

FROM:

Mary Miles (SB #230395)
Attorney at Law for
Coalition for Adequate Review
364 Page St., #36
San Francisco, CA 94102

TO:

Angela Calvillo, Clerk, and
San Francisco Board of Supervisors
City Hall, Room 244
San Francisco, CA 94102

DATE: August 14, 2020

BY E-MAIL TO: bos.legislation@sfgov.org

**NOTICE OF APPEAL OF CEQA EXEMPTION OF "PANHANDLE SOCIAL
DISTANCING AND SAFETY PROJECT"**

PLEASE TAKE NOTICE that Coalition for Adequate Review hereby appeals to the San Francisco Board of Supervisors the environmental determination of the San Francisco Planning Department of the "Panhandle Social Distancing and Safety Project," aka "D5 Safe and Slow Streets Project," referred to here as "the Project," and the implementation of the Project by the San Francisco Municipal Transportation Agency ("MTA") with no CEQA review or public approval proceedings.

The Planning Department's Statutory Exemption No. 2020-006678ENV dated July 16, 2020 is attached as **EXHIBIT A**.

Although MTA implemented the Project on July 15, 2020, no public approval proceedings have been conducted and no approval document has been provided after numerous Public Records Act/Sunshine Ordinance requests. The Exemption document claims the Project was approved "under the authority delegated by the City Traffic Engineer." (Exh. A, p. 1.) After four Public Records Act/Sunshine Ordinance requests, the Planning Department and MTA have refused to provide any records of that "approval."

Grounds for this Appeal lie in the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§21000 *et seq.*, and in rules, regulations, and case law. Appellant will submit briefing and other documents after a hearing is scheduled by the Board.

MTA implemented its "Panhandle Social Distancing and Safety Project," claiming it was "approved" under "authority delegated by the City Traffic Engineer" on July 15, 2020. On July 16, 2020, the Planning Department issued a statutory exemption under Guidelines §15269(c) ["Emergency Project"] and posted it on July 17, 2020. (Exh. A, p. 2 [starting the "appeal period"].) Nothing in any City or State Code grants such authority to the City Traffic Engineer, and the Project is not exempt under CEQA. Further, CEQA requires that an environmental determination must be made before a project is approved. MTA's July 15, 2020 implementation of the Project violates the fundamental requirements of CEQA to first provide public notice and the opportunity for meaningful participation in public proceedings.

The Project received NO public approval process and gave no notice or opportunity for input from the public.

The Project removes the left traffic lane and 12 parking spaces on a major one-way westbound street in San Francisco to install a "parking protected" bicycle lane. Fell Street is not only a "neighborhood" street but is also a heavily-trafficked arterial carrying commuters and other travelers to Golden Gate Park and the west side of the City.


The San Francisco Fire Department stated in a letter to MTA and other City agencies on May 20, 2020: "The SFFD has reviewed the plans for the Emergency parking Protected bikeway on Fell St between Baker and Shrader and does *not* approve of them." (**EXHIBIT B** [emphasis in Fire Dept. letter].)

The exemption document claims the "Panhandle Social Distancing and Safety Project is to facilitate members of the public maintaining six feet social distance while bicycling or walking in the Panhandle in order to prevent and mitigate a public health emergency." (Exh. A, p. 1.) That is not an emergency under CEQA, and recreational bicycling is not essential.

The "Panhandle Social Distancing and Safety Project" does not meet CEQA's definition of an emergency, which must be "a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services," and "such occurrences as fire, flood, earthquake, or other soil or geologic movements, . . . riot, accident, or sabotage." (Pub. Res. Code §21060.3 ["Emergency"].)

MTA claims these changes "are temporary and will expire 120 days after the retraction of the City's proclamation of the COVID-19 local emergency (dated February 25, 2020)." (Exh. A, p. 1.) During the six months since the February proclamation, the mayor has issued 25 (twenty-five) "supplements" to that fiat. Like other Slow Streets projects, no end date is provided for the Project. MTA now indicates it intends to make this Project permanent after the alleged "emergency need" expires.

