

File No. 111213

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date November 28, 2011

Board of Supervisors Meeting

Date _____

Cmte Board

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Completed by: Alisa Miller Date November 23, 2011

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Summary Vacation - Hunt Street]

2
3 **Ordinance ordering the summary vacation of Hunt Street as part of the San Francisco**
4 **Museum of Modern Art Expansion/Fire Station No. 1 Relocation and Housing Project;**
5 **adopting findings pursuant to the California Streets and Highways Code Sections 8330**
6 **et seq.; adopting findings pursuant to the California Environmental Quality Act;**
7 **adopting findings that the vacation and sale are in conformity with the City's General**
8 **Plan and Eight Priority Policies of City Planning Code Section 101.1; and authorizing**
9 **official acts in furtherance of this Ordinance.**

10 Note: Additions are *single-underline italics Times New Roman*;
11 deletions are *strikethrough italics Times New Roman*.
12 Board amendment additions are double underlined.
13 Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. Findings. The Board of Supervisors of the City and County of San
16 Francisco hereby finds, determines, and declares as follows:

17 A. Pursuant to Ordinance No. 218-10, this Board approved the City's execution and
18 delivery of the Conditional Land Disposition and Acquisition Agreement dated as of October
19 15, 2010 (the "Agreement") between the City and The San Francisco Museum of Modern Art,
20 a California non-profit corporation, and its affiliate New Florian, LLC, a California limited
21 liability company (collectively "Museum").

22 B. The Agreement provided the transactional framework for the transfer by the City
23 to Museum of (i) 676 Howard Street (Block 3722, Lot 028), the location of a fire station known
24 as "Fire Station No. 1," and (ii) an adjoining section of the Hunt Street public right-of-way, also
25 located within Block 3722 between 3rd Street and New Montgomery Street, in San Francisco,
California ("Hunt Street") (which, together with all of City's interest in any rights, privileges,

1 and incidental or appurtenant easements, shall be referred to in this Ordinance as the "City
2 Property") in exchange for the transfer to the City by Museum of (1) the 9,000-square-foot
3 northern portion (the "Replacement Property") of Museum's parcel of real property located at
4 935 Folsom Street (Block 3753, Lot 140) in San Francisco, (2) a new fire station to be
5 constructed by Museum, at Museum's sole cost and expense (the "Replacement Fire
6 Station"), on the Replacement Property, and (3) a parking easement over an approximately
7 1,800-square-foot adjacent portion of the Museum's adjacent 5,400-square-foot parcel (the
8 "Parking Easement"). For purposes of this Ordinance, the Replacement Fire Station,
9 Replacement Property, and the Parking Easement shall be referred to in this Ordinance as
10 the "Museum Transfer Property." The exchange transaction contemplated by the Agreement
11 is subject to the satisfaction of express conditions, including the issuance of various
12 discretionary approvals and the completion of environmental review under the California
13 Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 *et*
14 *seq.*), the CEQA Guidelines (California Code of Regulations, title 14, Sections 15000 *et seq.*),
15 and Chapter 31 of the San Francisco Administrative Code (collectively, "Environmental
16 Review"). The terms and conditions of such proposed exchange as contemplated by the
17 Agreement shall be referred to in this Ordinance as the "Exchange Transaction."

18 C. The Department of Public Works has advised the City's Department of Real
19 Estate that there are no in-place public utility facilities that are in use that would be affected by
20 vacation of Hunt Street.

21 D. Section 8334 of the California Streets and Highways Code provides that the
22 legislative body of a local agency may summarily vacate an excess right-of-way of a street,
23 highway or public easement under certain circumstances. In this instance, Hunt Street
24 constitutes a short, discontinuous, approximately 115-foot-long, public right-of-way that runs
25

1 less than a city block in length and is not necessary for street purposes as all properties that it
2 abuts are served by other roadways. Further, no public service easements exist within this
3 right-of-way.

