housing. VII-109. Substantial parts of the City are subject to the new Area Plans.

Moreover, the Revision clearly states that the Alternative would be comprised of the existing zoning at the time the NOP was issued plus rezoning connected to area plans in progress at that time. VII-109. It also states that the City's existing zoning allows for residential development outside of area plans. VII-109. Thus, the alternative did not call for rezoning or downzoning of areas outside of area plans. The conclusory allegation elsewhere that the Alternative would also include policies which "allowed" little or no growth to occur outside of these areas was unexplained and contrary to the definition of the alternative as utilizing existing zoning for areas outside of plan areas. The allegation that this Alternative would require downzoning or other limitations on development outside of area plans is clearly contrary to the definition of this Alternative as utilizing existing zoning for areas outside of plan areas.

Similarly, the conclusion that this Alternative would conflict with other General Plan policies encouraging sustainable development and equitable development citywide was erroneously based on the premise that this Alternative would necessarily involve curtailing development in substantial portions of the City. The Alternative would only involve refraining from rezoning further areas of the City outside of the Plan Areas and limiting new area plan rezonings to those underway.

There is no evidence that this Alternative would conflict with other General Plan policies supporting public transportation or promotion of mixed commercial and residential character in neighborhood commercial districts, or striking a balance between preservation of existing housing and needed expansion of commercial activity. Thus, the evidence and the discussion of this Alternative do not support the Revision's determination that this Alternative would be infeasible. There is no evidence that refraining from rezoning further areas outside of the plan areas already approved or underway would substantially impede accommodation of the RHNA or achievement of any other objectives of the 2009 Housing Element. The projected excess housing development for the 2007-2014 planning period and substantial areas subject to area plans amply supports achievement of the objectives of the 2009 Housing Element.

**2.J. The Revision's Elimination of the Reduced Land Use Allocation Alternative From Further Analysis Is Conclusory and Not Supported by Facts.**

The Revision states that under the Reduced land Use Allocation Alternative, "less growth would be assumed Citywide" but does not disclose the amount of growth that would be assumed. The Revision states that this Alternative would include the 2004 Housing Element Objectives, Goals, Policies and Implementation Measures "but assumes a lower total number of new housing units over the planning period 2005-2025." VII-110. The Revision did not disclose the lower total number of new housing units assumed. The Revised DEIR states that two primary objectives of the proposed Housing Elements are to provide "a vision for the City's housing and

growth management through 2014” and to ensure “capacity for the development of new housing to meet the RHNA at all income levels.” (VII-3-4) Since the reduced land use allocation would apply to the planning period 2005-2025, there is no evidence that a reduced land use allocation alternative would be infeasible for the planning period 2007-2014, especially in view of the projected production of 25,000 new housing units in excess of the RHNA and the anticipated increased capacity in further area planning efforts. The EIR states that the pipeline units anticipated to be developed total 25,000 more than the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period and further rezoning and area planning processes would allow the additional capacity of 27,844 units. Exhibit B to Ex. B-Statement of Golick-1 AR 328.

Under the 2004 Housing Element, the City needed to build 2,717 new housing units per year to meet its share of the region’s projected housing demand, which amounted to a total of 20,374 new units for the planning period of January 1999 through June 2006. 1 A 145, 207. The 2009 Housing Element states that the City had successfully advocated for “changes that direct more transportation money to jurisdictions, like San Francisco, that take on greater housing growth as part of the 2007-2014” RHNA Process. Ex. B to Ex. B-Statement of Golick-18 AR 9595, 9581. Thus, San Francisco did not have to accept the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period. Exhibit B to Ex. B-Statement of Golick-1 AR 328. In view of this reality, the claim in the Revision that this Alternative might not accommodate projected growth fails to take into account the reality that San Francisco officially played a role in agreeing to the amount of growth that is allocated to jurisdictions during the 2007-2014 RHNA process. Under this Alternative, San Francisco should not accept additional units during the RHNA allocation process in order to secure more transportation money and should pursue a more measured type of growth that recognizes the constraints presented by the limited area in the City. Clearly, a reduced land use allocation similar to the RHNA sought by the 2004 Housing Element would be feasible because it would be capable of being accomplished, and there is no requirement that new housing units actually be produced in the amounts sought by the RHNA. To comply with State Housing Element law, a jurisdiction must only demonstrate that it has capacity to accommodate the amount of housing allocated to it in the RHNA.

The Revision’s configuration of this alternative as applying to the 2005-2025 planning period is unreasonable and as applied to the 2009 Housing Element, a reduced land use alternative would be a feasible alternative.

## **2.K. Other Assertions Are Not Supported by the Evidence.**

In general, the EIR continually repeats that it does not directly cause housing production. However, the 2009 Housing Element acknowledges that its aim is to increase the supply of housing. Since its aim is to increase the supply of housing, the 2009 Housing Element certainly accommodates increased housing production through implementation of its principal strategy of ensuring that community based planning processes are used to generate changes to land use

controls. (Policies 1.4 and 1.2) As explained by the Legislative Analyst, the increased density-related building standards that the 2009 Housing Element supports are known to increase housing production, and therefore indirectly induce population growth. Ex. C to Ex. B-1 A 2936-2945. It is recognized in the planning community that “If you build them, they will come,” which means that if additional housing is built in the City, it will attract additional residents. If additional housing is not built in the City, the potential additional residents will go elsewhere or not move from their present locations. Ex. B to Ex. B-Statement of Golick.

While the Revision claims that the Housing Elements also emphasize the use of the existing housing stock to meet San Francisco’s affordable goals, the alleged support for this claim refers primarily to providing direction for how and where new housing development in the City should occur and only mentions preserving and upgrading existing housing units to ensure they do not become dilapidated, abandoned, or unsound. VII-3. No explanation is given as to how the Housing Elements propose to use existing housing stock to meet San Francisco’s affordable goals.

The Revision also claims that an EIR may consider and analyze one or more alternatives at an equal level of detail, or may identify a preferred project, and include an analysis of alternatives at a lesser level of detail. VII-5. The Revisions claims that it incorporates both approaches, but fails to identify a preferred project, so clearly does not follow the latter approach and is not entitled to analyze alternatives at a lesser level of detail. The Revision identifies the 2004 Housing Element and the 2009 Housing Element as “the two project options.” VII-6. This claim is also contrary to law, because the Superior Court held that EIR’s analysis of alternatives was legally inadequate and unsupported by facts. Thus, factual support that amounts to substantial evidence would be required to overcome the Court Order setting aside the City’s certification of the defective Final EIR.

### **3. THE RESPONSES TO COMMENTS ARE EVASIVE AND INADEQUATE.**

The Final EIR’s responses to comments failed to adequately respond to the public comments and were highly evasive, including the comments as to the increased housing production indirectly caused by adoption of the Housing Element amendments. The revision’s rejection of alternatives continues to be conclusory and unsupported by facts.

For example, as to the Reduced Land Use Allocation Alternative stated in the EIR, the land use allocation distributed projected growth to certain unidentified geographic areas and under this allocation “less growth would be assumed Citywide.” VII-110. It “assumes a lower total number of new housing units over the planning period of 2005-2025.” VII-110. The EIR and responses to comments failed to identify the geographic areas to which land use allocation would be allocated and failed to state the lower total number of units that would be involved in this alternative. Page III-49. The Court held that this conclusory discussion of alternatives was deficient, but the Final EIR fails to correct the deficiencies or provide factual support for its

rejection of this alternative.

As another example, the Focused Development Alternative stated in the EIR was “based on existing conditions plus all area planning efforts” and would include existing zoning at the time the Notice of Preparation was issued. VII-109. Since this alternative was comprised of existing zoning, which “allows for residential development outside of area plans,” the EIR’s claim that it eliminated this alternative from further consideration because it “would have required downzoning or other limitations on development outside of area plans” is ambiguous not supported by substantial evidence in the record. VII-109. The EIR failed to specify the alleged policies of this alternative that would allow little or no growth outside the plan areas, and thus, its analysis of this alternative is still conclusory. The response to comments admitted that the EIR failed to identify to the public the specific policies that would allegedly limit growth and also failed to respond to the comment as to whether the housing element policies under this alternative would only involve refraining from rezoning further areas of the City outside of the Plan Areas. Page III-48. The EIR does not explain why implementation of this alternative was not considered feasible or provide a factual basis for the claim of infeasibility. The Court held that this conclusory discussion of alternatives was deficient, but the Final EIR fails to correct the deficiencies or provide factual support for its rejection of this alternative.

As another example, the EIR’s rejection of the Bayview Waterfront Alternative discussed in the EIR is still conclusory and unsupported by facts because the response to comments fails to explain why it is reasonable to assume that this alternative was included within Alternative A. III-47. The response to comments states that this alternative included the Candlestick Point/Hunters Point Shipyard Project which was reviewed in its own environmental impact report and “later adopted in 2010.” However, the responses fail to explain why it “was not dependent upon the adoption of policies in the 2004 or 2009 Housing Element,” since the 2009 Housing Element identified Candlestick Point/Hunters Point as an area to which substantial increased density development was to be directed. The responses fail to explain which 1990 Residence Element policies such as Policy 2.2 included this alternative, and the 1990 Residence Element Implementation Program Schedule identified only pending rezonings for “Mission Bay, Central Waterfront, Bayshore, North Mission, etc.” that were to occur in 1990-1993. 1990 Residence Element p. 175. Implementation of 1990 Policy 2.2 referred only to studying neighborhood commercial districts. 1990 Residence Element p. 135. Thus, the EIR fails to explain why this alternative would not have sufficient capacity to achieve project objectives for the 2007-2014 planning period, and the 2009 Housing Element estimates that 10,000 new housing units could be constructed in Candlestick Point/Hunters Point. 2009 Housing Element, Part II, p. 9.

As another example, SFLN commented that Alternative A was defined as subject to all existing area plans, which directed growth to areas near transit and where 90% of growth is expected, and therefore the EIR’s claim that growth under Alternative A would be “relatively dispersed” was incorrect, ambiguous and unsupported by fact. The response to comments failed to respond to this comment and incorrectly stated that information as to the area plans is

contained in the EIR without citing any evidence showing that a significant amount of growth would occur outside the plan areas and be dispersed.

Also, the EIR's conclusion that total development potential under the 2004 Housing Element would not be substantially greater than under the 1990 Residence Element is conclusory and unsupported by fact because new policies of the 2004 Housing Element strove to expand land capacity necessary to increase housing production, to direct housing to areas well served by transit and to support new area plans. The EIR's conclusion that the 2009 Housing Element does not promote increased residential densities more so than the 1990 Residence Element is not supported by the evidence.

The reference in Attachment A to the Planning Commission motion adopting findings and a statement of overriding considerations as being based on all locally-adopted land use plans and ordinances together with environmental review documents, findings and "other documentation relevant to planned growth in the area" is insufficiently specific and fails to adequately identify the documents upon which the findings and determination were based. Also, such documents were not made available for public review during the public review period for the revised alternatives analysis.

Substantial evidence does not support the EIR's rejection of the feasible alternatives presented in SFLN's letter of comment on the EIR.

Also, while the Planning Commission's April 24, 2014 motion would rescind the Planning Commission's prior certification of the Final EIR in Motion 18307, the Board of Supervisors previously affirmed that certification on May 10, 2011 by Motion No.M11-72 and endorsed in Ordinance No. 108-11.

Also, the Planning Commission's April 24, 2014 resolution would rescind Resolutions 18308 adopting findings and 18309 recommending adoption of the 2009 Housing Element, but the Board of Supervisors adopted the Findings as its own and incorporated them in Ordinance No. 108-11 on June 21, 2011 and also adopted the 2009 Housing Element on June 21, 2011 in Ordinance No. 108-11. Planning Commission motions and resolutions cannot rescind actions of the Board of Supervisors.

### **Conclusion**

The revised discussion of alternatives presented in the revised Final EIR is conclusory and not supported by facts or substantial evidence in the administrative record. The City has not cured the deficiencies cited by the Court in its Order finding the EIR's discussion of alternatives inadequate and conclusory and the related findings rejecting alternatives inadequate and conclusory. In addition, since the 2004 and 2009 Housing Elements would have a significant impact on transit, the City must adopt a feasible alternative that would reduce or mitigate this

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impact.

For the reasons set forth above and in Appellants' prior written and oral submissions, the Final EIR is inadequate and fails to comply with the requirements of CEQA.

Objections to an agency's compliance with CEQA are timely and must be considered if presented to the agency body with the final authority to approve a project. (*San Bernardino Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 749; *Browning-Ferris Industries v. City Council* (1986) 181 Cal.App.3d 852, 859-861.) Since the San Francisco Board of Supervisors is the body with final authority to approve amendments to the housing element of the general plan pursuant to San Francisco Charter section 4.105, Appellants' objections presented herein are timely and must be considered. After certification of the Final EIR, the Planning Commission tendered the 2009 Housing Element to this Board for adoption, and the final approval of the 2009 Housing Element is currently pending before this Board. (Ex. A)

An authorization for Appellant for this appeal follows my signature in the immediately attached page. A list of mailing addresses for Appellants is attached hereto as Exhibit D.

Very truly yours,



Kathryn R. Devincenzi

cc: Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Attachments:

A- April 24, 2014 San Francisco Planning Commission Motion Rescinding Motion 18307 and Adopting Findings Related to the Certification of a Final Environmental Impact Report for the Proposed 2004 and 2009 Housing Element; April 24, 2014 San Francisco Planning Commission Resolution No. 19122 Adopting Environmental Findings and a Statement of Overriding Considerations Under the California Environmental Quality Act and State Guidelines in Connection With the Amendment of the San Francisco General Plan Adopting the 2009 Housing Element as the Housing Element of the General Plan; and April 24, 2014 San Francisco Planning Commission Resolution No. 19123 Recommending that the Board of Supervisors Adopt a Proposed Ordinance Rescinding Ordinance 108-11 and Amending the General Plan By Adopting the 2009 Housing Element Update as the Housing Element of the San Francisco General Plan, and Adopting Environmental Findings and Findings of Consistency With the Priority Policies



of Planning Code Section 101.1 and the General Plan.

B-February 18, 2014 Letter from Kathryn R. Devincenzi, Attorney at Law, to Environmental Review Officer Re: Draft Environmental Impact Report, San Francisco 2004 and 2009 Housing Element, Revised Alternatives Analysis, Planning Department Case No: 2007.1275E

C-April 24, 2014 Letter from Kathryn R. Devincenzi, Attorney at Law, to San Francisco Planning Commission Re: Agenda Item 11. 2007.1275E San Francisco Housing Element - Certification of Final Environmental Impact Report; Agenda Item 12a. 2007.1275EM 2009 Housing Element Update - Adopting CEQA Findings; Agenda Item 12b. 2007.1275EM 2009 Housing Element Update - Consideration of Adopting a Resolution Amending the General Plan

D-Appellant Address List

APPEAL AUTHORIZATION

On behalf of the organization named below, I hereby authorize appeal to the San Francisco Board of Supervisors of the following motions, resolutions or decisions adopted or passed by the San Francisco Planning Commission on April 24, 2014:

1. Case No: 2007.1275E Planning Commission Motion "Rescinding Motion 18307 and Adopting Findings Related to the Certification of a Final Environmental Impact Report for the Proposed 2004 and 2009 Housing Element" adopted by the Planning Commission on April 24, 2014.
2. Case No: 2007.1275EM Planning Commission Motion "Adopting Environmental Findings and a Statement of Overriding Considerations Under the California Environmental Quality Act and State Guidelines in Connection With the Amendment of the San Francisco General Plan Adopting the 2009 Housing Element as the Housing Element of the General Plan" adopted by the Planning Commission on April 24, 2014.
3. Case No: 2007.1275EM Planning Commission Resolution "Recommending that the Board of Supervisors Adopt a Proposed Ordinance Rescinding Ordinance 108-11 and Amending the General Plan by Adopting the 2009 Housing Element Update as the Housing Element of the San Francisco General Plan, and Adopting Environmental Findings and Findings of Consistency with the Priority Policies of Planning Code Section 101.1 and the General Plan" passed by the Planning Commission on April 24, 2014.

SAN FRANCISCANS FOR LIVABLE NEIGHBORHOODS

By: 

L. Gregory Scott, Member of Steering Committee

PACIFIC HEIGHTS RESIDENTS ASSOCIATION

By: 

L. Gregory Scott, President



**EXHIBIT A**



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Motion

HEARING DATE: April 24, 2014

*Hearing Date:* April 24, 2014  
*Case No.:* 2007.1275E  
*Project Address:* Not Applicable  
*Zoning:* Various  
*Block/Lot:* Various  
*Project Sponsor:* San Francisco Planning Department  
1650 Mission St, Suite 400  
San Francisco, CA 94103  
*Staff Contact:* Steven H. Smith – (415) 558-6373  
Steve.Smith@sfgov.org

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### RESCINDING MOTION 18307 AND ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED 2004 AND 2009 HOUSING ELEMENT.

MOVED, that pursuant to the San Francisco Superior Court's Peremptory Writ of Mandate in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, the San Francisco Planning Commission (hereinafter "Commission") hereby RESCINDS Motion 18307, the Commission's previous certification of the Final Environmental Impact Report for the 2004 and 2009 Housing Element; and be it

FURTHER MOVED, that the Commission hereby CERTIFIES the Final Environmental Impact Report identified as Case No.2007.1275 (hereinafter "Project"), as revised pursuant to the Court's Writ, 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 October 8, 2008 and again on September 2, 2009.
  - B. On June 30, 2010, the Department published the Draft EIR, and on March 24, 2011 the San Francisco Planning Commission certified the EIR prepared for the 2004 and 2009 Housing Element. However, subsequent to a court order, the Department revised the EIR Section VII Alternatives and made conforming changes to Section II Executive Summary.

[www.sfplanning.org](http://www.sfplanning.org)

- C. On December 18, 2013, the Department published the revised sections of the Draft EIR (hereinafter "Revised DEIR") and provided public notice in a newspaper of general circulation of the availability of the Revised DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the Revised DEIR; this notice was mailed to the Department's list of persons requesting such notice.
  - D. On December 18, 2013, copies of the Revised 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.
  - E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on December 18, 2013.
2. The Commission held a duly advertised public hearing on said Revised DEIR on January 23, 2014 at which opportunity for public comment was given, and public comment was received on the Revised DEIR. The period for acceptance of written comments ended on February 18, 2014.
  3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 60-day public review period for the Revised DEIR, prepared revisions to the text of the Revised DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the Revised DEIR. This material was presented in a Draft Responses to Comments document, published on April 10, 2014, distributed to the Commission and all parties who commented on the Revised 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 originally certified EIR, the Revised DEIR, any consultations and comments received during the review process, any additional information that became available, the Comments and Responses document published on March 9, 2010, and the Responses to Comments document on the Revised DEIR 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 April 24, 2014, the Commission reviewed and considered 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 project sponsor has indicated that, after review of the entire FEIR, and principally the Revised Chapter VII Alternatives, the preferred alternative continues to be the 2009 Housing Element.
  8. The Planning Commission hereby does find that the FEIR concerning File No. 2007.1275E, San Francisco 2004 and 2009 Housing Element reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Responses to

Comments documents contain no significant revisions to the DEIR or the Revised DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.

9. The Commission, in certifying the completion of said FEIR, hereby does find that the project described in the FEIR and the project preferred by the project sponsor, described as the 2009 Housing Element in the FEIR will have the following significant unavoidable environmental impacts, which can not be mitigated to a level of insignificance:
  - A. A project specific and cumulative potentially significant impact on transit due to encouraging housing near transit lines, thereby increasing transit ridership potentially in excess of MUNI's capacity utilization standard of 85 percent.
10. 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 April 24, 2014.



Jonas Ionin  
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, and Wu  
NOES: None  
ABSENT: Sugaya  
ADOPTED: April 24, 2014



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No.19122

HEARING DATE APRIL 24, 2014

*Date:* April 17, 2014  
*Case No.:* 2007.1275EM  
*Project:* 2009 Housing Element Update  
*Adoption Hearing*  
*Staff Contact:* Menaka Mohan- (415) 575-9141  
[Menaka.Mohan@sfgov.org](mailto:Menaka.Mohan@sfgov.org)  
*Reviewed by:* Kearstin Dischinger and Teresa Ojeda  
  
*Recommendation:* Adopt CEQA Findings related to the 2009 Housing Element Update

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### ADOPTING ENVIRONMENTAL FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE GUIDELINES IN CONNECTION WITH THE AMENDMENT OF THE SAN FRANCISCO GENERAL PLAN ADOPTING THE 2009 HOUSING ELEMENT AS THE HOUSING ELEMENT OF THE GENERAL PLAN.

Whereas, the San Francisco Planning Department, the Lead Agency responsible for the implementation of the California Environmental Quality Act ("CEQA"), California Public Resources Code section 21000 et seq, has prepared an environmental impact report for the proposed 2009 Housing Element, which is an amendment to the San Francisco General Plan ("Project"); and

Whereas, the Planning Department, in cooperation with the Mayor's Office of Housing and in consultation with other City agencies, developed the 2009 Update of the Housing Element of the General Plan ("the 2009 Housing Element") through a comprehensive community-based planning effort. The Department worked closely with community leaders, stakeholders, City agencies, and community members starting in September of 2008. A 15 member Community Advisory Body (CAB) was convened to assist staff on the development and refinement of a draft version of objectives, policies and implementation programs. The Department also hosted fourteen stakeholder sessions focusing on the needs and policy interests of special interest housing groups and organizations, and over 30 workshops, some in each supervisorial district of the City. The Planning Commission has hosted several informational hearings on the 2009 Housing Element; and

Whereas, The 2009 Housing Element consists of three parts. Part I of the 2009 Housing Element consists of the Data and Needs Analysis section, which provides a statistical baseline for determining appropriate housing objectives, policies and implementation strategies. This section includes San Francisco population and employment trends, housing data, and inventories of land available for housing development. Part I also presents an updated calculation of San Francisco's fair share of the regional housing need, for January 2007 through June 2014. The City's RHNA goal is 31,193 housing units, or



4,159 units per year. Part I identifies where development capacity exists under existing zoning for future potential housing throughout the City, and,

Whereas, Part II of the 2009 Housing Element, summarized in the Project Description of the EIR, and attached as an appendix thereto, sets forth the objectives, policies, and implementing strategies intended to address the City's housing needs based on the RHNA. Generally, the objectives and policies contained in Part II prioritize the creation of permanently affordable housing; conserve and improve the existing housing stock; recognize and preserve neighborhood character; integrate planning of housing, jobs, transportation and infrastructure; and maintain the City as a sustainable model of development; and,

Whereas, the 2009 Housing Element also includes implementation measures, which are proposed for adoption and which have been reviewed in the EIR, and a series of "Strategies for Further Review." The Strategies for Further Review are ideas which were raised over the course of development and outreach for the 2009 Housing Element. Most of the strategies require further examination, and potentially long-term study, before they can be directly implemented; and,

Whereas, the 2009 Housing Element includes input from the community, stakeholders and City officials, and responds to comments made at numerous public hearings. The 2009 Housing Element proposed for adoption was previously adopted by the Board of Supervisors in June 2011, which was Draft 3 of the 2009 Housing Element, published in February 2011, together with the amendments described in a staff memorandum to the Planning Commission dated March 17, 2011, including changes to Policy 1.6, Policy 1.10, Objective 11, and Policy 12.1; and the addition of two implementation measures (identified as mitigation measures in the EIR) related to review of noise conditions for housing and open space; and

Whereas, after the Board of Supervisors approved the 2009 Housing Element and upheld the Planning Commission's previous certification of the EIR, a group of neighborhood organizations challenged, among other things, the environmental impact report prepared for the 2009 Housing Element in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, San Francisco Superior Court Case No. 513-077; and,

Whereas, on December 19, 2013, the trial court found that the EIR complied with CEQA in all respects, except for its analysis regarding alternatives. In addition, the court found the City's Findings under CEQA (in Planning Commission Motion 18308) related to the adoption of the 2009 Housing Element, were conclusory; and,

Whereas, on January 15, 2014, the Court ordered the City to set aside and void its certification of the 2004 and 2009 Housing Element EIR and its approval of the 2009 Housing Element, and ordered the City to revise the EIR to address the deficiencies in the alternatives analysis, and remanded the approvals of the EIR and the 2009 Housing Element update to the Planning Commission for reconsideration; and,

Whereas, as required by the Superior Court, the San Francisco Planning Commission will set aside and reconsider adoption of the 2009 Housing Element including the CEQA Findings adopted by the Planning Commission in Motion 18308; and

Whereas, the Planning Department determined that an Environmental Impact Report ("EIR") was required for the proposed 2009 Housing Element, and provided public notice of that determination by publication in a newspaper of general circulation on October 8, 2008 and September 2, 2009; and

Whereas, the Planning Department on June 30, 2010, published the Draft Environmental Impact Report ("DEIR"). The DEIR was circulated for public review in accordance with the California

Environmental Quality Act, California Public Resources Code section 21000 et seq. ("CEQA"), the State CEQA Guidelines, 14 California Code of Regulations, Section 15000 et seq., ("CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Planning Commission held a public hearing on the DEIR on August 5, 2010; and,

Whereas, the Planning Department prepared responses to comments on the DEIR and published the Comments and Responses document on March 9, 2011; and

Whereas, as required the Court in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, the Planning Department on December 18, 2013 published a Revised Alternatives Analysis (the Revision) to the DEIR. The Revision was circulated for public review in accordance with CEQA, the CEQA Guidelines and Chapter 31. The Planning Commission held a public hearing on the Revision on January 23, 2014; and,

Whereas the Planning Department prepared responses to comments on the Revision and published the comments and responses document on April 10, 2014; and,

Whereas, the Revision and the Comments and Responses on the Revision, together with the originally published DEIR and Comments and Responses document, and additional information that became available, constitute the Final Environmental Impact Report ("FEIR"). The FEIR files and other Project-related Department files have been available for review by the Planning Commission and the public, and those files are part of the record before this Commission; and,

Whereas, the Planning Commission, on April 24, 2014, by Resolution No. 19123, rescinded Resolution No. 18307, and reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed complied with the provisions of CEQA, the CEQA Guidelines, Chapter 31 and the Superior Court's direction; and,

Whereas, the Planning Commission by Resolution No. 19121, also certified the FEIR and found that the FEIR was adequate, accurate, and objective, reflected the independent judgment of the Planning Commission, and adopted findings of significant impacts associated with the Project and certified the completion of the FEIR for the Project in compliance with CEQA and the CEQA Guidelines and the Superior Court; and,

Whereas, the Planning Department prepared proposed Findings, as required by CEQA and as amended pursuant to the direction of the Superior Court, regarding the alternatives, mitigation measures and significant environmental impacts analyzed in the FEIR and overriding considerations for approving the 2009 Housing Element, and a proposed mitigation monitoring and reporting program, attached as Exhibit 1 to Attachment A, which material was made available to the public and this Planning Commission for the Planning Commission's review, consideration and actions; and now


THEREFORE BE IT RESOLVED, that the Planning Commission has reviewed and considered the FEIR, and in particular, has reviewed and considered the Revision and the Comments and Responses on the Revision, and the actions associated with adoption of the 2009 Housing Element as the Housing Element of the San Francisco General Plan, and hereby adopts the Project Findings attached hereto as Attachment A including a statement of overriding considerations, and including as Exhibit 1 the Mitigation Monitoring and Reporting Program, which shall supercede the findings in Planning Commission Motion 18308.

Resolution 19122  
Hearing Date: April 24, 2014

CASE NO. 2007.1275EM  
CEQA Findings Re: General Plan Amendment updating the  
Housing Element of the General Plan

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission at its regular meeting of April 24, 2014.

Jonas Ionin



Commission Secretary

AYES: Moore, Wu, Fong, Borden, Hillis,

NOES: Antonini

ABSENT: Sugaya

ADOPTED: April 24, 2014

## ATTACHMENT A

### 2009 SAN FRANCISCO HOUSING ELEMENT

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS: FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES AND STATEMENT OF OVERRIDING CONSIDERATIONS

#### SAN FRANCISCO PLANNING COMMISSION

In determining to approve the proposed 2009 San Francisco Housing Element and related approval actions (the "Project"), the San Francisco Planning Commission ("Planning Commission" or "Commission") makes and adopts the following findings of fact and statement of overriding considerations and adopts the following recommendations regarding mitigation measures and alternatives based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act, California Public Resources Code Sections 21000 *et seq.* ("CEQA"), particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Sections 15000 *et seq.* ("*CEQA Guidelines*"), particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administration Code.

#### I. Introduction

This document is organized as follows:

Section I provides a description of the proposed Project, the environmental review process for the Project, the Planning Commission actions to be taken, and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

Section III identifies potentially-significant impacts that can be avoided or reduced to less-than-significant levels through mitigation;

Section IV identifies significant impacts that cannot be avoided or reduced to less-than-significant levels;

Section V discusses why a subsequent or supplemental EIR is not required;

Section VI evaluates the different Project alternatives and the economic, legal, social, technological, policy, and other considerations that support the rejection of the alternatives as infeasible; and

Section VII presents a statement of overriding considerations setting forth specific reasons in support of the Planning Commission's actions and its rejection of the Alternatives not incorporated into the Project.

Attached to these findings as Exhibit 1 is the Mitigation Monitoring and Reporting Program ("MMRP") for the mitigation measures that have been proposed for adoption. The Mitigation Monitoring and Reporting Program is required by CEQA Section 21081.6 and *CEQA Guidelines* Section 15091. It provides a table setting forth each mitigation measure listed in the Final EIR ("FEIR") that is required to reduce or avoid a significant adverse impact. Exhibit 1 also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule.

These findings are based upon substantial evidence in the entire record before the Planning Commission. The references set forth in these findings to certain pages or sections of the EIR or responses to comments in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

**a. Project Description**

**State Housing Element Law**

Since 1969, California's Housing Element law, Government Code Sections 65580 *et seq.*, has required local jurisdictions to adequately plan for and address the housing needs of all segments of its population, such that all communities contribute to the attainment of California's housing goal. Thus, each local jurisdiction is required to include a housing element as an element of its general plan.

State housing element law requires that each city and county develop local housing programs designed to meet its "fair share" of housing needs for all income groups during a stated planning period. The "fair share" allocation of regional housing needs (called the RHNA) is determined by regional planning agencies. San Francisco's RHNA is determined by the Association of Bay Area Governments (ABAG). By allocating each jurisdiction's regional housing need, and by requiring that each jurisdiction's housing element addresses the RHNA for the relevant planning period, state Housing Element law ensures that each jurisdiction accepts responsibility for the housing that represents the number of additional dwelling units that would be required to accommodate the anticipated growth in households, replace expected demolitions and conversions of housing units to non-housing uses, and achieve a future vacancy rate that allows for the healthy functioning of the housing market.

Each housing element must include an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs, a statement of housing goals, policies and objectives, as well as a program setting forth actions that the locality is undertaking or will undertake to implement the policies and achieve the goals and objectives.

State law requires the housing element to be updated periodically, usually every five years. The most recent update of the housing element occurred in 2004, when the City adopted the 2004 Housing Element, an update to the 1990 Residence Element. The 2004 Housing Element addressed the City's housing needs for the planning period 1999 to 2006. Subsequent to adoption of the 2004 Housing Element, the California Court of Appeal determined the environmental document prepared for the 2004 Housing Element was inadequate, and directed the City to prepare an EIR (see *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* [June 22, 2007, A112987] [unpublished opinion]). The Court allowed the City to continue to rely on the 2004 Housing Element pending the completion of the EIR, except for several express policies and objectives.

**2009 Housing Element**

During the pendency of litigation over the 2004 Housing Element's environmental review, and in accordance with state Housing Element law, the City underwent a comprehensive planning process and prepared the next update of the Housing Element to address the planning period 2007 through 2014. The result was the proposed 2009 Housing Element.

The 2009 Housing Element consists of three parts. Part I of the 2009 Housing Element consists of the Data and Needs Analysis section, which provides a statistical baseline for determining

appropriate housing objectives, policies and implementation strategies. This section includes San Francisco population and employment trends, housing data, and inventories of land available for housing development. Part I provides a foundation for the proposed changes to the objectives and policies contained in Part II of the 2009 Housing Element.

Part I also presents an updated calculation of San Francisco's fair share of the regional housing need, for January 2007 through June 2014. The City's RHNA goal is 31,193 housing units, or 4,159 units per year. Part I identifies where development capacity exists under existing zoning for future potential housing throughout the City.

Part II of the 2009 Housing Element, summarized in the Project Description of the EIR, and attached as an appendix thereto, sets forth the objectives, policies, and implementing strategies intended to address the City's housing needs based on the RHNA. Generally, the objectives and policies contained in Part II prioritize the creation of permanently affordable housing; conserve and improve the existing housing stock; recognize and preserve neighborhood character; integrate planning of housing, jobs, transportation and infrastructure; and maintain the City as a sustainable model of development.

The 2009 Housing Element also includes implementation measures, which are proposed for adoption and which have been reviewed in the EIR, and a series of "Strategies for Further Review." The Strategies for Further Review are ideas which were raised over the course of development and outreach for the 2009 Housing Element. Most of the strategies require further examination, and potentially long-term study, before they can be directly implemented.

#### **b. Environmental Review**

The Planning Department printed and circulated a Notice of Preparation (NOP) on October 8, 2008 that solicited comments regarding the content of the proposed EIR for the 2004 Housing Element that was required by the court. The NOP for the Draft EIR was circulated for 30 days in accordance with CEQA Guidelines Section 15082(b). During the NOP circulation period, a public scoping meeting was held on November 6, 2008.

Subsequent to the circulation of the NOP, a draft of the proposed 2009 Housing Element was completed. The scope of the EIR was revised to include both the 2004 Housing Element and the 2009 Housing Element. Therefore, the Planning Department printed and recirculated an NOP on September 2, 2009 that solicited comments regarding the content of the EIR for the proposed Housing Elements. During the NOP circulation period, the Planning Department held a public scoping meeting on September 30, 2009.

The Planning Department published the Draft EIR and provided public notice of the availability of the Draft EIR for public review and comment on June 30, 2010. Notices of Completion and copies of the Draft EIR were distributed to the State Clearing house.

The Planning Commission held a duly noticed public hearing on the Draft EIR on August 5, 2010. At this hearing, opportunity for public comment was given, and public comment was received on the Draft EIR. The Planning Department accepted public comments on the Draft EIR from June 30, 2010 to August 31, 2010.

The Planning Department published the Comments and Responses on the Draft EIR on March 9, 2011. This document includes responses to environmental comments on the Draft EIR made at the public hearing on August 5, 2010, as well as written comments submitted on the Draft EIR from June 30, 2010 to August 31, 2010. The Comments and Responses document also contains text changes to the Draft EIR made by the EIR preparers to correct or clarify information

presented in the Draft EIR, including changes to the Draft EIR text made in response to comments.

The Planning Commission certified the Final EIR on March 24, 2011 and recommended that the Board of Supervisors adopt the 2009 Housing Element as the Housing Element of the General Plan. The Board of Supervisors amended the General Plan and adopted the 2009 Housing Element in June 2011. Subsequent to the Board's approval, however, San Franciscans for Livable Neighborhoods again challenged the environmental document prepared for the 2009 Housing Element. The trial court found that the City complied with CEQA in all respects except for the EIR's treatment of alternatives, and the City's adoption of findings under CEQA. In a January 15, 2014 Peremptory Writ of Mandate, the Court ordered the City to set aside and reconsider the EIR and the approval of the 2009 Housing Element.

In response to the Court's direction, the Planning Department revised the alternatives analysis of the EIR. The Department published the Draft EIR Revised Chapter VII Alternatives (the Revision) and provided public notice of the availability of the Revision for public review and comment on December 18, 2013. Notices of Completion and copies of the Revision were distributed to the State Clearinghouse. The Planning Commission held a duly noticed public hearing on the Revision on January 23, 2014. At this hearing, opportunity for public comment on the Revision was given and public comment was received on the Revision. The Planning Department accepted public comments on the Revision from December 18, 2013 to February 18, 2014. The Planning Department published the Responses to Comments on the Revision on April 10, 2014. This document includes responses to environmental comments on the Revision made at the public hearing on January 23, 2014, as well as written comments submitted on the Revision from December 18, 2013 to February 18, 2014. The April 10, 2014 Responses to Comments document also contains text changes to the Revision made by the EIR preparers to correct or clarify information presented in the Revision.

**c. Planning Commission Actions**

The Planning Commission is being requested to take the following actions to approve and implement the proposed Project.

- Certify the Final EIR.
- Adopt CEQA Findings and a Mitigation Monitoring and Reporting Program.
- Approve and recommend adoption of the 2009 Housing Element of the San Francisco General Plan by the Board of Supervisors.
- Set aside Planning Commission Motions 18307, 18308 and Resolution 18309 in compliance with the Peremptory Writ of Mandate.

**d. Location of Records**

The record upon which all findings and determinations related to the Project are based includes, but is not limited to, the following:

- The San Francisco 2009 Housing Element (drafts 1, 2 and 3 and proposed amendments);
- The San Francisco 2004 Housing Element;
- The San Francisco 1990 Residence Element;

- The EIR and all documents referenced in or relied upon by the EIR;
- All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the EIR, the proposed approvals, the Project, and the alternatives set forth in the EIR;
- All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and sub-consultants who prepared the EIR, or incorporated into reports presented to the Planning Commission;
- All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR;
- All information (including written evidence and testimony) presented at any public hearing or workshop related to the Project and the EIR;
- For documentary and information purposes, all locally-adopted land use plans and ordinances, including, without limitation, general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area;
- The MMRP; and
- All other documents comprising the record pursuant to Public Resources Code Section 2116.76(e)

The public hearing transcripts, a copy of all letters regarding the EIR and the Revision received during the public review periods, the administrative record, and background documentation for the Final EIR are located at the Planning Department, 1650 Mission Street, Suite 400, San Francisco. Jonas Ionin, Commission Secretary, is the custodian of these documents and materials.

## **II. Impacts Found Not to Be Significant, Thus Requiring No Mitigation**

**Finding:** Based on substantial evidence in the whole record of this proceeding, the City finds that the implementation of the Project would not result in any significant environmental impacts in the following areas: Land Use and Land Use Planning; Aesthetics; Population and Housing; Cultural and Paleontological Resources; Air Quality; Greenhouse Gas Emissions; Wind and Shadow; Recreation; Utilities and Service Systems; Public Services; Biological Resources; Geology and Soils, Hydrology/Water Quality; Hazards/Hazardous Materials; Mineral/Energy Resources; Agricultural Resources. Each of these topics is analyzed and discussed in detail, including, but not limited to, in the EIR at Chapters V.B, V.C, V.D, V.E, V.H, V.I, V.J, V.K, V.L, V.M, V.N, V.O, V.P, V.Q, V.R, and V.S.

## **III. Findings of Potentially-Significant Impacts that Can be Avoided or Reduced to a Less-Than-Significant Level**

**Finding:** The California Environmental Quality Act (CEQA) requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible.

The findings in this Section III and in Section IV concern mitigation measures set forth in the FEIR. These findings discuss mitigation measures as proposed in the FEIR and recommended for adoption by the Planning Commission and the Board of Supervisors.



As explained previously, **Exhibit 1**, attached, contains the Mitigation Monitoring and Reporting Program required by CEQA Section 21081.6 and *CEQA Guidelines* Section 15091. It provides a table setting forth each mitigation measure listed in Chapter V of the EIR that is required to reduce or avoid a significant adverse impact. **Exhibit 1** also specifies the agency responsible for implementation of each measure, establishes monitoring actions and a monitoring schedule. The Planning Commission finds that, based on the record before it, the mitigation measure proposed for adoption in the FEIR is feasible, and that it can and should be carried out by the Planning Commission and Board of Supervisors, and staff has recommended that it be incorporated into the 2009 Housing Element as an implementation measure found in Appendix C. The Planning Commission acknowledges that if such measures were not adopted and implemented, the Project may result in additional significant unavoidable impacts. For this reason, and as discussed in Section VI, the Planning Commission is adopting a Statement of Overriding Considerations as set forth in Section VII.

The mitigation measures identified in the FEIR which would reduce or avoid significant adverse environmental impacts are proposed for adoption as implementation measures of the 2009 Housing Element, and are set forth in **Exhibit 1**, in the Mitigation Monitoring and Reporting Program.

**Noise:**

a) Potentially Significant Impact

Implementation of the 2009 Housing Element would promote housing near transit and other infrastructure, housing near neighborhood services, and housing within mixed-use areas which could result in housing located in area that already experience ambient noise levels above 75 Ldn. Residential development in areas that experience noise levels above 75 Ldn could expose noise sensitive receptors to noise levels in excess of established standards. Compliance with Title 24, which typically addresses interior noise levels for housing developments, may not mitigate exterior noise on private open space. Other site specific conditions may warrant acoustical monitoring and analysis beyond the requirements for Title 24. This could result in a significant impact with respect to noise.

b) Mitigation Measure and Conclusion

The City finds the potentially-significant impact listed above would be reduced to a less-than-significant level with implementation of mitigation measure M-NO-1, which would require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-generating uses within two blocks of the project site, and includes at least one 24-hour noise measurement (with maximum noise level readings taken at least every 15 minutes), prior to completion of environmental review. The analysis shall demonstrate with reasonable certainty that Title 24 standards, where applicable, can be met, and that there are no particular circumstances about the proposed project site that appear to warrant heightened concern about noise levels in the vicinity of the proposed project. Should such concerns be present, the Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action, in order to demonstrate that acceptable interior noise levels consistent with those in Title 24 standards can be attained.

In addition, to minimize effects on development in noisy areas, for new residential uses, the Planning Department, shall, through its building permit review process, in conjunction with noise analysis required above, require that open space required by the Planning Code for such uses be protected, to the maximum feasible extent, from existing ambient noise levels that could

prove annoying or disruptive to users of the open space. Implementation of this measure could involve, among other things, site design that uses the building itself to shield on-site open space from the greatest noise sources, construction of noise barriers between noise sources and open space, and appropriate use of both common and private open space in multi-family dwellings. Implementation would also be undertaken consistent with other principles of urban design.

Compliance with this mitigation measure M-NO-1, together with compliance with Title 24 of the California Code of Regulations and the California Building Code and the San Francisco Police Code, would reduce the impact to a less-than-significant level.

#### **IV. Significant Impacts That Cannot Be Avoided or Reduced to a Less-Than-Significant Level.**

**Finding:** Based on substantial evidence in the whole record of these proceedings, the City finds that, where feasible, changes or alterations have been required, or incorporated into the 2009 Housing Element to reduce the significant environmental impact as identified in the FEIR. The City determines that the following significant impacts on the environment, as reflected in the FEIR, are unavoidable, but under Public Resources Code Section 21081(a)(3) and (b), and *CEQA Guidelines* 15091(a)(3), 15092(b)(2)(B), and 15093, the City determines that the impacts are acceptable due to the overriding considerations described in Section VII below. This finding is supported by substantial evidence in the record of this proceeding.

##### **Transportation/Circulation:**

###### **a. Impact – Transit**

Adoption of the 2009 Housing Element would result in implementation of objectives and policies that encourage residential development that takes advantage of alternative modes of transportation, including transit. Under 2025 Cumulative Conditions, the California Street and Market Street Subway transit corridors are anticipated to operate near Muni's transit capacity utilization standard of 85 percent. A substantial mode shift to transit could result in an increase in transit ridership above Muni's capacity utilization standard, thereby resulting in overcrowding on the public transit system. To reduce potential overcrowding on transit, SFMTA could increase capacity on Muni by implementing the transportation plans and programs, as described in the Draft EIR at Section V.F-15 to V.F-18, which include SFPark, SFGGo, the San Francisco Bicycle Plan, the Central Subway, Bus Rapid Transit and the Better Streets Plan. Implementation of these plans and programs could reduce congestion and decrease transit travel times, allowing a given bus to complete more runs in a day, which allows MUNI's capacity to increase without acquiring additional buses. However, although many of the transportation plans are in the process of being or have been implemented, implementation has not been secured for all of the measures, or for those measures that have been implemented, they have not been implemented for a sufficient amount of time to determine the extent of their effectiveness, and it is not known whether the implementation of all of the measures would provide a sufficient decrease in travel time, and subsequent increase in bus runs, to carry all projected riders. SFMTA could also increase capacity on MUNI by providing more buses. However, this approach would involve increased costs to SFMTA for which funding has not been identified, and could require additional sources of revenue. Although SFMTA is pursuing additional sources of revenue through development impact fees, increases in vehicle license fees, and issuance of bonds, those measures require approval by the Board of Supervisors after appropriate study, or by voters in a general election, and the outcome of those efforts cannot be determined at this time. Because the certainty and feasibility of these two mitigation options cannot be established, the impact on transit would remain significant and unavoidable.

###### **b) Mitigation Measure:**

No feasible mitigation measures have been identified for the potentially significant impact on transit. Hence a significant and unavoidable transit impact would occur with implementation of the 2009 Housing Element.

#### **V. Why Subsequent Environmental Analysis or Recirculation is Not Required.**

Finding: For the reasons set forth below and elsewhere in the Administrative Record, none of the factors are present which would necessitate recirculation of the Final EIR under CEQA Guideline Section 15088.5 or the preparation of a subsequent or supplemental EIR under CEQA Guideline Section 15162.

The Comments and Responses documents thoroughly addressed all public comments that the Planning Department received on the Draft EIR and on the Revision. In response to these comments, the Department added new and clarifying text to the EIR and the Revision. In addition, since publication of the original Draft EIR, the staff, in response to public comments and additional staff evaluation of the 2009 Housing Element, modified a number of policies and Objectives in the 2009 Housing Element in order to avoid or alleviate specific concerns raised by the public and City officials. The Comments and Responses documents, which are incorporated herein by reference, analyzed all of these changes and determined that these changes did not constitute new information of significance that would add new significant environmental effects, or substantially increase the severity of effects identified in the Final EIR.

Further, additional changes to the 2009 Housing Element have been incorporated into the Element after publication of the Comments and Responses document. These changes have been addressed orally by staff or in staff reports, which statements and reports are incorporated herein by reference, and based on this information, the Planning Department determined, and the trial court affirmed, that these additional changes do not constitute new information of significance that would alter any of the conclusions of the EIR.

Based on the information set forth above and other substantial evidence in light of the whole record on the Final EIR, which includes the Revision, the Commission determines that the 2009 Housing Element is within the scope of the project analyzed in the Final EIR; (2) approval of 2009 Housing Element will not require important revisions to the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (3) taking into account the 2009 Housing Element and other changes analyzed in the Final EIR, no substantial changes have occurred with respect to the circumstances under which the Project are undertaken which would require major revisions to the Final EIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the Final EIR; and (4) no new information of substantial importance to the Project has become available which would indicate (a) the 2009 Housing Element or the approval action will have significant effects not discussed in the Final EIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures or alternatives found not feasible which would reduce one or more significant effects have become feasible; or (d) mitigation measures or alternatives which are considerably different from those in the Final EIR would substantially reduce one or more significant effects on the environment. Consequently, there is no need to recirculate the Final EIR under CEQA Guideline 15088.5 or to prepare a subsequent or supplemental EIR under CEQA Guideline Section 15162.

#### **VI. Evaluation of Project Alternatives.**

This Section describes the EIR alternatives, including the 2004 Housing Element. This Section also outlines the 2009 Housing Element's purpose and provides the rationale for selecting the 2009 Housing Element and for rejecting alternatives as infeasible. Additional evidence to

support the City's conclusions regarding the Project and the Alternatives can be found in the administrative record.

CEQA mandates that an EIR evaluate a reasonable range of alternatives to the Project, which would "feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen effects of the project, and evaluate the comparative merits of the project." (*CEQA Guidelines*, Section 15126.6(a)). Pursuant to the Court's December 19, 2013 Order in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, San Francisco Superior Court Case Number 513-077, the EIR evaluated a reasonable range of alternatives.

CEQA requires that every EIR evaluate a "No Project" alternative as part of the range of alternatives analyzed in the EIR. The Housing Element EIR's No Project analysis was prepared in accordance with *CEQA Guidelines* Sections 15126.6(e)(3)(A) and (C).

Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to consider reasonable feasible options for minimizing environmental consequences of the Project.

#### **A. Reasons for Selection of the Project**

As described above and in this section, the project proposed for adoption is the 2009 Housing Element, as defined in the Project Description, with the changes incorporated into "Draft 3" of the 2009 Housing Element when it was approved by the Planning Commission and the Board of Supervisors in 2011 (in Board of Supervisors' Ordinance 108-11). The 2009 Housing Element is identified in the Draft EIR in Chapter IV, Project Description, particularly at pages IV-28 through IV-31. The 2009 Housing Element is selected for adoption because this Commission, the body pursuant to the San Francisco Charter charged with setting land use policy in San Francisco, based on the recommendation of the expert staff at the Planning Department, has determined that the 2009 Housing Element will best achieve all of the following objectives, which would not be achieved as well by any of the alternatives, including the 2004 Housing Element.

- Provide a vision for the City's housing and growth management through 2014

Although all the Alternatives provide a vision for housing and growth management, the 2009 Housing Element is a product of significant and recent community input and debate and includes responses to recent global economic indicators and global climate issues. In drafting the policies and objectives of the 2009 Housing Element, the Department worked closely with community leaders, stakeholders, City agencies, and community members starting in September of 2008. The Department convened a Community Advisory Body, held over a dozen stakeholder sessions, over 30 public workshops and presentations, hosted staff office hours, surveyed the community in writing and online, and the Planning Director hosted two workshops. In addition, the Planning Commission held several informational hearings. As a result of this extensive outreach and effort, the 2009 Housing Element best provides a community based vision for the City's housing future, which specifically incorporates and responds to an updated RHNA goal set for 2007 to 2014, and responds to recent global economic indicators and global climate issues. (See Policies 13.2 and 13.3).

- Maintain the existing housing stock to serve housing needs

The 2009 Housing Element recognizes that the majority of San Francisco's housing stock is over 60 years old and this existing stock is an important part of meeting San Francisco's housing demands. Retaining existing housing reduces the need for resources to build new housing, and maintains the total supply of lower cost housing, particularly that housing which is controlled by

the City's Rent Control Ordinance. Demolition of existing housing and construction of new housing often results in new units which are more costly than the units that were demolished. The 2009 Housing Element contains objectives which specifically discourage the demolition of existing housing (see Objective 2) and discourages the merger of existing units, unless the resulting units increases the City's supply of affordable or family housing (see Policy 2.1). The 2009 Housing Element also discourages the removal or reduction of housing for parking, thereby encouraging the maintenance of the existing housing stock (see Policy 2.3).

- Ensure capacity for the development of new housing to meet the RHNA at all income levels

The Association of Bay Area Governments (ABAG) determined that San Francisco's fair share of the regional housing need for January 2007 through June 2014 is 31,190 units, or about 4,160 units per year. This regional housing needs assessment (RHNA) includes production targets addressing housing at a range of household income categories. San Francisco's RHNA target includes 18,880 units, or 61%, that are affordable to moderate income households (120% of the area median income) and below. Under existing zoning, the City has enough capacity to meet the overall RHNA. However, the City historically has not met the RHNA targets at all income levels, particularly for affordable housing. Because of the high cost of housing, subsidies required to provide a unit to low or very low income households can be up to \$200,000 per unit, and thus, the total cost to meet those needs exceeds \$2 billion. Public and private subsidies will not be able to fulfill all of San Francisco's affordable housing needs.

The 2009 Housing Element contains objectives and policies designed to ensure that the City has capacity for the development of various types of housing for households at all income levels. It also contains objectives and policies to foster a housing stock that meets the needs of all residents across all lifecycles, such as families with children, people with disabilities and seniors, many of whom have income levels that can only be met by affordable units, and who often do not have access to private transportation (See Policy 4.1, 4.2 and 4.3). The 2009 Housing Element seeks to ensure that units affordable to all income levels are located throughout San Francisco according to infrastructure and site capacity (Policy 4.6), and encourages integrated neighborhoods with a diversity of unit types and affordability levels (Policy 4.5). The 2009 Housing Element encourages the completion of key opportunity areas such as Treasure Island, and Candlestick Point/Hunters Point Shipyard, which will provide significant new capacity for new neighborhoods with units at all income levels (See Policy 1.2).

- Encourage housing development where supported by existing or planned infrastructure, while maintaining neighborhood character;

The 2009 Housing Element best balances the tension between the demand for additional housing with potential impacts on existing neighborhoods, where new housing is supported by existing infrastructure. The 2009 Housing Element supports the completion of planning for Treasure Island, Candlestick Point/Hunters Point Shipyard, as well as Park Merced and the Transbay Transit Center (See Policy 1.2). These areas have existing infrastructure to support new housing, or new infrastructure is planned for them. The 2009 Housing Element supports new, mixed-use infill development in areas where there is adequate open space, child care, neighborhood services and public transit (Policy 12.2). At the same time, the 2009 Housing Element seeks to maintain and support the diverse and distinct character of San Francisco's neighborhoods (See Objective 11), and ensures new and substantially altered buildings are compatible with existing neighborhood character (See Policy 11.2). The 2009 Housing Element also has several policies which call for community based planning processes, to allow greater input in the planning for new housing (See Policy 1.4), ensuring that the community is involved in the development process and that any tension between new and existing housing is lessened.

- Encourage, develop and maintain programs and policies to meet projected affordable housing needs

Affordable housing is the most salient housing issue in San Francisco. The 2009 Housing Element seeks to facilitate permanently affordable housing, and contains many objectives and policies designed to expand the number of resources for affordable housing, facilitate affordable housing development through land subsidy programs, and support programs that do not require direct public subsidies and that can facilitate the development of middle income units (See Objectives 3, 4 and 5.).

The 2009 Housing Element best promotes the need to encourage the creation of affordable housing without the need for public subsidies. To make a unit affordable to a low or very low income household requires a subsidy ranging from \$170,000 to \$200,000, yet the level of state and federal funding has decreased. To meet all RHNA goals for low and very low income households, a total of over \$2 billion is required. Thus, the 2009 Housing Element contains numerous policies that encourage the creation or preservation of “naturally” affordable units or units which are “affordable by design.” This includes policies related to the preservation of existing older units (Objective 2), including rent controlled units (Policy 3.1), policies which encourage affordable housing through zoning accommodations (Policy 7.5), policies which consider the creation of and preservation of smaller units (Policy 1.5, 3.4), and policies allowing for the development of housing at increased densities where appropriate (Policy 1.6).

- Develop a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals

The City, the greater Bay Area and the State of California have adopted environmental and housing goals for more sustainable development. SB 375, adopted by the State in 2008, seeks to link housing with transportation to address global climate change. ABAG has allocated regional housing needs based on the availability of transit infrastructure. San Francisco has adopted numerous plans that support green development and help to reduce the City’s greenhouse gas emissions.

The 2009 Housing Element supports these environmental and housing goals with objectives and policies which support smart regional growth that locates new housing close to jobs and transit (Policy 1.10; 13.1), requires that the City work with localities region-wide to coordinate affordable housing productions (Policy 13.2), which promote “green” development at the highest level by encouraging walking, bicycling and transit (Policy 12.1, 13.3), and which encourage LEED developments (Policy 13.4). These objectives and policies will help ensure that San Francisco, and the region, works toward meeting the needs of the present without sacrificing the ability of future generations to meet their own needs.

- Adopt a housing element that substantially complies with California Housing Element Law as determined by the California Department of Housing and Community Development.

A determination by the California Department of Housing and Community Development that the Housing Element substantially complies with state Housing Element law provides the City with a rebuttable assumption that the Housing Element complies with state Housing Element law and allows the City to amend redevelopment plans (an important source of affordable housing funds), and allows the City to maintain eligibility for state transportation, open space, and development funds.

HCD has previously found that the 2009 Housing Element substantially complied with state housing element law in a letter to the Department on July 29, 2011, and has previously

commended the City for its many innovative strategies and programs. The City expects that HCD will continue to find that the 2009 Housing Element complies with state housing element law.

## **B. Alternatives Rejected and Reasons for Rejection**

An agency may reject project alternatives if it finds them infeasible. Feasible, under CEQA, is defined as capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, social, technological and legal factors. (Public Resources Code §21061.1; CEQA Guidelines §15364.) Other considerations may also provide the basis for finding an alternative infeasible, such as whether an alternative is impractical, or undesirable from a policy standpoint. The City finds infeasible, and therefore rejects, the alternatives analyzed in the EIR, including the 2004 Housing Element, for the economic, legal, social, technological, policy, and other considerations set forth below and elsewhere in the record, including the reasons set forth in the Statement of Overriding Considerations in Section VII.

**Rejection of 2004 Housing Element:** The 2004 Housing Element was analyzed in the EIR at an equal level of detail as the 2009 Housing Element and was included as a Housing Element that the decision-makers could adopt in the alternative to the 2009 Housing Element, and in response to the Court's direction that the City analyze the 2004 Housing Element in an EIR. Generally, the policies and objectives in the 2004 Housing Element encourage housing in certain areas of the City, and encourage the construction of higher density developments and developments with reduced parking requirements. The overall impact conclusions for both the 2004 Housing Element and 2009 Housing Element were similar; however, there were differences in degree of the amount of impact.

Adoption of the 2004 Housing Element is hereby rejected as infeasible. The 2004 Housing Element would not meet the Project's Objectives to encourage housing development where supported by existing or planned infrastructure while maintaining neighborhood character, because the 2004 Housing Element "strongly encourages" developers to "take full advantage of building densities" (Policy 11.8) and to "use new housing as a means to enhance neighborhood vitality and diversity" (Policy 11.1). These two policies in particular could have more of an impact on neighborhood character and aesthetics than the Project, particularly in areas of the City that are dominated by lower density development. Although the EIR determined that neither the 2004 or the 2009 Housing Element would have a significant environmental impact on neighborhood character and aesthetics, because of these policies, the Department and Commission has determined that the 2004 Housing Element does not appropriately balance the need for new housing with the need to protect the character of established neighborhoods..

Although the conclusions regarding the impacts on transit for the 2004 and 2009 Housing Element are similar, based on the number of policies in the 2004 Housing Element regarding the reduction of parking requirements (such as Policy 4.4, and 11.7), as noted above, it is likely that the 2004 Housing Element would increase the significant and unavoidable impact on transit, as more housing units could be built without historically required parking, resulting in more person trips shifting to transit. This is because transit ridership increases as the cost of owning a private vehicle increases. In addition, the 2004 Housing Element included a number of policies designed to increase the allowable densities in a given building envelope. Studies have shown that transit use increases where housing densities are higher. An increase in the number of transit trips would decrease the amount of vehicle miles traveled and reduce the amount of greenhouse gas emissions and would better achieve the Project objective to support sustainable local, regional and state environmental goals. However, as noted above, the 2004 Housing Element does not appropriately balance that objective with the City's objective to maintain existing neighborhood character.

The policies and objectives in the 2004 Housing Element were proposed in response to San Francisco's RHNA goal for 2001-2006, which numbered 20,374. As noted, an updated Housing Element must now respond to ABAG's RHNA goal from 2007 to 2014. Although the higher density and reduced parking strategies encouraged in the 2004 Housing Element might better achieve the City's RHNA targets at the lower income levels, as noted above, the 2004 Housing Element does not appropriately balance that need with the City's objective to maintain existing neighborhood character. Unlike in the 2004 Housing Element, the 2009 Housing Element contains policies which focus housing growth according to community plans (Policy 1.2), and which ensure that community based planning processes are used to generate changes to land use controls (Policy 1.4). The 2009 Housing Element also contains more policies related to the preservation of neighborhood character (Objective 11).

Finally, the 2004 Housing Element was not created with the depth and breadth of community input and involvement that the 2009 Housing Element was. The 2009 Housing Element includes input from a Citizens Advisory Committee, over 30 public workshops, staff office hours, online and written surveys as well as workshops hosted by the Planning Director over a two and a half year period. The scope of community input on the 2009 Housing Element is an important aspect of the City's determination to recommend the 2009 Housing Element as the vision for the City's housing growth and management through 2014. As noted, none of the other alternatives, including the 2004 Housing Element, can match the 2009 Housing Element's recent community outreach.

For the foregoing reasons as well as economic, legal, social, technological, policy, and other considerations set forth herein and elsewhere in the record, including the reasons set forth in the Statement of Overriding Considerations in Section VII below, the 2004 Housing Element is hereby rejected as infeasible.

**Rejection of Alternative A: The No Project/Continuation of 1990 Residence Element Alternative.** Alternative A is the CEQA-required "No Project" alternative. CEQA Guidelines Section 15126.6(e)(3)(A) provides that "when the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the 'no project' alternative will be the continuation of the existing plan, policy or operation into the future." Under Alternative A: the No Project/Continuation of 1990 Residence Element Alternative, the 1990 Residence Element policies would remain in effect and neither the 2004 Housing Element nor the 2009 Housing Element policies would be implemented. Housing development in the City would continue as encouraged under the 1990 Residence Element.

Alternative A would not be desirable as a matter of policy nor meet the Project's Objectives as well as the 2009 Housing Element. Alternative A encourages housing in less limited areas than the Project, because the policies and implementation measures encourage housing that is consistent with existing land use patterns, and existing density patterns. Thus, because the City's projected growth and housing needs remain the same under Alternative A as they do under the Project, housing constructed in response under to the City's need would be constructed Citywide more so under Alternative A than the Project, which encourages housing along transit lines, or within a community planning process. In other words, similar amounts of total housing units would result from Alternative A and under the Project, but under Alternative A, these units would not be encouraged or concentrated where supported by existing or planned infrastructure, such as transit lines or in areas subject to community planning processes. Concentrating housing along transit lines or in areas subject to community planning processes better enables the City to meet the Objective of encouraging housing development where supported by existing or planned infrastructure.



There are no policies in Alternative A which specifically discourage the destruction or reduction of housing for parking, which is one strategy to meet affordable housing needs due to the higher cost of housing with parking. Thus, Alternative A would not meet the Project's Objective to encourage, develop and maintain programs and policies to meet projected affordable housing needs, particularly meeting the City's RHNA at all income levels.

Likewise, as noted, Alternative A does not contain policies which allow for the reduction in parking requirements, and thus construction of housing units could include construction of underground parking for those units, which could result in an increased amount of excavation. This would have a potentially greater impact on archeological and paleontological impacts, which are located underground. Although these impacts were found insignificant, there could be more such impacts as compared to the other Alternatives.

Alternative A contains less focus than the Project on encouraging housing near jobs and other services or along transit lines, which could result in the development of more housing farther away from these jobs and services resulting in more vehicle trips to access those activities than under the Project (which includes specific policies designed to encourage housing near jobs, other services and along transit lines, such as Policy 1.10, 13.1, 13.3). An increase in the amount of vehicle trips can result in more air quality impacts and greenhouse gas impacts, because vehicles are the biggest emitter of greenhouse gases. As a result, Alternative A has increased air quality and greenhouse gas impacts than the Project. Therefore, Alternative A does not meet the City's Objective in adopting a Housing Element that supports sustainable local, regional and state housing and environmental goals which call for a reduction in the amount of vehicle trips and greenhouse gas emissions, such as SB 375, the City's Climate Action Plan and the Department of the Environment's Strategic Action Plan, as well as the 2009 Housing Element.

Finally, Alternative A, approved almost 25 years ago, does not respond to the City's current housing and transportation needs or recent economic conditions which have had an impact on the creation and preservation of affordable housing or the need for middle class housing. The Commission finds that historically, development under Alternative A did not produce adequate affordable housing to meet the City's needs. For example, only 41% of the state mandate annual targets for the period covered by the 1990 Residence Element (1989-1998) was achieved. Thus, the Department recognizes a need to amend those policies to better meet those goals.

Because the policies in Alternative A were based on data and housing needs of the City prior to 1990, Alternative A includes policies and objectives which do not take into account the updated demographic information and background information that the policies and objectives in the 2009 Housing Element do. For example, Alternative A does not contain policies that protect historic resources to the same extent as the Project, because the Project's policies and objective's approach to historic resources reflects the changes in the City and state's approach to evaluating historic impacts. Also, the policies and objectives in Alternative A were developed under the assumption that the City's available land capacity included historic resources as potential soft sites capable of redevelopment. As a result of this methodology, the EIR concluded that Alternative A has a significant impact on historic resources, which the other Alternatives do not have. Likewise, the updated Data and Needs analysis in the 2009 Housing Element recognizes that the Planning Code's requirements for parking and open space are potential constraints on the development of housing, particularly affordable housing, and as a result, the 2009 Housing Element includes policies which address those constraints, such as Policy 7.5. The 1990 Residence Element does not include policies which address those constraints, because they were not recognized as issues in the Data and Needs Analysis for the 1990 Residence Element.

For the foregoing reasons as well as economic, legal, social, technological, policy, and other considerations set forth herein and elsewhere in the record, including the reasons set forth in the

Statement of Overriding Considerations in Section VII below, Alternative A is hereby rejected as infeasible.

**Rejection of Alternative B: 2004 Housing Element—Adjudicated.** Alternative B includes the objectives, policies and implementation measures of the 2004 Housing Element except for the policies that were stricken by the San Francisco Superior Court, in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, San Francisco Superior Court case number 504-780. The remaining policies that constitute Alternative B can be found in the Appendices to the EIR. Similar to Alternative A, this alternative would include the updated Data and Needs analysis found in Part 1 of the 2009 Housing Element, which also includes the most recently identified RHNA for the current planning period.

As identified in the EIR, Alternative B was determined to be the environmentally superior alternative because Alternative B would come closer to meeting the key Project objective of meeting the RHNA than would Alternative A, and Alternative A would have a potentially greater impact on historic resources.

Similar to the reasons set forth in rejecting Alternative A, Alternative B would be less likely to meet the Project's Objectives to meet the RHNA than the 2009 Housing Element. Even if enough development and new housing units were built under Alternative B to meet the total RHNA, the policies and objectives in Alternative B may not ensure that the affordability of those new units would reflect the income levels required by the RHNA. This is because Alternative B does not contain policies and objectives that allow an increase in density of new housing or reduced parking requirements as much as the 2009 Housing Element. Higher density housing with reduced parking requirements is generally lower in cost than single family or other low density housing with "one-to-one" parking.

Similar to Alternative A, policies and objectives in Alternative B contain less focus than the Project on encouraging density of housing near jobs and other services or along transit lines, which could result in the development of more housing farther away from these jobs and services resulting in more vehicle trips to access those activities than under the Project. The Project, on the other hand, includes specific policies designed to encourage denser housing near jobs, other services and along transit lines, such as Policy 12.1, 12.2, and 1.10. An increase in the amount of vehicle trips under Alternative B can result in more air quality impacts and greenhouse gas impacts. As a result, Alternative B has more air quality and greenhouse gas impacts than the Project, and thus, Alternative B does not meet the City's Objective in adopting a Housing Element that supports sustainable local, regional and state housing and environmental goals which call for a reduction in the amount of vehicle trips - the biggest source of greenhouse gases. These goals are found in plans and policies such as SB 375, and local plans such as the City's Climate Action Plan and the Department of the Environment's Strategic Action Plan.

In addition, Alternative B is a compilation of policies and objectives that received no community input or involvement. Alternative B does not contain the policies and objectives related to housing issues that respond to all stakeholders in San Francisco, including neighborhood organizations, housing developers and affordable housing advocates. On the other hand, and as noted above, the 2009 Housing Element includes input from a Citizens Advisory Committee, over 30 public workshops, staff office hours, online and written surveys as well as workshops hosted by the Planning Director over a two and a half year period. The scope of community input on the 2009 Housing Element is an important aspect of the City's determination to recommend the 2009 Housing Element.

Although the EIR determined that neither the Project nor Alternative B would have a significant environmental impact on neighborhood character and aesthetics, Alternative B does not include policies that appropriately balance the need to accommodate housing with the need to protect the

character of established neighborhoods. While recognizing and preserving the unique character of San Francisco's neighborhoods is a central housing value in the 2009 Housing Element, the ability to meet the City's housing needs, particularly affordable housing needs is also salient. As noted above, San Francisco was not able to meet its RHNA targets for affordability under policies in Alternative A, which are similar to the policies in Alternative B. Thus, Alternative B protects neighborhood character at the expense of developing housing which can meet the City's affordable housing goals, such as housing which is denser or contains less parking.

For the foregoing reasons as well as economic, legal, social, technological, policy, and other considerations set forth herein and elsewhere in the record, including the reasons set forth in the Statement of Overriding Considerations in Section VII below, Alternative B: the 2004 Housing Element – Adjudicated is hereby rejected as infeasible.

**Rejection of Alternative C: 2009 Housing Element–Intensified.** This alternative includes concepts that more actively encourage affordable housing development through zoning accommodations, and that encourage housing near transit. These concepts were generated based on ideas and alternative concepts raised over the course of outreach for the 2009 Housing Element preparation process, but which were ultimately not included. These concepts are intended to encourage housing by: 1) allowing for limited expansion of allowable building envelope for developments meeting the City's affordable housing requirement on-site with units of two or more bedrooms; 2) requiring development to the full allowable building envelope in locations that are directly on Transportation Effectiveness Project (TEP) rapid transit network lines; 3) giving height and/or density bonuses for development that exceeds affordable housing requirements in locations that are directly on TEP rapid transit network lines; 4) allowing height and/or density bonus for 100 percent affordable housing in all areas of the City except in RH-1 and RH-2 zones; and 5) granting of administrative exceptions for reduced parking spaces if the development is: a) in an RH-2 zoning district or greater; b) in an area where additional curb cuts would restrict parking in areas with parking shortages; or c) on a Transit Preferential Street.

Alternative C encourages housing density in more locations than the other Alternatives. By encouraging more dense housing, particularly along transit lines, with fewer controls over the height and bulk of that housing (thereby impacting neighborhood character), Alternative C would not meet the City's objectives to appropriately balance new housing development while maintaining existing neighborhood character. The increase in density under Alternative C could potentially result in incrementally increased impacts to scenic vistas, visual resources and visual character compared to the Project. Although these impacts were found less than significant, they would be incrementally greater than under the Project, and less responsive to the City's objective to balance new housing development with maintenance of existing neighborhood character.

Alternative C could result in greater impacts to archaeological resources compared to the Project due to the fact that potentially larger/taller projects would require more excavation. Alternative C also could have incrementally greater impacts on transit, because it would require development of full allowable building envelopes and would grant height and/or density bonuses that are on the rapid transit network as identified in the Transportation Effectiveness Project. Therefore more units would be built near transit, increasing the amount of transit trips. This impact would be significant and unavoidable, like the conclusion for the Project; however, it is likely that the impact would be greater under Alternative C than under the Project. As noted in the Revision, the increased promotion of density would also incrementally increase impacts on recreation, utilities and service systems, wind and shadow, geology and soils, hydrology and water quality, and hazards and hazardous materials. Although these impacts would be less than significant, they would be incrementally greater under Alternative C than under the 2009 Housing Element.

For the foregoing reasons as well as economic, legal, social, technological, policy, and other considerations set forth herein and elsewhere in the record, including the reasons set forth in the

Statement of Overriding Considerations in Section VII below, Alternative C: Housing Element – Intensified is hereby rejected as infeasible.

### **Additional Alternatives Proposed by the Public**

During the term of analysis of the 2009 Housing Element and its associated EIR and the Revision and the related comment periods, various commentators proposed alternatives to the 2009 Housing Element. To the extent that these comments addressed the adequacy of the EIR analysis, they were described and analyzed in the Responses to Comments documents. As presented in the record, and determined by the Superior Court, the Final EIR reviewed a reasonable range of alternatives; moreover, CEQA does not require the project sponsor to consider every proposed alternative so long as the CEQA requirements for alternatives analysis have been satisfied.

Although the EIR and the Revision discussed a reasonable range of alternatives, the Commission specifically rejects as infeasible the following alternatives proposed by the public in comments on the Draft EIR, for the reasons set forth herein and noted elsewhere in the record, including the Responses to Comments document, and memoranda by the Planning Department to the Planning Commission and the Board of Supervisors on the 2009 Housing Element when it was previously in front of those bodies in 2011.

A “RHNA-Focused Alternative” is rejected as infeasible because it fails to reduce environmental impacts, and because a RHNA-focused alternative would also result in cumulatively considerable contribution to a potentially feasible transit impact. The 2009 Housing Element includes policies that are designed to encourage moderate and low income housing consistent with the RHNA, and do not “allow wholesale density increases;” therefore a “RHNA-Focused Alternative” would not provide useful information for decision-makers.

A “No Post-2004 Rezoning” is rejected as infeasible because current, post-2004 planning controls, such as those found in Market and Octavia Area Plan and the Eastern Neighborhoods Area Plan reflect the existing environment, and any reversal to those controls would require significant community outreach and involvement, the development of draft plans, Planning Commission and Board of Supervisors hearings and environmental review. Based on the amount of time in which it took to adopt these plans, it is reasonable to assume that the efforts to reverse those plans also would also require significant amounts of time, particularly because a No Post-2004 Rezoning alternative would undo significant long-term planning efforts which received widespread community and official City support, including support by the Planning Commission and the Board of Supervisors. Because this alternative would not be capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental social, technological or legal factors, this alternative is infeasible, and therefore rejected.

A “No-Additional Rezoning” is rejected as infeasible and undesirable because it would preclude future development required to accommodate pipeline development, would not reduce any potentially significant impacts to transit, and could impact the City’s ability to meet the RHNA for all income groups because rezoning on a localized level is, at times, necessary and desirable to accommodate affordable housing developments. Moreover, the City currently complies with the State Density Bonus law (Government Code section 65915 et seq) by rezoning parcels to accommodate the various incentives and concessions required to be accommodated by that statute. Thus, the No-Additional Rezoning Alternative would not meet the Project’s Objectives, and would run afoul of the City’s legal obligation to grant density bonuses under the State Density Bonus law.

For the foregoing reasons as well as economic, legal, social, technological, policy, and other considerations set forth herein and elsewhere in the record and this document, including the reasons set forth in the Statement of Overriding Considerations in Section VII below, these alternatives are hereby rejected as infeasible.

Although the Superior Court held that the EIR included a reasonable range of alternatives, additional alternatives were suggested by commenters on the Revision to the Chapter VII Alternatives Analysis. For the economic, legal, social, technological, policy, and other considerations set forth in the Responses to Comments on the Revision, and elsewhere in the record, including the reasons set forth in the Statement of Overriding Considerations in Section VII below, those additional alternatives are rejected as infeasible.

## **VII. Statement of Overriding Considerations.**

Pursuant to Public Resources Section 21081 and CEQA Guidelines Section 15093, it is hereby found, 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 2009 Housing Element as set forth below independently and collectively outweighs the significant and unavoidable impacts and is an overriding consideration warranting approval of the 2009 Housing Element. Any one of the reasons for approval cited below is sufficient to justify approval of the 2009 Housing Element. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, this determination is that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the FEIR and the preceding findings, which are incorporated by reference into this Section, and in the documents found in the administrative record, as described in Section I.

On the basis of the above findings and the substantial evidence in the whole record of this proceeding, it is specifically found that there are significant benefits of the 2009 Housing Element in spite of the unavoidable significant impact on transit. It is further found that, as part of the process of approving the 2009 Housing Element, all significant effects on the environment from implementation of the 2009 Housing Element have been eliminated or substantially lessened where feasible. The remaining significant effect on transit found to be unavoidable is found to be acceptable due to the following specific overriding economic, technical, legal, social, policy, and other considerations.

1. Approval of the 2009 Housing Element will help the City to fulfill its fair share housing obligations as provided by the Association of Bay Area Governments. The City's fair share of regional housing, or RHNA, has been determined to be 3,294 units affordable to households with extremely low incomes; 3,295 for very low income households; 5,535 for low income households; 6,754 for moderate income households; and 12,315 for above moderate income households. The 2009 Housing Element encourages the production of housing in areas that are better served by transit, allows the consideration of parking and open space reductions, and encourages the retention of existing housing, all strategies that encourage the production and retention of housing at lower income levels. By encouraging these strategies, the 2009 Housing Element encourages the production of lower cost housing and housing that does not require the need for public housing subsidies.

2. The adoption of the 2009 Housing Element will allow the City to have a Housing Element that complies with State Housing Element law as determined by HCD. HCD previously determined that the 2009 Housing Element substantially complies with State Housing Element law in 2011, and it is anticipated that HCD will continue to find that the 2009 Housing Element complies with State Housing Element Law. Therefore, adoption of the 2009 Housing Element will allow the City to continue to be eligible for state and federal funds that require a Housing Element approved by HCD. These funds include affordable housing funds, open space funds

and transit funds, including grants under the OneBayArea Grant program as adopted by the Metropolitan Transportation Commission. Under the OneBayArea Grant program, MTC will direct \$38.8 million dollars in federal transportation funds to San Francisco.

3. The 2009 Housing Element is consistent with state, region and Citywide plans and policies to reduce greenhouse gas emissions by encouraging the provision of housing near transit. By encouraging housing along major transit lines and in close proximity to jobs and other daily activities, the 2009 Housing Element facilitates a decrease in the number of vehicle trips by City residents and visitors, and an increase in the number of persons using other modes for transportation, such as transit, bicycle and walking. The decreased use of private automobiles and increased use of transit, bicycles and walking will help reduce use of vehicles, a major source of greenhouse gas emissions. These plans and policies include, but are not limited to:

a. San Francisco's "Climate Action Plan: Local Actions to Reduce Greenhouse Gas Emissions," adopted in September 2004, which affirms San Francisco's commitment to reducing greenhouse gas emissions by 20% below 1990 levels by 2012. Among other policies, the Climate Action Plan outlines policies to discourage trips by private automobile and increase trips by other modes.

b. San Francisco Department of the Environment's Strategic Plan 2009-2011, a annually updated mission statement by the Department of the Environment, which among other topics, outlines goals and actions to promote non-vehicle use, such as bicycles, in San Francisco in order to reduce greenhouse gas emissions from transportation by 963,000 tons per year by 2012.

c. the Global Warming Solutions Act of 2006, otherwise known as AB 32, a California state law that requires the state's greenhouse gas emissions be reduced to 1990 levels by 2020, and SB 375, the Sustainable Communities and Climate Protection Act of 2008. Under SB 375, which supports the goals of AB 32, each region's Metropolitan Planning Organization must develop a Sustainable Communities Strategy that integrates transportation, land-use and housing policies to plan for achievement of the emissions target for their region, which in the San Francisco Bay Area is a 16% per-capita reduction in greenhouse gas emissions from passenger vehicles.

d. United Nations Urban Environmental Accords, a series of implementable goals that can be adopted at a city level to achieve urban sustainability, promote healthy economies, advance social equity and protect the world's ecosystem. Adopted in 2005, and signed by San Francisco, the Accords, among other goals, advocates for policies to reduce the percentage of commute trips by single occupancy vehicles by ten percent in seven years.

4. The 2009 Housing Element is a compilation of housing objectives and policies that were formed with the input of a broad range of community stakeholders that respond to current global economic indicators and climate issues. As noted elsewhere in this document and in the record and incorporated into this Statement of Overriding Considerations, the Department worked closely with community leaders, housing advocates, neighborhood groups, City agencies, and community members starting in 2008. The Commission finds that the policies and objectives in the resulting 2009 Housing Element best balances the diverse, and sometimes competing, needs of all San Francisco residents, while providing a comprehensive vision for the City's future projected housing needs.

5. The Project is consistent with and will help support the policies and objectives of the San Francisco General Plan, including but not limited to:

#### **COMMERCE AND INDUSTRY ELEMENT**

Policy 6.1 Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.3 Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity

Policy 6.4 Encourage the location of neighborhood shopping areas throughout City so that essential retail goods and personal services are accessible to all residents.

Policy 6.6 Adopt specific zoning districts, which conform to a generalized neighborhood commercial land use and density plan.

The 2009 Housing Element is consistent with these policies in the Commerce and Industry Element in that it encourages housing in mixed use developments, and served by neighborhood commercial districts. Neighborhood serving goods and services requires that there be a ready supply of customers in nearby housing. The 2009 Housing Element continues to utilize zoning districts which conforms to a generalized residential land use and density plan the General Plan.

## **RECREATION AND OPEN SPACE ELEMENT**

**OBJECTIVE 4 PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.**

*Policy 4.6 Assure the provision of adequate public open space to serve new residential development.*

The 2009 Housing Element is consistent with and fulfills this policy by encouraging an equitable distribution of growth according to infrastructure, which includes public open space and parks; and by requiring that development of new housing considers the proximity of quality of life elements such as open space.

## **TRANSPORTATION ELEMENT**

**OBJECTIVE 2: USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AN IMPROVING THE ENVIRONMENT**

**OBJECTIVE 3: ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES**

**OBJECTIVE 11: ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.**

The 2009 Housing Element is consistent with and fulfills these policies by supporting sustainable land use patterns that integrate housing with transportation in order to increase transit mode share; ensuring that new housing is sustainably supported by the City's public infrastructure system, including transit; by supporting "smart" regional growth that locates new housing close to jobs and transit; and by promoting sustainable land use patterns that integrate housing with transportation to increase transit mode, pedestrian and bicycle mode share.

In addition, the 2009 Housing Element fulfills the following policies found in various elements and Area Plans of the General Plan

## **BALBOA PARK AREA PLAN**

OBJECTIVE 4.2 STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT BY PROVIDING AN APPROPRIATE MIX OF HOUSING

OBJECTIVE 4.3 ESTABLISH AN ACTIVE, MIXED USE NEIGHBORHOOD AROUND THE TRANSIT STATION THAT EMPHASIZES THE DEVELOPMENT OF HOUSING.

OBJECTIVE 4.4 CONSIDER HOUSING AS A PRIMARY COMPONENT TO ANY DEVELOPMENT ON THE RESERVOIR.

OBJECTIVE 54.5 PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.

OBJECTIVE 4.6 ENHANCE AND PRESERVE THE EXISTING HOUSING STOCK.

The 2009 Housing Element is consistent with and promotes the objectives of the Balboa Park Area Plan listed above in that it supports the provision of new housing, particularly affordable housing, and promotes the retention of exiting housing units.

## **BAYVIEW AREA PLAN**

OBJECTIVE 5 PRESERVE AND ENHANCE EXISTING RESIDENTIAL NEIGHBORHOODS.

OBJECTIVE 6 ENCOURAGE THE CONSTRUCTION OF NEW AFFORDABLE AND MARKET RATE HOUSING AT LOCATION AND DENSITY LEVELS THAT ENHANCE THE OVERALL RESIDENTIAL QUALITY OF BAYVIEW HUNTERS POINT.

The 2009 Housing Element is consistent with and promotes the objectives of the Bayview Area Plan in that it promotes the development of new housing, particularly affordable housing while supporting and respecting the diverse and distinct character of San Francisco's neighborhoods, while ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character.

## **CENTRAL WATERFRONT AREA PLAN**

OBJECTIVE 1.1 ENCOURAGE THE TRANSITION OF PORTIONS OF THE CENTRAL WATERFRONT TO A MORE MIXED-USE CHARACTER, WHILE PROTECTING THE NEIGHBORHOODS CORE OF PDR USES AS WELL AS THE HISTORIC DOGPATCH NEIGHBORHOOD

OBJECTIVE 1.2 IN AREAS OF THE CENTRAL WATERFRONT WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER

OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE CENTRAL WATERFRONT IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

The 2009 Housing Element is consistent with the Central Waterfront Area Plan in that it supports new housing, particularly affordable housing and mixed use developments, while encouraging housing close to transit and other amenities and neighborhood services, while ensuring that



growth is accommodated without substantially and adversely impacting existing neighborhood character

#### **CHINATOWN AREA PLAN**

**OBJECTIVE 3 STABILIZE AND WHERE POSSIBLE INCREASE THE SUPPLY OF HOUSING**

**OBJECTIVE 4 PRESERVE THE URBAN ROLE OF CHINATOWN AS A RESIDENTIAL NEIGHBORHOOD**

The 2009 Housing Element is consistent with the Chinatown Area Plan in that it encourages the provision of new housing, and encourages the maintenance and retention of existing housing, while ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character.

#### **DOWNTOWN PLAN**

**OBJECTIVE 7 EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN**

**OBJECTIVE 8 PROTECT RESIDENTIAL USES IN AN ADJACENT TO DOWNTOWN FROM ENCROACHMENT BY COMMERCIAL USES.**

The 2009 Housing Element is consistent with the Downtown Plan in that it encourages the development of new housing in areas that can accommodate that housing with planned or existing infrastructure, and supports new housing projects where households can easily rely on public transportation.

#### **MARKET AND OCTAVIA AREA PLAN**

**OBJECTIVE 1.1 CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOODS' POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD**

**OBJECTIVE 1.2 ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREAS UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.**

**OBJECTIVE 2.2 ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA**

**OBJECTIVE 2.3 PRESERVE AND ENHANCE EXISTING SOUND HOUSING STOCK.**

The 2009 Housing Element is consistent with the Market and Octavia Area Plan because it promotes mix use developments, ensures that growth is accommodated without substantially and adversely impacting existing neighborhood character, and promotes the retention and maintenance of existing sound housing stock.

#### **MISSION AREA PLAN**

**OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE MISSION IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.**

The 2009 Housing Element promotes the Mission Area Plan in that it encourages that new housing be affordable to people with a wide range of incomes.

#### **RINCON HILL AREA PLAN**

**OBJECTIVE 1.1 ENCOURAGE THE DEVELOPMENT OF A UNIQUE DYNAMIC, MIXED USE RESIDENTIAL NEIGHBORHOOD CLOSE TO DOWNTOWN, WHICH WILL CONTRIBUTE SIGNIFICANTLY TO THE CITY'S HOUSING SUPPLY.**

**OBJECTIVE 2.2 MAXIMIZE HOUSING GIN RINCON HILL TO CAPITALIZE ON RINCON HILLS CENTRAL LOCATION ADJACENT TO DOWNTOWN EMPLOYMENT AND TRANSIT SERVICE, WHILE STILL RETAINING THE DISTRICT'S LIVABILITY.**

The 2009 Housing Element is consistent with the Rincon Hill Area Plan in that it encourages the development of new housing in areas that can accommodate that housing with planned or existing infrastructure, and supports new housing projects where households can easily rely on public transportation.

#### **SHOWPLACE/POTRERO HILL AREA PLAN**

**OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE SHOWPLACE/POTRERO IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.**

**OBJECTIVE 2.2 RETAIN AND IMPROVE EXISTING HOUSING AFFORDABLE TO PEOPLE OF ALL INCOMES**

**OBJECTIVE 2.1 LOWER THE COST OF THE PRODUCTION OF HOUSING**

The 2009 Housing Element is consistent with the Showplace/Potrero Hill Area Plan in that it promotes the development of housing that is affordable to people of all incomes.

#### **SOMA AREA PLAN**

**OBJECTIVE 2: PRESERVE EXISTING HOUSING**

**OBJECTIVE 3 ENCOURAGE THE DEVELOPMENT OF NEW HOUSING, PARTICULARLY AFFORDABLE HOUSING.**

The 2009 Housing Element is consistent with the SOMA Area Plan in that it promotes the development of housing that is affordable to people of all incomes and supports the conservation and improvement of the existing housing stock.



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 19123

HEARING DATE APRIL 24, 2014

*Date:* April 17, 2014  
*Case No.:* 2007.1275EM  
*Project:* **2009 Housing Element Update**  
*Adoption Hearing*  
*Staff Contact:* Menaka Mohan – (415) 575-9141  
[Menaka.Mohan@sfgov.org](mailto:Menaka.Mohan@sfgov.org)  
*Reviewed by:* Kearstin Dischinger and Teresa Ojeda  
  
*Recommendation:* **Adopt the 2009 Housing Element Update**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE RESCINDING ORDINANCE 108-11 AND AMENDING THE GENERAL PLAN BY ADOPTING THE 2009 HOUSING ELEMENT UPDATE AS THE HOUSING ELEMENT OF THE SAN FRANCISCO GENERAL PLAN, AND ADOPTING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1 AND THE GENERAL PLAN.

WHEREAS, Section 4.105 of the Charter of the City and County of San Francisco mandates that the Planning Department shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan. In compliance with State law, the San Francisco Planning Department is seeking to update the Housing Element of the General Plan, and recommends the approval of an amendment to the General Plan to adopt the 2009 Housing Element Update as the City's Housing Element.

WHEREAS, On March 24, 2011, the Planning Commission certified an environmental impact report (EIR) on the 2004 and 2009 Housing Element (in Motion 18307) and recommended to the Board of Supervisors the adoption of an ordinance amending the General Plan by adopting the 2009 Housing Element Update (in Resolution 18309) and made findings pursuant to the California Environmental Quality Act (in Motion 18308). The Board of Supervisors adopted Ordinance 108-11, amending the General Plan by adopting the 2009 Housing Element Update as the Housing Element of the General Plan on June 2011.

Subsequent to the Board's approval, San Franciscans for Livable Neighborhoods, an unincorporated association of neighborhood groups challenged the 2004 and 2009 Housing Element EIR in the San Francisco Superior Court, in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, San Francisco Superior Court case number 513-077. On December 19, 2013, the trial court found that the EIR complied with CEQA in all respects,

except for its analysis regarding alternatives. In addition, the court found the City's findings under CEQA conclusory. On January 15, 2014, the Court ordered the City to set aside and void its certification of the 2004 and 2009 Housing Element EIR, and its approval of the 2009 Housing Element. The Court ordered the City to revise the EIR to address the deficiencies in the alternatives analysis, and remanded the approvals of the EIR and the 2009 Housing Element Update to the Planning Commission for reconsideration.

The Department's Environmental Planning ("EP") division prepared a Revised Chapter VII Alternative Analysis ("the Revision"), which was circulated for public comment from December 18, 2013 until February 18, 2014. The Commission held a hearing to receive comments on the Revision on January 23, 2014. EP responded to comments received on the Revision in a Responses to Comments document published on April 10, 2014.

WHEREAS, After review of the EIR, including the Revision, Staff continues to recommend adoption of the 2009 Housing Element Update as it was previously adopted by the San Francisco Board of Supervisors in Ordinance 108-11. The 2009 Housing Element Update includes "Draft 3" of the Element, published by the Department in February 2011, together with certain amendments adopted by the Planning Commission and Board of Supervisors in March and June 2011. Staff continues to recommend adoption of the 2009 Housing Element Update for the reasons set forth below, and as discussed in Resolution No. 19122, adopted April 24, 2014 (CEQA Findings).