Since it does not meet the requirements for the claimed exemption, this Board must reverse the Planning Department's exemption and MTA's implementation of the Project, eliminate the "parking protected" bicycle lane on Fell Street, and restore Fell Street to its previous condition before this illegally implemented Project, including restoring the traffic lane and all parking spaces.



Mary Miles

DATE: August 14, 2020

ATTACHMENTS/EXHIBITS:

A Planning Department's Statutory Exemption No. 2020-006678ENV dated July 16, 2020

B Letter from Fire Department to MTA, dated May 20, 2020.

ATTACHMENT A



Panhandle Social Distancing and Safety Project

As a result of the coronavirus (COVID-19) public health emergency, the San Francisco Municipal Transportation Agency (SFMTA) is proposing a parking-protected bikeway on Fell Street between Baker Street and Shrader Street “Panhandle Social Distancing and Safety Project” to provide relief to crowding on the multi-use paths within The Panhandle, a portion of Golden Gate Park located on the east side between Oak, Fell, Baker, and Stanyan Streets.

Before COVID-19, the multi-use paths in the Panhandle already carried high volumes of bicyclists and pedestrians. Use of these multi-use paths have only increased as a result of COVID-19. Given the increase in users and the existing width of the multi-use paths (up to 12 feet wide), people cannot practically maintain the six feet of social distance required by the city’s Public Health orders C19-07b. Providing a parking protected bikeway on Fell Street adjacent to the Panhandle would give bicycles an alternative route to the Panhandle paths, thereby providing relief to the overcrowding and supporting social distancing between users within the Panhandle.

As part of the proposed project, a westbound parking-protected bike lane would be installed on the south side of Fell Street between Baker Street and Shrader Street. The project would reduce the number of travel lanes on Fell Street from 4 to 3 to accommodate the new bike lane. The parking-protected bike lane design would run curbside with a painted buffer between cyclists and parking. The installation of the parking-protected bike lane would include the removal of one travel lane and the removal of approximately 12 parking spaces along Fell Street between Baker and Shrader streets. No loading spaces would be removed. Implementation of the proposed project would require paint and the installation of safe-hit posts. No excavation would be required.

Following installation, the SFMTA would monitor and evaluate conditions along Fell Street and make adjustments, if necessary, to address travel circulation for all modes as well as emergency response times.

The proposed Panhandle Social Distancing and Safety Project is to facilitate members of the public maintaining six feet social distance while bicycling or walking in the Panhandle in order to prevent and mitigate a public health emergency. The changes implemented as part of the project are temporary and will expire 120 days after the retraction of the City’s proclamation of the COVID-19 local emergency (dated February 25, 2020).

Approval Action:

SFMTA DOC Approval under the authority delegated by the City Traffic Engineer

Date of Approval Action:

July 15, 2020

Date of Posting:*

July 17, 2020

*Per Section 31.16(e)(2)(B)(ii), the appeal period starts on the date this exemption is posted to the Planning Department's website: <https://sfplanning.org/resource/ceqa-exemptions>

Statutorily Exempt pursuant to CEQA Guidelines Section 15269(c): Emergency Projects, specific actions necessary to prevent or mitigate an emergency.

Melinda Hue 7/16/20

Melinda Hue Date
San Francisco Municipal Transportation Agency

Laura C. Lynch 7/16/20

Laura Lynch Date
San Francisco Planning Department

ATTACHMENT B

From: Law, Chad (FIR) <chad.law@sfgov.org>
Sent: Wednesday, May 20, 2020 4:51 PM
To: Chen, Elizabeth; Olea, Ricardo; Uchida, Kansai; Knox White, John; Dusseault, Brian; Shahamiri, James; Sallaberry, Mike; Robinson, Daryl; Rude, Gretchen; Laffey, Noel; Macario, Michael; Lam, Scarlett L; McCormick, Shawn; Smith, Curtis; Fritzler, Anne; MTADOC Logistics; MTADOC Operation; MTADOC Manager; MTADOC Planning; Scanlon, Olivia (FIR); FireFDOC, FIR (FIR); Heidohrn, Scott (POL); Perea, Daniel (POL); Cherniss, Jason (POL); Thompson, Dack (POL); DPW-PublicWorks-DOC; Mcknight, John (DEM); Streeter, Jonathan; Gering, Rick (FIR)
Subject: RE: COVID-19 TASC: emergency parking protected bikeway on Fell between Baker and Shrader

Greetings,

The SFFD has reviewed the plans for the Emergency Parking Protected bikeway on Fell St between Baker and Shrader and does **not** approve of them. Please contact me if you have any questions.