4 E. Pursuant to Resolution No. 198-92, the Board authorized the acceptance of that
5 certain Grant of Easement and Agreement between the Museum and City, dated March 25,
6 1992, by which Museum granted City a public street easement over a portion of Museum's
7 property at 151 Third Street (the "151 Third Street Easement"). A copy of Resolution No. 198-
8 92 is on file with the Clerk of the Board of Supervisors in File No. 82-92-2 and is incorporated
9 herein by reference. The Board understands that the 151 Third Street Easement terminates
10 by its express terms upon any vacation by City of Hunt Street, and that this Ordinance, by
11 causing the vacation of the Vacated Property, will also terminate the 151 Third Street
12 Easement.

13 F. On November 10, 2011, the Planning Commission conducted a duly
14 noticed public hearing on the proposed San Francisco Museum of Modern Art Expansion /
15 Fire Station Relocation and Housing Project (Project), including the proposed vacation of Hunt
16 Street contemplated in connection with the Exchange Transaction. The Planning Commission
17 found that the proposed vacation of Hunt Street was, on balance, consistent with the City's
18 General Plan, as it is proposed for amendment, and with planning Code Section 101.1(b). A
19 copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.
20 111240 and is incorporated herein by reference.

21 G. The Board finds that the proposed vacation of Hunt Street is, on balance,
22 consistent with the General Plan, as proposed to be amended, and with the Priority Policies of
23 Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No.
24 10400, and the Board hereby incorporates such reasons herein by reference.

1 H. In a letter dated October 25, 2011, the Director of the Department of Public
2 Works ("DPW Director") stated that (i) the Department of Public Works received and
3 circulated an application for the vacation of the portion of Hunt Street to be vacated
4 hereunder, as shown in DPW SUR Map No. 2001-001 (the "Vacated Property"), (ii) no utility
5 company objected to the proposed vacation, and (iii) and recommended that the Director of
6 Real Estate proceed with the proposed vacation. A copy of the DPW letter and a copy of
7 DPW SUR Map No. 2001-001 are on file with the Clerk of the Board of Supervisors in File No.
8 _____ and is incorporated herein by reference.

9 I. In DPW Order No. _____, dated _____, 2011, the Director of the
10 Department of Public Works determined: (i) that the Vacated Property is unnecessary for the
11 City's present or prospective public street purposes and (ii) there are no physical public and
12 private utilities affected by the vacation of the Vacated Property. A copy of the DPW Order is
13 on file with the Clerk of the Board of Supervisors in File No. _____ and is
14 incorporated herein by reference.

15 J. The DPW Director also recommended that the public interest, convenience, and
16 necessity require that, except as specifically provided above, no other easements or other
17 rights should be reserved by City for any public or private utilities or facilities that are in place
18 in such Vacated Property and that any rights based upon any such public or private utilities or
19 facilities should be extinguished.

20 K. Pursuant to the Streets and Highways Code Section 892, the DPW Director also
21 found that the Vacated Property is unnecessary for non-motorized transportation as there are
22 multiple streets surrounding that Vacated Property that remain available for such
23 transportation and those members of the public availing themselves of non-motorized
24 transportation will not be inconvenienced by the proposed street vacation..

1 L. The Board understands that, pursuant to DPW regulations, Museum's agents
2 have made good faith efforts to obtain the consent of all owners of property adjacent to the
3 Vacated Property to the proposed vacation of the Vacated Property and, despite such efforts,
4 not all such owners have yet consented to such proposed vacation. The Board hereby finds
5 that, in consideration of all relevant factors, the consent of all owners of property adjacent to
6 the Vacated Property to the proposed vacation of the Vacated Property is unnecessary.

7 M. California Environmental Quality Act. At its hearing on November 10, 2011,
8 and prior to recommending the proposed vacation of Hunt Street for approval, the Planning
9 Commission certified a Final Environmental Impact Report (FEIR) for the Project pursuant to
10 the California Environmental Quality Act (California Public Resources Code Section 21000 *et*
11 *seq.*), the CEQA Guidelines (14 Cal. Code Reg. Section 15000 *et seq.*) and Chapter 31 of the
12 Administrative Code. In accordance with the actions contemplated herein, this Board has
13 reviewed the FEIR and concurs with its conclusions, affirms the Planning Commission's
14 certification of the FEIR, and finds that the actions contemplated herein are within the scope
15 of the Project described and analyzed in the FEIR. The Board hereby adopts and incorporates
16 by reference as though fully set forth herein the Commission's CEQA approval findings,
17 including a statement of overriding considerations, adopted by the Planning Commission on
18 November 10, 2011. This Board also adopts and incorporates by reference as though fully set
19 forth herein the Project's Mitigation Monitoring and Reporting Program (MMRP). Said findings
20 and MMRP are on file with the Clerk of the Board of Supervisors in File No. _____.