The policies and objectives in the 2009 Housing Element Update resulted from significant public outreach and comment. The Planning Department, in cooperation with the Mayor's Office of Housing and in consultation with other City agencies, developed the 2009 Update of the Housing Element of the General Plan ("the 2009 Housing Element") through a comprehensive community-based planning effort. The Department worked closely with community leaders, stakeholders, City agencies, and community members starting in September of 2008. A 15 member Community Advisory Body (CAB) was convened to assist staff on the development and refinement of a draft version of objectives, policies and implementation programs. The Department also hosted fourteen stakeholder sessions focusing on the needs and policy interests of special interest housing groups and organizations, and over 30 workshops, some in each supervisorial district of the City. The Planning Commission hosted several informational hearings on the 2009 Housing Element. Based on this collaborative process with the public, the 2009 Housing Element Update best reflects the City's current housing objectives and balances the divergent housing needs and opportunities in San Francisco.

The Commission has reviewed the Revised Chapter VII Alternatives. The Alternatives analyzed in the Revision do not meet the City's current housing needs. Alternative A, the No Project Alternative, could have a significant impact on historic resources. Alternative A also does not limit the areas in which housing should be encouraged, which could result in more or denser housing located in areas where it is inappropriate. Alternative A does not contain policies or objectives which actively encourage housing in transit rich areas which could result

in housing located away from transit lines. Housing near transit reduces vehicle trips, which in turn reduces greenhouse gas emissions. Alternative A does not contain policies which reflect the City's increased protections for historic resources or for use of alternative modes of travel, such as walking or biking. Alternative A also does not contain policies which promote density or the use of parking requirements as a strategy to reduce the cost of housing, a significant issue facing San Francisco.

Alternative B, which consists of the remaining policies and objectives from the 2004 Housing Element which were not enjoined by the Superior Court, is not a Housing Element which was vetted in a public process, unlike Alternative A, the 2004 or the 2009 Housing Elements or the additional policies found in Alternative C, all of which went through public review and discussion. Alternative B does not encourage density or reduced parking requirements as a strategy to reduce the cost of housing to the same degree as the 2009 Housing Element, and the cost of housing is a significant issue facing San Francisco and a significant component of meeting the City's Regional Housing Needs Allocation at all income levels. In addition, Alternative B would not reduce the significant impact on transit because it encourages housing in mixed use districts and in industrial and commercial districts where locating housing could shift trips to transit lines.

The additional policies found in Alternative C to aggressively encourage housing in new commercial and institutional projects and housing near transit lines do not reflect an appropriate balance between new housing and the need to maintain existing neighborhood character.

The 2009 Housing Element Update is consistent with the Priority Policies of Planning Code Section 101.1(b). Planning Code Section 101.1(b) establishes eight priority policies and is the basis by which differences between competing policies in the General Plan are resolved. The project is consistent with the eight priority policies, in that:

1. That existing neighborhood serving retail uses be preserved and enhanced and future opportunities for resident employment in or ownership of such businesses enhanced.

*The 2009 Housing Element update includes policies that call for building and enhancing the existing neighborhood serving retail uses, including building housing near neighborhood commercial districts and encouraging neighborhood commercial services adequate to serve residents. A central goal of the Housing Element is to plan for housing to support our existing and future workforce and projected population.*

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

*The 2009 Housing Element Update includes objectives and policies that support existing housing and neighborhood character, and aim to preserve the cultural and economic diversity of San Francisco's neighborhoods. There are two objectives and ten policies that address preserving the existing housing stock, including Objective 2 "Retain existing housing units and promote safety and maintenance standards, without jeopardizing affordability," and Policy 2.4 "Promote improvements and continued maintenance to*

*existing units to ensure long term habitation and safety;" and Objective 3, "Protect the affordability of the existing housing stock, especially rental units" and Policy 3.5 "Retain permanently affordable residential hotels and single room occupancy units"; there is also a separate objective, objective 11 "Support and respect the diverse and distinct character of San Francisco's neighborhoods," and nine supporting policies that address neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced.

*A central goal of the 2009 Housing Element Update, and perhaps the most salient issue facing San Francisco today, is to preserve and enhance the City's affordable housing supply. Nearly every Objective and policy included in the 2009 Housing Element Update can be considered as addressing the affordable housing supply, but most clearly there are three Objectives, including Objective 3 "Protect the affordability of housing stock, especially rental units;" Objective 7 "Secure funding and resources for permanently affordable housing, including innovative programs that are not solely reliant on traditional mechanisms or capital;" and Objective 8 "Build public and private sector capacity to support, facilitate, provide and maintain affordable housing," that directly address affordable housing; and several objectives and policies, including Objective 10 "Ensure a streamlines, yet thorough, and transparent decision-making process that intend to reduce the overall costs of housing construction, which results in greater affordability.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The land use patterns and growth projections supported by the 2009 Housing Element Update are the basis of current short- and long-term transportation planning for the City and County of San Francisco. Ultimately, a continuation of the dense urban fabric in places with greater transit options like San Francisco will allow the regions' projected population to work closer to their jobs, resulting in reduced commuter traffic, and reduced regional transportation burdens and costs, including pollution, congestion, and increased infrastructure demands.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The 2009 Housing Element Update would not adversely affect the industrial or service sectors or impede future opportunities for resident employment and ownership in the industrial or service sectors.*

6. That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The 2009 Housing Element Update includes policies and implementation measures that encourage seismic sustainability of existing and new housing units, including Policy 2.5 "Encourage and support the seismic retrofitting of the existing housing stock."*

7. That landmarks and historic buildings be preserved.

*The 2009 Housing Element Update would not have a negative effect on the preservation of landmarks and historic buildings. The Housing Element includes policies that recognize landmarks and historic buildings*

*should be preserved, such as Policy 11.7 "Respect San Francisco's historic fabric by preserving landmark buildings and ensuring consistency with historic districts."*

8. That our parks and open space and their access to sunlight and vistas be protected from development.

*The 2009 Housing Element Update will not have an impact on open space and related sunlight issues. Individual buildings reviewed according to procedures described in Planning Code Section 295 are evaluated to identify the impacts of projects and buildings. Project permits can't be approved if the impacts are found to be significant.*

In addition, the 2009 Housing Element was developed in coordination with existing General Plan policies. Analysis of applicable General Plan Objectives and Policies has determined that the proposed action is, on balance, consistent with the General Plan. Below are specific policies and objectives that support the proposed actions.

#### COMMERCE AND INDUSTRY ELEMENT

- POLICY 6.1:** Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.
- POLICY 6.3:** Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.
- POLICY 6.4:** Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.
- POLICY 6.6:** Adopt specific zoning districts, which conform to a generalized neighborhood commercial land use and density plan.

*The 2009 Housing Element is consistent with these policies in the Commerce and Industry Element in that it encourages housing in mixed use developments, and served by neighborhood commercial districts. Neighborhood serving goods and services requires that there be a ready supply of customers in nearby housing. The 2009 Housing Element continues to utilize zoning districts which conforms to a generalized residential land use and density plan the General Plan.*

#### RECREATION AND OPEN SPACE ELEMENT

- OBJECTIVE 4:** PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.
- POLICY 4.6:** Assure the provision of adequate public open space to serve new residential development.

*The 2009 Housing Element is consistent with this objective and policy because it encourages an equitable distribution of growth according to infrastructure, which includes public open space and parks; and by requiring that development of new housing considers the proximity of quality of life elements such as open space.*

## **TRANSPORTATION ELEMENT**

**OBJECTIVE 2** USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

**OBJECTIVE 11:** ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

**OBJECTIVE 3:** ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES.

*The 2009 Housing Element is consistent with these policies because it supports sustainable land use patterns that integrate housing with transportation in order to increase transit mode share; ensuring that new housing is sustainably supported by the City's public infrastructure system, including transit; by supporting "smart" regional growth that locates new housing close to jobs and transit; and by promoting sustainable land use patterns that integrate housing with transportation to increase transit mode, pedestrian and bicycle mode share.*

## **BALBOA PARK AREA PLAN**

**OBJECTIVE 4.2:** STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT BY PROVIDING AN APPROPRIATE MIX OF HOUSING.

**OBJECTIVE 4.3:** ESTABLISH AN ACTIVE, MIXED-USE NEIGHBORHOOD AROUND THE TRANSIT STATION THAT EMPHASIZES THE DEVELOPMENT OF HOUSING.

**OBJECTIVE 4.4:** CONSIDER HOUSING AS A PRIMARY COMPONENT TO ANY DEVELOPMENT ON THE RESERVOIR.

**OBJECTIVE 4.5:** PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.

**OBJECTIVE 4.6:** ENHANCE AND PRESERVE THE EXISTING HOUSING STOCK

*The 2009 Housing Element is consistent with and promotes the objectives of the Balboa Park Area Plan listed above in that it supports the provision of new housing, particularly affordable housing, and promotes the retention of exiting housing units.*

## **BAYVIEW AREA PLAN**

**OBJECTIVE 5:** PRESERVE AND ENHANCE EXISTING RESIDENTIAL NEIGHBORHOODS.

**OBJECTIVE 6:** ENCOURAGE THE CONSTRUCTION OF NEW AFFORDABLE AND MARKET RATE HOUSING AT LOCATIONS AND DENSITY LEVELS THAT ENHANCE THE OVERALL RESIDENTIAL QUALITY OF BAYVIEW HUNTERS POINT.



*The 2009 Housing Element is consistent with and promotes the objectives of the Bayview Area Plan listed above in that it supports the provision of new housing, particularly affordable housing, and promotes the retention of exiting housing units.*

#### **CENTRAL WATERFRONT AREA PLAN**

**OBJECTIVE 1.1:** ENCOURAGE THE TRANSITION OF PORTIONS OF THE CENTRAL WATERFRONT TO A MORE MIXED-USE CHARACTER, WHILE PROTECTING THE NEIGHBORHOOD'S CORE OF PDR USES AS WELL AS THE HISTORIC DOGPATCH NEIGHBORHOOD

**OBJECTIVE 1.2:** IN AREAS OF THE CENTRAL WATERFRONT WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER

**OBJECTIVE 2.1:** ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE CENTRAL WATERFRONT IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES

*The 2009 Housing Element is consistent with the Central Waterfront Area Plan because it supports new housing, particularly affordable housing and mixed use developments, while encouraging housing close to transit and other amenities and neighborhood services, and ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character.*

#### **CHINATOWN AREA PLAN**

**OBJECTIVE 3:** STABILIZE AND WHERE POSSIBLE INCREASE THE SUPPLY OF HOUSING

**OBJECTIVE 4:** PRESERVE THE URBAN ROLE OF CHINATOWN AS A RESIDENTIAL NEIGHBORHOOD.

*The 2009 Housing Element is consistent with the Chinatown Area Plan because it encourages the provision of new housing, and encourages the maintenance and retention of existing housing, while ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character.*

#### **DOWNTOWN PLAN**

**OBJECTIVE 7:** EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

**OBJECTIVE 8:** PROTECT RESIDENTIAL USES IN AND ADJACENT TO DOWNTOWN FROM ENCROACHMENT BY COMMERCIAL USES.

*The 2009 Housing Element is consistent with the Downtown Plan because it encourages the development of new housing in areas that can accommodate that housing with planned or existing infrastructure, and supports new housing projects where households can easily rely on public transportation.*

#### **MARKET AND OCTAVIA AREA PLAN**

**OBJECTIVE 1.1:** CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD.

**OBJECTIVE 1.2 ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREA'S UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.**

**OBJECTIVE 2.2 ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.**

**OBJECTIVE 2.3 PRESERVE AND ENHANCE EXISTING SOUND HOUSING STOCK.**

*The 2009 Housing Element is consistent with the Market and Octavia Area Plan because it promotes mixed-use developments, ensures that growth is accommodated without substantially and adversely impacting existing neighborhood character, and promotes the retention and maintenance of existing sound housing stock.*

#### **MISSION AREA PLAN**

**OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE MISSION IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES**

*The 2009 Housing Element promotes the Mission Area Plan because it encourages new housing be affordable to people with a wide range of incomes.*

#### **RINCON HILL AREA PLAN**

**OBJECTIVE 1.1 ENCOURAGE THE DEVELOPMENT OF A UNIQUE DYNAMIC, MIXED-USE RESIDENTIAL NEIGHBORHOOD CLOSE TO DOWNTOWN, WHICH WILL CONTRIBUTE SIGNIFICANTLY TO THE CITY'S HOUSING SUPPLY.**

**OBJECTIVE 1.2 MAXIMIZE HOUSING IN RINCON HILL TO CAPITALIZE ON RINCON HILL'S CENTRAL LOCATION ADJACENT TO DOWNTOWN EMPLOYMENT AND TRANSIT SERVICE, WHILE STILL RETAINING THE DISTRICT'S LIVABILITY.**

*The 2009 Housing Element is consistent with the Rincon Hill Area Plan because it encourages the development of new housing in areas that can accommodate that housing with planned or existing infrastructure, and supports new housing projects where households can easily rely on public transportation. Rincon Hill has existing infrastructure and contains numerous public transportation options including MUNI, Bart and Caltrain.*

#### **SHOWPLACE/POTRERO HILL AREA PLAN**

**OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE SHOWPLACE / POTRERO IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES**

**OBJECTIVE 2.2 RETAIN AND IMPROVE EXISTING HOUSING AFFORDABLE TO PEOPLE OF ALL INCOMES**

**OBJECTIVE 2.4 LOWER THE COST OF THE PRODUCTION OF HOUSING**

*The 2009 Housing Element is consistent with the Showplace/Potrero Hill Area Plan because it promotes the development of housing that is affordable to people of all incomes.*

**SOMA AREA PLAN**

**OBJECTIVE 2 PRESERVE EXISTING HOUSING.**

**OBJECTIVE 3 ENCOURAGE THE DEVELOPMENT OF NEW HOUSING, PARTICULARLY AFFORDABLE HOUSING.**

*The 2009 Housing Element is consistent with the SOMA Area Plan in that it promotes the development of housing that is affordable to people of all incomes and supports the conservation and improvement of the existing housing stock.*

**WHEREAS**, Pursuant to Planning Code Section 340, on March 27, 2014, the Planning Commission adopted Resolution No. R-19108 a Resolution of Intention to initiate amendments to the General Plan of the City and County of San Francisco by adopting the 2009 Housing Element as the Housing Element of the San Francisco General Plan. Said Resolution is incorporated herein by reference; and,

**WHEREAS**, Prior to considering this relevant amendment to the General Plan, the Planning Commission adopted Motion No. 19121. In that action, the Commission certified the San Francisco 2004 and 2009 Housing Element Environmental Impact Report. On this same date, at a duly noticed public hearing, the Planning Commission also adopted Resolution 19122, adopting findings under the California Environmental Quality Act related to the 2009 Housing Element. Said Motions are incorporated herein by reference; and

**WHEREAS**, That on April 24, 2014, the Planning Commission held a duly noticed public hearing on the proposed amendment to the General Plan, and considered the written and oral testimony of Planning Department staff, representatives of other City Departments and members of the public concerning the proposed adoption of the 2009 Housing Element.

**NOW THEREFORE BE IT RESOLVED**, That pursuant to the Superior Court's direction, the Commission hereby rescinds Motion 18308, adopted on March 24, 2011 adopting findings pursuant to CEQA; and

**BE IT FURTHER RESOLVED**, That pursuant to the Superior Court's direction, that the Commission hereby rescinds Resolution 18309 adopted on March 24, 2011, recommending the adoption of the 2009 Housing Element as the Housing Element of the General Plan.

**BE IT FURTHER RESOLVED**, That the Commission amends the 2009 Housing Element Policy 1.2 to strike Japantown from the underlying text, chart and map of this policy.

**BE IT FURTHER RESOLVED**, That the Commission for the purposes of this action relies on the CEQA Findings in Resolution No. 19122 ; and

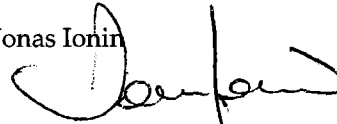
**BE IT FURTHER RESOLVED**, That the Commission for the reasons set forth herein, finds that the proposed 2009 Housing Element is, on balance, consistent with the General Plan and the priority policies of Planning Code Section 101.1; and

**BE IT FURTHER RESOLVED**, That on April 24, 2014, the Planning Commission held a public hearing on the 2009 Housing Element Update and considered the written and oral testimony of Planning Department staff, representatives of other City Departments and members of the public concerning the proposed General Plan Amendment; and

**BE IT FURTHER RESOLVED**, That pursuant to Planning Code Section 340, the Planning Commission does hereby find that the public necessity, convenience and general welfare require the approval of the attached ordinance, approved as to form by the City Attorney, and directs staff to make corresponding updates to the Land Use Index of the General Plan, and recommends the adoption of the 2009 Housing Element as it was adopted by the Board of Supervisors in Ordinance 108-11 to wit, "Draft 3" published in February 2011 together with amendments incorporated by the Planning Commission on March 24, 2011 in Resolution 18309, and deleting references to Japantown in Policy 1.2.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission on April 24, 2014.

Jonas Ionin



Commission Secretary

AYES: Moore, Wu, Fong, Borden, Hillis,

NOES: Antonini

ABSENT: Sugaya

ADOPTED: April 24, 2014

1 [General Plan. Adoption of 2009 Housing Element]

2  
3 **Ordinance amending the San Francisco General Plan by repealing Ordinance 108-11**  
4 **and adopting the 2009 Housing Element; making findings, including environmental**  
5 **findings, Planning Code section 340 findings, and findings of consistency with the**  
6 **General Plan and the eight priority policies of Planning Code Section 101.1.**

7 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
8 **Additions to Codes** are in single-underline italics Times New Roman font.  
9 **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.  
10 **Board amendment additions** are in double-underlined Arial font.  
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
12 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Introduction. On March 31, 2011, pursuant to San Francisco Charter  
16 section 4.105 and Planning Code section 340, the San Francisco Planning Commission  
17 recommended to the San Francisco Board of Supervisors the adoption of the 2009 Housing  
18 Element, an amendment to the San Francisco General Plan. On March 24, 2011, the  
19 Planning Commission had certified the San Francisco 2004 and 2009 Housing Element  
20 Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act  
21 ("CEQA") (Public Resources Code section 21000 et seq.) in Planning Commission Motion  
22 18307, adopted findings pursuant to CEQA in Motion 18308, and adopted the 2009 Housing  
23 Element as an amendment to the General Plan in Resolution 18309. A copy of said  
24 resolutions and motion are on file with the Clerk of the Board of Supervisors in File No.  
25 \_\_\_\_\_.

1 In June 2011, in Ordinance 108-11, the Board of Supervisors adopted the 2009  
2 Housing Element as the Housing Element of the San Francisco General Plan and adopted  
3 findings pursuant to CEQA. A copy of said Ordinance is on file with the Clerk of the Board of  
4 Supervisors in File No. \_\_\_\_\_.

5 After the adoption of the 2009 Housing Element by the Board of Supervisors, an  
6 association of neighborhood groups challenged in San Francisco Superior Court, among other  
7 things, the adequacy of the final environmental impact report (FEIR) prepared for the 2009  
8 Housing Element and the adequacy of the Board's findings under CEQA. On December 19,  
9 2013, the Superior Court upheld the City's compliance with CEQA in all respects, except for  
10 the FEIR's analysis of the alternatives required by CEQA and the CEQA Guidelines, and the  
11 City's adoption of CEQA Findings. On January 15, 2014, the Superior Court ordered the City  
12 to set aside its certification of the FEIR and the approval of the 2009 Housing Element and  
13 related CEQA findings, revise the FEIR's alternatives analysis, and reconsider its previous  
14 approvals.

15 Pursuant to the Court's order, the Planning Department prepared a revised alternatives  
16 analysis and recirculated it for public review and comment. On \_\_\_\_\_, the Planning  
17 Commission rescinded Motion 18307, and certified the Final EIR including the revised  
18 alternatives analysis in Motion \_\_\_\_\_. A copy of said motion is on file with the Clerk of  
19 the Board of Supervisors in File No. \_\_\_\_\_. On \_\_\_\_\_, the Planning Commission also  
20 rescinded Resolution 18309 and Motion 18308, and reconsidered its approval of the 2009  
21 Housing Element and adoption of CEQA Findings in light of the revised certified FEIR. As set  
22 forth below, the Planning Commission continues to recommend the adoption of the 2009  
23 Housing Element as the Housing Element of the San Francisco General Plan.

24 Section 2. Findings. The Board of Supervisors of the City and County of San  
25 Francisco hereby finds and determines that:

1 (a) Pursuant to San Francisco Charter 4.105 and San Francisco Planning Code  
2 Section 340, any amendments to the General Plan shall first be considered by the Planning  
3 Commission and thereafter recommended for approval or rejection by the Board of  
4 Supervisors. On \_\_\_\_\_, by Resolution \_\_\_\_\_, the Planning Commission conducted a  
5 duly noticed public hearing on the General Plan amendment adopting the 2009 Housing  
6 Element as the Housing Element of the San Francisco General Plan ("2009 Housing  
7 Element"). A copy of the 2009 Housing Element is on file with the Clerk of the Board of  
8 Supervisors in File No. \_\_\_\_\_. Pursuant to Planning Code Section 340, the Planning  
9 Commission found that the public necessity, convenience and general welfare required the  
10 General Plan amendment, adopted the General Plan amendment and recommended it for  
11 approval to the Board of Supervisors. A copy of Planning Commission Resolution No.  
12 \_\_\_\_\_ is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

13 (b) The Board finds that this ordinance adopting the 2009 Housing Element is, on  
14 balance, in conformity with the priority policies of Planning Code Section 101.1 and consistent  
15 with the General Plan as it is proposed for amendment herein, for the reasons set forth in  
16 Planning Commission Motion no. \_\_\_\_\_, and the Board hereby incorporates these  
17 findings herein by reference.

18 (c) On \_\_\_\_\_, by Motion No. \_\_\_\_\_, the Planning Commission certified as  
19 adequate, accurate and complete the 2004 and 2009 Housing Element Final Environmental  
20 Impact Report, including the revised alternatives analysis ("Final EIR"), finding that the Final  
21 EIR reflected the independent judgment and analysis of the City and County of San  
22 Francisco, is adequate, accurate and objective, and that the content of the report and the  
23 procedures through which the Final EIR was prepared, publicized and reviewed comply with  
24 the provisions of CEQA, the CEQA Guidelines (14 Cal. Code Regs. Section 15000 et seq.)  
25 and Chapter 31 of the San Francisco Administrative Code. A copy of the Final EIR and

1 Planning Commission Motion No. \_\_\_\_\_ are on file with the Clerk of the Board in File No.  
2 \_\_\_\_\_.

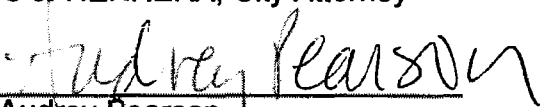
3 (d) In accordance with the actions contemplated herein, the Board has reviewed the  
4 Final EIR, and adopts and incorporates by reference, as though fully set forth herein, the  
5 findings required by CEQA, including a statement of overriding considerations and the  
6 mitigation monitoring and reporting program, adopted by the Planning Commission on  
7 \_\_\_\_\_ in Motion No. \_\_\_\_\_. A copy of said Motion No. \_\_\_\_\_ is on file with the  
8 Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

9 Section 3. The Board of Supervisors hereby rescinds Ordinance 108-11, repeals the  
10 2004 Housing Element, and adopts the 2009 Housing Element as the Housing Element to the  
11 San Francisco General Plan.

12 Section 4. Effective Date. This ordinance shall become effective 30 days after  
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
15 of Supervisors overrides the Mayor's veto of the ordinance.

16  
17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By:

  
21 Audrey Pearson  
Deputy City Attorney

22 n:\land\i2014\120178\00913186.doc





**EXHIBIT B**

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**RECEIVED**

BY HAND

February 18, 2014

FEB 18 2014

Environmental Review Officer  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

**CITY & COUNTY OF S.F.**  
**PLANNING DEPARTMENT**  
**RECEPTION DESK**

**Re: Draft Environmental Impact Report, San Francisco 2004 and 2009 Housing Element  
Revised Alternatives Analysis  
Planning Department Case No: 2007.1275E**

The following comments are submitted on behalf of San Franciscans for Livable Neighborhoods ("SFLN") as to the Revised Draft Environmental Impact Report, San Francisco 2004 and 2009 Housing Element, Revised Alternatives Analysis (the "Revision").

SFLN secured an Order of the Superior Court finding that the City violated the requirements of the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.*, because the discussion of alternatives in the above-described EIR was conclusory and lacking in factual support. The Court held that the City abused its discretion by rejecting alternatives in conclusory Findings that lacked factual support and that the EIR's discussion of alternatives was also conclusory and inadequate. The City must now give genuine consideration to alternatives and since the Court set aside the City's approval of the 2009 Housing Element, the City must recommend to the Board of Supervisors an alternative Housing Element that contains policies which would reduce or eliminate the proposed project's significant impact on transit and the other effects that the EIR should have deemed significant. Accordingly, SFLN hereby incorporates by reference as though fully set forth all its prior comments as to the EIR for the 2004 and 2009 Housing Elements that the City previously released for public comment.

Pertinent excerpts from the Court Order finding the EIR for the 2009 Housing Element inadequate are attached hereto as Exhibit 2.

The Court also issued a Peremptory Writ of Mandate that commanded the City to: (1) set aside and void the City's certification and approval of the San Francisco Housing Element Final Environmental Impact Report, (2) set aside and void the City's approval of CEQA Findings that the City adopted with respect to the approval of the proposed 2009 Housing Element Update Amendment, (3) set aside and void the City's approval of any and all changes from the City of San Francisco's 1990 Residence Element that are embodied in the 2009 Housing Element, and (4) commanded the City to refrain from enforcing, relying upon, approving or implementing the changes from the City of San Francisco's 1990 Residence Element that are

embodied in the 2009 Housing Element which are identified in the 2009 Housing Element as “Policies With Potential for Physical Environmental Impacts” under the heading “2009 Housing Element” on Table IV-8 at pages IV-33 through IV-36 of the Final Environmental Impact Report for the San Francisco 2004 and 2009 Housing Element at 1 Administrative Record 183 through 186, until the City fully complies with the requirements of CEQA in the manner required by the Peremptory Writ of Mandate. A copy of the Peremptory Writ of Mandate is attached hereto as Exhibit 3.

**1. FEASIBLE ALTERNATIVES ARE AVAILABLE SINCE THE 2009 HOUSING ELEMENT WOULD PRODUCE FAR MORE NEW HOUSING UNITS THAN NEEDED TO ACCOMMODATE THE RHNA FOR THE 2007-2014 PLANNING PERIOD.**

“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.” Public Resources Code section 21002; 14 CCR section 15021(a)(2). A public agency is required “to mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.” Public Resources Code section 21002.1(b). Reflecting these policies, Public Resources Code sections 21081(a)(1)-(3) provide 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.

The 2009 Housing Element would have a significant impact on transit, so the City must adopt a feasible alternative to the proposed project.

As explained in the accompanying Statement of City Planner David Golick, Exhibit 1 hereto, there are feasible alternatives to the proposed 2009 Housing Element that the City must adopt if the City does not adopt one of the feasible alternatives described in the EIR or in SFLN’s prior comments.

**2. THE REVISED DEIR IS CONCLUSORY AND LACKS FACTUAL SUPPORT.**

All the Alternatives utilize the Data and Needs Analysis, Part I of the 2009 Housing Element, and seek to accommodate the RHNA for the 2007-2014 planning period. The Revision states that: “The number of housing units that would be constructed under each of the project alternatives would be substantially similar, as each alternative reflects the housing needs and population projections provided by ABAG. VII-6. Thus, all the Alternatives seek to produce the

same amount of new housing units for the designated income categories. VII-4-5, VII-44, 46, 79, 80.

**A. The EIR's Definition of Alternative A as Subject to the Area Plans Contradicts the Claim that Growth Under Alternative A Would be Dispersed Throughout the City.**

The Revision claims that housing produced under Alternative A "would generally result in patterns of residential development that are relatively dispersed throughout the City, compared to the 2004 Housing Element or the 2009 Housing Element." VII-6 The Revision claims that this is due in part to the particular policies and implementation measures provided in the 1990 Residence Element, including Objective 2 (To increase the supply of housing without overcrowding or adversely affecting the prevailing character of existing neighborhoods).

This conclusion is flatly contradicted by the definition of Alternative A as being subject to all existing Area Plans and Redevelopment Plans, where 90% of the additional housing production is expected to be constructed. The revised DEIR states that: "Similar to 2004 Housing Element, new development under Alternative A would be subject to the controls in existing Area Plans and Redevelopment Plans, and would serve to complement - and not conflict with - the policies and land uses in an Area Plan or Redevelopment Plan." (VII-20)

The Final EIR states that the City "has recently updated zoning controls for the following neighborhoods: Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park. These planning efforts have developed updated zoning, heights, bulks, and densities in balance with infrastructure. A number of other planning efforts are currently underway including, but not limited to the Transit Center District Plan, Treasure Island, and West SoMa, which could result in increased residential development potential in those areas.... (Ex. B to Statement of Golick- AR 169, p. IV-22 and Table IV-6). The new area plans approved after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others "potentially increase housing capacity by over 55,000" units, and the "Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Statement of Golick-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486.

As explained by the Legislative Analyst, tools such as height increases, removal of maximum densities, and reduction or elimination of parking requirements are proven development strategies which increase housing production. 1 A 2936-2945, Exhibit C to the accompanying Statement of David Golick. The Revision admits that the rezoning is expected to increase housing production in the Plan Areas, as it states that: "Promoting housing in recently

rezoned Plan Areas would likely encourage build out of those areas, as anticipated under those plans.” However, the EIR fails to provide the details as to the general nature of the build out expected in the recently rezoned Plan Areas, even though the EIR is required by law to disclose the general nature of the expected build out and analyze its indirect or cumulative effects. SFLN requests that the City disclose the general nature of the build out expected in the recently rezoned Plan Areas and analyze the effects of that build out as an indirect effect of implementing 2004 and 2009 Housing Element policies or cumulative effects.

The 2004 Housing Element acknowledged that its “[n]ew policies strive to expand land capacity necessary to increase housing production, will direct new housing to appropriate locations, especially in areas well served by transit” and seek to achieve a “far greater” rate of new housing construction than was previously produced. Ex. C to Statement of Golick-1 A 82, 16, 283, 328. It is not true that the area plans approved after the 2004 Housing Element was adopted sought to encourage increased housing production near transit? The Negative Declaration admitted that the 2004 Housing Element policy changes were intended to provide the “policy basis” for the more specific planning efforts, such as adopting numerous area plans containing new zoning controls identified in 2004 Work Programs. 15 A 4185-86, 4199; 1 A 328.

The 2009 Housing Element also directs increased housing production to areas near transit. 2009 Housing Element Policy 1.4 is to “Ensure community based planning processes are used to generate changes to land use controls,” and the policy text states that “Such plans can be used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate.” (Ex. B to Statement of Golick-AR 53139-2009 Housing Element Part 2, p. 9)

ABAG has granted San Francisco’s application to designate various areas as Priority Development Areas (“PDAs”) that have “plans for significant increases in housing units” and are near transit. Ex. B to Statement of Golick-20 AR 10511-10512, 10328, 10330, 10532-38, 10463-72; 19 AR 10234-41. Such Priority Development Areas generally include the areas for which new Area Plans were approved after the 2004 Housing Element was adopted. Thus, the Area Plans approved after the 2004 Housing Element are substantially similar to the PDAs.

The City plans to accommodate over 90% of the growth to 2035 in the PDAs. Ex. F to Statement of Golick-December 17, 2010 ABAG letter to SFMTA, Exhibit 6, tenth page.

The City has admitted that the “lion’s share of city’s growth will continue to be focused in its PDAs” and that the adopted and planned PDAs “collectively accommodate over 63,000 new housing units.” Ex. F to Statement of Golick-December 17, 2010 ABAG letter to SFMTA, Exhibit 6, twelfth page. As to infill opportunity sites outside PDAs, the City has acknowledged that: “The city includes numerous small-scale infill opportunity sites close to transit throughout

all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city.” *Id.*

In view of the fact that 90% of the growth is expected in the plan areas, where growth is directed to transit, there is no evidence indicating that a significant amount of growth outside the plan areas would occur in dispersed locations throughout the City during the 2007-2014 planning period. The 2004 and 2009 Housing Elements and the EIR provide no estimate of the amount of growth expected outside the plan areas, and there is no evidence that a substantial amount of new housing development will occur during the 2007-2014 planning period outside the plan areas in locations that are dispersed throughout the City.

For the same reasons, the evidence does not support the Revision’s claim that under Alternative A “most future housing development would take place in established neighborhoods, with the exception of recently rezoned plan areas where such rezoning has substantially increased development capacity. VII-20. Based on the evidence that 90% of the growth is expected in the plan areas, most future housing development would take place in the plan areas, rather than in established neighborhoods.

Similarly, the Revision’s claims that Alternative A would not increase residential densities “to the same extent” as the 2004 Housing Element, promotes housing opportunities “more generally throughout the entire City,” and would have “less” potential for land use conflicts than under the 2004 Housing Element, are unexplained and unquantified generalizations that are contradicted by the definition of Alternative A as subject to the existing Area Plans. VII-20-21. Also, due to the definition of Alternative A as subject to the existing Area Plans, the evidence does not support the Revision’s claim that development under Alternative A could result in “incrementally fewer” potential land use conflicts because development would continue to be introduced similar to historic patterns. VII-21.

Also because Alternative A was defined as being subject to existing Area Plans, the evidence does not support the Revision’s assertion that the encouragement for housing development, which could result in some land use conflicts, could occur to a greater extent under Alternative A than under the 2009 Housing Element because Alternative A encourages housing throughout the City and according to historical patterns. VII-21. The Revision defines development under Alternative A as “subject to the controls in existing Area Plans and Redevelopment Plans” and states that it would not substantially conflict with the existing policies and land uses in current Area Plans or Redevelopment Plans. VII-21. For the same reasons, the evidence does not support the assertion that “Alternative A could incrementally increase the likelihood of potential land use conflicts due to the encouragement of housing in more locations,” and therefore, “impacts related to land use conflicts could be incrementally greater under Alternative A than the 2009 Housing Element.” VII-21. The Revision’s assertions that any new residential development would be required to be developed in accordance with the

City's Residential Design Guidelines, the Urban Design Element and Chapter 35 of the City's Administrative Code are also conclusory and not supported by evidence. The Revision fails to explain the manner in which the referenced material could reduce the potential for land use conflicts, and the evidence in the record which SFLN cited in previous comments states that the Residential Design Guidelines had been modified to facilitate infill development.

Also because Alternative A was defined as subject to existing Area Plans, the evidence does not support the Revision's claim that Alternative A promotes increased growth more generally throughout the entire City than the 2009 Housing Element. VII-22. Also unexplained is the Revision's assertion that: "Alternative A could result in more developments built to the maximum building heights more generally citywide, potentially increasing the height and number of new developments that affect a scenic vista." VII-22. The 1990 Residence Element contained policies that strongly maintained neighborhood character and did not contain any policies that encouraged developments built to maximum building heights. The first policies that proposed maximization of density were proposed in the 2004 Housing Element, and the Court enjoined the City from implementing such amendments until the City fully complied with CEQA. See Ex. 5-Peremptory Writ of Mandate. The Revision admits that "Alternative A includes policies and guidelines for development that are intended to preserve neighborhood character and protect existing visual character." VII-22. The conclusion that such policies are similar to the 2009 Housing Element is not supported by the evidence, since 2009 Housing Element policies respect, rather than maintain, neighborhood character. As the Court of Appeal explained, the policies which allow more subjective interpretation afford less protection than those which maintain neighborhood character. The Revision's allegation that "Overall, the aesthetic impacts of Alternative A would increase slightly compared to the impacts of the 2009 Housing Element" are also not supported by the evidence. VII-22. The Revision's discussion of the impacts of alternative A is conclusory and internally contradictory.

Also misleading and unsupported by evidence is the Revision's assertion that residential development in the city would occur regardless of the policies contained in Alternative A of the proposed 2004 and 2009 Housing Elements. VII-22. The City is not legally required to adopt a general plan that calls for continued housing development. The Revision's reference to the lack of a substantial change in the workers-to-household ratio "that would occur between 2005 and 2025" erroneously measures impacts against projected future conditions rather than against existing conditions in the environment. VII-23. Further, the assertion that "because the Housing Element does not *cause* housing growth, no additional demand for housing would occur as a result of Alternative A" ignores the indirect effect of implementing the policies of Alternative A. VII-23-24.

Also because Alternative A is defined as subject to existing Area Plans, the evidence does not support the Revision's assertion that "Alternative A would promote increased housing on a broader, citywide scale to a greater extent because the policies of the 2009 Housing Element



promote housing at limited locations in the City.” VII-23. 90% of the housing growth is expected to occur in the Plan Areas, and there is no evidence that a significant amount of growth would occur throughout the City outside the Plan Areas.

**B. The Conclusion that Total Development Potential Under the 2004 Housing Element Would Not Be Substantially Greater than Under the 1990 Residence Element Policies Because the 2004 Housing Element Does Not “Include” Any Changes to Allowable Land Uses Is Misleading and Contradicted by the Evidence.**

The Revision states that:

“The 2004 Housing Element also promotes increased density by reducing or eliminating minimum density restrictions (Implementation Measure 1.3.1), eliminating density requirements (Implementation Measure 1.7.1, reducing parking requirements (Policy 11.7), (which can reduce the amount of space per parcel devoted to parking and increase the amount of space available for housing units); and support for secondary units (which could increase the number of second housing units in San Francisco (Policy 1.8) and flexible land use controls (Policy 11.6)...Together or individually, these housing policies could introduce higher density development in certain areas of the City. However, because the adoption of the 2004 Housing Element does not include any changes to allowable land uses or building heights and bulk - and new residential projects would continue to be constrained by these existing controls - total development potential under the 2004 Housing Element would not be substantially greater than that under the 1990 Residence Element policies. Rather, the 2004 Housing Element policies would support and encourage development concentrated in certain areas, rather than distributed throughout the City pursuant to the 1990 Residence Element policies.” VII-17.

The evidence in the record shows that the post-2004 Housing Element Area Plans were identified as Work Programs that would implement the 2004 Housing Element policies through rezoning various areas. Ex. C to Statement of Golick- 1 A 328. The 2004 Housing Element acknowledged that its “[n]ew policies strive to expand land capacity necessary to increase housing production, will direct new housing to appropriate locations, especially in areas well served by transit” and seek to achieve a “far greater” rate of new housing construction than was previously produced. Ex. C to Statement of Golick-1 A 82, 16, 283, 328. The Negative Declaration admitted that the 2004 policy changes were intended to provide the “policy basis” for the more specific planning efforts, such as adopting numerous area plans containing new zoning controls identified in 2004 Work Programs. 15 A 4185-86, 4199; 1 A 328. Thus, although the post-2004 Area Plans were not “included” in the resolution approving the 2004 Housing

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Element, these Area Plans were the indirect result of adoption of the 2004 Housing Element, because they were the means by which the City would implement the 2004 Housing Element policies that were designed to increase the City's capacity for new housing units.

The evidence also shows that the post-2004 Area Plans greatly increased the development capacity of the plan areas. The new area plans adopted after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others "potentially increase housing capacity by over 55,000" units, and the "Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Statement of Golick-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486. Capacity was significantly increased, as Better Neighborhoods and Eastern areas identified as 2004 Housing Element Work Programs had existing capacity for 8,628 new units before 2004 and would add 18,285-38,835 additional potential units with rezoning. Ex. C to Statement of Golick-2004 Housing Element Administrative Record-1 A 180.

The 1990 Residence Element did not mention rezoning in the areas that the 2004 Housing element identified as Work Programs for implementing the 2004 Housing Element. The 1990 Residence Element also did not contain any increased density-related development standards. Rather, as the Court of Appeal recognized, the 1990 Residence Element contained policies that emphasized preservation of existing neighborhood character. (Ex. —to Statement of Golick.)

As shown above, and as acknowledged in the FEIR, the 2004 Housing Element included numerous increased density-related development standards. Thus, the claim in the Revision that total development potential would not be substantially greater under the 2004 Housing Element than under the 1990 Residence Element because the 2004 Housing Element did not "include" changes to allowable land uses, ignores the indirect effects of implementing 2004 Housing Element policies and is contradicted by the evidence set forth above as to the 2004 Housing Element's inducement of the post-2004 Area Plans. No similar Area Plans or rezonings were promulgated under the 1990 Residence Element.

Moreover, the stated purpose of the 2004 Housing Element to implement new policies that strive to expand land capacity, contradicts the Revision's allegation that total development potential would not be increased under the 2004 Housing Element. The Revision's statement that "Together or individually, these housing policies could introduce higher density development in certain areas of the City" also contradicts this claim. The EIR also failed to measure the potential impacts of adopting the 2004 Housing Element on existing conditions in the existing environment. The EIR's use of existing plans as the erroneous baseline against which potential impacts would be measured ignores the indirect effect of carrying out the 2004 Housing Element policies in area plans and erroneously treats the post-2004 area plans as

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unconnected with the 2004 Housing Element.

The Area Plans are not unconnected with the Housing Element policies since the Area Plans must be consistent with the policies set forth in the general plan. The General Plan is the long-term plan for the physical development of the City, is “atop the hierarchy of local government law regulating land use,” and “embodies an agency’s fundamental policy decisions to guide virtually all future growth and development.” *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409. Under Planning Code section 101.1( c)-(e), all zoning and project approvals must be consistent with the provisions of the General Plan. Section 4.105 of the San Francisco Charter requires the preparation of “special area, neighborhood and other plans designed to carry out the General Plan.”

Moreover, the City has been enjoined from implementing the 2004 Housing Element policies calling for use of increased density-related standards in the Peremptory Writ of Mandate issued in relation to the 2004 Housing Element amendments. Ex. 5.

**C. The Conclusion that the 2009 Housing Element Does Not Promote Increased Residential Densities More So Than the 1990 Residence Element is Contradicted by the Evidence and Is Misleading.**

The Revision concludes that “Citywide the 2009 Housing Element does not, overall, promote increased residential densities more so than the 1990 Residence Element policies.” VII-17. This allegation is false and contradicted by the evidence.

2009 Housing Element Policy 1.4 is to “Ensure community based planning processes are used to generate changes to land use controls,” and the policy text states that “Such plans can be used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate.” (Ex. B to Statement of Golick-AR 53139-2009 Housing Element Part 2 p. 9)

The EIR admits that the “2009 Housing Element generally promotes increased density through community planning processes (Policies 1.4, 1.6, and Implementation Measures 13 and 79) and for affordable housing (Policy 7.5 and Implementation Measures 36 and 64). The 2009 Housing Element also includes a strategy designed to reduce the amount of space required for non-housing functions (Implementation Measure 12).” Ex. B- 2 AR 769- Final EIR p. V.L-36. The Final EIR further explains: “While implementation of the proposed Housing Elements would not directly affect existing Area Plans or Redevelopment Plans, it would encourage new Area Plans with similar planning -related strategies that may be designed to accommodate growth.” Ex. B-1 AR 257; Final EIR p. V.B.-28.

The 2009 Housing Element estimates that the total estimated new housing construction potential in the “Adopted Plans & Projects” of Balboa Park Area Plan, Market/Octavia Area Plan, Central Waterfront Area Plan, Mission Area Plan, East SOMA Area Plan, Showplace Square/Potrero Hill Area Plan, Rincon Hill Area Plan, Visitacion Valley Area Redevelopment Plan, Transbay Redevelopment Plan, Mission Bay Redevelopment Plan and Hunters Point Shipyard/Candlestick Point is 39,500 housing units. (Ex. B to Statement of Golick-AR 53139-2009 Housing Element Part 2 p. 9)

The Final EIR states that the City “has recently updated zoning controls for the following neighborhoods: Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park. These planning efforts have developed updated zoning, heights, bulks, and densities in balance with infrastructure. A number of other planning efforts are currently underway including, but not limited to the Transit Center District Plan, Treasure Island, and West SoMa, which could result in increased residential development potential in those areas. Under existing zoning capacity, these planning areas could accommodate 3,669 net new housing units, representing approximately six percent of the total citywide existing capacity of 60,995 units as described previously. The additional potential capacity with rezoning initiatives currently underway is approximately 28,844 units. (Ex. B to Statement of Golick- AR 169, p. IV-22 and Table IV-6). Table IV-6 in the Final EIR estimates that a total of 28,844 additional units could be added with rezoning in the Executive Park, Glen Park, Park Merced, Transit Center District, Western Soma, India Basin, Hunters Point Shipyard, Candlestick Park and Treasure Island neighborhoods, which were identified as areas subject to ongoing community planning processes (Ex. B to Statement of Golick-AR 169, Final EIR IV-22; see also AR 9499-2009 Housing Element, Part I, p. 95)

Thus, key policies 1.4 and 1.6 of the 2009 Housing Element use community planning processes to promote increased density, even though capacity for 39,500 additional housing units had already been added through rezoning in area plans adopted before the 2009 Housing Element. Thus, the principal strategy of the 2009 Housing Element to use community planning processes as a vehicle to facilitate increased capacity and density disprove the conclusion that the 2009 Housing Element would not overall promote increased residential densities more so than the 1990 Residence Element. The Revision also contradicts the conclusion that the 2009 Housing Element would not overall promote increased residential densities more so than the 1990 Residence Element. The Revision states that the 2009 Housing Element included “density-promoting policies” which can be seen in “Table IV-8 Policies 1.4, 1.5, 1.6, 7.5, and 11.4.” VII-18. In fact, the “density-promoting policies” identified in Table IV-8 as 2009 Housing Element Policies with Potential for Adverse Physical Impacts have been enjoined in the Peremptory Writ of Mandate that the Superior Court issued as to the 2009 Housing Element. (See Exhibit 3 hereto.) Thus, other sections of the Revision contradict the conclusion that the 2009 Housing Element would not overall promote increased residential densities more so than the 1990 Residence Element.

The Revision claims that the 2004 Housing Element and the 2009 Housing Element should be considered alternatives to each other, but the EIR lacks the comparison of the impacts that would result from the 2004 Housing Element as compared with the impacts that would result from the 2009 Housing Element. Such a comparison of impacts of alternatives is required to constitute an evaluation of alternatives in an EIR. (VII-2) The EIR merely compares the alleged impacts of the 2009 Housing Element with the impacts of Alternatives A, B and C. (See VII-6, stating the alternatives analysis compares the impact of each alternative to the two project options, the 2004 Housing Element and the 2009 Housing Element.) The EIR also only compares the alleged impacts of the 2004 Housing Element with the impacts of Alternatives A, B and C.

In addition, the statement that the Housing Element does not “cause” population growth is ambiguous and misleading. VII-3. Since the Housing Element policies have to be carried out, they have indirect effects, but the revision fails to address the indirect effects of carrying out the Housing Element policies, as explained in the accompanying statement of City Planner David Golick, at pages 4-5.

**D. The Revision’s Assertions the Alternative A Would Be Less Effective in Meeting Certain Project Objectives Are Not Supported by the Evidence.**

Since Alternative A is defined as subject to the existing Area Plans, the evidence does not support the Revision’s premise that under Alternative A, housing development would continue as encouraged under the 1990 Residence Element. VII-44.

The evidence also does not support the assertion that Alternative A would be less effective at attaining the following project objectives than either the 2004 or 2009 Housing Element. VII-24. Since Alternative A is defined as subject to the existing Area Plans, which encouraged new housing development near transit, the evidence does not support the statement that Alternative A would less actively encourage residential development in areas served by transit than either the 2004 or 2009 Housing Element. VII-25. The evidence also does not support the conclusion that neither the 2004 or 2009 Housing Elements would demonstrably alter neighborhood character and that the 2009 Housing Element specifically emphasizes development in a manner that does not present conflicts with neighborhood character. The 1990 Residence Element contained policies that maintained neighborhood character, whereas the 2009 Housing Element contains policies that merely respect neighborhood character, and other policies implement increased density-related building standards. VII-45. The Revision fails to provide factual support for the conclusion that Alternative A does not promote the use of strategies for improving the affordability of new housing “to the same degree” as the 2004 or 2009 Housing element. VII-45. Since Alternative A was defined as subject to existing Area Plans, which encouraged new housing development near transit, the Revision lacks support for the conclusion that by not promoting increased density in transit corridors or reduced parking requirements,

Alternative A does not encourage a development pattern that maximizes sustainability on a local or regional level. VII-45.

Since the Revision defined Alternative A as subject to existing Area Plans and Redevelopment Plans, the evidence does not support the conclusion that the City would have a decreased ability to meet the RHNA if the 1990 Residence Element policies were in place. VII-24. Similarly, since the 1990 Residence Element had a raft of policies designed to protect historical resources, the evidence does not support the conclusion that there would be a greater risk to historical resources if Alternative A was adopted. VII-24. The Revision acknowledges that the City has well-established criteria and procedures to evaluate impacts to historic resources and that CEQA review procedures would also apply to such resources. VII-24. The 1990 Residence Element contained Policy 5-5 preserving historic buildings, Policy 3-1 that discouraged “demolition of sound housing,” and had incorporated preservation policies in major rezonings. 5 AR 2128, 2139, 2160, 2146, 2195-2196; 6 AR 2754-2755. Alternative A was based on the 1990 Residence Element, and under both Alternatives A and B, the City will continue to implement the Priority Policy “that landmark and historic buildings be preserved,” the City would assist in environmental review of buildings receiving federal assistance, and various surveys would be conducted to document resources, so implementations were substantially similar; the EIR does not identify any implementation measure that would provide greater protection in the 2004 Housing Element or 2009 Housing Element. 5 AR 2195-2196; 6 AR 2754-2755; 3 AR 1140.

**E. The Evidence Does Not Support the Revision’s Conclusions as to the Effects of Alternative B.**

After reviewing policies of the 2004 Housing Element that the Court struck in the Peremptory Writ, the Revision asserts without substantiation that the themes of Alternative B focus on increasing housing supply through higher density, encouraging family-sized housing, and reducing parking requirements to make more space available for housing units. VII-49. The Revision fails to cite any remaining unenjoined policy of Alternative B that supports such development. The Peremptory Writ enjoined policies of Alternative B that reduced or eliminated parking requirements, encouraged maximization of density and encouraged family-sized housing. Ex. 5. The Revision also fails to explain or substantiate the assertion that the 2009 Housing Element contains a number of implementation measures to promote increased density that are not included in Alternative B and that Alternative B would result in smaller/less dense projects “overall.” VII-49.

Since Alternative B was defined as subject to existing Area Plans and Redevelopment Plans, the evidence does not support the claim in the Revision that under Alternative A, areas for future housing development would occur primarily as infill on individual parcels as most future housing development would take place in established neighborhoods. VII-49.

The Revision fails to explain the assertion that due to the elimination of certain policies which the Court struck from Alternative B, “the resulting changes would be more likely to affect the density of housing (i.e. the number of units) within new buildings more than the number of buildings constructed,” and, as such, the potential for land use conflicts from new housing that affect neighborhood character would not substantially differ under Alternative B compared to the 2004 Housing Element. VII-50.

The Revision also does not specify the policies that would support, or provide factual support for, the assertion that Alternative B would encourage housing integrated into all new commercial or institutional projects, near major transit lines, and through community planning efforts. VII-50.

Since Alternative B was defined as subject to existing Area Plans and Redevelopment Plans, the evidence fails to support the claim in the Revision that incrementally smaller residential buildings might be constructed under Alternative A, resulting in incrementally fewer potential impacts to scenic vistas than the 2004 or 2009 Housing Elements. VII-50. There is no evidence that a significant number of new residential buildings would be constructed outside the plan areas.

Also misleading and unsupported by evidence is the Revision’s assertion that similar to the 2004 and 2009 Housing Elements, San Francisco’s population and development to meet that population would occur regardless of the housing development policies included in Alternative B. VII-51. The City is not legally required to adopt a general plan that calls for continued housing development. Also unsubstantiated is the Revision’s assertion that the policies under Alternative B would not cause a substantial change in the workers-to-household ratio that would occur between 2005 and 2025, as compared to the 2004 and 2009 Housing Elements. VII-51. This statement also erroneously measures impacts against projected future conditions rather than against existing conditions in the environment. VII-51.

With respect to Alternative B, the Revision does not contain factual support for the statement that: “Impacts created by increases in population and housing would be the same as under the 2004 Housing Element.” VII-51. Also unsupported by facts is the assertion that “because the Housing Element does not *cause* housing growth, no additional demand for housing would result from implementation of Alternative B.” VII-51-52

Since Alternative B was defined as subject to existing Area Plans and Redevelopment Plans, the evidence does not support the assertions that housing density would be less under Alternative B than under the 2009 Housing Element and that Alternative B would not induce additional demand for housing. VII-52. Such plans implemented increased density-related building standards and encouraged new housing near transit lines. The Revision fails to disclose the zoning changes and building standards that were implemented in the post-2004 Area Plans

and Redevelopment Plans.

With respect to attainment of project objectives, the Revision does not provide factual support for the claim that Alternative B focuses on infill and mixed-use development directed toward specific areas, affordable housing, and utilization of City-owned vacant or underused sites; encourages increased housing in neighborhood commercial districts; and would direct housing to areas in transition with existing or planned infrastructure, as well as capacity and opportunity for new housing development. VII-79-80. 2004 Housing Element policies that encouraged increased housing production in neighborhood commercial areas were stricken by the Court. The evidence also does not support the claim that Alternative B contains several policies designed to ensure that new housing maintains existing neighborhood character, and the Revision does not identify any such policies. VII-80. As explained by the Court of Appeal, the 2004 Housing Element contained policies that merely respected, rather than maintained, neighborhood character.

The Revision also does not explain why a lack of emphasis on increased density and reduced parking requirements would not be as effective as either the 2004 or 2009 Housing Element at concentrating new housing along transit corridors. VII-80. Increased density strategies and reduced parking requirements do not concentrate density in any particular location.

The evidence does not support the allegation that “development under Alternative B would not be expected to meet the income categories in the City’s RHNA as well as the 2004 or 2009 Housing Element,” and the Revision fails to explain the basis for this assertion. VII-80. The evidence shows that the new area plans approved after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others “potentially increase housing capacity by over 55,000” units, and the “Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Statement of Golick-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486. Since Alternative B was defined as subject to existing Area Plans and Redevelopment Plans, the increased-density and reduced parking strategies implemented in those plans would be equally effective at achieving affordability as the 2004 or 2009 Housing Elements. Since 90% of new housing development is expected in the plan areas, there is no evidence that a significantly greater amount of affordable housing would be produced under the 2004 or 2009 Housing Element, as compared with Alternative B.

**F. The Evidence Does Not Support the Revision’s Conclusions as to the Environmentally Superior Alternative or as to Effects of Alternative A.**

The evidence does not support the conclusion that Alternative A would result in a



potentially significant impact to historic resources. VII-106. The 1990 Residence Element contained Policy 5-5 preserving historic buildings, Policy 3-1 that discouraged “demolition of sound housing,” and had incorporated preservation policies in major rezonings. 5 AR 2128, 2139, 2160, 2146, 2195-2196; 6 AR 2754-2755. Alternative A was based on the 1990 Residence Element, and under both Alternatives A and B, the City will continue to implement the Priority Policy “that landmark and historic buildings be preserved,” the City would assist in environmental review of buildings receiving federal assistance, and various surveys would be conducted to document resources, so implementations were substantially similar; the EIR does not identify any implementation measure that would provide greater protection in the 2004 Housing Element or 2009 Housing Element. 5 AR 2195-2196; 6 AR 2754-2755; 3 AR 1140. New CEQA requirements would also apply to any alternative adopted.

Thus, evidence does not support the Revision’s conclusion that Alternative A does not contain policies that identify and protect historical resources to the same degree as either the 2004 or 2009 Housing Element and that Alternative A could result in an “incremental increase” in historic resource impacts. VII-25. The Revision does not even discuss the policies of the 1990 Residence Element that protected historical resources, including those that provided for various surveys to be conducted. The Revision also admits that the 2004 and 2009 Housing Elements and Alternative A “would protect landmark buildings and other historical resources to a similar degree.” VII-25. Also, 1990 Residence Element Policy 3-1 discouraged “demolition of sound housing,” so the evidence does not support the Argument that Alternative A had an absence of policies that would prevent projects that could cause a substantial change to a historical resource or that there is greater potential for such resources to be indirectly affected by incompatible development. VII-25-26. Thus, substantial evidence does not support the conclusion that Alternative A could result in greater impacts on historic resources than the 2004 and 2009 Housing Elements. VII-25.

**G. The Evidence Does Not Support the Revision’s Conclusions as to the Effects of the Alternatives on Transportation and Demand for Water.**

Since Alternative A was defined as subject to existing Area Plans and Redevelopment Plans, the evidence does not support the conclusion that under Alternative A “less future housing growth would occur in proximity to these job cores, services and/or along transit lines.” VII-26. As explained above, the Area Plans and Redevelopment Plans direct new residential development to such areas and there is no evidence that a substantial amount of new housing will be produced outside such areas. For the same reason and because Alternative A does not “promote increased density as aggressively as: the 2004 or 2009 Housing Elements,” the evidence does not support the conclusion that Alternative A can be expected to result in an overall increase in citywide vehicle trips as compared with the 2004 and 2009 Housing Element. VII-26-28.

Based on the evidence discussed above, substantial evidence also does not support the Revision's conclusion that because Alternative A promotes increased density more generally throughout the City than the 2009 Housing Element, but less so than the 2004 Housing Element, Alternative A policies would result in more multi-family housing units compared to the 2009 Housing Element, but less than the 2004 Housing Element. VII-36. Alternative A policies do not employ increased density-related building standards, as do policies of the 2004 and 2009 Housing Elements.

The evidence does not support the Revision's claim that Alternative B contains policies that would direct growth to certain areas of the City. VII-61. The Revision and the FEIR identified policies that would direct growth to certain areas as "Implementation Measures 1.3.2, 1.6.1, 2.6.4, 1.8.1, 1.9.2, 2.4.2, 8.6.1 and 11.4.2." VII-61; 3 AR 1148-1149. The FEIR shows that Implementation 1.3.2 merely refers to introducing unspecified zoning changes in the Eastern neighborhoods; however, the 2004 Work Program shows that enjoined policies 1.1, 1.2, 1.3, 1.6, 1.7 and 4.4 were proposed to provide a policy basis for the Eastern Neighborhoods rezonings, and Implementation 1.1 calling for "higher density, mixed-use residential development in transit-rich areas" was also enjoined in the Peremptory Writ, so there is no evidence of any remaining policies that would support increased-density rezoning of these areas. 3 AR 1142; 1 A 328.

The Amendment to Writ enjoined use of "floor-to-area ratio exemptions" in Downtown areas and areas subject to a Better Neighborhoods process under Implementation 1.3, but the Revision and EIR erroneously claim that the City can implement such measures in the Downtown under Implementation Measure 1.6.1. Ex. 5 hereto-Peremptory Writ and Amendment to Peremptory Writ; 3 AR 1142. Implementation 2.4.2 refers to the "citywide action plan" which the Peremptory Writ enjoined in Implementation 1.1. Ex. 5; 3 AR 1144. Implementation Measure 8.6.1 deals with housing to meet the needs of specific groups such as families, but Policy 1.7 encouraging new family housing was enjoined, and language calling for reduction in parking and higher density, mixed-use development in transit rich areas was enjoined under new language in Policy 1.1 and Implementation 1.1. Ex. 5; 3 AR 1144. Implementation 1.6.4 refers to updating the Land Use Element to define areas for mixed-use development focused along transit corridors; however, the 2004 Work Program shows that enjoined policies 1.1, 1.2, 1.3, 1.6, 1.8, 11.1, 11.6, 11.8 and 11.9 were needed to provide the policy basis for this update to the Land Use Element, and the Writ enjoined higher density, mixed-use residential development in transit-rich areas under Implementation 1.1. Ex. 5; 3 AR 1143. Implementation 1.8.1 pertains to legislation as to secondary units that the Board did not adopt, and Implementation 1.9.2 pertains to institutional master plans and Implementation 11.4.2 to housing for workers and students of institutions. 3 AR 1143. Similarly, the EIR erroneously claims that Alternative B may implement Policy 4.4 to consider granting "parking requirement exemptions for the construction of affordable or senior housing," but such policy language was specifically enjoined in the Amendment to Peremptory Writ. Ex. 5; 3 AR 1146. For these reasons, the record does not support the Revision's unsubstantiated claim that Alternative B includes policies that would

direct growth to certain areas of the City or that advocate for zoning changes in many areas of the City that have undergone area planning processes. VII-61.

Also, the conclusion that Alternative B could potentially encourage increased transit ridership, potentially above Muni's capacity utilization standard of 85 percent, is based on the unsubstantiated conclusion that under Alternative B, "it is possible" that encouraging housing in mixed use districts and in industrial and commercial districts where housing is located in proximity to transit could potentially shift "some trips" to transit. VII-61. The Revision provides no support for this conclusion and lacks any evidence that the number of trips potentially shifted to transit would be significant. Further, the Revision contradicts this conclusion by acknowledging that "Alternative B does not include policies that pertain to directing new development to transit-rich areas of the City, neighborhood commercial districts, Downtown and mixed-use areas." VII-61. Such policies contained in the 2004 Housing Element were enjoined in the Peremptory Writ. Thus, there is no evidentiary support for the conclusion that Alternative B contains policies that encourage a mode shift to transit and that Alternative B may result in a potentially significant impact on the City's transit system. VII-63. For the same reasons, there is no evidentiary support for the conclusions that the 2004 Housing Element would generally result in more beneficial impacts to the City transportation network than Alternative B, and Alternative B would have generally similar impacts to the transportation network as the 2009 Housing Element policies. VII-62. Further, since the 2004 Housing Element policies that provide for increased density-related building standards were enjoined in the Peremptory Writ, and Alternative B was defined as subject to existing Area Plans which encourage new housing development near transit, there is no evidence to support the conclusion that Alternative B can be expected to result in an overall increase in citywide vehicle trips as compared to the 2004 and 2009 Housing Elements do, through the inclusion of either policies encouraging increased density or reduced parking strategies. VII-62

Substantial evidence also does not support the Revision's claim the Alternative B includes Policies 2.2 and 2.3 from the 2004 Housing Element that could increase residential density more generally throughout the City, as compared to the 2009 Housing Element. VII-62. 2004 Housing Element Policy 2.2 controls the merger of residential units to retain existing housing and Policy 2.3 restricts the conversion of rental housing to other forms of tenure or occupancy. 1 A 227-228. Thus, neither such policy increases residential density.

Based on the evidence discussed above, since Alternative B was defined as subject to existing Area Plans, the evidence does not support the conclusion that impacts to water supply from Alternative B would be similar, but incrementally smaller than the 2004 and 2009 Housing Elements. VII-70.

The evidence also does not support the conclusion that Alternative B could result in residential development that includes inappropriate alterations or additions to existing housing,

or new construction that detracts from the historical or cultural significance of an existing building or area. VII-52. The evidence also does not support the conclusion that due to the differing policies contained in the 2004 and 2009 Housing Elements, potential impacts (specifically from demolition of non-landmark historic buildings and resources) could be incrementally greater under Alternative B than under the 2004 or 2009 Housing Element, which would be a potentially significant impact. VII-52. Policies that reduced protection for existing neighborhood character were struck from Alternative B by the Court but are contained in the 2004 and 2009 Housing Elements. In addition, the conclusion that the impact would be potentially significant was based on a misstatement of Implementation Measure 11.1.3 from the 2004 Housing Element, which actually states that the Planning Department should encourage “adaptive reuse of older buildings to enhance neighborhood vibrancy.” This Implementation measure fell under enjoined Policy 11.1, to use new housing development as a means to enhance neighborhood vitality and diversity, which was explained in policy text to encourage mixed-use infill housing with minimum density requirements and maximum parking requirements in areas well served by transit and neighborhood retail. 1 A 276-277. That policy and its implementation measures employed increased density-related building standards. Also, the Revision acknowledges that development under Alternative B would be subject to the city’s well-established review criteria and procedures to evaluate impacts to historic resources at the project level and would also be subject to environmental review under CEQA. VII-52.

**H. The Revision’s Elimination of the Bayview Waterfront Alternative From Further Analysis Is Conclusory and Not Supported by Facts.**

The Revision states that the Bayview Waterfront Alternative is now known as the Candlestick Point/Hunters Point Shipyard Project and that this project underwent environmental review before the EIR for the 2004 and 2009 Housing Elements was completed. VII-109. The Revision claims that the Housing Element EIR assumed the development of this project as “a reasonably foreseeable project.” VII-109. Therefore, this project is clearly a feasible project which is capable of being successfully implemented. The assertion in the Revision that it was assumed that this project was already within the range of the DEIR analysis and would not provide useful new information evades the controlling legal standard that a feasible alternative must be implemented if it would substantially reduce or eliminate a substantial impact on the environment of the project proposed for adoption.

Given the excess housing production projected for the 2001-2014 planning period, and the great increases in capacity for additional provided in Area Plans approved after the 2004 Housing Element was adopted, an alternative that directed growth to this area but not to other areas to which growth was proposed to be directed, such as Treasure Island, Japantown, Executive Park, Glen Park, Park Merced, Transit Center District, West SOMA, which the 2009 Housing Element projected could accommodate 18,200 additional housing units, would reduce the impact on transit by limiting the areas to which transit would have to be enhanced. The

reduction of the transit impact is explained in the accompanying and previous statements of City Planner David Golick. (See accompanying Statement of City Planner David Golick and Ex. B to Statement of Golick-AR 53139). The alternative of directing growth to the Candlestick Point/Hunters Point Shipyard Project but not to other new plan areas would certainly be feasible given the projected excess housing production for the 2007-2014 planning period and the amount of increased housing capacity already added as a result of Area Plans approved after the 2004 Housing Element. The Revision has not demonstrated that this alternative would be infeasible.

The evidence also does not support the new claim in the Revision that this alternative “includes the 1990 Residence Element Objectives, Goals and Policies, and assumes the zoning in place at the time the 2009 Notice of Preparation for this EIR was issued.” VII-106, 109. The 2009 Housing Element identifies the Candlestick Point and Hunters Point Shipyard areas as areas where planning efforts were “underway” and details “the estimated additional potential capacity with rezoning” in Candlestick Point as 7,500 units and projects that the capacity of Hunters Point could be increased from 1,500 units to 4,00 units with potential rezoning. Ex. B to Statement of Golick-AR 53120. The 2009 Housing Element also states that the planning efforts underway in the listed areas “will result in increased residential development potential.” *Id.*

Since the evidence shows that the Candlestick Point/Hunters Point Shipyard Project was to be rezoned to increase its capacity for additional housing units, the evidence does not support the claim in the Revision that this alternative included the 1990 Residence Element Objectives, Goals and Policies, because those policies did not call for rezoning of areas to increase their capacity for additional housing units.

**I. The Revision’s Elimination of the Focused Development Alternative From Further Analysis Is Conclusory and Not Supported by Facts.**

The Revision explains that the Focused Development Alternative “would comprise existing zoning at the time of NOP issuance and rezoning connected to area plans in progress at that time.” VII-109. Thus, this Alternative would include the increased capacity provided in Area Plans adopted after the 2004 Housing Element. The new area plans approved after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others “potentially increase housing capacity by over 55,000” units, and the “Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B to Statement of Golick-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486. It would also include all ongoing area planning efforts. VII-109.

Since the Area Plans approved after the 2004 Housing Element implemented strategies that encourage production of affordable housing, such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements, the evidence does not support the claim in the Revision that the alternative would compromise the City's ability to achieve the affordability goals of the RHNA or that this alternative would "severely restrict" the amount of land available for housing. VII-109. Substantial parts of the City are subject to the new Area Plans.

Moreover, the Revision clearly states that the Alternative would be comprised of the existing zoning at the time the NOP was issued plus rezoning connected to area plans in progress at that time. VII-109. It also states that the City's existing zoning allows for residential development outside of area plans. VII-109. Thus, the alternative did not call for rezoning or downzoning of areas outside of area plans. The conclusory allegation elsewhere that the Alternative would also include policies which "allowed" little or no growth to occur outside of these areas was unexplained and contrary to the definition of the alternative as utilizing existing zoning for areas outside of plan areas. The allegation that this Alternative would require downzoning or other limitations on development outside of area plans is clearly contrary to the definition of this Alternative as utilizing existing zoning for areas outside of plan areas.

Similarly, the conclusion that this Alternative would conflict with other General Plan policies encouraging sustainable development and equitable development citywide was erroneously based on the premise that this Alternative would necessarily involve curtailing development in substantial portions of the City. The Alternative would only involve refraining from rezoning further areas of the City outside of the Plan Areas and limiting new area plan rezonings to those underway.

There is no evidence that this Alternative would conflict with other General Plan policies supporting public transportation or promotion of mixed commercial and residential character in neighborhood commercial districts, or striking a balance between preservation of existing housing and needed expansion of commercial activity. Thus, the evidence and the discussion of this Alternative do not support the Revision's determination that this Alternative would be infeasible. There is no evidence that refraining from rezoning further areas outside of the plan areas already approved or underway would substantially impede accommodation of the RHNA or achievement of any other objectives of the 2009 Housing Element. The projected excess housing development for the 2007-2014 planning period and substantial areas subject to area plans amply supports achievement of the objectives of the 2009 Housing Element.

**J. The Revision's Elimination of the Reduced Land Use Allocation Alternative From Further Analysis Is Conclusory and Not Supported by Facts.**

The Revision states that under the Reduced land Use Allocation Alternative, "less growth would be assumed Citywide" but does not disclose the amount of growth that would be assumed. The Revision states that this Alternative would include the 2004 Housing Element Objectives, Goals, Policies and Implementation Measures "but assumes a lower total number of new housing units over the planning period 2005-2025." VII-110. The Revision did not disclose the lower total number of new housing units assumed. The Revised DEIR states that two primary objectives of the proposed Housing Elements are to provide "a vision for the City's housing and growth management through 2014" and to ensure "capacity for the development of new housing to meet the RHNA at all income levels." (VII-3-4) Since the reduced land use allocation would apply to the planning period 2005-2025, there is no evidence that a reduced land use allocation alternative would be infeasible for the planning period 2007-2014, especially in view of the projected production of 25,000 new housing units in excess of the RHNA and the anticipated increased capacity in further area planning efforts. The EIR states that the pipeline units anticipated to be developed total 25,000 more than the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period and further rezoning and area planning processes would allow the additional capacity of 27,844 units. Exhibit B to Statement of Golick-1 AR 328.

Under the 2004 Housing Element, the City needed to build 2,717 new housing units per year to meet its share of the region's projected housing demand, which amounted to a total of 20,374 new units for the planning period of January 1999 through June 2006. 1 A 145, 207. The 2009 Housing Element states that the City had successfully advocated for "changes that direct more transportation money to jurisdictions, like San Francisco, that take on greater housing growth as part of the 2007-2014" RHNA Process. Ex. B to Statement of Golick-18 AR 9595, 9581. Thus, San Francisco did not have to accept the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period. Exhibit B to Statement of Golick-1 AR 328. In view of this reality, the claim in the Revision that this Alternative might not accommodate projected growth fails to take into account the reality that San Francisco officially played a role in agreeing to the amount of growth that is allocated to jurisdictions during the 2007-2014 RHNA process. Under this Alternative, San Francisco should not accept additional units during the RHNA allocation process in order to secure more transportation money and should pursue a more measured type of growth that recognizes the constraints presented by the limited area in the City. Clearly, a reduced land use allocation similar to the RHNA sought by the 2004 Housing Element would be feasible because it would be capable of being accomplished, and there is no requirement that new housing units actually be produced in the amounts sought by the RHNA. To comply with State Housing Element law, a jurisdiction must only demonstrate that it has capacity to accommodate the amount of housing allocated to it in the RHNA.

The Revision's configuration of this alternative as applying to the 2005-2025 planning period is unreasonable and as applied to the 2009 Housing Element, a reduced land use alternative would be a feasible alternative.

**K. Other Assertions Are Not Supported by the Evidence.**

In general, the EIR continually repeats that it does not directly cause housing production. However, the 2009 Housing Element acknowledges that its aim is to increase the supply of housing. Since its aim is to increase the supply of housing, the 2009 Housing Element certainly accommodates increased housing production through implementation of its principal strategy of ensuring that community based planning processes are used to generate changes to land use controls. (Policies 1.4 and 1.2) As explained by the Legislative Analyst, the increased density-related building standards that the 2009 Housing Element supports are known to increase housing production, and therefore indirectly induce population growth. Ex. C-1 A 2936-2945. It is recognized in the planning community that "If you build them, they will come," which means that if additional housing is built in the City, it will attract additional residents. If additional housing is not built in the City, the potential additional residents will go elsewhere or not move from their present locations. Statement of Golick.

While the Revision claims that the Housing Elements also emphasize the use of the existing housing stock to meet San Francisco's affordable goals, the alleged support for this claim refers primarily to providing direction for how and where new housing development in the City should occur and only mentions preserving and upgrading existing housing units to ensure they do not become dilapidated, abandoned, or unsound. VII-3. No explanation is given as to how the Housing Elements propose to use existing housing stock to meet San Francisco's affordable goals.

The Revision also claims that an EIR may consider and analyze one or more alternatives at an equal level of detail, or may identify a preferred project, and include an analysis of alternatives at a lesser level of detail. VII-5. The Revisions claims that it incorporates both approaches, but fails to identify a preferred project, so clearly does not follow the latter approach and is not entitled to analyze alternatives at a lesser level of detail. The Revision identifies the 2004 Housing Element and the 2009 Housing Element as "the two project options." VII-6. This claim is also contrary to law, because the Superior Court held that EIR's analysis of alternatives was legally inadequate and unsupported by facts. Thus, factual support that amounts to substantial evidence would be required to overcome the Court Order setting aside the City's certification of the defective Final EIR.

**L. The City's Notice of Availability of the Revised Draft EIR is Deficient.**

The City must correct its December 18, 2013 Notice of Availability of an EIR and recirculate the revision with a corrected notice for 45 days. The Notice erroneously states that comments "should be limited to the recirculated sections of the EIR" and that "the agency need only respond to comments to the parts of the EIR that are being recirculated." However, the revised alternatives section incorporates by reference numerous discussions of the impact



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analyses, and on January 15, 2014 the Superior Court clarified that comments may be made as to these referenced other sections insofar as they pertain to the alternatives. The public had inadequate notice that it had to review these other referenced sections which amount to hundreds of pages insofar as they amount to alternatives due to the City's inadequate notice.

### **Conclusion**

The revised discussion of alternatives presented in the Revised Draft EIR is conclusory and not supported by facts or substantial evidence in the Administrative Record. The City has not cured the deficiencies cited by the Court in its Order finding the EIR's discussion of alternatives inadequate. In addition, since the 2004 and 2009 Housing Elements would have a significant impact on transit, the City must adopt a feasible alternative that would reduce or mitigate this impact.

Very truly yours,



Kathryn R. Devincenzi

Attachments: Exhibits 1 through 5

**EXHIBIT 1**

**STATEMENT OF CITY PLANNER DAVID GOLICK  
AS TO DRAFT EIR, SAN FRANCISCO 2004 AND 2009 HOUSING ELEMENT,  
REVISED ALTERNATIVES ANALYSIS**

I have been a professional city planner for over forty years and have practiced in the Bay Area for over forty years. During that time, I served as Chief of Planning for the City of Concord, the largest city in Contra Costa County, for ten years. During my career, I have either prepared or reviewed approximately 1,000 initial studies and environmental impact reports. I have become familiar with and have a deep working knowledge of the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines. I have coached subordinate employees regarding CEQA requirements and have addressed CEQA issues at conferences of the American Planning Association. The City of San Francisco retained me to participate in oral board examinations of candidates for planning positions, such as the position of Planner III, Environmental Review. As Chief of Planning for the City of Concord, my duties included overseeing the activities of the planning department staff in updating the housing element of Concord’s general plan as periodically required by the State of California Department of Housing and Community Development. A copy of my resume is attached hereto as Exhibit A.

In this statement, I will discuss feasible alternatives to the proposed 2009 Housing Element.

**FEASIBLE ALTERNATIVES ARE AVAILABLE SINCE THE 2009 HOUSING  
ELEMENT WOULD PRODUCE FAR MORE NEW HOUSING UNITS THAN  
NEEDED TO ACCOMMODATE THE RHNA FOR THE 2007-2014 PLANNING  
PERIOD.**

**Introduction and Factual Background**

The EIR states that the pipeline units anticipated to be developed total 25,000 more than the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period and further rezoning and area planning processes would allow the additional capacity of 27,844 units. Exhibit B-1 AR 328. In 2007 and 2008, 5,830 new housing units were produced and as of 1009, 56,435 additional units were in the development pipeline. Exhibit B-1 AR 170; 18 AR 9430. Production trends show that 75-80% of pipeline units are completed within 5-7 years, so 42,326 additional new units could be expected. *Id.*

The EIR also admits that “the total number of units identified in the RHNA can be accommodated under the existing zoning capacity and/or through development currently in the City’s pipeline.” Exhibit B-Final EIR p. VIII-207. Thus, there is no need for rezoning to accommodate the RHNA.

The revised DEIR states that the “2004 and 2009 Housing Element do not include any changes to the land use objectives and policies in the City’s Area Plans or Redevelopment Plans. (VII-2) The revised DEIR states that similar to new housing development under the 2009

Housing Element “development under Alternative B would not substantially conflict with the policies and land uses in current Area Plans and Redevelopment Plans.” (VII-50) The revised DEIR also states that similar to the 2004 Housing Element that “development under Alternative B would be subject to existing Area Plans and Redevelopment Plans and would serve to complement (and not conflict with) the policies and land uses in an Area Plan or Redevelopment Plan.” (VII-49)

Alternatives A and B and C would use the 2009 Data and Needs Analysis and the updated RHNA allocation of 31,193 for the January 2007 through June 2014 planning period. (Revised DEIR, p. VII-4-6, 19-20; Executive Summary p. 1; Final EIR IV-11) The revised DEIR states that “under all alternatives, it is assumed that the 2009-2014 RHNA and Part I (Data and Needs Analysis) of the 2009 Housing Element are in effect.” (VII-4) Both the 2004 and 2009 Housing Elements discussed in the EIR utilized the 2009 Housing Element Part I Data and Needs Analysis and sought to achieve the 2007-2014 RHNA. (Final EIR IV-13-14)

The 2009 Housing Element states that:

“In order to increase the supply and affordability of housing, the City has engaged in significant planning for housing through Area Plans (portions of the General Plan which focus on a particular part of the City), Redevelopment Plans (community revitalization plans authorized and organized under the provisions of the California Community Redevelopment law), and major development projects created in partnership with private sponsors. Adopted community plans include Balboa Park, Market and Octavia and the Central Waterfront neighborhoods; the Eastern Neighborhoods program including the Mission, South of Market, Showplace Square and Potrero Hill; Candlestick, and Hunters Point Shipyard; and several Redevelopment Area Plans, most recently Visitacion Valley/Schlage Lock.

Plans underway include Japantown, Glen Park, Western SoMa and Executive Park. Other major projects in development with the City include Treasure Island, Park Merced and the Transbay Transit Center. These ongoing community planning efforts should continue. These projects could result in a community accepted housing vision for the neighborhood, related zoning changes and neighborhood specific design guidelines that will encourage housing development in appropriate locations.

Together, these planning efforts could provide capacity for significantly more than the 31,000 units allocated for this planning period (2007-2014).” Ex. B- AR 53137-53140.

The Final EIR states that the City “has recently updated zoning controls for the following neighborhoods: Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park. These planning efforts have developed updated zoning, heights, bulks, and densities in balance with infrastructure. A number of other planning efforts are currently underway including, but not limited to the Transit Center District Plan, Treasure Island, and West SoMa, which could result in increased residential development potential in those areas. Under existing zoning capacity, these planning areas could accommodate 3,669 net new housing

units, representing approximately six percent of the total citywide existing capacity of 60,995 units as described previously. The additional potential capacity with rezoning initiatives currently underway is approximately 28,844 units (Ex. B- AR 169, p. IV-22 and Table IV-6). Should these rezoning initiatives be adopted and implemented, the City would be able to accommodate 89,829 net new housing units, which, if developed, would represent a 25 percent increase in the City's housing stock." (Ex. B- AR 169, Final EIR IV-22) Table IV-6 estimates that a total of 28,844 additional units could be added with rezoning in the Executive Park, Glen Park, Park Merced, Transit Center District, Western Soma, India Basin, Hunters Point Shipyard, Candlestick Park and Treasure Island neighborhoods, but states that the additional units that could be added with rezoning in Japantown are "To be Determined." (Ex. B-AR 169, Final EIR IV-22; see also AR 9499-2009 Housing Element, Part I, p. 95)

The 2009 Housing Element estimates that the total estimated new housing construction potential in the "Adopted Plans & Projects" of Balboa Park Area Plan, Market/Octavia Area Plan, Central Waterfront Area Plan, Mission Area Plan, East SOMA Area Plan, Showplace Square/Potrero Hill Area Plan, Rincon Hill Area Plan, Visitacion Valley Area Redevelopment Plan, Transbay Redevelopment Plan, Mission Bay Redevelopment Plan and Hunters Point Shipyard/Candlestick Point is 39,500 housing units. (Ex. B-AR 53139-2009 Housing Element Part 2 p. 9)

The EIR portrayed the "recently updated zoning controls" for the Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park neighborhoods as providing the "existing zoning capacity" and claimed that the 2004 and 2009 "do not include any changes" to land use policies in the City's area or Redevelopment plans and that the "rezoning efforts will increase the existing capacity" in target neighborhoods." Ex. B-1 AR 169, 202, 161. The new area plans adopted after the 2004 Housing Element, including Market/Octavia, Eastern Neighborhoods, Rincon Hill, and others "potentially increase housing capacity by over 55,000" units, and the "Planning Code amendments adopted with each new neighborhood plan also served to expand potential development capacity in each of these areas, using tools such as height increases, removal of maximum densities, removal of minimum required lot sizes and reduction or elimination of parking requirements. Ex. B-97 AR 53107-53108; 18 AR 9582-9583, 9586, 9564-9565, 9568, 9474, 9485, 9496, 9486. Capacity was significantly increased, as Better Neighborhoods and Eastern areas identified as 2004 Housing Element Work Programs had existing capacity for 8,628 new units before 2004 and would add 18,285-38,835 additional potential units with rezoning. Ex. C-2004 Housing Element Administrative Record-1 A 180. The 2004 Housing Element acknowledged that its "[n]ew policies strive to expand land capacity necessary to increase housing production, will direct new housing to appropriate locations, especially in areas well served by transit" and seek to achieve a "far greater" rate of new housing construction than was previously produced. Ex. C-1 A 82, 16, 283, 328.

The Court of Appeal held that the "Housing Element identifies areas for potential development," and the Peremptory Writ enjoined policies calling for increased density development in areas well served by transit in 2004 Housing Element Policy 11.1 (minimum density requirements and maximum parking standards), modified Policy 11.6 (flexible land use

controls and increased residential densities), Policy 1.2 (increased housing densities and reduced residential parking requirements in neighborhood commercial districts), new language added to Policy 1.1 (modification of residential parking requirements), new implementation 1.1 (higher density, mixed-use residential development in transit-rich areas and reduced parking requirements in Downtown areas or through a Better Neighborhoods type planning process), language added to Implementation 1.3 (floor-to-area ratio exemptions in Downtown areas and areas subject to a Better Neighborhoods type planning process). Ex. D-Excerpts from Court of Appeal decision, p. 12 and Peremptory Writ of Mandate and Amendment to Peremptory Writ of Mandate.

2009 Housing Element Policy 1.4 is to “Ensure community based planning processes are used to generate changes to land use controls,” and the policy text states that “Such plans can be used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate.” (Ex. B-AR 53139-2009 Housing Element Part 2 p. 9)

The EIR admits that the “2009 Housing Element generally promotes increased density through community planning processes (Policies 1.4, 1.6, and Implementation Measures 13 and 79) and for affordable housing (Policy 7.5 and Implementation Measures 36 and 64). The 2009 Housing Element also includes a strategy designed to reduce the amount of space required for non-housing functions (Implementation Measure 12). Ex. B- 2 AR 769- Final EIR p. V.L-36. The Final EIR further explains: “While implementation of the proposed Housing Elements would not directly affect existing Area Plans or Redevelopment Plans, it would encourage new Area Plans with similar planning -related strategies that may be designed to accommodate growth.” Ex. B-1 AR 257; Final EIR p. V.B.-28.

For the prior 1999-2006 planning period, market rate housing was overproduced at the rate of 153% of the market rate production target, whereas only 13% of the moderate rate, 52% of the low income and 83% off the very low income targets were met. Ex. B- AR 53118 and 1 AR 323.

The 2009 Housing Element states that San Francisco’s fair share of the regional housing need for January 2007 through June 2014 was calculated as 31,190 units, which seeks to accommodate forecast household and employment growth “as well as allocating regional household and employment growth to jurisdictions with established or planned transit infrastructures.” Ex. B-18 AR 9445-2009 Housing Element Part I, p. I.41. However, the 2009 Housing Element and the EIR do not disclose the amount of the 2007-2014 RHNA goal that allocated regional household and employment growth to jurisdictions with established or planned transit infrastructures.

The Revised DEIR states that two primary objectives of the project are to provide “a vision for the City’s housing and growth management through 2014” and to ensure “capacity for the development of new housing to meet the RHNA at all income levels.” (VII-3-4)

In general, the EIR continually repeats that it does not directly cause housing production. However, the 2009 Housing Element acknowledges that its aim is to increase the supply of

housing. Since its aim is to increase the supply of housing, the 2009 Housing Element certainly accommodates increased housing production through implementation of its principal strategy of ensuring that community based planning processes are used to generate changes to land use controls. (Policies 1.4 and 1.2) As explained by the Legislative Analyst, the increased density-related building standards that the 2009 Housing Element supports are known to increase housing production, and therefore indirectly induce population growth. Ex. C-1 A 2936-2945. It is recognized in the planning community that “If you build them, they will come,” which means that if additional housing is built in the City, it will attract additional residents. If additional housing is not built in the City, the potential additional residents will go elsewhere or not move from their present locations.

## **1. THE NO JAPANTOWN AREA PLAN ALTERNATIVE IS FEASIBLE.**

Japantown should be eliminated from the areas to which growth would be directed in Policy 1.2, since the total number of new housing units that the 2009 Housing Element estimates could be added with rezoning does not include any additional units to be constructed in Japantown. The chart that estimates the number of additional units that could be added with rezoning in various areas states that the amount of additional new housing that could be developed with rezoning in Japantown was “To be determined.” However, the 2009 Housing Element identified Japantown as an area where planning efforts “will result in increased residential development potential.” Ex. B-AR 9499-2009 Housing Element, Part I, p. I. 95. In view of the projected excess housing production during the 2007-2014 planning period, rezoning to increase capacity for housing production should not be pursued in Japantown.

It is feasible to eliminate Japantown as an area to which growth would be directed in Policy 1.2 since the EIR states that the pipeline units anticipated to be developed total 25,000 more than the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period and further rezoning and area planning processes would allow the additional capacity of 27,844 units. Ex. B-1 AR 328. Directing growth to Japantown is clearly not needed to accommodate the RHNA for 2007-2014. The pipeline units anticipated to be developed exceed the 2007-2014 RHNA, and the anticipated new rezoning efforts are not needed to accommodate the RHNA for 2007-2014. With respect to the anticipated new rezoning efforts, the additional capacity of 27,844 units under rezoning proposals did not include any projected number of new units through rezoning in Japantown. Further, after Japantown residents protested the 2009 Draft Better Neighborhoods’ Plan for to rezone Japantown for increased heights, the City consulted the community and adopted the Japantown Cultural Heritage and Economic Sustainability Strategy (“JCHESS”). (See Ex. E-excerpt from JCHESS, p. 35) Thus, eliminating Japantown from the areas to which growth should be directed in Policy 1.2 would be consistent with the community’s vision that height limits should not be increased in Japantown. If the City believes that directing growth to Japantown is needed to achieve the RHNA for 2007-2014, the 2009 Housing Element needs to state the specific basis of this belief and the number of estimated new housing units which the City seeks to achieve in Japantown for the 2007-2014 planning period.

Eliminating Japantown from an area to which growth would be directed would reduce impacts on transit, land use and visual resources and neighborhood character. As stated in My March 24, 2011 statement, the City's lack of funds to enhance transit was the basis of the EIR's rating as a significant impact the 2009 Housing Element's impact on transit. Eliminating Japantown as an area to which bus service would have to be enhanced would mitigate this significant impact on transit. Ex. F-March 24, 2011 Statement of David Golick in administrative record, which is incorporated by reference herein, pertinent excerpts of which are attached at AR 22138-22261.

Moreover, the City is currently experiencing serious incapacity problems with Muni. The San Francisco Transportation Plan 2040 states that capacity needs are most acute in the Downtown, South of Market, Market/Octavia and Eastern Neighborhoods and that "Expected growth will significantly increase transit crowding and street congestion downtown." Ex. G. The Mayor's Transportation Task Force 2030 also shows that many Muni routes are at or over capacity in 2012 and that the City's transportation infrastructure is inadequate to meet current demand. Ex. H., pp. 21, 33. A recent article has also documented current Muni incapacity. (See Ex. I- January 29, 2013 San Francisco Examiner article, *With packed vehicles people opt for private cars, SFMTA says*. Thus, Muni's capacity problem from overcrowded buses is a current impact and not merely a significant impact projected to occur in the future.

## **2. THE NO UNLIMITED AREA PLAN OR UNLIMITED PLANNING PROCESSES ALTERNATIVE IS FEASIBLE.**

Another feasible alternative is to eliminate unlimited area plans and community based planning processes from Policy 1.2 and limit new area plans and community based planning processes only to those areas identified in the 2009 Housing Element, except for Japantown.