Thank you,

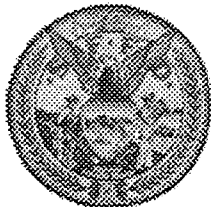
Chad

Captain Chad Law

San Francisco Fire Department
Bureau of Fire Prevention & Investigation
698 Second Street, Room 109
San Francisco, CA 94107
415-558-3300 (Main)
415-558-3306 (Direct)
415-558-3323 (Fax)

415-238-5319 (Cell)

chad.law@sfgov.org



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BOARD OF SUPERVISORS APPEAL FEE WAIVER FOR NEIGHBORHOOD ORGANIZATIONS

APPLICATION

Appellant's Information

Name: Mary Miles, Attorney at Law, for Coalition for Adequate Review

Address: 364 PAGE ST., #36
SAN FRANCISCO, CA 94102

Email Address: page364@earthlink.net

Telephone: (415) 863-2310

Neighborhood Group Organization Information

Name of Organization: Coalition for Adequate Review

Address: PLEASE SEE ABOVE

Email Address: PLEASE SEE ABOVE

Telephone: " "

Property Information

Project Address: Fell Street, San Francisco, CA

Project Application (PRJ) Record No: 2020-006678ENV Building Permit No:

Date of Decision (if any):

Required Criteria for Granting Waiver

All must be satisfied; please attach supporting materials.

REQUIRED CRITERIA	YES	NO
The appellant is a member of the stated neighborhood organization and is authorized to file the appeal on behalf of the organization. Authorization may take the form of a letter signed by the President or other officer of the organization.	<input checked="" type="checkbox"/>	
The appellant is appealing on behalf of an organization that is registered with the Planning Department and that appears on the Department's current list of neighborhood organizations.	<input checked="" type="checkbox"/>	
The appellant is appealing on behalf of an organization that has been in existence at least 24 months prior to the submittal of the fee waiver request. Existence may be established by evidence including that relating to the organization's activities at that time such as meeting minutes, resolutions, publications and rosters.	<input checked="" type="checkbox"/>	
The appellant is appealing on behalf of a neighborhood organization that is affected by the project and that is the subject of the appeal.	<input checked="" type="checkbox"/>	

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

Submission Checklist:

- APPELLANT AUTHORIZATION CURRENT ORGANIZATION REGISTRATION MINIMUM ORGANIZATION AGE
- PROJECT IMPACT ON ORGANIZATION

WAIVER APPROVED WAIVER DENIED

FROM:
Rob Anderson, Director
Coalition for Adequate Review

TO:
San Francisco Planning Department
1650 Mission Street
San Francisco, CA 94103

RE: Application for Board of Supervisors Appeal Fee Waiver
Appeal of Planning Department Statutory Exemption


DATE: August 13, 2020

This will advise that Mary Miles, Attorney at Law, is authorized to represent Coalition for Adequate Review in the Appeal of the CEQA Exemption on the "Panhandle Social Distancing and Safety Project" dated July 16, 2020.

Coalition for Adequate Review requests a fee waiver for filing this Appeal to the Board of Supervisors, and attaches a copy of the Application for Board of Supervisors Appeal Fee Waiver form.

Coalition for Adequate Review has existed for more than 24 months and is on the Planning Department's list of neighborhood organizations. Coalition for Adequate Review uses San Francisco streets, including the streets affected by the Project and is affected by the impacts of the proposed Project that is the subject of this appeal.

Therefore, Coalition for Adequate Review respectfully asks that the Planning Department grant the attached Application for Board of Supervisors Appeal Fee Waiver. Thank you.



Rob Anderson