21 N. Pursuant to the Streets and Highways Code Section 8334, the Board hereby
22 finds and determines that the Vacated Property, as shown in DPW SUR Map No. 2011-001 is
23 an excess street, and therefore is unneeded for vehicular or pedestrian traffic. A copy of such
24 map is on file with the Clerk of the Board of Supervisors in File No. _____ and is
25

1 incorporated herein by reference. Provided that the Vacated Property is transferred to
2 Museum and thereafter developed as contemplated by and set forth in the Agreement, the
3 public convenience and necessity require that no easements or other rights be reserved for
4 any public utility facilities and that any rights based upon any such public utility facilities shall
5 be extinguished automatically upon the effectiveness of the vacation hereunder.

6 Section 2. Pursuant to California Streets and Highways Code Sections 8330 et seq.
7 (Public Streets, Highways, and Service Easement Vacation Law, Summary Vacation) and
8 Section 787 of the San Francisco Public Works Code, the Board orders the summary vacation
9 of the Vacated Property immediately prior to the transfer of the Vacated Property to Museum.
10 The Clerk of the Board of Supervisors and the Director of Property shall be authorized, and
11 the Clerk shall be directed, to record or cause to be recorded in the Official Records of the
12 City and County of San Francisco a certified copy of this Ordinance ordering such vacation as
13 provided in Section 8335(a) of the California Streets and Highways Code at the Closing (as
14 defined in the Agreement), and thereupon such vacation shall be effective without any further
15 action by the Board of Supervisors. Immediately following the recordation of this Ordinance,
16 the Director of Property is authorized to record a deed conveying the Vacated Property to
17 Museum or its designee. In the event that the closing contemplated by the Agreement does
18 not occur for any reason, then this Ordinance shall be null and void and shall not be recorded.

19 Section 3. The Clerk of the Board, Director of Property, and Director of Public Works
20 are hereby authorized and directed to take any and all actions that they or the City Attorney
21 may deem necessary or advisable in order to effectuate the purpose and intent of this
22 Ordinance.

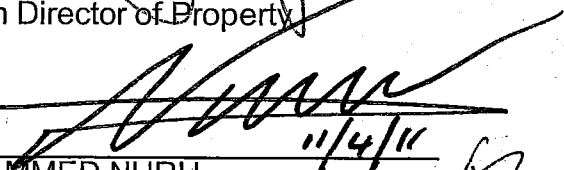
23 Section 4. Effective Date. This ordinance shall become effective 30 days from the
24 date of passage.

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RECOMMENDED:




JOHN UPDIKE
Interim Director of Property



MOHAMMED NURU
Interim Director of Public Works

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 

Richard Handel
Deputy City Attorney

LEGISLATIVE DIGEST

[Summary Vacation - Hunt Street]

Ordinance ordering the summary vacation of Hunt Street as part of the San Francisco Museum of Modern Art Expansion/Fire Station No. 1 Relocation and Housing Project; adopting findings pursuant to the California Streets and Highways Code Sections 8330 et seq.; adopting findings pursuant to the California Environmental Quality Act; adopting findings that the vacation and sale are in conformity with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1; and authorizing official acts in furtherance of this Ordinance.

Existing Law

California Streets and Highways Code sections 8300 et seq. A summary street vacation, which is an expedited procedure as contrasted with a standard street vacation, is permitted when certain conditions are satisfied under State law.

Amendments to Current Law

This legislation would vacate a 115-foot-long portion of Hunt Street (the "Vacated Property"). This Ordinance would make environmental findings and findings that the legislation is consistent with the General Plan and the priority policy findings of the Planning Code Section 101.1.