The EIR states that the "2009 Housing Element generally promotes increased density through community planning processes (Policies 1.4, 1.6, and Implementation Measures 13 and 79) and for affordable housing (Policy 7.5 and Implementation Measures 36 and 64). The 2009 Housing Element also includes a strategy designed to reduce the amount of space required for non-housing functions (Implementation Measure 12). Ex. B-2 AR 769- Final EIR p. V.L-36. The Final EIR further explains: "While implementation of the proposed Housing Elements would not directly affect existing Area Plans or Redevelopment Plans, it would encourage new Area Plans with similar planning -related strategies that may be designed to accommodate growth." Ex. B-1 AR 257- Final EIR p. V.B.-28.

Also as part of this alternative, the process by which a new community based planning process is initiated should be revised to eliminate burying it in the budgetary process since Policy 1.4 provides that: "The process should be initiated by the Board of Supervisors, with the support of the District Supervisor, through their adoption of the Planning Department's or other overseeing agency's work program, and the scope of the process should be approved by the Planning Commission." Ex. B-AR 53140. The approval of budgetary support for a departmental work program is not an appropriate venue for initiation of a planning process. The public does



not expect initiation of a planning process in a budgetary process and Policy 1.4's language provides for a potentially deceptive initiation process that lacks transparency. As an adjunct to elimination of unlimited community based planning processes, Policy 1.4 should be revised to require that the process of initiating a new community based planning process should first be initiated only by a publicly noticed meeting of the Planning Commission that clearly discloses the intent to initiate a new community based planning process and that delineates the scope of the new planning process. In addition, notice of the proposed initiation of a new community based planning process should be mailed to each known neighborhood organization that serves areas located within one mile of the land that would be affected by the new community based planning process, and such notice should be mailed thirty to sixty days before the meeting of the Planning Commission at which the intent to initiate a new community based planning process would be discussed.

Such an alternative would provide for the growth that is needed to accommodate the 2007-2014 planning period. If the 2009 Housing Element aims to accommodate growth for a later period, the 2009 Housing Element needs to identify the period for which the 2009 Housing Element seeks to accommodate growth and the amount of additional housing production it seeks to accommodate for each income level.

Eliminating new area plans or planning processes beyond those needed to accommodate growth for the period covered by the 2007-2014 RHNA would reduce impacts on transit, land use and visual resources and neighborhood character. As stated in My March 24, 2011 statement, the City's lack of funds to enhance transit was the basis of the EIR's rating as a significant impact the 2009 Housing Element's impact on transit. Eliminating more areas to which bus service would have to be enhanced would mitigate this significant impact on transit.

The EIR states that policies of the 2009, 2004 Housing Elements, and Alternatives B and C that encourage a mode shift toward transit could result in an increase in transit ridership which may exceed Muni's capacity utilization standard of 85 percent and that "[g]enerally, as transit ridership increases, transportation agencies respond by expanding transit service and/or increasing transit frequency. However, given SFMTA fiscal emergencies, Muni may not be able to increase transit service to accommodate increased transit ridership resulting from the 2009 Housing Element policies that encourage residential development in transit-rich areas or other policies that encourage the use of alternative transportation in the City." Ex. B-1 AR 497, 483 as to 2004; 3 AR 1149, 1150, 1175, 1176; see also Ex. J-41 AR 22145, referring to "capital capacity constraints." As I explained in my prior March 24, 2011 statement, directing housing to fewer areas or providing a lesser number of housing units would reduce the significant impact on transit. Ex. J-41 AR 22143-22155, 22158. The EIR states that policies of the 2009, 2004 Housing Elements, and Alternatives B and C that encourage a mode shift toward transit could result in an increase in transit ridership which may exceed Muni's capacity utilization standard of 85 percent, and that "[g]enerally, as transit ridership increases, transportation agencies respond by expanding transit service and/or increasing transit frequency. However, given SFMTA fiscal emergencies, Muni may not be able to increase transit service to accommodate increased transit ridership resulting from the 2009 Housing Element policies that encourage residential development in transit-rich areas or other policies that encourage the use of alternative transportation in the City."

Ex. B-1 AR 497, 483 as to 2004; 3 AR 1149, 1150, 1175, 1176; see also Ex. J-41 AR 22145, referring to “capital capacity constraints.” Thus, as I previously explained, directing housing to fewer areas or providing a lesser number of housing units would reduce the 2009 Housing Element’s significant impact on transit. 41 AR 22143-22155, 22158.

Moreover, the City is currently experiencing serious incapacity problems with Muni, as demonstrated in the attached January 29, 2013 San Francisco Examiner article, *With packed vehicles people opt for private cars, SFMTA says*. (See Ex. I) Thus, Muni’s capacity problem from overcrowded buses is a current impact and not merely a significant impact projected to occur in the future. This alternative would also reduce other effects related to increased housing production including impacts on transportation, air quality, noise, water supply land use, and visual resources and neighborhood character.

### **3. THE JUNE 2010 DRAFT OF THE 2009 HOUSING ELEMENT ALTERNATIVE IS FEASIBLE.**

The version of the 2009 Housing Element that was included in the draft EIR that was circulated for public comment in 2010 was the June 2010 Draft of the proposed 2009 Housing Element (“June 2010 Draft”). The EIR’s analyses of whether impacts of the proposed project would be significant was based on implementation of the policies stated in the June 2010 Draft of the 2009 Housing Element. Public comment was also based on the June 2010 Draft. The set of policies stated in the June 2010 Draft and the amount of increased housing production supported by those policies is a feasible alternative because the EIR stated that “the total number of units identified in the RHNA can be accommodated under the existing zoning capacity and/or through development currently in the City’s pipeline.” Ex. B-AR 1400-Final EIR p. VIII-207. The EIR’s statement that the RHNA can be accommodated was based on the policies in the June 2010 Draft, so that Draft clearly would accommodate the 2007-2014 RHNA. Ex. K.

The City has not presented any evidence showing that the number of housing units anticipated to be produced would be significantly greater under the version of the 2009 Housing Element that the City subsequently adopted rather than under the June 2010 Draft of the 2009 Housing Element. The City also has not presented any evidence showing that any of the City’s project objectives would be better served by the version of the 2009 Housing Element that the City subsequently adopted rather than by the June 2010 Draft of the 2009 Housing Element. As explained below, adoption of the June 2010 Draft would mitigate the significant impact on RH-1 neighborhoods that could result from the changed policy ultimately adopted. The revised alternatives analysis also lacks any evidence that the draft of the 2009 Housing Element ultimately adopted would produce a significantly greater number of housing units or better serve stated project objectives.

The June 2010 Draft stated in Policy 1.6 text that “[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character.” In the draft subsequently adopted, this policy text was changed to state “[i]n some areas, such as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character.”

For the reasons stated in the March 24, 2011 Statement of David Golick, this change would constitute a significant impact on the environment because the policy change to eliminate density limits in RH-1 neighborhoods would degrade the quality of those neighborhoods. Ex. J-AR 22151-22154. Current density limits, such as the one-unit limit in an RH-1 area, maintain the quality of single-family RH-1 neighborhoods. Also, use of “flexibility in the number and size of units” was expanded to apply through “community based planning processes” and therefore would apply to projects outside plan areas and to individual projects, instead of merely to “community plan areas” as previously proposed in June 2010 Draft Policy 1.6. *Id.* In view of the excess housing production projected under the June 2010 Draft, these changes in policy language are not needed, and the June 2010 Draft is a feasible alternative.

ABAG has granted San Francisco’s application to designate various areas as Priority Development Areas (“PDAs”) that have “plans for significant increases in housing units” and are near transit. Ex. B-20 AR 10511-10512, 10328, 10330, 10532-38, 10463-72; 19 AR 10234-41.

The City plans to accommodate over 90% of the growth to 2035 in the PDAs. Ex. F-December 17, 2010 ABAG letter to SFMTA, Exhibit 6, tenth page.

The City has admitted that the “lion’s share of city’s growth will continue to be focused in its PDAs” and that the adopted and planned PDAs “collectively accommodate over 63,000 new housing units.” Ex. F-December 17, 2010 ABAG letter to SFMTA, Exhibit 6, twelfth page. As to infill opportunity sites outside PDAs, the City has acknowledged that: “The city includes numerous small-scale infill opportunity sites close to transit throughout all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city.” *Id.* In view of the excess housing production projected to occur under the 2009 Housing Element, as stated in the EIR, the City does not need another 17,000 housing units to accommodate the RHNA, much less elimination of density limits in RH-1 areas that would constitute only a portion of those 17,000 units.

How many additional housing units would be accommodated by the Policy 1.6 text that would maintain existing height and bulk patterns in RH-1 areas rather than density limits in RH-1 areas? To what degree would any project objectives not be served by the June 2010 Draft’s Policy 1.6 text that maintained density limits for RH-1 areas? In view of the projected exceedance of the RHNA for the 2007-2014 period, there is no substantial evidence that the significant impact on RH-1 areas is needed to accommodate the 2007-2014 RHNA, and previous policies relating to RH-1 areas should not be disturbed. Therefore, the June 2010 Draft of the 2009 Housing Element is a feasible alternative that would reduce or eliminate the significant impact on the quality of RH-1 neighborhoods. Since the general plan established the controlling policies, and zoning must be brought into conformance with the policies of the housing element of the general plan, it is evasive to state that the zoning has not yet been changed to eliminate the one-unit density limits that protect the single-family character of RH-1 neighborhoods.

In addition, the outlying RH-1 neighborhoods are not well served by transit, so it would not serve the City’s goal of directing new housing units to locations well served by transit to

support secondary units in such areas. The San Francisco Transportation Plan 2040 states that the outlying neighborhoods such as the Sunset are less accessible throughout the day by transit, and that in such lower-density Sunset neighborhoods the transit network is less dense, resulting in fewer transit alternatives and extra waits. Ex. G, p. 12)

Also, the last minute change stating that in RH-1 and RH-2 areas “existing height and bulk patterns should be maintained to protect neighborhood character” was not evaluated by the Community Advisory Body and was not subjected to public review and comment during the Draft EIR comment period. To support the middle class in the City, the Housing Element should maintain the existing single-family neighborhoods.

#### **4. THE EXCESS MARKET-RATE TRANSIT SUBSIDY ALTERNATIVE IS FEASIBLE.**

For the prior 1999-2006 planning period, market rate housing was overproduced at the rate of 153% of the market rate production target, whereas only 13% of the moderate rate, 52% of the low income and 83% of the very low income targets were met. Ex. B-18 AR 9497; 1 AR 323.

The overproduction of market rate housing is contrary to the City’s RHNA allocation, and the City is woefully failing to accommodate the RHNA allocation as to moderate rate units. According to the 2009 Housing Element, the City’s estimated shortfall of production of moderate rate units for the 2007-2014 planning period is 3,586 less than the 6,754 moderate units allocated. (Ex. B-AR 9497-2009 Housing Element Part I, p. I. 93) The crisis in the loss of the middle class in the City is now severe. (See Ex. L-January 8, 2014 San Francisco Examiner article, *Are you part of San Francisco’s disappearing middle class?*)

An alternative that would impose an appropriate per unit transit-mitigation fee on all market rate housing units that are produced in the City in excess of the RHNA allocation for market rate units for the applicable RHNA planning period would reduce the significant impact on transit that would result from directing growth to areas near transit. The amount of this fee would be determined by a nexus study that would determine the cost of providing Muni service to the excess market rate housing units that are produced, based on the estimated cost of providing service to such excess market rate units as well as the cost of any capital improvements needed to support such service. Such fee would be in addition to any other fees that the City may impose. It is feasible for the City to pass an ordinance requiring such a fee, since it would support the City’s policies directing housing growth to areas near transit, and the City has successfully passed other ordinances requiring inclusion of affordable housing or payment of a fee in lieu of provision of such housing. Given the estimate that 6,766 market rate units in excess of the RHNA allocation will be produced for the 2007-2014 planning period, such transit-mitigation fee would mitigate the project’s significant impact on transit. Ex. B-AR 9497.

In addition, the overproduction of market rate condominiums is serving technology workers who live in San Francisco and commute to jobs in Silicon Valley and other locations

south of San Francisco, especially as to the condominiums being built in the South of Market area near the freeway on-ramps. This has produced a substantial reverse commute which is increasing vehicle emissions in the region, contrary to the regional goals.

**5. THE NORMAL POPULATION INCREASE, NO CONCENTRATION, ALTERNATIVE IS FEASIBLE.**

The San Francisco Transportation Plan 2040 states that:

“To meet the SB 375 target, the Regional Transportation Plan, known as Plan Bay Area, calls for concentration of growth in densely developed areas with good transit access especially in San Francisco, San Jose, and Oakland....Concentrating jobs and housing in San Francisco is good for the city’s economy as well as the environment, but will also increase congestion and transit system crowding in downtown San Francisco and Eastern neighborhoods. By 2040, new growth will result in about 300,000 new transit trips per day on a local and regional system that is already strained by crowding and reliability issues. The San Francisco Planning Commission has adopted land use plans that direct much of the city’s projected growth in the central and eastern neighborhoods, where crowding is already acute.” Ex. G, p. 14.

The Revised DEIR states that two primary objectives of the project are to provide “a vision for the City’s housing and growth management through 2014” and to ensure “capacity for the development of new housing to meet the RHNA at all income levels.” (VII-3-4) However, the sixth project objective is to “Develop a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals.” *Id.* The 2009 Housing Element and EIR do not specifically explain how this objective is to be met and only vaguely allude to supporting housing near transit. The 2009 Housing Element states that the City had successfully advocated for “changes that direct more transportation money to jurisdictions, like San Francisco, that take on greater housing growth as part of the 2007-2014” RHNA Process. Ex. B-18 AR 9595, 9581. The 2009 Housing Element and the EIR should disclose how much more housing growth San Francisco accepted in that regard as part of the 2007-2014 RHNA process and for what income categories.

Since the EIR states that the pipeline units anticipated to be developed total 25,000 more than the 31,193 units sought by the Regional Housing Needs Allocation for the 2007-2014 planning period and further rezoning and area planning processes would allow the additional capacity of 27,844 units, the 2009 Housing Element is actually producing more new housing units than called for by the 2007-2014 RHNA. Ex. B-1 AR 328. In view of the excess production, the additional capacity for 27,844 units through rezoning appears directed to accommodate an unexplained objective of the 2009 Housing Element.

The 2009 Housing Element states that San Francisco’s fair share of the regional housing need for January 2007 through June 2014 was calculated as 31,190 units, which seeks to accommodate forecast household and employment growth “as well as allocating regional household and employment growth to jurisdictions with established or planned transit

infrastructures.” Ex. B-18 AR 9445-2009 Housing Element Part I, p. I.41. However, the 2009 Housing Element and the EIR do not disclose the amount of the 2007-2014 RHNA goal that allocated regional household and employment growth to jurisdictions with established or planned transit infrastructures. We request that the City provide that information in response to these comments. The EIR, 2009 Housing Element, and the City should disclose the estimated number of new housing units that would be needed during the 2007-2014 planning period to accommodate growth from only normal factors such as births and deaths in the City. The EIR, 2009 Housing Element, and the City should also disclose the estimated number of new housing units that would be needed during the 2007-2014 planning period to accommodate any portion of the projected regional household and employment growth that was allocated to San Francisco in the RHNA for the 2007-2014 planning period. In view of the 25,000 new units anticipated to be produced in excess of the RHNA allocation for 2007-2014, it should be feasible to eliminate from the 2009 Housing Element any portion of the projected regional household and employment growth that was allocated to San Francisco in the 2007-2014 planning period.

### CONCLUSION

The alternatives described above are feasible alternatives that would reduce the 2009 Housing Element’s significant impact on transit and its significant impacts on land use and neighborhood character. The 2009 Housing Element is projected to produce excess housing production, which can be feasibly scaled back to meet, but not exceed, the RHNA.

DATED: February 17, 2014

  
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DAVID GOLICK

**EXHIBIT A**

## RESUME

David Golick  
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### Work Experience

1. Planning Consultant and Contract Planner, May, 2000 – Present
  - A. Interim Community Development Director, City of Benicia, 2005  

Responsible for the operation of the Planning Division and Building Division. Involved in preparation of departmental budget and work program.
  - B. Interim Community Development Director, City of Lafayette, December, 2000 - April, 2001  

Supervised and coordinated the Planning, Building, Engineering, and Public Works functions. Responsible for a major reorganization of the Planning Services Division.
  - C. Interim Planning and Building Manager, City of Lafayette, April, 2001 - October, 2001  

Managed Planning and Building program. Responsible for hiring almost an entire new staff. Major projects included three controversial subdivisions, a senior housing proposal, and a downtown redevelopment commercial and housing project. Conducted zoning administrator hearings.
  - D. Major Land Use Projects
    - Managed contentious in-fill applications, including a proposed 23 unit residential subdivision that required an Environmental Impact Report, for the City of Lafayette
    - Project planner for a 119,000 sq. ft. Home Depot commercial warehouse development for the City of Hercules
    - Project planner for a 132 unit low income apartment project for the City of Hercules
    - Critiqued environmental documents prepared for two proposed Contra Costa County ordinance amendments, private sector clients
    - Critiqued Draft Environmental Impact Report prepared for South Schulte Specific Plan in the City of Tracy, private sector client



- Helped develop scopes of services for technical consultants involved in preparation of an Environmental Impact Report for a large mixed use development in the City of Fairfield, private sector client
  - Provided technical assistance to a consortium of 15 homeowner groups opposed to revisions to the Housing Element by the City and County of San Francisco,
2. Chief of Planning, City of Concord 1990 – 2000  
Director of Planning, City of Concord 1989

Responsible for the management and administration of planning functions. Responsibilities included development of Planning Division priorities and work programs, budget preparation and monitoring, personnel management, policy and ordinance formulation, a complete revision of the General Plan, and management of large scale development projects. Provided staff support to City Council, Planning Commission, and Design Review Board.

### Examples of Other Work Related Experience

1. Co-authored a guide for planners titled, “Free Advice for Young Planners Entering Public Sector Employment”, which has been often quoted and used as a teaching tool by public planning departments and universities.
2. Served on a review committee for development of a booklet titled, “Start at the Source – Residential Site Planning and Design Guidance Manual for Stormwater Quality”, prepared by Bay Area Stormwater Management Agencies Association.
3. Chaired a task force that developed innovative customer service approaches.
4. Speaker at American Planning Association national and state conventions as well as at local events.
5. Served on Bay Area Council focus groups that analyzed economic development potentials and constraints of the metropolitan area.
6. Member of the American Planning Association, Bay Area Planning Directors Association, and the Urban Land Institute.

### Education

1. University of Massachusetts at Amherst, B.A. in Economics.
2. University of Rhode Island
  - A. Graduate Studies in Community Planning. All course work, 61 graduate semester credits, completed
  - B. Graduate Studies in Public Administration. Nine graduate semester credits completed.
3. San Francisco State University. Spanish language and cross-cultural training.
4. Participated in numerous technical seminars regarding Planning and Management.

**EXHIBIT B**

The proposed 2009 Housing Element presents an updated calculation of San Francisco's fair share of the regional housing need. This updated calculation of San Francisco's share of the regional housing need is for January 2007 through June 2014 and shows a need for 31,193 housing units, or 4,159 units per year. The RHNA for the 2009 Housing Element is presented in Table IV-2.

**Table IV-2**  
**2009 Housing Element Regional Housing Needs Allocation**

Household Income Category	Percentage of AMI	No. of Units	Percentage
Extremely Low	< 30%	3,294	10.5%
Very Low	31 – 50%	3,295	10.6%
Low	51 – 80%	5,535	17.7%
Moderate	81 – 120%	6,754	21.7%
Above Moderate	> 120%	12,315	39.5%
<b>Total</b>	--	<b>31,193</b>	<b>100%</b>

*Source: City and County of San Francisco, Planning Department, Part I: Data and Needs Analysis, June 2010, at page 41.*

#### 2004 Housing Element Court of Appeal Decision

Prior to 2004, the City last updated its Housing Element in 1990, when it adopted the 1990 Residence Element. The EIR prepared to evaluate the 1990 Residence Element concluded that reaching the housing goals in the 1990 Residence Element could be achieved without any significant adverse effects to the environment. According to the EIR, meeting the housing goals in the 1990 Residence Element would reduce traffic congestion and thus improve air quality because people who work in the City would have shorter commutes.

The City's 2004 Housing Element was adopted on May 13, 2004, and deemed in compliance with state housing element law by the HCD. The San Francisco Planning Department prepared an Initial Study for the 2004 Housing Element, which examined several new policies that were proposed for addition to the 2004 Housing Element. The Initial Study concluded that although proposed revisions were meant to promote increased housing production, no environmental impacts would result from the adoption of the 2004 Housing Element because the element did not specify any development, rezoning, or area plans. The Initial Study stated that any environmental impact analysis would be conducted in connection with the approval of any future development projects, area plans, or rezoning. The Planning Department then prepared a Negative Declaration, which concluded that revisions to the Housing Element would not have a significant effect on the environment.

Subsequent to adoption of the 2004 Housing Element, the California Court of Appeal found the Negative Declaration prepared for the 2004 Housing Element by the City to be inadequate and determined that an EIR should be prepared (per *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* [June 22, 2007, A112987] [unpublished opinion]). In response to this directive, the Planning Department has prepared this EIR assessing the environmental impacts of the changes from the 1990 Residence Element to the 2004 Housing Element.

In 2000, almost 70 percent of all households in the City were comprised of one or two people and household sizes are expected to remain proportionally the same as previous decades; however, the proportion of single person households is growing. The 2008 ACS estimates the median household income at just under \$73,798 or about a 34 percent increase since 2000.

Table IV-4 presents employment growth in the City between 2000 and 2030. The number of jobs in the City decreased by 89,410 between 2000 and 2005 and approximately 195,010 jobs are expected between 2005 and 2030.

**Table IV-4**  
**San Francisco Employment Trends and Projections, 2000-2030**

	2000	2005	2030
Jobs	642,500	553,090	748,100
<i>Source: John Rahaim, Director of Planning, San Francisco Planning Department, correspondence with Michael P. Carlin, Deputy General Manager at the San Francisco Public Utilities Commission, July 9, 2009.</i>			

The median age within the City was estimated to be 40.4 years old in 2008, an increase from the median age of 36.5 in 2000. In 2000, residents 14 years and younger constituted only 12 percent of the City's population. The number of these residents is expected to grow, almost doubling to 184,700 in 2010 and making up 23 percent of the total population.

## F. APPROACH

As discussed above, the Court of Appeal mandated that the City prepare an EIR for the 2004 Housing Element. Since preparation for the 2004 Housing Element EIR began, the City also completed the proposed 2009 Housing Element, as required by state housing element law. Because the proposed 2009 Housing Element must also undergo environmental review under CEQA, this EIR evaluates both the 2004 and the proposed 2009 Housing Element in the same EIR. This subsection outlines the proposed Housing Elements that are evaluated in this EIR. This approach facilitates a streamlined process in which the potential environmental impacts of implementing both housing element options are analyzed at similar levels of detail, meeting the requirements of CEQA and the Planning Department's responsibilities under the court's decision.

### Proposed Housing Elements Analyzed in this EIR

As previously discussed, in order to be in compliance with state housing element law, a housing element must include an updated Data and Needs Analysis; therefore, each proposed Housing Element utilizes the most recent data on citywide housing found in the Draft 2009 Housing Element Part I Data and Needs Analysis. Further, in order to meet the project objectives of having a housing element that substantially complies with state housing element law, the proposed Housing Elements must meet the most recent regional housing needs assessment. Therefore, both project options will be analyzed for their ability to meet the 2007-2014 RHNA. This EIR analyzes the following two Housing Element proposals:

1. 2004 Housing Element: This option includes the objectives, policies, and implementation programs of the 2004 Housing Element. For purposes of this EIR analysis however, the 2004 Housing Element utilizes the updated Data and Needs Analysis (Part I) of the 2009 Housing Element and an updated RHNA.
2. 2009 Housing Element: This option includes the objectives, policies, implementation measures, strategies for further review and RHNA of the proposed 2009 Housing Element.

### **Existing Capacity**

Housing element law requires local governments to prepare an inventory of land suitable for residential development to help identify sites that can be developed for housing within the housing element planning period. Using various data sources, the Planning Department has taken an inventory of land on which new residential development could occur under existing zoning. This was done to satisfy the HCD requirement to identify the supply of land still available to help the City meet its share of the regional housing need as projected by the RHNA.

### **Existing Zoning**

Generally, the highest housing densities in the City exist in the Downtown area, at an average density of up to 283 dwelling units per acre, while lower densities (as low as 14 dwelling units per acre) exist in the western and southern areas in the City. Figure IV-3 shows a generalized zoning map of the City. As shown, most areas in the City allow residential uses and the eastern portion of the City is also comprised of commercial, mixed-use, and industrial uses. Figure IV-4 shows a generalized height map of the City. As shown, the tallest height districts occur in the Downtown and South of Market (SoMa), neighborhoods.

Figure IV-5 and Table IV-5 display the housing potential in undeveloped and underdeveloped sites. As shown, approximately 60,995 new housing units could be accommodated under existing zoning. There are approximately 1,649 parcels totaling 366 acres that are classified as vacant or near vacant (sites that are developed to less than five percent of their maximum potential) where approximately 20,543 new housing units could potentially be constructed. Another 4,111 lots are also seen as underdeveloped and could be redeveloped for residential uses, which could possibly yield another 40,452 new units. Underdeveloped sites are generally classified as soft sites, sites with development potential, or opportunity sites. The City identifies two levels of soft sites, sites that are built to only 30 percent of their maximum potential, and sites that are built to only five percent of their maximum potential, as determined by the zoning for that parcel. These units represent the allowable number of new housing units that could be accommodated under existing zoning. The City is also in the process of updating zoning controls for many of San Francisco's neighborhoods. These rezoning efforts will increase the existing capacity in those neighborhoods, allowing for the development of additional housing units above and beyond what is shown in Figure IV-5 and Table IV-5.

**Updated Zoning Controls**

The City Planning Department has recently updated zoning controls for the following neighborhoods: Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, and Balboa Park. These planning efforts have developed updated zoning, heights, bulks, and densities in balance with infrastructure. A number of other planning efforts are currently underway including, but not limited to the Transit Center District Plan, Treasure Island, and West SoMa, which could result in increased residential development potential in those areas. Under existing zoning capacity, these planning areas could accommodate 3,669 net new housing units, representing approximately six percent of the total citywide existing capacity of 60,995 units as described previously. The additional potential capacity with rezoning initiatives currently underway is approximately 28,844 units (see Table IV-6). Should these rezoning initiatives be adopted and implemented, the City would be able to accommodate 89,839 net new housing units, which, if developed, would represent a 25 percent increase in the City’s housing stock.<sup>8</sup>

**Table IV-6  
Estimated New Housing Construction Potential under Area Plans in Process**

Area	Under Current Zoning			With Proposed Rezoning	
	Undeveloped	Underdeveloped	Total Estimate	Total New Estimate	Additional Potential Units with Rezoning
Executive Park	114	97	211	1,600	1,389
Glen Park	5	6	11	100	89
Japantown <sup>1</sup>	99	514	613	To be determined	
Park Merced	3	0	3	5,600	5,597
Transit Center District	44	78	122	1,200	1,078
Western SoMa	466	743	1,209	2,700	1,491
India Basin				1,200	1,200
Hunters Point Shipyard			1,500	4,000	2,500
Candlestick Point				7,500	7,500
Treasure Island				8,000 <sup>2</sup>	8,000
<b>Total<sup>3</sup></b>	<b>731</b>	<b>1,438</b>	<b>3,669</b>	<b>31,900<sup>4</sup></b>	<b>28,844</b>

Source: City and County of San Francisco, Planning Department, Draft Housing Element, Part I: Data and Needs Analysis, June 2010, at page 92.

<sup>1</sup> Planning efforts for Japantown are currently underway, but are at an early stage of the development process and the estimated number of new housing units that could be accommodated with rezoning initiated as part of this area plan is currently unknown.

<sup>2</sup> This figure varies from that in Part I: Data and Needs Analysis, June 2010, page 92 because Treasure Island is now proposing 8,000 units instead of 7,000 units, therefore the totals have also been increased by 1,000 to reflect these new proposed units.

<sup>3</sup> The totals may differ from totals in Part I: Data and Needs Analysis due to rounding.

**Pipeline Projects**

As of the first quarter of 2009, there were approximately 360 projects under construction or with approved building permits in the City that could add up to 9,628 new housing units (see Table IV-7 and

<sup>8</sup> City and County of San Francisco, Planning Department, Draft Housing Element, Part I: Data and Needs Analysis, June 2010, at page 24. The existing housing stock is estimated at 363,662 housing units Citywide.

Figure IV-6). An additional 625 projects have been approved by the Planning Department, filed for Planning approval, or filed for a building permit. These projects could result in an additional 46,807 new residential units. Collectively, these 56,435 new units represent San Francisco's pipeline projects. Pipeline projects include projects currently under construction, projects which have approved building permits, projects which have building department applications on file, projects which have been approved by the Planning Department, and projects which have Planning Department applications on file. It is possible that some of these projects may not go forward due to shifts in economic and legislative conditions. Three major projects, i.e., Candlestick Point-Hunters Point Shipyard, Treasure Island, and Park Merced, comprise approximately half of the pipeline project units and could be completed by approximately 2020. Production trends over the last decade show that approximately 75-80 percent of pipeline project units are completed within five to seven years.<sup>9</sup> This production trend is applicable to the pipeline project units that are not associated with the three major projects listed above.

**Table IV-7**  
**New Housing Construction Pipeline (1st Quarter of 2009)**

Type of Activity	No. of Projects	No. of Units
Under Construction	172	6,776
Building Permit Approved/Issued	188	2,852
Building Permit Application Filed	347	4,588
Planning Department Approved	124	6,200
Planning Department Filed	154	36,019
<b>Total Pipeline</b>	<b>985</b>	<b>56,435</b>

*Source: City and County of San Francisco, Planning Department, March 2010.*

## G. PROJECT CHARACTERISTICS

State law mandates that cities and counties have a housing element as part of their general plan. In addition, state housing element law requires cities and counties to update their housing elements periodically, usually every five years, based on the RHNA provided by ABAG. Because an updated housing element is a mandatory obligation under state law, this EIR will assume that the City will update Part I – the Data and Needs Analysis – under any housing element alternative ultimately chosen for adoption. Part I, which was discussed previously under the “Regulatory Setting” and “Background” subheadings, provides background demographics and regional housing need information, but does not include objectives or policies. Part II of each housing element sets forth the objectives, policies, and implementing strategies intended to address the City's housing needs. Part II of each option analyzed in this EIR is discussed below. Table IV-8 lists the policies of the 2004 Housing Element and the proposed 2009 Housing Element that could potentially result in physical environmental impacts, together with the corresponding objectives or policies of the 1990 Residence Element (if any), the environmental impacts of which were addressed in a previously prepared EIR. For reference, the 1990 Residence Element objectives and policies are included as Appendix B-1 to this EIR.

<sup>9</sup> City and County of San Francisco, Planning Department, March 2010.

Policy 4.2: Provide buffering for residential properties when heavy traffic cannot be avoided.

The proposed Housing Elements would not adversely affect implementation of the above policies. Specifically, 2004 Housing Element Policies 11.1, 11.8, and 11.9 would use new housing to enhance neighborhood vitality and diversity and would ensure increased housing density would not conflict with existing neighborhood character. 2009 Housing Element Policies 11.1 and 11.7 encourage the preservation of neighborhood character. All of these policies would relate directly to the Urban Design Element policies. No inconsistencies between the proposed Housing Elements and the Urban Design Element have been identified.

### **Area Plans**

The General Plan also includes several area (neighborhood) plans that serve to guide the nature of future development within specific districts of the City. The 2004 Housing Element and 2009 Housing Element do not include any changes to the land use objectives and policies in the City's Area Plans or Redevelopment Plans for certain areas in the City. However, the proposed Housing Elements promote specific neighborhood and area plans as part of the planning process. 2004 Housing Element Policy 11.6 calls for the completion of the Better Neighborhoods area plans and 2009 Housing Element Policy 1.1 calls for a community planning process to guide new housing growth. Applicable Area Plans or Redevelopment Plans would continue to guide future development in specific neighborhoods or districts. A number of other planning efforts are currently underway including, but not limited to the Transit Center District Plan, Treasure Island, and Western SoMa, which could result in increased residential development potential in those areas. The estimated new housing construction potential for each of these areas is provided in Table IV-6 in Section IV (Project Description).

The more general policies in the 2004 and 2009 Housing Elements are made more precise in the applicable area plans as they relate to certain parts of the City. 2004 Housing Element Policies 1.7, 4.4, 11.6, 11.7, and 11.8 and 2009 Housing Element Policies 2.1 and 7.5 would promote increased housing density by encouraging the construction of new housing and discouraging demolition of existing housing. 2004 Housing Element Policies 3.1, 3.3, 3.4, and 3.5 and 2009 Housing Element Policies 2.5 and 7.6 encourage the preservation of existing residential units through maintenance and upgrade activities. 2004 Housing Element Policy 11.3 and 2009 Housing Element Policies 8.1, 9.1, 9.2, 9.3 support the production, management, and preservation of affordable housing units in accordance with San Francisco's needs. 2004 Housing Element Policies 11.1, 11.8, and 11.9 and 2009 Housing Element Policies 11.1 and 11.7 would ensure new housing does not conflict with existing neighborhood character. 2004 Housing Element Policies 1.7 and 4.5 and 2009 Housing Element Policy 2.2 encourage family housing. Implementation of the policies in the proposed Housing Elements could also serve to increase energy efficiency of San Francisco's housing stock by directing housing to locations where residents could have reduced reliance on automobiles, such as mixed use neighborhoods and areas surrounding existing transportation infrastructure. The proposed Housing Element policies discussed above further the intent related to housing of the Area Plans discussed below. No inconsistencies between the proposed Housing Elements and specific area plans have been identified.



- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or
- Have a substantial impact upon the existing character of the vicinity.

### **Impact Evaluation**

Section V.A (Plans and Policies) of this EIR describes the Area Plans of the General Plan and Redevelopment Plan Areas adopted by the San Francisco Redevelopment Agency that serve to guide the nature of future development in specific neighborhoods or districts in the City. The City's General Plan includes adopted Area Plans for the following areas: Bayview Hunters Point, Central Waterfront, Chinatown, Civic Center, Downtown, East SoMa, Market & Octavia, Mission, Northeastern Waterfront, Showplace Square/Potrero, Rincon Hill, South of Market, Van Ness Avenue, and Western Shoreline. The San Francisco Redevelopment Agency maintains redevelopment plans for the following areas: Bayview Hunters Point, Federal Office Building, Golden Gateway, Hunters Point Shipyard, Mission Bay, Rincon Point - South Beach, South of Market, Transbay, Visitacion Valley, Western Addition A-1, and Yerba Buena Center. Redevelopment Areas also serve to guide the nature of future development in specific areas, and either contain special zoning and land use controls or specify that the controls of the San Francisco Planning Code apply.

Implementation of the proposed Housing Elements would not directly result in changes to applicable height and bulk zoning districts or to allowable uses under the Planning Code. Additionally, the 2004 Housing Element and 2009 Housing Element do not include any changes to any of the land use objectives and policies in the City's Area Plans or Redevelopment Plans. While implementation of the proposed Housing Elements would not directly affect existing Area Plans or Redevelopment Plans, it would encourage new Area Plans with similar planning-related strategies that may be designed to accommodate growth. Applicable Area Plans or Redevelopment Plans would continue to guide future development in specific neighborhoods or districts.

As noted before, ABAG, in coordination with the State Department of Housing and Community Development (HCD), uses population and job growth projections from the State Department of Finance to determine the regional housing needs for the Bay Area and allocates housing to cities and counties within the Bay Area through the Regional Housing Needs Allocation (RHNA). In providing direction for meeting regional housing needs, ABAG's RHNA number focuses on both the amount of housing and the affordability of housing. Currently, the City is generally meeting ABAG's most recent household projections and is slightly exceeding ABAG's latest population estimates. A variety of local factors support growth projections for San Francisco. The desirability of San Francisco, with its wealth of natural and urban amenities, has always appealed strongly to consumers. This desirability has resulted in continued high demand for housing, as evidenced by high property values and a growing population. Therefore, it is expected that residential development in the City would occur regardless of the proposed Housing Elements, and housing element law ensures that local agencies, including San Francisco, plan for

### Regional Housing Need Allocation

New housing need is determined, at a minimum, through a Regional Housing Needs Allocation (RHNA) process. ABAG, in coordination with the California Department of Housing and Community Development (HCD), determined the Bay Area's regional housing need based on regional trends, projected job growth, and existing needs. The housing needs determination effort seeks to alleviate a tight housing market stemming from forecasted household and employment growth as well as to allocate regional household and employment growth to jurisdictions with established or planned transit infrastructures. The RHNA determination includes production targets for housing to serve various household income categories. The RHNA provides a benchmark for evaluating the adequacy of local zoning and regulatory actions to ensure each local government is sufficiently designating land and providing opportunities for housing development to address population growth and job generation. According to housing element law, the proposed Housing Elements are required to demonstrate adequate capacity to accommodate the RHNA.

The 2004 Housing Element accommodated San Francisco's share of the regional housing need for January 1999 through June 2006, which was calculated as 20,374 units, or 2,717 units per year.<sup>5</sup> Although San Francisco fell short of meeting the state mandated fair share housing targets, over 17,470 new housing units were built from 1999-2006, or almost 86 percent of its housing production targets.<sup>6</sup> The City met almost 83 percent of the target for very-low income housing, but only 52 percent of the low-income housing production target was produced. The City also exceeded the market-rate housing target by over 53 percent. The greatest deficiency for the reporting period was in the production of moderate-income housing, where the City produced just 13 percent of its target. This unmet need is carried over in the 2009 Housing Element targets.

The 2009 Housing Element presents an updated calculation of San Francisco's fair share of the regional housing need. Table V.D-5 shows the amount of housing need allocated to the City for 2007 to 2014 (as identified in the Part I of the 2009 Housing Element). This updated calculation of San Francisco's share of the regional housing need is for January 2007 through June 2014 and shows a need for 31,193 housing units, or 4,159 units per year.

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<sup>5</sup> City and County of San Francisco, Planning Department, Housing Element, Part I: Data and Needs Analysis, Adopted May 13, 2004, at page 65.

<sup>6</sup> City and County of San Francisco, Planning Department, Draft Housing Element, Part I: Data and Needs Analysis, June 2010, at page 98.

Housing Element encourages housing in new commercial or institutional projects and accommodating housing through existing community planning processes.

***Impact PH-1: The proposed Housing Elements would not induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). (Less than Significant)***

New construction could result in impacts related to substantial population growth if new housing would generate more residents than planned for by ABAG projections, including through the creation of jobs related to construction or by increasing household size. Section V.A (Plans and Policies) of this EIR describes the area plans and redevelopment plans that serve to guide the nature of future development in specific neighborhoods or districts in the City. The City's General Plan includes area plans for the following areas: Bayview Hunters Point, Central Waterfront, Chinatown, Civic Center, Downtown, East SoMa, Market & Octavia, Mission, Northeastern Waterfront, Showplace Square/Potrero Hill, Rincon Hill, South of Market, Van Ness Avenue, and Western Shoreline. The San Francisco Redevelopment Agency maintains redevelopment plans for the following areas: Bayview Hunters Point, Federal Office Building, Golden Gateway, Hunters Point Shipyard, Mission Bay, Rincon Point - South Beach, South of Market, Transbay, Visitacion Valley, Western Addition A-1, and Yerba Buena Center. The 2004 Housing Element and 2009 Housing Element do not directly or indirectly include any changes to the objectives and policies in the City's area plans or redevelopment plans for the abovementioned areas. Growth within area plans or redevelopment plans would continue to be subject to the guiding policies of the appropriate plan. Both the 2004 and 2009 Housing Elements call for community planning processes to guide future growth and give overall guidance for community planning efforts. Any proposed community planning process would be required to undergo a separate environmental review.

A housing element is required to adequately plan for and address the housing needs of all segments of its population, such that all communities contribute to the attainment of the state housing goals. As shown in Table V.D-5, based on ABAG projections and the resulting RHNA, the 2009 Housing Element identifies San Francisco's share of the regional housing need for January 2007 through June 2014 as 31,193 housing units, or 4,159 units per year. The proposed Housing Elements would help achieve the RHNA goals through implementation of housing-related policies. In developing the proposed Housing Elements, the City found that there are substantial infill housing opportunity sites to meet the City's share of the RHNA.<sup>12</sup> According to Tables IV-7 and IV-5 in Section IV (Project Description), there are approximately 56,435 units are anticipated to be developed in the City (pipeline projects), with the capacity for 60,995 additional units, respectively. The pipeline units anticipated to be developed in the City total approximately 25,000 units more than the City's share of the RHNA. Additionally, area planning processes and rezoning alternatives would allow the additional capacity of 27,844 units.

Housing growth would occur regardless of the proposed Housing Elements. The proposed Housing Elements provide direction for that growth with a specific emphasis on housing affordability. As

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<sup>12</sup> City and County of San Francisco, Planning Department, Draft Housing Element, Part I: Data and Needs Analysis, April 2009, at page 82.

that promote alternative transportation to job cores or neighborhood services, could encourage a mode shift to transit, increasing the capacity utilization of transit lines near capacity under 2025 Cumulative Conditions. The impacts to the public transit system are considered less than significant if the increase in transit ridership can be absorbed within the existing available capacity of transit lines at the Maximum Load Point (MLP) locations. It is possible that the 2004 Housing Element policies that encourage a mode shift towards transit could result in an increase in transit ridership, which may exceed Muni's capacity utilization standard of 85 percent. Generally, as transit ridership increases, transportation agencies respond by expanding transit service and/or increasing transit frequency. However, given SFMTA's fiscal emergencies, Muni may not be able to increase transit service to accommodate increased transit ridership resulting from the 2004 Housing Element policies that encourage residential development in transit-rich areas or other policies that encourage the use of alternative transportation in the City. Therefore, the 2004 Housing Element could result in a *potentially significant* transit impact. The 2004 Housing Element contains additional policies intended to ensure that new development does not overburden the existing infrastructure, including transit infrastructure. 2004 Housing Element Policy 11.2 and Implementation Measures 11.2.1 and 11.2.2 seek to ensure that new housing is provided with adequate public improvements, services, and amenities.

The 2004 Housing Element also includes policies and implementation measures that advocate for accommodating growth in planning processes similar to the Better Neighborhoods program. One purpose for specific planning processes to accommodate growth is to ensure that increased development is adequately supported by services, including transit services, as discussed in 2004 Housing Element Implementation Measure 1.9.1, (*The City, through a Better Neighborhoods type planning process, will continue to work to improve and enhance housing with the goal of more housing and vital, attractive transit served neighborhoods*). Therefore, policies advocating for specific planning processes would not be expected to adversely affect the transportation network. Any planning process to accommodate growth would be required to undergo a separate environmental review pursuant to CEQA with an analysis of the site-specific effects of any proposed area plan, and the adoption of site specific mitigation measures if necessary.

Without the policies in the 2004 Housing Element that direct growth to certain areas in the City to a greater degree than the 1990 Residence Element, vehicle trips to the Downtown area (for example) could increase because residential uses would not be located in proximity to jobs in a way that more efficiently promotes walking, bicycling and public transit as a means of travel to work. The 2004 Housing Element encourages residential uses near transit-rich areas and could direct housing growth to areas of the City with a higher percentage of trips occurring by alternative transportation modes. Therefore, the 2004 Housing Element could reduce the overall number of vehicle trips to the Downtown area, as compared to the 1990 Residence Element.

For the reasons discussed above, the 2004 Housing Element is not anticipated to direct housing growth in such a way that would adversely affect traffic operations. The 2004 Housing Element encourages residential development that can take advantage of alternative modes of transportation, including transit, walking, and bicycling. Any such mode shift would be in keeping with the City's Transit First Policy (City Charter Article 8A, Section 8A.115). However, given SFMTA's recent fiscal emergencies, Muni

2009 Housing Element Policies 4.6, 12.1, 13.1, and 13.3 would encourage housing near transit lines and existing transit infrastructure to a greater extent than their corresponding 1990 Residence Element policies. It is recognized that under future 2025 Cumulative Conditions, some transit corridors, including the California corridor in the northwest screenline and the Subway corridor in the southwest screenline, would operate near the Muni's capacity utilization standard of 85 percent. 2009 Housing Element policies that encourage new residential development along transit lines are intended to promote alternative transportation and could encourage a mode shift to transit, increasing the capacity utilization of those lines already near capacity under 2025 Cumulative Conditions. The impacts to the public transit system are considered less than significant if the increase in transit ridership can be absorbed within the existing available capacity of transit lines at the MLP locations. It is possible that the 2009 Housing Element policies that encourage a mode shift towards transit could result in an increase in transit ridership, which may exceed Muni's capacity utilization standard of 85 percent. Generally, as transit ridership increases, transportation agencies respond by expanding transit service and/or increasing transit frequency. However, given SFMTA fiscal emergencies, Muni may not be able to increase transit service to accommodate increased transit ridership resulting from the 2009 Housing Element policies that encourage residential development in transit-rich areas or other policies that encourage the use of alternative transportation in the City. Therefore, the 2009 Housing Element could result in a *potentially significant* transit impact. The 2009 Housing Element contains numerous policies to reduce the effects related to encouraging new housing along transit corridors; 2009 Housing Element policies 4.6, 12.1, 13.1 and 13.3 seek to ensure that new housing is provided with adequate public improvements, services, and amenities, and to reduce the reliance of residential development on vehicles. However, these policies may not be able to reduce the impact to a less than significant level, therefore, impacts to the City's transit system would remain *potentially significant*.

2009 Housing Element Policy 1.8 requires single-use development projects to include housing within the developments, a stipulation not required in 1990 Residence Element Policies 1.7 and 1.3. In San Francisco, the commercial and industrial areas are largely located near or along established transit corridors and/or are in proximity to places of employment and neighborhood services. Introducing additional residential development in these areas could result in impacts related to the overall traffic system by encouraging development in some areas of the city that may already experience congested conditions. However, this policy could reduce the overall VMT, by providing housing in proximity to job cores and services. Combined with available modes of alternative transportation, these mixed-use developments could minimize the burden on the City's roadways by shifting a portion of person trips to alternative modes of transportation, including transit, walking and bicycling. As discussed above, the 2009 Housing Element policies that encourage increased transit ridership may result in *potentially significant* impacts on the City's transit system.

2009 Housing Element Policy 1.1 calls for promoting housing within adopted and ongoing community planning processes. Ongoing community planning projects include Japantown, Glen Park, the Northeast Embarcadero Study, and a number of planning projects in the Southeast sector of the City. As discussed in Policy 1.4, "*Community plans are an opportunity for neighborhoods to work with the City to develop a strategic plan for their future, including housing, services and amenities.*" Community planning processes are geared towards planning processes that consider transportation when planning for housing and vice

Impact	2009 Housing Element	Corresponding 1990 Residence Element Policy
	Strategy for further review: MOH and Planning should continue to consider, within the context of a community planning process, zoning categories which require a higher proportion of affordable housing where increased density or other benefits are granted. Options include Affordable Housing Only Zones (SLI); Affordable Housing Priority Zones (UMU) or Special Use District Opportunities.	
	Implementation Measure 64: Planning staff shall support affordable housing projects in the development review process, including allowing sponsors of permanently affordable housing to take advantage of allowable densities provided their projects are consistent with neighborhood character.	
	Implementation Measure 79: Planning staff shall continue to use community planning processes to develop policies, zoning and standards that are tailored to neighborhood character.	Implementation Measure 2.2.1: Densities compatible with neighborhood character.

As shown above, 2009 Housing Element promotes development on undeveloped sites to a greater extent than the 1990 Residence Element by using stronger language and providing a list of opportunity sites, one of which is undeveloped. The 2009 Housing Element generally promotes increased density through community planning processes (Policies 1.4, 1.6, and Implementation Measures 13 and 79) and for affordable housing (Policy 7.5 and Implementation Measures 36 and 64). The 2009 Housing Element also includes a strategy designed to reduce the amount of space required for non-housing functions (Implementation Measure 12). While the 2009 Housing Element contains a policy that advocates for family-sized housing units (Policy 4.1 and Implementation Measure 32), overall density increases from such policy would be speculative as less units would be accommodated within a given building envelope.

2009 Housing Element Policy 1.2 directs the City to use the current state of the economy as an opportunity to pursue available land for affordable housing, providing stronger direction than 1990

Elements might. The analysis of the 2004 and 2009 Housing Elements found that impacts to transit would be potentially significant under Cumulative Conditions. Policies that were not deleted under Alternative B include policies that advocate for zoning changes in many areas of the City that have undergone area planning processes, measures that call for rezoning of the City's industrial and commercial districts to provide mixed use neighborhoods, and encouraging housing along transit for specialized housing types. Therefore, it is possible that encouraging housing in mixed use districts and in industrial and commercial districts where either housing is located in proximity to jobs, services and/or transit could potentially shift some trips to transit. Given that Alternative B could potentially encourage increases in transit ridership, potentially above Muni's capacity utilization standard of 85 percent, and that SFMTA's fiscal emergencies may not allow for expanded transit service, Alternative B may result in a potentially significant impact on the City's transit system.

### **Parking Provisions**

Alternative B does not contain any policies that would modify parking impacts. Therefore, Alternative B would have similar impacts as the No Project Alternative with respect to parking provisions. Alternative B retains two parking policies that commit the City to study the effects of parking requirements for secondary units and affordable housing. Therefore, Alternative B does not contain any policies that could result in reduced parking requirements. As discussed in the TIS, a reduced parking requirement is a strategy to shift modes of transportation to transit, bicycling or walking. It is therefore, anticipated that maintaining the current parking provisions would increase the number of vehicle trips citywide, above those anticipated for the 2004 and 2009 Housing Elements, but not in excess of those anticipated under future 2025 Cumulative Conditions. Therefore, it is more likely that the 37 intersections anticipated to operate at unacceptable levels of service under future 2025 Cumulative Conditions would continue to operate unacceptably. No changes are anticipated to the transit system under 2025 Cumulative Conditions because Alternative B does not include reduced parking provisions.

### **Residential Density Provisions**

Alternative B is similar to the No Project Alternative in that it does not as aggressively promote increased residential density as the 2004 Housing Element. Alternative B includes Policies 2.2 and 2.3 from the 2004 Housing Element that could increase residential density more generally throughout the City as compared to the 2009 Housing Element policies that generally limit this strategy to affordable housing and through community planning processes. As discussed in the TIS, increased residential density is correlated with reduced auto ownership and reduced VMT, resulting in overall beneficial impacts to the City transportation network. Therefore, the 2004 Housing Element would result in more beneficial impacts to the City transportation network than Alternative B, and similar impacts to the transportation network as the 2009 Housing Element policies. Housing policies under Alternative B that would increase residential density could also promote the use of alternative transportation, shifting a portion of trips to transit. However, under Alternative B, impacts to the City's transit system would be similar to the No Project Alternative and would not be anticipated to affect future 2025 Cumulative transit conditions.

### Conclusion

As discussed above, Alternative B can be expected to result in an overall increase in citywide vehicle trips as compared to the 2004 and 2009 Housing Elements because Alternative B does not promote the use of alternative transportation to the degree that the 2004 and 2009 Housing Elements do. However, the effects of future development on the roadway network would not be expected to exceed 2025 Cumulative Conditions. Furthermore, Alternative B does not propose any new residential development, and would therefore, not generate any new person trips.

Alternative B does contain policies that direct growth towards job cores, commercial areas and/or transit more so than the No Project Alternative, but not as aggressively as the 2004 and 2009 Housing Elements. Under 2025 Cumulative Conditions, the California and Subway transit corridors are anticipated to operate near Muni's transit capacity utilization in 2025. Although Alternative B would not add any new trips under 2025 Cumulative Conditions, Alternative B contains policies that encourage a mode shift to transit. A substantial mode shift to transit could adversely affect the public transit system. Given that Alternative B includes policies that could potentially encourage increases in transit ridership above Muni's capacity utilization standard of 85 percent, and that SFMTA's fiscal emergencies may not allow for expanded transit service, Alternative B may result in a potentially significant impact on the City's transit system.

### *Noise*

Similar to the 2004 Housing Element and 2009 Housing Element, the City is neither within an airport land use plan area, nor within two miles of a public airport or public use airport, nor within the vicinity of a private airstrip. Therefore, Alternative B would have *no impact* with respect to airport noise.

### 2004 Housing Element Comparison

Unlike the 2004 Housing Element, Alternative B would not promote as much increased housing density, potentially resulting in less housing construction. This reduced amount of housing construction would result in less noise-generating activity associated with new housing construction. Similar to the 2004 Housing Element, Alternative B would not result in an increase in demolition, which would create demolition-related noise. Both Alternative B and 2004 Housing Element recognize the need for the retention and maintenance of existing housing, and therefore do not represent a shift in policy. Therefore, similar to the 2004 Housing Element, impacts from exposure of people to or generation of excessive groundborne vibration or groundborne noise would be less than significant.

Alternative B would reduce the amount of housing construction on in-fill sites in industrial and commercial areas as compared with the 2004 Housing Element. This would reduce the potential for exposing residents to higher noise levels associated with these types of non-residential uses; therefore, this impact would be incrementally less than under the 2004 Housing Element. However, as with the 2004 Housing Element, compliance with Title 24 may not mitigate exterior noise on private open space or other site-specific conditions may warrant acoustical monitoring and analysis beyond that required for Title 24 compliance. Therefore, as with the 2004 Housing Element, Alternative B would result in



**Table VII-3  
Alternative C Concepts**

Housing Concept	Direct Growth	Affect Parking	Increase Residential Density
curb cuts would further exacerbate on-street parking supply, such as in Residential Parking Program areas, or c. on a Transit Preferential Street.			
<i>Notes: <sup>1</sup> It is acknowledged that increasing density could affect local parking conditions, however, policies that specifically encourage increased density, yet maintain existing parking requirements, were not determined to have an effect on parking because off-street parking would continue to be supplied as determined by Planning Code requirements.</i>			

**Growth in Certain Areas**

Alternative C analyzes additional housing element concepts designed to further encourage attainment of the City’s housing needs. With respect to directing growth, Alternative C concepts more aggressively encourage increased residential development along transit lines and generally throughout the City. Similar to the 2004 and 2009 Housing Element, Alternative C includes additional policies that would direct growth to certain areas of the City to a greater degree than the 1990 Residence Element. While Alternative C concepts 2 and 3 specifically direct growth along transit lines, concepts 4 and 5 direct growth more generally throughout the City. Concepts 2 and 3 could result in an overall mode shift towards transit for those developments located along transit lines. It is therefore anticipated that under Alternative C, a greater amount of future residential growth would be located along transit, potentially reducing citywide vehicle trips. Without these policies, it is more likely that the 37 intersections anticipated to operate at unacceptable levels of service under future 2025 Cumulative Conditions would continue to operate unacceptably.

Alternative C would promote residential growth in proximity to transit lines more so than the 2004 and 2009 Housing Element and the No Project Alternative. The analysis of the 2004 and 2009 Housing Element found that impacts to transit would be potentially significant because the 2004 and 2009 Housing Elements include policies that could result in a mode shift towards transit. Under 2025 Cumulative Conditions the California and Subway transit corridors are anticipated to operate near Muni’s capacity utilization standard of 85 percent. The analysis of the 2004 and 2009 Housing Element policies found that increased transit ridership may exceed Muni’s capacity utilization standard and that given SFMTA’s current fiscal emergencies, SFMTA may not be able to respond with increased transit service, therefore this impact was found to be potentially significant. Given that Alternative C would include policies that could promote housing in proximity to transit more so than the 2004 and 2009 Housing Elements, Alternative C would similarly result in a *potentially significant* impact to the City’s transit system.

**Parking Provisions**

Similar to the 2004 Housing Element, Alternative C would allow for reduced parking requirements under specified conditions. Compared to the 2009 Housing Element, Alternative C would allow for parking

exemptions, while the 2009 Housing Element generally would not. Therefore, Alternative C would fall in between the 2004 and 2009 Housing Element effects related to parking provisions. As discussed in the TIS, a reduced parking requirement is a strategy to shift modes of transportation to transit, bicycling or walking. It is therefore anticipated that Alternative C could result in a greater portion of future residential trips shifting to alternative transportation modes based on reduced parking requirements than the 2009 Housing Element, and to a similar degree as the 2004 Housing Element policies. Any shift in transportation modes from vehicles to transit, bicycling or walking would be consistent with the City's Transit First Policy. However, as discussed above, any shift in transportation modes to transit could result in potentially significant impacts to the City's transit system under 2025 Cumulative Conditions. Therefore, transit impacts resulting from Alternative C could be *potentially significant*.

#### Residential Density Provision

Alternative C is intended to encourage greater attainment of new residential units to meet the City's housing needs. Therefore Alternative C, concepts 1-5 are designed to result in increased residential density as compared to the 2004 and 2009 Housing Elements. As discussed in the TIS, increased residential density is correlated with reduced auto ownership and reduced VMT, resulting in overall beneficial impacts to the City transportation network. Therefore, Alternative C would result in greater beneficial impacts to the City roadway network than the 2004 and 2009 Housing Elements. However, as discussed above, any subsequent shift to transit could result in ridership that exceeds Muni's capacity utilization standard under 2025 Cumulative Conditions. Therefore, transit impacts resulting from Alternative C could be *potentially significant*.

#### Conclusion

As discussed above, Alternative C can be expected to result in an overall decrease in citywide vehicle trips as compared to the 2004 and 2009 Housing Elements because Alternative C generally encourages greater residential density throughout the City, reduced parking requirements, and increased density along transit lines as compared to the 2004 and 2009 Housing Elements. Therefore, the effects of future development on the roadway network would not be expected to exceed 2025 Cumulative Conditions. Furthermore, the Alternative C does not propose any new residential development, and would therefore, not generate any new person.

Alternative C contains more aggressive policies that could encourage a greater shift towards alternative transportation, including transit. Therefore, similar to the 2004 and 2009 Housing Element, Alternative C could result in increased ridership that may exceed available transit capacity under 2025 Cumulative Conditions, resulting in *potentially significant* impacts to the City's transit system. Alternative C would have no impact on citywide pedestrian or bicycle facilities, loading areas, emergency vehicle access, or impacts from construction for the same reasons as the 2004 and 2009 Housing Elements.

which provide opportunities for, and do not unduly constrain, housing development.”<sup>38</sup> This statement articulates that implementation of the Housing Elements rests on the private market. The Housing Element is the regulatory system that provides opportunities for the private market to develop housing.

The affordability issues discussed in the comment are associated with policies included in the Housing Elements that would not result in physical environmental impacts. Table IV-8 (Project Description) of the Draft EIR identifies the policies in the 2004 and 2009 Housing Elements that would have the potential to result in physical environmental impacts, which are appropriately the focus of the Draft EIR analysis. Because those policies and programs in the 2004 and 2009 Housing Elements that specifically focus on mechanisms to improve the affordability of existing and future housing would not have physical environmental impacts, it would not provide useful information to the public or decision-makers to analyze alternatives to these policies in the context of the Draft EIR. Table VII-1 (Project Description) in the Draft EIR addresses this point and identifies those policies across the alternatives that could result in physical environmental impacts.

As the Housing Elements, the Draft EIR, and the commenter recognize, the total number of units identified in the RHNA can be accommodated under the existing zoning capacity and/or through development currently in the City’s pipeline, and neither Housing Element accordingly specifically recommends any citywide increases in allowable residential density. However, the 2004 and 2009 Housing Elements do discuss increasing density for certain areas or through the community planning process. As discussed in detail in Response to 7-4 on page VIII-73, these policies encourage the development of affordable housing.

### **Comment T-9**

Amy Minter, Chatten-Brown & Carstens

In its analysis of Alternatives A and B, the DEIR claims that the additional density provided by the policies in the 2004 and 2009 Housing Elements are required to meet the housing requirements for the RHNA, and in particular these density increases are required to meet the affordable housing targets identified in the RHNA. This claim is without support for two reasons. First, as discussed in section I.C above, increased density was determined to not be required to meet the 1999 to 2006 RHNA, and is also not required to meet the City’s target of producing 31,193 new housing units by 2014.

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<sup>38</sup> State of California, Department of Housing and Community Development, Housing Elements. Website: <http://www.hcd.ca.gov/hpd/hrc/plan/he/>. Accessed February 12, 2011.

# Housing Needs

This section examines the type, amount and affordability of new housing construction needed in San Francisco, as determined by the Association of Bay Area Governments, through June 2014. It is based, in part, on the data presented in the preceding Sections.

## A. REGIONAL HOUSING NEED ASSESSMENT

The Association of Bay Area Governments (ABAG), in coordination with the California State Department of Housing and Community Development (HCD), determine the Bay Area's regional housing need based on regional trends, projected job growth and existing needs. San Francisco's fair share of the regional housing need for January 2007 through June 2014 was calculated as 31,190 units, or about 4,160 units per year (Table I-39). This goal seeks to alleviate a tight housing market stemming from forecast household and employment growth as well as allocating regional household and employment growth to jurisdictions with established or planned transit infrastructures. More important, the regional housing needs assessment (RHNA) determination includes production targets addressing housing needs of a range of household income categories. A total of about 18,880 units or 61% of the RHNA target must be affordable to households making 120% of the area media income (AMI) or less.

Regional Housing  
Needs Assessment for  
San Francisco,  
2007-June 2014

Household Income Category	No. of Units	% of Total	Annual Production Goal
Extremely Low (< 30% AMI)	3,294	10.5%	439
Very Low (31 - 50% AMI)	3,295	10.6%	439
Low (51 - 80% AMI)	5,535	17.7%	738
Moderate (81 - 120% AMI)	6,754	21.7%	901
Above Moderate (over 120% AMI)	12,315	39.5%	1,642
Middle (120% - 150% AMI)	3,325	10.7%	443
Market (over 150% AMI)	8,990	28.8%	1,199
<b>TOTAL UNITS</b>	<b>31,193</b>	<b>100.0%</b>	<b>4,159</b>

SOURCE: ABAG, Planning Department

All told, there is the potential for almost 8,300 new units on vacant or underutilized parcels in these medium- and high-density residential zones.

*b. Housing in Neighborhood Commercial Districts*

Both Planning Code regulations and General Plan policies encourage housing over commercial spaces in districts throughout the City. More recently, regional and national interest in transit-oriented development has grown considerably. The close proximity of neighborhood commercial districts to transit preferential streets makes in-fill sites in these districts particularly suitable for development. There is also a proven strong market for mixed-use development. Mixed-use projects, with commercial and residential components, accounted for a significant amount of the new building construction in the last decade. Opportunity sites in neighborhood commercial districts cover over 330 acres of land in the City. This represents the potential for roughly 22,350 new housing units over ground floor commercial spaces.

*c. Better Neighborhoods Program*

The Better Neighborhoods Program was initiated by the Planning Department to address the City's related housing and transportation challenges. It seeks to do so by strengthening the linkages between land use and transportation planning, so that each one effectively supports the other. Market and Octavia, Balboa Park, and the Central Waterfront were chosen as three pilot neighborhoods and selected to serve as a model for other areas in the City. Glen Park and Japantown were later added as compact versions of the Better Neighborhood planning process. These neighborhoods' proximity to transit and essential services are ideal for additional housing, including units in upper stories above commercial uses. The Market Octavia Plan, promising an additional 5,900 units, was adopted in mid-2008. The Central Waterfront Plan was adopted, along with three other Eastern Neighborhoods, at the end of 2008. Balboa Park was also adopted in December 2008. The Central Waterfront Neighborhood Plan allows for the potential development of about 1,100 to 1,500 new units while Balboa Park could mean some 800 to 3,150 additional units.

Development opportunities in the Better Neighborhood areas vary. About 2,100 units can be built in vacant or near parcels in the Market and Octavia area while underdeveloped parcels can accommodate about 4,570 units. The demolition of the Central Freeway and its replacement with Octavia Blvd. in the Market and Octavia Plan Area freed up about seven acres for redevelopment. All told, these publicly owned parcels have the zoned capacity to accommodate over 1,000 units and have been included in the overall estimate for the area. In Central Waterfront, vacant or near vacant parcels have the zoned capacity to accommodate 865 units. Underdeveloped sites, mostly industrial uses such as warehouses, can be redeveloped and yield over 1,000 units. Balboa Park, on the other hand, can see over 3,100 units in vacant or near vacant properties. Another 600 units can be built in underdeveloped parcels that have existing uses such as single-storey commercial buildings or gasoline stations.

*d. Housing in Industrial Areas and the Eastern Neighborhoods*

A significant portion of new housing construction (over 40%) in the last decade occurred in the areas south of Market Street. These industrially zoned parts of the City provided a ready

San Francisco and continued actions towards achieving these goals. A primary component of meeting these goals is directing development towards transit-served areas, to reduce greenhouse gas emissions from transportation. The City's area plans serve to direct development to transit served areas, and numerous policies in Part II of the City's Housing Element also support this aim.

*h. Community Acceptance*

San Francisco has a strong tradition of public involvement in policy discussions and possesses a very engaged citizenry on development issues. This activism often takes the shape of organized opposition to housing projects across the City, especially affordable housing for low-income residents and even towards well planned and designed developments. Such vocal opposition poses very real impediments to project sponsors and can lead to significant time delays, additional cost, or a reduction in the number of residential units produced. The City is committed to the involvement of citizens in the planning process and to the need to expound on the importance of working towards citywide housing objectives. Two recently approved planning initiatives – the Market/Octavia plan and the Eastern Neighborhoods Community Planning plan and re-zoning – have engaged residents, property owners, workers, and other stakeholders and sought broad public community backing through participatory programs of education, public dialogue and input, and consensus building.

The number of Discretionary Review requests initiated by members of the public ranged from 281 in 2001 to 126 in 2008. The relationship between Discretionary Review requests and building permit applications (as a percentage of total permits filed) has been relatively constant with a recent high of 9% in 2005 and low of 6% in 2007. The current Discretionary Review process does not produce consistent or fair results, makes the development process more lengthy and costly for all involved, and takes time away from the Commission to address larger planning issues.

**3. Governmental Constraints**

Housing production in San Francisco is affected by a number of governmental regulations, from local policies and codes to state and federal land use regulations and state environmental laws. This section will examine the impacts of local governmental regulations on residential development as these can be addressed by local housing policy. These regulatory controls have been carefully crafted over time to balance citywide needs and address public concerns. These regulations were established to be consistent with the City's General Plan priorities to conserve and protect existing housing and neighborhood character. They also regulate new development to be compatible with and not detrimental to the area with respect to size, shape, traffic and its generated noise, open space and urban design requirements. The time required to administer and approve projects can add to the cost of housing production. But without these standards, an even greater check on new housing construction could result from public opposition to new development.

Addressing these constraints must be balanced against other citywide needs and will also be tempered by public concerns. Most of San Francisco's existing regulations were established to

be consistent with the City's General Plan priorities to conserve and protect existing housing and neighborhood character, regulating development to be compatible with neighborhood character, and not detrimental to the area with respect to size, shape, traffic and its generated noise, open space and urban design requirements. The time required to administer and approve projects can also add to the cost of housing production. But without these standards, an even greater check on new housing construction could result from public opposition to development.

To address these issues, the City has made a number of improvements to remove hurdles in the City's General Plan and Planning Code, including:

- Using community planning processes to adopt streamlined regulations around discretionary process and reducing Conditional Uses;
- Using community planning processes to increase development capacity, including height, density and required lot sizes;
- Reduction of parking and open space requirements.

*a. Entitlements*

Proposed developments that deviate from or exceed permitted development standards, or that bring up other planning or environmental concerns, are subject to additional assessment and would require conditional use approvals, variances, and discretionary reviews. All these special permits take longer to process as they require greater study and analysis, public notifications and hearings, and approvals from the Planning Commission or the Zoning Administrator. The Commission may impose conditions or mitigation measures.

*1) Land Use Regulations and Community Plans.* The Planning Code, in particular, can present constraints to housing development. Height and density limits, parking and open space requirements, for example, can constrain housing form and increase production costs; discretionary processes such as Conditional Use authorizations can extend both the timeline for and the cost of housing construction.

The San Francisco Planning Department has prepared a number of community plans intended to shape growth in our urban neighborhoods, by encouraging housing where it makes sense and by using that housing growth to strengthen neighborhoods. The community planning process provides a neighborhood-based forum to grapple with issues such as appropriate height and density. It also provides the opportunity to shape new regulations for development which streamline the housing approval process yet make sure development still is designed according to the appropriate neighborhood character.

In the past five years, the Planning Department has completed several plans for the Downtown area (Rincon Hill and Transbay), a series of "Better Neighborhoods Plans" (Market & Octavia, Balboa Park and the Central Waterfront), and the Eastern Neighborhoods Plans (East SoMa, Showplace Square/Potrero Hill, and Mission). Adoption of these plans into the City's General Plan enabled clearly stated housing development policies. Each new neighborhood plan is

costs to city agencies and non-profit corporations that provide affordable housing and other community development and human services.

Some of the funding programs above – such as CDBG, HOME – are expected to be stable sources of affordable housing funds. However, these are also subject to budgetary constraints. Similarly state funding sources are vulnerable to the budgeting process, although additional state funding became available with voters' approval of new bond issues in November 2002. Most local sources such as the Hotel Tax Fund and the Jobs-Housing Linkage Fund are even more dependent on economic trends. One significant local affordable housing bond (Proposition A) was fully committed in 2003; issuance of additional bonds fell short of receiving two-thirds of San Francisco voters' support.

Funding Program	Funding Sources	Total Allocation	Set-Aside for Pipeline Projects	Available for New Projects
Supportive Housing	CDBG, HOME, HOPWA	\$36,882,336	\$31,782,336	\$5,100,000
Family Rental Housing	Affordable Housing Fund, Affordable Housing Bond funds	\$23,652,027	\$23,652,027	
Senior Rental Housing	Hotel Tax, Mission Bay and Affordable Housing Bond funds	\$30,876,817	\$30,876,817	
Single Family Homeowner Rehabilitation	CDBG, CERF	\$2,182,000		\$2,182,000
Public Housing		\$5,250,000	\$5,250,000	
Existing Affordable Preservation		\$9,678,063	\$9,678,063	
Existing Non-Profit Housing Preservation	CDBG, HOME	\$2,906,293	\$2,906,293	
Homeownership	Tax Increment funds	\$28,615,355	\$21,465,355	\$7,150,000
Housing Opportunities	CDBG, HOME, Tax Increment funds	\$1,651,557		\$1,651,557
<b>TOTALS</b>		<b>\$141,694,448</b>	<b>\$125,610,891</b>	<b>\$16,083,557</b>

**Federal, State and Local Funding for Housing Programs, San Francisco, 2008-2009**

SOURCE: Draft 2008-2009 Action Plan, Mayor's Office of Community Development, Mayor's Office of Housing, San Francisco Redevelopment Agency  
 CDBG: Community Development Block Grant  
 HOME: Home Investment Partnership Program  
 HOPWA: Housing Opportunities for Persons with AIDS  
 CERF: Code Enforcement Rehabilitation Fund

Some public funds are restricted to particular housing types and/or population groups; for example the elderly housing program (Section 202, Hotel Tax Fund), the disabled housing program (Section 811, Hotel and Tax Fund), and HOPWA (Housing Opportunities for Persons with AIDS). Administrative costs are also not covered by most public funding sources. Federal grants often carry a number of restrictions and regulations that can make the funds difficult to use. For example, some federal programs require matching grants while others are impossible to combine with other funds. Most affordable housing programs require three or more sources of funding to become feasible. Different funding sources may have to be tapped for pre-development, construction, and permanent financing costs – leading to considerable transaction and legal costs and delays in the development process.



### C. QUANTIFIED HOUSING GOAL

The state Department of Housing and Community Development, with the Association of Bay Area Governments, determined San Francisco's fair share of the regional housing need for the period covering January 1999 through June 2006 at 20,372 units. Even with very aggressive policies and programs, given that San Francisco is a mature, built-up city with limited large tracts of undeveloped land and the previous decades' housing production record, the "fair share" of affordable housing units was not achieved. Table I-63 below shows that 86% of the state mandated production targets and 47% of the affordable housing production for the period covered by the 2004 *Residence Element* were achieved; this statistic is a result of the overproduction of market rate units. Appendix A provides details of the City's housing production performance in the evaluation of the 2004 *Residence Element*.

Annual Production Targets and Average Annual Production, San Francisco, 1999-2006

Household Affordability	Housing Goals	Actual Production	% of Production Target Achieved	Production Deficit (Surplus)
	1999-2006	1999-2006		
	Total	Total		
Very Low Income (below 50% AMI)	5,244	4,342	82.8%	902
Low Income (50% - 79% AMI)	2,126	1,113	52.4%	1,013
Moderate Income (80% - 120% AMI)	5,639	725	12.9%	4,914
Market Rate (over 120% AMI)	7,363	11,293	153.4%	(3,930)
<b>TOTALS</b>	<b>20,372</b>	<b>17,473</b>	<b>85.8%</b>	

More than the performance in the production of very low- and low-income housing, the deficit of 5,750 units affordable to moderate income households has been seen as critical in turning the City's housing problem into a crisis of affordability. As Table I-64 below shows, housing construction in the last two years, along with projected pipeline completion by 2014, point to an exacerbation of construction deficit in housing affordable to low- and moderate-income households.

Housing Production Targets and Estimated Annual Production, San Francisco, 2007-2014

Income Category	2007-2014		Production Pipeline					2014-2015	
	Units	% of Total	Under Construction	Approved	Permitted	Planned	Approved	Planned	
Extremely Low (< 30% AMI)	3,294	396*	555 †	1,405 †	1,548 †	3,904	(610)	240	1,500
Very Low (31-49% AMI)	3,295	395*	556 †	1,406 †	1,549 †	3,905	(610)	239	1,500
Low (50-79% AMI)	5,535	309	149 †	0	27 †	485	5,050	108	500
Moderate (80-120% AMI)	6,754	569	833 †	573 †	1,193 †	3,188	3,586	5	0
Market (over 120% AMI)	12,313	4,348	4,723	3,250	6,759	19,081	(6,766)	0	0
<b>TOTALS</b>	<b>31,193</b>	<b>6,483</b>	<b>6,816</b>	<b>6,634</b>	<b>11,075</b>	<b>31,543</b>		<b>582</b>	<b>3,500</b>

\* Units affordable to Extremely Low and Very Low Income Households do not include those units that have been required and/or rehabbed as permitted by Housing Element Law.  
 \*\* This does not include major projects under Planning review including ParkMerced, Treasure Island, or Candlestick Point / Hunters Point Shipyard Phase II which are expected to be completed after the 2014 reporting period. The limited pipeline assumption include projects that are currently under construction, entitled projects (approved by Planning Department and Department of Building Inspection), and projects of 150 units or less currently under Planning Department review that are expected to be completed by 2014; also assumes SF Hope is completed by 2014.  
 † Based on affordable housing projects sponsored by the Mayor's Office of Housing, the SF Redevelopment Agency and the SF Housing Authority.  
 ‡ Based on estimated inclusionary affordable housing projects under construction, entitled and under Planning or DBI review.

## 2. Housing Potential Under New Zoning Proposals

Through multi-year community planning efforts, the City of San Francisco has recently updated zoning controls for over 1/3 of the city. These planning efforts developed appropriate zoning, heights, bulks, and densities in balance with infrastructure and funding strategies to support new growth. A number of other planning efforts are underway including Balboa Park, the Transbay Terminal District, and Japantown which will result in increased residential development potential.

Table I-66 below details the estimated additional potential capacity with rezoning in planning initiatives currently underway.

Estimated New Housing Construction Potential with Proposed Rezoning of Select Neighborhoods, San Francisco, 2008

Area	Under Current Zoning			With Proposed Rezoning *	
	Undeveloped	Soft Sites	Total Estimate	Total New Estimate	Additional Potential Units with Rezoning
Executive Park	114	97	211	1,600	1,389
Glen Park	5	6	11	100	89
Japantown	99	514	613	To be determined	
ParkMerced	3	0	3	5,600	5,597
Transbay Terminal	44	78	122	1,200	1,078
Visitacion Valley *	885	460	1,345	1,200	0
Western SoMa	466	743	1,209	2,700	1,491
India Basin				1,200	1,200
Hunters Point Shipyard			1,500	4,000	2,500
Candlestick Point				7,500	7,500
Treasure Island				8,000	8,000
<b>TOTALS</b>	<b>1,616</b>	<b>1,898</b>	<b>5,014</b>	<b>33,100</b>	<b>28,844</b>

\* Rezoning of the Schlage Lock site

SOURCE: SF Planning Department

## 3. Plans for Future Affordable Housing Construction

Stable government support in the last few years covered almost all of the affordable housing production. Public subsidies tend to fund very low and low-income housing, with very limited grants allocated for moderate-income home buyers. The revised and expanded inclusionary affordable housing requirement is expected to improve the provision of new housing for households earning moderate incomes. For example, an annual average of 209 inclusionary affordable units were built in the five years from 2004 to 2008 as a result of this change. In comparison, only 128 inclusionary units were built from 1992 to 2000, or an annual average of 16 units.

## Housing Programs and Initiatives

The 2004 *Housing Element* retained most of the policies in the 1990 *Residence Element*, but consolidated and reorganized the City's 12 housing objectives. The 2004 *Housing Element* places greater emphasis on identifying appropriate locations for new housing citywide, especially increased density near downtown; on implementing area plans to build new neighborhoods in appropriate locations; on improving the livability of existing neighborhoods through good design, mixed-use development, increased density near transit, improved infrastructure and public amenities, and reduced parking requirements; on protecting the affordability of existing housing and building more new affordable housing; on streamlining the housing production process through program EIRs and Area Plan EIRs; on creating mixed-income communities; on providing more family housing; and on managing homelessness through supportive housing.

The objectives and policies of the 2004 *Housing Element* underscored four main housing themes: 1) increasing housing production, especially affordable housing; 2) preserving and maintaining the City's housing supply; 3) increasing housing densities in areas well served by transit in order to create a more livable City, meet the City's goals for housing production, revitalize neighborhoods; and 4) building supportive housing opportunities for the homeless and those at-risk of homelessness.

## New Area Plans

A variety of new area plans were initiated during the 1999-2006 reporting period. These plans seek to capitalize on each area's unique assets for current and future residents, and strengthen neighborhoods by encouraging new housing in transit-rich areas where neighborhood shops and services are concentrated.

- The Better Neighborhoods Program was started in 2000 and used intensive community-based planning to incorporate recognition of citywide needs, including housing goals, into the planning process for each neighborhood. Three neighborhoods – Balboa Park, Central Waterfront, and Market and Octavia – were initially selected to serve as models for similar future programs in other parts of the City. The Market Octavia Plan was adopted and approved in 2008 and Balboa Park in April 2009. The Central Waterfront Plan was included in the Eastern Neighborhoods environmental review and plan adoption process in December of 2008.
- The Eastern Neighborhoods (EN) planning process is a large-scale community planning effort in several neighborhoods in the eastern portion of San Francisco originally including the South of Market, Mission, Potrero Hill/Showplace Square, Bayview, and Visitacion Valley neighborhoods. Eventually the Bayview, (adopted by the San Francisco Redevelopment Agency in June 2006), and Visitacion Valley (adopted in December 2008) neighborhoods underwent separate planning and plan adoption processes. The Central Waterfront was incorporated into the EN environmental review and plan adoption process. These EN plans were adopted in December 2008.

- In the Downtown area, the Rincon Hill plan was approved in 2005, allowing for 2,200 units; some 1,460 of these units have since been entitled. The Transbay Redevelopment Area was adopted in 2005 and will add approximately 2,600 new units. Successful completion and implementation of these plans will create vibrant new communities adjacent to employment centers and regional transit hubs, consistent with the policies and programs contained in the housing element.
- Area plans for India Basin and Japantown were initiated in 2007.

## Program Environmental Impact Reports

A major new policy in the 2004 *Housing Element* encourages the preparation of detailed Program Environmental Impact Reports (EIR) and the use of subsequent community plan exemptions, where appropriate, for new planning areas in order to streamline environmental review by reducing duplication in the EIR process. Area Plans in these program areas would also seek to reduce the number of discretionary approvals required for specific affordable housing projects. The pilot project for this type of program EIR was the Market/Octavia Area Plan, which analyzed the area plan at a programmatic level while also providing project-level environmental review of former freeway parcels where the plan foresees specific residential growth. The Market/Octavia program EIR was completed in the summer of 2008; subsequently the Planning Department has established a community plan exemption processes, which enables new construction to benefit from the analysis completed in the Market and Octavia EIR. Other area plans adopted in 2008 also approved programmatic EIRs. The program EIR and community exemption model will streamline the entitlement process new infill housing units.

## Affordable Housing

San Francisco faces a continuing shortage of affordable housing for very low and low-income residents. In response to the high projections of housing needs for San Francisco set forth in the 2004 and previous Housing Elements, San Francisco has instituted several strategies for producing new affordable housing units. These strategies seek to support affordable housing production by increasing site availability and capacity for permanently affordable housing, and to encourage the distribution of affordable housing throughout all neighborhoods, thereby offering diverse housing choices and promoting economic and social integration.

- *Planning Department - Inclusionary Housing Program.* In 2001, San Francisco greatly increased the capacity for affordable housing production through expansion of its Inclusionary Housing Program and increased fees to the Affordable Housing Fund. During the 1999-2006 reporting period, the inclusionary program produced 869 units, mostly in the South of Market. This is a twelvefold increase from the 73 units produced from 1992 (when the program first began) to 1998. The inclusionary program also contributed \$23 million to the Affordable Housing Fund in in-lieu fees.

In 2006, the program was further modified as follows: expanded coverage with a lower threshold to include projects with five or more new units; increased the percentage of affordable units required to 15% on-site and 20% off-site; increased the amount of

## Supportive Housing

In 2006, San Francisco's Continuum of Care approach to homelessness was modified to focus on providing supportive housing opportunities for families and single persons under a Housing First model. The plan established a 10-year goal of producing 3,000 units of supportive housing, and over 1,500 units have been produced through 2007.

## At-Risk Affordable Housing

The number of affordable housing units at risk of converting to market rate, including Single Resident Occupancy (SRO) units, has been substantially reduced by the Mayors Office of Housing (MOH) and the Redevelopment Agency (SFRA). At risk units were transferred to non profits and provided operating subsidies, ensuring their long term affordability. As called for in the 2004 *Housing Element* capital improvement projects were implemented for distressed public housing, and several public housing projects, such as Hayes Valley and Valencia Gardens, were rebuilt during the reporting period using federal HOPE VI funds.

The Residential Conversion and Demolition Guidelines, the Condominium Conversion Ordinance (which limits the annual number of apartments that can convert to condominiums), and the City's Rent Control policies all continue to limit the demolition or conversion of existing affordable housing.

## **OBJECTIVES AND POLICIES - IMPLEMENTATION PROGRAMS EVALUATION**

The following review of past and current implementation programs is organized by the three primary themes of the 2004 *Housing Element*: 1) Construction and Conservation of Housing; 2) Affordability; and 3) Citywide and Regional Concerns.

### 1. CONSTRUCTION AND CONSERVATION OF HOUSING

Objectives 1, 2, and 3 detail San Francisco's strategy for increasing the overall net supply of housing. Production of new housing and increasing density of development was the primary strategy. Retaining the existing supply of housing, particularly rental housing, affordable units and residential units located in commercial and industrial areas, and maintaining existing housing in decent condition, were also important strategies for increasing the supply of housing in San Francisco. Several programs were successful in helping achieve these objectives, which continued several of the policies from the 1990 *Residence Element* related to retaining the existing housing stock, and combined two objectives from the 1990 *Residence Element* related to maintaining condition of housing and seismic safety.

**OBJECTIVE 1**

**TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.**

**New Housing Production**

From 1999-2006, San Francisco's housing stock added a net increase of 17,473 units. As stated previously, although San Francisco fell short of its RHNA targets, this still represents 86% of its overall housing production targets. This unit gain reflects the cumulative efforts of a range of public agency programs and private investment throughout the City. This total is the net balance of new construction, demolished units, alterations, and allowable acquisition/rehab.

**Major Plans and Developments**

A number of area and community planning efforts were also initiated between 1999 and 2006/ The resulting plans and rezoning in these areas increase potential housing capacity. As shown in Table A-2 below, these programs created capacity for growth estimated to be over 40,600 units.

Planned Capacity & Programs, Estimated Growth

Program	Sub-Area	Program	Estimated Plan Growth
Eastern Neighborhoods	Mission	Area Plan	1,700
	East SoMa	Area Plan	2,900
	Central Waterfront	Area Plan	2,000
	Showplace Square & Potrero Hill	Area Plan	3,200
Better Neighborhoods	Western SoMa	Area Plan	2,700
	Market & Octavia	Area Plan	6,000
	Balboa Park	Area Plan	1,800
Downtown Neighborhoods	Rincon Hill	Area Plan	4,100
	Transbay	Area Plan	3,400
Bayshore	India Basin	Project/Plan	1,300
	Candlestick	Project/Plan	7,500
	Hunters Point	Project/Plan	2,500
	Schlage/Visitacion Valley	Project/Plan	1,500
Total			40,600

In addition, there were several other initiatives pursued by the City from 1999-2006 to create more housing units. These include:

- **Secondary Units.** Allowing an additional on-site unit in existing residential structures is an effective and inexpensive way to realize greater housing potential. Several measures have been introduced in the last 20 years that sought to create additional housing

- *New Area Plans.* Through the Better Neighborhoods and other area plan programs, the Planning Department continues to explore ways to develop and enhance the quality and livability of existing residential neighborhoods. The Eastern Neighborhoods new area plans initiated during the 1999-2006 reporting period and recently adopted in 2008, identify core elements that help create vibrant neighborhoods, such as walkability, availability of services, transit access, housing choices, and unique character. These new area plans incorporate these ideas into the development of community goals and neighborhood improvements.
- *Housing Development in Residential Neighborhoods.* Almost 4,550 units of housing were developed in San Francisco's existing residential neighborhoods from 1999-2006, representing 30% of all housing production in the City during that time period. This figure includes all new units constructed in the city's traditionally residential RH and RM districts (Residential House and Residential Mixed). The City has been able to locate this substantial amount of new housing in existing residential areas without significant adverse impacts to prevailing neighborhood character. The Better Neighborhoods and Eastern Neighborhoods programs provide for an increase in the number of housing units built in these districts near transit and other services.
- *Parking Requirements.* Neighborhood planning policies seek to reduce parking requirements below one space per unit in areas near transit in order to increase density, discourage automobile use, and create more walkable neighborhoods.
- *Green Building – Quality of Life Improvements.* The City has made a substantial effort to incorporate green building principles and green design into development projects during the last several years. In 2006, the Planning Department and other permitting agencies began to expedite permits for Leadership in Energy and Environmental Design (LEED) certified gold buildings. Moreover, in 2008 the City adopted a Green Building Ordinance that requires new construction to meet green building standards.

## OBJECTIVE 12

### STRENGTHEN CITYWIDE AFFORDABLE HOUSING PROGRAMS THROUGH COORDINATED REGIONAL AND STATE EFFORTS.

- *Regional Grants.* San Francisco was successful in advocating for language in the 2007-2014 Regional Housing Needs Assessment (RHNA) process to direct more transportation money to jurisdictions that agree to take on greater housing growth. Recently, the Association of Bay Area Governments FOCUS program, which seeks to encourage growth near transit in the Bay Area, designated several neighborhoods in San Francisco as Priority Development Areas (PDAs). PDAs are regionally-designated areas prioritized for housing development, and therefore eligible for grant funding. Planned PDAs would be eligible for capital infrastructure funds, planning grants, and technical assistance while Potential PDAs would be eligible for planning grants and technical assistance, but not capital infrastructure funds. Currently, a number of neighborhoods have been identified as PDAs. These areas represent approximately 40% of the city's land area.

*Table A-1* is a review of all the implementation programs of the 2004 Housing Element.

Review of Implementation Programs from 2004 Housing Element

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Objective/ Policy/ Implementation (Policy/ Program)	Result	Evaluation	Continue/ Modify / Delete
<b>HOUSING SUPPLY</b>			
<b>OBJECTIVE 1</b> To provide new housing, especially permanently affordable housing, in appropriate locations which meets identified housing needs and takes into account the demand for affordable housing created by employment demand.		Somewhat successful.	Continue/ Modify
<b>Policy 1.1</b> Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households. Set allowable densities in established residential areas at levels that will promote compatibility with prevailing neighborhood scale and character where there is neighborhood support.	The City added a total of 17,473 net units, 35% of which are affordable. Of these affordable units, 2,214 are family housing, representing 56% of all affordable housing constructed or 15% of total housing production.	Somewhat successful, although RHNA targets not met. Given market conditions, the proportion of affordable housing has increased.	
<b>Policy 1.2</b> Encourage housing development, particularly affordable housing, in neighborhood commercial areas without displacing existing jobs, particularly blue-collar jobs or discouraging new employment opportunities.	New area plans, including Market-Octavia, Eastern Neighborhoods, Rincon Hill and others, potentially increase housing capacity by over 55,000 and capitalize on existing neighborhood commercial and transit infrastructure where present. These plans also require a percent of larger family sized units.	Plans that will facilitate and guide growth in appropriate areas were successfully adopted.	
<b>Policy 1.3</b> Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.	The Planning Department successfully adopted the Eastern Neighborhoods plan that encourages housing in former industrial areas where residential neighborhoods are established and urban amenities are in place or are feasible.	Successful	
<b>Policy 1.4</b> Locate in-fill housing on appropriate sites in established residential neighborhoods.	The Planning Department continues to encourage housing development on brownfield sites such as the former Schlage Lock factory, where clean-up costs are not prohibitive and residential neighborhoods can be established.	Successful	
<b>Policy 1.5</b> Support development of affordable housing on surplus public lands.	The City continues to evaluate surplus federal or state lands as an affordable housing resource.	On-going	



Objective/ Policy/ Implementation (Policy/ Program)	Result	Evaluation	Continue/ Modify / Delete
<b>Policy 1.6</b> Create incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects.	The Redevelopment Agency continues to prioritize affordable housing on lands it controls.	On-going	
<b>Policy 1.7</b> Encourage and support the construction of quality, new family housing.	The Planning Department increased height limits, eliminated density requirements, modified off-street parking requirements, and generated additional funds for affordable housing through new impact fees in the Rincon Hill Plan Area. Similar changes are proposed for the Transbay Plan Area.		
<b>Policy 1.8</b> Allow new secondary units in areas where their effects can be dealt with and there is neighborhood support, especially if that housing is made permanently affordable to lower-income households.	The Planning Department continues to implement the Van Ness Avenue Plan, which requires residential units over commercial uses. There are currently 929 units in the development pipeline for this area.	On-going	
<b>Policy 1.9</b> Require new commercial developments and higher educational institutions to meet the housing demand they generate, particularly the need for affordable housing for lower income workers and students.	The Planning Department adopted new zoning that requires a minimum percentage of larger family units, ranging from two to four bedrooms, in new major residential projects.	To be determined in the next reporting period.	
	The Mayor's Office of Housing and the San Francisco Redevelopment Agency continues to administer programs for development of affordable family rental housing with priority given to projects that include affordable family units for the homeless and those at-risk of homelessness, and include supportive services for residents.	On-going	
	Student housing was increased due in part to nine Institutional Master Plans adopted during the 1999-2006 reporting period.	To be determined in the next reporting period.	
	New residential design guidelines were adopted easing infill development in existing neighborhoods.	On-going	
	RTO zoning adopted that encourages the creation of secondary units.	To be determined in the next reporting period.	