Background

This Ordinance follows Ordinance No. 218-10, which authorized the City's entry into the Conditional Land Disposition and Acquisition Agreement dated as of October 15, 2010 (the "Agreement") between the City and The San Francisco Museum of Modern Art, a California non-profit corporation, and its affiliate New Florian, LLC, a California limited liability company (collectively "Museum"). The Agreement provides the transactional framework for the City's exchange of the Vacated Property along with 676 Howard Street (Block 3722, Lot 028), the location of a fire station known as "Fire Station No. 1," for the Museum's (i) the 9,000-square-foot northern portion (the "Replacement Property") of Museum's parcel of real property located at 935 Folsom Street (Block 3753, Lot 140) in San Francisco, (ii) a new fire station to be constructed by Museum, at Museum's sole cost and expense on the Replacement Property, and (iii) a parking easement over an approximately 1,800-square-foot adjacent portion of the Museum's adjacent 5,400-square-foot parcel. The Vacated Property constitutes a short, discontinuous, approximately 115-foot-long, public right-of-way that runs less than a city block in length and is not necessary for street purposes as all properties that it abuts are served by other roadways. Further, no public service easements exist within this right-of-way.



SAN FRANCISCO PLANNING DEPARTMENT

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
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November 14, 2011

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

**Re: Board File Numbers 111080 (Zoning Map Amendment),
and 111121 (General Plan Amendment)
Transmittal of Planning Department Case Number 2009.0291MR and 2010.0275MR:
San Francisco Museum of Modern Art Expansion/Fire Station Relocation
and Housing Project
Planning Commission Recommendation: *Approval***

Dear Ms. Calvillo,

On November 10, 2011, the San Francisco Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting to consider the proposed Ordinance;

The proposed Ordinance for Case Nos. 2009.0291M and 2010.0275M would amend Map 2 (Fire Facilities Plan) of the Community Facilities Element of the San Francisco General Plan to delete the reference to the property at 676 Howard Street as a Fire Facility, and to add a reference to the property at 935 Folsom Street as a Fire Facility, in order to reflect the proposed relocation of Fire Station No. 1 that would occur in association with the expansion of the San Francisco Museum of Modern Art.

The proposed Ordinance for Case Nos. 2001.0291Z and 2010.0275Z would amend Sectional Map ZN01 of the Zoning Maps of the San Francisco Planning Code to change the use classification of 676 Howard Street from Public (P) to Downtown—Support District (C-3-S) and a portion of 935 Folsom Street from Mixed Use—Residential (MUR) to Public (P), in order to enable the expansion of San Francisco Museum of Modern Art and the relocation of Fire Station No. 1.

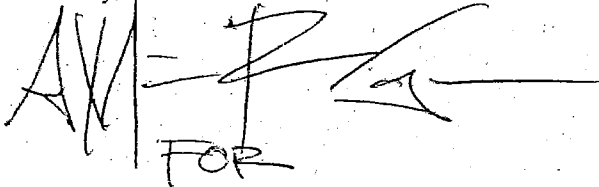
On November 10, 2011, the Commission certified the Environmental Impact Report prepared for the project in and adopted findings pursuant to the California Environmental Quality Act, including a Statement of Overriding Considerations and adoption of Mitigation, Monitoring, and Reporting Programs.

At the November 10th hearing, the Commission adopted Resolution Number 18488 recommending that the Board of Supervisors approve the proposed Ordinance regarding the General Plan Amendment.

At the November 10th hearing, the Commission adopted Resolution Number 18489 recommending that the Board of Supervisors approve the proposed Ordinance regarding the Zoning Map Amendment.

Please find attached documents relating to the Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'AM - J. Rahaim'. Below the signature, the word 'FOR' is written in capital letters.

John Rahaim
Director of Planning

cc: Supervisor Kim

Attachments [one copy of each of the following]

Planning Commission Resolution Numbers 18488 and 18489

Executive Summary - Planning Commission Hearing of November 10, 2011



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary San Francisco Museum of Modern Art Expansion/ Fire Station Relocation and Housing Project

ADOPTION OF CEQA APPROVAL FINDINGS GENERAL PLAN AMENDMENT ZONING MAP AMENDMENT GENERAL PLAN REFERRAL

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

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415.558.6378

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415.558.6409

Planning
Information:
415.558.6377

HEARING DATE: NOVEMBER 10, 2011

Date: November 3, 2011
Case No.: 2009.0291EMRZ; 2010.0275EMRZ
Project Address: 151 THIRD STREET; 670-676 HOWARD STREET;
935 FOLSOM STREET
Zoning: 151 Third Street:
C-3-O (Downtown, Office)
500-I Height and Bulk District
670 Howard Street:
C-3-S (Downtown, Support)
320-I Height and Bulk District
676 Howard Street:
P (Public)
320-I Height and Bulk District
935 Folsom Street:
MUR (Mixed Use-Residential)
45-X/85-X Height and Bulk District
SOMA Youth and Family Special Use District
Block/Lot: 676 Howard Street: 3722/028; 935 Folsom Street: 3753/140
Project Sponsor: Greg Johnson
San Francisco Museum of Modern Art
151 Third Street
San Francisco, CA 94103
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org
Recommendations: *Adopt Findings (CEQA and General Plan Referral)*
Recommend Approval (General Plan/Zoning Map Amendments)

PROJECT DESCRIPTION

The Project proposes to demolish the existing buildings located at 670 and 676 Howard Street to accommodate an expansion at the rear of the existing San Francisco Museum of Modern Art

(SFMOMA) that measures approximately 230,000 square feet, reaching a height of approximately 200 feet. The expansion would include additional gallery space to display the existing permanent collection, the Doris and Donald Fisher Collection, and other special exhibitions. The expansion will also add areas for free, publicly accessible art displays and other public functions, consolidate and enlarge the administrative and support functions for the SFMOMA organization, and enable the reconfiguration and improvement of the entry lobby and circulation spaces, retail and cafe functions, and ticketing areas.

As part of the Project, an existing commercial building located at 935 Folsom Street will be demolished to allow construction of a new Fire Station No. 1 on the northern portion of the site, measuring approximately 15,000 square feet and reaching a height of approximately 34 feet. This work will be paid for by SFMOMA. The SFMOMA expansion will require the demolition of the existing Fire Station No. 1 at 676 Howard Street. To avoid disruption in fire protection services, the new Fire Station will be constructed on the northern portion of the property at 935 Folsom Street, and all operations will be shifted to the new location to permit construction of the SFMOMA expansion. A future residential project would be constructed on the southerly portion of the 935 Folsom Street site, containing up to 13 dwelling units and reaching a height of approximately 43 feet. While a conceptual residential project is analyzed in the EIR, there is no proposal for a specific residential development being considered at this time.

SITE DESCRIPTION AND PRESENT USE

The property located at 151 Third Street, on the east side between Market and Mission Street, Block 3722, Lot 078, measures 59,195 square feet, and is developed with the existing SFMOMA. The existing museum was constructed in 1995, measuring approximately 225,000 square feet, and reaching a height of 105 feet. The building contains galleries, retail space, a cafe, a theater, an education center, lobby and circulation spaces, and storage, loading, and administrative support areas. As discussed under "Project Description" above, the Project would expand SFMOMA onto several adjacent properties within the block, and relocate Fire Station No. 1.

The expanded SFMOMA would occupy a vacated portion of the Hunt Street right-of-way, as well as the properties at 670-676 Howard Street. The Hunt Street right-of-way is a landlocked street measuring 3,500 square feet, situated to the southeast of the property at 151 Third Street. The western portion of Hunt Street that formerly connected to Third Street was vacated in 1979, and was conveyed to the developer of the W. Hotel. This right-of-way is currently utilized for surface parking by firefighters, and would be vacated as part of the Project in order to be incorporated in the SFMOMA expansion site. The property located at 670 Howard Street, Block 3722, Lot 027, measures 7,260 square feet, and is developed with a four-story plus basement building formerly occupied by Heald College. This building is currently used for museum support functions, and would be demolished to accommodate the expansion of SFMOMA. The property located at 676 Howard Street, Block 3722, Lot 028, measures 4,400 square feet, and is currently developed with Fire Station No. 1. This building would also be demolished to accommodate the expansion of SFMOMA, and a new fire station would be constructed at 935 Folsom Street, approximately one-half mile to the southwest.