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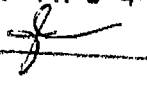
Objective/ Policy/ Implementation (Policy/ Program)	Result	Evaluation	Continue/ Modify/ Delete
<b>REGIONAL AND STATE HOUSING NEEDS</b>			
<p><b>OBJECTIVE 12</b> Strengthen citywide affordable housing programs through coordinated regional and state efforts.</p>		Successful. The City continues to engage on a regional level, and strives to carry its fair share of regional growth.	Modify
<p><b>Policy 12.1</b> Work with localities across the region to establish a better relationship between economic growth and increased housing needs.</p>	The City continues to work with the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) to shape plans that meet regional housing, transportation, and job needs.	On-going	
<p><b>Policy 12.2</b> Support the production of well-planned housing regionwide that address regional housing needs and improve the overall quality of life in the Bay Area.</p>	The San Francisco Redevelopment Agency (SFRA) continues to serve as the lead agency and administrator of the HOPWA Program on behalf of the San Francisco Eligible Metropolitan Statistical Area (EMSA), which includes San Francisco, San Mateo and Marin counties.	On-going	
<p><b>Policy 12.3</b> Encourage jurisdictions throughout the Bay Area to recognize their share in the responsibility to confront the regional affordable housing crisis.</p>	At the state level, the City was successful in advocating for changes that direct more transportation money to jurisdictions, like San Francisco, that take on greater housing growth as part of the 2007-2014 Regional Housing Needs Allocation process.	On-going	
<p><b>Policy 12.4</b> Foster educational programs across the region that increase public understanding of the need for affordable housing and generate support for quality housing projects.</p>	At the regional level, the City successfully coordinated with the Association of Bay Area Governments (ABAG) to designate several neighborhoods in San Francisco as Priority Development Areas that, as regionally-designated areas prioritized for housing development, are eligible for various funds to assist with capital infrastructure, planning, and technical assistance expenses.	On-going	
<p><b>Policy 12.5</b> Support the State of California in developing and implementing state affordable housing plans and programs.</p>			

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Objective/ Policy/ Implementation (Policy/ Program)	Result	Evaluation	Continue/ Modify/ Delete
<b>HOUSING AFFORDABILITY</b>			
<b>OBJECTIVE 4</b> Support affordable housing production by increasing site availability and capacity.		Successful	Continue
<b>Policy 4.1</b> Actively identify and pursue opportunity sites for permanently affordable housing.	The City's Affordable Housing Fund, derived from payment of fees by office, entertainment, hotel, and retail developers as well as market rate housing developers, continues to be used to develop affordable housing. A total of \$65 million was collected during the 1999-2006 reporting period.	On-going	
<b>Policy 4.2</b> Include affordable units in larger housing projects.	The City's Inclusionary Housing program, which requires new development to provide a percentage of affordable units, produced 826 units during the 1999-2006 reporting period. The City expanded the program in 2001 and 2005. An additional 546 units were produced in 2007-2008.	On-going	
<b>Policy 4.3</b> Encourage the construction of affordable units for single households in residential hotels and "efficiency" units.	The Redevelopment Agency increased affordability requirements in redevelopment areas, resulting in 480 affordable units during the 1999-2006 reporting period.	On-going	
<b>Policy 4.4</b> Consider granting density bonuses and parking requirement exemptions for the construction of affordable housing or senior housing.	Affordable housing special use districts (SUDs) that increase densities for more affordable units continue to be established. Almost all new area plans also include these policies as well as requiring additional affordable housing impact fees.	On-going	
<b>Policy 4.5</b> Allow greater flexibility in the number and size of units within established building envelopes, potentially increasing the number of affordable units in multi-family structures.	Developing housing on appropriate public land continues to be city policy. The Market Octavia Plan calls for the development of up to 900 units on former Central Freeway parcels. The development of additional affordable housing continues to be investigated for various other plan areas.	On-going	
<b>Policy 4.6</b> Support a greater range of housing types and building techniques to promote more economical housing construction and potentially achieve greater affordable housing production.			

DW - 11  
CA - 2  
Planning - 1

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2011 MAY -9 PM 3:44  


BY HAND DELIVERY May 9, 2011

Ms. Angela Calvillo  
Clerk of the Board of Supervisors  
City of San Francisco  
1 Dr. Carlton B. Goodlett Place  
Room 244  
San Francisco, CA 94102

Re: Second Supplement to Appeal of Certification of Final Environmental Impact Report for the 2004 and 2009 Housing Elements and Related CEQA Findings, Environmental Findings and Statement of Overriding Considerations

Planning Department Case Nos. 2007.1275E and 2007.1275EM

Board of Supervisors Hearing Date: May 10, 2011 - 4:00 p.m.

On behalf of Pacific Heights Residents Association, Cow Hollow Association, Francisco Heights Civic Association, Greater West Portal Neighborhood Association, Jordan Park Improvement Association, Lakeshore Acres Improvement Club, Laurel Heights Improvement Association of San Francisco, Inc., Marina-Cow Hollow Neighbors & Merchants, Miraloma Park Improvement Club, Presidio Heights Association of Neighbors, St. Francis Homes Association, Sunset-Parkside Education and Action Committee, Inc., and Westwood Highlands Association (herein collectively referred to as Appellants), I hereby further supplement the appeal to the San Francisco Board of Supervisors filed on April 12, 2011 as to the San Francisco Planning Commission's March 24, 2011 certification of the Final Environmental Impact Report (EIR) for the 2004 and 2009 Housing Elements and adoption of related CEQA findings described above. Appellants are members of San Franciscans for Livable Neighborhoods (SFLN), an unincorporated association.

Attached hereto is additional evidence consisting of the map of San Francisco's Transit-Focused Neighborhoods attached to the August 17, 2007 Resolution of the Board of Supervisors authorizing City agencies to apply for Priority Development Area designations by the Association of Bay Area Governments (ABAG). (See Exhibit 1 attached hereto and color map attached thereto) The copy of this resolution submitted as Exhibit J to Appellants' May 1, 2011 supplement was obtained from the City's website and lacked the attachment.

According to this attached map and ABAG records, the areas planned for additional

Clerk of the Board of Supervisors  
May 9, 2011  
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housing development in Priority Development Areas are greater than the Plan Areas which have been approved or are under development as disclosed in the 2009 Housing Element. (Ex. 1; Ex. E to May 1, 2011 Supplement to Appeal, ABAG documents describing Priority Development Areas; 2009 Housing Element p. 7-8) The additional areas depicted on the City's Priority Development Area map include a very large area in the northeastern portion of San Francisco bounded by Market Street on the South and extending west past Van Ness Avenue, and a large corridor in the south extending along Mission Street. (Ex. 1) The ABAG documents describe planned Priority Development Areas for "Downtown and Transit Rich Corridors" as including "Downtown San Francisco, Geary Boulevard, Church St corridor along J line and 14 Bus/Mission St." (Ex. E to May 1, 2011 Supplement to Appeal, describing Priority Development Areas) The "entire Downtown and Transit Rich Corridors PDA could accommodate 95,000 housing units and 373,000 jobs," and includes as "areas planned for new housing" Yerba Buena Center area, Van Ness Avenue and Japantown along Geary Boulevard. (*Ibid.*) The EIR did not disclose that the "Downtown and Transit Rich Corridors" areas depicted on the City's map were being planned for increased density as Priority Development Areas, and thus failed to analyze the reasonably foreseeable effects of increased density housing development in these areas.

The City's Transit-Focused Neighborhoods map also states that "Port Development areas," "Special redvlpmnt. areas (Mayor's Office," the 1/4 mile areas surrounding Neighborhood Commercial streets with high frequency transit service and within community plans, and the 1/4 mile areas around major rail/ferry stations within community plans" were requested by the City to be designated as Priority Development Areas. (Ex.1) The EIR did not disclose that the "Port Development areas" described as an ABAG Priority Development Area were slated for increased density, and thus also failed to analyze the reasonably foreseeable effects of increased density housing development in these areas. (Ex. E to May 1, 2011 Supplement to Appeal, describing Priority Development Areas)

The San Francisco Planning Department map attached as Exhibit 2 depicts residential lots within 1,250 feet of transit and shows that these areas extend throughout large portions of residential areas in the City. (See Exhibit 2, SF Planning Department, 2003 map)

Very truly yours,



Kathryn R. Devincenzi

cc: Bill Wyco, Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

010235

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Attachments:

- Ex. 1 - City of San Francisco Master Report for File Number: 071176 and attached August 14, 2007 Resolution of the San Francisco Board of Supervisors with attached color map of San Francisco's Transit-Focused Neighborhoods
- Ex. 2 - SF Planning Department, 2003 color map

010237

EXHIBIT 1



# City and County of San Francisco

## Master Report

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

<b>File Number:</b> 071176	<b>File Type:</b> Resolution	<b>Status:</b> Passed
<b>Enacted:</b> 483-07		<b>Effective:</b>
<b>Version:</b> 1	<b>Reference:</b>	<b>In Control:</b> Mayor
<b>File Name:</b> Application for ABAG Priority Development Area Designation		<b>Introduced:</b> 8/7/2007
<b>Requester:</b>	<b>Cost:</b>	<b>Date Passed:</b> 8/17/2007
<b>Comment:</b> No Fiscal Impact; No Economic Impact.	<b>Title:</b> Resolution authorizing the San Francisco County Transportation Authority and the Mayor's Office of Housing to apply on behalf of the City and County of San Francisco for Priority Development Area designation by the Association of Bay Area Governments.	
<b>Indexes:</b>	<b>Sponsors:</b> Peskin	

History of Legislative File		071176				
Ver	Acting Body	Date	Action	Sent To	Due Date	Pass/Fail
1	President	8/7/2007	RECEIVED AND ASSIGNED	Government Audit and Oversight Committee		
1	Government Audit and Oversight Committee	8/13/2007	RECOMMENDED AS COMMITTEE REPORT			Passed
<i>Heard in Committee. Speaker: Douglas Shoemaker, Mayor's Office of Housing.</i>						
1	Board of Supervisors	8/14/2007	ADOPTED			Passed
1	Mayor	8/17/2007	APPROVED			



1 [Application for ABAG Priority Development Area Designation]

2  
3 **Resolution authorizing the San Francisco County Transportation Authority and the**  
4 **Mayor's Office of Housing to apply on behalf of the City and County of San Francisco**  
5 **for Priority Development Area designation by the Association of Bay Area**  
6 **Governments.**

7 WHEREAS, The Association of Bay Area Governments and the Metropolitan  
8 Transportation Commission in coordination with the Bay Area Air Quality Management District  
9 and Bay Conservation and Development Commission (collectively, the "regional agencies")  
10 are undertaking a regional planning initiative called FOCUS; and

11 WHEREAS, FOCUS program goals support a future regional development pattern that  
12 is compact and connected; and,

13 WHEREAS, The regional agencies seek local government partners to create a specific  
14 and shared concept of where growth can be accommodated (priority development area) and  
15 what areas need protection (priority conservation area) in the region; and,

16 WHEREAS, A priority development area must meet all of the following criteria: (a)  
17 within an existing community, (b) near existing or planned fixed transit (or served by  
18 comparable bus service) and (c) is planned, or is planning, for more housing; and,

19 WHEREAS, Local governments in the nine county San Francisco Bay Area are eligible  
20 to apply for designation of an area within their community as a priority development area; and,

21 WHEREAS, The regional agencies intend to secure incentives and provide technical  
22 assistance to designated priority development areas so that positive change can be achieved  
23 in communities working to advance focused growth; and,

24 WHEREAS, the following zones and plan areas as indicated on the attached map meet  
25 the criteria for PDA designation; and

1           WHEREAS, designating these zones and plan areas as PDAs will make them eligible  
2 for regional capital and planning funds that may be prioritized for PDA areas; now therefore,  
3 be it

4           RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
5 authorizes the San Francisco County Transportation Authority and the Mayor's Office of  
6 Housing to apply on behalf of the City and County of San Francisco for Priority Development  
7 Area designation of the following zones and plan areas as ABAG priority development  
8 area(s), as indicated on the attached map:

9           *The Bayview/ Hunters Point Project Area;*  
10          *Shipyard/Candlestick Point Project Area;*  
            *Balboa Park*  
11          *Mission Bay Project Area;*  
            *Market-Octavia;*  
12          *Transbay Project Area*  
            *The Mission District;*  
13          *The South of Market;*  
14          *The Central Waterfront;*  
            *Potrero Hill and Showplace Square;*  
15          *Treasure Island;*  
            *Visitation Valley/Executive Park;*  
16          *Downtown; and*  
17          *various Port of San Francisco properties along the eastern and southeastern waterfront.*



City & County of San Francisco

**San Francisco's  
Transit-Focused Neighborhoods**  
prepared for ABAG's *Focusing Our Vision*  
Priority Development Areas (PDAs) Program

**ABAG Priority Development Areas (PDAs)\***

- \* Includes
- > Better Neighborhoods & Area Plans (Planning Department)
- > Port development areas (Port of SF)
- > Redevelopment areas (Redevelopment Agency)
- > Special redvlpmnt. areas (Mayor's Office)
- > 1/4 mile surrounding Neighborhood Commercial streets with high frequency transit service and within community plans
- > 1/4 mile radius around major rail/ferry stations within community plans

**Muni**

- Bus network
- Metro, streetcar, Central Subway (future)
- Proposed Bus Rapid Transit (BRT)

**BART**

- BART

**Caltrain**

- Caltrain

**Ferries**

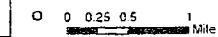
- Ferry terminal
- Proposed ferry terminal

**Regional Transit Center**

- ▲ Transbay Transit Center



Data Sources: SFMTA, SFCTA, Planning Department, Redevelopment Agency, Mayor's Office, Port of SF, SFGOV  
Date: 5/29/2007  
Map: SFMTA Long Range Planning



010241

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establishes a Plan Area "as a target area in which to develop new housing to meet San Francisco's identified housing projection target" and that the "Housing Element delineates specific policies and objectives to guide housing development in the Plan Area.." (Ex. L, January 9, 2007 Resolution of the Board of Supervisors as to Eastern neighborhoods, p. 1)

Although the EIR admits that the 2009 Housing Element promotes new housing development through community planning processes near transit and other infrastructure, it fails to discuss the potential effects on the existing environment of focusing growth on these targeted plan areas, repeating, as before, that the 2009 Housing Element itself "would not change allowable land uses or increase allowable building height and bulk." (DEIR p. V.B-57) The City thus sidesteps the CEQA requirement that the EIR evaluate the effects on the existing environment of reasonably foreseeable future development by asserting that the Housing Element approval did not concurrently change zoning or include adoption of area plans, an argument which the Court of Appeal squarely rejected.

Moreover, the 2009 Housing Element calls for zoning changes to accommodate affordable housing. 2009 Housing Element Policy 7.3 encourages granting "zoning accommodations" for affordable housing including granting exceptions to open space requirements, exposure requirements or density limits and states that current City policy allows affordable housing developers to pursue these zoning accommodations "through rezoning and application of a Special Use District." (2009 Housing Element p. 30) As an example, the proposed Special Use District for a mixed-use affordable housing project at 800 Presidio Avenue deviated from Planning Code requirements as to height limit, density limits, rear yard requirements, usable open space requirements, and sunlight and dwelling unit exposure, and was proposed to provide no on-site parking spaces for residents of the approximately 48 affordable units in the project. (Ex. O - excerpts from documents relating to proposed Special Use District at 800 Presidio Avenue.) Structures constructed pursuant to such exceptions could significantly clash with existing neighborhood character and patterns, yet the EIR did not analyze the potential impacts of pursuing this policy.

Similarly, the EIR fails to evaluate the impacts on the existing environment from population growth indirectly generated by the proposed project as required by CEQA, asserting that impacts would only occur "if new housing would generate more residents than planned for by ABAG projections." (Draft EIR p. V.D-9) The EIR thus improperly uses the ABAG new housing production target as the baseline against which environmental effects are assessed rather than the existing environment and also incorrectly claims that "the RHNA process does not necessarily encourage or promote growth, but rather requires communities to anticipate projected growth." (Draft EIR p. V.D-7) The EIR admits elsewhere that the "intent of the Housing Element policies is to accommodate future housing growth, as anticipated by ABAG regional projections" and describes objectives of the proposed Housing Elements as to "[p]rovide a vision for the City's housing and growth management through 2014," to "[e]nsure capacity for the

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the project study area, impacts from contributing traffic to existing traffic volumes at intersections along the 19<sup>th</sup> Avenue corridor and along Sunset Boulevard and other streets, increased noise levels above existing ambient conditions from project-related traffic and light rail and operation of stationary noise sources, and effects on regional air quality and cumulative air quality. (See Ex. B, excerpts from Draft EIR for Parkmerced Project, pp. II.3-4, 11-34)

The Draft EIR for the Treasure Island/Yerba Buena Island Redevelopment Project published on July 12, 2010, before the comments and responses were prepared for the EIR for the 2004 and 2009 Housing Elements, identified significant unavoidable impacts on adversely altering scenic vistas from public vantage points, traffic impacts on operating conditions at the eastbound off-ramp and the Bay Bridge toll plaza and on queuing on San Francisco streets approaching the Bay Bridge at various times, significant impacts at various intersections in San Francisco, exceeding the available transit capacity of the Muni bus line serving the islands, increased traffic congestion in downtown San Francisco due to the project which would increase travel times and impact certain Muni bus line operations, significant cumulative queuing impacts at the Bay Bridge toll plaza during AM and PM peak hours, significant project and cumulative impacts at several intersections in San Francisco, project-related traffic substantially increasing ambient noise levels in the project vicinity above existing ambient noise levels, project operations violating an air quality standard or contributing substantially to an existing or projected air quality violation, and wind hazards occurring at publicly accessible locations in the Development Plan Area. (Ex. C - excerpts from Draft EIR for the Treasure Island/Yerba Buena Island Redevelopment Project , pp. S.7, 16-18, 20-23, 25, 29, 31)

The EIR for the 2004 and 2009 Housing Element did not present any of this information as to significant impacts of proposed plan areas to decisionmakers, and thus failed as an informative document.

In addition, the 2009 Housing Element contains a new Objective 13 prioritizing sustainable development in constructing new housing, new Policy 13.1 supporting "smart" regional growth that locates new housing close to jobs and transit and new Policy 13.3 that promotes sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle share and limit "the need for a private car." However, the EIR fails to adequately analyze the effects of implementing these new policies, which are clearly intended to support the Sustainable Communities Strategy promulgated by the Association of Bay Area Governments (ABAG) to encourage substantial new housing development in Priority Development Areas and other areas served by transit. The EIR fails to acknowledge the fact that by resolution adopted on August 14, 2007, the San Francisco Board of Supervisors designated as Priority Development Areas that are planned "for more housing" the areas described as plan areas or major projects in the 2009 Housing Element. (Ex. J. - August 14, 2007 Resolution of the San Francisco Board of Supervisors; 2009 Housing Element p. 9) On October 28, 2008, the Board of Supervisors adopted a subsequent resolution authorizing the



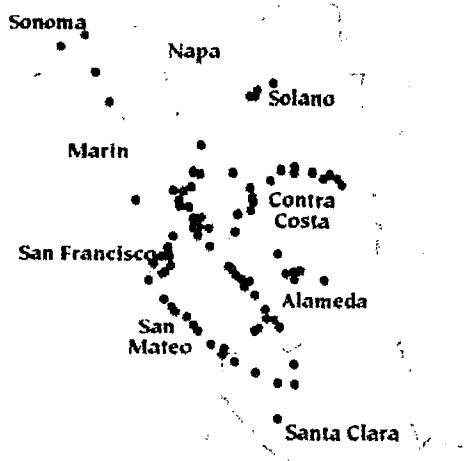
Priority Development Area Showcase

## FOCUS Priority Development Areas

Priority Development Areas (PDAs) are locally-identified, infill development opportunity areas within existing communities. This showcase:

- Highlights local planning efforts to create complete communities through the FOCUS Program
- Demonstrates the variety of communities throughout the Bay Area that are pursuing transit-oriented development
- Provides information about each area, including maps, key facts, implementation needs, and a description of the goals and vision for the area

The compact growth envisioned through these PDAs is based in large part on local aspirations and community context. The PDAs reflect the diversity of the communities in the Bay Area. Explore the links on this page to learn more about each PDA.



## FOCUS Priority Development Area Application Materials

FOCUS applications for Priority Development Area designation are accepted on a rolling basis. Local governments in the nine county San Francisco Bay Area are invited to apply for regional designation of an area within their community as a Priority Development Area. These areas help inform regional and state agencies where incentives and assistance are needed to support local efforts that encourage infill development near transit. Many local governments are already participating and have been eligible to apply for a variety of capital funds and planning grants for the Priority Development Areas within their jurisdiction.

### Applying to Become a PDA

Applications for Priority Development Area designation will be reviewed and evaluated, and areas that meet the designation criteria will be recommended for regional adoption as designated Planned or Potential Priority Development Areas. In general, these categories relate to readiness for funding: a Planned area would be eligible for capital infrastructure funds, planning grants, and technical assistance while a Potential area would be eligible for planning grants and technical assistance, but not capital infrastructure funds. Click [here](#) to learn more about the application review process.

### Changing the Status of an Existing PDA

A Potential PDA can move to Planned status once a plan has been completed for the area. Anything less than adoption by the City Council or Board of Supervisors ("accepting" the plan, moving forward on implementation without adoption, etc.) is not sufficient to meet this requirement. To complete the status change, applicants should submit a copy of the adopted plan and the adopting resolution to the [FOCUS Staff](#) for your jurisdiction. Applicants will also be asked to complete the PDA Assessment survey. Click [here](#) for more details about the review process for revision requests.

### Revisions to an Existing PDA

To revise an existing PDA, local governments should contact the [FOCUS Staff](#) for their jurisdiction. Local staff will be asked to submit an updated application (map, narrative, jobs and housing numbers, etc.) to provide accurate and up-to-date information about the revised area.

If the revision is to a Potential PDA, then the applicant should submit an updated infrastructure budget. If the revision is to a Planned PDA, then the applicant should submit an updated PDA Assessment Survey. A new resolution is not required.

### Application Materials - Click on each item to download

- [Application Guidelines for Priority Development Area Designation](#)  
The application guidelines include a program overview, eligibility for applicants and areas, designation criteria definitions, application review process, timeline for priority development area designation, application form and submission instructions, and contact information.
- [Application for Priority Development Area Designation](#)  
The application has six parts. Some information can be filed in directly in the Microsoft Word document, while some information will need to be provided as a separate attachment.
- [Station Area Planning Manual for Part 1\(e\) of the Application](#)  
Use the Station Area Planning Manual as a guide to identify a Place Type that most closely aligns with the vision for the area being submitted.
- [Infrastructure Budget for Part 6 of the Application](#)  
This Microsoft Excel spreadsheet is provided for applicants to enter information about the infrastructure improvements needed and funding sources available to realize the vision for the priority area.
- [PDA Assessment Survey](#)  
This Microsoft Excel spreadsheet is provided for applicants to enter detailed information about the priority area. Applicants for new PDAs will be asked to complete this spreadsheet if [FOCUS Staff](#) decides to recommend adoption as a Planned PDA after review of the application. This should be also completed by applicants requesting changes to an existing Planned PDA or moving from a Potential PDA to Planned status.
- [Sample Local Government Resolution](#)  
This sample local government resolution is provided as a template for requesting support from the applicant's council or board of supervisors for participation in the FOCUS program through PDA designation.

### Application Submission Instructions

1. Fill out the Application in the Microsoft Word Document and compile the documents requested in the application form for each area.

2. Submit an electronic version of the application form and associated documents requested in the application for each area to [FOCUS@abag.ca.gov](mailto:FOCUS@abag.ca.gov).

3. Mail one hard copy of the application and attachments for each area to the following mailing address:

Association of Bay Area Governments  
P.O. Box 2050  
Oakland, CA 94604-2050  
Attn: Jackie Reinhart

**Physical address:**  
Association of Bay Area Governments  
101 Eighth Street  
Oakland, CA 94607-4756  
Attn: Jackie Reinhart

**Contact Information**

For questions regarding the application, please contact Jackie Reinhart, ABAG Regional Planner at [JackieR@abag.ca.gov](mailto:JackieR@abag.ca.gov) or 510-464-7994. However, prior to submitting an application, you are encouraged to contact the [FOCUS Staff](#) for your jurisdiction and discuss the goals for the proposed area.



# FOCUS

a development and conservation strategy  
for the San Francisco Bay Area



## Application Guidelines for Priority Development Area Designation

FOCUS is a regional, incentive-based development and conservation strategy for the San Francisco Bay Area. FOCUS is led by the Association of Bay Area Governments and the Metropolitan Transportation Commission in coordination with the Bay Area Air Quality Management District and the Bay Conservation and Development Commission. It is partially funded by a regional blueprint planning grant from the State of California Business, Transportation, and Housing Agency.

FOCUS is a partnership of four regional agencies:

[www.bayareavision.org](http://www.bayareavision.org) • [FOCUS@abag.ca.gov](mailto:FOCUS@abag.ca.gov) • 510.464.7593



## I. FOCUS Overview

FOCUS is a regional incentive-based development and conservation strategy for the San Francisco Bay Area. Regional agencies address climate change, transportation, housing, the economy, and other issues that transcend city boundaries but impact all members of the region. FOCUS unites the efforts of four regional agencies into a single program that encourages future population growth in areas near transit and within the communities that surround the San Francisco Bay. Concentrating housing in these areas offers housing and transportation choices for all residents, while helping to reduce traffic, protect the environment, and enhance existing neighborhoods. FOCUS also guides conservation efforts towards the region's most important natural resources.

FOCUS is led by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), with support from the Bay Area Air Quality Management District (BAAQMD) and the Bay Conservation and Development Commission (BCDC)—in partnership with congestion management agencies, transit providers and local governments throughout the Bay Area. It is partially funded by a Blueprint Grant from the State of California Business, Transportation, and Housing Agency.

Applications are accepted on a rolling basis for Priority Development Area designation. Priority Development Areas support focused growth by accommodating growth as mixed use, infill development near transit and job centers, with an emphasis on housing. Local governments who meet the application criteria are invited to submit an application for an area within their jurisdiction. Participation in this designation process is voluntary. Applications received are reviewed on a quarterly basis.

The designation of Priority Development Areas informs regional agencies where incentives and assistance are needed to support local efforts in creating complete communities. Regional agencies have developed programs for technical assistance, planning grants, and capital infrastructure funding for which these areas are eligible to apply. This designation helps connect those jurisdictions with funding opportunities, but many of the funding programs are still highly competitive. Those jurisdictions with Priority Development Area goals closely aligned with program criteria can be more successful than other areas. Over 100 Priority Development Areas have been adopted by the ABAG Executive Board. To learn more about the FOCUS Initiative and adopted Priority Development Areas, visit the Focused Growth website at [www.bayareavision.org](http://www.bayareavision.org).

## II. Eligibility for Applicants and Areas

Any town, city, or county government within the nine county San Francisco Bay Area can apply as the lead applicant for priority area designation. Multiple jurisdictions can submit a joint application for an area. As part of the application, the lead applicant will need to provide a copy of a resolution adopted by the town/city council or board of supervisors showing support for involvement in the FOCUS process. Private and other public entities cannot be lead applicants but can partner with or show support for the lead applicant. In the case of a multiple jurisdiction application for designation of an area, a transit agency or county congestion management agency may be the lead applicant. The lead transit agency or congestion management agency will need to contact regional agency staff for approval, and a resolution from each participating jurisdiction will still be required as part of the application.

Applicants must demonstrate that an area proposed for designation as a priority development area meets all of the following criteria:

- The area is within an existing community.
- The area is near existing or planned fixed transit (or served by comparable bus service).
- The area is planned or is planning for more housing.

### III. Designation Criteria Definitions

The following definitions are intended to clarify the designation criteria.

Area - means the planning area being proposed for designation as a priority development area under the FOCUS program. Since the program seeks to support area planning, the recommended area size is 100 acres, which is approximately a ¼ mile radius.

- A *planned area* is part of an existing plan that is more specific than a general plan, such as a specific plan or an area plan.
- A *potential area* may be envisioned as a potential planning area that is not currently identified in a plan or may be part of an existing plan that needs changes.

Existing Community – means that the area is within an existing urbanized area, lies within an urban growth boundary or limit line if one is established, and has existing or planned infrastructure to support development that will provide or connect to a range of services and amenities that meet the daily needs of residents making non motorized modes of transportation an option.

Housing – means the area has plans for a significant increase in housing units, including affordable units, which can also be a part of a mixed use development that provides other daily services, maximizes alternative modes of travel, and makes appropriate land use connections.

Near Transit – means (1) the area around an existing rail station or ferry terminal (typically a half-mile around the station), (2) the area served by a bus or bus rapid transit corridor with minimum headways of 20 minutes during peak weekday commute periods, or (3) the area defined as a planned transit station by MTC's Resolution 3434.

### IV. Application Review Process

Applications received will be reviewed on a quarterly basis. The quarters for the year include: January to March, April to June, July to September, and October to December. Applications received within a quarter will be reviewed at the start of a new quarter. For instance, the review process for an application received in February will begin in April.

#### Applying to Become a PDA

For new PDAs, the application review process involves the following steps:

1. Upon receipt, applications will be checked for completeness and eligibility.
2. FOCUS staff will recommend designation of eligible areas as a Planned or Potential Priority Development Area based on the planning status for the area's development vision and submission of the supporting local government resolution. To qualify for Planned PDA Status, the plan for the area should:
  - a. Include a map designating the land uses for the plan area
  - b. Identify densities/development intensities for plan land uses
  - c. Include implementing actions/an implementation plan
3. If staff recommends designation as a Planned PDA, the applicant will be asked to complete a PDA Assessment Survey, to provide more detailed information about the priority area.
4. Staff recommendations will be presented to ABAG's Regional Planning Committee (RPC) for approval and then to ABAG's Executive Board for regional adoption.

#### Changing the Status of an Existing PDA

To change the status of a PDA from Potential to Planned, contact the FOCUS Staff person for your jurisdiction. He or she will review the adopted plan to ensure that it:

1. Includes a map designating the land uses for the plan area

2. Identifies densities/development intensities for plan land uses
3. Includes implementing actions/an implementation plan

Applicants for a status change will be asked to complete a PDA Assessment Survey. Upon review of the plan and the completed PDA Assessment Survey, FOCUS Staff will submit the revision request to the ABAG Planning Director for approval. This revision does not need to be approved by the RPC or Executive Board.

#### **Revisions to an Existing PDA**

To revise an existing PDA, contact the FOCUS Staff person for your jurisdiction. The applicant will be asked to submit an updated application (map, narrative, jobs and housing numbers, etc.) to provide accurate and up-to-date information about the revised area.

If the revision is to a Potential PDA, then the applicant should submit an updated infrastructure budget. If the revision is to a Planned PDA, then the applicant should submit an updated PDA Assessment Survey. A new resolution is not required.

Requests to revise an existing PDA will be reviewed by the FOCUS Staff for your jurisdiction, who will assess whether the revised PDA will:

1. Result in a recognizable "neighborhood," as identified by the local jurisdiction or planning done to date
2. Remain consistent with the PDA eligibility criteria

After review by FOCUS Staff, the revision request will be submitted to the ABAG Planning Director for approval. This change does not need to be approved by the RPC or Executive Board.

#### **V. Application Form and Submission Instructions**

The following are the basic steps in accessing and submitting an application:

1. Download an electronic version of the application (Application for Priority Development Area Designation) from the FOCUS website: [www.bayareavision.org](http://www.bayareavision.org)
2. After reviewing the application requirements, contact the ABAG Regional Planner for your jurisdiction and discuss the goals for the proposed area. These contacts are listed on the FOCUS website at <http://www.bayareavision.org/initiatives/contacts.html>.
3. Fill out an application and compile the documents requested in the application form for **each** area. A sample local government resolution, Excel files for entering information about infrastructure needs and funding sources, and the Station Area Planning Manual are also available on the FOCUS website.
4. Submit an electronic version of the application form and associated documents requested in the application for each area to [FOCUS@abag.ca.gov](mailto:FOCUS@abag.ca.gov).
5. Mail one hard copy of the application and attachments for each area to:

Association of Bay Area Governments  
P.O. Box 2050  
Oakland, CA 94604-2050  
Attn: Jackie Reinhart

#### **VI. Contact Information**

For questions regarding the application, please contact Jackie Reinhart, ABAG Regional Planner, at [JackieR@abag.ca.gov](mailto:JackieR@abag.ca.gov) or 510-464-7994.

# FOCUS

a development and conservation strategy  
for the San Francisco Bay Area

## Application for Priority Development Area Designation

Enter information in the spaces provided and submit the requested attachments.

Part 1 - APPLICANT INFORMATION & AREA DETAILS		
Attach resolution showing local support for involvement in FOCUS		
a. Lead Applicant -City/County		
Contact Person		
Title		
Department		
Street Address		
City		
Zip Code		
Phone Number		
Fax Number		
Email		
b. Area Name and Location		
c. Area Size (minimum acreage = 100)		
d. Public Transit Serving the Area (existing and planned). From this list, please identify at least one route that has minimum 20-minute headways.		
e. Place Type (Identify based on the Station Area Planning Manual)		
	Current Conditions (Year: )	Future Goal (Horizon Year: )
f. Total Housing Units		
g. Total Jobs		

Part 2 - ADDITIONAL AREA INFORMATION		
	Yes	No
a. Is the proposed priority area currently recognized in the General Plan (i.e., called out as TOD, infill etc.)?	<input type="checkbox"/>	<input type="checkbox"/>
b. Have other plans (any targeted planning efforts including specific plans, precise plans, area plans, and supporting environmental studies) been developed within the last 15 years that cover the priority area? <b>Note: If yes, please attach brief list of individual planning efforts and date completed (including web links to electronic versions if available). In the list, identify the primary plan for the area.</b>	<input type="checkbox"/>	<input type="checkbox"/>
c. Is the proposed priority area within the boundaries of a redevelopment area?	<input type="checkbox"/>	<input type="checkbox"/>

FOCUS is a regional, incentive-based development and conservation strategy for the San Francisco Bay Area. FOCUS is led by the Association of Bay Area Governments and the Metropolitan Transportation Commission in coordination with the Bay Area Air Quality Management District and the Bay Conservation and Development Commission. It is partially funded by a regional blueprint planning grant from the State of California Business, Transportation, and Housing Agency.



**Part 3 – MAPS OF PRIORITY DEVELOPMENT AREA**

Attach map(s) showing the proposed boundaries, land use designations and zoning, major transit services, and any other relevant information about the proposed priority area. In your electronic submission, please include GIS files of the PDA boundaries, if available. Photos of current conditions in the priority area are optional.

**Part 4 – NARRATIVE**

Attach separately a maximum two-page (8½ x 11 with 12 point font) narrative that addresses the following questions and provides any other relevant information.

- What is the overall vision for this area?
- What has to occur in order to fully realize this vision? What has occurred there recently (past 5 years)?
- Describe relevant planning processes, and how community members were involved in developing the vision and/or plan for the area.
- Describe how this priority area has the potential to be a leading example of smart growth for the Bay Area.

**Part 5 – POTENTIAL ASSISTANCE REQUESTED (check all that apply)**

Note: Assistance is not being offered at this time. This information will aid the development of a tools and incentives package for designated areas.

TECHNICAL ASSISTANCE	REQUEST FOR PLANNING GRANTS	REQUEST FOR CAPITAL GRANTS
<input type="checkbox"/> Assistance with policies to implement existing plan <input type="checkbox"/> Assistance with photo- simulations to depict future conditions <input type="checkbox"/> Assistance with local workshops and tours <input type="checkbox"/> Other:	<input type="checkbox"/> Funding for new area-wide specific plan or precise plan <input type="checkbox"/> Funding to update existing area-wide specific plan or precise plan <input type="checkbox"/> Funding for EIR to implement existing area-wide plan <input type="checkbox"/> Other:	<input type="checkbox"/> Funding for transportation projects (including pedestrian/bicycle) <input type="checkbox"/> Funding for housing projects <input type="checkbox"/> Funding for water/sewer capacity <input type="checkbox"/> Funding for parks/urban greening <input type="checkbox"/> Funding for streetscape improvements <input type="checkbox"/> Other:

**Part 6 – INFRASTRUCTURE BUDGET FOR PRIORITY AREA**

A spreadsheet for detailing the infrastructure improvements needed to realize the vision for the priority area and available funding sources is provided. Please complete these worksheets with all currently available information and attach.

E-mail this completed application form and attachments requested to [FOCUS@abag.ca.gov](mailto:FOCUS@abag.ca.gov). In addition to electronic submission, mail one hard copy of this application and attachments requested in this application form to the following address:

Association of Bay Area Governments  
 P.O. Box 2050

# FOCUS

a development and conservation strategy  
for the San Francisco Bay Area

## Application for Priority Development Area Designation

Oakland, CA 94604-2050

Attn: Jackie Reinhart

For questions regarding the application, please contact Jackie Reinhart, ABAG Regional Planner, at [JackieR@abag.ca.gov](mailto:JackieR@abag.ca.gov) or 510-464-7994.

FOCUS is a regional, incentive-based development and conservation strategy for the San Francisco Bay Area. FOCUS is led by the Association of Bay Area Governments and the Metropolitan Transportation Commission in coordination with the Bay Area Air Quality Management District and the Bay Conservation and Development Commission. It is partially funded by a regional blueprint planning grant from the State of California Business, Transportation, and Housing Agency.

[www.bayareavision.org](http://www.bayareavision.org)



September 2010

010472

# BayArea Plan

## Executive Summary of the Initial Vision Scenario

In 2008, Senate Bill 375 (Steinberg) was enacted. The state law requires that our Regional Transportation Plan contain a Sustainable Communities Strategy that integrates land-use planning and transportation planning. For the 25-year period covered by the Regional Transportation Plan, the Sustainable Communities Strategy must identify areas within the nine-county Bay Area sufficient to house all of the region's population, including all economic segments of the population. It must also attempt to coordinate the resulting land-use pattern with the transportation network so as to reduce per capita greenhouse-gas emissions from personal-use vehicles (automobiles and light trucks).

The Initial Vision Scenario for Plan Bay Area is a first-cut proposal that identifies the areas where the growth in the region's population might be housed. This proposal builds upon a rich legacy of integrative planning in the Bay Area. For over a decade, the region and its local governments have been working together to locate new housing in compact forms near jobs, close to services and amenities, and adjacent to transit so that the need to travel long distances by personal vehicle is reduced. Compact development within the existing urban footprint also takes development pressure off the region's open space and agricultural lands. We have referred to this type of efficient development as "focused growth," and the regional program that supports it is called FOCUS.

### **Planning for New Housing and Supporting Infrastructure**

The Initial Vision Scenario is constructed by looking first at the Bay Area's regional housing needs over the next 25 years. This analysis was performed using demographic projections of household growth. It is not a forecast of the region, and does not take into account many factors that constrain the region's supply of new housing units, such as limitations in supporting infrastructure, affordable housing subsidies, and market factors. The principal purpose of the Initial Vision Scenario is to articulate how the region could potentially grow over time in a sustainable manner, and to orient policy and program development to achieve the first phases of implementation. Under the assumptions of the Initial Vision Scenario, the Bay Area is anticipated to grow by over 2 million people, from about 7,350,000 today to about 9,430,000 by the year 2035. This population growth would require around 902,000 new housing units. The Initial Vision Scenario proposes where these new units might be accommodated.

In a departure from previous regional growth scenarios, this Initial Vision Scenario is designed around places for growth identified by local jurisdictions. These places are defined by their character, scale, density, and the expected housing units to be built over the long term. Using "place types," areas with similar characteristics and physical and social qualities, ABAG asked local governments to identify general development aspirations for areas within their jurisdictions. These places were mostly the Priority Development Areas (PDAs) already identified through the



FOCUS program. They also included additional Growth Opportunity Areas, some similar to PDAs and others with different sustainability criteria

Based on local visions, plans and growth estimates, regional agencies distributed housing growth across the region, focusing on PDAs and Growth Opportunity Areas. ABAG in some cases supplemented the local forecast with additional units based on the typical characteristics of the relevant locally-selected place type. ABAG also distributed additional units to take advantage of significant existing and planned transit investment, and it assigned some units to locally identified areas that present regionally significant development opportunities for greater density.

The Initial Vision Scenario accommodates 97 percent of new households within the existing urban footprint. Only 3 percent of the forecasted new homes require "greenfield development" (building on previously undeveloped lands). Priority Development Areas and Growth Opportunity Areas contain about 70 percent of the total growth (743,000 households).

Among counties, three take the lion's share of growth: Santa Clara, Alameda and Contra Costa absorb a little over two-thirds of the total. These same counties also are anticipated to take the majority of the region's job growth (64 percent). The region's three major cities do a lot of the heavy lifting. Thirty-two percent of the forecast and proposed housing growth occurs in San José, San Francisco and Oakland. Seventeen percent goes to medium-sized cities like Fremont, Santa Rosa, Berkeley, Hayward, Concord, and Santa Clara.

The analysis embodied in the Initial Vision Scenario is founded on the location of housing. Employment forecasting and distribution in this Scenario is not directly related to land use policy. Employment location can have a powerful influence on travel demand, vehicle miles traveled, and vehicle greenhouse-gas emissions. In light of these factors and considering economic competitiveness, transit sustainability, and a balanced relationship between employment and housing, regional agencies will be embarking, with local partners, on further analysis regarding appropriate employment locations in relation to future housing growth and the transportation network. This will inform the development of the Detailed Scenarios.

The Initial Vision Scenario reflects the transportation investments from MTC's current Regional Transportation Plan (known as the Transportation 2035 Plan) with an Express Lane backbone system. It also includes some proposed improvements to the region's transit network. These include increased frequencies on over 70 local bus and several express bus routes, improved rail headways on BART, eBART, Caltrain, Muni Metro, VTA light-rail, and Altamont Commuter Express, and more dedicated bus lanes in San Francisco and Santa Clara counties, all resulting in overall growth in transit capacity. However, the Bay Area's transit system is financially unsustainable with operators unable to afford to run the current service levels into the future, much less expanded headways contemplated under the Initial Vision Scenario. MTC's Transit Sustainability Project will propose a more sustainable transit system for inclusion in the Detailed Scenarios to be tested.

### **Measuring Performance Against Targets**

The Initial Vision Scenario results in a 12 percent per capita greenhouse gas emissions reduction from personal-use vehicles in 2035, compared to a 2005 base year. This reduction falls short of

1 [Application for ABAG Priority Development Area Designation]

2  
3 **Resolution authorizing the San Francisco County Transportation Authority and the**  
4 **Mayor's Office of Housing to apply on behalf of the City and County of San Francisco**  
5 **for Priority Development Area designation by the Association of Bay Area**  
6 **Governments.**

7 WHEREAS, The Association of Bay Area Governments and the Metropolitan  
8 Transportation Commission in coordination with the Bay Area Air Quality Management District  
9 and Bay Conservation and Development Commission (collectively, the "regional agencies")  
10 are undertaking a regional planning initiative called FOCUS; and

11 WHEREAS, FOCUS program goals support a future regional development pattern that  
12 is compact and connected; and,

13 WHEREAS, The regional agencies seek local government partners to create a specific  
14 and shared concept of where growth can be accommodated (priority development area) and  
15 what areas need protection (priority conservation area) in the region; and,

16 WHEREAS, A priority development area must meet all of the following criteria: (a)  
17 within an existing community, (b) near existing or planned fixed transit (or served by  
18 comparable bus service) and (c) is planned, or is planning, for more housing; and,

19 WHEREAS, Local governments in the nine county San Francisco Bay Area are eligible  
20 to apply for designation of an area within their community as a priority development area; and,

21 WHEREAS, The regional agencies intend to secure incentives and provide technical  
22 assistance to designated priority development areas so that positive change can be achieved  
23 in communities working to advance focused growth; and,

24 WHEREAS, the following zones and plan areas as indicated on the attached map meet  
25 the criteria for PDA designation; and

1           WHEREAS, designating these zones and plan areas as PDAs will make them eligible  
2 for regional capital and planning funds that may be prioritized for PDA areas; now therefore,  
3 be it

4           RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
5 authorizes the San Francisco County Transportation Authority and the Mayor's Office of  
6 Housing to apply on behalf of the City and County of San Francisco for Priority Development  
7 Area designation of the following zones and plan areas as ABAG priority development  
8 area(s), as indicated on the attached map:

9           *The Bayview/ Hunters Point Project Area;*  
10          *Shipyard/Candlestick Point Project Area;*  
11          *Balboa Park*  
12          *Mission Bay Project Area;*  
13          *Market-Octavia;*  
14          *Transbay Project Area*  
15          *The Mission District;*  
16          *The South of Market;*  
17          *The Central Waterfront;*  
18          *Potrero Hill and Showplace Square;*  
19          *Treasure Island;*  
20          *Visitation Valley/Executive Park;*  
21          *Downtown; and*  
22          *various Port of San Francisco properties along the eastern and southeastern waterfront.*  
23  
24  
25



City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Tails  
Resolution

File Number: 071176

Date Passed:

Resolution authorizing the San Francisco County Transportation Authority and the Mayor's Office of Housing to apply on behalf of the City and County of San Francisco for Priority Development Area designation by the Association of Bay Area Governments.

August 14, 2007 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 071176

I hereby certify that the foregoing Resolution was ADOPTED on August 14, 2007 by the Board of Supervisors of the City and County of San Francisco.

8/17/2007

Date Approved

*Angela Cavillo*

Angela Cavillo  
Clerk of the Board

*[Signature]*

Mayor Gavin Newsom

EXHIBIT 1

010535

1 [Application to Amend San Francisco's Priority Development Area Designation]

2  
3 **Resolution authorizing the San Francisco County Transportation Authority to apply on**  
4 **behalf of the City and County of San Francisco for amendments to the Priority**  
5 **Development Area Designation by the Association of Bay Area Governments.**  
6

7 WHEREAS, The Association of Bay Area Governments ("ABAG") and the Metropolitan  
8 Transportation Commission in coordination with the Bay Area Air Quality Management District  
9 and Bay Conservation and Development Commission (collectively the "regional agencies")  
10 are undertaking a regional planning initiative called FOCUS; and,

11 WHEREAS, The FOCUS program goals support a future regional development pattern  
12 that is compact and connected; and,

13 WHEREAS, The regional agencies have worked with local government agencies to  
14 designate Priority Development Areas ("PDAs") where local jurisdictions have engaged in  
15 community-based planning to identify where growth can be accommodated consistent with  
16 FOCUS goals; and,

17 WHEREAS, The regional agencies as well as the State of California's Department of  
18 Housing and Community Development intend to provide funding to support the planning,  
19 design and implementation of housing and related transportation infrastructure for qualifying  
20 projects located within PDAs on a competitive application basis; and,

21 WHEREAS, The PDAs within the City and County of San Francisco meet the following  
22 criteria set by the regional agencies: (a) within an existing community, (b) near existing or  
23 planned fixed-guideway transit or a comparable bus service, (c) are planned for more  
24  
25

1 housing, and (d) are designated as PDAs by an official adoption process of that jurisdiction's  
2 legislative body; and,

3 WHEREAS, The Board of Supervisors of the City and County of San Francisco  
4 adopted Resolution 483-07 on August 6, 2007, designating the PDAs in San Francisco; and,

5 WHEREAS, The City and County of San Francisco has been awarded over \$3 million  
6 in State Bond funds for planning and construction of projects within the designated PDAs in  
7 2008; and,

8 WHEREAS, The regional agencies have called for local jurisdictions to submit any  
9 requests for revisions and amendments to the PDA designations before October 31, 2008,  
10 including an officially-adopted Resolution from those jurisdictions' legislative bodies; and,

11 WHEREAS, The amendment to the PDA designation for San Francisco to add the 19<sup>th</sup>  
12 Avenue corridor between Sloat Boulevard and the San Mateo County line allows this corridor  
13 to be eligible for these funds to address transit, pedestrian and other transportation  
14 improvements in anticipation of housing growth in the area; now, therefore, be it

15 RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
16 authorizes the San Francisco County Transportation Authority to apply on behalf of the City  
17 and County of San Francisco for amendments to the PDA designation accommodating the  
18 inclusion of the 19<sup>th</sup> Avenue Corridor.



City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 081281

Date Passed:

Resolution authorizing the San Francisco County Transportation Authority to apply on behalf of the City and County of San Francisco for amendments to the Priority Development Area Designation by the Association of Bay Area Governments.

October 28, 2008 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 081281

I hereby certify that the foregoing Resolution was ADOPTED on October 28, 2008 by the Board of Supervisors of the City and County of San Francisco.

10/30/2008

Date Approved

Angela Calvillo  
Clerk of the Board

Mayor Gavin Newsom





# HOUSING ELEMENT

SAN FRANCISCO  
SUSTAINABLE  
COMMUNITY  
GENERAL PLAN

## PART I: DATA AND NEEDS ANALYSIS

MARCH 2011 PLANNING COMMISSION ADOPTED

### C. QUANTIFIED HOUSING GOAL

The state Department of Housing and Community Development, with the Association of Bay Area Governments, determined San Francisco's fair share of the regional housing need for the period covering January 1999 through June 2006 at 20,372 units. Even with very aggressive policies and programs, given that San Francisco is a mature, built-up city with limited large tracts of undeveloped land and the previous decades' housing production record, the "fair share" of affordable housing units was not achieved. Table I-63 below shows that 86% of the state mandated production targets and 47% of the affordable housing production for the period covered by the 2004 *Residence Element* were achieved; this statistic is a result of the overproduction of market rate units. Appendix A provides details of the City's housing production performance in the evaluation of the 2004 *Residence Element*.

Table I-63  
Annual Production Targets and Average Annual Production, San Francisco, 1999-2006

Household Affordability	Housing Goals	Actual Production	% of Production Target Achieved	Production Deficit (Surplus)
	1999-2006	1999-2006		
	Total	Total		
Very Low Income (below 50% AMI)	5,244	4,342	82.8%	902
Low Income (50% - 79% AMI)	2,126	1,113	52.4%	1,013
Moderate Income (80% - 120% AMI)	5,639	725	12.9%	4,914
Market Rate (over 120% AMI)	7,363	11,293	153.4%	(3,930)
<b>TOTALS</b>	<b>20,372</b>	<b>17,473</b>	<b>85.8%</b>	

More than the performance in the production of very low- and low-income housing, the deficit of 5,750 units affordable to moderate income households has been seen as critical in turning the City's housing problem into a crisis of affordability. As Table I-64 below shows, housing construction in the last two years, along with projected pipeline completion by 2014, point to an exacerbation of construction deficit in housing affordable to low- and moderate-income households.

Table I-64  
Housing Production Targets and Estimated Annual Production, San Francisco, 2007-2014

Household Affordability	2007		2008		2009		2010		2011		2012		2013		2014	
	Target	Est. Production	Target	Est. Production	Target	Est. Production	Target	Est. Production	Target	Est. Production	Target	Est. Production	Target	Est. Production	Target	Est. Production
Extremely Low (< 30% AMI)	3,294	396*	555 †	1,405 †	1,548 †	3,904	(610)	240	1,500							
Very Low (31-49% AMI)	3,295	395*	556 †	1,406 †	1,548 †	3,905	(610)	239	1,500							
Low (50-79% AMI)	5,535	309	149 †	0	27 †	485	5,050	108	500							
Moderate (80-120% AMI)	6,754	569	833 †	573 †	1,193 †	3,168	3,586	5	0							
Market (over 120% AMI)	12,315	4,349	4,723	3,250	6,759	19,081	(6,766)	0	0							
<b>TOTALS</b>	<b>31,193</b>	<b>6,483</b>	<b>6,816</b>	<b>6,834</b>	<b>11,075</b>	<b>31,543</b>		<b>592</b>	<b>3,500</b>							

\* Units affordable to Extremely Low and Very Low Income Households do not include those units that have been acquired and/or rehabbed as permitted by Housing Element Law.  
 \*\* This does not include major projects under Planning review including ParkMerced, Treasure Island, or Candlestick Point / Hunters Point Shipyard Phase II which are expected to be completed after the 2014 reporting period. The limited pipeline assumption include projects that are currently under construction, entitled projects (approved by Planning Department and Department of Building Inspection), and projects of 250 units or less currently under Planning Department review that are expected to be completed by 2014; also assumes SF Hope is completed by 2014.  
 † Based on affordable housing projects sponsored by the Mayor's Office of Housing, the SF Redevelopment Agency and the SF Housing Authority.  
 ‡ Based on estimated inclusionary affordable housing units in projects under construction, entitled and under Planning or DBI review.

such as middle income and extremely low income households that require specific housing policy. In addition to planning for affordability, the City should plan for housing that serves a variety of household types and sizes.

#### **POLICY 1.2**

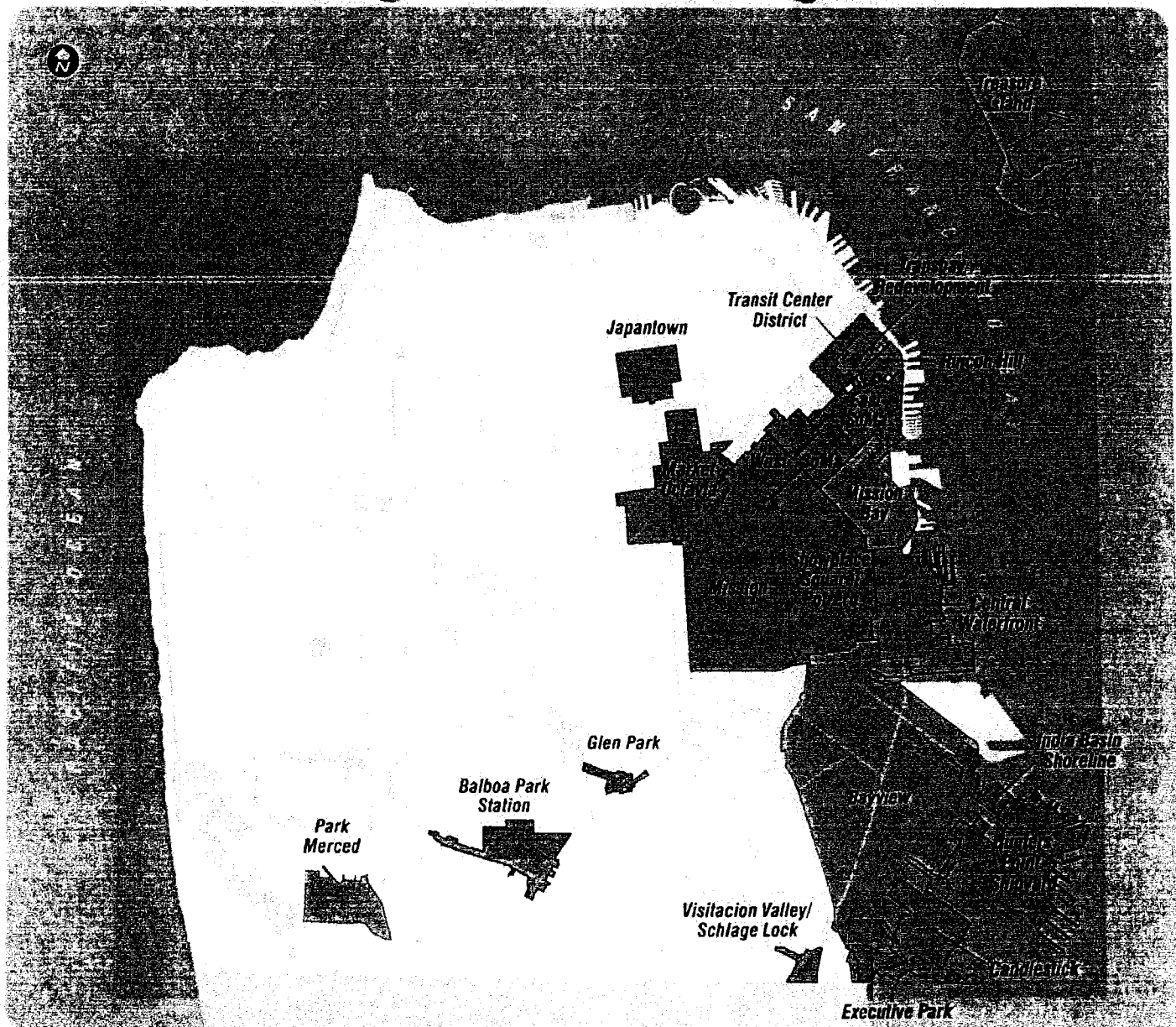
**Focus housing growth and infrastructure-necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park and Hunter's Point Shipyard.**

In order to increase the supply and affordability of housing, the City has engaged in significant planning for housing through Area Plans (portions of the General Plan which focus on a particular part of the City), Redevelopment Plans (community revitalization plans authorized and organized under the provisions of the California Community Redevelopment Law), and major development projects created in partnership with private sponsors. Adopted community plans include Balboa Park, Market and Ocravia and the Central Waterfront neighborhoods; the Eastern Neighborhoods program including the Mission, South of Market, Showplace Square and Potrero Hill; Candlestick, and Hunters Point Shipyard; and several Redevelopment Area Plans, most recently Visitacion Valley/Schlage Lock.

Plans underway include Japantown, Glen Park, Western SoMa and Executive Park. Other major projects in development with the City include Treasure Island, Park Merced and the Transbay Transit Center. These ongoing community planning efforts should continue. These projects could result in a community accepted housing vision for the neighborhood, related zoning changes and neighborhood specific design guidelines that will encourage housing development in appropriate locations.

Together, these planning efforts could provide capacity for significantly more than the 31,000 units allocated for this planning period (2007-2014). However these plans will require significant investment in infrastructure and supporting services in order to support this growth. Each adopted plan contains related programs for affordable housing (directing the mix of housing types, tenures and affordability needs), infrastructure and community services, they also contain design guidelines and community review procedures. The City should prioritize public investment in these plan areas, according to each plans' infrastructure and community improvement program. These plans will also require diligence in their application: each plan contains numerous policies and principles intended to ensure neighborhood consistency and compatibility, and it is up to Planning Department staff and the Planning Commission to uphold those principles in project review and approvals.









**Plan Areas**

0 Miles 1

**MAP 01**

-  Adopted Area Plan
-  Pending Adoption
-  Plan Areas Under Development
-  Plan Areas In Coordination With Redevelopment Authority or Other Groups

Plan Area / Major Project	Estimated New Housing Construction Potential*
Balboa Park Area Plan	1,800
Market/Octavia Area Plan	6,000
Central Waterfront Area Plan	2000
Mission Area Plan	1700
East SOMA Area Plan	2900
Showplace Square/Potrero Hill Area Plan	3200
Rincon Hill Area Plan	4,100
Visitation Valley Redevelopment Plan	1,500
Transbay Redevelopment Plan	3,400
Mission Bay Redevelopment Plan	3,000
Hunters Point Shipyard/ Candelstick Point	10,000
<b>Total Adopted Plans &amp; Projects:</b>	<b>39,600</b>
Executive Park	1,600
Gien Park	100
Japantown	To be determined
Park Merced	5,600
Transit Center District	1,200
West SOMA	2,700
Treasure Island	7,000
<b>Total Plans &amp; Projects Underway:</b>	<b>18,200</b>
<b>TOTAL</b>	<b>57,800</b>

\* From individual NOP and EIR, rounded

### POLICY 1.3

#### **Work proactively to identify and secure opportunity sites for permanently affordable housing.**

While in previous years land prices have dramatically increased, current land prices seem to have stabilized. This may provide opportunity for sites for permanently affordable housing development that should be aggressively pursued.

Publicly-owned land offers unique opportunity for development of affordable housing. The City should regularly review its inventory of surplus, vacant or underused public property, through an annual reporting process that provides such information to the Mayors Office of Housing.

Public property no longer needed for current or foreseeable future public operations, such as public offices, schools or utilities should be considered for sale or lease for development of permanently affordable housing. The City should ensure that future land needs for transit, schools and other services will be considered before public land is repurposed to support affordable housing. Where sites are not appropriate for affordable housing, revenue generated from sale of surplus lands should continue to be channeled into the City's Affordable Housing Fund under the San Francisco Administrative Code Sections 23A.9 - 11.

The City's land-holding agencies should also look for creative opportunities to partner with affordable housing developers. This may include identifying buildings where air rights may be made available for housing without interfering with their current public use; sites where housing could be located over public parking, transit facilities or water storage facilities; or reconstruction opportunities where public uses could be rebuilt as part of a joint-use affordable housing project. Agencies should also look for opportunities where public facilities could be relocated to other, more appropriate sites, thereby making such sites available for housing development. For example, certain Muni fleet storage sites located in dense mixed-use or residential areas could be relocated, thereby allowing in-fill mixed use or residential development. The City should proactively seek sites for affordable housing development by buying developments that are no longer moving towards completion. This may include properties that have received some or all City land use entitlements, properties that have begun construction but cannot continue, or properties that have completed construction, but whose owners must sell.

### POLICY 1.4

#### **Ensure community based planning processes are used to generate changes to land use controls.**

Community plans are an opportunity for neighborhoods to work with the City to develop a strategic plan for their future, including housing, services and amenities. Such plans can be used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate. Community plans also develop or update neighborhood specific design guidelines, infrastructure plans, and historic resources surveys,

as appropriate. As noted above, in recent years the City has undertaken significant community based planning efforts to accommodate projected growth. Zoning changes that involve several parcels or blocks should always involve significant community outreach. Additionally zoning changes that involve several blocks should always be made as part of a community based planning process.

Any new community based planning processes should be initiated in partnership with the neighborhood, and involve the full range of City stakeholders. The process should be initiated by the Board of Supervisors, with the support of the District Supervisor, through their adoption of the Planning Department's or other overseeing agency's work program; and the scope of the process should be approved by the Planning Commission. To assure that the Planning Department, and other agencies involved in land use approvals conduct adequate community outreach, any changes to land use policies and controls that result from the community planning process may be proposed only after an open and publicly noticed process, after review of a draft plan and environmental review, and with comprehensive opportunity for community input. Proposed changes must be approved by the Planning Commission and Board of Supervisors at a duly noticed public hearing. Additionally, the Department's Work Program allows citizens to know what areas are proposed for community planning. The Planning Department should use the Work Program as a vehicle to inform the public about all of its activities, and should publish and post the Work Program to its webpage, and make it available for review at the Department.

#### **POLICY 1.5**

**Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved, especially if that housing is made permanently affordable to lower-income households.**

Secondary units (in-law or "granny units") are smaller dwelling units within a structure containing another much larger unit, frequently in basements, using space that is surplus to the primary dwelling. Secondary units represent a simple and cost-effective method of expanding the housing supply. Such units could be developed to meet the needs of seniors, people with disabilities and others who, because of modest incomes or lifestyles, prefer or need small units at relatively low rents.

Within a community planning process, the City may explore where secondary units can occur without adversely affecting the exterior appearance of the building, or in the case of new construction, where they can be accommodated within the permitted building envelope. The process may also examine where existing secondary units can be legalized, for example through an amnesty program that requires building owners to increase their safety and habitability. Secondary units should be limited in size to control their impact.

#### **POLICY 1.6**

**Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.**

In San Francisco, housing density standards have traditionally been set in terms of numbers of dwelling units in proportion to the size of the building lot. For example, in an RM-1 district, one dwelling unit is permitted for each 800 square feet of lot area. This limitation generally applies regardless of the size of the unit and the number of people likely to occupy it. Thus a small studio and a large four-bedroom apartment both count as a single unit. Setting density standards encourages larger units and is particularly tailored for lower density neighborhoods consisting primarily of one- or two-family dwellings. However, in some areas which consist mostly of taller apartments and which are well served by transit, the volume of the building rather than number of units might more appropriately control the density.

Within a community based planning process, the City may consider using the building envelope, as established by height, bulk, set back, parking and other Code requirements, to regulate the maximum residential square footage, rather than density controls that are not consistent with existing patterns. In setting allowable residential densities in established neighborhoods, consideration should be given to the prevailing building type in the surrounding area so that new development does not detract from existing character. In some areas, such as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character.

**POLICY 1.7****Consider public health objectives when designating and promoting housing development sites.**

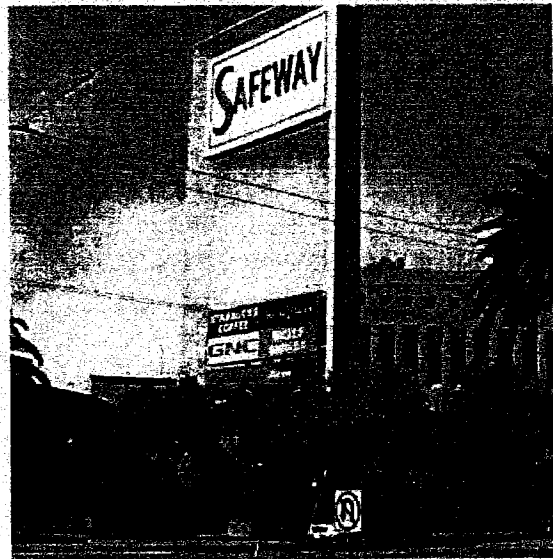
A healthy neighborhood has a balance of housing and the amenities needed by residents at a neighborhood level, such as neighborhood serving retail, particularly stores offering fresh produce, childcare and medical services. Community planning efforts should include requirements, incentives or bonuses to encourage necessary amenities as appropriate.

Land use and transportation planning decisions are directly related to environmental health and justice issues in San Francisco. For example, SFDPH environmental health inspectors frequently observe that families live in buildings that cause a variety of health outcomes such as asthma and lead poisoning. Understanding the impacts of past uses on the soil, the proximity to currently operating heavy industrial uses, and the surrounding air quality are critical when developing housing.

In 2007 the San Francisco Department of Public Health completed the Healthy Development Measure Tool (HDMT), a system to evaluate health impacts of new development. The HDMT proposes a checklist for evaluating a range of project types from smaller housing developments to neighborhood wide community plans. The HDMT covers six topics: environmental stewardship, sustainable and safe transportation, public infrastructure (access to goods and services), social cohesion, adequate and healthy housing, and a healthy economy, with over 100 benchmarks in total. The level of analysis the tool provides can be very useful in developing housing policy and programs for a large area, as it can aid in identifying gaps in services and amenities to be addressed at a policy level. Because of HDMT tool's breadth, it is important that it be used in the appropriate context. Therefore the HDMT should be used to provide a general review of overall context, particularly in the development of community plans.

**POLICY 1.8****Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.**

San Francisco has a strong tradition of mixed-use neighborhoods, allowing residents to take advantage of the City's rich mix of services and amenities on foot and by transit. Mixed-use buildings in San Francisco allow residents to live above street-front commercial space, services or institutional uses. Housing should continue to be considered as a joint use with all compatible non-residential uses. While separation of some uses will always be required to protect public health, the majority of the City's non-residential uses, such as retail, services and workplaces, are compatible with, and can be improved by, the inclusion of housing.

**POLICY 1.9****Require new commercial developments and higher educational institutions to meet the housing demand they generate, particularly the need for affordable housing for lower income workers and students.**

New commercial or other non-residential development projects increase the City's employment base, thereby increasing the demand for housing. Similarly, institutions of higher education provide needed services and contribute to the intellectual and cultural life of the City, while at the same time create a demand for housing by students, which can pressure on existing housing stock.

## 2. Changes to the Housing Stock, 2000 - 2008

Despite the economic downturn at the beginning of the new millennium, housing production in San Francisco seemed unaffected. Accounting for new production, demolitions, and alterations, the City has seen a net increase of over 18,960 housing units – an annual average of almost 2,010 units – in the last nine years. In comparison, a net total of 9,640 housing units were added between 1990 and 1999 or an annual rate of about 964 units per year. The three-year spike in demolitions between 2003 and 2005 is a result of extensive public housing renewal projects, all of which have since been replaced with new affordable housing. Table I-23 also shows a growing trend - roughly 15% in the last nine years - of new units from the conversion of commercial buildings.

Year	Units Completed from New Construction	Units Demolished	Units Gained or Lost from Alterations	Net Change in Number of Units
2000	1,859	61	(1)	1,797
2001	1,619	99	259	1,779
2002	2,260	73	221	2,408
2003	2,730	286	52	2,496
2004	1,780	355	62	1,487
2005	1,872	174	157	1,855
2006	1,675	41	280	1,914
2007	2,197	81	451	2,567
2008	3,019	29	273	3,263
TOTAL	19,011	1,199	1,754	19,566

Table I-23  
New Housing Construction,  
Demolitions and Alterations,  
San Francisco, 2000-2008

SOURCE: SF Planning Department

### a. Type and Location of New Construction, 2000 - 2008

Most of the new construction in the last nine years has occurred in larger structures, with 85% of the housing developed in buildings with more than ten units (Table I-24). South of Market absorbed most of the new housing development since 2000, accounting for over 8,070 new units or almost 43% of all new housing during that period; Downtown and the Western Addition follow with roughly 3,465 and 1,504 respectively, together accounting for over 26% of new housing (Table I-25 and Map I-4). The largely residential districts of the Richmond, Inner and Outer Sunser, Ingleside, Central and South Central, combined, netted only 13% of the additional units to the City's housing stock.



## 2. Housing Potential Under New Zoning Proposals

Through multi-year community planning efforts, the City of San Francisco has recently updated zoning controls for over 1/3 of the city. These planning efforts developed appropriate zoning, heights, bulks, and densities in balance with infrastructure and funding strategies to support new growth. A number of other planning efforts are underway including Balboa Park, the Transbay Terminal District, and Japantown which will result in increased residential development potential.

Table I-66 below details the estimated additional potential capacity with rezoning in planning initiatives currently underway.

**Estimated New Housing Construction Potential with Proposed Rezoning of Select Neighborhoods, San Francisco, 2008**

Area	Under Current Zoning			With Proposed Rezoning *	
	Undeveloped	Soft Sites	Total Estimate	Total New Estimate	Additional Potential Units with Rezoning
Executive Park	114	97	211	1,600	1,389
Glen Park	5	6	11	100	89
Japantown	99	514	613	To be determined	
ParkMerced	3	0	3	5,600	5,597
Transbay Terminal	44	78	122	1,200	1,078
Visitacion Valley *	885	460	1,345	1,200	0
Western SoMa	466	743	1,209	2,700	1,491
India Basin				1,200	1,200
Hunters Point Shipyard			1,500	4,000	2,500
Candlestick Point				7,500	7,500
Treasure Island				8,000	8,000
<b>TOTALS</b>	<b>1,616</b>	<b>1,898</b>	<b>5,014</b>	<b>33,100</b>	<b>28,844</b>

\* Rezoning of the Schlage Lock site.

SOURCE: SF Planning Department

## 3. Plans for Future Affordable Housing Construction

Stable government support in the last few years covered almost all of the affordable housing production. Public subsidies tend to fund very low and low-income housing, with very limited grants allocated for moderate-income home buyers. The revised and expanded inclusionary affordable housing requirement is expected to improve the provision of new housing for households earning moderate incomes. For example, an annual average of 209 inclusionary affordable units were built in the five years from 2004 to 2008 as a result of this change. In comparison, only 128 inclusionary units were built from 1992 to 2000, or an annual average of 16 units.

**EXHIBIT C**



# PLANNING DEPARTMENT

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## MEMORANDUM

**DATE:** May 6, 2004

**FOR HEARING ON:** May 13, 2004

**TO:** Members of the Planning Commission

**FROM:** Lawrence B. Badiner, Acting Director of Planning

**ITEM:** Case No. 2000.465M  
Resolution of Adoption of the Update and  
Amendment of the *Housing Element of the General Plan*

**STAFF CONTACT:** Teresa Ojeda, 558-6251

**REVIEWED BY:** Amit Ghosh, Chief of Comprehensive Planning

**ACTION REQUESTED:** Adopting a Resolution of Adoption of the Update and  
Amendment to the *Housing Element of the General Plan*

The *Housing Element* of the *General Plan* contains the objectives, policies and implementing programs guiding housing development in San Francisco. It is one of seven mandatory elements of the *General Plan* and state mandate requires its periodic update. The current *Housing Element* – called the *Residence Element* – was adopted on September 13, 1990. An underlying principle of the *General Plan* is “the provision for the housing needs of all economic segments of the community.”

Part I of the *Housing Element Proposal for Adoption* describes and analyzes changes in San Francisco’s population, household and housing stock characteristics since 1990. It evaluates existing and projected housing needs resulting from population and job growth and projections. Part I also identifies special user groups and their housing needs. An inventory of land suitable for residential development is included in Part I and is followed by an examination of potential governmental and non-governmental constraints to housing production.

Part II of the *Housing Element Proposal for Adoption* contains a comprehensive set of housing objectives, policies and implementing programs. It continues many existing City housing policies that emphasize affordable housing production, permanent housing affordability, and the protection of existing housing stock. Six new policies reinforce current housing policies by expanding land capacity necessary to increase housing production; directing new housing to appropriate locations, especially in areas well served by transit and other urban amenities; and emphasizing design and density controls to enhance existing neighborhood character.

000016

special user groups such as the homeless, physically disabled, elderly, minorities, families with children, and artists, and specifies the housing affordability levels needed by these households. *Part I* also contains an inventory of land suitable for residential development and examines potential constraints to meeting the City's housing needs. It notes that meeting the estimated housing need will require a rate of housing production far greater than what has been achieved in previous years.

### **Objectives, Policies and Implementing Programs**

*Part II* contains a comprehensive set of housing objectives and policies that are the framework for decision-making, priority setting and program implementation. It continues many existing City housing policies that emphasize affordable housing production, permanent affordability, and the protection of the existing housing stock. New policies strive to expand land capacity necessary to increase housing production, will direct new housing to appropriate locations, especially in areas well served by transit and other urban amenities, and will emphasize design and density controls that enhance existing neighborhood character.

Objectives and policies are general in nature and are followed by related implementation actions. For these implementation actions to succeed, three major prerequisites must be met:

- An adequate supply of land must be identified;
- Regulatory and other impediments must be removed while incentives are identified and provided; and
- Adequate financing must be available for both private and non-profit housing development.

Two *General Plan* priority policies form the basis upon which inconsistencies in this Element and other parts of the *General Plan* are resolved. These are:

- That the City's supply of affordable housing be preserved and enhanced; and
- That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

**Table I-59**  
**Estimated Housing Potential With Proposed Re-Zoning of Select Neighborhoods**

Area	Under Current Zoning			With Proposed Re-Zoning*	
	Undeveloped	Soft Sites	Total Estimate	Total New Estimate	Additional Potential Units with Re-zoning
<b>Better Neighborhoods Program</b>					
Balboa Park	276	210	486	800 to 3,150	314 to 2,664
Central Waterfront	317	367	684	1,100 to 1,500	416 to 816
Market & Octavia	1,470	575	2,045	7,500 to 13,000	5,455 to 10,955
Sub-Total	4,515	1,152	3,215	9,400 to 17,650	6,185 to 14,435
<b>Eastern Neighborhoods Community Planning Area</b>					
South of Market	1,112	266	1,378	6,000 to 11,400	4,622 to 10,022
Mission	961	128	1,089	4,600 to 6,600	3,511 to 5,511
Potrero / Showplace Square	321	25	346	3,800 to 6,900	3,454 to 6,554
South Bayshore	1,731	296	2,027	1,800 to 3,600	- 227 to 1,573
Visitation Valley	390	183	573	1,313	740**
Sub-Total	4,515	898	5,413	17,513 to 29,813	12,100 to 24,400
<b>TOTALS</b>	<b>9,030</b>	<b>2,050</b>	<b>8,628</b>	<b>26,913 to 47,463</b>	<b>18,285 to 38,835</b>

\* Re-zoning proposals include a range of scenarios.

\*\* Re-zoning of the Schlage Lock site.

## 6. Housing on Public Land

Most San Francisco city agencies do not own large tracts of land that do not serve as part of their stated mission. There are occasional exceptions, for example when new technology results in operational changes or when departmental objectives change over time. A few city agencies, notably MUNI and the San Francisco Unified School District, have found over time that some of their parcels can be disposed of or can be utilized for a mixture of other uses.

- a. San Francisco Municipal Railways: MUNI, in particular, has been exploring new uses for its surplus sites where future housing development might be possible.

## **IMPLEMENTATION 11.5**

- The Planning Department will continue to study the construction methods and design components of well-designed housing that enhances the existing urban fabric of San Francisco.
- The Planning Department will continue to use the Residential Design Guidelines when reviewing projects.
- Each project will be considered on its own merit and on its ability to make a positive contribution to the immediate neighborhood and the City.

## **POLICY 11.6**

**Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit.**

Increased allowable densities should not detract from established neighborhood characteristics. In many cases, design and efficient site uses can make use of maximum housing densities while keeping resulting units affordable and compatible with neighboring structures.

## **IMPLEMENTATION 11.6**

- The City will continue to promote increased residential densities in areas well served by transit and neighborhood compatible development with the support and input from local neighborhoods.

## Appendix C

# PRELIMINARY WORK PROGRAM FOR IMPLEMENTING THE HOUSING ELEMENT

Objective & Policy Implemented	Implementation Action	Resources Needed		Target Dates
		Staff	Other Resources	
Housing Element	Complete and hold hearings on Housing Element	0.5 FTE		June 2003
Policies 1.1, 1.2, 1.3, 1.6, 1.8, 11.1, 11.2, 11.6, 11.8, 11.9	Complete and hold hearings on new <i>Land Use Element</i> , which for the first time would establish the policy basis for the Citywide Action Plan (CAP) in one element of the <i>General Plan</i> .	2.0 FTE	\$50,000	December 2004
Policies 11.5, 11.8	Complete public information exchange, draft and hold hearings on amendments to the <i>Urban Design Element</i> to establish the policy basis for the CAP.	2.0 FTE	\$100,000	December 2004
Policies 10.4, 11.2	Update <i>Community Facilities Element</i> for form the policy basis for the CAP.	To be determined		
Policies 1.1, 1.2, 1.3, 1.4, 1.6, 1.7, 2.4, 4.1, 4.4, 5.1	Complete Eastern Neighborhoods planning process and draft permanent zoning controls	5.0 FTE		September 2002
	Visitacion Valley			
	South of Market, Showplace Square/Potrero Hill, Mission, South Bayshore. Complete Environmental Impact Report (EIR).		\$500,000	December 2004
Policies 11.1, 11.2, 11.3, 11.7, 11.8	New Downtown Neighborhoods and Transit Corridor Plans			
	Adopt permanent zoning controls for Rincon Hill, Ball Park Special Use District	0.5 FTE	S.F. Redevelopment Agency	December 2004
	General Plan amendments and adopt permanent zoning controls for Transbay Terminal and Mid-Market Redevelopment Areas	0.5 FTE	S.F. Redevelopment Agency	December 2004
	Draft and hold hearings for permanent controls in other downtown neighborhoods and other transit-served corridors	4.0 FTE	\$350,000	December 2006
Policies 11.1, 11.2, 11.3, 11.7, 11.8	Better Neighborhoods Programs			
	Complete EIR, draft zoning amendments and continue program implementation of Market and Octavia	1.5 FTE		June 2004
	Preliminary zoning schemes for Central Waterfront and Balboa Park Specific Plans	0.5 FTE	\$800,000	To be determined
	Begin Geary Boulevard Better Neighborhood program	3.0 FTE	\$600,000	To be determined
Policy 2.6	Complete planning studies requested by the Board of Supervisors; analyze and process Board-sponsored Code amendments	1.5 FTE	\$50,000	On-going Program
	Study various means for encouraging legalization of housing in appropriate areas and for keeping units affordable		To be determined	
Policy 1.4	Approval of new in-fill housing construction	On-going Program		



City and County of San Francisco

## Board of Supervisors

## San Francisco Housing Development

(OLA #: 005-03)

LEGISLATIVE ANALYST REPORT

To: Members of the Board of Supervisors

From: Willow Schragar, Melissa Sills, and Greg Wagner with Adam Van de Water, Office of the Legislative Analyst

Date: June 11, 2003

RE: San Francisco Housing Development

Summary and Scope of Work

Supervisor McGoldrick requested that the Office of the Legislative Analyst (OLA), working with graduate students at UC Berkeley's Goldman School of Public Policy, research barriers to residential housing development in San Francisco and provide possible courses of action the Board of Supervisors could take to overcome them. As part of this analysis, the OLA is requested to compare San Francisco to other comparable cities and to consult with appropriate stakeholders in the development of any recommendations or conclusions.

Executive Summary

San Francisco consistently falls short of its housing production goals. Over the past decade, housing production has not kept pace with employment and population growth. As a result, housing has become unaffordable for many of the city's residents, commuting to jobs in the city has increased, and many of the city's households are becoming overcrowded. These trends threaten the health of the City's economy, citizens, and natural environment. If the City does not take new steps to stimulate housing production, these trends are expected to continue.

There are several strategies the City can pursue to meet housing production goals. These strategies involve reducing the direct costs of construction and the uncertainty costs of the development process. By reducing these costs, the City can encourage housing production and create more competition in the development market. This report details the following strategies for stimulating housing production:

- ✓ Rezone land use;
  - Relax floor-to-area restrictions for housing development downtown;
- ✓ Increase height and density allowances along major transit corridors;
- ✓ Provide direct subsidies to affordable housing developers;
- ✓ Alter parking requirements;
  - Maintain consistency of development fees;
  - Pursue program environmental impact reports;
  - Revise conditional use requirements; and
  - Minimize time delays associated with discretionary review.

Many of these policy changes will create significant cost savings to housing developers. The City benefits from these cost savings because more profitable development opportunities draw new developers into the market and increase the overall housing supply. The City can also benefit by making regulatory changes designed to increase affordable housing production or increases in developer fees that can be used to fund City services.

Many of these strategies can be packaged to create comprehensive approaches to neighborhood development. Comprehensive approaches involve one community-wide planning process that allows for substantial community input and requires significant upfront investments from the planning department. Developers are willing to fund such programs, however, in exchange for the cost-savings they create in the long-run. The City also benefits in the long-run from increased housing development, well-planned communities, and happy residents.



v and moderate income levels will continue to

Table 3. Projected Occupational Growth by Income Category

Income Category	Job Growth	Percent New Jobs
Very Low	11,770	48%
Low	2,070	9%
Moderate	7,120	29%
Above Moderate	3,310	14%
TOTAL	24,270	100%

\*Source: California Employment Development Department. Available: <http://www.ca7mris.cafwmet.gov>

As shown in Table 3, San Francisco's workforce will continue to need housing growth at all income levels and especially for very low income workers. City efforts to increase housing affordability and growth should begin with an understanding of how City regulations impact housing prices and supply.

#### Effects of Regulation on Housing Prices and Supply

Growth controls and regulations drive up the price of housing. Because regulations can reduce the ability of housing suppliers to respond to the demand for housing, vacancy rates decline as demanders compete for existing units, and housing prices rise accordingly. There is a substantial body of economic research showing that, when controlling for other factors, higher levels of regulation prevent housing construction from responding to increases in demand, and consequently drive up housing prices. In the late 1980's Lawrence Katz and Kenneth Rosen found that the presence of strong growth controls increased housing prices between 17 percent and 38 percent. In a more recent analysis of 56 U.S. cities, Stephen Malpezzi found San Francisco to have the highest level of housing regulations of any city and, consequently, the highest rent and purchase prices for housing. Based on this study, Malpezzi concluded that a high-regulation city would have rent prices 17 percent higher and purchase prices 51 percent higher than a city with low levels of regulation.

In addition to housing prices, high levels of regulation also affect the quantity of housing supplied. In the same study discussed above, Malpezzi estimates that high-regulation environments reduce development permits by 42 percent relative to low-regulation environments. Thus, fewer projects will go forward into development where regulation is high and housing supply will be restricted. The Malpezzi study also showed that high regulation levels have the indirect effect of reducing home ownership rates by about 10 percentage points.<sup>5</sup>

Although regulation has been shown to increase housing prices and reduce housing supply, regulation may also create substantial benefits for the City. Housing development regulation allows the City to control traffic and congestion and protect the environment. Regulation also allows the City to prepare for the new infrastructure and public services costs associated with new residential development. If the City cannot provide the infrastructure and services new residents will need, for example, it may be beneficial to slow growth through regulation. Finally, many of San Francisco's regulations on housing development benefit current residents by granting them the power to maintain their neighborhood character through development reviews.

Restricting housing growth, however, can also impose a number of costs on the City. The current disparity between housing supply and need threatens to weaken the economy by giving other cities a comparative advantage in the labor market. High housing prices lead to commuting and overcrowd which reduce the productivity and health of employees and citizens. In addition, the transportation system and natural environment of the Bay Area continues to be heavily burdened by high levels of commuting. The diversity of the City is also threatened as housing prices escalate and economically less-advantaged groups are pushed out of the San Francisco housing market. These groups may include low-income workers, racial and ethnic minorities, large families, seniors, and young adults. Lastly, homeownership, which may create numerous social benefits including improved maintenance of the housing stock, greater political stability, and less gentrification, is very low in San Francisco.

When the City chooses to create or maintain regulations on the housing market, it should do so because the benefits of these regulations outweigh the costs. Successful regulation, however, requires government to have extensive information about markets, costs, and benefits. This report provides information about the costs and benefits of the current regulatory environment in San Francisco. Ultimately, the recommended strategies are those that will reduce costs while maintaining or increasing benefits to the City.

#### Direct and Uncertainty Costs of Housing Development

Housing supply will increase in San Francisco as barriers to development are lifted or altered. Barriers to development include high direct costs of construction and high uncertainty costs associated with the development process. Direct costs are the explicit financial costs of creating housing; and include things such as land, labor, construction materials and fees. In San Francisco, the direct costs to housing development are among the highest in the nation. San Francisco is a mature city and much of the land available for residential development has been built out. In addition, the city is surrounded on three sides by water, which limits expansion. Construction costs are also relatively expensive due to higher labor wages and low density construction. These factors drive up the price of development and, as a result, reduce the supply of housing overall because fewer projects are profitable. Many of these direct costs cannot feasibly be reduced through local policy, at least in the short term. For example, the costs of construction materials are determined in the national market, and labor costs are determined through negotiations largely outside of the City's control. Land costs are one of the few direct costs that can vary substantially over time. Unlike construction costs, which are relatively fixed over time, the cost of acquiring a given piece of land is determined by the value of the housing that can be built on it, making land much more expensive in a city like San Francisco where housing prices are high. To the extent that new housing supply can lower housing prices, land values will decline over time, further lowering costs and allowing even more new housing to be built.

cost of parking, they may be more likely to make the decision to forgo paying for it, which in turn would lead developers to favor housing construction with lower parking ratios. One study of San Francisco real estate data finds that demand for units without parking is strong: on average, single family units without parking sold 5 days faster than units with parking, and condominium units without parking sold 40 days faster than units with parking.<sup>25</sup> Although developers are currently allowed to unbundle parking, many are hesitant to do so. Some developers may fear lower return on parking spaces if their price is determined explicitly on the market, rather than being folded into housing prices. In addition, both lenders and developers may be wary of unbundling because there is little precedent to provide highly-predictable estimates of the price an unbundled parking space will fetch on the market. In other words, many developers are simply hesitant to experiment with non-traditional methods of parking provision. Explicit encouragement of unbundling in City policy may help to legitimize the practice.

## 6. Maintain Development Fees

The City charges developers a variety of fees for permitting and to offset development impacts. It is within the City's power to reduce or waive those fees in order to lower costs and stimulate housing development. However, fee reductions would have substantial negative impacts on the City's planning and approval functions, and are unlikely to lead to a significant increase in housing production.

Currently, fees account for approximately 3 percent of development costs on average. While this can be a meaningful amount, it is small relative to other costs such as land (19 percent) and building construction (50 percent). Fees in San Francisco are roughly in line with those of other central cities, and are much lower than those in suburban areas, where infrastructure does not exist and must be built along with new housing.<sup>26</sup>

Economic theory holds that if fees are clearly defined and consistently applied, they will be absorbed in lower land costs and will not be a barrier to development. Fees are an expected cost of development, and will not unduly discourage housing development if they are predictable and can be planned for at the early stages of the development process.

Development fees are an important source of funding for City planning functions, and since they can be applied in ways that do not discourage development, the cost to the City of waiving or reducing fees would outweigh the benefits. In many cases, developers would be happy to accept increased fees in exchange for greater certainty in other aspects of the development process. The City can, however, encourage housing development by taking steps to ensure that fees are predictable, transparent, and evenly applied. Any increase in fees should be phased in so as not to impact housing already making its way through the development process.

### Strategies to Reduce the Uncertainty Costs of Development

San Francisco can pursue a number of strategies to reduce the uncertainty costs of development, including:

- (1) Pursuing program environmental impact reports;
- (2) Revising conditional use requirements; and
- (3) Reducing the costs of discretionary review.