The property located at 935 Folsom Street is located on the south side, between Fifth and Sixth Streets at the corner of Falmouth Street, Block 3753, Lot 140. The property measures 14,400 square feet, and is currently developed with a vacant one-story commercial building, formerly occupied by a laundry and a sewing factory. The building would be demolished in order to accommodate the construction of the relocated Fire Station No. 1 on the northern portion of the property, and the construction of a future residential project on the southern portion of the property.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The SFMOMA expansion site is situated in the C-3-O and C-3-S Downtown Commercial zoning districts, and is within the former Yerba Buena Redevelopment Area, a context characterized by intense urban development and a diverse mix of uses. Aside from SFMOMA itself, numerous cultural institutions are clustered in the immediate vicinity, including the Yerba Buena Center for the Arts, the Museum of the African Diaspora, the Contemporary Jewish Museum, the Museum of Craft & Folk Art, Zeum, the California Historical Museum, and others. Multiple hotels and high-rise residential and office buildings are also located in the vicinity, including the adjacent W Hotel, the St. Regis Hotel and Residences, the Four Seasons, the Palace Hotel, the Paramount Apartments, One Hawthorne Street, the Westin, the Marriott Marquis, and the Pacific Telephone building. Significant open spaces in the vicinity include Yerba Buena Gardens and Jessie Square, immediately to the west of the project site. The Moscone Convention Center facilities are located one block to the southwest of the SFMOMA site, and the edge of the Union Square shopping district is situated two blocks northwest of the site. The Financial District is located in the blocks to the northeast and to the north.

The site of the relocated Fire Station No. 1, at 935 Folsom Street, is located in the Mixed-Use Residential (MUR) zoning district and the SOMA Youth and Family Special Use District, within the South of Market area (SOMA), a neighborhood characterized by an eclectic mix of land uses that generally occupy low-rise structures. Many of the uses can be broadly categorized as Production, Distribution, and Repair uses, including auto repair, auto body shops, light manufacturing, and contractor's offices. There are also numerous low-rise residential buildings in the area, often situated on mid-block alleys, including on Shipley Street across from the 935 Folsom Street property. Surface parking lots are also common in the area, serving as public parking or for use by specific establishments. Significant open spaces in the area include the Gene Friend Recreation Center and Victoria Manolo Draves Park, both located to the southwest of the Fire Station site.

ENVIRONMENTAL REVIEW

On July 11, 2011, the Department published a draft Environmental Impact Report (EIR) for public review (Case Nos. 2009.0291E and 2010.0275E). The draft EIR was available for public comment until August 25, 2011. On August 11, 2011, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On October 27, 2011, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project.

HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	October 21, 2011	October 21, 2011	20 days
Posted Notice	20 days	October 21, 2011	October 21, 2011	20 days
Mailed Notice	10 days	October 31, 2011	October 21, 2011	20 days

PUBLIC COMMENT

The Department has received no comments with respect to the proposed Rezoning, General Plan Amendment, and General Plan Referral associated with the proposed projects. Comments regarding the Draft EIR were submitted to the Department during the specified comment review period, and these comments are addressed separately in the Comments and Responses document, published on October 27, 2011, consistent with CEQA and the requirements of Administrative Code Chapter 31.