Uncertainty in the permitting process, both in terms of likelihood of approval and the estimated length of the process, is one of the greatest challenges for developers in San Francisco. Because of the complicated and politicized nature of the approval process in San Francisco, developers can neither predict the length of the process nor the final outcome. The result is to make the costs associated with this process highly uncertain, which means more risk for developers, lenders, and investors. As with any economic venture, higher risk must be balanced by the potential for higher profits. This uncertainty is a significant barrier to housing production, and partially accounts for the high prices consumers face: it forces developers and lenders to raise their required profit margins on all projects to cover their losses on projects that are unpredictably delayed. These increases in profit margins are ultimately passed on to renters and homebuyers.

*The cost of delays to developers can range from \$1000 to \$2500 per day.*

Prior to initiating the permit approval process, developers must secure land and pay for engineering and architectural design. These up-front "soft costs" often cannot be financed, and are lost entirely if development does not go forward. But even more costly than losing these investments due to a decisive rejection by the City are the costs associated with ongoing delays during the approval process. Every time that permitting or review is delayed, developers must continue to pay interest on financing, legal fees, and must continue to pay the landowner to hold the land ("land carrying costs"). These costs are highly variable, but reasonable estimates place them near \$1000 to \$2500 per day, depending on the specifics of the development.<sup>27</sup>

San Francisco is known, and in some cases feared by developers, for its complex and politicized permitting process. Outside developers trying to enter the San Francisco housing market face tremendous barriers due to their lack of parochial understanding. In order to improve their chance of approval and minimize delays and associated monetary costs, developers must be well versed in the intricacies of the City's approval process, making local development experience crucial to success. Developers potentially face hearings before three different elected and politically appointed review boards, regardless of their compliance with all written zoning regulations. As a result, political connections are often another necessary condition for approval. Through these two avenues—the necessity of local experience and political connections—uncertainty in the permitting process works to limit competition in the housing development market in San Francisco.

If the City can increase certainty, reduce delays, and depoliticize the permit approval process, lower costs to developers and increased competition within the housing development market will result. Reducing uncertainty and depoliticizing the development process will draw new developers into the market, creating competition that lowers profit margins, while at the same time minimizing loss of profit due to unpredictable outcomes. These changes will translate into lower costs to renters and buyers, and will stimulate housing production.

## 1 Pursue Program Environmental Impact Reports

Floor-to-area restrictions (FAR), designed to protect airspace and limit office development downtown, could be relaxed for housing development. Currently, the City places limits on the total amount of square footage of building space that can be built on a given block. In some cases developers can exceed this limit, but they must purchase the air space from historical buildings in the area. Because office space is more profitable than housing, it is often not profitable to acquire land and airspace for housing downtown. Relaxing the FAR for housing, but not for commercial space, would give housing a comparative advantage. This area of the city is a desirable location for new housing because it is a transit-intensive and an employment center. The downtown area is also one of the few locations in the city that could accommodate very high-density projects in close proximity to transit without altering the character of the neighborhood.

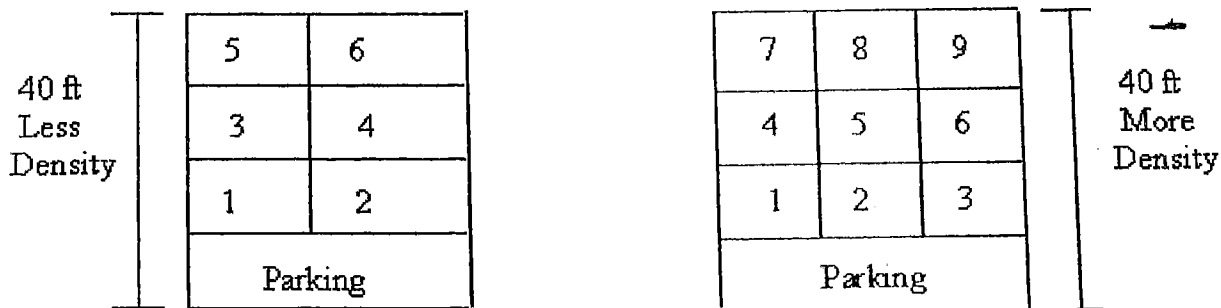
Housing developers assert that lifting the FAR for housing would have a significant impact on housing development. When interviewed, developers estimated that new housing production could be as high as 10,000 and 25,000 units over time.<sup>10</sup> These are only estimates, and the true increase in housing production that would result from a change in the FAR would depend on several economic factors including how the demand for residential uses of land in downtown would change relative to commercial uses and what additional requirements the City would place on developers. At a minimum, we can conclude that if the lifting of FAR leads to an annual increase of even one high-density development, then this policy change would substantially increase housing production for the City. For example, one new very large development in downtown could produce three hundred or more additional housing units, which represents about 20 percent of the City's annual housing shortfall.

Relaxing the FAR would make housing development more profitable downtown and allow developers to reap substantial gains. The City can share these gains with developers by requiring more affordable housing units or increasing fees that could be targeted toward affordable housing development in exchange for relaxing the FAR. If the City does not place such requirements on developers, some of the gains will accrue to landowners in downtown because they may now be able to charge higher prices for their land. Any additional requirements on developers in downtown, however, would require an economic study to ensure the new burdens will not be set at a level so high as to outweigh the benefits of the change, making development unfeasible. Alternatively, the City could start by asking developers to include more affordable units in exchange for relaxing of FAR and observe the response of developers. Based on this response, the City could alter the original request.

### 3. Increase Height and Density Allowances

Many San Francisco neighborhoods have strong restrictions on the density of new housing developments. These restrictions are often designed to maintain the character of the neighborhoods and reasonable levels of congestion and traffic. Along high-transit corridors, however, the city is better able to accommodate more residents and higher-density housing. Higher density housing should be also be targeted at high-transit neighborhoods and areas where substantial public services are already in place to sustain new residents. If implemented well, altering density allowances for some areas of the city would reduce the direct costs associated with development and, therefore, lead to more housing production. Figure 2 shows how increasing density allowances could increase housing production:

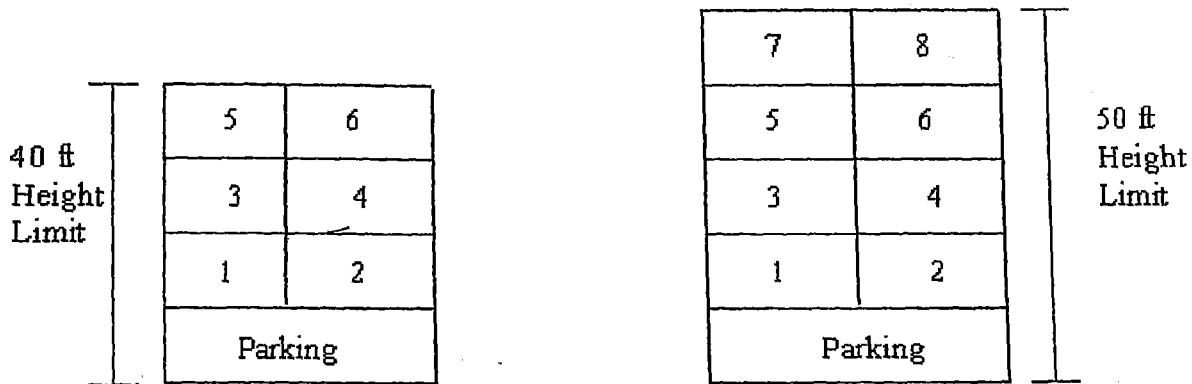
**Figure 2. Increased Density Allowances Produce More Housing at Lower Costs**



Increased density allowances allow for more units to be built and make more projects profitable by spreading some of the costs across more units. The City could link these increased density allowances with higher levels of affordable housing. Furthermore, lower costs per unit mean that developers will not have to compensate as much for the production of an affordable unit as the value of the unit will be closer to the cost of producing that unit.

Raising the current height limitations along transit corridors and in residential-commercial neighborhoods would also encourage increases in housing production generally and could allow for the construction of more affordable units. As Figure 3 shows, the City could raise height limitation from 40 feet to 50 feet, which would allow developers to build an extra floor of housing.

**Figure 3. Increased Height Allowances Produce More Housing at Lower Costs**



Changes to current height restrictions would allow developers to take on some projects that are not currently profitable. For many developments, the cost of adding an additional story or a small number of additional units is small in proportion to the cost of the development as a whole. Because additional units are built at lower cost, the average cost per unit in the development is usually lowered as developers are able to build upward.<sup>11</sup> In exchange for the additional profits higher height limits may bring, developers could be required to provide more affordable housing units or increased fees to fund affordable housing. For example, a developer could be allowed to build an extra story, provided that some of the units on that additional story are designated as affordable.<sup>12</sup> Density and height changes along transit corridors will have positive impacts on general and affordable housing production and allow for the introduction of new housing units where infrastructure and services are already in place to serve new residents.

**4. Provide Direct Subsidies to Affordable Housing Developers**

Construction of affordable housing is often directly subsidized by government. High land and construction costs in San Francisco make direct subsidies particularly important to housing production for low income residents. Although other policy changes could stimulate both affordable and market rate housing development, one of the primary barriers to affordable housing construction is the limited pool of money available for direct subsidies.

Affordable housing developers in San Francisco face many of the same barriers as developers of market rate housing. They may encounter high competition for available land, uncertainty in the approval process, and opposition from nearby residents. But affordable housing developers are constrained even further by the fact that they cannot recover high development costs through charging higher sale prices or rents.

New affordable housing, particularly housing reserved for residents at very low income levels, will not be provided by the market without significant public intervention. It can cost well over \$200,000 per unit to develop affordable housing. However, housing that serves a family making 25 percent of the Area Median Income (AMI) (or \$19,375 for a family of three) can be rented for only \$533 per month, which amounts to only \$6,396 per year. Given this wide disparity between development costs and the amount of money that can be recovered through the rental price of these units, it is impossible for developers to provide them at a profit. In fact, a subsidy of well over \$100,000 per unit would be required to make such a development feasible. A development with housing units priced for income levels somewhere near 70 percent of AMI would be required for a developer to break even and recover basic development costs.<sup>13</sup> Even at that income level, it would be impossible to obtain financing on the market for such a development, since financiers will not make loans for developments without a substantial projected profit margin.

Some affordable housing production has been achieved through inclusionary housing policies, which require developers to provide a certain percentage of affordable units in market rate housing developments. However, only about 5 percent of affordable housing has been produced through inclusionary requirements in the last few years, and although the new inclusionary housing policy adopted in 2002 is expected to increase that amount, it will not be enough to meet the city's large affordable housing deficit.<sup>14</sup>

Historically, the federal government has provided significant funding for affordable housing construction. Over the last few decades, however, annual federal funding for housing construction has declined by nearly \$15 billion, leaving local governments responsible for a significant amount of new construction.<sup>15</sup> In 2000-2001, local funding sources were responsible for 86 percent of publicly subsidized affordable housing construction. In recent years San Francisco has provided funding for affordable housing construction primarily through tax-increment financing from Redevelopment Areas and the 1996 Proposition A affordable housing bond, with additional support from other sources such as the hotel tax and job-housing linkage program.<sup>16</sup>

The number of units produced using local funding sources depends on a number of factors. One such factor is the income level that the new housing serves. Housing for very low income residents (below 50 percent of AMI) requires larger subsidies per unit than housing for higher income categories. Thus the City can choose to provide deeper subsidies, which will produce fewer units but serve the neediest people, or more modest subsidies, which will produce more total housing units serving low to moderate income groups. The question of whether to produce fewer highly subsidized units for the lowest income categories or a larger number of units for slightly higher income categories is a policy decision that must be made by City leaders.

So-called "demand-side" strategies, which aim to make housing affordable by increasing the purchasing power of lower-income individuals, have been studied in great detail. For example, subsidies could be used to help moderate income individuals purchase new homes. While such approaches do not directly increase housing production, they can have an impact on the share of new units that are consumed by low- and moderate income individuals.

Although such programs are outside the scope of this paper, there is a large body of literature on their effectiveness, and the City may wish to consider them as a complement to policies emphasizing housing production. It should be noted, however, that using subsidies to ensure permanent affordability of rental units can in many cases distribute the benefits of the subsidies over a larger number of individuals and over a greater length of time. For example, depending on how they are structured, down-payment assistance programs may help an individual to purchase a home at an affordable price, but then allow that individual to later sell the housing unit at market rate. While such programs help to build wealth among lower-income residents, they confer the benefits of the subsidy to one person at one time, without maintaining the affordability of the housing unit over the long-term.

The Proposition A housing has been a primary source of affordable housing subsidies since the first bonds were issued in 1998, and will continue to be until the remaining funds are expended over the next few years. That bond was used to subsidize construction of over 1,300 units of affordable housing, or roughly four full years worth of affordable housing production at the city's average rate of 320 units per year over the last 10 years. A large portion of the units funded by Proposition A have been dedicated to very low income levels. Bond funds can also be an effective means of investing in housing production because they can be used to leverage other funding sources. This is particularly true in light of State-imposed restrictions on the ability of local governments to access other funding sources.

All of the funds from the Proposition A bond are now either spent or committed. As a result, the City will face a dramatic reduction in the pool of subsidies available for affordable housing construction in the coming years. Proposition B, which would have authorized a second affordable housing general obligation bond issue in 2002, did not receive the two-thirds of votes required for approval under State law. However, some State legislators are currently considering a proposal that would allow local governments to determine for themselves the threshold for voter approval of new expenditures. If such a proposal were adopted, San Francisco could potentially lower the threshold for voter approval of housing investment funds from the current 67 percent level, increasing the likelihood that new funding sources will be approved.

In any case, San Francisco will face extraordinary barriers to meeting the projected need for affordable housing without identifying significant new funding sources in the near future, even if other regulatory changes are made to stimulate affordable housing production.

## 5. Alter Parking Requirements

Current parking requirement regulations are a major barrier to new housing development in San Francisco because they increase direct costs to developers and reduce flexibility to maximize housing production on a given piece of land.

Currently, the City requires one parking space for every new housing unit in many zoning classifications (this requirement is also known as the one-to-one parking ratio). This requirement is much higher than in many dense urban areas. In general terms, strict parking requirements reduce a developer's ability to adapt physical design of a new building (and thus the financial viability of a new development) to match the particular characteristics of a given parcel of land. There are two ways that parking requirements can inhibit developers from maximizing the housing potential of a given site. First, parking spaces are relatively costly to construct, especially in a dense urban area such as San Francisco, where a parking lot can be easily constructed on an adjacent piece of land. Estimates of the cost of constructing parking range from \$17,000 to \$50,000 per space. This expense adds to the average development cost per unit, and therefore increases the amount of money that must be recovered in sale prices or rent rates. For affordable units, the increased costs mean greater subsidies must be provided to make development financially viable. Second, parking occupies physical space that could otherwise be used for additional housing units. In addition, the requirements can reduce the height or density of developments because only a limited number of parking spaces can be economically constructed given the geometry of the land parcel, thus limiting the units accompanying them.

### *The Cost of Providing Parking*

At a cost of \$17,000 to \$50,000 per space, parking construction can be a significant component of development costs. These costs must be recovered by developers either through increased sale value of the new housing, or through increased development subsidies in the case of affordable or rent-restricted units.

In market rate developments, especially those serving higher income levels, a parking space often adds substantial value to the sale price per housing unit. A 1996 statistical analysis of home sale prices estimates that a parking space can increase the sale value per unit by \$38,000 to \$46,000, although some developers anecdotally estimate this figure at a higher amount.<sup>17</sup> Thus, in some cases, parking costs can be recovered through higher sale value, and may even be desirable to developers when they can be sold at a profit. However, in some market rate projects, developers would be able to increase profits by reducing parking and adding additional housing units. The extent to which this will occur will depend on the specific characteristics of sites and developments, and is very difficult to estimate. However, some portion of market rate developments would surely take advantage of increased flexibility in parking requirements.

In more modestly priced developments the cost of parking provision can be a liability to developers. This is especially true in developments serving lower-income groups. In such developments, the cost of parking provision is difficult to recover through higher sale prices, and therefore higher subsidies or lower levels of affordability are required to offset the costs of construction. For example, an affordable housing developer who would otherwise have constructed units to serve very low-income groups (less than 50 percent of AMI) may be forced to make a higher portion of units in a development serve moderate income groups (80 percent of AMI) in order to recover the higher construction costs associated with parking through higher rents. The Planning Department estimates that a \$52,200 capital subsidy is required for development of a low income housing unit (50 percent to 79 percent of AMI).<sup>18</sup> If parking is not provided for such a unit, the cost savings could eliminate the need for half of the subsidy required for development.

Table 4 below calculates the cost savings for reduced parking under three scenarios, and compares those savings to the estimated amount of subsidies needed to produce the units. While imperfect, this comparison gives a rough estimate of the possible reduction in affordable housing costs that could result from lowering parking requirements. Lower subsidies could save local government money, or the savings could be used to fund additional affordable housing projects. The three scenarios assume reductions of 25 percent, 50 percent and 75 percent in the amount of parking spaces constructed for affordable housing units after eliminating the one-to-one parking requirement.

Table 4. Cost Savings from Parking Reductions in Affordable Housing Developments as a Percentage of Annual Subsidies

[http://sfgov.org/site/bdsupvrs\\_page.asp?id=17966](http://sfgov.org/site/bdsupvrs_page.asp?id=17966)

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	Annual Average Production, 1989-1998		Total Capital Subsidies per Year (Millions of \$)		Cost Savings of Parking Reduction (Millions of \$)		Cost Savings as a Percent of Annual Subsidies	
	Very Low Income	Low Income	Very Low Income	Low Income	Very Low Income	Low Income	Very Low Income	Low Income
	Scenario 1: 25% reduction in parking spaces	220	152	37.29	7.9	1.375	.950	3.7%
Scenario 2: 50% reduction	220	152	37.29	7.9	2.75	1.9	7.4%	24.1%
Scenario 3: 75% reduction	220	152	37.29	7.9	4.125	2.85	11.1%	36.1%

Source: Annual average production and capital subsidy needs estimates are from SF Planning Department Housing Element Draft for Public Review, 2001, p. 100 and 101, respectively. These figures assume a \$25,000 cost per parking spaces, which is based on estimates from several sources including the Housing Element, SPUR, Reducing Housing Costs by Rethinking Parking Requirements and Nonprofit Housing Association of Northern California, Rethinking Residential Parking.

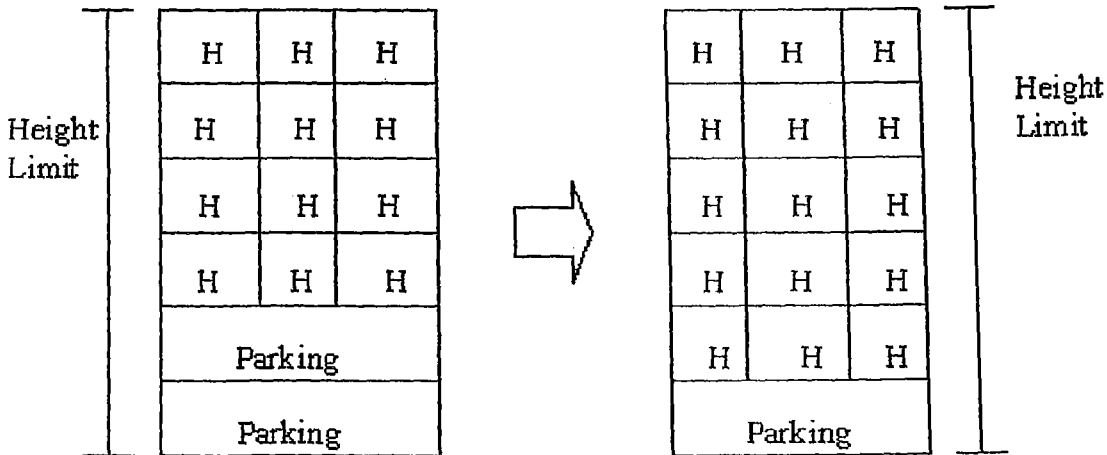
Table 4 shows that direct cost savings to affordable housing developers resulting from increased flexibility in parking requirements could have a major effect in offsetting the need for capital subsidies from the public sector. With materials, construction and land costs somewhat fixed over the medium term, parking is one of the few direct costs to developers that could be reduced by a relatively costless policy change.

Furthermore, the lower cost associated with parking ratio reductions can reduce the price of housing, making it more accessible to people with lower incomes. For example, one economic study found that 20 percent more San Franciscan households would qualify for mortgages for units without parking than for units with parking.<sup>19</sup>

#### Use of Floor Area for Parking

A parking space can occupy 400 square feet of floor space or more, including circulation space and the area used for ramps and driveways in parking structures.<sup>20</sup> Given housing units of 800 square feet or less, these parking spots can take up a large proportion of space that could be dedicated housing. Figure 4 shows how reduced parking requirements can be used to allow for a greater number of housing units in a development on a land parcel with a set height limit:

**Figure 4. Reduced Parking Requirements Can Allow for More Housing**



In some developments, parking requirements may also restrict housing by impeding a developer's ability to build up to the height limit on a given land parcel. It can be very expensive to build multi-level parking facilities, and even more expensive to build parking underground. As a result, the total number of housing units can be limited by the number of parking spaces that fit on the first level. For example, Figure 5 models a development on a piece of land that is large enough to accommodate 10 parking spaces on the first level, but with a height limit that would allow more than 10 units of housing. In this case, the developer will have to determine whether it is economical to build additional parking facilities that will allow construction of additional units. For the additional units to be built, the revenue they create would have to outweigh the costs of constructing additional parking.

High direct costs dramatically reduce the supply of low- and moderate-income housing because developers rarely take on projects benefiting low- and moderate income residents because these projects result in the lowest rate of return.

Uncertainty costs include the level of risk developers take on when they choose to build. All developers experience uncertainty in the building process because real estate markets can change in short periods of time and, therefore, developers build margins into their profit estimates to protect against these fluctuations. The development process in San Francisco, however, introduces added risk surrounding the permit and approval process. When the development process is highly uncertain, developers will build high margins (20 percent or more) into their estimates to protect against possible loss and only take on projects that allow them margins at this level. Reducing the uncertainty in the process will allow developers to reduce their margins and take on more projects, including projects that include more affordable units.

Taken together, high direct and uncertainty costs reduce competition in San Francisco's housing market. Competition is reduced by high direct costs because new developers have greater difficulty gaining financial backing even for small (but costly) start-up developments. The inaccessibility of land represents a high fixed cost to entering the market. Competition is also reduced by high uncertainty costs because new developers face the costs of acquiring political capital necessary to increase certainty surrounding the development process. New developers must also acquire information about a complicated set of regulations in San Francisco. These investments in political capital and information also represent fixed costs of entering the market and, therefore, act as barriers. Strategically reducing barriers to development and increasing competition will improve the long-term health of the local housing market.

### Strategies to Reduce the Direct Costs of Development

San Francisco can pursue a number of strategies to reduce the direct costs of development, including:

- (1) Rezoning land use to increase the supply of land available for housing development;
- (2) Relaxing Floor-to-Area restrictions for housing development downtown;
- (3) Increasing height and density allowances along major transit corridors;
- (4) Providing direct subsidies to affordable housing developers;
- (5) Altering parking requirements; and
- (6) Maintaining consistency of development fees.

The current development conditions often create a lose-lose scenario for both developers and the City. Reducing the direct costs will result in an overall gain which can be shared. Gains to developers will lead to increases in housing supply and more competition in the market. In some cases, if direct costs are reduced for developers, the City will benefit from these gains through higher fees, and the increased provision of affordable and reasonably priced units associated with a healthier housing market. The City will also benefit because lower direct costs mean that a greater number of affordable housing units can be built with current subsidy levels.

#### **1. Rezone land use**

Land use regulations designate land that can be used for commercial, industrial, or residential purposes. Although zoning can benefit the City, economic analyses have revealed that land use regulations also drive up the price of land. In the early 1990's, Krisandra Guidry, James Shilling, and C.F. Sirmans showed that the average lot price in unrestrictive cities was \$23,842, compared to \$50,659 in restrictive cities.<sup>6</sup> While land use regulations have a direct effect on land prices, they also have an indirect effect on housing prices because they increase the direct costs of building housing. Along with Philip Srinivasan, Shilling also found that cities with land use regulations have housing prices 3 percent higher than cities without these regulations.<sup>7</sup>

In San Francisco, about 65 percent of land available for development is zoned for commercial/industrial uses, and less than 3 percent of the City's land is currently undeveloped and available for residential development.<sup>8</sup> One way to address the direct costs of land in San Francisco is to rezone some land for residential purposes. Much of the land in the Eastern areas of San Francisco is currently zoned only for industrial or commercial purposes. These land use regulations were created decades ago to protect industrial space in the city. However, the manufacturing industry has declined over time and adjustments could be made to ensure the best use of available land.

The Planning Department's City-Wide Action Plan includes numerous options to rezone some of the Eastern areas of the city to accommodate residential housing and mixed use buildings. This study outlines three options for rezoning the Eastern neighborhoods to provide more land for residential purposes. All of the options maintain industrial spaces, but some offer more housing than others. The plans under consideration show that rezoning in these areas could have a large effect on potential housing construction. For example, if the City pursued a moderate option (Option B, see Figure 1), the housing capacity of the city would increase by about 22,600 units. Moderate land use rezoning of Eastern neighborhoods could result in 8,000 new units produced over the next two decades, which would make up almost 25 percent of the annual shortfall in new housing production.<sup>9</sup> Other options under consideration would allow even higher amounts of new construction.

Benefits to the City will be maximized if efforts to change land use target areas that have sufficient infrastructure to accommodate residents without tremendous public costs and/or allow for appropriate time horizons to create the necessary infrastructure. Also, changes in land use should focus on land that is underutilized for industrial purposes so that displacement of current land users is minimized. These rezoning efforts will be most effective if they take a neighborhood approach that focuses on producing jobs and commercial centers in addition to residential space. Although the planning of these areas would be costly for the City, the new neighborhoods could generate significant revenue for the City in the long-run.

Each Program EIR would

The City could recover the

costs easily recover its costs after the City for use of the Program could be increased significantly in exchange for increased certainty for developers while simultaneous

**2. Revise Conditional Uses**

In most cities, including San Francisco, a permit is issued when there is a public hearing that accompanies the General Plan.

In San Francisco districts where Conditional Uses are permitted, residential developments are not permitted unless they meet Conditional Use requirements.<sup>31</sup> This requirement is particularly onerous for big-box retail and other developments, which is a trigger for the purpose of these CU requirements. For example, many developments require a public hearing if necessary.

Because many developers seek to meet policy objectives, which in many cases results in developments seeking exemptions.

**Revising Conditional Use**

In order to receive a CU permit and General Plan policies, a developer must apply to the Planning Commission. In addition, all actions taken by the Planning Commission regarding a development with a CU permit are subject to appeal to the Board of Supervisors within 30 days. This compels yet another review of a development that has passed environmental review, been approved by the Planning Commission, and seeks no exemptions to City regulations. These arbitrary review requirements add another degree of political uncertainty and risk into the approval process. Removing the 40-foot CU requirement in areas that are already zoned for high-density residential would remove this risk and shorten the review timeline, while simultaneously working to depoliticize the approval process and encourage developers to conform to existing standards.

It is difficult to project the effectiveness of such a policy change in terms of increase in number of units developed, but this policy change will save time and reduce uncertainty, which will translate into dollar savings. These factors working together will encourage high-density residential developments.

Issuing Principle Permits instead of Conditional Use Permits in cases where developments already meet zoning requirements and General Plan priorities also has the potential to save the City a lot of money. Time required for Planning Commissioners to review and decide on the large number of CU cases, and the Supervisors' time for the Board to hear appeals, is expensive.

**3. Minimize Time Delays Associated with Discretionary Review**

Discretionary Review (DR) introduces another source of uncertainty into the permitting process. DR allows an individual to appeal a development project for a minor fee of \$125, and bring the appeal before a City commission (see Figure 7). Discretionary Review comes near the end of the building permit application process, after a developer has already paid for building design and completed an EIR, with significant land carrying costs. At this point, when a development is considered "approvable" by the City, the applicant is required to mail a notice to community members describing the project and sharing with them copies of the plans. There is a 30-

Discretionary Review comes near the end of the application process, after a developer has significant sunk costs

day public review period in which anyone in the City may decide to file a DR request with the Planning Commission. The Zoning Administrator then sets a hearing date "as soon as feasible."<sup>32</sup> The permit is either approved by the Planning Commission, approved subject to modifications, denied, or the case is continued at a future date. Any of these decisions may then be appealed to the Board of Appeals. The total time for this process before appeal to the Board of Appeals may be up to 5 months, which means additional carrying costs to developers of \$145,000 to \$362,500. If no DR request is filed, a project may still be appealed to the Board of Appeals once the permit is issued. Such an appeal must be filed within 15 days of the date of permit issuance; however, official issuance of a permit by the Central Permit Bureau may be well after Planning approval.

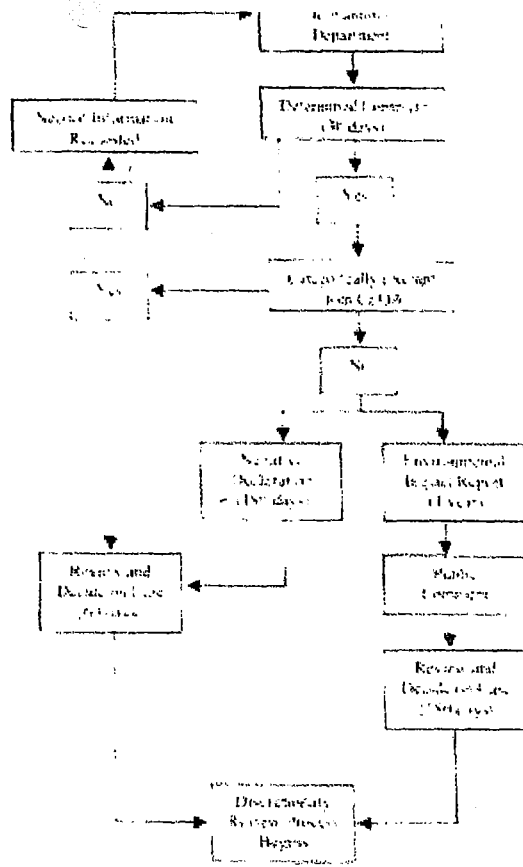


Figure 6. Review of the Environmental Review

neighborhood could pay a fee to the City for use of the Program EIR. The City could be willing to pay additional fees in order to offset direct costs and uncertainty for developers.

Principle Use is typically the standard used to provide stricter scrutiny to developments, and the public interests and priorities set forth in the General Plan.

Permits are currently required for all developments in districts where Conditional Uses are permitted. Only in districts where Conditional Use is most desired, as described in the General Plan, is it contradictory that all such developments be required to provide an extra level of review. Similarly, the 40-foot height requirement of a neighborhood is outside the scope of the regulation's and referred to a Commission for review.

For projects to meet Planning codes and standards, a large number of projects are required to meet Planning codes and standards.

project design fits all Planning Codes (5,000) for a decision by the Planning Commission.



development and improve community participation in the planning process and community acceptance of new housing, as described below.

### Comprehensive Approaches to Housing Development

Specific area plans are a concept officially adopted under the California Environmental Quality Act (CEQA) in 1979, although they have been used infrequently in San Francisco. Specific area planning allows local governments to formulate plans for neighborhood-wide development, and to conduct an EIR for the changes to the neighborhood as a whole, rather than on a project-by-project basis. This approach can also be used to build consensus through public involvement prior to development, allowing development to take place smoothly once developers commit to specific projects.

There are several advantages to the comprehensive approach of increasing residential development. First, it helps achieve consensus around a vision for change, identifying appropriate amounts of new housing development in appropriate locations. Second, if done correctly, it allows for extensive community involvement during the planning process, not only in debates over specific projects. Third, it reduces uncertainty for developers and therefore encourages housing development.

Specific area planning has been used with mixed outcomes in San Francisco along the Van Ness corridor, Rincon Hill, and more recently through the Better Neighborhoods pilot program in Hayes Valley, Balboa Park, and the Central Waterfront. Expanded use of specific area planning could provide a major boost to housing production in a way that is acceptable to nearby residents.

The recent planning process for the Octavia Boulevard area illustrates the potential for area planning to maximize community input and achieve neighborhood support for new housing. The Planning Department has devoted significant time and resources to community outreach, and in general residents have responded with support for moderate-density housing development. There will be potential for 7,500 to 13,000 new housing units under the plan, 4,500 to 5,300 of which are expected to be developed over the next 20 years.<sup>33</sup> Many people involved have noted that the process has helped to establish a very positive relationship between the Planning Department and neighborhood residents.

If a neighborhood-level EIR is funded, developers will have the advantage of greater certainty about development costs. Developers will save a significant amount of time and money by knowing that an EIR has been completed. Furthermore, they will know that extensive community outreach has already taken place, and that the community is generally supportive of the neighborhood plan. This will reduce the probability of a project being held up through appeals and permit approval problems.

Although the community input and consensus-building process minimizes the risk of a long DR process, a neighborhood-level EIR alone will not reduce all uncertainty associated with Conditional Use requirements and Discretionary Review. In order to remove uncertainty and streamline housing development, the City may wish to alter CU and DR requirements in areas where an extensive community planning process has taken place. For example, the City could waive the automatic CU trigger for buildings over 40 feet and limit DR for projects that meet criteria explicitly set forth in the neighborhood plan. A highly public planning process will serve the same goals the CU and DR regulations, namely to allow public input and review of projects that could have negative impacts on existing residents. Thus some limitation on CU requirements and DR would be justified. If such limitations are put in place, however, it is crucial that the City conduct aggressive outreach and allow ample opportunity for community input during the planning phase.

### Facilitate Infill Development

Specific area planning and the associated community outreach process will be more costly to the City than the current project-by-project planning that is dominant in San Francisco. These costs result from increased expenditure for community outreach and staffing. If the program is to be expanded or enhanced, new funding sources will be necessary. In exchange for the benefits developers in these neighborhoods will derive from the increased certainty and community outreach associated with planning process, the City could charge substantially higher permitting fees. The fees could be channeled into a fund that would be used to pay for future neighborhood planning efforts. As long as the higher fees are exacted in a consistent and transparent manner, and as long as they are set at a reasonable level, they will do little to inhibit housing production if they are accompanied by increased certainty. As discussed above, predictable fees are not a major barrier to housing production because they can be planned for in the early stages of development, and over time the added cost will be partially absorbed in lower land prices. Of course, if fees are raised but policy changes are ineffective in increasing certainty, the higher fees will serve to discourage housing production.

### Conclusion

This study suggests that the Board of Supervisors may use its legislative powers to increase housing development in San Francisco by taking any of the following actions: rezoning land use for residential purposes, relaxing the floor-to-area restrictions for housing downtown, increasing density allowances along transit corridors, providing direct subsidies for affordable housing development, allowing flexibility in parking requirements, pursuing program environmental impact reports, revising conditional use requirements, and minimizing time delays caused by discretionary review. Each of these recommendations may stand alone, or any number of them may be combined into a package to effectively promote housing development. Some of these changes have already been proposed in various forms at the Board of Supervisors.

An expanded neighborhood planning program such as the one described above allows planning to be tailored to individual neighborhoods, and thus has the potential to successfully combine many of the enumerated alternatives, as appropriate. Implementation of area planning could simultaneously add certainty to the development process, increase community participation, and create additional revenue for city government.

Different packages of policy changes will have different magnitudes of effect on housing production, and will do so over different lengths of time. For example, zoning changes have the potential to greatly increase housing construction, but the majority of this increase will occur over the long term. Other changes, such as relaxing parking requirements, may have smaller total impacts, but do more to increase affordable housing production. Any of these changes must be evaluated against the City's short term and long term housing goals.

Whether or not the City should take measures to spur housing development is a policy matter for the Board of Supervisors.

### Bibliography

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16 Attorneys for Petitioner/Plaintiff

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
18 IN AND FOR THE COUNTY OF SAN FRANCISCO

19 SAN FRANCISCANS FOR LIVABLE )  
20 NEIGHBORHOODS, an unincorporated association, )  
21 )  
22 Petitioner and Plaintiff, )

23 v. )

24 CITY AND COUNTY OF SAN FRANCISCO, and DOES )  
25 I-X, )  
26 Respondents and Defendants )  
27 )  
28 )

No. CPF04504780

**RECORD OF  
PROCEEDINGS  
VOLUME 15**

FINAL NEGATIVE DECLARATION

Date of Publication of Preliminary Negative Declaration: December 20, 2003

Lead Agency: Planning Department, City and County of San Francisco  
1660 Mission Street, Suite 500, San Francisco, CA 94103

Agency Contact Person: Rick Cooper Telephone: (415) 558-5974

Project Title: 2000.465E - Housing Element of the San Francisco General Plan  
Project Sponsor/Contact: Rick Cooper Telephone: (415) 558-5974

Project Address: Citywide  
Assessor's Block and Lot: N/A  
City and County: San Francisco

Project Description: The proposed revision of the Housing Element of the *San Francisco General Plan* (General Plan) is an update of the 1990 Residence Element of the *San Francisco General Plan*. The Housing Element is a public policy document that comprehensively addresses issues of housing needs for San Francisco residents and households. Included in the Housing Element is San Francisco population, employment and housing data analysis. Eight new policies are proposed to be added to the 63 policies and 11 objectives that have been modified or retained from the 1990 Residence Element.

Building Permit Application Number(s), if Applicable: N/A

**THIS PROJECT COULD NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.** This finding is based upon the criteria of the Guidelines of the State Secretary for Resources, Sections 15064 (Determining Significant Effect), 15065 (Mandatory Findings of Significance), and 15070 (Decision to Prepare a Negative Declaration), and the following reasons as documented in the Initial Evaluation (Initial Study) for the project, which is attached.

-Over-

Mitigation measures, if any, included in this project to avoid potentially significant effects: None

Final Negative Declaration adopted and issued on May 13, 2004.

In the independent judgment of the Planning Department, there is no substantial evidence that the project could have a significant effect on the environment.

  
PAUL E. MALTZER  
Environmental Review Officer

cc: Teresa Ojeda, Planner  
Susan Brandt-Hawley  
O. Chavez (cover page only)  
L. Fernandez/Master Decision File

004185

## INITIAL STUDY

### PROJECT DESCRIPTION

#### *Background*

The Housing Element is one of the major sections of the *San Francisco General Plan* (General Plan), which is required by the State of California for rational, comprehensive planning. State law requires that a city's General Plan and its elements be periodically updated in order to prepare for future growth and development. The Housing Element is a policy document that consists of general goals and policies to guide the City and private and non-profit developers in providing housing for existing and future residents.

According to the 2000 Census by the U.S. Census Bureau, San Francisco's population increased by 6.6 percent (from 678,974 persons to 723,959 persons) between 1980 and 1990, and 7.3 percent (up to 776,733 persons, an addition of 52,774 persons) between 1990 and 2000. Between 1990 and 2000, San Francisco households increased from 305,584 to 329,700, about 7.9 percent growth, and an average of about 2,400 per year in the last decade. Employment in San Francisco in the last two decades has also grown. Between 1990 and 2000, there was an increase in employment of 9.5 percent, equivalent to over 55,000 jobs. However, housing production lagged behind these population increases, averaging about 1,000 units per year.

The Association of Bay Area Governments (ABAG) has estimated in *ABAG Projections 2002* that San Francisco's population will increase to around 798,600 persons by 2005, and to about 809,200 persons by 2010, for a total increase of almost 32,500 people. The California State Department of Housing and Community Development (HCD) and ABAG have projected that over 2,700 new housing units per year need to be built in order for San Francisco to meet its share of the projected regionwide housing demand. However, since recent housing construction in San Francisco did not meet the projected annual target, 3,200 additional new units would need to be built between 2001 and 2006 to address the HCD-identified need.

The proposed update of the Housing Element would add eight new policies, as well as reorganize, clarify and update existing objectives and policies of the 1990 Residence Element, in order to guide the City in addressing its housing production. The update is one component of a comprehensive planning effort called the Citywide Action Plan (CAP), lead by the San Francisco Planning Department. As part of the CAP, the Housing Element is being updated to provide a policy basis for more specific planning efforts, such as Better Neighborhoods Program, the Eastern Neighborhoods Community Plans for the Mission District, Bayview, Showplace Square/Potrero Hill, and the Downtown Neighborhoods, such as the C-3-O District and Rincon Hill district. It is important to note, however, that the proposed update of the housing element is not a blueprint for future development, but rather a set of policies to guide the City's consideration of future development plans and proposals with regard to housing.

#### *Description*

Part I of the revised Housing Element is the Data and Needs Analysis section, which provides a statistical baseline for amending the housing objectives, policies and implementation strategies. It includes San Francisco population and employment trends, housing data and inventories of land available for increased housing development. Data and information were collected from the U.S. Census Bureau (2000 Census), the Association of Bay Area Governments (ABAG Projections 2002), the California State Employment Development Department, the San Francisco Department of Building Inspection and other government sources. This section functions to provide a foundation for the proposed changes to the Element.

Part II of the revised Housing Element sets forth objectives, policies and implementing strategies to address the City's housing needs. The objectives and policies are revised in the following ways: 1) the entire section is reorganized; 2) some objectives and policies are re-worded; and 3) eight new policies are added.

Following is a list of the proposed new policies, as well as the modified objectives and policies as proposed,

The 2003 update of the Element is a statement of the City's goals and proposed methods for the provision of housing, as was the 1990 update. Although the Data Needs and Analysis section provides background statistical information regarding the supply and demand for housing in the City, the goals and objectives themselves do not present any specific proposals, either in terms of the number or locations of housing units to be built.

In general, the proposed update of the Housing Element encourages increased housing production, particularly affordable housing, in appropriate areas in order to plan for projected population and household growth. While the supply and demand for housing is examined statistically in Part I, the new policies of the Element do not contain any concrete proposals for producing additional housing, nor do they quantify a specific amount of growth, either in the City as a whole or in specific locations. Rather, if approved, the revised Housing Element would be used to frame the discussion of future Area Plans, rezoning proposals and specific development proposals, in the same way that all of the elements of the General Plan provide a framework for decision-making about the future of the City.

Insofar as the proposed revisions to the Housing Element do not specify any development, and as the adoption of the new and revised Objectives and Policies would not include any proposals for specific new development, rezoning or Area Plans, there would be no measurable physical environmental effects that would occur as a result of their adoption. It is only through the subsequent approval of any development, rezoning, Planning Code revision, or Area Plan that there could be physical change and consequent environmental effect. At such time that area/neighborhood plans, rezoning and/or housing projects are proposed, each will undergo a community planning process, as well as appropriate environmental review in compliance with CEQA.

In extensive public hearings before the Planning Commission and in several published articles and letters, concerns have been expressed that the proposed update of the Housing Element would essentially form a plan for development in specific areas of the City, and that its approval would cause severe adverse environmental impacts such as traffic congestion, large on-street parking deficits, and loss of neighborhood character. As described above it would be improper and misleading to attempt to speculate what the results, in terms of planning and rezoning efforts, and ultimately in terms of levels and locations of development would occur as a result of adoption of the Housing Element, or to further speculate about indirect or secondary effects from planning and rezoning responses that are presently unknown.

The Housing Element is not a plan for developing specific areas of the City. Rather it is a Citywide expression of goals and objectives related to the production of housing throughout the City. Under existing zoning, the city presently has sufficient land and zoning capacity to theoretically allow for more housing production than the market can practically deliver. Under the proposed Housing Element revisions, as long as existing zoning controls remain in place, there would be no change in the theoretical housing production capacity. While the Housing Element revisions would suggest some broad policy preferences for certain locations and types of housing production, that housing could be proposed and approved under current zoning controls and General Plan policies, and the supply of potential locations for such new housing exceed the practical expectations of how much new housing will actually be proposed or developed within the City.

More specifically, while there is the potential for increases in housing along all of the City's various transit corridors (e.g., Mission Street, Market Street, Geary Boulevard, Van Ness Avenue, Judah Street, Taraval Street) it should not be assumed that all of those corridors, or the full length of those corridors will be rezoned for, or experience large amounts of new development. Environmental review is not practical, nor meaningful for theoretical housing production allowed by maximum zoning capacity as that capacity is not fully realized and environmental review of that maximum capacity would be misleading. In the absence of specific rezoning proposals for specific areas of the city, there is no basis for assuming development beyond that allowed by the present zoning, nor predicting any specific areas or amounts of new development potential resulting from the Housing Element revisions that could then be translated into population increases, transportation impacts, etc., required for environmental impact analysis.

Hence, the Housing Element revisions alone, do not provide a basis for assuming or analyzing new housing development potential or location. As existing zoning controls would remain in place, there is no evidence to

**EXHIBIT D**

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

FILED  
Court of Appeal First Appellate District  
JUN 22 2007  
Diana Herbert, Clerk  
By \_\_\_\_\_ Deputy Clerk

SAN FRANCISCANS FOR LIVABLE  
NEIGHBORHOODS,

Plaintiff and Appellant,

v.

CITY AND COUNTY OF SAN  
FRANCISCO,

Defendant and Respondent.

A112987

(San Francisco County  
Super. Ct. No. 504780)

Appellant San Franciscans for Livable Neighborhoods (SFLN) challenges the denial of its petition for a writ of mandate to compel respondent City and County of San Francisco (the City) to set aside the approval of the housing element of its general plan and to prepare an environmental impact report (EIR) pursuant to the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.)<sup>1</sup> Appellant claims that there is substantial evidence to support a fair argument that amendments to the housing element may have a significant impact on the environment, thus requiring the preparation of an EIR. We agree and reverse.

<sup>1</sup> All statutory references are to the Public Resources Code unless otherwise specified.

*Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 235, 246 [rezoning that would permit development near wetlands]; *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 156-157 [general plan amendment in connection with proposed shopping center].) Although it may be technically true that the Housing Element is not linked to any specific rezoning, ordinance changes, or future development,<sup>5</sup> as the City emphasizes, it is not a vague policy document, completely unconnected to future development or potential physical changes to the environment. The Housing Element identifies areas for potential development, encourages development in neighborhood commercial areas, promotes the construction of “well-designed housing that enhances existing neighborhood character,” “[s]trongly encourage[s] housing project sponsors to take full advantage of allowable building densities,” and advocates reducing or removing minimum parking requirements in order to increase the land available for housing development. While no specific developments are connected with these policies, given the expected population growth and the number of construction projects already underway, the possibility of future development is not merely theoretical. (Cf. *Pala Band, supra*, 68 Cal.App.4th at pp.575-576.) The initial study recognizes that the updated Housing Element is “one component of a comprehensive planning effort called the Citywide Action Plan (CAP),” and that the Housing Element was “updated to provide a policy basis *for more specific planning*

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<sup>5</sup> For this reason, *Laurel Heights Improvement Assn. v. Regents of University of California, supra*, 47 Cal.3d 376, is less helpful than SFLN suggests. In *Laurel Heights*, the court concluded that an EIR must analyze the effects of future expansion if it is a “reasonably foreseeable consequence of the initial project.” (*Id.* at p. 396.) *Laurel Heights* did not involve the amendment of a general plan, but instead addressed the sufficiency of an EIR that was prepared in connection with the proposed relocation of the School of Pharmacy at the University of California, San Francisco (UCSF). (*Id.* at p. 387.) It was undisputed that UCSF intended to expand its use of a specific facility once space became available, and the “general type of future use” was therefore reasonably foreseeable. (*Id.* at p. 396.)



NUM VII ym DEVICER 121 CSOR: 10L 2)

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Facsimile (415) 346-3225  
Attorney for Petitioner/Plaintiff  
San Franciscans for Livable Neighborhoods

**FILED**  
San Francisco County Superior Court

APR 06 2009

GORDON PARK-LI, Clerk  
BY: [Signature]  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN FRANCISCO

SAN FRANCISCANS FOR LIVABLE NEIGHBORHOODS,	)	No. CPF04 504 780
	)	
Petitioner and Plaintiff,	)	<b>PEREMPTORY</b>
	)	<b>WRIT OF MANDATE</b>
v.	)	
	)	Action Filed: November 30, 2004
CITY AND COUNTY OF SAN FRANCISCO, and DOES I-X,	)	
	)	Hearing Date: January 27, 2009
Respondents and Defendants.	)	Dept. 302, 9:30 a.m.
	)	Honorable Charlotte W.

TO THE CITY & COUNTY OF SAN FRANCISCO ("City"):

YOU ARE HEREBY COMMANDED immediately upon receipt of this writ to set aside and void the approval of the Final Negative Declaration which you adopted and issued on May 13, 2004 in San Francisco Planning Commission Resolution No: 16786, in connection with your approval of the 2004 amendments to the housing element of the City's general plan and San Francisco Planning Commission Resolution No. 16787.

YOU ARE FURTHER COMMANDED to prepare, consider and certify an environmental impact report ("EIR") pursuant to the provisions of the California Environmental Quality Act, Public Resources Code §§ 21,000 *et seq.* ("CEQA"), concerning any potentially significant effects to the existing environment that may result, based on a fair argument

1 supported by substantial evidence, from any and all changes in the City's 1990 Residence  
2 Element that are embodied in the amended housing element, and to fully comply with the  
3 requirements of CEQA by June 30, 2009, concerning said proposed amendments to the housing  
4 element of the City's general plan. Among the proposed amendments to the housing element of  
5 the City's general plan that will be analyzed as part of the project considered in said EIR are the  
6 proposed omission of 1990 Residence Element Policy 2-4 to adopt specific zoning districts that  
7 would set density categories (Slip Op. 17, 22; JN 81-84) and the proposed omission of 1990  
8 Residence Element Objective 2 "To increase the supply of housing without overcrowding or  
9 adversely affecting the prevailing character of existing neighborhoods." (Slip Op. p. 22; JN p.  
10 80)

11  
12 Until you prepare, consider and certify said EIR and fully comply with the requirements  
13 of CEQA in relation to the changes from the City's 1990 Residence Element embodied in the  
14 amended housing element, YOU ARE COMMANDED to refrain from enforcing, relying upon,  
15 approving or implementing the following changes from the 1990 Residence Element, together  
16 with the accompanying interpretative text and implementation actions which are stated along  
17 with such matters in the 2004 Housing Element:

- 18  
19 1. New Policy 11.8 to "Strongly encourage housing project sponsors to take full  
20 advantage of allowable building densities in their housing developments while  
21 remaining consistent with neighborhood character" as interpreted by explanatory  
22 text providing that the "Department should strongly support projects that  
23 creatively address residential parking and open space requirements, resulting in  
24 higher densities with a full range of unit sizes" and that the Department will  
25 "study the impacts of reduced parking and private open space provisions and will  
26 consider revising the Planning Code accordingly." (Slip Op. p. 17-18; 1 AR 284-  
27 285)
- 28 2. New Policy 11.1 to "Use new housing development as a means to enhance  
neighborhood vitality and diversity" as interpreted by explanatory text that  
"[m]inimum density requirements and maximum parking standards should be  
used to encourage a mix of unit sizes in areas well served by transit and  
neighborhood retail." (Slip Op. p. 18; 1 AR 276)

- 1 3. Modified Policy 11.9 to "Set allowable densities and parking standards in  
2 residential areas at levels that promote the City's overall housing objectives while  
3 respecting neighborhood scale and character." (Slip Op. p. 17, 1 AR 285)
- 4 4. Modified Policy 11.6 to "Employ flexible land use controls in residential areas  
5 that can regulate inappropriately sized development in new neighborhoods, in  
6 downtown areas and in other areas through a Better Neighborhoods type planning  
7 process while maximizing the opportunity for housing near transit" together with  
8 Implementation 11.6 which states that: "The City will continue to promote  
9 increased residential densities in areas well served by transit and neighborhood  
10 compatible development with the support and input from local neighborhoods."  
11 (Slip Op. p. 18; 1 AR 283)
- 12 5. Modified Policy 11.5 to "Promote the construction of well-designed housing that  
13 enhances existing neighborhood character." (Slip Op. p. 18; 1 AR 280)
- 14 6. New Policy 1.7 to "Encourage and support the construction of quality, new family  
15 housing." (Slip Op. p.18)
- 16 7. New Implementation 1.6 that the "Planning Department will review the following  
17 incentives for commercial project developments in the Downtown C-3 District:  
18 "no residential parking requirement; and no density requirements for residential  
19 projects." (Slip Op. 18-19; 1 AR 220)
- 20 8. New Policy 11.7 stating that "Where there is neighborhood support, reduce or  
21 remove minimum parking requirements for housing, increasing the amount of lot  
22 area available for housing units." (1 AR 284; 15 AR 4196)
- 23 9. New Policy 1.2 to "Encourage housing development, particularly affordable  
24 housing, in neighborhood commercial areas without displacing existing jobs,  
25 particularly blue-collar jobs or discouraging new employment opportunities"  
26 including its implementation by a specialized type of zoning called "Transit  
27 Oriented Neighborhood Commercial District (NC-T) Zoning" controls that  
28 "provide increased housing densities above the ground floor and reduced  
residential parking requirements on linear shopping streets and along transit  
corridors." (1 AR 216; 204)
10. New language added to Policy 1.1 to "Set allowable densities in established  
residential areas at levels which will promote compatibility with prevailing  
neighborhood scale and character where there is neighborhoods [sic] support,"  
and accompanying new interpretative text stating that "along transit-preferential  
streets" "residential parking requirements" "should be, if appropriate, modified,"  
and that there "is a reduced need for automobile use" in "neighborhood  
commercial districts" where "[p]arking and traffic problems can be further  
addressed by community parking facilities and car-sharing programs, and other  
creative transportation programs." (1 AR 215)

1 11. New Implementation 1.1 which states that a "citywide action plan (CAP) should  
2 provide a comprehensive framework for the allocation of higher density, mixed-  
3 use residential development in transit-rich areas with stable urban amenities in  
4 place. In these areas, specific CAP strategies should include: higher densities and  
5 reduced parking requirements in downtown areas or through a Better  
6 Neighborhoods type planning process; pedestrian-oriented improvements to  
7 enhance the attractiveness and use of transit." (1 AR 215-216)

8 Notwithstanding the foregoing, with respect to 2004 Implementation 1.6, YOU ARE  
9 COMMANDED to refrain from enforcing, relying upon, approving or implementing only the  
10 new added language consisting of "no residential parking requirement; and no density  
11 requirements for residential projects" and with respect to 2004 Implementation 1.1, YOU ARE  
12 COMMANDED to refrain from enforcing, relying upon, approving or implementing only the  
13 new implementation added to Implementation 1.1 set forth above.

14 Your approval of the above-specified policies or implementation actions as amendments  
15 to the City's housing element on May 13, 2004 as part of San Francisco Planning Commission  
16 Resolution No. 16787 is hereby set aside and revoked until you comply fully with CEQA as set  
17 forth herein.

18 The City need not conduct environmental review "on policies that were evaluated  
19 before the adoption of the 1990 Residence Element." (Slip Op. p. 15) Pursuant to Public Resources  
20 Code section 21168.9, and for the reasons set forth in the arguments of counsel and as set forth  
21 below, the Court finds that:

22 a) The policies, objectives and implementation measures of the 2004 Housing Element  
23 listed above, are severable from the remaining policies, objectives and implementation measures.  
24 This finding is based on the Court of Appeal's holding that environmental review of the entire 2004  
25 Housing Element is not necessary under CEQA and *Black Property Owners v. City of Berkeley*  
26 (1994) 22 Cal.App.4<sup>th</sup> 974 because the 2004 Housing Element makes no changes to many policies  
27 and objectives in the 1990 Residence Element; and,

1 (b) The City's reliance on the remainder of the 2004 Housing Element without the  
2 above policies will not prejudice complete and full compliance with CEQA. The Court relies on  
3 the San Francisco Planning Department Director's sworn testimony that the City has begun an  
4 environmental impact report of the 2004 Housing Element in accordance with CEQA, and the  
5 Court's continuing jurisdiction of this matter through a return to the writ will assure compliance  
6 with CEQA mandates; and,

7 (c) Consistent with the Court of Appeal holding that "[s]everal Housing Element policies  
8 incorporated no text change whatsoever from the 1990 Residence Element, and no purpose would be  
9 served in conducting environmental review on policies that were evaluated before the adoption of the  
10 1990 Residence Element," the Court finds that the remaining policies in the 2004 Housing Element  
11 do not violate CEQA.

12 In addition, the Court further finds that consistent with Public Resources Code section  
13 21168.9(c) and *Laurel Heights Improvement Assoc. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d  
14 376, the Court exercises its equitable powers in fashioning an appropriate remedy under CEQA, and  
15 finds that there are compelling public policy reasons to allow the City and County of San Francisco to  
16 rely on the remaining portions of the 2004 Housing Element, save for the policies listed above, to wit  
17 that the provision of housing, particularly affordable housing, is a "priority of the highest order" as  
18 acknowledged by case law and the state Legislature, and that San Francisco must strive to provide its  
19 fair share of regional housing needs.

20 YOU ARE FURTHER COMMANDED to certify the environmental impact report and  
21 fully comply with the provisions of the California Environmental Quality Act, Public Resources  
22 Code §§ 21000 *et seq.*, concerning the proposed housing element amendments described herein  
23 by June 30, 2009, and to make and file a return to this Court upon taking action in compliance  
24 with this writ, setting forth what you have done to comply, and this Court shall retain jurisdiction  
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1 over this action to determine whether the City's actions have fully complied with the mandates  
2 of this peremptory writ.

3 IT IS ORDERED THAT THE COURT SHALL ISSUE THE FOREGOING WRIT:

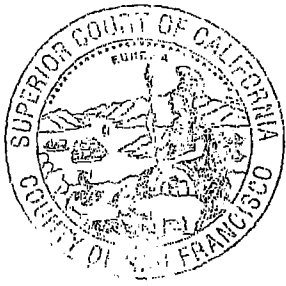
4  
5 DATE: 04-06-09

Charlotte W. Woolard  
6 THE HONORABLE CHARLOTTE W. WOOLARD  
7 JUDGE OF THE SUPERIOR COURT

8  
9  
10  
11 DATE: 4-6-09

GORDON PARK-LI, Clerk of the Superior Court

12 By: [Signature] Deputy Clerk



ERICKA LARNAUTI

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6  
7 Attorney for Petitioner/Plaintiff  
8 San Franciscans for Livable Neighborhoods

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 IN AND FOR THE COUNTY OF SAN FRANCISCO

9  
10 SAN FRANCISCANS FOR LIVABLE ) No. CPF04 504 780  
11 NEIGHBORHOODS, )  
12 ) ~~PROPOSED~~  
13 ) Petitioner and Plaintiff, )  
14 ) **AMENDMENT TO**  
15 ) **PEREMPTORY**  
16 ) **WRIT OF MANDATE**  
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v.

CITY AND COUNTY OF SAN FRANCISCO, and DOES  
I-X,  
Respondents and Defendants.

Action Filed: November 30, 2004  
Hearing Date: May 18, 2009  
Dept. 302, 9:30 a.m.  
Honorable Charlotte W. Woolard

TO THE CITY & COUNTY OF SAN FRANCISCO ("City"):

In addition to the changes embodied in the City's 2004 Housing Element which this Court restrained in the Peremptory Writ of Mandate issued by this Court on April 6, 2009:

Until you prepare, consider and certify an environmental impact report ("EIR") pursuant to the provisions of the California Environmental Quality Act, Public Resources Code §§ 21,000 *et seq.* ("CEQA") concerning any potentially significant effects to the existing environment that may result, based on a fair argument supported by substantial evidence, from any and all changes

1 in the City's 1990 Residence Element that are embodied in the amended housing element, and  
2 fully comply with the requirements of CEQA concerning said proposed amendments to the  
3 housing element of the City's general plan, YOU ARE FURTHER COMMANDED to refrain  
4 from enforcing, relying upon, approving or implementing the following changes from the 1990  
5 Residence Element, together with the accompanying interpretative text set forth below:  
6

- 7
- 8 12. Language added to modified Implementation 1.3 which states with respect to  
9 "Downtown areas and areas subject to a Better Neighborhoods type planning  
10 process" that "[p]lanning and zoning code changes should include floor-to-area  
11 ratio exemptions." (See 15 AR 4187, 1 AR 217, 1990 RE p. 131)
- 12 13. Modified Objective 11 which states that "IN INCREASING THE SUPPLY OF  
13 HOUSING, PURSUE PLACE MAKING AND NEIGHBORHOOD BUILDING  
14 PRINCIPLES AND PRACTICES TO MAINTAIN SAN FRANCISCO'S  
15 DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL  
16 NEIGHBORHOODS." (See 15 AR 4195, 1 AR 276, 1990 RE p. 106)
- 17 14. Language added to Modified Policy 4.4 to: Consider granting "parking  
18 requirement exemptions for the construction of affordable or senior housing."  
19 (See 15 AR 4190, 1 AR 243, 1990 RE p. 97)
- 20 ~~15. Modified Policy 4.5 to "Allow greater flexibility in the number and size of units  
21 within established building envelopes, potentially increasing the number of  
22 affordable units in multi-family structures." (See 15 AR 4190, 1 AR 244, 1990  
23 RE p. 81)~~
- 24 ~~16.15.~~ Modified Objective 1, which states "TO PROVIDE NEW HOUSING,  
25 ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN  
26 APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING  
27 NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE  
28 HOUSING CREATED BY EMPLOYMENT DEMAND" as interpreted by  
modified explanatory text stating "New residential development must be of a  
character and stability that enhances the City's neighborhoods and maintains the  
quality of life for existing and future residents. How this new residential  
development can be accommodated without jeopardizing the very assets that  
make living in San Francisco desirable must be discussed. In order to enhance the  
city's livability, the supply of housing must be increased and new housing  
developments should respect the scale and character of the surrounding  
neighborhood." (1 AR 213; 1990 RE p. 75, 15 AR 4187)



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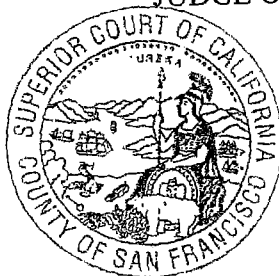
Your approval of the above-specified objectives, policies or implementation actions as amendments to the City's housing element on May 13, 2004 as part of San Francisco Planning Commission Resolution No. 16787 is hereby set aside and revoked until you comply fully with CEQA as set forth herein.

The findings and other orders set forth in the Court's April 6, 2009 Peremptory Writ of Mandate, including those beginning at page 4, line 18 and continuing through page 6, line 2, apply with equal force to the proposed changes in the 2004 Housing Element described herein, which the Court incorporates by reference.

IT IS ORDERED THAT THE COURT SHALL ISSUE THE FOREGOING WRIT:

DATE: 05-29-09

Charlotte W. Woolard  
THE HONORABLE CHARLOTTE W. WOOLARD  
JUDGE OF THE SUPERIOR COURT



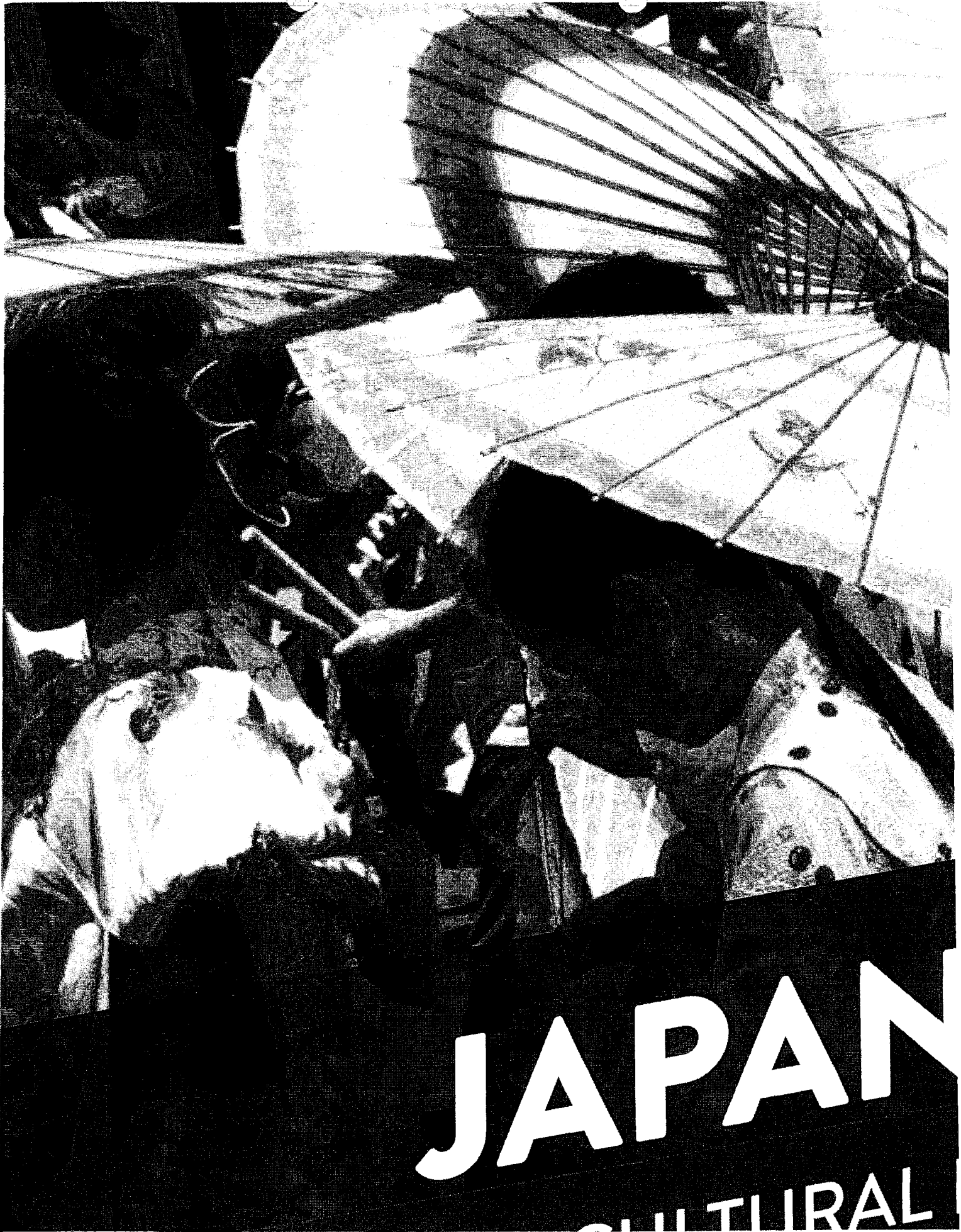
DATE: JUN 01 2009

GORDON PARK-LI, Clerk of the Superior Court

By: Rossaly E. De la Vega Navarro Deputy Clerk

ROSSALY E. DE LA VEGA NAVARRO

**EXHIBIT E**



# JAPAN

CULTURAL

The Draft Better Neighborhoods Plan (2009) proposed increases to allowed heights at the Japan Center Malls, including three potential towers of 200 – 250 feet, as well as another tower further east nearer to Gough Street, and proposed increased height limits along Geary Boulevard. Both at that time and over the ensuing course of community review, the preponderance of vocal community views opposed these proposals on the ground that, in their perspective, the proposals were inconsistent with preserving Japantown’s cultural legacy and remaining small scale neighborhood character. This opposition was a significant reason that the Better Neighborhoods Plan process evolved into the JCHESS, which does not directly address changes to development or height limits, other than minor changes in the proposed Japantown Neighborhood Commercial District.

The one zoning district unique to Japantown is the Japantown Special Use District (SUD).<sup>4</sup> This SUD, established in 2006, covers the area between Fillmore Street, Bush Street, Laguna Street and Geary Boulevard. The SUD is unique in the city in that its specific aim is to protect cultural character of a specific community – in this instance, the Japanese American community. It does so by requiring conditional use authorizations from the Planning Commission for:

- Any change of use in excess of 4,000 square feet.
- Any merger of one or more existing uses in excess of 2,500 square feet.
- The establishment of any formula retail use (which is defined as any retail establishment with eleven or more locations within the United States).

To receive this conditional use authorization, the Planning Commission has to determine that the land use is compatible with the cultural and historic integrity, neighborhood character, development pattern, and design aesthetic of the neighborhood.

<sup>4</sup> San Francisco Planning Code, Section 249.31., “Japantown Special Use District,” July 2006.

## DEVELOPMENT POTENTIAL

Compared to San Francisco neighborhoods such as the South of Market, Mission Bay, and Hunters Point, there is not a broadly distributed potential for major new development in Japantown. This is because many of the buildings in the area are built at or near their development capacity. North of Bush Street, the area is largely comprised of residential buildings on small parcels with a height limit of 40 feet, meaning that no new large development is likely to occur in this area. South of Bush Street, parcels are larger, height limits are greater, and there is less existing residential use – all factors which contribute to the potential for new development.

An analysis of development capacity in Japantown reveals that 21% of the parcels in the area (136 of 634) could reasonably be considered to have potential for new development based on existing zoning.<sup>5</sup> On these parcels, there is potential for approximately 2,700 new housing units and 470,000 new square feet of commercial space. Although only 15 development parcels are located south of Geary Boulevard, these parcels (such as the Safeway and affiliated parking lot) contain about half of the neighborhood’s development potential, due to their size and relatively higher height limits. The rest of the potential is dispersed on parcels north of Geary that tend to be smaller in size and/or have lower height limits.



### **B.1. Utilization of Developable**

**Parcels.** There are a number of parcels in the neighborhood that are not developed to their full capacity, relative to what they are allowed under current zoning. There is community interest in ensuring that those parcels are able to be developed to their potential under current zoning.

<sup>5</sup> In this instance, “high potential” means that a parcel is currently developed to less than 30% of its potential, that it contains less than three residential units, it is not a historic building, and that it contains no significant cultural resources. It should be noted that this analysis is based on the City’s data, which is likely to contain substantial errors. As such, the available information can be useful in the aggregate, but should not be used to predict the redevelopment of any particular parcel.

**EXHIBIT F**

**STATEMENT OF CITY PLANNER DAVID GOLICK REGARDING  
IMPACTS OF CHANGES TO PROPOSED 2009 HOUSING ELEMENT**

I have been a professional city planner for over forty years and have practiced in the Bay Area for thirty-eight years. During that time I served as Chief of Planning for the City of Concord, the largest city in Contra Costa County, for ten years. During my career, I have either prepared or reviewed approximately 1,000 Initial Studies and Environmental Impact Reports. I have become familiar with and have a deep working knowledge of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines. I have coached subordinate employees regarding CEQA requirements and have addressed CEQA issues at conferences of the American Planning Association. The City of San Francisco retained me to participate in oral board examinations of candidates for planning positions, such as the position of Planner III, Environmental Review. As Chief of Planning for the City of Concord, my duties included overseeing the activities of the planning department staff in updating the housing element of Concord's general plan as periodically required by the State of California Department of Housing and Community Development. A copy of my resume is attached hereto as Exhibit 1.

In this statement, I will discuss the potentially significant environmental impacts that could result from the changes made in the 2009 Housing Element (the proposed "Project") after the public comment period closed on August 31, 2010. Herein, I will refer to the June 2010 draft of the 2009 Housing Element that was subjected to environmental review as the "EIR Draft." The substantial changes to the proposed Project are set forth in a February 2011 draft of Part II and a Planning Department staff memorandum dated March 17, 2011.

**1. The Project Was Substantially Changed to Encourage Transit-Oriented Development Along Major Bus Lines Outside Plan Areas.**

The February 2011 draft of new Policy 1.10 broadly promotes infill housing "in transit-rich areas" which it defines to include Muni's major bus lines as "defined and prioritized in Muni's Transit Effectiveness Project (TEP) as the '24-hour Rapid Network,' " which "will be slated for long-term improvements" and "are slated to receive funding and service increases which will make it easier to meet service demands." The proposed new policy states that the Department "should support housing projects along these major transit lines *provided* they are consistent with current zoning and design guidelines." (See Ex. 2, pp. 2-4, summary of changes)

The March 17, 2011 staff proposal adds language encouraging "affordable housing" along the major transit lines and eliminates prior language that admitted that the proposed rapid lines are not funded and need service increases and long-term improvements. A communication from the Metropolitan Transportation Agency admitting such inadequacies is included herein. (See Exhibit 3) Also, inaccurate language previously referring to the proposed rapid network as "24 hour" was eliminated.

The new policy language also broadly supports “new housing projects” near major transit lines through references to “walking and bicycling” and “nearby residents” but does not define or limit the extent of the distance from transit lines in which the new transit-oriented housing would be both allowed and encouraged. It also fails to explain the density that should be permitted for infill housing in transit-rich areas or for housing projects along major transit lines.

Although the 2009 Housing Element does not provide a map of these major bus lines, the map of the TEP-proposed rapid network obtained from the San Francisco County Transportation Agency, is attached hereto in Exhibit 3. The SFCTA e-mail explains that the TEP-recommended rapid route network is not yet approved, has not undergone environmental review or been funded. (*Id.*) Numerous capital projects to improve transit reliability, improve customer amenities and reduce transit travel times are included in the draft TEP Implementation Plan, which has not been finalized or approved. (See Ex. 3, e-mails) So, the Muni bus routes described in the proposed TEP rapid route network do not provide rapid service now, and \$160-200 million in capital projects would be needed to support the TEP-recommended rapid route network and make other improvements to the Muni system. (*Id.*) The funds for the capital improvements needed for the TEP-recommended rapid route network would largely be sought from federal and state grants which require some percentage of City money in hand in order to apply for matching federal or state grants. (*Id.*) The City has only approximately \$10-15 million in funds for such TEP improvements. (*Id.*) Due to State and federal budget shortfalls, it is problematic whether funds would be available for these San Francisco projects in the foreseeable future. In recent news reports, Muni stated that it lacks funds to undertake detailed seismic studies of existing Muni tunnels that are about one hundred years old and will have difficulty funding work to replace deteriorating metal and concrete supporting structures.

This is a major change in the proposed Project because the June 2010 draft of Part II that was subjected to environmental review had removed the broad language of Policy 1.5 that had supported new housing projects on sites that are located along major bus lines and removed Map 1 of “Major Transit Lines.” (See Ex. 4, p. 14 red-lined June 2010 draft of part II) Also, EIR Policy 12.1 had encouraged new housing that relies on transit “in areas that are well served with transportation infrastructure including BART trains, and Muni light rail trains” and had clarified “that changes to the Planning Code to further accommodate housing near transit will only occur through a neighborhood-supported community planning process.” (See Ex. 4, p. 59). EIR Policy 12.1 text had removed the language “and Muni’s rapid network of buses” from the policy text that was subjected to environmental review. (*Id.*)

Until Muni’s bus lines have received funding for the needed service increases and improvements and implementation of the improvements is underway, they should not be defined as major transit lines along which transit-oriented development would be encouraged. Otherwise, policies that prematurely encourage housing growth in these areas would increase the significant adverse impact on already strained Muni bus services. The EIR concludes that the proposed project (without the bus lines defined as major transit lines) would have a significant unmitigated effect on public transit, which is insufficient to support the proposed expansion in

housing capacity. (See Ex. 5, Executive Summary, p. II-9)

Expanding the proposed Project to designate areas along major bus lines outside the Plan Areas as the areas in which transit-oriented development would be encouraged would substantially increase the severity of the significant environmental impact which the Project would have on inadequate transit services.

Eliminating this expansion of the proposed Project is a reasonable alternative which could be accomplished by approving the language of EIR Policy 12.1 as stated in the June 2010 draft of the Housing Element (which identified the areas along Bart lines and Muni light rail lines as major transit areas). That alternative would define major transit lines as areas near BART stations and along Muni light rail lines. Such alternative would reduce the significant environmental impact which results from inadequate transit services and public funding for transit since it would substantially reduce the areas where transit would be further strained by added capacity and substantial public funds would have to be spent on increasing the reliability and capacity of public transit services.

The EIR should therefore be revised to analyze the feasible alternative of eliminating the definition of major bus lines outside the Plan Areas from the areas where transit-oriented development would be encouraged and substantial funds needed for improved bus service. Under the alternative, major transit lines would be defined as BART stations and Muni light rail lines, as proposed in the June 2010 draft of Part II of the Housing Element. The EIR should be revised and recirculated for public review and comment due to the substantial increase in the severity of the significant impact on transit services which would result from expansion of the areas defined as major transit lines and the reasonable alternative of eliminating this expansion from the Project proposed for approval.

The severity of the significant adverse impact of the proposed Project on already inadequate public transit services was explained by the City to ABAG as follows:

“While San Francisco has pioneered transit supportive development over the past few decades, we are at our limit in terms of transit’s ability to carry more people in the peak period without significant new right-of-way, fleet and facility expansion. Our transit state of good repair backlog is over \$2 billion just to maintain current service levels let alone the additional service levels from the expected growth, and similar backlogs exist for the regional transit service providers who serve San Francisco, such as BART and Caltrain. These core capital capacity constraints are regional in nature and will need a regional focus on resource prioritization for these PDAs to be successfully implemented. In addition, San Francisco needs over \$750 million to bring our local streets to a state of good repair, and many PDAs have significant non-transportation infrastructure investment needs as well, lacking the community assets necessary to make them complete communities....



We are further challenged by needing to pace growth with new investment. While San Francisco's planning efforts aim to combine changes in zoning with proposals for new infrastructure investment, we continually face resistance from neighborhoods who are skeptical that needed infrastructure will come. There is a very real threat of neighborhood demand for legislation that meters growth according to infrastructure provision, thereby restricting zoning changes and any development under those zoning changes, until after the infrastructure is in place." (Ex. 6, thirteenth page)

The alternative of eliminating the bus lines outside the Plan Areas is clearly feasible because by a resolution of the Board of Supervisors in June 2007, the City approved Priority Development Areas as the areas where sustainable development could occur, and these areas correspond to the Plan Areas which the Housing Element states could accommodate "significantly more" than the 31,000 units allocated as the City's share of the regional housing needs allocation for this planning period (2007-2014). (See Ex. 4, p. 4-10 and map at ninth page of Ex. 6) The City has admitted that the "lion's share of city's growth will continue to be focused in its PDAs" and that they have more than enough capacity to satisfy the City's regional housing needs allowance for this planning period:

"San Francisco's Adopted and Planned PDAs collectively accommodate over 63,000 new housing units, and 136,000 new jobs. Healthy absorption of the city's existing vacancies in PDAs like Downtown provides the opportunity for another 23,000 or more jobs. However, new growth in San Francisco is not confined to PDAs. The city includes numerous small-scale infill opportunity sites close to transit throughout all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city. Cumulatively, San Francisco's PDAs and other opportunities yield the potential for over 85,000 housing units and almost 160,000 more jobs, more growth than is likely to be projected for San Francisco under the SCS P2011 Projections." (Ex. 6, twelfth page)

This evidence makes it clear that the city's 17,000 infill opportunity sites close to transit run "throughout all of its neighborhoods" outside of Priority Development Areas (or Plan Areas), and, therefore, the impact on already inadequate transit services would be substantially more severe if areas along bus lines outside the PDAs (or Plan Areas) are included in the definition of major transit lines slated for increased housing development.

Since the staff-proposed addition of the bus line areas would require the City to increase the reliability and efficiency of major bus lines running throughout the City instead of concentrating such improvements in the PDAs, a reasonable alternative which would reduce the severity of the significant impact on transit services would be to limit the definition of major transit lines to BART stations and Muni light rail lines, instead of broadening it to include all major bus lines. This alternative is certainly feasible because the City refused to identify areas outside of the PDAs as areas that could take on greater levels of growth at this time in the course of the Sustainable Communities Strategy planning, stating:

“Because San Francisco already has plans to accommodate almost the entire amount of growth expected (over 90%) by 2035 within its designated PDAs, and because significant resources are necessary to provide the infrastructure necessary to support this growth, staff elected not to identify additional areas that could take on greater levels of growth at this time.” (Ex. 6, p. 2 ; see also p. 7 of June 2010 version of 2009 Housing Element stating: “Completed and ongoing area plans have developed neighborhood specific housing plans, which could accommodate the majority of new housing needs in the City.”)

This conclusion is reinforced by the fact that the City identified “[i]ncreased transit service frequencies for core trunk lines serving PDAs” as an implementation strategy needed to support growth of particular importance to San Francisco. (Ex. 6, twelfth page)

The amount of projected growth in PDAs meets over 90% of the City’s growth target for two decades after the 2007-2014 planning period for which the 2009 Housing Element was prepared:

“San Francisco is planning to accommodate more than 60,000 new households in PDAs by 2035. This represents the placement of over 90% of our county growth targets (from Projections 2009) within PDAs. This is significant as the next closest county achieves only ~40% of new households in PDAs.” (Ex. 6, tenth page)

Since Planning Department staff did not identify areas along bus lines outside the PDAs as additional areas that could take on greater levels of growth in the Sustainable Communities Strategy planning effort, it is obviously a reasonable alternative to delete such areas from the proposed 2009 Housing Element Project. The addition of such areas in the February 2011 or finally adopted draft of the proposed 2009 Housing Element would exacerbate the project’s significant adverse impact on transit because transit services would have to be increased in more part of the City than if the increases were concentrated in PDAs. Before the major bus lines were added as major transit lines slated for transit-oriented development, the City stated that the 2009 Housing Element already went farther than needed to accommodate the City’s share of the regional housing needs allocation for the planning period 2007-2014, stating:

“Together, these planning efforts could provide capacity for **significantly more** than the 31,000 units allocated for this planning period (2007-2014); however, they will require significant investment in infrastructure and supporting services in order to support this growth...The City should prioritize public investment in these plan areas to achieve the community goals of each plan, according to each plans’ infrastructure and community improvements program.” (Emphasis added, Ex. 6, p. 8, Part II, June 2010 Draft 2 Housing Element)

According to the Housing Element, Plan Areas adopted since the 2004 Housing Element are projected to “add growth of up to 20,000 new units, which, in combination with citywide

infill potential provides sites which can accommodate over 42,000 new units, as cited in Part 1 of the Housing Element. Ongoing community planning efforts, including major redevelopment plans at Mission Bay, Treasure Island and Hunter's Point Naval Shipyard, will add even more capacity over the next 20 years." (Ex. 4, p. 4) The estimated new housing construction potential in adopted plans/projects and plans/ projects underway total 63,300 new housing units. (Ex. 4, p. 10)

The Draft EIR for the 2009 Housing Element further explains that the City's unrealized capacity under existing zoning is "60,995 new housing units." (Draft EIR p. IV-14) Of these, approximately 20, 543 new units could be constructed on sites that are vacant or near vacant, and sites that are underdeveloped could yield another 40,452 new units. (*Id.*) Further, the City is in the process of rezoning many neighborhoods, and these rezoning efforts will increase the existing capacity in those neighborhoods, allowing for the development of additional housing units above and beyond the number of units that could be accommodated under existing zoning. (*Id.*) The additional capacity with rezoning initiatives currently underway is approximately 28,844 units. (DEIR Page IV-22) Should these rezoning initiatives be adopted, the City would be able to accommodate 89,839 net new housing units, which if developed would represent a 25% increase in the City's housing stock. (Draft EIR p. IV-22)

A total of 56,435 new units could result from projects now under construction or in various stages of the approval process, which include projects currently under construction, projects with approved building permits but not under construction, projects which have building department applications on file, projects which have been approved by the Planning Department and projects which have Planning Department applications on file. (Draft EIR p. IV-23) The three major projects of Candlestick Point-Hunters Point Shipyard, Treasure Island and Park Merced, comprise approximately half of the pipeline projects and could be completed by approximately 2020. (*Id.*)

Thus, the City's capacity for new housing under area plans in progress, existing unrealized capacity and pipeline projects is far in excess of the City's 31,000 unit RHNA for the planning period 2007-2014 represented by the 2009 Housing Element. The significant impact on the City's transit services would be lessened if transit services have to be enhanced only in the areas already rezoned. The Project's impact on other City services such as water, sewer, fire and police, would also be significantly lessened if the areas slated for increased growth were limited to those already rezoned.

As explained in my prior Declaration filed in the legal action in which the court required an EIR to analyze the proposed Housing Element changes, the EIR prepared by the City's transportation authority projects that time spent in congested traffic conditions will double by 2035 if the City concentrates its further development along transit routes as proposed in its citywide action plan. (See Attachment 13 to Chatten-Brown & Carstens August 30, 2010 EIR comment letter to Bill Wyco regarding 2004 and 2009 updates to Housing Element) This is a significant impact because citywide traffic is expected to be degraded to service level F. This is

not surprising, as San Francisco is already the second most densely populated City in the nation, and the massive amount of increased housing capacity proposed in the 2009 Housing Element, as increased by the changes proposed in the February 2011 or March 17, 2011 versions of Part II thereof, is simply unsustainable and unreasonable. (Ex. 7)

It is no exaggeration to say that ABAG's proposal to concentrate this amount of future growth in San Francisco is a major step toward Manhattanization of San Francisco. After all, aside from New York City, San Francisco already is the most densely populated city in the country.

The City should now revise the EIR and analyze the effect of expanding the areas designated for transit-oriented development to the areas along or near bus lines extending throughout the City outside the Planned Areas. The EIR should analyze the feasible alternative of eliminating this expansion of areas designated for transit-oriented development because the Project's significant impact on already-strained transit services would be substantially lessened if the project were limited to the Planned Areas. Under such alternative, the City would have to enhance bus service to the major lines running through the Planned Areas but not to the major bus lines running throughout the City outside the Planned Areas. This expansion of areas designated for transit-oriented development was requested by the advocacy group SPUR. (See Ex. 8, p. 2) SPUR makes clear that the broad language "transit-oriented development" calls for substantial zoning changes that would have adverse impacts. SPUR explains that effects of such new construction would be as follows:

"more housing and jobs along transit corridors and in already transit-oriented neighborhoods" .... "means zoning for taller buildings and higher density in downtown and along the BART and Muni Metro lines in the neighborhoods. It means allowing new in-law units and eliminating parking and density limits in some neighborhoods." (See Exhibit 8, p. 2)

Thus, Housing Element language calling for transit-oriented development provides a policy basis for various increased density strategies including taller buildings and secondary units.

In San Francisco, areas along transit corridors running through residential neighborhoods are usually zoned neighborhood-commercial. The prevailing height in such neighborhood-commercial areas is now generally one or two stories and such areas are usually not now built up to maximum height limits (which are generally forty feet). Their low density character now usually matches and conforms with the low density character of surrounding residential neighborhoods. However, changing policy to encourage building taller structures with reduced or no parking in these linear neighborhood commercial areas along major bus lines could create canyon effects since the linear massing of the taller buildings would disrupt and divide the lower density character of the surrounding residential neighborhoods. Such linear massing would constitute an adverse visual effect on the character of existing neighborhoods, a significant adverse change in the quality of those neighborhoods and could also significantly reduce light to

adjacent or nearby residences.

Various existing measures which the City has previously enacted to increase the capacity of land for housing demonstrate the adverse impacts of increased traffic congestion, strained Muni services and visual neighborhood character that could result from extending transit-oriented development along bus lines running through established neighborhoods. The Residential Transit-Oriented Districts provide a good example. Under Planning Code section 207.1, in RTO and RTO-M Districts provided for in Planning Code section 201, dwelling units that are affordable (meeting criteria stated therein) shall not count toward density calculations or be limited by lot area. In addition, under Planning Code section 151, a dwelling unit in an affordable housing project is not required to have any off-street parking space except in RH-1 and RH-2 districts. (Ex.9) Therefore taller buildings with inadequate parking could result from new 2009 Housing Element Policy 1.10 because many small affordable units could be constructed in areas to be zoned RTO, and such units would not have any off-street parking. This type of construction could add large numbers of new residents to these areas and place increased demand on already strained Muni services. Those residents using automobiles would likely spend significant time circling to find parking spaces, which could increase traffic congestion in the area.

As previously noted, the Transportation Authority EIR projects significant further degradation in traffic conditions in the City as a result of concentrating future growth along transit corridors. Further time spent in congested traffic conditions causes vehicles to emit more pollutants than vehicles traveling at a normal rate of speed. (See Attachment 10 to Chatten-Brown & Carstens August 30, 2010 EIR comment letter to Bill Wyco regarding 2004 and 2009 updates to Housing Element , which is incorporated by reference) The City's December 6, 2010 Sustainable Communities Strategy letter recognizes that there could be "local adverse effects" from particulate matter vehicle emissions given "the growing recognition of air quality conflicts between busy roadways and infill development." (Ex. 10, p. 2) This is a potentially significant effect which should be analyzed in a revised EIR due to the proposed expansion of the transit-oriented development to areas along major bus lines outside the Plan Areas. The EIR should be revised and recirculated for public review and comment.

Zoning changes enacted for transit-oriented development after the 2004 Housing Element was approved, could cause significant parking space deficits in new structures. For example, under the Market Octavia Area plan rezonings (Exhibit 11) only one off-street parking space is required for each four dwelling units in the Van Ness Special Use District. The resulting parking space deficit could cause traffic congestion in the area from cars circling to seek parking spaces and potentially increase pollutant emissions from motor vehicles in the immediate area.

In addition, under Planning Code section 134 (e) and (f), the rear yard requirement in NC Districts and Eastern Neighborhoods mixed use districts may be modified or waived by the

Zoning Administrator pursuant to the procedures which are applicable to variances. New structures built in neighborhood commercial districts along major transit lines could overwhelm adjacent structures that are not built up to height or bulk limits and which have the rear yards required by current code.

## **2. Changes Eliminated Policy Language Maintaining Density Limits For RH-1 and RH-2 Neighborhoods.**

EIR Policy 1.6 text stating that “[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character” was changed in the February 2011 draft to state “[i]n some areas, such as RH-1 and RH-2, prevailing height and bulk limits should be maintained to protect neighborhood character.” Also, use of “flexibility in the number and size of units” was expanded to apply through “community based planning processes” and therefore would apply to projects outside plan areas and to individual projects, instead of merely to “community plan areas” as previously proposed in EIR Policy 1.6.

In the staff memorandum dated March 17, 2011, this provision was changed to state “[i]n some areas, such as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character.” Since it is unclear which provision the Planning Commission may adopt, this statement will discuss the environmental effects of both proposals. Essentially, both proposals would provide a policy basis for replacing the current objective standards with subjective standards to be interpreted by the Planning Department and Commission. Use of a subjective standard is a substantial change in the nature of the proposed Project that must be subjected to environmental review.

This change was reflected in other policies. In EIR Policy 11.5, policy text stating “[p]articularly in RH-1 and RH-2 areas, density limits should be maintained to protect neighborhood character” was changed to state “[p]articularly in RH-1 and RH-2 areas, prevailing height and bulk patterns should be maintained to protect neighborhood character.”

Similarly, EIR Policy 11.3 text stating “[i]n existing residential neighborhoods, this means development projects should uphold and preserve the existing zoning of the area” was changed to only “defer to the prevailing height and bulk of the area.” This new language would also provide a policy basis for eliminating objective per unit density limits for residential neighborhoods, invite secondary units, and permit existing buildings to be divided into multiple units. Also, language calling for “a community-supported vision” was weakened to “a community-based vision.” Policy language ensuring growth without “significantly impacting existing residential neighborhood character” was changed to growth without “substantially and adversely impacting” such character. New language was added supporting “adoption of neighborhood-specific design standards in order to enhance or conserve neighborhood character only if those guidelines are “consistent with overall good-planning principles.” The new

reference to “good-planning principles” is a completely subjective standard that means virtually anything its advocate wants it to mean.

Since the housing element provides “the policy framework for future planning decisions” and new zoning is required to be consistent with the general plan under Planning Code section 101.1(d), the new language failing to maintain density limits would provide a policy basis undermining: (1) the current maximum dwelling unit density limits provided in Planning Code section 209.1, to wit, the one-unit limit for RH-1 and two-unit limit for RH-2 districts. (See Ex. 14, excerpt from Legislative Digest referring to Planning Code limitations on numbers of units permitted in RH-1 and RH-2 districts.)

In addition, the new language would provide a policy basis undermining the front set-back requirements provided in Planning Code section 132, the rear yard requirements provided in Planning Code section 134, the usable open space requirements for dwelling units provided in Planning Code section 135 and the side yard requirements for RH-1 districts provided in Planning Code section 133. (See Summary of the Planning Code Standards for Residential Districts attached as Exhibit 12) Such standards describe the height and bulk districts provided in Planning Code section 122 as of mere “general application” to residential districts. Thus, the changed language would provide a policy basis for eliminating the present objective standards which limit density in RH-1 and RH-2 neighborhoods.

Changing the general plan policy, which is the supreme planning law, is the first step to changing zoning. The purpose of zoning is to help implement the general plan. Under Charter section 4.105, the Planning Department “shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan, and periodically prepare implementation programs and schedules which link the General Plan to the allocation of local, state and federal resources.” In addition, zoning ordinances must be consistent with the General Plan under Planning Code section 101.1 (d). A good example of increased density planning codes changes carrying out the General Plan is the ordinance adopting approximately 40 zoning changes to implement the Market Octavia area plan after the City approved the 2004 Housing Element. (Exhibit 11)

The proposed new policy language calling for using the prevailing or existing height and bulk limits or using existing height and bulk patterns would provide less protection for the neighborhood character of RH-1 and RH-2 districts than the maximum dwelling unit density limits provided in Planning Code section 209.1. Such changed policy language would promote secondary units and more than the number of units currently allowed by the Planning Code for such R classifications. Established and often older RH-1 and RH-2 districts have a low density character which would be substantially degraded if more than one unit was built in an RH-1 district or more than two units were built in an RH-2 district. The essential nature of such areas would be irreparably degraded by increased density.

Since many established residential neighborhoods have a prevailing one-unit or one/two combined-unit character, the new policy language could cause these neighborhoods to change from low to moderate density, which would constitute a substantial degradation in the quality of such sites and their surroundings, which is a significant adverse impact under provision I. (c) of the CEQA Guidelines. Under provision XVIII of the CEQA Guidelines, the Project's potential for degrading the quality of the environment requires a mandatory finding of significance of this impact. In addition, such language would conflict with applicable land use plans (which include zoning ordinances) that are adopted for the purposes of avoiding or mitigating such adverse aesthetic effects discussed above. The change would also conflict with the priority planning principle stated in Planning Code section 101.1 (b) (2) that existing "neighborhood character be conserved and protected", which is another significant effect that the EIR failed to analyze. Such conflicts with applicable land use plans are potentially significant adverse impacts under provision X. (b) of the CEQA Guidelines. (Ex. 13)

The Draft EIR failed to analyze the significant effects of the proposed new policy language on the aesthetic and visual quality of the environment in RH-1 and RH-2 districts and on the new language's conflict with land use plans applicable to such areas. Since these impacts are significant, the City must revise the EIR and analyze such significant effects, mitigation measures which could reduce such effects and reasonable alternatives which could reduce effects. The revised EIR must be recirculated for public review and comment.

A reasonable alternative to this new language would be to utilize the language of the second draft of the 2009 Housing Element which states: "[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character." Maintaining such language would eliminate the significant effects discussed above and is certainly feasible since the City's Plan Areas have far more increased capacity for new housing units than required for the 2007-2014 regional housing needs allocation.

It is the belief of many residents that substantial degradation of the Richmond district resulted from demolition of older single family residences and their replacement with taller, boxy multi-unit structures built up to maximum height and bulk limits that are known as "Richmond Specials." That experience is a telling example of the adverse effects that could result from encouraging increased density in RH-1 and RH-2 neighborhoods. Many residents believe that the architectural character of the Richmond district was substantially degraded when significant numbers of older homes were replaced with such maximized Richmond Specials. The same effect could occur throughout the City as a result of the proposed changes to the 2009 Housing Element.

The proposed new language referring to the "limits" would encourage additions or expansions to existing structures in RH-1 and RH-2 areas which would protrude beyond the envelopes of existing neighboring structures in RH-1 and RH-2 areas that are not currently built up to the prevailing height or bulk limits and have a low density character. The range of adverse effects on neighborhood character that could result from the changed language referring to the



“limits” would include demolition of older homes and their replacement with out-of-scale taller, multi-unit structures; adding floors to existing structures that are not built up to current height limits; expansions into existing rear yards and reduction of mid-block open space; and the cluttered appearance from additional motor vehicles parking on sidewalks and other illegal areas. Such additions, expansions and new construction could disrupt the existing patterns of established residential neighborhoods and substantially degrade the quality of those areas.

The newly proposed language referring to “existing height and bulk patterns” would use the outer envelope of existing structures, as interpreted by the Planning Department and Commission, as a reference point. This proposal would lack objective per-unit density limits within the envelope and would conflict with the provisions of Planning Code section 209.1, which provides the one-unit limit for RH-1 and two-unit limit for RH-2 districts. For the reasons set forth above, this proposed language would produce the same significant impacts discussed above: a significant impact due to conflict with applicable land use plans and would also cause the significant impact resulting from substantial degradation of the quality of such sites and their surroundings, which requires a mandatory finding of significance. The same alternative discussed above would be feasible and a revised EIR is required to be prepared analyzing the significant effects of the proposed change in language, reasonable alternatives thereto and mitigation measures that could reduce effects. The EIR should be revised and recirculated for public review and comment.

The EIR failed to consider measures which could mitigate significant effects or reasonable alternatives thereto. The City made these changes after the public review period on the EIR had closed.

### **3. Policy Language Was Changed to Weaken the Effect of Opposition To Zoning Changes by Neighborhood Residents.**

Language which had given neighborhood residents a primary role in protecting the character of their neighborhoods and opposing zoning changes which would degrade neighborhood character was deleted from the version of Part II that had been analyzed in the EIR.

In EIR Policy 12.1 text requiring “a neighborhood-supported community planning process” to make changes to the Planning Code to further accommodate housing near transit was weakened to refer to a “community based planning process.”

In EIR Policy 1.4 “[n]eighborhood-supported community planning processes” was changed in revised Policy 1.4 to “community based planning processes” to be used to generate changes to land use controls, at the urging of SPUR. (Ex. 4, p. 11, Ex. 2, p. 2, Ex. 8, p. 3) Interpretative text stating that “[c]hanges that involve several parcels or blocks should always be the result of a neighborhood-supported community planning process” was changed to state “[z]oning changes that involve several parcels or blocks should always involve significant community outreach, as part of a community based planning process.” Interpretative text stating

that to ensure adequate community outreach, changes to land use policies may be proposed “with comprehensive support from the community” was changed to state “with comprehensive opportunity for community input.”

New language was added to Objective 11 stating “[c]hanges planned for an area should build on the assets of the specific neighborhood while allowing for change,” after other language providing support for neighborhood character.

In addition, language calling for restricting uses that disrupt the residential fabric were deleted from EIR Policy 11.8.

In EIR Policy 4.6, language was deleted that growth “should not overburden built out neighborhoods where infrastructure is at capacity.”

Policy 11.2 text stating that the Planning Department “should build on and bolster individual community’s local controls” including “neighborhood Covenants, Conditions and Restrictions (CC&R’s)” was changed to only require awareness of CC&R’s by Planning staff, and new language was added stating “although only those guiding documents approved by the Planning Commission may be legally enforced by Planning staff.”

Read together, policy language encouraging increased heights and densities as well as reduced parking in transit rich areas, the changes eliminating the primary role of neighborhood residents regarding proposed changes for their neighborhoods make it likely that the efforts of residents to maintain neighborhood character will be subordinated to the City’s growth objectives. While citywide stakeholders and developer advocacy groups should have input regarding city planning, their input should be secondary to the input of the people who live in established neighborhoods. Residents in established neighborhoods have major financial investments in their neighborhoods and legitimate, long-term interests in preventing congestion or degradation of those areas so that they remain attractive and accessible to vehicular traffic and emergency vehicles.


#### **4. CEQA Requires that the City Prepare a Revised EIR Analyzing Significant Effects Which Could Result from the Changes and Alternatives and Mitigation Measures.**

Since the City made the changes discussed herein months after the public review and comment period on the EIR expired, the City should prepare a revised EIR analyzing the potentially significant impacts of the changes discussed herein on the RH-1 and RH-2 districts and on the areas along and near the major bus lines described in the TEP map, which were not analyzed in the EIR. Such EIR should also analyze the effect of elimination of the requirement that planning code changes be “neighborhood-supported.” The revised EIR must consider reasonable alternatives and mitigation measures that could reduce effects and be recirculated for

public review and comment.

Thank you for your attention to this very important matter.

Very truly yours,



David Golick  
Planning Consultant  
dolglick@msn.com

Dated: March 23, 2011

EXHIBIT 2

***Challenges Ahead: Balancing Goals with Resources and Realities***

In an effort to plan for and respond to growing housing demands, the Planning Department has engaged several neighborhoods in specific community planning efforts. Ten community plans – the Candlestick and Hunters Point Shipyard Plans, Rincon Hill, Market & Octavia, Central Waterfront, East SoMa, Mission, Showplace Square/Potrero Hill and Balboa Park Area Plans, and the Visitacion Valley Master & Redevelopment Plan - have been adopted since the 2004 Housing Element update. Together these recently adopted Plan Areas are projected to add growth of almost 40,000 new units, which, in combination with citywide infill potential provides sites which can accommodate over 46,000 new units, as cited in Part 1 of the Housing Element. Ongoing community planning efforts, including major redevelopment plans at Mission Bay, Treasure Island and Hunter's Point Naval Shipyard, will add even more capacity over the next 20 years.

**Policy 1.2 Focus housing growth and infrastructure-necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park and Hunter's Point Shipyard.**

In order to increase the supply and affordability of housing, the City has engaged in significant planning for housing through Area Plans (portions of the General Plan which focus on a particular part of the City), Redevelopment Plans (community revitalization plans authorized and organized under the provisions of the California Community Redevelopment Law), and major development projects created in partnership with private sponsors. Adopted community plans include Balboa Park, Market and Octavia and the Central Waterfront neighborhoods; the Eastern Neighborhoods program including the Mission, South of Market, Showplace Square and Potrero Hill; Candlestick, and Hunters Point Shipyard; and several Redevelopment Area Plans, most recently Visitacion Valley/Schlage Lock.

Plans underway include Japantown, Glen Park, Western SoMa and Executive Park. Other major projects in development with the City include Treasure Island, Park Merced and the Transbay Transit Center. These ongoing community planning efforts should continue. These projects could result in a community accepted housing vision for the neighborhood, related zoning changes and neighborhood specific design guidelines that will encourage housing development in appropriate locations.

Together, these planning efforts could provide capacity for significantly more than the 31,000 units allocated for this planning period (2007-2014). However these plans will require significant investment in infrastructure and supporting services in order to support this growth. Each adopted plan contains related programs for affordable housing (directing the mix of housing types, tenures and affordability needs), infrastructure and community services, they also contain design guidelines and community review procedures. The City should prioritize public investment in these plan areas, according to each plans' infrastructure and community improvement program. These plans will also require diligence in their application: each plan contains numerous policies and principles intended to ensure neighborhood consistency and compatibility, and it is up to Planning Department staff and the Planning Commission to uphold those principles in project review and approvals.

Plan Area/ Major Project	Estimated New Housing Construction Potential*
Balboa Park Area Plan	1,800
Market/Octavia Area Plan	6,000
Central Waterfront Area Plan	2000
Mission Area Plan	1700
East SOMA Area Plan	2900
Showplace Square/Potrero Hill Area Plan	3200
Rincon Hill Area Plan	4,100
Visitation Valley Redevelopment Plan	1,500
Transbay Redevelopment Plan	3,400
Mission Bay Redevelopment Plan	<u>3,000</u>
Hunters Point Shipyard/ Candlestick Point	<u>10,000</u>
<b>Total Adopted Plans &amp; Projects:</b>	<b><u>39,600</u></b>
Executive Park	1,600
Glen Park	100
Japantown	To be determined
Park Merced	5,600
Transit Center District	1,200
West SOMA	2,700
Treasure Island	<u>7,000</u>
<b>Total Plans &amp; Projects Underway:</b>	<b><u>18,2900</u></b>
<b>TOTAL</b>	<b><u>57,800</u></b>

**Policy 1.4 Ensure neighborhood-supported community based planning processes are used to generate changes to land use controls.**

Community plans are an opportunity for neighborhoods to work with the City to develop a strategic plan for their future, including housing, services and amenities. Such plans can be used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate. Community plans also develop or update -neighborhood specific design guidelines, infrastructure plans, and historic resources surveys, as appropriate. As noted above, in recent years the City has undertaken significant community based planning efforts to accommodate projected growth. Zoning changes that involve several parcels or blocks should always involve significant community outreach, as part of a community based planning process.

Any new community based planning processes should be initiated *in partnership* with the neighborhood, and involve the full range of City stakeholders. The process should be initiated by the Board of Supervisors, with the support of the District Supervisor, through their adoption of the Planning Department's or other overseeing agency's work program;

and the scope of the process should be approved by the Planning Commission. To assure that the Planning Department, and other agencies involved in land use approvals conduct adequate community outreach, any changes to land use policies and controls that result from the community planning process may be proposed only after an open and publicly noticed process, after review of a draft plan and environmental review, and with comprehensive opportunity for support from the community input. Proposed changes must be approved by the Planning Commission and Board of Supervisors at a duly noticed public hearing. Additionally, the Department's Work Program allows citizens to know what areas are proposed for community planning. The Planning Department should use the Work Program as a vehicle to inform the public about all of its activities, and should publish and post the Work Program to its webpage, and make it available for review at the Department.

**Policy 1.6 Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.**

In San Francisco, housing density standards have traditionally been set in terms of numbers of dwelling units in proportion to the size of the building lot. For example, in an RM-1 district, one dwelling unit is permitted for each 800 square feet of lot area. This limitation generally applies regardless of the size of the unit and the number of people likely to occupy it. Thus a small studio and a large four-bedroom apartment both count as a single unit. Setting density standards encourages larger units and is particularly tailored for lower density neighborhoods consisting primarily of one- or two-family dwellings. However, in some areas which consist mostly of taller apartments and which are well served by transit, the volume of the building rather than number of units might more appropriately control the density.

Within a community supported based planning process, the City may consider using the building envelope, as established by height, bulk, set back, parking and other Code requirements, to regulate the maximum residential square footage, rather than density controls that are not consistent with existing patterns. In setting allowable residential densities in established neighborhoods, consideration should be given to the prevailing building type in the surrounding area so that new development does not detract from existing character. In some areas, such as RH-1 and RH-2, density limits should be maintained to prevailing height and bulk limits should be maintained to protect neighborhood character.

**Policy 1.10 Support new housing projects where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.**

San Francisco enjoys an extensive network of transit lines, including a number of major transit lines that provide nearby residents with the opportunity to move about the City without need of a car. Because of proximity to transit and bicycle networks,

neighborhood serving businesses and job centers, some 29% of the City's households do not own cars and 33% of San Franciscans take public transit to work, with higher rates for households in transit-rich areas. Infill housing in transit-rich areas can provide lower income households, affordable unsubsidized housing opportunities. Housing with easy access to transit facilitates the City's efforts to implement the City's *Transit First* policy. Additionally housing near transit can provide site-efficient and cost effective housing.

In reviewing reliance on public transportation, it is important to distinguish areas that are "transit-rich," and located along major transit lines, from those that are simply served by transit. For the purposes of this Housing Element, "major transit lines" are defined as those that have significant ridership and comprehensive service – meaning almost 24-hour service with minimal headways. This network of major transit lines includes BART's heavy rail lines, MUNI Metro's light rail system including the F, J, K, L, M and N lines, and Muni's major arterial, high-ridership, frequent service local network lines. These lines are defined and prioritized in Muni's Transit Effectiveness Project (TEP) as the "24-hour Rapid Network," and will be slated for long-term improvements. These transit lines are slated to receive funding and service increases which will make it easier to meet service demands as well as increase the ability to travel both downtown and between neighborhoods. Therefore, the Department should support housing projects along these major transit lines *provided* they are consistent with current zoning and design guidelines.

**Policy 4.6 Encourage an equitable distribution of growth according to infrastructure and site capacity.**

Equitable growth brings economic opportunity to all residents, provides for intelligent infrastructure investment and offers a range of housing choices. Distributing growth equitably means that each part of the City has a role in planning for growth, and receives an equitable distribution of growth's benefits. It is as much about revitalizing and redeveloping transitioning parts of the City such as the Eastern Neighborhoods, as it is about guiding new communities in areas such as Treasure Island.

Whether in existing or new neighborhoods, all of the City's residents should have access to public infrastructure, services and amenities. In ideal circumstances, infrastructure will be available before or in concert with new housing. Therefore growth should be directed through community planning to areas where public infrastructure exists and is underutilized; ~~it should not overburden built-out neighborhoods where infrastructure is at capacity. Community planning should also look to areas or where there is significant site capacity but are less developed in terms of infrastructure; these areas will require the construction of~~ and new infrastructure is planned in cooperation with new development.

**Policy 9.2 Continue prioritization of preservation of existing affordable housing as the most effective means of providing affordable housing.**

Financial support is required to continue to support the preservation of existing affordable housing. The HPP program has used tax-exempt bond financing, low income tax credits and federal funds to finance acquisition and rehabilitation costs. In addition, the Agency has engaged tenants and built organizing capacity to support acquisition



negotiations with owners of such developments. The City should continue these mechanisms to complete acquisitions of existing, at-risk subsidized units.

Additionally, other agencies in the City should look to retain existing affordable housing stock with supportive programs and policies. Privately owned and operated rental housing is under continuing pressure to convert to market rate housing, and programs such as the acquisition and rehabilitation model discussed previously can aid in their retention.

**Policy 10.2 Implement planning process improvements to both reduce undue project delays and provide clear information to support community review.**

As part of the Action Plan, the Planning Department is exploring a number of procedural and operational reforms intended to reduce project delays and increase community review.

To provide a more efficient review process that also provides the potential for earlier community review, the Planning Department is implementing a "Revised Development Review Process," based on the concept that earlier input and coordination by all divisions of the Planning Department on larger, more complex projects results in a more efficient review overall. The efficiency is gained by identifying and addressing significant project issues, and providing developers more comprehensive procedural information early in the review process. This approach also improves the likelihood that communities surrounding potential development projects will be more aware early in the review process. Together, these features reduce the overall review time for a project, allow for earlier community awareness, and—perhaps most importantly—ultimately result in better projects being approved and built.

To initiate neighbor communication early on in the development process, and provide the project sponsor the opportunity to address neighbor concerns about the potential impacts of the project prior to submitting an application, the Department has also implemented a required Pre-Application Process that requires eligible project sponsors to conduct community meetings prior to filing any entitlement, inviting all relevant Neighborhood Associations, abutting property owners and occupants. This process allows the community access to planned projects, and allows the project sponsor to identify, and address, issues and concerns early on.

***Objective 11 Support and respect the diverse and distinct character of San Francisco's neighborhoods.***

San Francisco is a City of neighborhoods, each with a distinct character and quality. While the Housing Element provides a citywide housing strategy, no policy should be applied without first examining its applicability to each specific neighborhood's unique context. Its implementation should be applied and expressed differently in each neighborhood. The existing character, design context (including neighborhood specific design guidelines), historic and cultural context, and land use patterns of each neighborhood shall inform and define the specific application of Housing Element

policies and programs. As each neighborhood progresses over time the distinct characters will form the foundation to all planning ~~and preservation efforts~~ work in the area. Just as the City seeks a variety of housing types to meet the diversity of needs, the City also values a variety of neighborhood types to support the varying preferences and lifestyles of existing and future households. Changes planned for an area should build on the assets of the specific neighborhood while allowing for change.

**Policy 11.2 Ensure implementation of accepted design standards in project approvals.**

As the City's Residential Design Guidelines state, San Francisco is known for its neighborhoods and the visual quality of its buildings. Its architecture is diverse, yet many neighborhoods are made up of buildings with common rhythms and cohesive elements of architectural expression. For all new buildings and major additions, the fundamentals of good urban design should be followed, respecting the existing neighborhood character, while allowing for freedom of architectural expression. A variety of architectural styles (e.g. Victorian, Edwardian, Modern) can perform equally well. Proposed buildings should relate well to the street and to other buildings, regardless of style. New and substantially altered buildings should be designed in a manner that conserves and respects neighborhood character. High quality materials, and a strong attention to details, should be carried across all styles. And buildings should represent their era, yet be timeless.

Planning Department review of projects and development of guidelines should build on ~~and bolster individual community's~~ adopted local controls, including recently adopted Area Plans, ~~neighborhood specific guidelines, neighborhood Covenants, Conditions, and Restrictions (CC&R's),~~ neighborhood specific design guidelines, and historic preservation district documents. Planning staff should be aware of, and be a resource for, on-going individual community efforts that support good planning principles, such as neighborhood-specific Covenants, Conditions, and Restrictions (CC&R's) and design guidelines. New development and alterations or additions to existing structures in these neighborhoods should refer to these controls in concert with the citywide Residential Design Guidelines, although only those guiding documents approved by the Planning Commission may be legally enforced by Planning staff. Also projects in historic preservation districts should refer to related design documents.

**Policy 11.3 Ensure growth is accommodated without significantly-substantially and adversely impacting existing residential neighborhood character.**

Accommodation of growth should be achieved without damaging existing residential neighborhood character. In community plan areas, this means development projects should adhere to adopted policies, design guidelines and community review procedures. In existing residential neighborhoods, this means development projects should uphold and preserve the existing ~~defer to the prevailing height and bulk-zoning~~ of the area.

To ensure character is not impacted, the City should continue to use community planning processes to direct growth and change according to a community-supported based vision.

The Planning Department should utilize residential design guidelines, neighborhood specific design guidelines, and other documents describing a specific neighborhood character as guideposts to determine compatibility of proposed projects with existing neighborhood character.

The Department should support the adoption of neighborhood-specific design standards in order to enhance or conserve neighborhood character, provided those guidelines are consistent with overall good-planning principles and help foster a more predictable, more timely, and less costly pre-development process. To this end, the Department should develop official procedures for submittal of neighborhood-initiated design guidelines, for review by Department staff, and for adoption or endorsement.

**Policy 11.4 Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan**

Current zoning districts result in land use and density patterns shown on the accompanying Generalized Permitted Housing Densities by Zoning District, Map 6; and the accompanying table illustrating those densities, Table I-64, in Part 1 of the Housing Element. The parameters contained in the Planning Code under each zoning districts can help ensure that new housing does not overcrowd or adversely affect the prevailing character of existing neighborhoods. The City's current zoning districts conform to this map and provide clarity on land use and density throughout the City. When proposed zoning map amendments are considered as part of the Department's community planning efforts, they should conform generally to these this maps, although minor variations consistent with the general land use and density policies may be appropriate. They should also conform to the other objectives and policies of the General Plan.

**Policy 11.5 ~~Maintain allowable~~ Ensure densities in established residential areas at levels which promote compatibility with prevailing neighborhood character.**

Residential density controls should continue to be applied where appropriate to maintain reflect prevailing building types in established residential neighborhoods. Particularly in RH-1 and RH-2 areas, density limits should be maintained prevailing height and bulk patterns should be maintained to protect neighborhood character. Other strategies to maintain and protect neighborhood character should also be explored, including "neighborhood livability initiatives" that could examine community-supported guidelines and principles to preserve what is beloved about the area. Such an initiative could result in strategies to improve the appearance and accessibility of neighborhood commercial districts, or neighborhood specific design guidelines for specific RH-1 and RH-2-neighborhoods.

**Policy 12.1 Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.**

New residents require access to neighborhood serving businesses, employment centers, recreation facilities, and regional centers. To the extent possible these trips should be easily accommodated on the existing transportation network with increased services. To that end the city should promote housing development in areas that are well served with

transportation infrastructure including Bart trains, and Muni light rail trains. However, changes to the Planning Code to further accommodate housing near transit will only occur through a ~~neighborhood-supported~~ community based planning process. Encouragement of the use of public transit and car-sharing must be accompanied by improving the reliability and usability of public transportation and broadening access to and location of car share options, as ways to make these alternatives more attractive. Additionally, bicycle amenities can and should be an integral component to housing and supporting the City's Transit First policy. The City must maintain and improve the transportation network in coordination with new development. Long range transportation planning should consider projected growth patterns. Tools such as impact fees should facilitate the coordination of new growth with improved transportation infrastructure. As the City has been directing planning efforts to shape housing construction in transit-rich locations through its Redevelopment, Better Neighborhoods and other community planning processes, its funding efforts should prioritize these parts of the City. To ensure that new neighborhood infrastructure, particularly transit, is provided concurrently with new growth, agencies within the City should prioritize funding or planning efforts within these planned areas, especially for discretionary funding application processes such as the state's Proposition 1C.

**Policy 13.3 Promote sustainable land use patterns that integrate housing with transportation via in order to increase transit, pedestrian, and bicycle mode share.**

Sustainable land use patterns include those located close to jobs and transit, as noted above. But they also include easy access to, and multiple travel modes between, other services, shopping and daily needs. This could mean all services needed are located within an easy walk of the nearby housing; it could also mean that such services are available by bike or transit, or in the best cases, by all modes. The common factor in sustainable land use patterns is that the need for a private car is limited.

To encourage walking, cycling and transit use, comprehensive systems must be in place. A Citywide network of walkable streets, bike lanes that are safe for children as well as the elderly, and reliable, convenient, transit must be in place. The City should continue efforts to improve such networks, to make them more attractive to users. The City should also continue requirements and programs that link developers of housing to contribute towards such systems. Sustainable design that includes improved streets and transit stops adjacent to developed property, as well as the inclusion of mid-block crossings, alleys and bike lanes at larger, multi-block developments, can further incentivize non-automotive movement.

EXHIBIT 6



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Informational Item

HEARING DATE: FEBRUARY 24, 2011

*Date:* February 17, 2011  
*Project:* Update on the Development of the Bay Area's First Sustainable Communities Strategy (SB 375)  
*Staff Contact:* Sarah Dennis Phillips, Senior Planner  
[sarah.dennis-phillips@sfgov.org](mailto:sarah.dennis-phillips@sfgov.org)  
*Recommendation:* None. This is an information item.

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### PROJECT DESCRIPTION

This staff report describes Senate Bill 375, the Sustainable Communities Strategy (SCS) and the effect of the law on local governments as well as the Bay Area as a region. This report is based on reports provided by the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG).

The SCS will be developed in partnership among regional agencies, local jurisdictions and Congestion Management Agencies (CMAs) through an iterative process. The regional agencies recognize that input from local jurisdictions with land use authority is essential to create a feasible SCS. The SCS does not alter the authority of jurisdictions over local land use and development decisions.

The purpose of this report is to provide Commissioners with an overview of the SCS in relation to local land use policies, implementation needs, and quality of life, including key policy considerations for San Francisco.

### BACKGROUND

Senate Bill 375 became law in 2008 and is considered landmark legislation for California relative to land use, transportation and environmental planning. It calls for the development of a Sustainable Communities Strategy (SCS) in all metropolitan regions in California. Within the Bay Area, the law gives joint responsibility for the SCS to the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG). These agencies will coordinate with the Bay Area Air Quality Management District (Air District) and the Bay Conservation and Development Commission (BCDC).

The SCS integrates several existing planning processes and is required to accomplish the following objectives:

1. Provide a new 25-year land use strategy for the Bay Area that is realistic and identifies areas to accommodate all of the region's population, including all income groups;
2. Forecast a land use pattern, which when integrated with the transportation system, reduces greenhouse gas emissions from automobiles and light trucks and is measured against our regional target established by the California Air Resources Board (CARB).

The SCS is a land use strategy required to be included as part of the Bay Area's 25-year Regional Transportation Plan (RTP). By federal law, the RTP must be internally consistent. Therefore, the over \$200 billion dollars of transportation investment typically included in the RTP must align with and support the SCS land-use pattern. SB 375 also requires that an updated eight-year regional housing need allocation (RHNA) prepared by ABAG is consistent with the SCS. The SCS, RTP and RHNA will be adopted simultaneously in early 2013.

## ISSUES & DISCUSSION

Because the SCS has the potential to increase San Francisco's share of regional funding in the next Regional Transportation Plan, and to affect how affordable housing targets are assigned through the Regional Housing Needs Allocation process, it is important to understand the planning process, its related regional plans, and its implications for San Francisco.

**SCS Planning Process:** The final SCS will be the product of an iterative land use and transportation planning process that balances growth and supportive transportation investments and policies. ABAG and MTC expect to release an Initial Vision Scenario in February 2011, followed by more detailed SCS scenarios that refine the initial vision scenario in Spring and Fall 2011, and a final draft in early 2012. For more details about the timeline, see SCS Schedule (Attachment 1).

- *Initial Vision Scenario – February 2011.* The Vision Scenario will encompass an initial identification of places, policies and strategies for long-term, sustainable development in the Bay Area, based in large part on input from local jurisdictions. MTC and ABAG have asked local governments to identify places of great potential for sustainable development, including Priority Development Areas (PDAs), transit corridors, employment areas, as well as infill opportunity areas that lack transit services but offer opportunities for increased walkability and reduced driving (San Francisco's PDAs, which were designated by a resolution of the Board of Supervisors in June 2007, are shown on Attachment 2). City agencies, including the Planning Department, Transportation Authority (SFCTA) and Municipal Transportation Agency (SFMTA), sent a letter conveying San Francisco's input into this scenario (Attachment 3). Because San Francisco already has plans to accommodate almost the entire amount of growth expected (over 90%) by 2035 within its designated PDAs, and because significant resources are necessary to provide the infrastructure necessary to support this growth, staff elected not to identify additional areas that could take on greater levels of growth at this time.
- *Detailed Scenarios – July 2011.* By the early spring of 2011 the conversation between local governments and regional agencies will turn to the feasibility of achieving the region's goals through analysis of the Initial Vision Scenario and subsequent modifications comprising the Detailed Scenarios. The Detailed Scenarios will be different than the Initial Vision Scenario in that they will take into account constraints that might limit development potential, and

will identify the infrastructure and resources that can be identified and/or secured to support the scenario. Local jurisdictions will provide input, which will then be analyzed for the release of the Preferred Scenario by the end of 2011.

**Regional Housing Needs Allocation:** The RHNA is a process required under State law by which each city in the region is assigned a housing target by income level that must be accommodated in the city's Housing Element. The total housing needs number for the Bay Area region is assigned by the State Department of Housing and Community Development (HCD), and that regional target is allocated to the various Bay Area jurisdictions by ABAG with input from the RHNA methodology committee. San Francisco will have several representatives, including staff from Planning, MOH, and an elected official, seated on the RHNA methodology committee.

SB 375 requires that the RHNA consistent with the SCS (local jurisdictions must, within 3 years of the adoption of the SCS, take local action to plan for housing needs growth identified for their jurisdiction in the SCS.) The process to update RHNA will begin in early 2011, adoption of the RHNA methodology will occur by September 2011, and the Draft RHNA, including local allocations, will be released by spring 2012. ABAG will adopt the Final RHNA by the end of summer 2012. Local governments will address the next round of RHNA in their next Housing Element update, slated to begin in 2013.

**Regional Transportation Plan:** The regional transportation plan is the region's 25-year financially constrained program of transportation projects anticipated to be delivered with available funds – by law, all regionally significant projects must be incorporated into the RTP. Regional agencies will work closely with the Congestion Management Agencies (CMAs), transportation agencies and local jurisdictions to define financially constrained transportation priorities in their response to a call for transportation projects in early 2011 and a detailed project assessment that will be completed by July/August 2011.

The RTP will be analyzed through 2012 and released for review by the end of 2012. A key policy question will be the extent to which the region re-directs discretionary (non-formula) transportation funding toward projects that support the two major mandates of SB35 for SCS: accommodating the region's housing needs, and reducing greenhouse gas emissions from the transportation and land use sector. ABAG will approve the SCS by March 2013. MTC will adopt the final RTP and SCS by April 2013. Regional agencies will prepare one Environmental Impact Report (EIR) for both the SCS and the RTP. This EIR might assist local jurisdictions in streamlining the environmental review process for some of the projects that are consistent with the SCS by taking advantage of CEQA streamlining provisions in SB 375.

**Coordination:** The City's land use and transportation agencies are coordinating regularly on three levels. First, the Transportation Authority, as San Francisco's Congestion Management Agency and county representative tasked with coordinating directly with ABAG & MTC, has staffed two rounds of meetings hosted by Chair Mirkarimi, with the participation of Department heads of several City agencies. Agencies represented at the meetings include: Planning Department, Redevelopment Agency, Department of the Environment, SFMTA, Mayor's Office, Port of San Francisco, Department of Public Health, BART and Caltrain/SamTrans. Second, at the staff level, a Sustainability Working Group that meets monthly to coordinate on sustainability-related planning issues. Finally, staff anticipates convening a range of sessions to connect with stakeholders, including



meetings with regional counterparts, particularly in the Bay Bridge and Peninsula/South Bay corridors, through the “County/Corridor Working Groups”; as well as local discussion sessions.

**Outreach:** MTC & ABAG, as the agencies responsible for development of the SCS, have adopted a Public Participation Plan, which lays out the steps MTC will take to involve residents in decisions affecting Bay Area transportation and land use policies and investments. It includes detail on Public meetings, workshops and forums, web access, and publications that will be used to ensure the public and interested parties with reasonable opportunities to be involved in the regional planning process.

To further the ability of our local citizens to engage in this regional process, the City is pursuing several steps:

- The development of a local website to inform the public.
- The creation of an online discussion forum where staff can respond to questions and San Francisco citizens can share thoughts on the SCS process.
- Regular forums, hosted by local Agency Directors, to further City/citizen dialogue on the SCS process

## KEY ISSUES FOR SAN FRANCISCO

San Francisco has been a leader within the region in planning for sustainable growth. The City has had a continuing strategy to plan for growth through community, redevelopment and other area plans, which make up the City’s Priority Development Areas (PDAs), and to partner that growth with supportive infrastructure and other improvements. The resulting community planning efforts provide estimated capacity for as much as 64,000 new households in PDAs, representing over 90% of our growth targets. This is significantly higher than the next closest county, which plans to accommodate only about 40% of new households in PDAs. To support and help achieve our vision for growth, we have strongly urged the region to consider the following policies in the SCS:

1. Maintenance resources should be prioritized for jurisdictions that are currently accommodating regional growth and travel in an equitable and sustainable manner; and that demonstrate progress toward meeting RHNA affordable housing targets.
2. Expansion resources should be prioritized for jurisdictions that are proactively planning to accommodate expected growth—and particularly affordable housing—between 2010 and 2035, in a sustainable and cost-effective manner; and
3. Discretionary regional funding should be prioritized for projects that reduce regional greenhouse gas emissions equitably and cost-effectively over their life cycle; and for projects that serve TOD that includes affordable housing.

Staff is also particularly concerned about potential gentrification and displacement pressures that are often the unintended side effects of growth. The City will be advocating that the SCS & the RHNA should distribute housing across the region such that lower income households have increased access to safe and healthy neighborhoods as well as jobs and education, and simultaneously include protections to prevent displacement and facilitate preservation of the existing supply of affordable housing.

This is an opportune time to obtain input from the Commission and the public on these policies, as it is still early in the SCS development process. Going forward, our participation will be critical as the process will move quickly, with most major policy decisions expected to be discussed and formulated in mid- to late 2011.

#### **PUBLIC COMMENT**

The Department has not received any correspondence on this topic; however, we look forward to coordinating a local dialogue with stakeholders and interested parties throughout the regional planning process.

#### **REQUIRED COMMISSION ACTION**

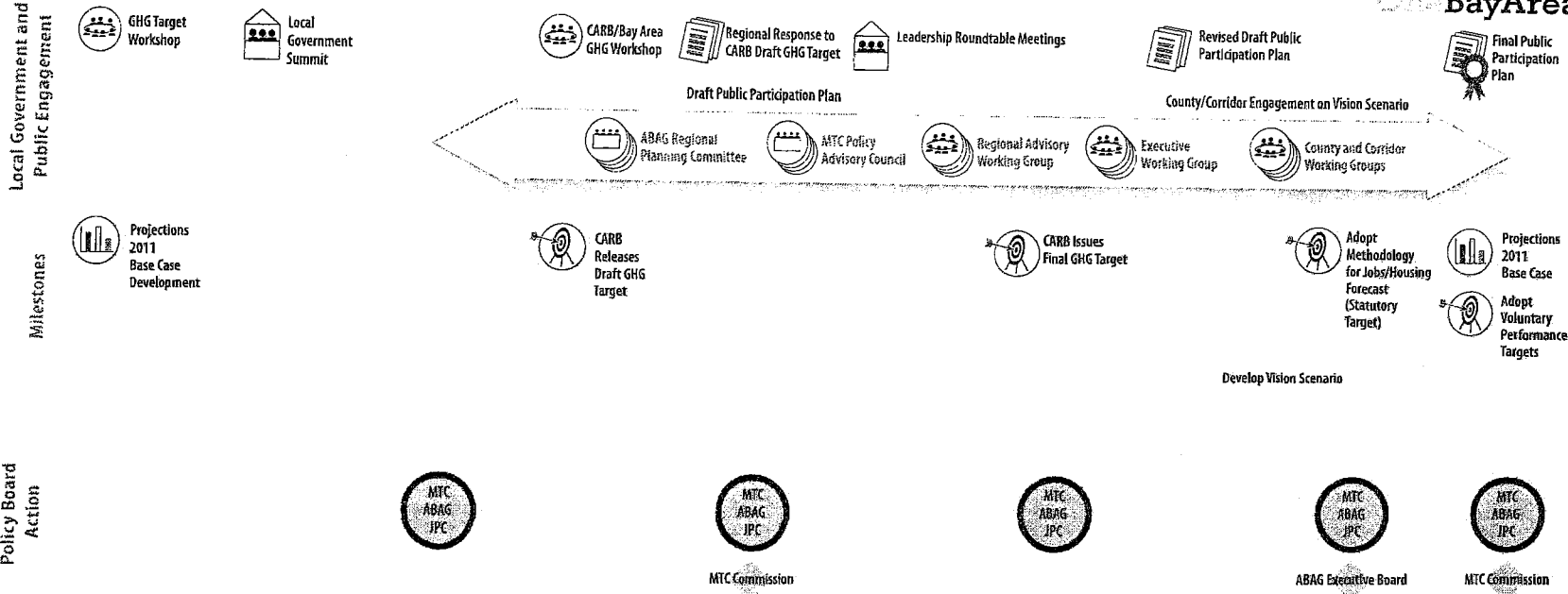
None. This is an information item.

#### **Attachments:**

1. SCS Schedule, MTC/ABAG
2. San Francisco Priority Development Area Map
3. San Francisco Vision Scenario Input Letter, dated December 17, 2010

# Sustainable Communities Strategy Planning Process: PHASE 1: PERFORMANCE TARGETS AND VISION SCENARIO

Phase 1: Performance Targets and Vision Scenario



**Phase One Decisions:**

- GHG Targets
- Performance Targets
- Public Participation Plan

March	April	May	June	July	August	September	October	November	December
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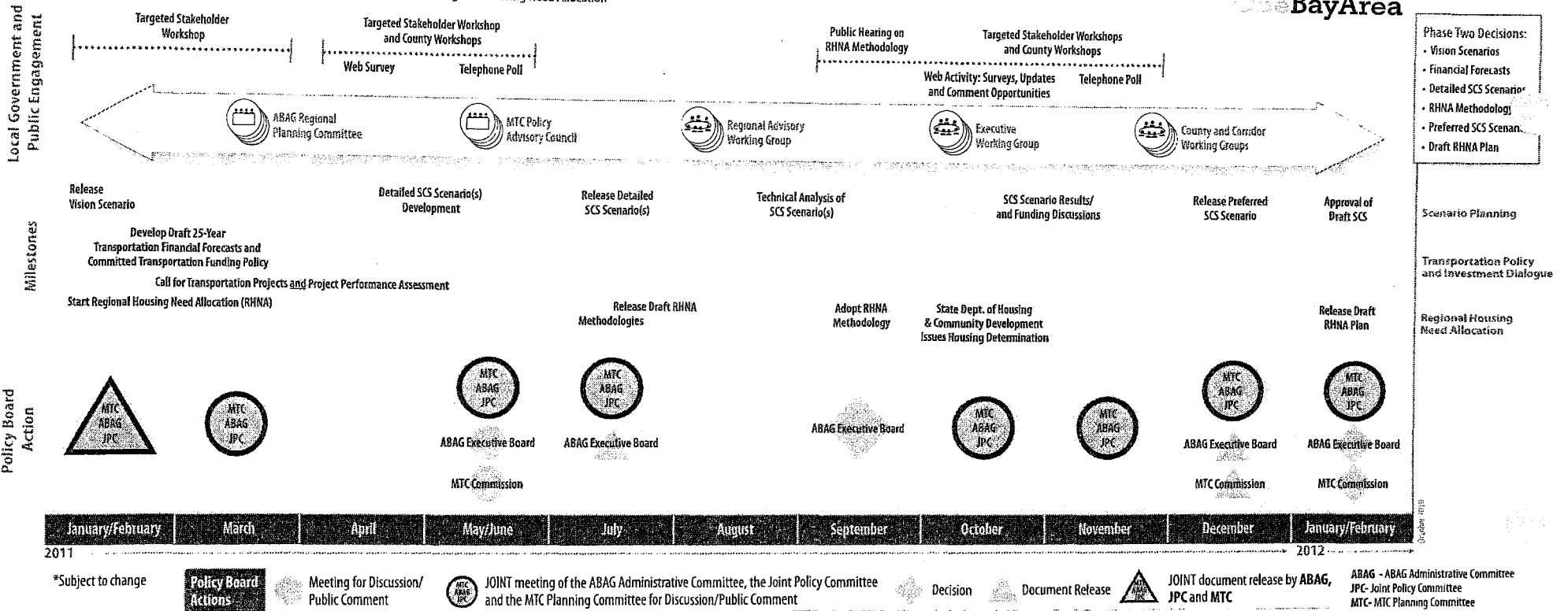
2010	<p>*Subject to change</p> <p><b>Policy Board Actions</b></p> <ul style="list-style-type: none"> <li>Meeting for Discussion/Public Comment</li> <li>JOINT meeting of the ABAG Administrative Committee, the Joint Policy Committee and the MTC Planning Committee for Discussion/Public Comment</li> <li>Decision</li> <li>Document Release</li> </ul>
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ABAG - ABAG Administrative Committee  
 JPC - Joint Policy Committee  
 MTC - MTC Planning Committee

October 2010

# Sustainable Communities Strategy Planning Process: PHASE 2: Scenario Planning, Transportation Policy & Investment Dialogue, and Regional Housing Need Allocation

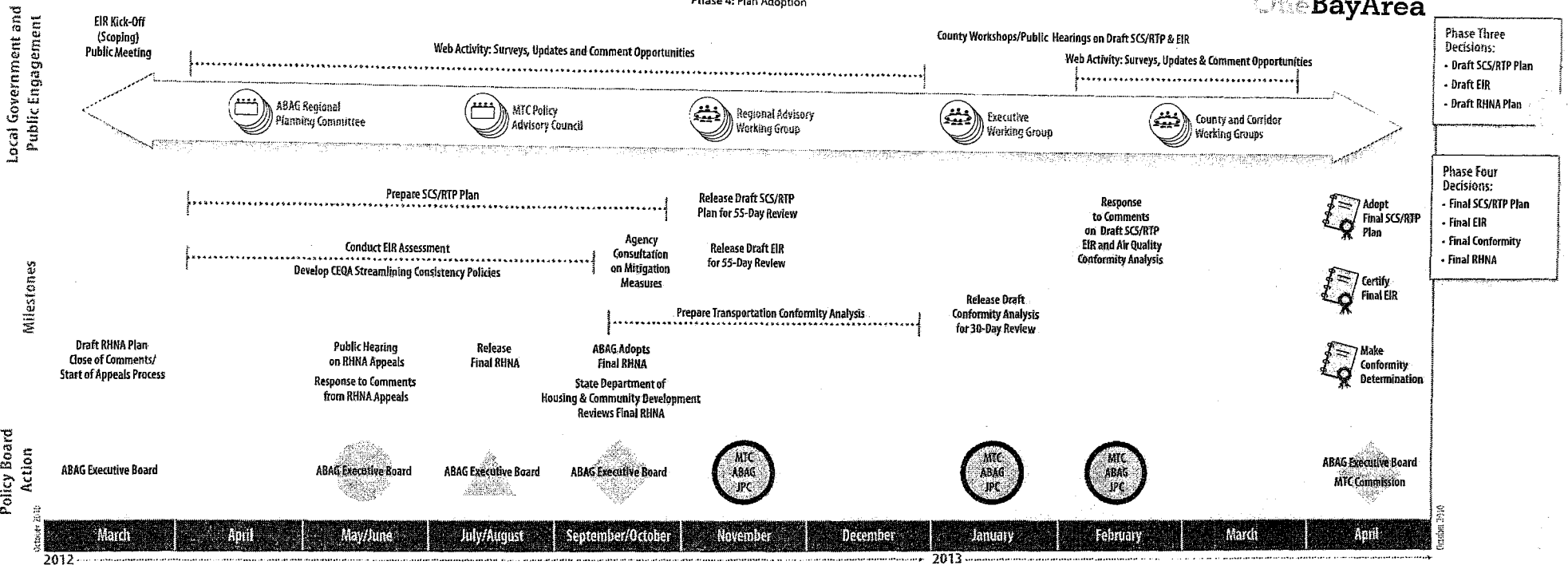
Bay Area



# Sustainable Communities Strategy Planning Process: Phase 3: Housing Need Allocation, Environmental/Technical Analyses and Final Plans

Phase 3: Housing Need Allocation, Environmental/Technical Analyses and Final Plans

Phase 4: Plan Adoption



**Phase Three Decisions:**

- Draft SCS/RTP Plan
- Draft EIR
- Draft RHNA Plan

**Phase Four Decisions:**

- Final SCS/RTP Plan
- Final EIR
- Final Conformity
- Final RHNA

\*Subject to change

**Policy Board Actions**

Meeting for Discussion/  
Public Comment

MTC ABAG JPC

JOINT meeting of the ABAG Administrative Committee, the Joint Policy Committee and the MTC Planning Committee for Discussion/Public Comment

Decision

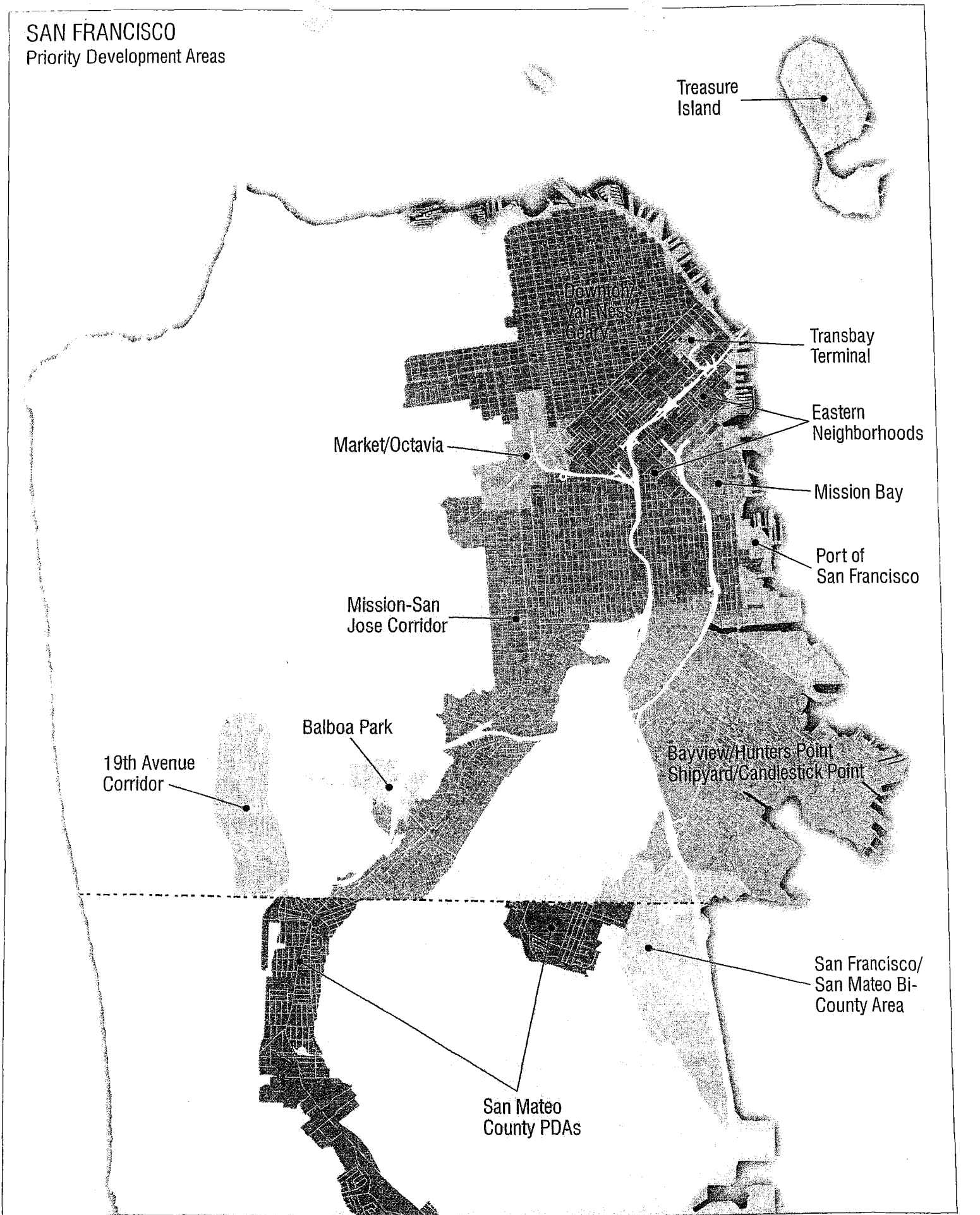
Document Release

ABAG - ABAG Administrative Committee  
JPC - Joint Policy Committee  
MTC - MTC Planning Committee

October 2012

2012 March April May/June July/August September/October November December 2013 January February March April

**SAN FRANCISCO**  
Priority Development Areas



Treasure Island

Downtown  
Financial  
District

Transbay Terminal

Eastern Neighborhoods

Market/Octavia

Mission Bay

Port of San Francisco

Mission-San Jose Corridor

Balboa Park

Bayview/Hunters Point Shipyard/Candlestick Point

19th Avenue Corridor

San Francisco/  
San Mateo Bi-County Area

San Mateo County PDAs



December 17, 2010

Marisa Raya, Regional Planner  
Association of Bay Area Governments (ABAG)  
101 Eighth St.  
Oakland, CA 94607

Subject: SCS Vision Scenario Place Types and Policies: San Francisco Input

Dear Marisa:

On behalf of the City and County of San Francisco, we thank you for the opportunity to provide input into the development of the “Vision Scenario” for the Bay Area’s first Sustainable Communities Strategy (SCS). We have developed the information ABAG requested regarding our vision for sustainable growth, including the “Place Types” that most accurately describe the San Francisco-designated Priority Development Areas (PDAs) and the policies, incentives, and implementation strategies that will be necessary to achieve our vision.

San Francisco is planning to accommodate more than 60,000 new households in PDAs by 2035. This represents the placement of over 90% of our county growth targets (from Projections 2009) within PDAs. This is significant as the next closest county achieves only ~40% of new households in PDAs<sup>1</sup>. However, our willingness to plan for this growth cannot be taken for granted and, in order to be realized, must be accompanied by regional resources for core infrastructure investment and supportive policy reform. As ABAG and MTC work to develop the “Vision” scenario and initiate regional funding policy discussions in early 2011, we hope the discussion will be guided by the following principles:

1. **Maintenance resources should be prioritized for jurisdictions that are currently accommodating regional growth and travel in an equitable and sustainable manner; and that demonstrate progress toward meeting RHNA affordable housing targets.**
2. **Expansion resources should be prioritized for jurisdictions that are proactively planning to accommodate expected growth – and particularly affordable housing — between 2010 and 2035, in a sustainable and cost-effective manner;**
3. **Discretionary resources should be prioritized for projects that reduce regional greenhouse gas emissions equitably and cost-effectively over their life cycle; and for projects that serve TOD that includes affordable housing.**

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<sup>1</sup> Based on PDA Assessment data reported at 9/2010 RAWG

Below, we provide the requested input on San Francisco's vision for growth.

### **Place Types**

We confirm the current Place Type designation for the majority of San Francisco's PDAs, as noted below.

- Regional Centers: Downtown Neighborhoods, Transbay Terminal/Transit Center District
- Urban Neighborhoods: Market & Octavia, Eastern Neighborhoods, Bayview/Hunters Point Shipyard/Candlestick Point, Mission Bay
- Transit Neighborhoods: Balboa Park, San Francisco/San Mateo Bi-County Area (includes the Executive Park/ Visitacion Valley/ Schlage Lock Plan Areas)
- Transit Town Center: 19th Avenue Corridor
- Mixed Use Corridor: Mission-San Jose Corridor

While the current Place Type categories adequately capture residential developments, we view the lack of a Place Type category that will accommodate significant job centers outside of the Regional, City and Suburban Center types as a constraint. For example, there is no good fit for the Port of San Francisco, whose land use plan focuses on job development, due to state restrictions on development on port land.

San Francisco's PDAs generally fall on the high end of unit targets and new projected density compared to the available Place Types. The current Place Type definitions fail to capture the high proportion of jobs to housing units that many of San Francisco's PDAs offer. We request that ABAG staff notify us if these differences will be material for any uses of the place type designations in the SCS planning process or for any other purposes.

### **Policies and Incentives**

The policies and incentives listed in the Policies and Place Types Form are all needed to some extent to support the overall level of growth in each of our Planned and Potential PDAs (except for funding to acquire open space). The policy areas of particular importance to San Francisco include:

- Enhanced funding for regional core transportation and non-transportation infrastructure such as water, sewer, utilities, and parks;
- Funding for affordable housing;
- Increased maintenance funding;
- Adequate provision of water treatment and water supply;
- Parking pricing policy;
- Improvements to school quality.



### **Implementation Strategies**

Many of the implementation strategies listed in the Policies and Place Types Form have already been put to use in San Francisco, including:

- Zoning for increased densities and/or mix of uses;
- Provision of affordable housing through zoning;
- Funding affordable housing development;
- Retention of existing affordable units; and
- Implementation of community impact fees, commercial linkage fees.

Implementation strategies needed to support growth of particular importance to San Francisco include:

- Major regional transit capital improvements beyond Resolution 3434;
- Transit capital improvements to bring fleets, guideways and facilities to a state of good repair;
- Non-motorized and alternative mode infrastructure investments such as walking and bicycle facilities. Bicycling alone has grown 58% in the last three years in San Francisco;
- Transportation demand management strategies such as parking management, ridesharing, virtual commuting and congestion pricing;
- Value capture/redevelopment infrastructure improvement;
- Increased transit service frequencies for core trunk lines serving PDAs;
- Improvements in non-auto access to schools, job centers, and other major destinations; and
- Utility and other infrastructure improvements, including adequate provision of water and sewer.

### **Accommodation of Growth**

San Francisco's Adopted and Planned PDAs collectively accommodate over 63,000 new housing units, and 136,000 new jobs. Healthy absorption of the city's existing vacancies in PDAs like Downtown provides the opportunity for another 23,000 or more jobs. However, new growth in San Francisco is not confined to PDAs. The city includes numerous small-scale infill opportunity sites close to transit throughout all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city. Cumulatively, San Francisco's PDAs and other opportunities yield the potential for over 85,000 housing units and almost 160,000 more jobs, more growth than is likely to be projected for San Francisco under the SCS P2011 Projections.

The ABAG-highlighted "Other Significant Areas" do not represent particular places that should be considered within the SCS process, and the city is not proposing any new PDAs. The lion's share of city's growth will continue to be focused in its PDAs, including new plans (such as the Western SOMA Plan under development, and the pending initiation of a plan for the Central Subway alignment, within the Downtown and Eastern Neighborhood PDAs); and growth opportunities will

be pursued as appropriate at smaller scale infill opportunities along transit lines outside of the PDAs.

How people commute to work has dramatic implications for the region's overall sustainability. In major downtowns like San Francisco and Oakland, a high percentage of workers commute by means other than automobile; outside of these areas, the percentage of workers that do not drive to work is insignificant. Increasing workplace development capacity in major centers, as opposed to other localities in the region, will go further to support both local and regional goals to reduce greenhouse gas emissions.

However, with the limited information available, San Francisco cannot volunteer to accept more growth. While more funding, incentives and policy support would inevitably increase the City's ability to accommodate and to manage growth, there is no way for the City to make a fair estimate of "how much" more growth would require, nor any way for us to assess how that growth could fit within the fabric of our city.

While San Francisco has pioneered transit supportive development over the past few decades, we are at our limit in terms of transit's ability to carry more people in the peak period without significant new right-of-way, fleet and facility expansion. Our transit state of good repair backlog is over \$2 billion just to maintain current service levels let alone the additional service levels from the expected growth, and similar backlogs exist for the regional transit service providers who serve San Francisco, such as BART and Caltrain. These core capital capacity constraints are regional in nature and will need a regional focus on resource prioritization for these PDAs to be successfully implemented. In addition, San Francisco needs over \$750 million to bring our local streets to a state of good repair, and many PDAs have significant non-transportation infrastructure investment needs as well, lacking the community assets necessary to make them complete communities.

San Francisco uses the strategies noted above to create and preserve affordable housing. Yet despite a deep commitment to mixed-income communities, the City has been unable to achieve more than a third (34%) of our RHNA affordable housing target. In the absence of additional resources for affordable housing, the City will be unable to accommodate equitable and sustainable growth at projected levels. Under the current RHNA for San Francisco, more than 60% of our projected housing need requires subsidy. San Francisco is making tremendous efforts and is succeeding in its efforts to bring affordable units into production. However, without financial support we will not have the ability to keep up with the mandated RHNAs.

We are further challenged by needing to pace growth with new investment. While San Francisco's planning efforts aim to combine changes in zoning with proposals for new infrastructure investment, we continually face resistance from neighborhoods who are skeptical that needed infrastructure will come. There is a very real threat of neighborhood demand for legislation that meters growth according to infrastructure provision, thereby restricting zoning changes and any development under those zoning changes, until after the infrastructure is in place.

In sum, the region cannot assume, or take for granted, San Francisco's growth plans. We need support and incentives, in order to realize our vision. In doing so, San Francisco is poised to help the region realize our shared region for a more sustainable Bay Area. We hope this input is helpful in shaping the SCS "Vision" scenario. We look forward to continuing our collaboration and to

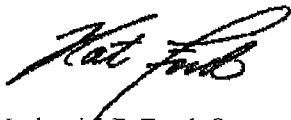
participate in the SCS/RHNA/RTP planning process.

Sincerely,



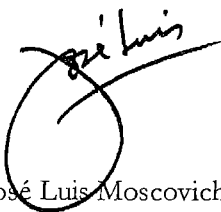
John Rahaim

Planning Director, San Francisco Planning Department



Nathaniel P. Ford, Sr.

Executive Director/CEO San Francisco Municipal Transportation Agency



José Luis Moscovich

Executive Director, San Francisco County Transportation Authority

cc: Com. Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elbsernd, Mar, Maxwell, Mirkarimi  
S. Heminger, D. Kimsey, MTC  
E. Rapport, K. Kirkey, ABAG  
B. Strong, Capital Planning  
M. Lee-Skowronek, Caltrain  
B. Garcia, DPH  
V. Menotti, BART  
E. Reiskin, DPW  
N. Kirschner-Rodriguez, Mayor's Office  
M. Yarne, MOEWD  
D. Shoemaker, MOH  
M. Nutter, SFE  
T. Papandreou, B. Yee, SFMTA  
F. Blackwell, SFRA  
E. Harrington, PUC  
TC, MEL, ALA, RH, AC, ZB, LB, Chron, File: SCS

EXHIBIT 10



SAN FRANCISCO  
**PLANNING DEPARTMENT**

**SFMTA** | Municipal Transportation Agency

December 6, 2010

Ted Droettboom, Regional Planning Program Director  
Joint Policy Committee  
101 Eighth St.  
Oakland, CA 94607

Doug Kimsey, Planning Director  
Metropolitan Transportation Commission (MTC)  
101 Eighth St.  
Oakland, CA 94607

Ken Kirkey, Planning Director  
Association of Bay Area Governments (ABAG)  
101 Eighth St.  
Oakland, CA 94607

Subject: Comments on Draft Performance Targets for the Sustainable Communities Strategy

Dear Ted, Doug, and Ken:

Thank you for providing an inclusive process to develop the Draft Sustainable Communities Strategy Performance Targets. We recognize the significant amount of staff effort that is needed to facilitate the Performance Measures Ad Hoc Committee meetings, and appreciate the thorough and transparent process undertaken to consider a large number of potential measures and targets.

The City and County of San Francisco's planning, transportation, housing, and public health agencies agree that the targets generally reflect the right measurement areas, however there are several significant areas where we suggest specific new or modified measures. Most notably:

1. The housing and equity targets are not sufficient to measure the impacts that different scenarios will have in addressing the needs of low-income individuals.
2. We offer more comprehensive measures of transportation system effectiveness, that focus on the number and quality of transportation choices for households, among other considerations.
3. The transportation State of Good Repair (SOGR) targets should be weighted based on demand.
4. The economic vitality target needs a clearer focus that ties it to the overarching objectives

of improving the transportation/land use connection.

5. Targets tied to environmental and health outcomes, such as the targets for PM<sub>2.5</sub> collisions, and “active transportation” could be improved in several ways.

With these high-level points in mind, we offer the following comments and revisions to the targets.

1. **Modify Target 2 to, “House 100% of the region’s housing need by income level without displacing low-income residents and while increasing opportunities for low-income housing in all areas.”**

We appreciate the modified housing target proposed in the 12/7 Performance Measures ad hoc packet to consider displacement impacts, however we suggest additional modifications to it. Policy decisions that affect housing must be guided by experiences from the past, and must fit within strong legal mandates, such as Fair Housing Law. As place of residence is a strong determinant of access to goods and services, health resources, school quality, employment opportunities, and related socioeconomic outcomes, the SCS should address equity goals at a neighborhood level by improving the opportunities available to people in low-income brackets. With that goal in mind, we suggest modifying the housing target to include reducing geographic disparities by increasing income diversity in predominantly high-income and moderate-income neighborhoods.

2. **Replace Target #3 with “Reduce by X% concentrations of PM<sub>2.5</sub>, without exacerbating geographic disparities in PM<sub>2.5</sub> concentration within the region”**

We propose shifting the focus of this measure from an exposure-based perspective to a definition based on concentrations. Given the growing recognition of air quality conflicts between busy roadways and infill development, careful consideration should be given to how the measure and methodology will represent trade-offs between regional emissions reductions and local adverse effects. It is also critical that the methodology, measures, and targets be consistent with the BAAQMD CEQA thresholds guidance and other State and Federal regulatory guidance. Specifically, an exposure-based target would necessitate a methodology that factors in the positive impact Community Risk Reduction Plans under development would have in mitigating exposure. In addition, given that the 11 percent reduction in premature deaths used as a numerical basis for the proposed target is contingent on *all* sources of PM<sub>2.5</sub> being reduced to achieve the economy-wide federal standard, the methodology would require a forecast of emissions from *all* sources of particulate matter. For these reasons, we suggest a concentration-based target is more appropriate for the SCS. In addition, we believe it is more appropriate for the numerical basis for the target to reflect the more stringent State standard for PM<sub>2.5</sub> rather than the federal standard. Finally, it is also important to avoid any growth in geographic disparities in pollutant exposure. For these reasons, we suggest a target to “reduce by X% particulate matter concentrations”, where X% is the percentage reduction required of the transportation sector to meet the State ambient standard.

3. **Modify Target 4 to, “Reduce by 50% the number of injuries and fatalities from all collisions for each mode of transport” and work to refine the methodology to forecast injuries and fatalities disaggregated by mode.**

Disaggregating by mode is important to avoid shifting the burden of injury and fatality from one mode to another. Focusing on all injuries dilutes safety for the most vulnerable road users.

From an equity perspective, this approach would also be protective of most vulnerable road users, including pedestrians and cyclists, who are also more likely to be low-income, transit dependent populations. The Federal Highway Administration has published recommended methodology for conducting pedestrian injury predictive modeling and there are other published approaches for collision forecasting which incorporate changes in traffic and pedestrian volumes, mode shifts, and non-linear effects. We would be glad to work with the regional agencies to refine the methodology for this target.

4. **Replace Target #5 with, “Increase the walk and bicycle mode share for all trips by X%”**

We prefer a mode share-based target to a travel time-based target because it is a more direct and intuitive measure of benefit. Recognizing the importance of this target’s basis in public health outcomes, we suggest the target’s numeric basis be an increase in trips comparable to about 1 non-motorized trip per person per day. Additionally, we are very supportive of MTC/ABAG’s intention to complement non-motorized mode share analysis from the model with post-processing to reflect investments that cannot be modeled, such as Safe Routes to School.

5. **Add Target #7b, “Increase the share of low, very low, and extremely low income households residing within 45 minutes of their job.”**

We are supportive of Target #7, to “Decrease the combined housing and transportation costs of low and lower-middle income individuals,” but believe an additional equity target is necessary to advance the goal of improving opportunities available to very low, low, and moderate income households, including opportunities to live in neighborhoods with easy access to employment as well as resources like quality schools, efficient transportation, safe neighborhoods, and healthy food. We recognize that there is no reliable method to forecast a target that considers access to schools, safe neighborhoods or healthy food; in lieu of that, we suggest that access to employment begins to address this goal area.

6. **Replace Target #8 with Targets #8a, “Increase by X% the share of jobs in high quality transit-served locations” and #8b, “Increase by X % share of housing in high quality transit-served areas”**

Target #8, as originally proposed, “Increase by 10% the number of workers within 45 minutes of employment centers” could have critically counterproductive measurement outcomes. Absent a drill-down by mode, the target will bias the measure towards prioritizing roadway investments because motor vehicles are usually the fastest mode. This makes the misleading assumption that simply residing near a job center means that the journey-to-work commute will be shorter in such a multi-centric, job-dispersed region as the Bay Area. In addition, we are skeptical that the methodology for the target proposed in the 12/7 ad hoc packet, “Increase gross regional product by X%” will capture tradeoffs between different scenarios’ land use distributions and transportation investments/policies. Moreover, it is unclear to what extent land use and transportation policy drive factors important to a region’s or sub-region’s productivity, compared with business regulations and other quality of life factors. Future SCS’s may benefit from some research into this area. In the meantime, we agree that land use and transportation contribute to economic vitality by offering competitive accessibility, and the alternative targets we suggest “Increase by X% the share of jobs in high quality transit-served locations” and “Increase by X

% share of housing in high quality transit-served areas” will prioritize scenarios where accessibility is greater.

7. We suggest Targets #9a, **“Increase the number and quality of travel choices as measured by an improvement in accessibility by X%, particularly for auto and/or transit captive groups”** and #9b, **“Ensure that transit supply is adequate to accommodate transit demand (load factors of no more than 1.0)”**

As the area most directly affected by the investment and policy decisions made in the regional transportation plan, transportation system effectiveness should be a core goal of the SCS, and we strongly believe this should be one of the most robust areas of performance measurement in the SCS. In order to prioritize scenarios that increase the number of attractive transportation choice to users, we offer Target #9a, “Increase the number and quality of travel choices as measured by an improvement in accessibility by X%, particularly for auto and/or transit captive groups” This could be calculated from the log sum of the mode choices in the travel demand model. Another way to capture this accessibility would be by measuring the number of employment or recreational opportunities available within a given radius to a household, through the destination log sum model. We believe these measures are superior to the travel time by mode target proposed by MTC/ABAG because they consider accessibility in a more comprehensive way.

Secondly, target #9b, “Ensure that transit supply is adequate to accommodate transit demand (load factors of no more than 1.0)” would serve to correct a serious shortcoming in past regional planning efforts. Absent a transit capacity-constrained model (which we are currently nearing completion of developing for our regional travel demand model SF-CHAMP), examining load factors allows for a reality check on the assumptions of modeled transit ridership. As the region’s central core transit trunk is at capacity, it is likely that – absent adequate investment – transit riders would be turned away. In these cases, careful post-processing of model results will be needed to estimate the final mode choices of these travelers.

8. We suggest weighting Target 10 **“Maintain the Transportation System in a State of Good Repair” (SOGR) by demand to reflect the relative importance of maintenance of different parts of our transportation system.**

While we support the region’s fix-it-first policy, we recognize the need to prioritize even within this important area of our regional investment policy. Achieving SOGR in the future may require prioritizing some infrastructure and consciously letting other infrastructure become the purview of local investment policy. To help prioritize the region’s needs, we propose focusing on infrastructure that is more regionally significant and/or experiences much higher levels of usage on a day-to-day basis. This principle should be reflected in Target 10 by weighting each measure based on future demand.

9. **Modify Target #10c to make explicit the weighting of transit capital age by asset value, “Reduce average transit asset age, weighted by asset value, to 50% of useful life”, and we offer additional comments on the transit State of Good Repair targets.**

We appreciate the suggested transit state of good repair methodology refinement over that used in Transportation 2035, to weight asset age by the replacement cost, thus emphasizing the most



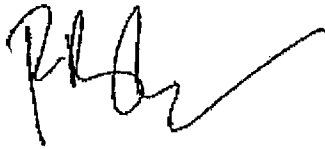
costly assets which are hardest to replace. We request making this methodology change explicit in the target. Additionally, while the proposed target is an acceptable measurement for the high-level purposes of SCS performance measurement, we wanted to point out that the target departs from our municipal transit state of good repair goals, which focus on prioritizing replacement of assets beyond their useful life that have the highest impact to transit operations, and investing in asset replacement strategies with the lowest possible lifecycle costs. We encourage further discussion on potential targets that reflect and forecast life cycle costs to complement the 50% of useful life target. At a minimum, we hope this can be considered as an indicator area and that the policy can be further developed in subsequent discussions about regional investments to achieve a better transit state of good repair

Thank you for considering our comments. We look forward to discussing them further at the December 7 ad hoc meeting as well as at a future Regional Advisory Working Group meeting.

Sincerely,



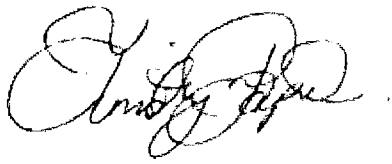
for  
David Alumbaugh  
Director of Citywide Planning, San Francisco Planning Department



Rajiv Bhatia  
Director, Occupational and Environmental Health, San Francisco Department of Public Health



Tilly Chang  
Deputy Director for Planning, San Francisco County Transportation Authority



Timothy Papandreou  
Deputy Director for Planning and Sustainable Streets, San Francisco Municipal Transportation  
Agency



Doug Shoemaker  
Director, San Francisco Mayor's Office of Housing

cc: Lisa Klein, David Vautin, MTC  
Miriam Chion, Marisa Raya, ABAG  
BY, DI, PA, PB SFMTA  
JLM, MEL, ALA, BC, RH, AC, ZB, LB, Chron, File: SCS

EXHIBIT 11

FILE NO. 071157

ORDINANCE NO. 72-08

1 [Planning Code Amendments to implement the Market and Octavia Area Plan.]

2  
3 Ordinance amending the San Francisco Planning Code to implement the Market and  
4 Octavia Area Plan of the General Plan by amending Section 102.5 (District); Section  
5 121.1 (Development on Large Lots, Neighborhood Commercial Districts); Section 121.2  
6 (Use Size Limits (Non-Residential), Neighborhood Commercial Districts); Section 124  
7 (Basic Floor Area Ratio); Section 132 (Front Setback); Section 134 (Rear Yards);  
8 Section 135 (Usable Open Space For Dwelling Units and Group Housing); Section 144  
9 (Treatment of Ground Story On Street Frontages); Section 145.1 (Street Frontages,  
10 Neighborhood Commercial Districts); Section 145.4 (Street Frontages Downtown and  
11 Mixed-Use Districts); Section 151.1 (Schedule of Required Off-Street Parking Spaces);  
12 Section 152. (Schedule of Required Off-Street Freight Loading Spaces in Districts Other  
13 Than C-3 or South of Market); Section 153 (Rules for Calculation of Required Spaces);  
14 Section 154 (Minimum dimensions for required off-street parking, freight loading and  
15 service vehicle spaces); Section 155 (General Standards as to Location and  
16 Arrangement of Off-Street Parking, Freight Loading and Service Vehicle Facilities);  
17 Section 156 (Parking Lots); Section 166 (Requirements for Provision of Car-Share  
18 Parking Spaces); Section 167 (Parking Costs Separated from Housing Costs in New  
19 Residential Buildings); Section 201 (Classes of Use Districts); Section 207.1. (Rules For  
20 Calculation Of Dwelling Unit Densities); Section 207.4 (Density of Dwelling Units in  
21 Neighborhood Commercial Districts); Section 208 (Density Limitations for Group  
22 Housing); Section 209.1-209.9 (Uses Permitted in RTO Districts); Section 234.2  
23 (Requiring CU Authorization for specified uses in P Districts within the Market and  
24 Octavia Neighborhood Area); Section 253 (Review of Proposed Buildings and  
25 Structures Exceeding a Height of 40 Feet in R Districts); Section 270 (Bulk Limits:

Supervisor Mirkarimi McGoldrick  
BOARD OF SUPERVISORS

1 Measurement); Section 303 (Conditional Uses: Determination); Section 304 (Planned  
2 Unit Developments: Criteria and Limitations); Section 311 (Residential Permit Review  
3 Procedures for RH and RM Districts: Applicability); Section 315 (Inclusionary Housing  
4 requirements) including adding a \$40-per-square-foot fee on new residential  
5 development in the Plan Area in addition to the existing inclusionary housing  
6 requirements in a per square foot amount of \$8 in the Van Ness Market Special Use  
7 District, \$4 in the Neighborhood Commercial Transit (NCT) district, and \$0 in the  
8 Transit-Oriented Residential (RTO) district; Section 316 (Procedures for Conditional  
9 Use Authorization in Neighborhood Commercial and South of Market Districts and for  
10 Live/Work Units in RH, RM, and RTO Districts); Section 603 (Exempted Signs); Section  
11 606 (Residential Districts); Section 702.1 (Neighborhood Commercial Use Districts);  
12 Section 720.1 (Hayes-Gough Neighborhood Commercial Transit District) to conform  
13 these sections with the new VNMDR-SUD, NCT and RTO district controls; and adding  
14 new zoning districts and a new special use district including Section 121.5 to establish  
15 controls for Development on Large Lots in Residential Districts; Section 121.6 to  
16 restrict lot mergers in residential districts and on pedestrian-oriented streets; Section  
17 158.1 related to Non-accessory Parking Garages in NCT and RTO Districts and the Van  
18 Ness and Market Downtown Residential Special Use District; Section 206.4 to establish  
19 the Transit-Oriented Residential District (RTO); Section 207.6 related to Required  
20 Minimum Dwelling Unit Mix and Unit Subdivision Restrictions in RTO and NCT  
21 Districts; Section 207.7 relating to Restrictions on Demolition, Conversion, and Merger  
22 of Existing Dwelling Units in RTO and NCT Districts; Section 230 establishing Limited  
23 Corner Commercial Uses in RTO Districts; Section 249.33 to establish the Van Ness  
24 and Market Downtown Residential Special Use District (VNMDR-SUD) including  
25 providing that projects in the VNMDR-SUD may exceed allowable Floor Area Ratio

1 (FAR) up to a certain ratio by paying \$30 per gross square foot into the Citywide  
2 Affordable Housing Fund but not by acquiring Transferable Development Rights  
3 (TDRs); and providing that projects may further exceed FAR limits above a site FAR of  
4 9:1 by paying \$15 per additional gross square foot into the Van Ness and Market  
5 Neighborhood Infrastructure Fund; Section 249.34 to establish the Fulton Street  
6 Grocery Store Special Use District; Section 249.35 to establish the Duboce Triangle  
7 Flexible Density Special Use District; Section 261.1 related to Additional Height Limits  
8 for Narrow Streets and Alleys in RTO and NCT Districts; Section 263.18 creating a  
9 Special Height Exception: Additional Five Feet Height for Ground Floor uses in NCT 40-  
10 X and 50-X Height and Bulk Districts; Section 263.20 Special Height Exceptions: Fulton  
11 Street Grocery Store Special Use District 40-X/50-X Height District; Sections 326-326.8  
12 establishing the Market and Octavia Community Improvements Fee and Fund including  
13 community improvement fees of \$10 per square foot for certain new residential and \$4  
14 per square foot for certain new commercial developments, and a springing fee for  
15 transit and parking impacts with a maximum fee of \$9 per square foot for transit  
16 impacts from residential development and \$5 per square foot for impacts from new  
17 parking spaces; Sections 341-341.4 establishing a Better Neighborhoods Area Plan  
18 Monitoring Program; Sections 731 and 731.1 creating an NCT-3 Moderate-Scale  
19 Neighborhood Commercial Transit District; Sections 732 and 732.1 creating the Upper  
20 Market Street Neighborhood Commercial Transit District; adding an uncodified Section  
21 4 adopting procedures for treatment of historic resources in the Plan Area calling for a  
22 study and implementation of an additional affordable housing program, and providing  
23 that this ordinance and the accompanying Market and Octavia General Plan  
24 amendments and zoning map amendments will not be effective until the effective date  
25 of such a program adopted by the Board of Supervisors; and adopting environmental

1 findings and findings of consistency with the General Plan and the eight priority  
2 policies of Planning Code Section 101.1.

3 Note: Additions are single-underline italics Times New Roman;  
4 deletions are ~~striethrough italics Times New Roman~~.  
5 Board amendment additions are double underlined.  
6 Board amendment deletions are ~~striethrough normal~~.

7 Be it ordained by the People of the City and County of San Francisco:

8 Section 1. Findings. The Board of Supervisors of the City and County of San  
9 Francisco hereby finds and determines that:

10 (a) Under Planning Code Section 302, the Board of Supervisors finds that this  
11 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
12 Planning Commission Resolution No. 17409 recommending the approval of this Planning  
13 Code Amendment, and incorporates such reasons by this reference thereto. A copy of said  
14 resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

15 (b) Under Planning Code Section 101.1, the Board of Supervisors finds that this  
16 ordinance is consistent with the Priority Policies of Planning Code Section 101.1(b) of the  
17 Planning Code and with the General Plan as amended in Ordinance No. 246-07 and hereby  
18 reaffirms its findings as set forth in said Ordinance. ~~proposed to be amended in companion~~  
19 ~~legislation and hereby adopts the findings of the Planning Commission, as set forth in~~  
20 ~~Planning Commission Resolution No. 17409, and incorporates said findings by this reference~~  
21 ~~thereto.~~

22 (c) In accordance with the actions contemplated herein, this Board adopted  
23 Planning Commission Motion No. 17407, concerning findings pursuant to the California  
24 Environmental Quality Act (California Public Resources Code sections 21000 et seq.) and  
25 made other related findings in Ordinance 246-07. The Board reaffirms these CEQA findings  
as set forth in Ordinance 246-07, . which are ~~A copy of said Motion is on file with the Clerk of~~

Supervisor Mirkarimi  
BOARD OF SUPERVISORS

1 the Board of Supervisors in File No. 071158 and is are incorporated by reference herein. The  
2 Board of Supervisors has reviewed a Memorandum from the Planning Department dated  
3 February 29, 2008 and March 19, 2008 and, based on that those Memorandum, public  
4 testimony, and information in the files of the Board of Supervisor and the Planning  
5 Department, including, but not limited to, the Final EIR, together with all supporting materials,  
6 reports, documents, public correspondence, public testimony, and Memoranda, makes the  
7 following findings: Since adoption of Ordinance No. 246-07 no substantial changes have  
8 occurred in the Project proposed for approval under this Ordinance that will require revisions  
9 in the Final EIR due to the involvement of new significant environmental effects or a  
10 substantial increase in the severity of previously identified significant effects, no substantial  
11 changes have occurred with respect to the circumstances under which the Project proposed  
12 for approval under the Ordinance are undertaken which will require major revisions to the  
13 Final EIR due to the involvement of new environmental effects or a substantial increase in the  
14 severity of effects identified in the Final EIR and no new information of substantial importance  
15 to the Project as proposed for approval in the Ordinance has become available which  
16 indicates that (1) the Project will have significant effects not discussed in the Final EIR, (2)  
17 significant environmental effects will be substantially more severe, (3) mitigation measure or  
18 alternatives found not feasible which would reduce one or more significant effects have  
19 become feasible or (4) mitigation measures or alternatives which are considerably different  
20 from those in the Final EIR would substantially reduce one or more significant effects on the  
21 environment. Moreover, based on public testimony and information in the files of the Board of  
22 Supervisor and the Planning Department, including, but not limited to, the Final EIR, together  
23 with all supporting materials, reports, documents, public correspondence, and Memoranda,  
24 the Board reiterates its findings in Ordinance No. 246-07 related to the mitigation monitoring  
25 program and statement of overriding considerations.

Supervisor Mirkarimi  
BOARD OF SUPERVISORS

Page 5  
4/16/08



1 Section 2. The San Francisco Planning Code is hereby amended by amending  
2 Sections 102.5, 121.1, 121.2, 124, 132, 134, 135, 144, 145.1, 145.4, 151.1, 152, 153, 154,  
3 155, 156, 166, 167, 201, 207.1, 207.4, 208, 209.1-209.9, 234.2, 253, 270, 303, 304, 311,  
4 315.43, 316, 603, 606. 702.1, and 720.1 to read as follows:

5 **SEC. 102.5. DISTRICT.**

6 A portion of the territory of the City, as shown on the Zoning Map, within which certain  
7 regulations and requirements or various combinations thereof apply under the provisions of  
8 this Code. The term "district" shall include any use, special use, height and bulk, or special  
9 sign district. The term "R District" shall mean any RH-1(D), RH-1, RH-1(S), RH-2, RH-3, RM-  
10 1, RM-2, RM-3, RM-4, RTO, RC-1, RC-2, RC-3, RC-4 or RED District. The term "C District"  
11 shall mean any C-1, C-2, C-3, or C-M District. The term "M District" shall mean any M-1 or M-  
12 2 District. The term "RH District" shall mean any RH-1(D), RH-1, RH-1(S), RH-2, or RH-3  
13 District. The term "RM District" shall mean any RM-1, RM-2, RM-3, or RM-4 District. The term  
14 "RC District" shall mean any RC-1, RC-2, RC-3, or RC-4 District. The term "C-3 District" shall  
15 mean any C-3-O, C-3-R, C-3-G, or C-3-S District. For the purposes of Section 128 and Article  
16 11 of this Code, the term "C-3 District" shall also include the Extended Preservation District  
17 designated on Section Map 3SU of the Zoning Map. The term "NC District" shall mean any  
18 NC-1, NC-2, NC-3, NCT-3, NC-S, and any Neighborhood Commercial District and  
19 Neighborhood Commercial Transit District identified by street or area name in Section 702.1. The  
20 term "NCT" shall mean any district listed in Section 702.1(b), including any NCT-3 and any  
21 Neighborhood Commercial Transit District identified by street or area name. The term "Mixed Use  
22 District" shall mean any Chinatown CB, Chinatown VR, Chinatown R/NC, or South of Market  
23 RSD, SPD, SLR, SLI or SSO District named in Section 802.1. The term "South of Market  
24 Districts" shall refer to all RED, RSD, SPD, SLR, SLI or SSO Districts contained entirely within  
25

EXHIBIT 12

SUMMARY OF THE PLANNING CODE STANDARDS FOR RESIDENTIAL DISTRICTS

ZONING DISTRICT	MAXIMUM DWELLING UNIT DENSITY (§208.1)	OTHER PRINCIPAL USES (Permitted as of Right) (§209-209.9)	OTHER CONDITIONAL USES (Subject to Commission Approval) (§209-209.9)	MINIMUM LOT SIZE (§121)	BASIC FLOOR AREA RATIO (Other than Dwellings) (§124)	FRONT SET-BACK REQUIREMENTS (§132)	REAR YARD REQUIREMENTS (§134)	USABLE OPEN SPACE REQUIREMENTS FOR DWELLING UNITS (§135)	OTHER SPECIAL REQUIREMENTS
RH-(D) House, One-Family (Detached Dwellings) (§208.1)	One dwelling unit per lot.		Medical institution; residential care facility for 7 or more; child care facility for 13 or more; elementary school; secondary school; religious institution; community facility; open recreation area; greenhouse or plant nursery; utility installation or public service facility; assembly garage; access driveway to C or M districts; non-accessory parking for a specific use; Planned Unit Development; C-2 use in structure on designated landmark site.	Width: 33 ft. Area: 4000 sq.ft.	1.0 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	25% of lot depth, but no less than 15 feet.	300 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§132) Setback requirement based on lot width. (§208.1) Use district height limit - 35 ft., 30 ft. at front of property.
RH-1 House, One-Family (§208.1)	One dwelling unit per lot; up to one unit per 2000 sq.ft. of lot area (maximum of 3 units) with conditional use approval.		Same uses as above, plus: Group housing; boarding; group housing; religious orders; group housing; medical and educational institutions; hotel up to 5 rooms.	Width: 25 ft. Area: 2500 sq.ft.	1.0 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	25% of lot depth, but no less than 15 feet.	300 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§208.1) Use district height limit - 35 ft., 30 ft. at front of property.
RH-1(S) House, One-Family with Minor Second Unit (§208.1)	Same as RH-1, or 2 dwelling units per lot with second unit limited to 400 sq.ft. of net floor area.	Residential care facility for 6 or fewer; child care facility for 12 or fewer; open space for horticulture or passive recreation; public structure or use of non-industrial character; sale or lease sign.		Width: 25 ft. Area: 2500 sq.ft.	1.0 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	25% of lot depth, but no less than 15 feet.	300 sq.ft. for first unit and 100 sq.ft. for second minor unit, if all private; common space substituted must be 1/3 greater.	(§208.1) Use district height limit - 35 ft., 30 ft. at front of property.
RH-2 House, Two-Family (§208.1)	Two dwelling units per lot, up to one unit per 1500 sq.ft. of lot area with conditional use approval.			Width: 25 ft. Area: 2500 sq.ft.	1.0 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, lot 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	125 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§144) Limits on parking entrances and blank facades. (§208.1) Use district height limit - 40 ft., 30 ft. at front of property.
RH-3 House, Three-Family (§208.1)	Three dwelling units per lot, up to one unit per 1000 sq.ft. of lot area with conditional use approval.			Width: 25 ft. Area: 2500 sq.ft.	1.0 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, lot 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	400 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§144) Limits on parking entrances and blank facades.
RM-1 Mixed (Apartments and Houses), Low Density (§208.2)	Three dwelling units per lot or one dwelling unit per 600 sq.ft. of lot area.		Same uses as above, excluding those listed in previous column as principal uses.	Width: 25 ft. Area: 2500 sq.ft.	1.0 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, lot 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	100 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§144) Limits on parking entrances and blank facades. (§145) Bulking, stepping or multiple pedestrian entrances on wider lots.
RM-2 Mixed (Apartments and Houses), Moderate Density (§208.2)	Three dwelling units per lot or one dwelling unit per 600 sq.ft. of lot area.	Same uses as above, plus: Group housing; boarding; group housing; religious orders.		Width: 25 ft. Area: 2500 sq.ft.	1.0 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, lot 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	80 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§144) Limits on parking entrances and blank facades. (§145) Bulking, stepping or multiple pedestrian entrances on wider lots.
RM-3 Mixed (Apartments and Houses), Medium Density (§208.2)	Three dwelling units per lot or one dwelling unit per 600 sq.ft. of lot area.			Width: 25 ft. Area: 2500 sq.ft.	3.6 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	25% of lot depth, but no less than 15 feet.	60 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	
RM-4 Mixed (Apartments and Houses), High Density (§208.2)	Three dwelling units per lot or one dwelling unit per 200 sq.ft. of lot area.			Width: 25 ft. Area: 2500 sq.ft.	4.0 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	25% of lot depth, but no less than 15 feet.	36 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	
RC-3 Residential-Commercial Combined, Medium Density (§208.3)	Three dwelling units per lot or one dwelling unit per 400 sq.ft. of lot area.	Same uses as above, plus: Hotel up to 5 rooms; open recreation area; access driveway to C or M districts. The following uses in or below the ground story: pediatric facility, childcare facility for 13 or more, elementary school, secondary school, religious institution, community facility, private recreation facility, greenhouse or plant nursery; plus any C-2 zoned commercial establishment.	Same uses as above, excluding those listed in previous column as principal uses; plus: Hotel or 6 or more rooms, use restricted in previous column to location in or below ground story, if located above ground story; plus C-2 zoned commercial establishment above ground story.	Width: 25 ft. Area: 2500 sq.ft.	3.6 times lot area	No requirement.	25% of lot depth, but no less than 15 feet. (all dwellings level only)	60 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§208.3) Commercial establishments include those designed primarily for customers arriving at the establishment by private motor vehicle.
RC-4 Residential-Commercial Combined, High Density (§208.3)	Three dwelling units per lot or one dwelling unit per 200 sq.ft. of lot area.			Width: 25 ft. Area: 2500 sq.ft.	4.0 times lot area	No requirement.	25% of lot depth, but no less than 15 feet. (all dwellings level only)	36 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	
RED Residential Enclosure District (§131)	One dwelling unit per 300 sq.ft. of lot area.	SRO units, child care facility, firework unit where work activity is an area activity, automobile parking lots; open recreation and horticulture, walk-up facilities except ATMs.	Residential care facility; recreational services; religious facility; assembly or social service; automobile parking garages, retail sales and services and office uses when in a landmark building or a contributory building in a historic district.	Width: 25 ft. Area: 2500 sq.ft.	1.0 times lot area	No requirement.	25% of lot depth, but no less than 15 feet.	60 sq.ft. per unit if all private; 80 sq.ft. if common space. 26 sq.ft. per unit for firework units.	
RTO Residential Transit Oriented Development (§208.4)	Permitted 1 dwelling unit per 600 square feet of lot area; may exceed this limit for 6000 sq.ft. units, affordable housing, or other special uses (§208.4(m)). With a conditional use permit, density may exceed 1 unit per 600 and is then limited by height, bulk and use requirements.	(§209) Neighborhood serving commercial uses permitted on corner lots only. Limit 1,200 gross sq.ft. total per corner. NC-1 rules generally apply. Residential care facility for 6 or fewer; child care facility for 12 or fewer; open space for horticulture or passive recreation; public structure or use of non-industrial character; sale or lease sign.	(§209.4) Community facilities	Width: 25 ft. Area: 2500 sq.ft.	Not Applicable	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth.	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, lot 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	100 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§151.1) No residential parking required. Permitted 3 spaces for every 4 units maximum, conditional use for 1 space per unit, not permitted above. (§207.5) Minimum dwelling unit size - 40% 2 bedroom for buildings with 5 or more units. (§144) Limits on parking entrances and blank facades. Parking must be set back and screened.