ISSUES AND OTHER CONSIDERATIONS

- **General Plan and Zoning Map Amendments.** As discussed above, the expansion of SFMOMA will necessitate the relocation of Fire Station No. 1 from its existing location at 676 Howard Street to a new building to be constructed at 935 Folsom Street. The property at 676 Howard Street would then be incorporated into the site for the SFMOMA expansion. Several Zoning Map and General Plan Map amendments would be required to enable these changes in use. The property at 676 Howard Street would need to be rezoned from Public (P) to Downtown - Support District (C-3-S), and a portion of the property at 935 Folsom Street would need to be rezoned from Mixed-Use Residential (MUR) to Public (P). The Board of Supervisors initiated this rezoning action on October 4, 2011. In addition, Map 2 ("Fire Facilities Plan") of the Community Facilities Element of the General Plan would need to be amended to graphically depict the relocation of Fire Station No. 1. The Planning Commission initiated this General Plan Amendment on October 20, 2011.
- **General Plan Referral.** The San Francisco Charter and the San Francisco Administrative Code require that, for projects that include certain types of actions, the Commission must review these actions and determine whether the project is in conformity with the objectives and policies of the General Plan, as well as the Priority Policies of Section 101.1. The following aspects of the project trigger the requirement for a General Plan referral:
 - **Vacation and Change of Use of Hunt Street Right-of-Way.** This portion of right-of-way measures approximately 115 feet by 30 feet, and is situated between the properties at 151 Third Street and 670-676 Howard Street. The right-of-way is a landlocked area that does not connect to any other public street. Pursuant to a previously-authorized General Plan referral and Conditional Land Disposition

and Acquisition Agreement approved by the Board of Supervisors in 2010, the City has agreed to a transactional framework to convey the underlying land (as well as the property at 676 Howard Street) to SFMOMA, in exchange for the conveyance of a portion of the property at 935 Folsom Street and the construction of a new fire station on that site, conditioned on the City's discretionary approval of the proposed SFMOMA Expansion and Fire Station Relocation and Housing Project. The Hunt Street right-of-way would be vacated and incorporated into the overall development site for the SFMOMA expansion.

- **Construction of a New Fire Station at 935 Folsom Street.** The SFMOMA expansion will require the demolition of the existing Fire Station No. 1 at 676 Howard Street. To avoid disruption in fire protection services, a new Fire Station will be constructed on the northern portion of the property at 935 Folsom Street, and all operations will be shifted to the new location to permit construction of the SFMOMA expansion.
- **Subdivision of 935 Folsom Street into Two Lots.** The new Fire Station No. 1 and associated parking areas would occupy the northerly portion of the property at 935 Folsom Street measuring 9,025 square feet, but would not require the entire site. Therefore, the lot would be subdivided to create a separate lot on the southerly portion of the site measuring 5,444 square feet. A future residential project would be constructed on this newly created lot.

REQUIRED ACTIONS

In order for the project to proceed, the Commission must 1) Adopt findings under the California Environmental Quality Act, including findings rejecting alternatives as infeasible and adopting a Statement of Overriding Considerations and Mitigation, Monitoring, and Reporting Programs; 2) Recommend approval to the Board of Supervisors of an amendment of the Zoning Map ZN01 to change the Use classification for the property at 676 Howard Street from Public (P) to Downtown - Support District (C-3-S), and a portion of the property at 935 Folsom Street from Mixed-Use Residential (MUR) to Public (P) (Planning Code Section 302); 3) Recommend approval to the Board of Supervisors of an amendment to Map 2 ("Fire Facilities Plan") of the Community Facilities Element of the General Plan (Planning Code Section 340) to delete the reference to 676 Howard Street as a fire facility and add a reference to 935 Folsom Street as a fire facility, and; 4) Adopt the Findings of the General Plan Referral (as described under "Issues and Other Considerations" above).

In addition, the SFMOMA expansion would require future approval of a Determination of Compliance and Request for Exceptions under Planning Code Section 309. Should the actions described above be approved, the approval under Planning Code Section 309 would be scheduled for a future hearing before the Planning Commission.

BASIS FOR RECOMMENDATION

- The relocation of the fire station will facilitate the expansion of SFMOMA, including a downtown location for the exhibition of the Doris and Donald Fisher Collection, a project

which will strengthen the cultural vitality of San Francisco, bolster tourism, and support the local economy by drawing local, national, and international patrons.