**NOTES:**  
 This chart is only a summary of the Planning Code provisions. The Code sections referred to in the chart should be consulted for the complete requirements, and for detailed methods by which these requirements are applied to specific property situations.  
 For answers to questions concerning this summary chart and the Code provisions, contact the Planning Department at 555-5377 or visit the Department at 1659 Mission Street, Suite 400, San Francisco, 94103.  
 The chart above covers only the Residential zoning districts. Other use districts not covered by the chart are the Commercial and Industrial Districts (§§210-227, Annex 7 & 8) Public Use districts (§§214-234.2) and Special Use districts (§§215-219.9) and the SUI-numbered annex sheets of the Zoning Map.

Other Code provisions of general application to Residential districts that are not referred to in this chart are the following:

- Height and Bulk districts (§122, Article 2.3 and the IIT-numbered annex sheets of the Zoning Map
- Review of buildings exceeding a height of 40 feet in R districts (§213)
- Legislated setback lines, which may be more restrictive than §132 (§131 and ordinances and resolutions for specific streets
- Obstructions permitted over streets and alleys and in required setbacks, yards and usable open space (§130)
- Requirement that all dwelling units face an open area (§140)
- Street trees required for new developments (§143)
- Screening of rooftop features (§141)
- Screening of parking features (§142)
- Off-street parking requirements (Article 1.5)
- Off-street loading requirements (Article 1.5)
- Necessary uses permitted for listed principal and conditional uses (§§204-204.5)
- Temporary uses permitted by the Commission or Zoning Administrator (§§205-205.2)
- Nonconforming uses (§§180-187)
- Density limitations for group housing (§208)
- Density limitations for group housing (§208)
- Sign regulations, including Special Sign districts (Article 0, especially §§08 and §§09-008.10 and the SUI-numbered annex sheets of the Zoning Map)

**EXHIBIT G**

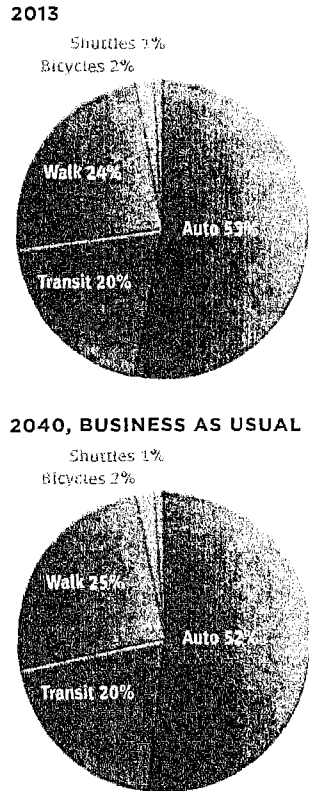


www.sfta.org  
**SAN FRANCISCO**  
TRANSPORTATION PLAN  
2040

DRAFT FINAL REPORT  
DECEMBER 2013



FIGURE 7. SHARE OF TRIPS BY MODE OF TRAVEL, 2013 (TOP) AND 2040 BUSINESS AS USUAL (BOTTOM)



SOURCE: SFMTA, 2013; SFMTA

significant new investment, this number could grow as high as 980<sup>1</sup> by 2040 due to projected increases in automobile trips.

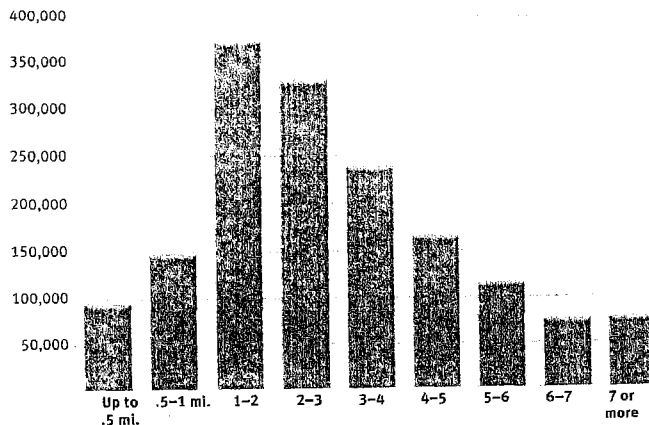
San Francisco's aging population also adds to the challenge of achieving this goal. San Francisco is projected to experience 68% growth in number of people 65 and older by 2040, making this group 20% of the population (compared to 16% today<sup>2</sup>). Older pedestrians are more vulnerable to serious injury or death when struck by an automobile.

Safety concerns also discourage bicycling. Surveys conducted for the SFMTA's 2012 State of Cycling Report indicate that almost half of those who do not currently bicycle say they are uncomfortable bicycling in mixed flow traffic with cars, and only 13% said they feel safe from traffic when bicycling. At the same time, 94% of respondents said they would feel comfortable riding in bicycle lanes.

**UNRELIABLE TRANSIT DISPROPORTIONATELY AFFECTS OUTER NEIGHBORHOODS**

Livable neighborhoods are accessible by transit, not just during peak commute periods, but throughout the day and evening. This

FIGURE 8. AUTOMOBILE TRIPS WITHIN SAN FRANCISCO BY LENGTH, 2040



SOURCE: SFMTA, 2013; SFMTA

1. Based on SFDPH Eastern Neighborhoods Impact Analysis which indicated that holding all other variables constant, a 5% increase in vehicle volume produces a 13% increase in pedestrian injury collisions.  
2. Based on Association of Bay Area Governments population projections for San Francisco.

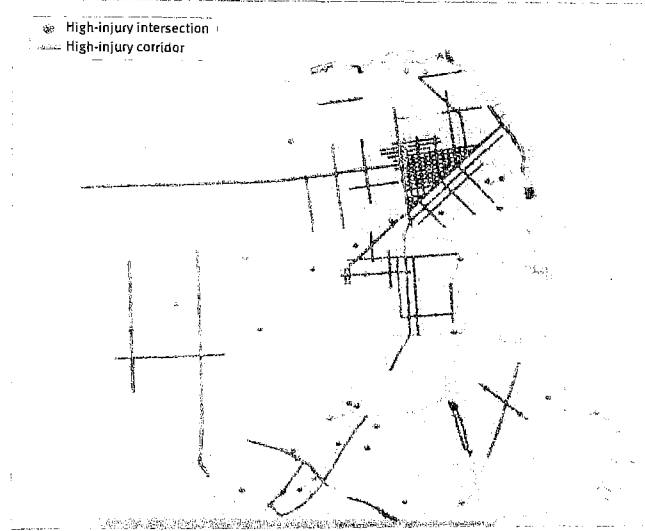


FIGURE 6. HIGH-INJURY PEDESTRIAN CORRIDORS

SOURCE: WALKFIRST INVESTMENT STRATEGY 2013

supports San Franciscans' ability to get to and from school, medical appointments and recreational activities by transit. Analysis of transit transfer rates and input received during outreach indicate that outlying neighborhoods, including the Bayview and Sunset, are less accessible throughout the day by transit. A shortage of maintained vehicles results in turning back buses and light rail vehicles before they serve outer neighborhoods, forcing riders into extra waits. The transit network in the lower-density Sunset neighborhoods and hilly Eastern Neighborhoods is less dense, resulting in fewer transit alternatives and fewer direct rides—and making reliability all the more important.

**PLANNED INFILL LAND USE PATTERNS SUPPORT WALKING, BICYCLING, AND TRANSIT**

The land use plans adopted by the San Francisco Planning Commission and Board of Supervisors over the last decade are expected to move us in the right direction, supporting infill and making walking and bicycling easier. As new residents and jobs locate in areas already convenient for bicycling and walking, the share of trips made by bicycling and walking is expected to grow slightly (Figure

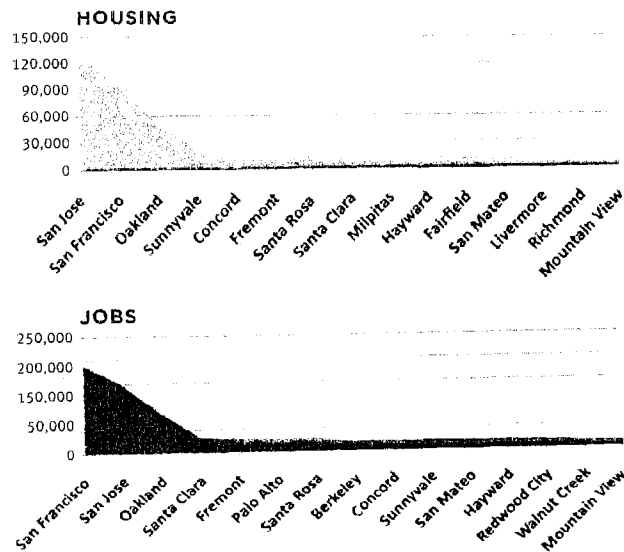
growth is expected in the downtown core, southeast, and southwest (Figure 9). This would mean adding about 9,800 new residents each year for the next thirty years, compared to about 4,200 residents that have been added per year over the prior thirty years.

These projections reflect expectations for robust regional growth and regional policy stemming from Senate Bill 375 (2008), which required regional governments to reduce greenhouse gases from transportation. To meet the SB 375 target, the Regional Transportation Plan, known as Plan Bay Area, calls for concentration of growth in densely developed areas with good transit access especially in San Francisco, San Jose, and Oakland (Figure 10)—a pattern that supports less driving and produces fewer greenhouse gases.

**INCREASED TRANSIT CAPACITY AND SERVICES ARE NEEDED TO ACCOMMODATE GROWTH**

Concentrating jobs and housing in San Francisco is good for the city's economy as well as the environment, but will also increase congestion and transit system crowding in downtown San Francisco and Eastern neighborhoods. By 2040, new growth will re-

FIGURE 10. POPULATION AND EMPLOYMENT GROWTH PROJECTIONS IN THE TOP 25 BAY AREA CITIES (2010-2040)



sult in about 300,000 new transit trips per day on a local and regional system that is already strained by crowding and reliability issues. The San Francisco Planning Commission has adopted land use plans that direct much of the city's projected growth in the central and eastern neighborhoods, where crowding is already acute. Figure 11 compares transit crowding today and in 2040.

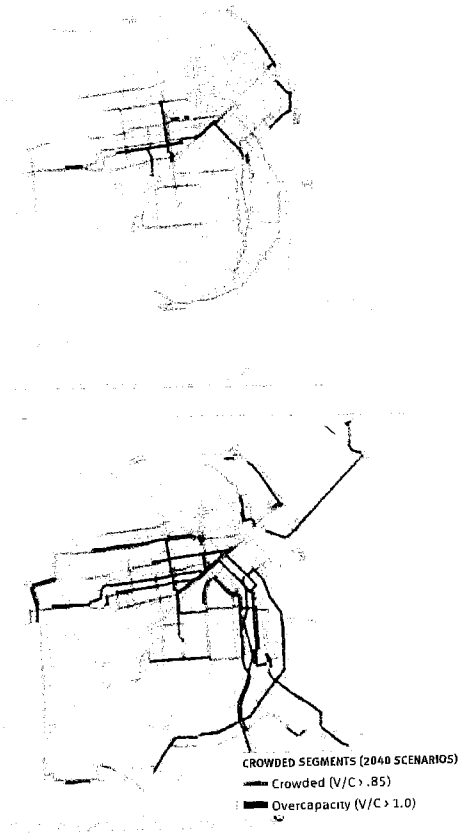
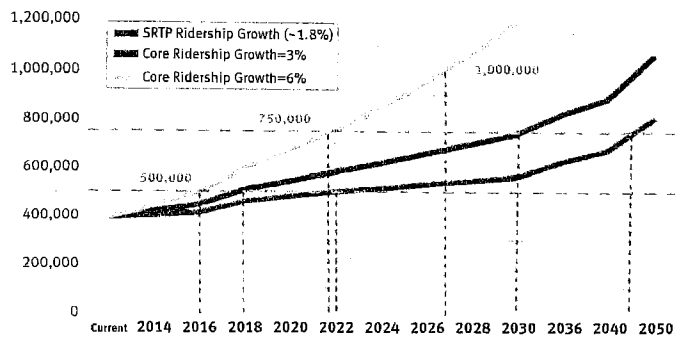


FIGURE 11. CROWDING ON MUNI IN 2013 (TOP) AND IN 2040 (BOTTOM)

Source: San Francisco Municipal Transportation Agency, "Muni Crowding Study," 2013. Crowding is measured as the ratio of passenger boardings to vehicle capacity. Overcapacity is defined as a ratio greater than 1.0.

FIGURE 12. BART STATION CAPACITY CONSTRAINTS



SOURCE: BART

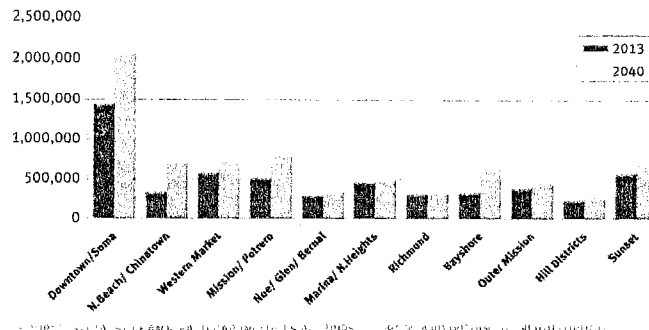
and shows that crowding will grow most on the lines expected to serve these areas and the new development areas, such as the southeast waterfront, Treasure Island, and Parkmerced.

Many regional bus and rail operators already face peak-period crowding and would also see that increase significantly by 2040. BART ridership to, from, and within San Francisco is projected to grow by 37%, and as such, the system's two most crowded stations, Embarcadero and Montgomery, are forecast to hit limits in their person-carrying capacity. BART estimates that at 500,000 daily system riders, stations will be at capacity in 2016, and at 750,000 system riders, the stations will experience significant backups at escalators and overcapacity platforms (Figure 12).

**CAPACITY NEEDS MOST ACUTE IN THE CORE: DOWNTOWN, SOUTH OF MARKET, MARKET/OCTAVIA, AND EASTERN NEIGHBORHOODS**

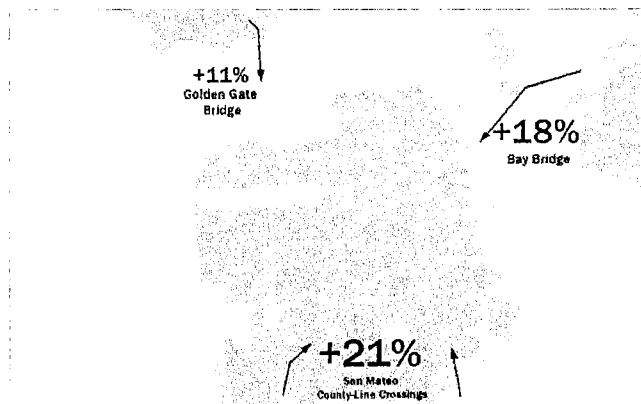
36% of trips to, from, or within San Francisco begin or end in the downtown and South of Market neighborhoods, more than any other neighborhood (Figure 13). Expected growth will significantly increase transit crowding and street congestion downtown. With projected growth and no new investment beyond already-planned projects, increased traffic will slow speeds to gridlocked conditions for cars and buses alike during peak hours. A nearly 30% reduction in projected private vehicle traffic would be necessary to avoid this condition (see Appendix C for detail). Strategies

FIGURE 13. DAILY PERSON TRIPS BY SAN FRANCISCO NEIGHBORHOOD



SOURCE: SAN FRANCISCO PUBLIC UTILITIES AND TRANSPORTATION DEPARTMENT

FIGURE 14. CHANGE IN DAILY COUNTY LINE CROSSINGS BY AUTOMOBILE, 2012-2040



SOURCE: SAN FRANCISCO

recommended to achieve this reduction are discussed on pages 29–30, and are incorporated into the SFTP Investment Plan, SF Investment Vision, and associated policy recommendations.

**NETWORK DEVELOPMENT AND MANAGEMENT NEEDED FOR THE SOUTHEAST AND PENINSULA CORRIDORS**

Over the SFTP period, daily automobile trips entering San Francisco from the South Bay are expected to grow by 21% (Figure 14). This results in worsening congestion on Highway 101 and 280. The planned extension of Caltrain to the new Transbay Transit Center would help accommodate this growth and provide access



for the future high speed rail system, but funding is incomplete. Better management of existing freeway space through high-occupancy vehicle lanes or other solutions is also needed.

**WORLD CLASS INFRASTRUCTURE**

San Francisco's transportation system relies on aging infrastructure that will need significant repair or replacement in the next decades. Without a significantly increased financial commitment to reach and maintain a state of good repair, riders will see increasing delays and crowding related to vehicle breakdowns, reduced service levels, and worsening pavement condition.

**TRANSIT VEHICLE REPLACEMENT AND BETTER MAINTENANCE WOULD IMPROVE RELIABILITY**

After decades of underinvestment, Muni and regional transit agencies that serve San Francisco have significant unfunded capital needs amounting to more than \$5 billion through 2040 (see Appendix B for detail). These needs include new or updated facilities for maintaining transit vehicles, rail and overhead wire replacement, vehicle maintenance and replacement, and other needs.

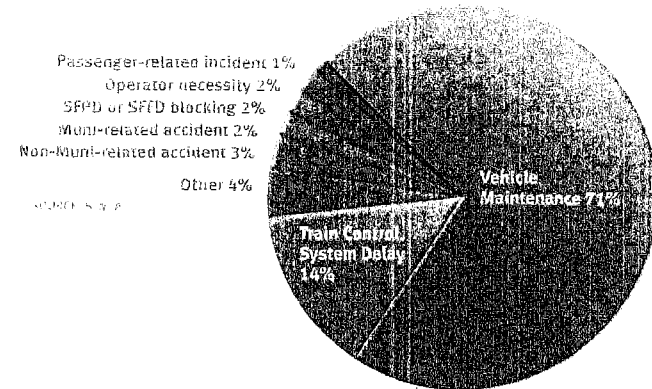
As a result of resource limitations, Muni's vehicles have not received mid-life rehabilitations or timely replacement, resulting in a fleet that has high service unreliability and frequent expensive emergency repairs, as well as frequent unscheduled vehicle turn-backs. Figure 15 shows that vehicle maintenance is responsible for a large share of transit-service delays. Increased investment in routine maintenance and timely vehicle replacement would significantly reduce these delays and improve reliability. Figure 16 shows how breakdowns can be minimized with proper maintenance and mid-life replacement.

**TRANSIT OPERATING COSTS ARE GROWING FASTER THAN REVENUES**

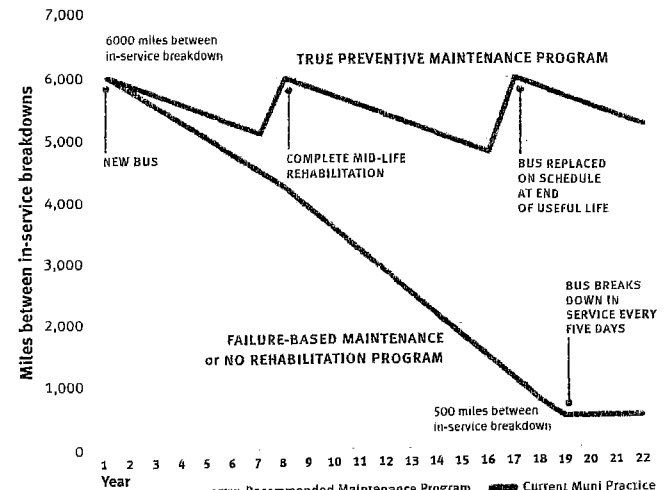
The cost of providing transit service has risen rapidly in recent years, a trend which destabilizes Bay Area transit systems and affects riders impacted by resulting service cuts. Figure 17 (next page) shows the rising real (inflation-adjusted) costs of transit

Without a significant increased financial commitment to reach and maintain a state of good repair, riders will see increasing delays and crowding related to vehicle breakdowns, reduced service levels, and worsening pavement condition.

**FIGURE 15. MUNI LIGHT RAIL: MAY 2013 REASONS FOR DELAY**



**FIGURE 16. LIFE CYCLE OF A TROLLEY BUS**



Source: San Francisco Bay Area Trolley

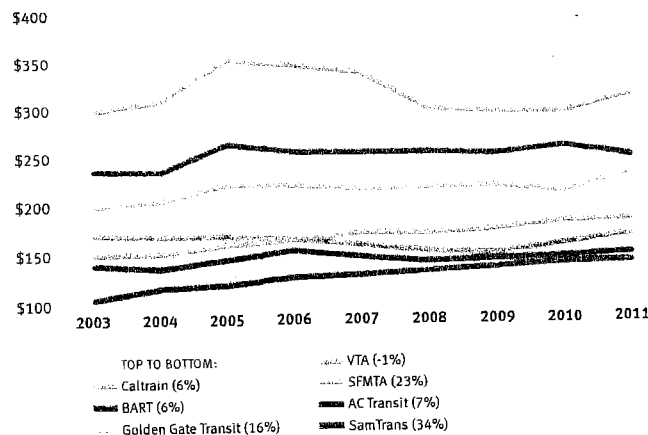
service for major Bay Area transit operators. In its Transit Sustainability Project (TSP) Report, the Bay Area MTC found that cost increases are primarily the product of employee fringe benefit cost growth (e.g. health care and pensions). Between 1997 and 2008, real fringe benefit costs at SFTMA, BART, and AC Transit grew by 72% (after adjusting for inflation), or about 5% per year.

Declining transit performance also affects operating costs. The TSP indicated that speeds on SFMTA's bus and light-rail system fell by more than 10% between 1997 and 2008. Slower speeds mean the same driver and vehicle can complete fewer route runs in a day, leading to less service for the same price.

**RECENT IMPROVEMENT IN AVERAGE PAVEMENT CONDITION NEEDS INVESTMENT TO MAINTAIN**

The city's Pavement Condition Index (PCI) has slowly fallen over time to the low 60s (fair) from 70s (good). The 2011 Proposition B streets bond enabled an increase in the PCI from 64 to 66 and provides increased funding levels until 2016. The PCI score is projected to fall into the 50s (at risk) by 2030. Without an additional

FIGURE 17. TRANSIT COSTS PER REVENUE SERVICE HOUR



SOURCE: SAN FRANCISCO TRANSPORTATION AGENCY SERVICE DATA AND CITY OF SAN FRANCISCO'S TRANSPORTATION AGENCY SERVICE DATA. THE COSTS ARE PER REVENUE SERVICE HOUR.

investment in street rehabilitation and replacement, reaching and maintaining a PCI of 70 in the longer term will require about \$2 billion more than what is already committed to street resurfacing over the life of the SFTP, but this is ultimately more cost-effective than further deferring maintenance needs. Maintaining pavement at a good condition costs \$9,000 per block. If the PCI score lowers below 50, the cost to maintain pavement would balloon to \$436,000 per block.

**MORE EFFICIENT AND EFFECTIVE PROJECT DELIVERY IS NEEDED GIVEN GROWING CITYWIDE NEEDS**

Small project delivery research indicates consensus that small projects and complete street projects can be delivered more efficiently, helping to lower unit costs or make improvements more quickly. As discussed on page 11, the scope of the city's goals for supporting bicycling, pedestrians, and efficient transit require that we construct improvements faster than we have historically. The Project Delivery Strategic Initiative of the SFTP (Appendices H and I) sought to identify opportunities to improve the timeliness, transparency, and efficiency of project implementation in San Francisco's transportation sector.

**HEALTHY ENVIRONMENT**

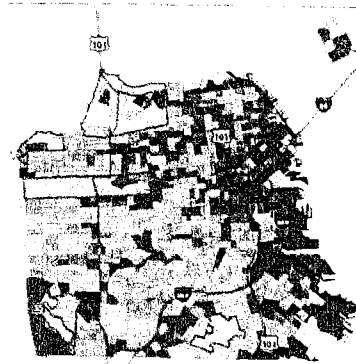
Reducing vehicle pollution—including greenhouse gases and other pollutants—is critical for a healthy environment. More stringent state vehicle emissions regulations will reduce vehicle pollution over the SFTP period, but growth in driving means that additional action will be necessary to for San Francisco to meet our aggressive greenhouse gas reduction goals.

**VEHICLE TRAVEL GROWTH EXPECTED, ESPECIALLY TO AND FROM THE EASTERN NEIGHBORHOODS AND SOUTHWEST SAN FRANCISCO, THE PENINSULA**

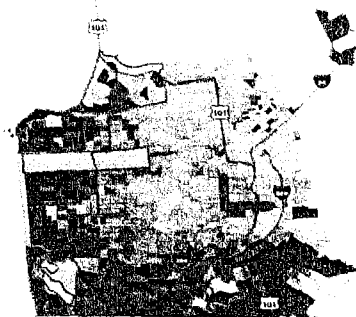
Miles driven by private vehicles, or VMT (vehicle miles of travel), are the main source of greenhouse gases and air pollutants from the transportation sector. Growing population and employment in San Francisco and regionally is expected to result in VMT in-

Research indicates that small projects and complete streets can be delivered more efficiently, resulting in more improvements and more "bang for the buck" as we invest in our streets.

FIGURE 18. VEHICLE MILES TRAVELED IN 2040. (DARKER COLORS INDICATE MORE VEHICLE MILES OF TRAVEL.)



Workplace Vehicle Miles of Travel per Worker



Household Vehicle Miles of Travel per Household Automobile

SOURCE: SFPD, 2008

creases of approximately 30% by 2040 under a business as usual scenario. Much of this VMT will be generated by driving trips to and from the downtown core (for workplace VMT), and outlying southwest and southeast neighborhoods (for household VMT)—(Figure 18).

**VEHICLE TECHNOLOGY ALONE WILL NOT ACHIEVE SAN FRANCISCO'S AMBITIOUS GOALS**

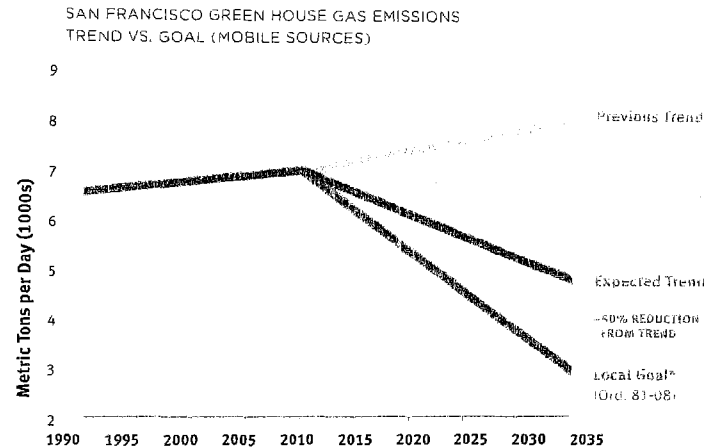
Technology will do much to reduce climate change impacts from private vehicles. Tough state laws (Pavley I and II) regulating vehicle emissions are expected to reduce greenhouse gases by more than 40%. However, this is not sufficient to allow San Francisco to achieve its aggressive greenhouse gas reduction goals, set by ordinance 81-08, which call for an 80% reduction below 1990 levels by 2050 (Figure 19). This is five times more aggressive than regional greenhouse gas reduction goals, and will take tremendous local commitment and regional, state, and Federal support to achieve.

**DEMAND MANAGEMENT STRATEGIES ARE CRITICAL TO ACHIEVING PROGRESS TOWARD OUR GOALS**

Scenario testing conducted for the SFTP (see the "What would it take" sidebar box on page 19) revealed that, though necessary, supply-side investments such as major new transit lines and transit frequency are alone not very cost-effective at reducing greenhouse gases. Among the more cost-effective strategies are those that reduce vehicle tripmaking by more directly linking the cost or impact of driving to the decision to make a trip:

- **CONGESTION MANAGEMENT.** The Transportation Authority's 2010 Mobility, Access and Pricing study found that implementation of a peak-period congestion charge in San Francisco's northeast cordon would reduce vehicle delay by 21%, and greenhouse gases by 5% citywide, among other benefits. Congestion can also be managed through direct regulation of vehicle trips to the worksite.
- **EMPLOYER OUTREACH AND INCENTIVES.** Incentive and outreach programs in partnership with employers can provide employee travel counseling, transit promotions, tools to facilitate shared rides, and supportive services such as guaranteed ride home programs.

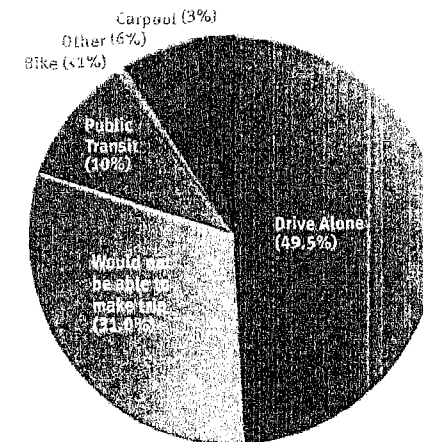
FIGURE 19. SAN FRANCISCO GREENHOUSE GAS (GHG) REDUCTION GOALS



\* Assumes on-road mobile sector is responsible for proportional share of economy-wide goals set by Ordinance 81-08

SOURCE: SFPD, 2008

FIGURE 20. SHARE OF SHUTTLE USERS WHO WOULD DRIVE ALONE WITHOUT THE SHUTTLE\*



SOURCE: SFPD

\* Surveys have indicated that shuttles are carrying about 35,000 separate trips per day, or about 1% of all trips to, from, and within San Francisco

**EXHIBIT H**

SAFE, RELIABLE AND AFFORDABLE TRANSPORTATION  
MAYOR'S TRANSPORTATION TASK FORCE

2030

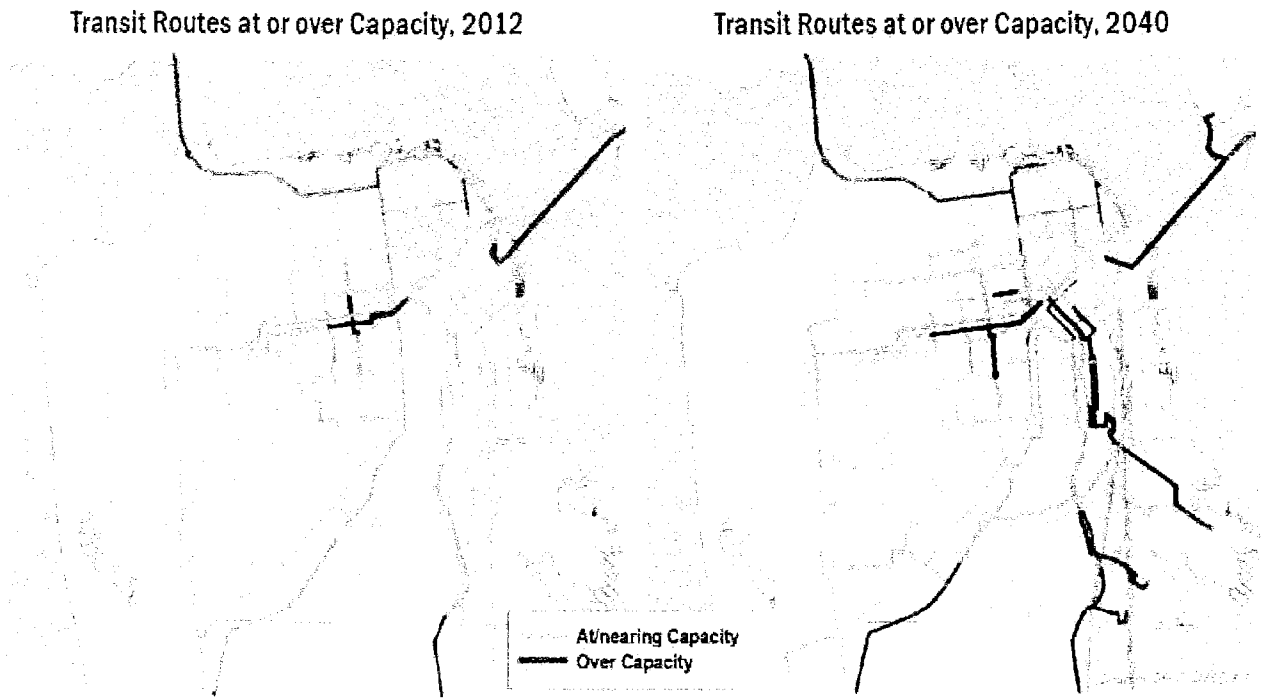
CITY AND COUNTY  
OF SAN FRANCISCO



- Transit crowding will get worse

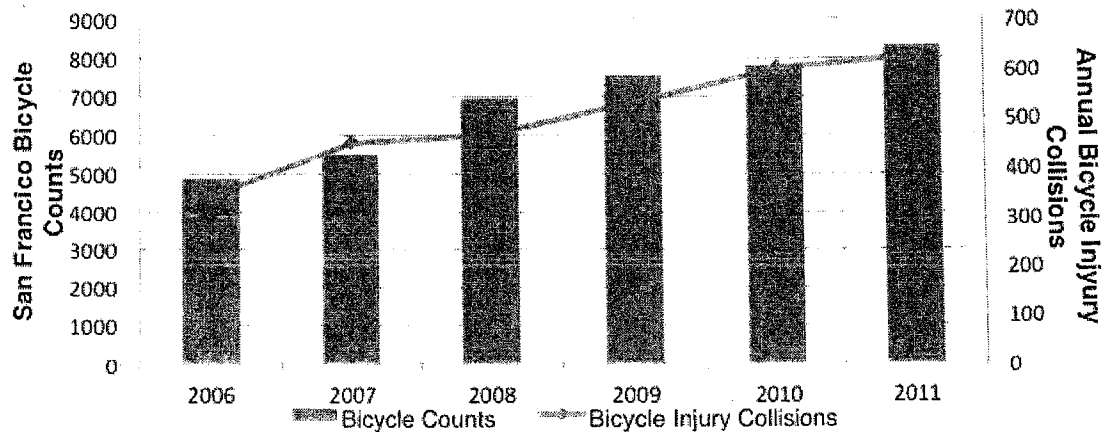
More than 600,000 riders daily, regional transit service provides an additional 370,000 riders with daily trips in and out of the city. At peak travel times, these riders crowd buses and trains. SFCTA projects (shown in Figure 4) the likelihood that without new investment, transit crowding is projected to get worse in the future – expanding to more routes and lines at the busiest times of day.

**FIGURE 4: ROUTES OVER CAPACITY GIVEN LEVELS OF EXISTING INVESTMENT, 2012 AND 2040**



Beyond rider discomfort, crowding has a serious impact on service reliability. A crowded bus has a longer dwell time at stops, moving slower and creating longer wait times to service. This bunching leads to increased congestion for all roadway users that can mitigate any benefits of further slowing transit and therefore increasing street congestion.

**FIGURE 10: BICYCLE COLLISIONS CONTINUE TO RISE WITH RIDERSHIP GROWTH**



It is the goal of Mayor Lee and the Board of Supervisors to increase the use of non-auto modes of transportation, and to strengthen safety for vulnerable users. However, the City needs additional investment to reduce collisions between bikes and automobiles and improve City-wide safety for cyclists.

- **Enhancing accessibility requires higher levels of investment**

San Francisco must make its transportation system more accessible for vulnerable San Franciscans and compliant with changing federal codes and state laws. The Americans with Disabilities Act (ADA) of 1990 requires that all public facilities be equally accessible for all users.

As an older city, San Francisco has infrastructure that was grandfathered for this mandate, and therefore maintenance and improvements can have higher than average costs. For example, resurfacing the pavement of a single block costs an average of \$70,000. However, if paving is planned for an intersection that lacks curb ramps or where the ramps are not up to current standards, the cost of the project increases to approximately \$124,000 for the resurfacing and curb ramp construction. These are necessary and critical changes to the City's transportation system to ensure equal access to its users; however, investment will need to be made as the City transitions to full accessibility.

Expand: Invest in system expansion to accommodate growth

San Francisco is anticipated to add over 90,000 housing units and 190,000 jobs over the next 30 years. In its recent comprehensive plans, the City calls for the majority of this growth in walkable neighborhoods in areas that take advantage of existing or planned transit facilities. These plans will largely accommodate the City's share of expected regional growth, based on economic and demographic trends.

This growth, in addition to the existing need from current residents, will increase demand for transportation services. Investments in additional capacity to the transportation system are needed to accommodate the new residents and workers that this growth will bring, and to alleviate crowding and enhance the reliability of the transportation system for all users.





## VII. Findings & Recommendations

### 1. Findings

Based on the transportation capital needs assessment, the Transportation Task Force concluded that there were two major findings:

1. The City's infrastructure is inadequate to meet current demand and decline in transportation services will become more severe without new investments as the City grows and demand for transportation increases.
2. Required improvements to the City's transportation system infrastructure are estimated at \$10.1 billion over the next 15 years. The City has identified \$3.8 billion in funding, leaving a \$6.3 billion funding gap over the next 15 years.

To address these findings, the Task Force and City staff developed a *Investment Plan* (Recommendation 1) and a *Revenue Plan* (Recommendation 2). These plans will significantly reduce the funding gap and strategically fund projects to help maintain and improve the current level of transportation service. The Task Force has outlined an Investment Plan that would focus on five main objectives:

The Task Force has outlined an Investment Plan that would focus on five main objectives:

- Maintain existing assets in a state-of-good repair;
- Improve travel time and reliability;
- Reduce costs;
- Serve planned growth; and
- Improve safety and accessibility.

By focusing on these objectives, the City would meet stated policy goals such as improved environmental and public health outcomes, increased transportation geographic equity, and greater use of sustainable transportation options such walking, bicycling, and public transit.

In order to fund these objectives, the Task Force has identified over \$2.96 billion dollars for transportation over the next 15 years by issuing general obligation bonds, increasing the Vehicle License Fee, and increasing the sales tax rate.

The Task Force recognizes that additional local revenue will not meet the entire funding need. In order to cover the entire funding shortfall, the Task Force recommends the City advocate for more federal, state, and regional dollars, and consider policy changes such as those identified in the SJCTA Countywide Plan (Recommendation 3).



**EXHIBIT I**

## With packed vehicles people opt for private cars, SFMTA says

By Will Reisman

[click to enlarge](#)



ANNA LATINO/SPECIAL TO THE S.F. EXAMINER

Crowded buses push riders to take more car trips, worsening congestion, one Muni official said.

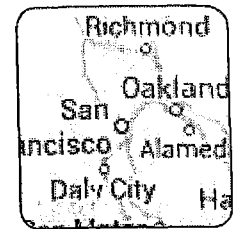
From funding shortfalls to aging and inefficient facilities, Muni faces myriad entrenched issues. But the top priority now for the transit agency is dealing with its overcrowded vehicles.

Muni's capacity problem — particularly its crowded buses — is creating a “vicious cycle” of transportation choices in which travelers eschew public transit in favor of private automobiles, which in turn creates more traffic congestion, according to Timothy Papandreou, deputy director of planning at the San Francisco Municipal Transportation Agency, which operates Muni.

“The No. 1 goal is increasing supply and capacity and managing demand,” Papandreou said during the board of directors' annual workshop Tuesday.

With the number of housing units in The City projected to increase by 15 percent over the next 22 years, the capacity issue is only going to become more acute for Muni, which is considering several remedies.

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Over the next five years, the agency plans on purchasing 700 new buses that will be more reliable and capable of carrying larger passenger loads, according to John Haley, director of transit at Muni. Over the next 20 years, Muni plans to increase the size of its total transit fleet — including light-rail vehicles, cable

cars and historic streetcars — by 20 percent to meet the demand.

In addition, there is talk of enhancing the NextMuni smartphone application — which provides real-time transit schedules — to include information about which scheduled buses may be overcrowded. That type of tool is likely a few years away.

Papandreou said the transit agency is also working hard on promoting bicycling and walking as alternatives to short transit trips. Car-sharing systems, which are more efficient than private automobiles, could be moved into residential neighborhoods as another way to change travel patterns, said Jay Primus, who manages the agency's parking policies.

While the agency's goals are all lofty, the major barrier, as always, is funding. Over the next five years, the agency is facing a shortfall of \$1.7 billion for bike, pedestrian, traffic and transit improvements. Simply keeping its network in a state of good repair — not accounting for the capacity improvements — requires \$260 million a year that the agency lacks.

Despite the funding issues, there are reasons for optimism, according to Ed Reiskin, head of the transit agency.

Mayor Ed Lee announced he will convene a panel of experts to discuss possible revenue solutions for Muni's long-term needs. Reiskin noted that a similar task force proved effective in overhauling San Francisco's beleaguered public pension system.

But without prompt suggestions from the yet-to-be-named panel, Muni passengers are going to continue to experience uncomfortable rides.

Malcolm Heinicke, a member of the agency's board of directors, said capacity problems have surpassed reliability issues as the top concern among the riders who have contacted him.

"We have to face it," Heinicke said. "We're not ready now for more passengers."

[wreisman@sfxaminer.com](mailto:wreisman@sfxaminer.com)

**EXHIBIT J**

Record  
Copy

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DELIVERY

March 24, 2011

San Francisco Planning Commission  
c/o Linda Avery, Planning Commission Secretary  
City Hall, Room 400  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA

RECEIVED AT CPC HEARING 3.24.11  
2007.1275E  
04 + 09 HOUSING ELEMENT  
J. RAHGE

Re: San Francisco 2004 and 2009 Housing Element  
Certification of the Final Environmental Impact Report  
Planning Department Case No.: 2007.1275E, and

On behalf of San Franciscans for Livable Neighborhoods ("SFLN"), we request that the above-described environmental impact report ("EIR") be revised and recirculated for public comment due to the substantial changes which the City made in the proposed project after the close of the public review period on August 31, 2010 for the Draft EIR.

**1. The EIR Must be Revised and Recirculated Because Substantial Changes Have Been Made in the Proposed Project Which Increase the Severity Of Significant Effects or Involve New Significant Effects.**

The version of Part II of the proposed 2009 Housing Element Objectives & Policies that was analyzed in the Draft EIR and subjected to public review and comment was the June 2010 Preliminary Draft for Public Review, and language contained in that proposed project will be identified herein as "EIR" language. The subsequent substantial changes which the City made in Part II of the proposed 2009 Housing Element are reflected in the February 2011 version of Part II of the 2009 Housing Element or in the March 17, 2011 Planning Department staff memorandum for the 2009 Housing Element Update.

These substantial changes include the following:

- February 2011 draft greatly broadened the areas where taller, increased density, reduced parking housing would be encouraged to include areas along major Muni bus lines running throughout City neighborhoods in new Policy 1.10 and its interpretative text. The June 2010 EIR Policy 12.1 had defined major transit lines where such growth would be encouraged to areas near BART stations and along Muni light rail trains. The new expansion is unnecessary because the June 2010 draft admitted that the Plan Areas have

**STATEMENT OF CITY PLANNER DAVID GOLICK REGARDING  
IMPACTS OF CHANGES TO PROPOSED 2009 HOUSING ELEMENT**

I have been a professional city planner for over forty years and have practiced in the Bay Area for thirty-eight years. During that time I served as Chief of Planning for the City of Concord, the largest city in Contra Costa County, for ten years. During my career, I have either prepared or reviewed approximately 1,000 Initial Studies and Environmental Impact Reports. I have become familiar with and have a deep working knowledge of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines. I have coached subordinate employees regarding CEQA requirements and have addressed CEQA issues at conferences of the American Planning Association. The City of San Francisco retained me to participate in oral board examinations of candidates for planning positions, such as the position of Planner III, Environmental Review. As Chief of Planning for the City of Concord, my duties included overseeing the activities of the planning department staff in updating the housing element of Concord's general plan as periodically required by the State of California Department of Housing and Community Development. A copy of my resume is attached hereto as Exhibit 1.

In this statement, I will discuss the potentially significant environmental impacts that could result from the changes made in the 2009 Housing Element (the proposed "Project") after the public comment period closed on August 31, 2010. Herein, I will refer to the June 2010 draft of the 2009 Housing Element that was subjected to environmental review as the "EIR Draft." The substantial changes to the proposed Project are set forth in a February 2011 draft of Part II and a Planning Department staff memorandum dated March 17, 2011.

**1. The Project Was Substantially Changed to Encourage Transit-Oriented Development  
Along Major Bus Lines Outside Plan Areas.**

The February 2011 draft of new Policy 1.10 broadly promotes infill housing "in transit-rich areas" which it defines to include Muni's major bus lines as "defined and prioritized in Muni's Transit Effectiveness Project (TEP) as the '24-hour Rapid Network,' " which "will be slated for long-term improvements" and "are slated to receive funding and service increases which will make it easier to meets service demands." The proposed new policy states that the Department "should support housing projects along these major transit lines *provided* they are consistent with current zoning and design guidelines." (See Ex. 2, pp. 2-4, summary of changes)

The March 17, 2011 staff proposal adds language encouraging "affordable housing" along the major transit lines and eliminates prior language that admitted that the proposed rapid lines are not funded and need service increases and long-term improvements. A communication from the Metropolitan Transportation Agency admitting such inadequacies is included herein. (See Exhibit 3) Also, inaccurate language previously referring to the proposed rapid network as "24 hour" was eliminated.

The new policy language also broadly supports “new housing projects” near major transit lines through references to “walking and bicycling” and “nearby residents” but does not define or limit the extent of the distance from transit lines in which the new transit-oriented housing would be both allowed and encouraged. It also fails to explain the density that should be permitted for infill housing in transit-rich areas or for housing projects along major transit lines.

Although the 2009 Housing Element does not provide a map of these major bus lines, the map of the TEP-proposed rapid network obtained from the San Francisco County Transportation Agency, is attached hereto in Exhibit 3. The SFCTA e-mail explains that the TEP-recommended rapid route network is not yet approved, has not undergone environmental review or been funded. (*Id.*) Numerous capital projects to improve transit reliability, improve customer amenities and reduce transit travel times are included in the draft TEP Implementation Plan, which has not been finalized or approved. (See Ex. 3, e-mails) So, the Muni bus routes described in the proposed TEP rapid route network do not provide rapid service now, and \$160-200 million in capital projects would be needed to support the TEP-recommended rapid route network and make other improvements to the Muni system. (*Id.*) The funds for the capital improvements needed for the TEP-recommended rapid route network would largely be sought from federal and state grants which require some percentage of City money in hand in order to apply for matching federal or state grants. (*Id.*) The City has only approximately \$10-15 million in funds for such TEP improvements. (*Id.*) Due to State and federal budget shortfalls, it is problematic whether funds would be available for these San Francisco projects in the foreseeable future. In recent news reports, Muni stated that it lacks funds to undertake detailed seismic studies of existing Muni tunnels that are about one hundred years old and will have difficulty funding work to replace deteriorating metal and concrete supporting structures.

This is a major change in the proposed Project because the June 2010 draft of Part II that was subjected to environmental review had removed the broad language of Policy 1.5 that had supported new housing projects on sites that are located along major bus lines and removed Map 1 of “Major Transit Lines.” (See Ex. 4, p. 14 red-lined June 2010 draft of part II) Also, EIR Policy 12.1 had encouraged new housing that relies on transit “in areas that are well served with transportation infrastructure including BART trains, and Muni light rail trains” and had clarified “that changes to the Planning Code to further accommodate housing near transit will only occur through a neighborhood-supported community planning process.” (See Ex. 4, p. 59). EIR Policy 12.1 text had removed the language “and Muni’s rapid network of buses” from the policy text that was subjected to environmental review. (*Id.*)

Until Muni’s bus lines have received funding for the needed service increases and improvements and implementation of the improvements is underway, they should not be defined as major transit lines along which transit-oriented development would be encouraged. Otherwise, policies that prematurely encourage housing growth in these areas would increase the significant adverse impact on already strained Muni bus services. The EIR concludes that the proposed project (without the bus lines defined as major transit lines) would have a significant unmitigated effect on public transit, which is insufficient to support the proposed expansion in

housing capacity. (See Ex. 5, Executive Summary, p. II-9)

Expanding the proposed Project to designate areas along major bus lines outside the Plan Areas as the areas in which transit-oriented development would be encouraged would substantially increase the severity of the significant environmental impact which the Project would have on inadequate transit services.

Eliminating this expansion of the proposed Project is a reasonable alternative which could be accomplished by approving the language of EIR Policy 12.1 as stated in the June 2010 draft of the Housing Element (which identified the areas along Bart lines and Muni light rail lines as major transit areas). That alternative would define major transit lines as areas near BART stations and along Muni light rail lines. Such alternative would reduce the significant environmental impact which results from inadequate transit services and public funding for transit since it would substantially reduce the areas where transit would be further strained by added capacity and substantial public funds would have to be spent on increasing the reliability and capacity of public transit services.

The EIR should therefore be revised to analyze the feasible alternative of eliminating the definition of major bus lines outside the Plan Areas from the areas where transit-oriented development would be encouraged and substantial funds needed for improved bus service. Under the alternative, major transit lines would be defined as BART stations and Muni light rail lines, as proposed in the June 2010 draft of Part II of the Housing Element. The EIR should be revised and recirculated for public review and comment due to the substantial increase in the severity of the significant impact on transit services which would result from expansion of the areas defined as major transit lines and the reasonable alternative of eliminating this expansion from the Project proposed for approval.

The severity of the significant adverse impact of the proposed Project on already inadequate public transit services was explained by the City to ABAG as follows:

“While San Francisco has pioneered transit supportive development over the past few decades, we are at our limit in terms of transit’s ability to carry more people in the peak period without significant new right-of-way, fleet and facility expansion. Our transit state of good repair backlog is over \$2 billion just to maintain current service levels let alone the additional service levels from the expected growth, and similar backlogs exist for the regional transit service providers who serve San Francisco, such as BART and Caltrain. These core capital capacity constraints are regional in nature and will need a regional focus on resource prioritization for these PDAs to be successfully implemented. In addition, San Francisco needs over \$750 million to bring our local streets to a state of good repair, and many PDAs have significant non-transportation infrastructure investment needs as well, lacking the community assets necessary to make them complete communities....



We are further challenged by needing to pace growth with new investment. While San Francisco's planning efforts aim to combine changes in zoning with proposals for new infrastructure investment, we continually face resistance from neighborhoods who are skeptical that needed infrastructure will come. There is a very real threat of neighborhood demand for legislation that meters growth according to infrastructure provision, thereby restricting zoning changes and any development under those zoning changes, until after the infrastructure is in place." (Ex. 6, thirteenth page)

The alternative of eliminating the bus lines outside the Plan Areas is clearly feasible because by a resolution of the Board of Supervisors in June 2007, the City approved Priority Development Areas as the areas where sustainable development could occur, and these areas correspond to the Plan Areas which the Housing Element states could accommodate "significantly more" than the 31,000 units allocated as the City's share of the regional housing needs allocation for this planning period (2007-2014. (See Ex. 4, p. 4-10 and map at ninth page of Ex. 6) The City has admitted that the "lion's share of city's growth will continue to be focused in its PDAs" and that they have more than enough capacity to satisfy the City's regional housing needs allowance for this planning period:

"San Francisco's Adopted and Planned PDAs collectively accommodate over 63,000 new housing units, and 136,000 new jobs. Healthy absorption of the city's existing vacancies in PDAs like Downtown provides the opportunity for another 23,000 or more jobs. However, new growth in San Francisco is not confined to PDAs. The city includes numerous small-scale infill opportunity sites close to transit throughout all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city. Cumulatively, San Francisco's PDAs and other opportunities yield the potential for over 85,000 housing units and almost 160,000 more jobs, more growth than is likely to be projected for San Francisco under the SCS P2011 Projections." (Ex. 6, twelfth page)

This evidence makes it clear that the city's 17,000 infill opportunity sites close to transit run "throughout all of its neighborhoods" outside of Priority Development Areas (or Plan Areas), and, therefore, the impact on already inadequate transit services would be substantially more severe if areas along bus lines outside the PDAs (or Plan Areas) are included in the definition of major transit lines slated for increased housing development.

Since the staff-proposed addition of the bus line areas would require the City to increase the reliability and efficiency of major bus lines running throughout the City instead of concentrating such improvements in the PDAs, a reasonable alternative which would reduce the severity of the significant impact on transit services would be to limit the definition of major transit lines to BART stations and Muni light rail lines, instead of broadening it to include all major bus lines. This alternative is certainly feasible because the City refused to identify areas outside of the PDAs as areas that could take on greater levels of growth at this time in the course of the Sustainable Communities Strategy planning, stating:

“Because San Francisco already has plans to accommodate almost the entire amount of growth expected (over 90%) by 2035 within its designated PDAs, and because significant resources are necessary to provide the infrastructure necessary to support this growth, staff elected not to identify additional areas that could take on greater levels of growth at this time.” (Ex. 6, p. 2 ; see also p. 7 of June 2010 version of 2009 Housing Element stating: “Completed and ongoing area plans have developed neighborhood specific housing plans, which could accommodate the majority of new housing needs in the City.”)

This conclusion is reinforced by the fact that the City identified “[i]ncreased transit service frequencies for core trunk lines serving PDAs” as an implementation strategy needed to support growth of particular importance to San Francisco. (Ex. 6, twelfth page)

The amount of projected growth in PDAs meets over 90% of the City’s growth target for two decades after the 2007-2014 planning period for which the 2009 Housing Element was prepared:

“San Francisco is planning to accommodate more than 60,000 new households in PDAs by 2035. This represents the placement of over 90% of our county growth targets (from Projections 2009) within PDAs. This is significant as the next closest county achieves only ~40% of new households in PDAs.” (Ex. 6, tenth page)

Since Planning Department staff did not identify areas along bus lines outside the PDAs as additional areas that could take on greater levels of growth in the Sustainable Communities Strategy planning effort, it is obviously a reasonable alternative to delete such areas from the proposed 2009 Housing Element Project. The addition of such areas in the February 2011 or finally adopted draft of the proposed 2009 Housing Element would exacerbate the project’s significant adverse impact on transit because transit services would have to be increased in more part of the City than if the increases were concentrated in PDAs. Before the major bus lines were added as major transit lines slated for transit-oriented development, the City stated that the 2009 Housing Element already went farther than needed to accommodate the City’s share of the regional housing needs allocation for the planning period 2007-2014, stating:

“Together, these planning efforts could provide capacity for **significantly more** than the 31,000 units allocated for this planning period (2007-2014); however, they will require significant investment in infrastructure and supporting services in order to support this growth...The City should prioritize public investment in these plan areas to achieve the community goals of each plan, according to each plans’ infrastructure and community improvements program.” (Emphasis added, Ex. 6, p. 8, Part II, June 2010 Draft 2 Housing Element)

According to the Housing Element, Plan Areas adopted since the 2004 Housing Element are projected to “add growth of up to 20,000 new units, which, in combination with citywide

infill potential provides sites which can accommodate over 42,000 new units, as cited in Part 1 of the Housing Element. Ongoing community planning efforts, including major redevelopment plans at Mission Bay, Treasure Island and Hunter's Point Naval Shipyard, will add even more capacity over the next 20 years." (Ex. 4, p. 4) The estimated new housing construction potential in adopted plans/projects and plans/ projects underway total 63,300 new housing units. (Ex. 4, p. 10)

The Draft EIR for the 2009 Housing Element further explains that the City's unrealized capacity under existing zoning is "60,995 new housing units." (Draft EIR p. IV-14) Of these, approximately 20, 543 new units could be constructed on sites that are vacant or near vacant, and sites that are underdeveloped could yield another 40,452 new units. (*Id.*) Further, the City is in the process of rezoning many neighborhoods, and these rezoning efforts will increase the existing capacity in those neighborhoods, allowing for the development of additional housing units above and beyond the number of units that could be accommodated under existing zoning. (*Id.*) The additional capacity with rezoning initiatives currently underway is approximately 28,844 units. (DEIR Page IV-22) Should these rezoning initiatives be adopted, the City would be able to accommodate 89,839 net new housing units, which if developed would represent a 25% increase in the City's housing stock. (Draft EIR p. IV-22)

A total of 56,435 new units could result from projects now under construction or in various stages of the approval process, which include projects currently under construction, projects with approved building permits but not under construction, projects which have building department applications on file, projects which have been approved by the Planning Department and projects which have Planning Department applications on file. (Draft EIR p. IV-23) The three major projects of Candlestick Point-Hunters Point Shipyard, Treasure Island and Park Merced, comprise approximately half of the pipeline projects and could be completed by approximately 2020. (*Id.*)

Thus, the City's capacity for new housing under area plans in progress, existing unrealized capacity and pipeline projects is far in excess of the City's 31,000 unit RHNA for the planning period 2007-2014 represented by the 2009 Housing Element. The significant impact on the City's transit services would be lessened if transit services have to be enhanced only in the areas already rezoned. The Project's impact on other City services such as water, sewer, fire and police, would also be significantly lessened if the areas slated for increased growth were limited to those already rezoned.

As explained in my prior Declaration filed in the legal action in which the court required an EIR to analyze the proposed Housing Element changes, the EIR prepared by the City's transportation authority projects that time spent in congested traffic conditions will double by 2035 if the City concentrates its further development along transit routes as proposed in its citywide action plan. (See Attachment 13 to Chatten-Brown & Carstens August 30, 2010 EIR comment letter to Bill Wyco regarding 2004 and 2009 updates to Housing Element) This is a significant impact because citywide traffic is expected to be degraded to service level F. This is

not surprising, as San Francisco is already the second most densely populated City in the nation, and the massive amount of increased housing capacity proposed in the 2009 Housing Element, as increased by the changes proposed in the February 2011 or March 17, 2011 versions of Part II thereof, is simply unsustainable and unreasonable. (Ex. 7)

It is no exaggeration to say that ABAG's proposal to concentrate this amount of future growth in San Francisco is a major step toward Manhattanization of San Francisco. After all, aside from New York City, San Francisco already is the most densely populated city in the country.

The City should now revise the EIR and analyze the effect of expanding the areas designated for transit-oriented development to the areas along or near bus lines extending throughout the City outside the Planned Areas. The EIR should analyze the feasible alternative of eliminating this expansion of areas designated for transit-oriented development because the Project's significant impact on already-strained transit services would be substantially lessened if the project were limited to the Planned Areas. Under such alternative, the City would have to enhance bus service to the major lines running through the Planned Areas but not to the major bus lines running throughout the City outside the Planned Areas. This expansion of areas designated for transit-oriented development was requested by the advocacy group SPUR. (See Ex. 8, p. 2) SPUR makes clear that the broad language "transit-oriented development" calls for substantial zoning changes that would have adverse impacts. SPUR explains that effects of such new construction would be as follows:

"more housing and jobs along transit corridors and in already transit-oriented neighborhoods" .... "means zoning for taller buildings and higher density in downtown and along the BART and Muni Metro lines in the neighborhoods. It means allowing new in-law units and eliminating parking and density limits in some neighborhoods." (See Exhibit 8, p. 2)

Thus, Housing Element language calling for transit-oriented development provides a policy basis for various increased density strategies including taller buildings and secondary units.

In San Francisco, areas along transit corridors running through residential neighborhoods are usually zoned neighborhood-commercial. The prevailing height in such neighborhood-commercial areas is now generally one or two stories and such areas are usually not now built up to maximum height limits (which are generally forty feet). Their low density character now usually matches and conforms with the low density character of surrounding residential neighborhoods. However, changing policy to encourage building taller structures with reduced or no parking in these linear neighborhood commercial areas along major bus lines could create canyon effects since the linear massing of the taller buildings would disrupt and divide the lower density character of the surrounding residential neighborhoods. Such linear massing would constitute an adverse visual effect on the character of existing neighborhoods, a significant adverse change in the quality of those neighborhoods and could also significantly reduce light to

adjacent or nearby residences.

Various existing measures which the City has previously enacted to increase the capacity of land for housing demonstrate the adverse impacts of increased traffic congestion, strained Muni services and visual neighborhood character that could result from extending transit-oriented development along bus lines running through established neighborhoods. The Residential Transit-Oriented Districts provide a good example. Under Planning Code section 207.1, in RTO and RTO-M Districts provided for in Planning Code section 201, dwelling units that are affordable (meeting criteria stated therein) shall not count toward density calculations or be limited by lot area. In addition, under Planning Code section 151, a dwelling unit in an affordable housing project is not required to have any off-street parking space except in RH-1 and RH-2 districts. (Ex.9) Therefore taller buildings with inadequate parking could result from new 2009 Housing Element Policy 1.10 because many small affordable units could be constructed in areas to be zoned RTO, and such units would not have any off-street parking. This type of construction could add large numbers of new residents to these areas and place increased demand on already strained Muni services. Those residents using automobiles would likely spend significant time circling to find parking spaces, which could increase traffic congestion in the area.

As previously noted, the Transportation Authority EIR projects significant further degradation in traffic conditions in the City as a result of concentrating future growth along transit corridors. Further time spent in congested traffic conditions causes vehicles to emit more pollutants than vehicles traveling at a normal rate of speed. (See Attachment 10 to Chatten-Brown & Carstens August 30, 2010 EIR comment letter to Bill Wyco regarding 2004 and 2009 updates to Housing Element, which is incorporated by reference) The City's December 6, 2010 Sustainable Communities Strategy letter recognizes that there could be "local adverse effects" from particulate matter vehicle emissions given "the growing recognition of air quality conflicts between busy roadways and infill development." (Ex. 10, p. 2) This is a potentially significant effect which should be analyzed in a revised EIR due to the proposed expansion of the transit-oriented development to areas along major bus lines outside the Plan Areas. The EIR should be revised and recirculated for public review and comment.

Zoning changes enacted for transit-oriented development after the 2004 Housing Element was approved, could cause significant parking space deficits in new structures. For example, under the Market Octavia Area plan rezonings (Exhibit 11) only one off-street parking space is required for each four dwelling units in the Van Ness Special Use District. The resulting parking space deficit could cause traffic congestion in the area from cars circling to seek parking spaces and potentially increase pollutant emissions from motor vehicles in the immediate area.

In addition, under Planning Code section 134 (e) and (f), the rear yard requirement in NC Districts and Eastern Neighborhoods mixed use districts may be modified or waived by the

Zoning Administrator pursuant to the procedures which are applicable to variances. New structures built in neighborhood commercial districts along major transit lines could overwhelm adjacent structures that are not built up to height or bulk limits and which have the rear yards required by current code.

## **2. Changes Eliminated Policy Language Maintaining Density Limits For RH-1 and RH-2 Neighborhoods.**

EIR Policy 1.6 text stating that “[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character” was changed in the February 2011 draft to state “[i]n some areas, such as RH-1 and RH-2, prevailing height and bulk limits should be maintained to protect neighborhood character.” Also, use of “flexibility in the number and size of units” was expanded to apply through “community based planning processes” and therefore would apply to projects outside plan areas and to individual projects, instead of merely to “community plan areas” as previously proposed in EIR Policy 1.6.

In the staff memorandum dated March 17, 2011, this provision was changed to state “[i]n some areas, such as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character.” Since it is unclear which provision the Planning Commission may adopt, this statement will discuss the environmental effects of both proposals. Essentially, both proposals would provide a policy basis for replacing the current objective standards with subjective standards to be interpreted by the Planning Department and Commission. Use of a subjective standard is a substantial change in the nature of the proposed Project that must be subjected to environmental review.

This change was reflected in other policies. In EIR Policy 11.5, policy text stating “[p]articularly in RH-1 and RH-2 areas, density limits should be maintained to protect neighborhood character” was changed to state “[p]articularly in RH-1 and RH-2 areas, prevailing height and bulk patterns should be maintained to protect neighborhood character.”

Similarly, EIR Policy 11.3 text stating “[i]n existing residential neighborhoods, this means development projects should uphold and preserve the existing zoning of the area” was changed to only “defer to the prevailing height and bulk of the area.” This new language would also provide a policy basis for eliminating objective per unit density limits for residential neighborhoods, invite secondary units, and permit existing buildings to be divided into multiple units. Also, language calling for “a community-supported vision” was weakened to “a community-based vision.” Policy language ensuring growth without “significantly impacting existing residential neighborhood character” was changed to growth without “substantially and adversely impacting” such character. New language was added supporting “adoption of neighborhood-specific design standards in order to enhance or conserve neighborhood character only if those guidelines are “consistent with overall good-planning principles.” The new

reference to "good-planning principles" is a completely subjective standard that means virtually anything its advocate wants it to mean.

Since the housing element provides "the policy framework for future planning decisions" and new zoning is required to be consistent with the general plan under Planning Code section 101.1(d), the new language failing to maintain density limits would provide a policy basis undermining: (1) the current maximum dwelling unit density limits provided in Planning Code section 209.1, to wit, the one-unit limit for RH-1 and two-unit limit for RH-2 districts. (See Ex. 14, excerpt from Legislative Digest referring to Planning Code limitations on numbers of units permitted in RH-1 and RH-2 districts.)

In addition, the new language would provide a policy basis undermining the front set-back requirements provided in Planning Code section 132, the rear yard requirements provided in Planning Code section 134, the usable open space requirements for dwelling units provided in Planning Code section 135 and the side yard requirements for RH-1 districts provided in Planning Code section 133. (See Summary of the Planning Code Standards for Residential Districts attached as Exhibit 12) Such standards describe the height and bulk districts provided in Planning Code section 122 as of mere "general application" to residential districts. Thus, the changed language would provide a policy basis for eliminating the present objective standards which limit density in RH-1 and RH-2 neighborhoods.

Changing the general plan policy, which is the supreme planning law, is the first step to changing zoning. The purpose of zoning is to help implement the general plan. Under Charter section 4.105, the Planning Department "shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan, and periodically prepare implementation programs and schedules which link the General Plan to the allocation of local, state and federal resources." In addition, zoning ordinances must be consistent with the General Plan under Planning Code section 101.1 (d). A good example of increased density planning codes changes carrying out the General Plan is the ordinance adopting approximately 40 zoning changes to implement the Market Octavia area plan after the City approved the 2004 Housing Element. (Exhibit 11)

The proposed new policy language calling for using the prevailing or existing height and bulk limits or using existing height and bulk patterns would provide less protection for the neighborhood character of RH-1 and RH-2 districts than the maximum dwelling unit density limits provided in Planning Code section 209.1. Such changed policy language would promote secondary units and more than the number of units currently allowed by the Planning Code for such R classifications. Established and often older RH-1 and RH-2 districts have a low density character which would be substantially degraded if more than one unit was built in an RH-1 district or more than two units were built in an RH-2 district. The essential nature of such areas would be irreparably degraded by increased density.

Since many established residential neighborhoods have a prevailing one-unit or one/two combined-unit character, the new policy language could cause these neighborhoods to change from low to moderate density, which would constitute a substantial degradation in the quality of such sites and their surroundings, which is a significant adverse impact under provision I. ( c) of the CEQA Guidelines. Under provision XVIII of the CEQA Guidelines, the Project's potential for degrading the quality of the environment requires a mandatory finding of significance of this impact. In addition, such language would conflict with applicable land use plans (which include zoning ordinances) that are adopted for the purposes of avoiding or mitigating such adverse aesthetic effects discussed above. The change would also conflict with the priority planning principle stated in Planning Code section 101.1 (b) (2) that existing "neighborhood character be conserved and protected", which is another significant effect that the EIR failed to analyze. Such conflicts with applicable land use plans are potentially significant adverse impacts under provision X. ( b) of the CEQA Guidelines. (Ex. 13)

The Draft EIR failed to analyze the significant effects of the proposed new policy language on the aesthetic and visual quality of the environment in RH-1 and RH-2 districts and on the new language's conflict with land use plans applicable to such areas. Since these impacts are significant, the City must revise the EIR and analyze such significant effects, mitigation measures which could reduce such effects and reasonable alternatives which could reduce effects. The revised EIR must be recirculated for public review and comment.

A reasonable alternative to this new language would be to utilize the language of the second draft of the 2009 Housing Element which states: "[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character." Maintaining such language would eliminate the significant effects discussed above and is certainly feasible since the City's Plan Areas have far more increased capacity for new housing units than required for the 2007-2014 regional housing needs allocation.

It is the belief of many residents that substantial degradation of the Richmond district resulted from demolition of older single family residences and their replacement with taller, boxy multi-unit structures built up to maximum height and bulk limits that are known as "Richmond Specials." That experience is a telling example of the adverse effects that could result from encouraging increased density in RH-1 and RH-2 neighborhoods. Many residents believe that the architectural character of the Richmond district was substantially degraded when significant numbers of older homes were replaced with such maximized Richmond Specials. The same effect could occur throughout the City as a result of the proposed changes to the 2009 Housing Element.

The proposed new language referring to the "limits" would encourage additions or expansions to existing structures in RH-1 and RH-2 areas which would protrude beyond the envelopes of existing neighboring structures in RH-1 and RH-2 areas that are not currently built up to the prevailing height or bulk limits and have a low density character. The range of adverse effects on neighborhood character that could result from the changed language referring to the



“limits” would include demolition of older homes and their replacement with out-of-scale taller, multi-unit structures; adding floors to existing structures that are not built up to current height limits; expansions into existing rear yards and reduction of mid-block open space; and the cluttered appearance from additional motor vehicles parking on sidewalks and other illegal areas. Such additions, expansions and new construction could disrupt the existing patterns of established residential neighborhoods and substantially degrade the quality of those areas.

The newly proposed language referring to “existing height and bulk patterns” would use the outer envelope of existing structures, as interpreted by the Planning Department and Commission, as a reference point. This proposal would lack objective per-unit density limits within the envelope and would conflict with the provisions of Planning Code section 209.1, which provides the one-unit limit for RH-1 and two-unit limit for RH-2 districts. For the reasons set forth above, this proposed language would produce the same significant impacts discussed above: a significant impact due to conflict with applicable land use plans and would also cause the significant impact resulting from substantial degradation of the quality of such sites and their surroundings, which requires a mandatory finding of significance. The same alternative discussed above would be feasible and a revised EIR is required to be prepared analyzing the significant effects of the proposed change in language, reasonable alternatives thereto and mitigation measures that could reduce effects. The EIR should be revised and recirculated for public review and comment.

The EIR failed to consider measures which could mitigate significant effects or reasonable alternatives thereto. The City made these changes after the public review period on the EIR had closed.

### **3. Policy Language Was Changed to Weaken the Effect of Opposition To Zoning Changes by Neighborhood Residents.**

Language which had given neighborhood residents a primary role in protecting the character of their neighborhoods and opposing zoning changes which would degrade neighborhood character was deleted from the version of Part II that had been analyzed in the EIR.

In EIR Policy 12.1 text requiring “a neighborhood-supported community planning process” to make changes to the Planning Code to further accommodate housing near transit was weakened to refer to a “community based planning process.”

In EIR Policy 1.4 “[n]eighborhood-supported community planning processes” was changed in revised Policy 1.4 to “community based planning processes” to be used to generate changes to land use controls, at the urging of SPUR. (Ex. 4, p. 11, Ex. 2, p. 2, Ex. 8, p. 3) Interpretative text stating that “[c]hanges that involve several parcels or blocks should always be the result of a neighborhood-supported community planning process” was changed to state “[z]oning changes that involve several parcels or blocks should always involve significant community outreach, as part of a community based planning process.” Interpretative text stating

that to ensure adequate community outreach, changes to land use policies may be proposed “with comprehensive support from the community” was changed to state “with comprehensive opportunity for community input.”

New language was added to Objective 11 stating “[c]hanges planned for an area should build on the assets of the specific neighborhood while allowing for change,” after other language providing support for neighborhood character.

In addition, language calling for restricting uses that disrupt the residential fabric were deleted from EIR Policy 11.8.

In EIR Policy 4.6, language was deleted that growth “should not overburden built out neighborhoods where infrastructure is at capacity.”

Policy 11.2 text stating that the Planning Department “should build on and bolster individual community’s local controls” including “neighborhood Covenants, Conditions and Restrictions (CC&R’s)” was changed to only require awareness of CC&R’s by Planning staff, and new language was added stating “although only those guiding documents approved by the Planning Commission may be legally enforced by Planning staff.”

Read together, policy language encouraging increased heights and densities as well as reduced parking in transit rich areas, the changes eliminating the primary role of neighborhood residents regarding proposed changes for their neighborhoods make it likely that the efforts of residents to maintain neighborhood character will be subordinated to the City’s growth objectives. While citywide stakeholders and developer advocacy groups should have input regarding city planning, their input should be secondary to the input of the people who live in established neighborhoods. Residents in established neighborhoods have major financial investments in their neighborhoods and legitimate, long-term interests in preventing congestion or degradation of those areas so that they remain attractive and accessible to vehicular traffic and emergency vehicles.

#### **4. CEQA Requires that the City Prepare a Revised EIR Analyzing Significant Effects Which Could Result from the Changes and Alternatives and Mitigation Measures.**

Since the City made the changes discussed herein months after the public review and comment period on the EIR expired, the City should prepare a revised EIR analyzing the potentially significant impacts of the changes discussed herein on the RH-1 and RH-2 districts and on the areas along and near the major bus lines described in the TEP map, which were not analyzed in the EIR. Such EIR should also analyze the effect of elimination of the requirement that planning code changes be “neighborhood-supported.” The revised EIR must consider reasonable alternatives and mitigation measures that could reduce effects and be recirculated for

that to ensure adequate community outreach, changes to land use policies may be proposed “with comprehensive support from the community” was changed to state “with comprehensive opportunity for community input.”

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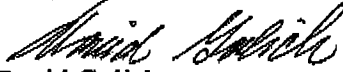
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public review and comment.

Thank you for your attention to this very important matter.

Very truly yours,



David Golick  
Planning Consultant  
dggolick@msn.com

Dated: March 23, 2011

## RESUME

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### Work Experience

1. Planning Consultant and Contract Planner, May, 2000 – Present

A. Interim Community Development Director, City of Benicia, 2005

Responsible for the operation of the Planning Division and Building Division. Involved in preparation of departmental budget and work program.

B. Interim Community Development Director, City of Lafayette, December, 2000 - April, 2001

Supervised and coordinated the Planning, Building, Engineering, and Public Works functions. Responsible for a major reorganization of the Planning Services Division.

C. Interim Planning and Building Manager, City of Lafayette, April, 2001 - October, 2001

Managed Planning and Building program. Responsible for hiring almost an entire new staff. Major projects included three controversial subdivisions, a senior housing proposal, and a downtown redevelopment commercial and housing project. Conducted zoning administrator hearings.

D. Major Land Use Projects

- Managed contentious in-fill applications, including a proposed 23 unit residential subdivision that required an Environmental Impact Report, for the City of Lafayette, 2000-2008.
- Project planner for a 119,000 sq. ft. Home Depot commercial warehouse development for the City of Hercules, 2002.
- Project planner for a 132 unit low income apartment project for the City of Hercules, 2002.
- Critiqued environmental documents prepared for two proposed Contra Costa County ordinance amendments, private sector clients, 2000-2003.
- Critiqued Draft Environmental Impact Report prepared for South Schulte Specific Plan in the City of Tracy, private sector client, 2003.

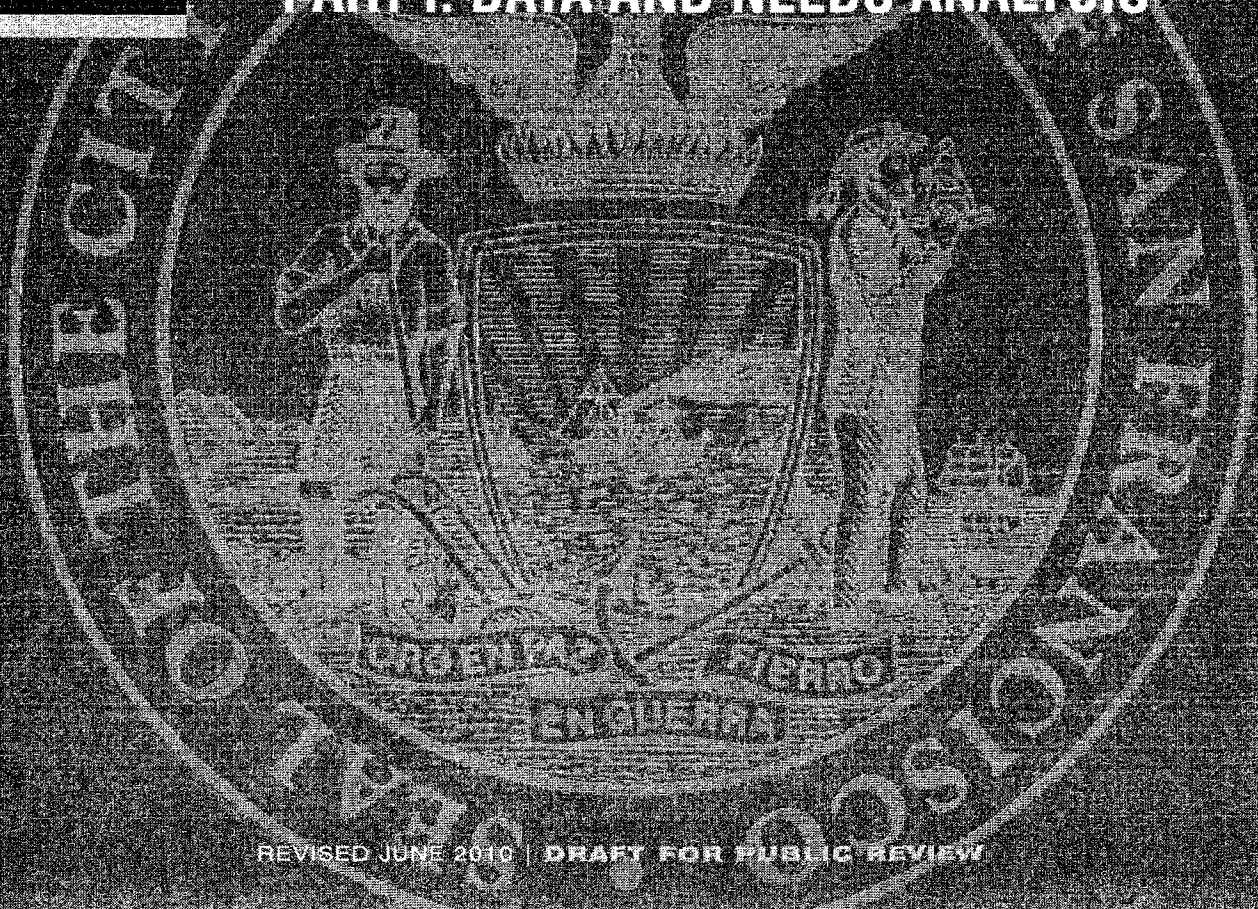
**EXHIBIT K**

**DRAFT**

# HOUSING ELEMENT



## PART I: DATA AND NEEDS ANALYSIS





# DRAFT HOUSING ELEMENT



## PART II: OBJECTIVES & POLICIES

### AN ELEMENT OF THE GENERAL PLAN OF THE CITY AND COUNTY OF SAN FRANCISCO

JUNE 2010 | PRELIMINARY DRAFT FOR PUBLIC REVIEW

Note: This Document is based on the June 2009 Preliminary Draft of the Housing Element, Part II, Objectives and Policies. Changes since the 2009 Preliminary Draft incorporate community comments, Community Advisory Body (Cab) comments, and comments from other City agencies. The Planning Department released a memo in April 2010 summarizing the proposed changes. This memo, which precedes the draft element, serves as an executive summary for the changes included in the full text.

Changes to the document are noted as follows:

- Deletions - ~~strike through text~~
- Additions - Underlined text

Additionally staff made a number of minor corrections to the document - these are not noted in this document.



**EXHIBIT L**

## Are you part of San Francisco's disappearing middle class?

By Jonah Owen Lamb @Jonahowenlamb

click to enlarge

MIKE KOOZMIN

**SF tenant advocates hoping voters will endorse more protections**

By Joshua Sabatini



MIKE KOOZMIN/THE S.F. EXAMINER

Melissa LaBonge of The City has a well-paid job that puts her solidly in the middle class, but fears she'll have to join friends who've had to leave the increasingly pricey city.

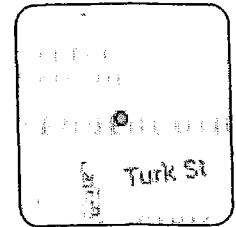
Melissa LaBonge is among a disappearing group of San Franciscans.

The 38-year-old Potrero Hill resident and her boyfriend together make \$80,000 — about \$7,000 more than the median household income — making them solidly part of The City's shrinking middle class.

“Very few still live here,” LaBonge said of her middle-class friends. “Most of them have moved. ... Everyone else has three jobs.”

As the debate continues about affordability and the housing crisis, and how large a role the tech sector plays, San Francisco has become a city of haves and have-nots. A slow but very real trend has been transforming The City's population over the past three decades — a hollowing-out of the middle.

In that time, the number of middle-income households — now only about 33 percent of the population — has declined while the poor and rich, especially, have increased, according to new data from the U.S. Census Bureau.



1 Points Mentioned

The simplest way to understand the trend is to picture an inverted bell curve, with the middle class being at the bottom.

More than half the households in San Francisco — about 66 percent — are either very poor or very well-off, while the rest are somewhere in the middle, according to the Census Bureau's 2012 American Community Survey.

For the past 30 years, the number of middle-income households has slowly been in decline, but the data show a precipitous recent change: The City's richest households increased by 10 percent from 2008 to 2012 as the middle declined by almost the same percentage. Bear in mind that The City's population grew by about 20,000 from 2010 to 2012.

In 2012, of The City's 341,721 households, only 114,960 could call themselves middle class, accounting for only about one-third of all households. Those at the bottom — some 28 percent of households — number 95,774, while the 131,285 at the top make up a plurality of all households at about 38 percent.

Academics and journalists have been arguing over and writing about the phenomena for decades, while The City itself also has clearly drawn lines of who is poor, who is middle class and who is rich.

The most recent housing-cost report by The City's economists, released in 2012, contained more than housing data. It also laid out how much San Francisco is becoming increasingly divided and how much you have to make to be called middle class or, if you are lucky, rich.

Those in the middle are broken into three parts: low, moderate and above-moderate income. Technically, any household making from 50 to 150 percent of the area median income — roughly \$73,000 — is defined as middle class.

The lower-middle class — for example, a construction worker making \$45,000 and his wife, a part-time waitress, making \$10,000 — has since 1990 been in slow decline, making up about 55,000 people as of 2010.

The middle of the middle class, according to The City, might be a single man who is a designer making \$67,000. This group's numbers also have declined, hovering just below 60,000 in 2010.

An upper-middle-class household would be a couple with two children — one a professor making \$85,000 and the other an architect making \$65,000. Unlike their middle-class

brethren, this group — a small proportion of the middle — has increased over this period to about 36,000.

Almost all of these numbers about the middle class have gone down since, as the data used by The City are a few years old. Besides breaking down who fits where on the income ladder, little is said in The City's report about the cause of the middle's decline.

"San Francisco's income mix may be changing for many reasons. We cannot isolate factors that have led to net decline in low and moderate income households," notes the report, which only posits some possible causes — job opportunities, cost of living and housing prices.

Relatively well-paid LaBonge, who works at a nonprofit, considers herself lucky — she has a \$1,012-a-month, rent-controlled apartment. Still, she's looking for another job outside of San Francisco. It's just too expensive here, she said, and her landlord just moved into the building.

### **Median incomes: 2012**

\$53,000: U.S. median household income

\$61,000: California median household income

\$73,000: San Francisco median household income

### **Income groups according to The City's calculations:**

33: Percentage of middle-income households in S.F.

41.7: Percentage of middle-income households in California

44: Percent of middle-income households nationwide

*Source: U.S. Census Bureau, 2012 American Community Survey*

### **S.F. income breakdown:**

#### **The Bottom:**

Very Low Income: A single person with one child making \$35,000 or less

#### **The Middle:**

Low Income: Young couple — one makes \$45,000, one makes \$10,000

Moderate Income: Single person making \$67,000; or two housemates, one making \$50,000 and the other making \$42,000 Above Moderate Income: Married couple with two children — one makes \$85,000, the other makes \$65,000; or a single person making \$100,000

#### **The Top:**

Upper Income: Married couple without kids, one making \$75,000 and the other making \$100,000

Source: Mayor's Office of Housing Middle Income Data, 2012

[More Other News »](#)



## JONAH OWEN LAMB

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Bio:

Born and raised on a houseboat in Sausalito, Lamb has written for newspapers in New York City, Utah and the San Joaquin Valley. He was most recently an editor at the San Luis Obispo Tribune for nearly three years. He has covered higher education, planning, and the economy since October 2013.



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**EXHIBIT 2**

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ENDORSED  
FILED  
San Francisco County Superior Court  
DEC 19 2013  
CLERK OF THE COURT  
BY: JHULIE ROQUE  
Deputy Clerk

7 Attorneys for Respondents  
8 CITY AND COUNTY OF SAN FRANCISCO

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO  
11 UNLIMITED JURISDICTION  
12

13 SAN FRANCISCO FOR LIVABLE  
NEIGHBORHOODS, an unincorporated  
14 association,  
15 Petitioner and Plaintiff,  
16 vs.  
17 CITY AND COUNTY OF SAN FRANCISCO  
and DOES 1 -X,  
18  
19 Respondent and Defendants.

Case No. CGC 11-513-077

~~Proposed~~ ORDER GRANTING IN PART AND  
DENYING IN PART PETITION FOR WRIT  
OF MANDATE

Date Action Filed: August 4, 2011  
Judge: Honorable Teri L. Jackson  
Department: 503 - CEQA

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1 Petitioner suggested additional alternatives in comments on the Draft EIR, but the City  
2 reasonably concluded that the alternatives proposed by the Petitioner were infeasible alternatives or  
3 did not offer significant environmental advantages in comparison with the project or the alternatives  
4 presented in the EIR. (*Marin Mun. Water Dist. v. KG Land Cal. Corp* (1991) 235 Cal.App.3d 1652,  
5 1664-65; see also CEQA Guidelines § 15088.5 [recirculation of Draft EIR not required if proposed  
6 new alternative is infeasible or not considerably different from others previously analyzed].) The  
7 Petitioner’s “RHNA Focused Alternative” (i.e. an alternative that focused only on meeting the income  
8 categories for RHNA), would not have amended any of the policies that impact the physical  
9 environment, only socio-economic policies, and thus did not offer significant environmental  
10 advantages over the 2004 or 2009 Housing Element alternative. (3 AR 1400-02.) Also, a “RHNA  
11 Focused Alternative” may not have reduced the significant cumulative transit impact, as “affordable”  
12 units require greater efficiency in residential development (i.e. density) or fewer amenities (i.e.  
13 parking). (3 AR 1406; 18 AR 9480 [parking adds \$20,000 to cost of construction].) Thus, to meet the  
14 income categories of the RHNA, a “RHNA focused” alternative would likely continue to include  
15 policies encouraging higher densities near transit. (*Id.*)

16 Likewise, substantial evidence supports the City’s conclusion that the Petitioner’s “No  
17 Additional Rezoning Alternative” was infeasible because it would not have reduced the significant  
18 impacts found on transit and noise, and because it would preclude future development and impact the  
19 City’s ability to comply with the State Density Bonus Law. (1 AR 33; 3 AR 1408-09; 97 AR 53160.)

## 20 **2. The EIR’s Analysis of Alternatives was Inadequate.**

21 Although the Court finds that the EIR included a reasonable range of alternatives, and did not  
22 need to include the Petitioner’s suggested alternatives, the Court nonetheless finds that the analysis of  
23 the alternatives included was brief and conclusory, and did not provide the decision-makers with  
24 enough information to make an informed decision as to the comparative merits of each of the  
25 alternatives. “An EIR must contain facts and analysis, not just the agency’s bare conclusions or  
26 opinions” and the EIR’s discussion of alternatives must contain analysis sufficient to allow informed  
27 decisionmaking. (*Laurel Heights I, supra*, at p. 404-405, citing *Concerned Citizens of Costa Mesa*  
28 *Inc. v. 32nd District Agricultural Ass’n* (1986) 42 Cal.3d 929, 935 [EIR must disclose analytic route



1 the agency traveled from evidence to action]; *Citizens of Goleta Valley v. Board of Supervisors* (1990)  
2 52 Cal.3d 553,568; see also CEQA Guidelines § 15126.6(a) and (d).)

3 For example, in the analysis of land use impacts of Alternative A compared to the 2004  
4 Housing Element (and similar to the same analysis of Alternatives B and C), the EIR states that:

5 the 2004 Housing Element encourages new housing in downtown, in  
6 underutilized commercial and industrial areas, and increased housing in  
7 neighborhood commercial districts and mixed use districts near Downtown.  
8 This encouragement of residential development in some areas of the City that  
9 were historically non-residential, might increase potential for conflicts between  
10 residential and other land uses. Additionally, Alternative A would not increase  
11 density to the same extent as the 2004 Housing Element because the 2004 HE  
12 identified particular locations that would provide housing opportunities and did  
13 not assume housing opportunities throughout the entire City, thereby reducing  
14 the potential for land use and conflicts. (3 AR 1112.)

15 The EIR then concludes: “Alternative A could result in incrementally fewer potential land use policy  
16 impacts . . . . However, similar to the 2004 Housing Element, overall impacts related to land use  
17 would be less than significant.” (3 AR 1112-1113.) This comparison analysis is brief and superficial,  
18 and fails to explain the reasoning for its conclusions by citing facts or supporting evidence. For  
19 instance, the comparison states that Alternative A would not increase density to the same extent as the  
20 2004 Housing Element for two reasons, but these reasons only identify factors in the 2004 Housing  
21 Element and not included in Alternative A. It does not explain why these factors would not increase  
22 density to the same extent.

23 Further, the EIR provides no analysis supporting the conclusion that overall impacts related to  
24 land use would be less than significant. For example, the analysis states that there would be fewer  
25 land use policy impacts and density would not increase as much under the 2004 Housing Element as  
26 compared to the 1990 Residence Element. (See 3 AR 1112.) But based on this unsupported  
27 statement, the decisionmakers and the public would have difficulty understanding the analytic route  
28 the City used to reach these determinations.

Similarly, the EIR does not explain why the project objectives would not be met by each of the  
rejected alternatives. For example, the EIR states: “While Alternative A could meet state requirements  
it may not achieve realization of the allocation as outlined in the most recent RHNA . . . or ensure  
capacity for the development of new housing to meet the RHNA at all income levels . . . because [it]

1 does not promote density as aggressively as the Housing Elements.” (3 AR 1133.) Although some  
2 reasoning is stated, this discussion does not show the analytical route followed by the City to reach its  
3 conclusions. For example, the analysis does not explain why Alternative A would increase density,  
4 and there are no facts for the reader to understand why the EIR concludes that “impacts to land use  
5 conflicts could be incrementally greater under Alternative A than the 2009 Housing Element.  
6 However, similar to the 2009 Housing Element impacts related to land use would be *less than*  
7 *significant.*”<sup>2</sup> (See 3 AR 1113.) Although an EIR may contain general statements, such as those the  
8 City employed here, there should also be enough supporting evidence to explain the conclusion to a  
9 reader. This supporting evidence was missing from the EIR’s discussion of alternatives. (*See Laurel*  
10 *Heights I, supra*, at p. 404-405.)

11 As another example, the City included as “an Alternative Considered but Eliminated From  
12 Further Analysis in the EIR,” the Bayview Waterfront Alternative. The sole reason given for not  
13 including this alternative was that “the draft EIR analysis adequately considered this proposed  
14 project,” and that such an alternative “would not provide useful new information.” As with the  
15 previous example, this general statement requires more meaningful analysis and support. The EIR’s  
16 discussion of the Focused Development Alternative and the Reduced Land Use Allocation were  
17 similarly lacking in analysis and support.

18 In sum, the Court finds that the Alternatives analysis in the EIR did not provide sufficient  
19 analysis and factual support in the record to adequately inform the public and decision makers.

20 **II. THE FINDINGS ADOPTED BY THE PLANNING COMMISSION AND BOARD OF**  
21 **SUPERVISORS AS REQUIRED BY CEQA ARE INADEQUATE.**

22 Under CEQA, if an EIR identifies potentially feasible mitigation measures or potentially  
23 feasible alternatives, the lead agency must either adopt the measures or alternatives, unless the lead

---

24 <sup>2</sup> The EIR states: “The 2009 Housing Element encourages housing in all new commercial or  
25 institutional projects, near major transit lines, and through community planning efforts. This  
26 encouragement for housing development, which could result in some land use conflicts, could occur to  
27 a greater extent under Alternative A than under the 2009 Housing Element because alternative A  
28 encourages housing in less limited areas. Additionally, Alternative A would increase density to a  
greater extent Citywide than the 2009 Housing Element, thereby increasing the potential for land use  
conflicts. Therefore, impacts to land use conflicts could be incrementally greater under Alternative A  
than the 2009 Housing Element. However, similar to the 2009 Housing Element impacts related to  
land use would be *less than significant.*” (3 AR 1113.)

1 agency finds that specific economic, legal, social, technological, or other considerations, . . . make  
2 infeasible the mitigation measures or alternatives identified in the environmental impact report.” (Pub.  
3 Resources Code § 21081(a)(3).) Under Public Resources Code section 21081.5, the findings required  
4 by section 21081(a)(3) shall be based on substantial evidence in the record, and the City’s findings did  
5 not comply with these requirements. “Feasible” means capable of being accomplished in a successful  
6 manner, taking into account economic, environmental, social, technological, legal and other factors,  
7 including whether the alternative is impractical or undesirable from a policy standpoint; an alternative  
8 can be rejected as infeasible if it does not accomplish the agency’s policy goals, or meet the project’s  
9 objectives. (*California Native Plant Soc’y v. City of Santa Cruz* (2009) 177 Cal.App.4<sup>th</sup> 957, 1001;  
10 *Jones v. Regents of the University of California* (2010) 183 Cal.App.4<sup>th</sup> 818, 829.)

11 The Court disagrees with Petitioner’s argument that the City did not properly reject the  
12 alternatives because some of the findings indicated that the City had decided to “reject” those  
13 alternatives, rather than “reject as infeasible.” As long as the rejection of alternatives accomplishes the  
14 requirements of CEQA – to wit, based on substantial evidence, they find the alternatives are not  
15 “capable of being accomplished in a successful manner, taking into account economic, environmental,  
16 social, technological, legal and other factors, including whether the alternative is impractical or  
17 undesirable from a policy standpoint” – requiring the City to use the precise phrase “reject as  
18 infeasible” would elevate form over substance.

19 However, similar to the discussion in Part I(F)(2) above, just as the EIR’s alternatives analysis  
20 was conclusory because it did not provide sufficient analysis and factual support to adequately inform  
21 the public and decision makers, the City’s findings rejecting the alternatives (as infeasible), were also  
22 conclusory. (*Resource Defense Fund v. Local Agency Formation Com.* (1987) 191 Cal.App.3d 866,  
23 897 [finding that the project alternative is infeasible should be accompanied by supporting statement  
24 of facts].) Just as the EIR must include sufficient facts and evidence to support its conclusions,  
25 findings that support the rejection of alternatives must be based on substantial evidence in the record  
26 and must contain sufficient facts, evidence and meaningful detail to allow the public to understand  
27 why the decisionmakers have rejected the alternatives, and instead have chosen the path that they have.  
28 (*San Bernardino Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738,

1 753 [under Public Resources Code section 21081, agency must state why an alternative is infeasible];  
2 *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 374 [conclusion in  
3 finding must include good faith reasoned analysis; conclusory statements “unsupported by factual  
4 information will not suffice”]; Pub. Resources Code § 21081.5.) Here, the City’s findings rejecting  
5 the alternatives were conclusory and ambiguous, and failed to describe the specific reasons for finding  
6 the alternatives infeasible. Mere reference to considerations stated “elsewhere in the record” was  
7 inadequate in the alternatives findings for purposes of the findings in this EIR. (See 1 AR 75.)

8 Thus, the City abused its discretion in approving the 2009 Housing Element because the City  
9 failed to explain the rationale for the findings that rejected each of the alternatives described in the EIR,  
10 as required by CEQA Guidelines section 15091(a).

11 **III. THE COURT FINDS THAT THE 2009 HOUSING ELEMENT IS CONSISTENT WITH**  
12 **THE GENERAL PLAN AND THE PRIORITY POLICIES IN PLANNING CODE**  
13 **SECTION 101.1.**

14 Like most general plans, the San Francisco General Plan’s policies must be internally  
15 consistent. (Gov. Code, § 65300.5; S.F. Planning Code § 101.1(a).) “A general plan is internally  
16 inconsistent when one required element impedes or frustrates another element or when one part of an  
17 element contradicts another part of the same element.” (*South Orange County Wastewater Authority*  
18 (2011) 196 Cal.App.4th 1604, 1619.) In light of the presumption of validity and deference owed to the  
19 City’s general plan decision, a court may not disturb the General Plan based on violation of the  
20 internal consistency requirements unless “a reasonable person” could not conclude that the plan is  
21 internally consistent. (*Federation of Hillside and Canyon Ass’n, supra*, 126 Cal.App.4th at p. 1195.)

22 The Court finds that the City reasonably determined that the 2009 Housing Element was  
23 consistent with the General Plan and the Priority Policies found in Section 101.1 of the Planning Code.  
24 (1 AR 43-44.) Specifically, the City reasonably determined that the Housing Element was consistent  
25 with Priority Policy #2, which states “that existing housing and neighborhood character be conserved  
26 and protected in order to preserve the cultural and economic diversity of our neighborhoods.” The City  
27 found that the Housing Element contained objectives and policies to preserve existing housing stock,  
28 as well as objectives and policies to protect neighborhood character. (*Id.*; see also 1 AR 316-7.) The  
City reasonably determined that the Housing Element was consistent with Priority Policy #8 “that

**EXHIBIT 3**

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13 San Franciscans for Livable Neighborhoods

ENDORSED  
FILED  
Superior Court of California  
County of San Francisco

JAN 24 2014

CLERK OF THE COURT  
BY: WESLEY RAMIREZ  
Deputy Clerk

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 IN AND FOR THE COUNTY OF SAN FRANCISCO  
16 UNLIMITED JURISDICTION

17 SAN FRANCISCANS FOR LIVABLE ) No. CGC-11-513077  
18 NEIGHBORHOODS, an unincorporated association, )  
19 Petitioner and Plaintiff, ) NOTICE OF ENTRY OF  
20 v. ) JUDGMENT GRANTING  
21 ) PEREMPTORY  
22 ) WRIT OF MANDATE  
23 )  
24 CITY AND COUNTY OF SAN FRANCISCO, and DOES )  
25 I-X, ) Dept. 503-CEQA  
26 Respondents and Defendants. ) The Honorable Teri L. Jackson  
27 )  
28 )

Action Filed: August 4, 2011

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on January 15, 2014, the Court in the above-captioned action entered the Judgment Granting Peremptory Writ of Mandate, a true and correct copy of which is attached hereto as Exhibit A.

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Dated: January 24, 2014

LAW OFFICE OF KATHRYN R. DEVINCENZI

*Kathryn R. Devincenzi*

By: KATHRYN R. DEVINCENZI  
Attorney for Petitioner and Plaintiff  
SAN FRANCISCANS FOR LIVABLE  
NEIGHBORHOODS





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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 IN AND FOR THE COUNTY OF SAN FRANCISCO

15 SAN FRANCISCANS FOR LIVABLE  
16 NEIGHBORHOODS,

17 Petitioner and Plaintiff,

18 v.

19 CITY AND COUNTY OF SAN FRANCISCO, and DOES  
20 I-X,

21 Respondents and Defendants.

ENDORSED  
FILED  
San Francisco County Superior Court

JAN 15 2014

CLERK OF THE COURT  
BY: [Signature]  
Deputy Clerk

) No. CCG-11-513077

)  
) ~~PROPOSED~~  
) JUDGMENT GRANTING  
) PEREMPTORY  
) WRIT OF MANDATE

)  
) Action Filed: August 4, 2011  
)  
) Hearing Date: December 19, 2013  
) Time: 9:30 a.m.  
) Dept: 503-CEQA  
) The Honorable Teri L. Jackson

22 The motion of Petitioner SAN FRANCISCANS FOR LIVABLE NEIGHBORHOODS'  
23 ("SFLN") for issuance of a judgment granting a peremptory writ of mandate, and the counter-motion  
24 of Respondent CITY AND COUNTY OF SAN FRANCISCO's ("City") for issuance of a judgment  
25 granting a peremptory writ of mandate came on regularly for hearing on December 5, 9, 10 and 19,  
26 2013 in Department 503 of the above-entitled Court, the Honorable Teri L. Jackson, Judge of the  
27 Superior Court, presiding.

1 SFLN was represented by Kathryn R. Devincenzi. The City was represented by Deputy City  
2 Attorney Audrey Williams Pearson. Based on the pleadings on file and the argument of counsel, and  
3 GOOD CAUSE APPEARING THEREFOR, IT IS ORDERED THAT:  
4

5 1. SFLN's motion for issuance of a Judgment granting a Peremptory Writ of Mandate  
6 is GRANTED. The City's motion for issuance of a Peremptory Writ of Mandate is DENIED.

7 2. Judgment shall be entered in favor of Petitioner SFLN in this proceeding.

8 3. A Peremptory Writ of Mandate directed to Respondent City shall issue under seal of  
9 this Court in the form attached as Exhibit A hereto ordering Respondent to take the actions and  
10 refrain from taking the actions described in said Peremptory Writ of Mandate.

11 4. Pursuant to Public Resources Code § 21168.9, this Court shall retain jurisdiction over  
12 this action and the City's return to the Writ to determine whether the City's actions have fully  
13 complied with the mandates of the Peremptory Writ of Mandate to be issued under seal of this Court.

14 5. This Court shall retain jurisdiction over this action to determine entitlement to costs  
15 and attorneys' fees.

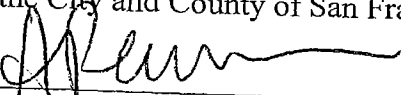
16  
17 GOOD CAUSE APPEARING THEREFOR, IT IS SO ORDERED:

18  
19 DATE: 11/15/14


  
20 THE HONORABLE TERI L. JACKSON  
21 JUDGE OF THE SUPERIOR COURT

22 APPROVED AS TO FORM,  
23 reserving all objections:

24 Dennis J. Herrera, City Attorney  
for the City and County of San Francisco

25 By:   
Audrey Williams Pearson,  
26 Deputy City Attorney

Law Office of Kathryn R. Devincenzi

27 By:   
Kathryn R. Devincenzi,  
28 Attorney for Petitioner SFLN



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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 IN AND FOR THE COUNTY OF SAN FRANCISCO

16 SAN FRANCISCANS FOR LIVABLE  
17 NEIGHBORHOODS,

18 Petitioner and Plaintiff,

19 v.

20 CITY AND COUNTY OF SAN FRANCISCO, and DOES  
21 I-X,

22 Respondents and Defendants.

) No. CCG-11-513077

)  
) **[PROPOSED]**  
) **PEREMPTORY**  
) **WRIT OF MANDATE**

) Action Filed: August 4, 2011

) Hearing Date: December 19, 2013

) Time: 9:30 a.m.

) Dept: 503-CEQA

) The Honorable Teri L. Jackson

23 TO THE CITY & COUNTY OF SAN FRANCISCO ("City"):

24 As a result of this Court's judgment that the Final EIR certified for the 2009 Housing  
25 Element inadequately analyzes alternatives to the proposed project and that Respondent City's  
26 Findings rejecting alternatives are inadequate, a Peremptory Writ of Mandate must issue from  
27 this Court.

1 Respondent City and County of San Francisco ("City") IS HEREBY COMMANDED  
2 immediately upon receipt of this Peremptory Writ to:

3 1. Set aside and void the certification and approval of the San Francisco 2004 and  
4 2009 Housing Element Final Environmental Impact Report ("EIR") which you certified on  
5 March 24, 2011 by Motion No. 18307 of the San Francisco Planning Commission, and the San  
6 Francisco Board of Supervisors affirmed on May 10, 2011 by Motion No. M11-72, File No.  
7 110453, and the San Francisco Board of Supervisors endorsed on June 21, 2011 in File No.  
8 110397, Ordinance No. 108-11. Said certification and actions are remanded to you for

9 reconsideration. ~~In accordance with the requirements of Public Resources Code § 21091,~~  
10 you must submit any and all revisions to the EIR for public review, consider all comments that  
11 you receive as to the revisions to the EIR during the public review period, and you must prepare a  
12 written response that describes "the disposition of each significant environmental issue that is  
13 raised by commenters,"  
14 as it relates to the alternatives.  
15

16 2. Set aside and void your approval of CEQA Findings with respect to the approval  
17 of the proposed 2009 Housing Element Update Amendment which the San Francisco Planning  
18 Commission approved in Motion No. 18308 on March 24, 2011, and the San Francisco Board of  
19 Supervisors adopted as its own and incorporated in File No. 110397, Ordinance No. 108-11, on  
20 June 21, 2011. Said approvals and actions are remanded to you for reconsideration.  
21

22 3. Set aside and void your approval of any and all changes from the City of San  
23 Francisco's 1990 Residence Element that are embodied in the 2009 Housing Element, which the  
24 San Francisco Board of Supervisors adopted in File No. 110397, Ordinance No. 108-11, on June  
25 21, 2011, as recommended to the San Francisco Board of Supervisors by the San Francisco  
26 Planning Commission on March 24, 2011 in Resolution No. 18309. Said approvals and actions  
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1 are remanded to you for reconsideration. The EIR acknowledges that it “addresses the changes  
2 of the proposed Housing Elements from the 1990 Residence Element.” (1 AR 158.)

3  
4 4. Until you prepare, consider and certify an EIR and fully comply with the requirements of  
5 CEQA in relation to the deficiencies in your CEQA compliance referred to in the first paragraph  
6 of this Peremptory Writ above and in paragraph 1 above, YOU ARE COMMANDED to refrain  
7 from enforcing, relying upon, approving or implementing the changes from the City of San  
8 Francisco’s 1990 Residence Element that are embodied in the 2009 Housing Element which are  
9 identified in the 2009 Housing Element as “Policies With Potential for Physical Environmental  
10 Impacts” under the heading “2009 Housing Element” on Table IV-8 at pages IV-33 through IV-  
11 36 of the Final Environmental Impact Report for the San Francisco 2004 and 2009 Housing  
12 Element (“EIR”) at 1 Administrative Record (“AR”) 183 through 186 until you fully comply  
13 with the requirements of CEQA in the manner required by this Peremptory Writ. Said enjoined  
14 2009 Housing Element “Policies With Potential for Physical Environmental Impacts” are  
15 Policies 1.1, 1.3, 1.6, 1.7, 1.8, 4.6, 10.3, 12.1, 12.2, 13.1, and 13.3 which direct growth to certain  
16 areas of the City and Policies 1.4, 1.10, 1.6, 7.5 and 11.5 that promote increased density-related  
17 development standards, as set forth in Exhibit A hereto which is incorporated by reference herein  
18 as though fully set forth. The policy identified as Policy 1.1 on Table IV-8 has been renumbered  
19 Policy 1.2 in the 2009 Housing Element. (97 AR 533137). Notwithstanding the foregoing and  
20 over the objection of Petitioner San Franciscans for Livable Neighborhoods (“SFLN”), any  
21 project that received its final approval or final entitlement as of December 19, 2013 based on  
22 reliance upon any part of the 2009 Housing Element as previously adopted by the City shall not  
23 be subject to the above-described injunction against implementing, relying upon, or approving  
24 the policies stated in Table IV-8 attached as Exhibit A hereto, and any modification to such a  
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1 project may be approved based on any part of the 2009 Housing Element as previously adopted  
2 by the City and shall not be subject to the above-described injunction against implementing,  
3 relying upon, or approving the policies stated in Table IV-8 attached as Exhibit A hereto. Also  
4 notwithstanding the foregoing and over the objection of Petitioner SFLN, any project that was  
5 approved by the San Francisco Planning Commission as of December 19, 2013 based on  
6 reliance upon any part of the 2009 Housing Element as previously adopted by the City shall not  
7 be subject to the above-described injunction against implementing, relying upon, or approving  
8 the policies stated in Table IV-8 attached as Exhibit A hereto. The City may rely upon any part  
9 of the 1990 Residence Element or any part of the 2004 Housing Element that was not enjoined in  
10 the Peremptory Writ of Mandate or Amendment to Peremptory Writ of Mandate issued in San  
11 Francisco Superior Court action number CPF-04-504780. The Court has granted the above-  
12 described injunction against implementing, relying upon, or approving the policies stated in  
13 Table IV-8 attached as Exhibit A hereto over the objection of Respondent City and County of  
14 San Francisco. Furthermore, in the event the State of California Department of Housing and  
15 Community Development or any other state or federal agency raises an issue as to Respondent  
16 City's entitlement for funding or any grant as a result of the Court's issuance of the above-  
17 described injunction, the City may apply ex parte to the Court for an order shortening time to  
18 address the issue as soon as possible, and pursuant to its retained jurisdiction, the Court may  
19 amend this Writ or grant such equitable relief as is just and proper. Notwithstanding the  
20 foregoing, you need not refrain from attempting to achieve San Francisco's share of the Regional  
21 Housing Need Assessment for January 2007 through June 2014 which was calculated to be  
22 31,190 housing units for the income categories described in Table I-39 at p. I.41 of PART I:  
23 DATA AND NEEDS ANALYSIS of the 2009 Housing Element at 97 AR 53066. You may seek  
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1 clarification from the Court of your obligations under this Peremptory Writ of Mandate by  
2 noticed motion.

3           5.       The Court finds that the consideration of alternatives to the changes from the 1990  
4 Residence Element embodied in the 2009 Housing Element and the adoption of findings required  
5 by CEQA with respect to alternatives to the proposed 2009 Housing Element would be  
6 prejudiced if the City was not restrained from enforcing, relying upon, approving or  
7 implementing the changes from the 1990 Residence Element embodied in the 2009 Housing  
8 Element described herein, until the City fully complies with the requirements of CEQA because  
9 reliance upon such policy changes, in findings that proposed development projects and other land  
10 use approvals are consistent with said policies, could result in an adverse change or alteration to  
11 the physical environment.  
12

13           6.       Pursuant to Public Resources Code § 21168.9, and for the reasons set forth in the  
14 briefs and arguments of counsel, the Court finds that the changes from the 1990 Residence  
15 Element embodied in the 2009 Housing Element are severable from the remaining policies,  
16 objectives and implementation measures of the 2009 Housing Element because the policies set  
17 forth in the 1990 Residence Element were adopted after certification of an EIR under CEQA.  
18 The Court further finds that the City's reliance upon the remainder of the 2009 Housing Element  
19 without the 2009 Housing Element "Policies With Potential for Physical Environmental Impacts"  
20 identified under the heading "2009 Housing Element" on Table IV-8 at pages IV-33 through IV-  
21 36 of the Final Environmental Impact Report for the San Francisco 2004 and 2009 Housing  
22 Element at 1 AR 183 through 186, will not prejudice complete and full compliance with CEQA.  
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1           7. Pursuant to Public Resources Code § 21168.9, this Court shall retain jurisdiction  
2 over this action to determine whether your actions have fully complied with the mandates of this  
3 Peremptory Writ.

4           8. YOU ARE FURTHER COMMANDED to comply fully with the requirements of  
5 CEQA concerning the housing element amendments described herein by June 30, 2014 and make  
6 and file a return to this Court upon taking action to comply with this Peremptory Writ, setting  
7 forth what you have done to comply, and pursuant to this Court's retained jurisdiction over your  
8 proceedings by way of return to the Peremptory Writ, this Peremptory Writ will remain in effect  
9 until this Court determines, based on your return to the Peremptory Writ, that you have fully  
10 complied with CEQA as to the matters set forth herein.

11  
12  
13  
14 IT IS ORDERED THAT THE COURT SHALL ISSUE THE FOREGOING PEREMPTORY  
15 WRIT OF MANDATE:

16  
17 DATE: 1/15/14

18   
19 THE HONORABLE TERI L. JACKSON  
20 JUDGE OF THE SUPERIOR COURT

21  
22  
23  
24 DATE: \_\_\_\_\_

\_\_\_\_\_, Clerk of the Superior Court

25 By: \_\_\_\_\_ Deputy Clerk

1 APPROVED AS TO FORM,  
2 reserving all objections:

3 Dennis J. Herrera, City Attorney  
4 for the City and County of San Francisco

5 By: A Pearson  
6 Audrey Williams Pearson,  
7 Deputy City Attorney

Law Office of Kathryn R. Devincenzi

By: Kathryn R. Devincenzi  
Kathryn R. Devincenzi,  
Attorney for Petitioner SFLN

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Table IV-8  
Policies With Potential for Physical Environmental Impacts<sup>1</sup>

Corresponding 1990 Residence Element Policy	2004 Housing Element	2009 Housing Element
<b>Policies that Direct Growth to Certain Areas of the City</b>		
Policy 2.1: Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood character	Policy 1.1: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households. Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhood support.	Policy 1.1: Focus housing growth- and the infrastructure necessary to support that growth- according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park and Hunter's Point Shipyard.
Policy 2.2: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are permanently affordable to lower income households.	Policy 1.2: Encourage housing development, particularly affordable housing, in neighborhood commercial areas without displacing existing jobs, particularly blue-collar jobs or discouraging new employment opportunities.	Policy 1.3: Work proactively to identify and secure opportunity sites for permanently affordable housing
Policy 1.2: Facilitate the conversion of underused industrial and commercial areas to residential use, giving preference to permanently affordable housing uses.	Policy 1.3: Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.	Policy 1.6: Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.
Policy 1.4: Locate in-fill housing on appropriate sites in established neighborhoods.	Policy 1.4: Locate in-fill housing on appropriate sites in established residential neighborhoods.	Policy 1.7: Consider public health objectives when designating and promoting housing development sites.
Policy 12.5: Relate land use controls to the appropriate scale for new and existing residential areas.	Policy 1.6: Create incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects.	Policy 1.8: Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.
	Policy 11.6: Employ flexible land use controls in residential areas that can regulate inappropriately sized	Policy 4.6: Encourage an equitable distribution of growth according to infrastructure and site capacity.

**Table IV-8  
Policies With Potential for Physical Environmental Impacts<sup>1</sup>**

Corresponding 1990 Residence Element Policy	2004 Housing Element	2009 Housing Element
	development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit.	
		Policy 10.3: Support state legislation and programs that promote environmentally favorable projects.
		Policy 12.1: Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.
		Policy 12.2: Consider the proximity of quality of life elements, such as open space, child care and neighborhood serves, when development new housing units.
		Policy 13.1: Support "smart" regional growth that locates new housing close to jobs and transit.
		Policy 13.3: Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian and bicycle mode share.
<b>Policies that Promote Increased Density-Related Development Standards</b>		
Policy 2.1: Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood character.	Policy 1.1: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households. Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhood support.	Policy 1.4: Ensure community based planning processes are used to generate changes to land use controls.

**Table IV-8  
Policies With Potential for Physical Environmental Impacts<sup>1</sup>**

Corresponding 1990 Residence Element Policy	2004 Housing Element	2009 Housing Element
Policy 2.2: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are permanently affordable to lower income households.	Policy 1.6: Create incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects.	Policy 1.10: Support new housing projects where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.
Policy 1.3: Create incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects.	Policy 1.7: Encourage and support the construction of quality, new family housing.	Policy 1.6: Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.
Policy 1.5: Allow new secondary units in areas where their effects can be dealt with and there is neighborhood support, especially if that housing is made permanently affordable to lower income households.	Policy 1.8: Allow new secondary units in areas where their effects can be dealt with and there is neighborhood support, especially if that housing is made permanently affordable to lower income households.	Policy 7.5: Encourage the production of affordable housing through process and zoning accommodations, and prioritize affordable housing in the review and approval processes.
Policy 7.3: Grant density bonuses for construction of affordable or senior housing.	Policy 4.4: Consider granting density bonuses and parking requirement exemptions for the construction of affordable housing or senior housing.	Policy 11.5: Ensure densities in established residential areas promote compatibility with prevailing neighborhood character.
Policy 2.3: Allow flexibility in the number and size of units within permitted volumes of larger multi unit structures, especially if the flexibility results in creation of a significant number of dwelling units that are permanently affordable to lower income households.	Policy 4.5: Allow greater flexibility in the number and size of units within established building envelopes, potentially increasing the number of affordable units in multi-family structures.	
Policy 12.5: Relate land use controls to the appropriate scale for new and existing residential areas.	Policy 11.6: Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas, and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit.	

**Table IV-8  
Policies With Potential for Physical Environmental Impacts<sup>1</sup>**

Corresponding 1990 Residence Element Policy	2004 Housing Element	2009 Housing Element
Policy 2.1: Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood character.	Policy 11.7: Where there is neighborhood support, reduce or remove minimum parking requirements for housing, increasing the amount of lot area available for housing units.	
	Policy 11.8: Strongly encourage project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.	
	Policy 11.9: Set allowable densities and parking standards in residential areas at levels that promote the City's overall housing objectives while respecting neighborhood scale and character.	
<p><sup>1</sup> The intent of this list is to list all policies of Housing Element Alternatives A, B, and C with the potential to have physical impacts on the environment. Any policies not listed here that also may have physical impacts on the environment are likely to have substantially the same impacts as the policies included herein.</p> <p><sup>2</sup> The Housing Elements contain additional themes beyond what is presented in this table. However, those themes, which include (but are not limited to) Homelessness, Housing Condition, Seismic Safety, and Displacement, do not have associated policies that would result in potential environmental impacts.</p>		

**PROOF OF PERSONAL SERVICE**

I, KATHRYN R. DEVINCENZI, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 22 Iris Avenue, San Francisco, CA 94118.

On January 24, 2014, I served by hand a true and correct copy of: NOTICE OF ENTRY OF JUDGMENT GRANTING PEREMPTORY WRIT OF MANDATE, by delivering a copy thereof to the following person:

Audrey Williams Pearson  
Deputy City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-5408

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 24, 2014, at San Francisco, California.

  
KATHRYN R. DEVINCENZI



**EXHIBIT 4**

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

FILED  
Court of Appeal First Appellate District  
JUN 22 2007  
Diana Herbert, Clerk  
By \_\_\_\_\_ Deputy Clerk

SAN FRANCISCANS FOR LIVABLE  
NEIGHBORHOODS,

Plaintiff and Appellant,

v.

CITY AND COUNTY OF SAN  
FRANCISCO,

Defendant and Respondent.

A112987

(San Francisco County  
Super. Ct. No. 504780)

Appellant San Franciscans for Livable Neighborhoods (SFLN) challenges the denial of its petition for a writ of mandate to compel respondent City and County of San Francisco (the City) to set aside the approval of the housing element of its general plan and to prepare an environmental impact report (EIR) pursuant to the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.)<sup>1</sup> Appellant claims that there is substantial evidence to support a fair argument that amendments to the housing element may have a significant impact on the environment, thus requiring the preparation of an EIR. We agree and reverse.

<sup>1</sup> All statutory references are to the Public Resources Code unless otherwise specified.

I.  
FACTUAL AND PROCEDURAL  
BACKGROUND

The City is required by state law to prepare a general plan for the development of the City that includes, among other elements, a housing element that analyzes “existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.” (Gov. Code, § 65583; see also Gov. Code, §§ 65300, 65302, subd. (c).) The housing element must be updated at least every five years. (Gov. Code, § 65588, subd. (b).)

The City revised its housing element in 1990, when it adopted the 1990 Residence Element (Residence Element). An EIR was prepared to evaluate the revision. Meeting the housing goals in the Residence Element would reduce traffic congestion and thus improve air quality, according to the EIR, because people who work in the City would have shorter commutes. The EIR concluded that reaching the housing goals in the Residence Element could be achieved without any significant adverse effects to the environment.

The Residence Element was not updated again until May 13, 2004, when the City’s planning commission adopted a revision following nearly three years of public comment and draft revisions. The revised element, now called the 2004 Housing Element (Housing Element), is the subject of the current appeal.

The Association of Bay Area Governments (ABAG) projected that the population of San Francisco would increase by almost 32,500 people by 2010 to about 809,200. ABAG determined that San Francisco’s share of the regional housing need for January 1999 through June 2006 would be 20,374 units, or 2,717 units annually. The Housing Element was designed to address those housing needs.

The City's planning department (Department) prepared an initial study to evaluate whether proposed changes to the Housing Element would have a significant effect on the environment. As part of its analysis, the Department examined only new policies that were being added to the Housing Element; it apparently did not evaluate the effects of policies that contained no text change or that were modified, or the effect of removing certain policies from the 1990 Residence Element. The initial study emphasized that although proposed revisions to the Housing Element were meant to promote increased housing production, no environmental effects would result from the adoption of the element because it did not specify any development, rezoning, or area plans. In evaluating whether the Housing Element would affect various aspects of San Francisco's environment, the initial study repeatedly stated that any environmental impact analysis would be conducted in connection with the approval of any future development projects, area plans, or rezoning. The Department then prepared a negative declaration, which concluded that revisions to the Housing Element could not have a significant effect on the environment. SFLN<sup>2</sup> appealed a preliminary negative declaration, but the planning commission voted unanimously to uphold the negative declaration on the same day it adopted the Housing Element.

SFLN appealed the approval of the negative declaration to the Board of Supervisors. The Board of Supervisors denied the appeal on June 29, 2004, and the 2004 Housing Element was thereafter approved by operation of law. (S.F. Charter, § 4.105

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<sup>2</sup> SFLN is an unincorporated association that includes several neighborhood organizations: the Cow Hollow Association, the Francisco Heights Civic Association, the Greater West Portal Neighborhood Association, the Jordan Park Improvement Association, the Lakeshore Acres Improvement Club, the Laurel Heights Improvement Association of San Francisco, Inc., the Marina-Cow Hollow Neighbors & Merchants, the Miraloma Park Improvement Club, the Pacific Heights Residents Association, the Presidio Heights Association of Neighbors, the Russian Hill Neighbors, the St. Francis Homes Association, the Sunset-Parkside Education and Action Committee, Inc., and the Westwood Highlands Association.

[proposed general plan amendment deemed approved by Board of Supervisors if board fails to act within 90 days of receiving amendment]; S.F. Planning Code, § 340, subd. (d) [same].) The City filed a notice of determination on November 2, 2004.

The revised Housing Element describes several projects that already have been approved by the Department, and for which permit applications either have been approved or filed with the department of building inspection. One such project is the “Better Neighborhoods Program,” a program currently planned for three “pilot neighborhoods” to link land use and transportation development so that each element supports the other. The Housing Element identifies areas for potential housing development, and it includes specific policies and implementation strategies to increase building densities, especially in areas well served by transit, and to advocate reducing or removing minimum parking requirements in order to increase the land available for housing development. The Housing Element also includes a list of future actions to implement the element’s objectives and policies.

SFLN filed a petition for writ of mandate with the trial court challenging the City’s decision to adopt the Housing Element without preparing and considering an EIR. The petition sought to vacate and set aside the City’s decision to approve the Housing Element and to order the City to prepare and consider an EIR.

The trial court denied the petition on the grounds that the 2004 Housing Element did not vary greatly from the 1990 Residence Element, and that SFLN had not provided sufficient evidence to support a fair argument that the revised Housing Element might significantly affect the environment. SFLN timely appealed the subsequent judgment.

## II. DISCUSSION

### *A. General Legal Principles and Standard of Review.*

A government agency shall prepare an EIR on any proposed project that may have a significant effect on the environment. (§ 21100, subd. (a); *Pocket Protectors v. City of*

*Sacramento* (2004) 124 Cal.App.4th 903, 927.) The purpose of an EIR is “to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment.” (§ 21061; see also *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354.) The amendment of an element of a general plan is considered a “project” for purposes of the statute. (Cal. Code Regs., tit. 14, § 15378, subd. (a)(1);<sup>3</sup> see also *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 202; *Black Property Owners Assn. v. City of Berkeley* (1994) 22 Cal.App.4th 974, 985; *City of Santa Ana v. City of Garden Grove* (1979) 100 Cal.App.3d 521, 526, 534.)

A “significant effect on the environment” is defined as “a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project.” (Guidelines, § 15382.) “‘If there is a possibility that the project may have a significant environmental effect, the agency must conduct an initial threshold study. [Citation.] If the initial study reveals that the project will not have such effect, the lead agency may complete a negative declaration briefly describing the reasons supporting this determination. [Citations.] However, if the project may have a significant effect on the environment, an EIR must be prepared.’ [Citations.]” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 304-305; see also Guidelines, §§ 15002, subd. (k)(1)-(2), 15063, subd. (a), 15365.) The initial study is designed to inform the choice between a negative declaration and an environmental impact report, as well as eliminate unnecessary EIRs. (Guidelines, § 15063, subd. (c)(1),

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<sup>3</sup> The Guidelines for the Implementation of the California Environmental Quality Act, hereafter Guidelines, are found in California Code of Regulations, title 14, section 15000 et seq. All subsequent regulatory citations to the Guidelines are to title 14 of the Code of Regulations. “[C]ourts should afford great weight to the Guidelines except when a provision is clearly unauthorized or erroneous under CEQA.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391, fn. 2.)

(6.) “The initial study must include a description of the project. The study must also ‘[p]rovide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment.’ ” (*City of Redlands v. County of San Bernardino*, (2002) 96 Cal.App.4th 398, 406, fns. omitted.)

Absent substantial evidence of any significant environmental impact, the agency shall adopt a negative declaration. (§ 21080, subd. (c); *City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 405.) A negative declaration is “a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental report.” (§ 21064; see also Guidelines, § 15371.) “[S]ubstantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.” (§ 21080, subd. (e)(1); see also Guidelines, § 15384, subd. (b); *City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 410.) Substantial evidence “means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency.” (Guidelines, § 15384, subd. (a).) Substantial evidence does not include “argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.” (§ 21080, subd. (e)(2); see also Guidelines, §§ 15064, subd. (f)(5), 15385, subd. (a).)

“In reviewing an agency’s decision to adopt a negative declaration, a trial court applies the ‘fair argument’ test. ‘Under this test, the agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a proposed project may have a significant effect on the environment. . . .’ If such evidence exists, the court must set aside the agency’s decision to adopt a negative declaration as an abuse of

discretion in failing to proceed in a manner as required by law.” (*City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 405, fns. omitted; see also § 21082.2, subd. (d).) “The ‘act or decision’ we review here is not the decision that the project may or may not have a significant environmental impact, but the decision that it can or cannot be *fairly argued* that the project may have a significant environmental impact.” (*City of Livermore v. Local Agency Formation Com.* (1986) 184 Cal.App.3d 531, 541.) “The fair argument standard is a ‘low threshold’ test for requiring the preparation of an EIR. [Citations.] It is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is *de novo*, with a preference for resolving doubts in favor of environmental review. [Citations.]” (*Pocket Protectors v. City of Sacramento*, *supra*, 124 Cal.App.4th 903 at p. 928.)

*B. CEQA Favors Early Review of Environmental Issues.*

We agree with SFLN that the City should not be excused from conducting an EIR simply because the Housing Element is a policy document, with more specific developments to follow. “The general plan is atop the hierarchy of local government law regulating land use. It has been aptly analogized to ‘a constitution for all future developments.’ [Citation.]” (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1183.) “A general plan embodies an agency’s fundamental policy decisions to guide virtually all future growth and development.” (*City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 409.) This was acknowledged in the initial study here, which noted that “the revised Housing Element would be used to frame the discussion of future Area Plans, rezoning proposals and specific development proposals, in the same way that all of the elements of the General Plan provide a framework for decision-making about the future of the City.”



“Even if a general plan amendment is treated merely as a ‘first phase’ with later developments having separate approvals and environmental assessments, it is apparent that an evaluation of a ‘first phase-general plan amendment’ must necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment. Only then can the ultimate effect of the amendment upon the physical environment be addressed.” (*Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 194 [EIR required for general plan amendment, even though amendment required a special use permit and additional EIR before any specific development could take place].) CEQA mandates that environmental considerations “not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.” (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284.) “Generally, in cases involving general plan amendments, the local agency has either prepared an EIR or was required to do so. [Citations.]”<sup>4</sup> (*Christward Ministry, supra*, at pp. 193-194.)

Because San Francisco’s population will increase whether or not the City plans for it, the City argues, the Housing Element will not *cause* any population growth, as SFLN claims. The City argues that determinations about its housing needs are “statutorily exempt from environmental review” under Government Code section 65584, subdivision (f), which provides that determinations made by the state’s Department of

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<sup>4</sup> Citing a May 6, 2004, Department memorandum, the City claims that “amendments to a Housing Element are often analyzed properly in a negative declaration,” as at least five other Bay Area counties and sixteen other Bay Area cities issued negative declarations for their housing elements (on some unspecified dates). The cited memorandum noted that the Department conducted “a limited survey” of other Bay Area jurisdictions and found that the use of a negative declaration for a housing element update “is not in any way unusual.” The relevant housing elements apparently are not in the record, as the City does not cite to them. We therefore do not know whether the other housing elements contained any material changes, or whether there were any legal challenges to the adoption of the negative declarations.

Housing and Community Development, ABAG, or the City about existing and projected housing needs are exempt from CEQA. (See also Gov. Code, § 65582, subs. (b) & (c).) Just because the specific determinations about existing and projected housing needs are exempt, that does not necessarily mean that environmental review of the planning efforts to accommodate those needs also are exempt. We agree with the general proposition that the Housing Element is not designed to induce population growth, and that this case is therefore distinguishable from those cited by SFLN, where approvals of projects clearly would result in population growth in previously undeveloped areas. (*Arviv Enterprises, Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333, 1345, 1347-1348 [approval of 21-house project in area with limited services]; *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 352, 371 [development of airport industrial area expected to add nearly 10,000 employees to area].) It does not follow, however, that planning for growth in a major urban area automatically should be exempt from environmental review.

The City argues that it would be “entirely speculative” to “guess” where any new area plans, zoning changes, or development might occur in the future as a result of the revised Housing Element. The Guidelines recognize that an EIR on an amendment to a general plan may lack specificity, and indicate that it should thus focus on any foreseeable secondary effects on the environment. (Guidelines, § 15146, subd. (b); see also *Christward Ministry v. Superior Court, supra*, 184 Cal.App.3d at p. 195 [difficulty in assessing environmental impact of general plan affects specificity of, not requirement to conduct, EIR].) The City also suggests that it is excused from conducting an EIR because any developments that occur under the revised Housing Element would “necessarily require their own environmental review.” Again, the Guidelines recognize that “the EIR need not be as detailed as an EIR on the specific construction projects *that might follow.*” (Guidelines, § 15146, subd. (b), italics added; *City of Redlands v. County of San Bernardino, supra*, 96 Cal.App.4th at p. 412 [environmental study of general plan

will not have same degree of specificity as for specific construction project]; *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 625 [environmental studies on general plan amendments usually general in nature].) In other words, just because future EIRs may be conducted, that does not *automatically* excuse the City from conducting an EIR now.

The City's reliance on *Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556 (*Pala Band*), which did not involve the amendment of a general plan, is misplaced. In that case, San Diego County designated potential landfill sites as " 'tentatively reserved' " when it adopted an integrated waste management plan pursuant to the Integrated Waste Management Act of 1989 (§ 40000 et seq.) (Waste Act). (*Pala Band* at pp. 560, 566, 575.) The court noted that the " 'tentatively reserved' " designation did not make it reasonably foreseeable that any development would actually occur. (*Id.* at pp. 575-576.) The court upheld a negative declaration, and held that the county was not required to conduct an EIR because to do so would be "premature" as "any analysis of potential environmental impacts would be wholly speculative." (*Id.* at p. 576.)

The City claims that it would likewise be premature to evaluate any potential environmental effects of the Housing Element because any such effects would be "speculative." The City's actions in amending the Housing Element, however, are far different from the actions taken by the county in *Pala Band*. There, the county designated 10 proposed landfill sites as " 'tentatively reserved' " pursuant to specific provisions of the Waste Act. (*Pala Band, supra*, 68 Cal.App.4th at p. 575; see also § 41710.) The court concluded that it was not reasonably foreseeable that any of the sites would actually be developed, because a " 'tentatively reserved' " designation under the Waste Act could be made before an *actual commitment* to develop a specific landfill was made. (*Pala Band* at pp. 575-576.) In order to actually develop a landsite, the county

would be required to take additional steps under the Waste Act, and environmental review could be undertaken when a specific site was proposed. (*Id.* at pp. 576-578.)

Here, by contrast, the Housing Element identifies specific housing goals and implementing strategies. As the court recognized in *City of Santa Ana v. City of Garden Grove, supra*, 100 Cal.App.3d at page 532, “general plans now embody fundamental land use decisions that guide the future growth and development of cities and counties. The adoption or amendment of general plans perforce *have a potential for resulting in ultimate physical changes in the environment* and were properly included in [the Guidelines] as projects subject to CEQA.” (Italics added; see also § 21080, subd. (a); Guidelines, § 15378, subd. (a)(1).) “CEQA and its guidelines focus on the ultimate impact of a project, not on whether the project is tangible or intangible.” (*City of Livermore v. Local Agency Formation Com., supra*, 184 Cal.App.3d at p. 539 [ordering preparation of EIR where county amended sphere of influence guidelines].)

The City also relies on *Atherton v. Board of Supervisors* (1983) 146 Cal.App.3d 346, 351, for the proposition that “no purpose can be served by requiring an EIR [that forces the agency] to engage in sheer speculation as to future environmental consequences.” In fact, the agency in *Atherton* actually *completed* an EIR in connection with an amendment to the transportation element of a general plan. (*Id.* at p. 349.) The court upheld a challenge to the adequacy of the EIR, finding that the degree of specificity in the EIR was appropriate for the “conceptual” nature of the amendment. (*Id.* at pp. 350-351.)

Because the Housing Element is not “linked” to any specific plan, legislation, or development, the City argues, the cases cited by SFLN are distinguishable as they involve specific rezoning or development. (*Bozung v. Local Agency Formation Com., supra*, 13 Cal.3d at p. 281 [annexation of agricultural land proposed to be used for development]; *Christward Ministry v. Superior Court, supra*, 184 Cal.App.3d at p. 190 [general plan amendment authorized potential new use at specific landfill site]; *City of*

*Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 235, 246 [rezoning that would permit development near wetlands]; *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 156-157 [general plan amendment in connection with proposed shopping center].) Although it may be technically true that the Housing Element is not linked to any specific rezoning, ordinance changes, or future development,<sup>5</sup> as the City emphasizes, it is not a vague policy document, completely unconnected to future development or potential physical changes to the environment. The Housing Element identifies areas for potential development, encourages development in neighborhood commercial areas, promotes the construction of “well-designed housing that enhances existing neighborhood character,” “[s]trongly encourage[s] housing project sponsors to take full advantage of allowable building densities,” and advocates reducing or removing minimum parking requirements in order to increase the land available for housing development. While no specific developments are connected with these policies, given the expected population growth and the number of construction projects already underway, the possibility of future development is not merely theoretical. (Cf. *Pala Band, supra*, 68 Cal.App.4th at pp.575-576.) The initial study recognizes that the updated Housing Element is “one component of a comprehensive planning effort called the Citywide Action Plan (CAP),” and that the Housing Element was “updated to provide a policy basis *for more specific planning*

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<sup>5</sup> For this reason, *Laurel Heights Improvement Assn. v. Regents of University of California, supra*, 47 Cal.3d 376, is less helpful than SFLN suggests. In *Laurel Heights*, the court concluded that an EIR must analyze the effects of future expansion if it is a “reasonably foreseeable consequence of the initial project.” (*Id.* at p. 396.) *Laurel Heights* did not involve the amendment of a general plan, but instead addressed the sufficiency of an EIR that was prepared in connection with the proposed relocation of the School of Pharmacy at the University of California, San Francisco (UCSF). (*Id.* at p. 387.) It was undisputed that UCSF intended to expand its use of a specific facility once space became available, and the “general type of future use” was therefore reasonably foreseeable. (*Id.* at p. 396.)

*efforts*, such as Better Neighborhoods Program, the Eastern Neighborhoods Community Plans for the Mission District, Bayview, Showplace Square/Potrero Hill, and the Downtown Neighborhoods, such as the C-3-O District and Rincon Hill district.” (Italics added.)

Moreover, consistent with the mandate of Government Code section 65583, subdivision (c), that a housing element contain “a five-year schedule of *actions*” that the City is undertaking or plans to undertake to implement the element, the Housing Element includes an appendix titled “preliminary work program for implementing the housing element” that lists various “[i]mplementation [*a*]ction[s]” for the element’s objectives and policies, including beginning a “Geary Boulevard Better Neighborhood program.”<sup>6</sup> (Italics added; see also *Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4th 1098, 1108 [housing element shall include schedule of actions].) The planning commission resolution adopting the Housing Element likewise stressed that the Housing Element contained “an action program to implement the policies and achieve the goals and objectives of the Housing Element.” In other words, the City anticipates future action based on the Housing Element. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 794 [general plans have “ ‘potential for resulting in ultimate physical changes to environment’ ”].) In short, an EIR would not be premature.

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<sup>6</sup> Citing *Northwood Homes, Inc. v. Town of Moraga* (1989) 216 Cal.App.3d 1197, 1204, the City attempts to downplay the importance of the Housing Element, noting that “[t]he housing needs identified in the general plan are simply goals, not mandated acts.” *Northwood Homes* is inapposite. There, the court rejected appellant’s argument that an open space ordinance which limited the density of development on certain lands was invalid because it would cause Moraga to fall short of the housing needs identified in its general plan. (*Id.* at pp. 1200, 1203-1204.) The court acknowledged that municipalities are required to adopt housing elements that analyze housing needs and schedule development programs; however, it held that appellant failed to meet its burden to show that the ordinance at issue would have a significant effect on the regional housing supply. (*Id.* at pp. 1202-1204 & fn. 6, citing Gov. Code, § 65583.)

*C. EIR Required Only For Changes To General Plan.*

As the City correctly emphasizes, we must determine whether there were any *changes* to the Housing Element that were significant enough to warrant conducting an EIR. “[W]hen a proposed amendment to a general plan is the subject of an initial study, in most cases the agency will not be required to assess the environmental effects of the entire plan or preexisting land use designations. Instead, the question is the potential impact on the existing environment of *changes* in the plan which are embodied in the amendment. [Citations.]”<sup>7</sup> (*Black Property Owners Assn. v. City of Berkeley, supra*, 22 Cal.App.4th at p. 985.)

In *Black Property Owners*, the City of Berkeley revised its housing element to include the possible construction of 747 additional housing units over 5 years. (*Black Property Owners Assn. v. City of Berkeley, supra*, 22 Cal.App.4th at p. 978.) Although no party disputed an initial study’s conclusion that the new housing construction would have positive environmental effects, a property owners’ association challenged the adoption of the housing element revision, alleging that the city should have been required to prepare an EIR on the adverse consequences of its housing policies in general. (*Id.* at pp. 978, 985 & fn. 7.) The appellate court held that because no changes were proposed to the city’s housing-related ordinances, CEQA did not require any assessment of the ordinances’ environmental effects. (*Id.* at p. 985.) Further, a rent control ordinance that was “ratified and acknowledged” in the housing element update was exempt from CEQA. (*Id.* at p. 986.) “To require an EIR on the policies embodied in the rent control

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<sup>7</sup> We disagree with SFLN’s characterization of this passage of *Black Property Owners* as dicta. The court cited two cases where general plan amendments were passed in connection with a particular development project or land use designation, and concluded in the next sentence that “a similar approach to the scope of the required environmental review is appropriate” where a general plan amendment is required by statute. (*Black Property Owners Assn. v. City of Berkeley, supra*, 22 Cal.App.4th at p. 985.) The cited passage was essential to the court’s decision.

ordinance, which was not subject to CEQA when it was enacted 13 years ago by the voters of [Berkeley], and which [Berkeley] has taken no action to change, would not further” the statutory purpose of CEQA. (*Ibid.*)

We disagree with SFLN insofar as it argues that any amendment of the Housing Element necessarily requires an EIR to evaluate each of the element’s policies, or that a review of the *entire* Housing Element is necessary. Again, Government Code section 65588, subdivision (b) requires that a housing element be updated every five years. In doing so, local governments may simply “ratif[y] and acknowledge[]” previously adopted ordinances and policies, and evaluating policies left unchanged would not further the purpose of CEQA. (*Black Property Owners Assn. v. City of Berkeley, supra*, 22 Cal.App.4th at p. 986; see also *Christward Ministry v. Superior Court, supra*, 184 Cal.App.3d at p. 189 [no environmental evaluation necessary based on land use designation unchanged by amendment to general plan]; 1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2006) § 13.12, p. 638.) Indeed, several Housing Element policies incorporated no text change whatsoever from the 1990 Residence Element, and no purpose would be served in conducting environmental review on policies that were evaluated before the adoption of the 1990 Residence Element. The City need only conduct an EIR on any potential effects to the existing environment that may result from *changes* in the general plan which are embodied in the amended element. (*Black Property Owners Assn. v. City of Berkeley, supra*, 22 Cal.App.4th at p. 985; *Christward Ministry v. Superior Court, supra*, 184 Cal.App.3d at pp. 186-187.)

SFLN relies on cases where courts stressed that when an agency reviews a new project or change to a general plan, it must evaluate the effect of the project or amendment to the existing environment. For example, in *Environmental Planning & Information Council v. County of El Dorado, supra*, 131 Cal.App.3d at pages 352-353, the El Dorado County Board of Supervisors certified EIRs prepared to evaluate two area plans that were amendments to the board’s general plan. The EIRs compared the



proposed plans with the existing general plan, which was misleading because it made it appear as if the population capacities of the areas would decrease under the plans. (*Id.* at pp. 355, 357-358.) In fact, the existing populations were so small that the amendments actually called for substantial increases in population in each area, and the EIRs thus did not evaluate the impacts of the proposed plans on the environment in its then-current state. (*Id.* at p. 358.) It makes sense that when an agency considers a *change* to a general plan, it should evaluate how that change may affect the existing environment, not how the amendment compares with the previous general plan.

Here, by contrast, it does not make sense to evaluate policies from the 1990 Residence Element that were left unmodified, even if the physical environment in San Francisco has changed since 1990. This case is distinguishable from other cases SFLN relies on to support its argument that the entire Housing Element should be subject to environmental review, as the courts in those cases stressed that when evaluating *new* plans or *changes* to general plans, agencies must focus on the possible effect to the existing environment. (*Christward Ministry v. Superior Court, supra*, 184 Cal.App.3d at pp. 186-187 [agency must assess effect of amendment to general plan on existing physical environment, not simply compare proposed amendment and existing general plan]; *Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 697, 711 petn. for review pending, petn. filed May 24, 2007, S152886 [EIR improperly compared proposed project with theoretical construction permitted by existing zoning, rather than with actual existing vacant lot].)<sup>8</sup>

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<sup>8</sup> *Meridian Ocean Systems, Inc. v. State Lands Com.* (1990) 222 Cal.App.3d 153, 164-165, likewise does not support SFLN's argument that the entire Housing Element is subject to environmental review. The case did not involve the amendment of a general plan. Instead, it analyzed whether the State Lands Commission improperly ordered an EIR for certain geophysical research that previously had been statutorily exempt from environmental review. (*Id.* at pp. 160, 162-165.) The court addressed the invocation of an exception to a specific statutory exemption that is not at issue here. (*Id.* at pp. 164-165, 169.)

With these general legal principles in mind, we now consider whether an EIR is required here.

*D. Housing Element Contains Changes That Necessitate an EIR.*

The City relies on *Black Property Owners*, *supra*, 22 Cal.App.4th 974 when it states that it “did not analyze the effects of the policies and objectives in the 2004 Housing Element that remain consistent with those policies and objectives contained in the 1990 Resident Element and other elements of the General Plan.” It stresses that any changes to the Housing Element were “so minor in scope” that a full environmental review was unnecessary. SFLN argues that unlike in *Black Property Owners*, the Housing Element here was “significantly modified” and calls for “a broad range of future development,” necessitating environmental review. We agree with SFLN that the Housing Element contains changes, that some of those changes are not “minor” (as the City argues), and that there is substantial evidence to support a fair argument those changes may have a significant impact on the environment.

For example, policy 11.9 of the Housing Element now provides that densities and “parking standards” should be set at levels “that promote the City’s overall housing objectives while *respecting* neighborhood scale and character”; the Residence Element policy was to set allowable densities at levels that will “*promote compatibility with prevailing neighborhood scale and character.*” (Italics added.) A Residence Element policy to adopt specific zoning districts that would set density categories has been eliminated from the Housing Element.

Other Housing Element policies make more significant changes. Policy 11.8, a new policy, provides: “Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.” Its explanatory text provides that the “Department should strongly support projects that creatively address residential parking

and open space requirements, resulting in higher densities with a full range of unit sizes.” The Department will “study the impacts of reduced parking and private open space provisions and will consider revising the Planning Code accordingly.” With respect to “neighborhood character,” new policy 11.1 is to “[u]se new housing development as a means to enhance neighborhood vitality and diversity.” Its interpretive text states that “[m]inimum density requirements and maximum parking standards should be used to encourage a mix of unit sizes in areas well served by transit and neighborhood retail.” Whereas a previous Residence Element policy was to “[p]romote construction of well designed housing that *conserves* existing neighborhood character,” policy 11.5 of the Housing Element now “[p]romote[s] the construction of well-designed housing that *enhances* existing neighborhood character.” (Italics added.)

The 1990 Residence Element contained a policy to “[r]elate land use controls to the appropriate scale for new and existing residential areas.” The interpretive text stated that “zoning envelopes should be tailored to the prevailing built pattern to maintain the low density character [of single- and two-family neighborhoods].” One stated objective of the policy was to “allow some expansion” of height and depth controls in one- and two-family areas “to accommodate contemporary living space needs and still be compatible with the neighborhood scale.” Modified policy 11.6 of the Housing Element now states: “Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit.” Its implementation action states: “The City will continue to promote increased residential densities in areas well served by transit and neighborhood compatible development with the support and input from local neighborhoods.”

New policy 1.7 is to “[e]ncourage and support the construction of quality, new family housing.” Finally, although policy 1.6, to “[c]reate incentives for the inclusion of

housing, particularly permanently affordable housing, in new commercial development projects,” is almost identical to a policy in the 1990 Residence Element, an implementation provision now calls for reviewing the possibility of removing parking and density requirements as “incentives.”

The City argues that “for purposes of CEQA, there was no change to the City’s policy of increasing density while maintaining neighborhood character that was significant.” We disagree. Taken together, the changes to the Housing Element cited above reflect a shift away from preserving existing housing density and a movement toward allowing denser housing development, and decreased off-street parking, which in turn could lead to increased traffic congestion, air pollution, and noise, as well as a change in the aesthetic quality of City neighborhoods. (*Pocket Protectors v. City of Sacramento, supra*, 124 Cal.App.4th at pp. 936-937 [CEQA addresses enjoyment of aesthetic qualities].)<sup>9</sup>

We find *City of Redlands v. County of San Bernardino, supra*, 96 Cal.App.4th 398 instructive. There, a county board of supervisors adopted general plan amendments relating to the county’s “sphere of influence” over future land use planning and development. (*Id.* at pp. 403-404.) The trial court disagreed with the county’s characterization of the amendments as mere clarifications of existing policy. (*Id.* at p. 404.) The appellate court affirmed the issuance of a writ of mandate to set aside the amendments, noting that the county had replaced mandatory language with more permissive or discretionary language, that the amendments granted the county more discretion in land use matters relating to unincorporated territory, and that the

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<sup>9</sup> This case is distinguishable from *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 592, where this court held that “[t]he aesthetic difference between a four-story and a three-story building on a commercial lot on a major [urban] thoroughfare” was “not a significant environmental impact, even under the fair argument standard.” Here, changing density requirements in San Francisco could theoretically affect a much larger area, and have a much larger impact, increasing noise, air pollution, and congestion.

amendments made substantive changes to the county's policies and procedures. (*Id.* at pp. 406-407.) In fact, the difference in policies before and after the amendments, standing alone, constituted substantial evidence of a fair argument that the amendments could have a significant effect on the environment. (*Id.* at p. 414.)

Similarly, here, the Housing Element does more than simply clarify or affirm existing policies with respect to housing density. It now "encourage[s]" developers to take "full advantage of allowable building densities," and stresses the enhancement of neighborhood character instead of conservation of neighborhood character. Although we are sympathetic to the City's argument that this case is distinguishable because the amendments to the Housing Element are not as "'drastic'" as those in *City of Redlands, supra*, 96 Cal.App.4th at page 414, it does not follow that the amendments will not lead to changes to the physical environment. In fact, any future housing promoters could argue that a high density development was compatible with the revised Housing Element. "Not only does CEQA apply to revisions or amendments to an agency's general plan, but CEQA reaches beyond the mere changes in the language in the agency's policy to the ultimate consequences of such changes to the physical environment." (*Id.* at p. 409.)

Moreover, the City fails to distinguish *City of Redlands* in another important respect. The court found that the initial study in *City of Redlands* was inadequate because it "fail[ed] to provide sufficient evidence or analysis of the potential environmental effects of the [general plan] amendments." (96 Cal.App.4th at p. 408.) Instead, for each environmental factor, the county simply stated that no changes were proposed for any goals, policies, or action items, and that the proposed amendments were not expected to result in any significant change to the environment. (*Ibid.*) The court concluded that the initial study was "an impermissible attempt to evade environmental review by failing to address the consequences of the revisions to its policy and procedures," and that the county's efforts were "'a token observance of regulatory requirements.'" (*Id.* at pp. 408-409.)

We conclude that the City here likewise failed to adequately address in the initial study the consequences of the revisions to the Housing Element. The initial study repeatedly emphasizes that the Housing Element “alone” will not produce new housing, and that environmental review will be deferred until any specific development, rezoning, planning code revision, or area plan is proposed. The same theme is repeated under each of the environmental factors considered in the initial study, with the City concluding that it would be premature to analyze any possible environmental effects of the proposed amendments. For several of the environmental factors, the City simply includes the following conclusion, with slight variations: “[T]he proposed new policies of the Housing Element would encourage the provision of additional housing in the City. However, at the policy level, it would be speculative to estimate the level and location of new residents that would result from their adoption. Again, the amount of new housing cited in the Data Needs and Analysis section of the revision represents the City’s share of housing calculated by ABAG, and is not a proposed new policy or stated goal of the Housing Element. Thus, while [various] effects of the proposed revisions cannot be accurately predicted, future plans, rezoning and specific development proposals that arise out of the City’s comprehensive effort to encourage more housing could lead to increased [various] impacts, and these would be analyzed and reported in the environmental documents that would be prepared for them.”

As we explained above, however, the City may not defer analysis of general plan amendments simply because more specific proposals may come later. “CEQA advances a policy of requiring an agency to evaluate the environmental effects of a project *at the earliest possible stage* in the planning process. We conclude that, by failing to accurately describe the agency action and by deferring full environmental assessment of the consequences of such action, the [City] has failed to comply with CEQA’s policy and requirements.” (*City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 410, fn. omitted.) By simply indicating that the City would defer environmental

review until specific developments are proposed, the City failed to provide sufficient information to determine whether significant environmental impacts may occur.

(*Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo, supra*, 172 Cal.App.3d at p. 171 [initial study “far too conclusionary” and inadequate for failure to reveal what evidence, if any, was relied on in reaching conclusions].)

We likewise agree with SFLN that the City failed to adequately analyze the entire “project” for purposes of CEQA. (§ 21100, subd. (a).) The initial study *must* consider “[a]ll phases of project planning, implementation, and operation.” (Guidelines, § 15063, subd. (a)(1).) Here, however, the City analyzed only new policies that were added to the Housing Element. The City did not analyze, for example, the potential environmental effects of eliminating the policy of increasing the housing supply “without overcrowding or adversely affecting the prevailing character of existing neighborhoods.” (*City of Redlands v. County of San Bernardino, supra*, 96 Cal.App.4th at p. 407 [general plan amendments eliminated provisions containing various requirements or limitations].) The City likewise did not analyze the effect of eliminating a Residence Element policy to adopt specific zoning districts that would set density categories. Moreover, the initial study did not analyze policies that were modified, such as the policy that now promotes construction of housing that “enhances” rather than “conserves” neighborhood character. (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1200 [initial study inadequate because it failed to consider or assess effect of revisions of off-leash dog policy].)

As in *City of Redlands v. County of San Bernardino, supra*, 96 Cal.App.4th at page 410, we conclude that because there was substantial evidence of a significant environmental impact, an EIR (as opposed to a revised initial study) is appropriate here. In fact, we may discern reasonable assumptions of the Housing Element’s impact simply from reviewing the language of the amendments themselves, because the amendments now call for possibly removing parking and density requirements as incentives to

developers, promoting the construction of housing that enhances (as opposed to conserves) neighborhood character, supporting projects that result in higher densities, and studying the impacts of reduced parking and private open space provisions. (*Id.* at p. 414.) In short, the amendments do more than simply clarify existing policies. (*Id.* at p. 407.)

Moreover, SFLN provided substantial evidence to support a fair argument that the Housing Element amendments may have a significant impact on the environment. It relies primarily on a 22-page letter (with attachments) by David Golick, a planning consultant. Golick concluded that the Housing Element “contains policies encouraging substantial high-density housing development, which in turn could cause a number of potentially significant effects upon visual quality/neighborhood character, transportation, land use and utilities/public services in San Francisco.” For example, he wrote that the revisions could lead to “high-density, bulky, potentially 50-foot tall buildings in neighborhood commercial areas and along transit corridors throughout the City [which] could cause myriad environmental effects,” including incompatibility with neighborhood character, and a transformation of San Francisco’s unique neighborhoods into “high-walled canyons.”

The City argues that SFLN’s evidence does not amount to substantial evidence, because it is speculative. But the City again falls back on its argument that the Housing Element lacks any specific development proposal or zoning change. The City chides SFLN for failing to point to “any factual evidence that anyone, anywhere in the City, is proposing” specific developments with taller buildings, or residential units above commercial structures. But it is beyond dispute that specific developments will be proposed in the future, and developers would be able to argue that taller buildings are consistent with the City’s general plan. Likewise, the proponent of any new zoning ordinance that calls for denser developments would be able to argue that the ordinance was consistent with the Housing Element. (E.g., S.F. Planning Code, § 101.1, subd. (d))



[City may not adopt zoning ordinance or development agreement authorized by Government Code section 65865 unless development or ordinance is consistent with general plan].) Moreover, because the initial study lacked any analysis of the potential effects of the revised Housing Element, it is understandable that the evidence cited by SFLN also lacked specificity. As in *City of Redlands v. County of Bernardino, supra*, 96 Cal.App.4th at page 414, we find it ironic that the City complains about SFLN's lack of evidence, considering "it initially set the stage by failing to gather facts and evidence in conducting its initial study of the amendments' potential environmental effects."

"CEQA places the burden of environmental investigation on government rather than the public. If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." (*Sundstrom v. County of Mendocino, supra*, 202 Cal.App.3d at p. 311 [inadequate initial study of proposed private sewage treatment plant]; see also *Christward Ministry v. Superior Court, supra*, 184 Cal.App.3d at p. 197 [city's position there was no fair argument of significant impact to environment based, in part, on failure to complete adequate initial study]; *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1597.) Here, SFLN was permitted to draw "reasonable inferences" about the possible environmental effects of the amendments, based on facts and reasonable assumptions from those facts. (*City of Redlands v. County of San Bernardino, supra*, 96 Cal.App.4th at pp. 410-411 [no requirement that expert testimony support fair argument that project may have significant effect on the environment].)

Because there was substantial evidence in the record to support a fair argument that the amendments to the Housing Element may have a significant impact on the environment, the City was required to prepare an EIR, and the trial court erred in denying SFLN's petition for a writ of mandate.

**III.**  
**DISPOSITION**

The judgment is reversed, and the trial court is ordered to issue a writ of mandate directing the City to set aside its adoption of the negative declaration and to order the preparation of an EIR. Appellant shall recover its costs on appeal.

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SEPULVEDA, J.

We concur:


\_\_\_\_\_  
REARDON, ACTING P. J.

\_\_\_\_\_  
RIVERA, J.

A112987

**EXHIBIT 5**

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**FILED**  
San Francisco County Superior Court  
APR 06 2009  
GORDON PARK-LI, Clerk  
BY:  Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN FRANCISCO

9 SAN FRANCISCANS FOR LIVABLE ) No. CPF04 504 780  
10 NEIGHBORHOODS, )  
11 ) **PEREMPTORY**  
12 ) **WRIT OF MANDATE**  
13 ) Action Filed: November 30, 2004  
14 ) Hearing Date: January 27, 2009  
15 ) Dept. 302, 9:30 a.m.  
15 ) Honorable Charlotte W.

SAN FRANCISCANS FOR LIVABLE )  
NEIGHBORHOODS, )  
Petitioner and Plaintiff, )  
v. )  
CITY AND COUNTY OF SAN FRANCISCO, and DOES )  
I-X, )  
Respondents and Defendants. )

16 TO THE CITY & COUNTY OF SAN FRANCISCO ("City"):

17 YOU ARE HEREBY COMMANDED immediately upon receipt of this writ to set aside  
18 and void the approval of the Final Negative Declaration which you adopted and issued on May  
19 13, 2004 in San Francisco Planning Commission Resolution No: 16786, in connection with your  
20 approval of the 2004 amendments to the housing element of the City's general plan and San  
21 Francisco Planning Commission Resolution No. 16787.

22 YOU ARE FURTHER COMMANDED to prepare, consider and certify an  
23 environmental impact report ("EIR") pursuant to the provisions of the California Environmental  
24 Quality Act, Public Resources Code §§ 21,000 *et seq.* ("CEQA"), concerning any potentially  
25 significant effects to the existing environment that may result, based on a fair argument  
26

1 supported by substantial evidence, from any and all changes in the City's 1990 Residence  
2 Element that are embodied in the amended housing element, and to fully comply with the  
3 requirements of CEQA by June 30, 2009, concerning said proposed amendments to the housing  
4 element of the City's general plan. Among the proposed amendments to the housing element of  
5 the City's general plan that will be analyzed as part of the project considered in said EIR are the  
6 proposed omission of 1990 Residence Element Policy 2-4 to adopt specific zoning districts that  
7 would set density categories (Slip Op. 17, 22; JN 81-84) and the proposed omission of 1990  
8 Residence Element Objective 2 "To increase the supply of housing without overcrowding or  
9 adversely affecting the prevailing character of existing neighborhoods." (Slip Op. p. 22; JN p.  
10 80)

11  
12 Until you prepare, consider and certify said EIR and fully comply with the requirements  
13 of CEQA in relation to the changes from the City's 1990 Residence Element embodied in the  
14 amended housing element, YOU ARE COMMANDED to refrain from enforcing, relying upon,  
15 approving or implementing the following changes from the 1990 Residence Element, together  
16 with the accompanying interpretative text and implementation actions which are stated along  
17 with such matters in the 2004 Housing Element:

- 18  
19 1. New Policy 11.8 to "Strongly encourage housing project sponsors to take full  
20 advantage of allowable building densities in their housing developments while  
21 remaining consistent with neighborhood character" as interpreted by explanatory  
22 text providing that the "Department should strongly support projects that  
23 creatively address residential parking and open space requirements, resulting in  
24 higher densities with a full range of unit sizes" and that the Department will  
25 "study the impacts of reduced parking and private open space provisions and will  
26 consider revising the Planning Code accordingly." (Slip Op. p. 17-18; 1 AR 284-  
27 285)
- 28 2. New Policy 11.1 to "Use new housing development as a means to enhance  
neighborhood vitality and diversity" as interpreted by explanatory text that  
"[m]inimum density requirements and maximum parking standards should be  
used to encourage a mix of unit sizes in areas well served by transit and  
neighborhood retail." (Slip Op. p. 18; 1 AR 276)

- 1 3. Modified Policy 11.9 to "Set allowable densities and parking standards in  
2 residential areas at levels that promote the City's overall housing objectives while  
3 respecting neighborhood scale and character." (Slip Op. p. 17, 1 AR 285)
- 4 4. Modified Policy 11.6 to "Employ flexible land use controls in residential areas  
5 that can regulate inappropriately sized development in new neighborhoods, in  
6 downtown areas and in other areas through a Better Neighborhoods type planning  
7 process while maximizing the opportunity for housing near transit" together with  
8 Implementation 11.6 which states that: "The City will continue to promote  
9 increased residential densities in areas well served by transit and neighborhood  
10 compatible development with the support and input from local neighborhoods."  
11 (Slip Op. p. 18; 1 AR 283)
- 12 5. Modified Policy 11.5 to "Promote the construction of well-designed housing that  
13 enhances existing neighborhood character." (Slip Op. p. 18; 1 AR 280)
- 14 6. New Policy 1.7 to "Encourage and support the construction of quality, new family  
15 housing." (Slip Op. p.18)
- 16 7. New Implementation 1.6 that the "Planning Department will review the following  
17 incentives for commercial project developments in the Downtown C-3 District:  
18 "no residential parking requirement; and no density requirements for residential  
19 projects." (Slip Op. 18-19; 1 AR 220)
- 20 8. New Policy 11.7 stating that "Where there is neighborhood support, reduce or  
21 remove minimum parking requirements for housing, increasing the amount of lot  
22 area available for housing units." (1 AR 284; 15 AR 4196)
- 23 9. New Policy 1.2 to "Encourage housing development, particularly affordable  
24 housing, in neighborhood commercial areas without displacing existing jobs,  
25 particularly blue-collar jobs or discouraging new employment opportunities"  
26 including its implementation by a specialized type of zoning called "Transit  
27 Oriented Neighborhood Commercial District (NC-T) Zoning" controls that  
28 "provide increased housing densities above the ground floor and reduced  
residential parking requirements on linear shopping streets and along transit  
corridors." (1 AR 216; 204)
10. New language added to Policy 1.1 to "Set allowable densities in established  
residential areas at levels which will promote compatibility with prevailing  
neighborhood scale and character where there is neighborhoods [sic] support,"  
and accompanying new interpretative text stating that "along transit-preferential  
streets" "residential parking requirements" "should be, if appropriate, modified,"  
and that there "is a reduced need for automobile use" in "neighborhood  
commercial districts" where "[p]arking and traffic problems can be further  
addressed by community parking facilities and car-sharing programs, and other  
creative transportation programs." (1 AR 215)

1 11. New Implementation 1.1 which states that a "citywide action plan (CAP) should  
2 provide a comprehensive framework for the allocation of higher density, mixed-  
3 use residential development in transit-rich areas with stable urban amenities in  
4 place. In these areas, specific CAP strategies should include: higher densities and  
5 reduced parking requirements in downtown areas or through a Better  
6 Neighborhoods type planning process; pedestrian-oriented improvements to  
7 enhance the attractiveness and use of transit." (1 AR 215-216)

8 Notwithstanding the foregoing, with respect to 2004 Implementation 1.6, YOU ARE  
9 COMMANDED to refrain from enforcing, relying upon, approving or implementing only the  
10 new added language consisting of "no residential parking requirement; and no density  
11 requirements for residential projects" and with respect to 2004 Implementation 1.1, YOU ARE  
12 COMMANDED to refrain from enforcing, relying upon, approving or implementing only the  
13 new implementation added to Implementation 1.1 set forth above.

14 Your approval of the above-specified policies or implementation actions as amendments  
15 to the City's housing element on May 13, 2004 as part of San Francisco Planning Commission  
16 Resolution No. 16787 is hereby set aside and revoked until you comply fully with CEQA as set  
17 forth herein.

18 The City need not conduct environmental review "on policies that were evaluated  
19 before the adoption of the 1990 Residence Element." (Slip Op. p. 15) Pursuant to Public Resources  
20 Code section 21168.9, and for the reasons set forth in the arguments of counsel and as set forth  
21 below, the Court finds that:

22 a) The policies, objectives and implementation measures of the 2004 Housing Element  
23 listed above, are severable from the remaining policies, objectives and implementation measures.  
24 This finding is based on the Court of Appeal's holding that environmental review of the entire 2004  
25 Housing Element is not necessary under CEQA and *Black Property Owners v. City of Berkeley*  
26 (1994) 22 Cal.App.4<sup>th</sup> 974 because the 2004 Housing Element makes no changes to many policies  
27 and objectives in the 1990 Residence Element; and,



1 (b) The City's reliance on the remainder of the 2004 Housing Element without the  
2 above policies will not prejudice complete and full compliance with CEQA. The Court relies on  
3 the San Francisco Planning Department Director's sworn testimony that the City has begun an  
4 environmental impact report of the 2004 Housing Element in accordance with CEQA, and the  
5 Court's continuing jurisdiction of this matter through a return to the writ will assure compliance  
6 with CEQA mandates; and,

7 (c) Consistent with the Court of Appeal holding that "[s]everal Housing Element policies  
8 incorporated no text change whatsoever from the 1990 Residence Element, and no purpose would be  
9 served in conducting environmental review on policies that were evaluated before the adoption of the  
10 1990 Residence Element," the Court finds that the remaining policies in the 2004 Housing Element  
11 do not violate CEQA.

12 In addition, the Court further finds that consistent with Public Resources Code section  
13 21168.9(c) and *Laurel Heights Improvement Assoc. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d  
14 376, the Court exercises its equitable powers in fashioning an appropriate remedy under CEQA, and  
15 finds that there are compelling public policy reasons to allow the City and County of San Francisco to  
16 rely on the remaining portions of the 2004 Housing Element, save for the policies listed above, to wit  
17 that the provision of housing, particularly affordable housing, is a "priority of the highest order" as  
18 acknowledged by case law and the state Legislature, and that San Francisco must strive to provide its  
19 fair share of regional housing needs.

20 YOU ARE FURTHER COMMANDED to certify the environmental impact report and  
21 fully comply with the provisions of the California Environmental Quality Act, Public Resources  
22 Code §§ 21000 *et seq.*, concerning the proposed housing element amendments described herein  
23 by June 30, 2009, and to make and file a return to this Court upon taking action in compliance  
24 with this writ, setting forth what you have done to comply, and this Court shall retain jurisdiction  
25  
26  
27  
28

1 over this action to determine whether the City's actions have fully complied with the mandates  
2 of this peremptory writ.

3 IT IS ORDERED THAT THE COURT SHALL ISSUE THE FOREGOING WRIT:

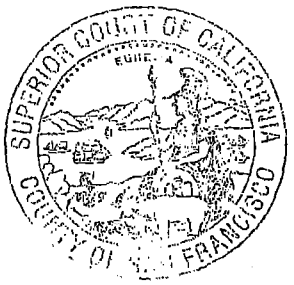
4  
5 DATE: 04-06-09

Charlotte W. Woolard  
THE HONORABLE CHARLOTTE W. WOOLARD  
JUDGE OF THE SUPERIOR COURT

6  
7  
8  
9  
10  
11 DATE: 4-6-09

GORDON PARK-LI, Clerk of the Superior Court

By: [Signature] Deputy Clerk



12  
13  
14 ERICKA LARNAUTI

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2 22 Iris Avenue  
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4 Telephone: (415) 221-4700  
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6  
7 Attorney for Petitioner/Plaintiff  
8 San Franciscans for Livable Neighborhoods

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 IN AND FOR THE COUNTY OF SAN FRANCISCO  
9

10 SAN FRANCISCANS FOR LIVABLE ) No. CPF04 504 780  
11 NEIGHBORHOODS, )  
12 ) ~~PROPOSED~~  
13 ) Petitioner and Plaintiff, )  
14 ) v. ) **AMENDMENT TO**  
15 ) CITY AND COUNTY OF SAN FRANCISCO, and DOES ) **PEREMPTORY**  
16 ) I-X, ) **WRIT OF MANDATE**  
17 ) Respondents and Defendants. )

Action Filed: November 30, 2004  
Hearing Date: May 18, 2009  
Dept. 302, 9:30 a.m.  
Honorable Charlotte W. Woolard

20 TO THE CITY & COUNTY OF SAN FRANCISCO ("City");

21 In addition to the changes embodied in the City's 2004 Housing Element which this Court  
22 restrained in the Peremptory Writ of Mandate issued by this Court on April 6, 2009:

23 Until you prepare, consider and certify an environmental impact report ("EIR") pursuant  
24 to the provisions of the California Environmental Quality Act, Public Resources Code §§ 21,000  
25 *et seq.* ("CEQA") concerning any potentially significant effects to the existing environment that  
26 may result, based on a fair argument supported by substantial evidence, from any and all changes  
27  
28

1 in the City's 1990 Residence Element that are embodied in the amended housing element, and  
2 fully comply with the requirements of CEQA concerning said proposed amendments to the  
3 housing element of the City's general plan, YOU ARE FURTHER COMMANDED to refrain  
4 from enforcing, relying upon, approving or implementing the following changes from the 1990  
5 Residence Element, together with the accompanying interpretative text set forth below:  
6

- 7
- 8 12. Language added to modified Implementation 1.3 which states with respect to  
9 "Downtown areas and areas subject to a Better Neighborhoods type planning  
10 process" that "[p]lanning and zoning code changes should include floor-to-area  
11 ratio exemptions." (See 15 AR 4187, 1 AR 217, 1990 RE p. 131)
- 12 13. Modified Objective 11 which states that "IN INCREASING THE SUPPLY OF  
13 HOUSING, PURSUE PLACE MAKING AND NEIGHBORHOOD BUILDING  
14 PRINCIPLES AND PRACTICES TO MAINTAIN SAN FRANCISCO'S  
15 DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL  
16 NEIGHBORHOODS." (See 15 AR 4195, 1 AR 276, 1990 RE p. 106)
- 17 14. Language added to Modified Policy 4.4 to: Consider granting "parking  
18 requirement exemptions for the construction of affordable or senior housing."  
19 (See 15 AR 4190, 1 AR 243, 1990 RE p. 97)
- 20 ~~15. Modified Policy 4.5 to "Allow greater flexibility in the number and size of units  
21 within established building envelopes, potentially increasing the number of  
22 affordable units in multi-family structures." (See 15 AR 4190, 1 AR 244, 1990  
23 RE p. 81)~~
- 24 16.15. Modified Objective 1, which states "TO PROVIDE NEW HOUSING,  
25 ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN  
26 APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING  
27 NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE  
28 HOUSING CREATED BY EMPLOYMENT DEMAND" as interpreted by  
modified explanatory text stating "New residential development must be of a  
character and stability that enhances the City's neighborhoods and maintains the  
quality of life for existing and future residents. How this new residential  
development can be accommodated without jeopardizing the very assets that  
make living in San Francisco desirable must be discussed. In order to enhance the  
city's livability, the supply of housing must be increased and new housing  
developments should respect the scale and character of the surrounding  
neighborhood." (1 AR 213; 1990 RE p. 75, 15 AR 4187)

1 Your approval of the above-specified objectives, policies or implementation actions as  
2 amendments to the City's housing element on May 13, 2004 as part of San Francisco Planning  
3 Commission Resolution No. 16787 is hereby set aside and revoked until you comply fully with  
4 CEQA as set forth herein.  
5

6 The findings and other orders set forth in the Court's April 6, 2009 Peremptory Writ of  
7 Mandate, including those beginning at page 4, line 18 and continuing through page 6, line 2,  
8 apply with equal force to the proposed changes in the 2004 Housing Element described herein,  
9 which the Court incorporates by reference.

10 IT IS ORDERED THAT THE COURT SHALL ISSUE THE FOREGOING WRIT:  
11

12  
13 DATE: 05-29-09

*Charlotte W. Woolard*

14 THE HONORABLE CHARLOTTE W. WOOLARD  
15 JUDGE OF THE SUPERIOR COURT



16  
17  
18  
19 DATE: JUN 01 2009

GORDON PARK-LI, Clerk of the Superior Court

20 By: *Rossaly E. De la Vega Navarro*

21 Deputy Clerk

22 ROSSALY E. DE LA VEGA NAVARRO  
23  
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25  
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27  
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3

4

**EXHIBIT C**

4/24/14

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April 24, 2014

San Francisco Planning Commission  
Commission Chambers, Room 400  
City Hall, 1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Re: Agenda Item 11. 2007.1275E San Francisco Housing Element - Certification of Final Environmental Impact Report

Agenda Item 12a. 2007.1275EM 2009 Housing Element Update - Adopting CEQA Findings

Agenda Item 12b. 2007.1275EM 2009 Housing Element Update - Consideration of Adopting a Resolution Amending the General Plan

San Franciscans For Livable Neighborhoods (SFLN), which I represent, objects to certification of the Final EIR, adoption of CEQA Findings and adoption of the proposed resolution amending the General Plan.

For the reasons set forth in the comments which SFLN filed as to the revised EIR alternatives analysis and the prior draft and final EIRs, which are incorporated by reference herein as though fully set forth, the Final EIR and proposed Findings have not corrected the defects in the analysis of alternatives or Findings rejecting alternatives that the Court found conclusory and unsupported by facts. The responses to comments failed to adequately respond to the public comments and were highly evasive, including the comments as to the increased housing production indirectly caused by adoption of the Housing Element amendments. The revision's rejection of alternatives continues to be conclusory and unsupported by facts.

For example, as to the Reduced Land Use Allocation Alternative stated in the EIR, the land use allocation distributed projected growth to certain unidentified geographic areas and under this allocation "less growth would be assumed Citywide." VII-110. It "assumes a lower total number of new housing units over the planning period of 2005-2025." VII-110. The EIR and responses to comments failed to identify the geographic areas to which land use allocation would be allocated and failed to state the lower total number of units that would be involved in this alternative. Page III-49. The Court held that this conclusory discussion of alternatives was deficient, but the Final EIR fails to correct the deficiencies or provide factual support for its rejection of this alternative.

As another example, the Focused Development Alternative stated in the EIR was "based



on existing conditions plus all area planning efforts” and would include existing zoning at the time the Notice of Preparation was issued. VII-109. Since this alternative was comprised of existing zoning, which “allows for residential development outside of area plans,” the EIR’s claim that it eliminated this alternative from further consideration because it “would have required downzoning or other limitations on development outside of area plans” is ambiguous not supported by substantial evidence in the record. VII-109. The EIR failed to specify the alleged policies of this alternative that would allow little or no growth outside the plan areas, and thus, its analysis of this alternative is still conclusory. The response to comments admitted that the EIR failed to identify to the public the specific policies that would allegedly limit growth and also failed to respond to the comment as to whether the housing element policies under this alternative would only involve refraining from rezoning further areas of the City outside of the Plan Areas. Page III-48. The EIR does not explain why implementation of this alternative was not considered feasible or provide a factual basis for the claim of infeasibility. The Court held that this conclusory discussion of alternatives was deficient, but the Final EIR fails to correct the deficiencies or provide factual support for its rejection of this alternative.

As another example, the EIR’s rejection of the Bayview Waterfront Alternative discussed in the EIR is still conclusory and unsupported by facts because the response to comments fails to explain why it is reasonable to assume that this alternative was included within Alternative A. III-47. The response to comments states that this alternative included the Candlestick Point/Hunters Point Shipyard Project which was reviewed in its own environmental impact report and “later adopted in 2010.” However, the responses fail to explain why it “was not dependent upon the adoption of policies in the 2004 or 2009 Housing Element,” since the 2009 Housing Element identified Candlestick Point/Hunters Point as an area to which substantial increased density development was to be directed. The responses fail to explain which 1990 Residence Element policies such as Policy 2.2 included this alternative, and the 1990 Residence Element Implementation Program Schedule identified only pending rezonings for “Mission Bay, Central Waterfront, Bayshore, North Mission, etc.” that were to occur in 1990-1993. 1990 Residence Element p. 175. Implementation of 1990 Policy 2.2 referred only to studying neighborhood commercial districts. 1990 Residence Element p. 135. Thus, the EIR fails to explain why this alternative would not have sufficient capacity to achieve project objectives for the 2007-2014 planning period, and the 2009 Housing Element estimates that 10,000 new housing units could be constructed in Candlestick Point/Hunters Point. 2009 Housing Element, Part II, p. 9.

As another example, SFLN commented that Alternative A was defined as subject to all existing area plans, which directed growth to areas near transit and where 90% of growth is expected, and therefore the EIR’s claim that growth under Alternative A would be “relatively dispersed” was incorrect, ambiguous and unsupported by fact. The response to comments failed to respond to this comment and incorrectly stated that information as to the area plans is contained in the EIR without citing any evidence showing that a significant amount of growth would occur outside the plan areas and be dispersed.

Also, the EIR's conclusion that total development potential under the 2004 Housing Element would not be substantially greater than under the 1990 Residence Element is conclusory and unsupported by fact because new policies of the 2004 Housing Element strove to expand land capacity necessary to increase housing production, to direct housing to areas well served by transit and to support new area plans. The EIR's conclusion that the 2009 Housing Element does not promote increased residential densities more so than the 1990 Residence Element is not supported by the evidence.

The reference in Attachment A to the Planning Commission motion adopting findings and a statement of overriding considerations as being based on all locally-adopted land use plans and ordinances together with environmental review documents, findings and "other documentation relevant to planned growth in the area" is insufficiently specific and fails to adequately identify the documents upon which the findings and determination were based. Also, such documents were not made available for public review during the public review period for the revised alternatives analysis.

Substantial evidence does not support the EIR's rejection of the feasible alternatives presented in SFLN's letter of comment on the EIR.

Also, while the draft motion would rescind the Planning Commission's prior certification of the Final EIR in Motion 18307, the Board of Supervisors previously affirmed that certification on May 10, 2011 by Motion No.M11-72 and endorsed in Ordinance No. 108-11.

Also, the draft resolution would rescind Resolutions 18308 adopting findings and 18309 recommending adoption of the 2009 Housing Element, but the Board of Supervisors adopted the Findings as its own and incorporated them in Ordinance No. 108-11 on June 21, 2011 and also adopted the 2009 Housing Element on June 21, 2011 in Ordinance No. 108-11. Planning Commission motions and resolutions cannot rescind actions of the Board of Supervisors.

Very truly yours,



Kathryn R. Devincenzi



**EXHIBIT D**

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