- The project will promote the public necessity, convenience, and general welfare in that it will construct a state-of-the-art fire station to provide continued fire protection services as the expansion of SFMOMA proceeds.
- Public transit, retail goods and services, and restaurants are abundant in the area surrounding SFMOMA. Patrons and employees would be able to walk or utilize transit to commute and satisfy convenience needs without reliance on the private automobile. This pedestrian traffic will activate the sidewalks and open space areas in the vicinity.

RECOMMENDATION: Approval with Conditions
--

Attachments:

Draft CEQA Findings Motions, including Mitigation, Monitoring, and Reporting Programs
Draft General Plan Referral Motion
Draft Resolution and Ordinance for General Plan Amendment
Draft Resolution and Ordinance for Zoning Map Amendment
Block Book Map
Sanborn Map
Aerial Photograph
Zoning District Map
Brief from Project Sponsor, dated November 2, 2011
Graphics Package from Project Sponsor

 **FARELLA BRAUN + MARTEL LLP**
Attorneys At Law

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November 22, 2011

Hon. Eric Mar, Chair
Hon. Malia Cohen, Vice-Chair
Hon. Scott Wiener
Land Use and Economic Development Committee
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: SFMOMA Expansion Project and Relocation of Fire Station No. 1
Rezoning, General Plan Amendment, and Vacation of Hunt Street
File Nos. 111081, 111240 and 111213
Hearing Date: November 28, 2011

Dear Supervisors Mar, Cohen and Wiener:

I am writing on behalf of the San Francisco Museum of Modern Art (SFMOMA). As you know, SFMOMA proposes to significantly expand its museum facilities at 151 Third Street that will extend the museum footprint to Howard Street. SFMOMA will also provide the City with a new Fire Station No. 1 on Folsom Street to replace the 676 Howard Street station. The Expansion project will more than double SFMOMA's gallery space, improve public spaces, expand its curatorial, conservation and library programs, and consolidate its administrative functions under one roof, while also providing a home to the Doris and Donald Fisher Collection of contemporary art. The Board of Supervisors in 2010 approved a Conditional Land Disposition and Acquisition Agreement between the City and SFMOMA, authorizing the Fire Station land exchange upon completion of the EIR and various discretionary approvals.

SFMOMA. SFMOMA is one of San Francisco's premier cultural institutions, offering unparalleled benefits to the City's residents, visitors and artists. The museum has over 45,000 members, and approximately 650,000 individuals visit the Museum annually, about a third of them from outside the Bay Area. The Museum pioneered the growth of the Yerba Buena area and continues to serve as an anchor.

The museum's internationally recognized collection of modern and contemporary art includes more than 28,000 works and continues to grow. With strong holdings in photography, painting and sculpture, architecture and design, and media arts, the museum strives to present

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key examples of Modernism as well as more recent works that reflect a variety of artistic developments occurring regionally, nationally, and around the world. Each year, in addition to organizing ongoing installations of permanent collection works, SFMOMA's curators develop a variety of collection-based presentations to complement the special traveling exhibitions hosted by the museum. Including both modern art masterworks and contemporary art in the making, the permanent collection contributes to SFMOMA's standing as a dynamic art center where visitors can learn, reflect, and be inspired.

SFMOMA has long been a leader in education, providing year-round opportunities for learning in the museum and throughout the community. School groups from Calistoga to Monterey, including groups from 69 schools within the San Francisco Unified School District, tour the museum with trained docents at no charge to the school. Another 340 teachers receive intensive training in using the visual arts to instruct core curriculum through exciting and participatory lesson plans. The museum's commitment to community access ensures that there are twelve days in every year when the public may visit the museum at no charge, and another three Sundays each year when families may visit for free. With a firm belief that artistic curiosity begins at a young age, the museum also provides free admission all year long to children 12 years of age and younger. In total, more than 95,000 visitors enjoy SFMOMA's exhibitions and collections each year at no charge.

In 2009, the museum announced a groundbreaking partnership with Doris and Don Fisher to bring the Fisher Collection — one of the world's leading collections of contemporary art — to SFMOMA. In February 2011, SFMOMA received an unprecedented 195 promised gifts of art from nine additional Bay Area collectors through the Collections Campaign. The Fisher Collection and the permanent collection expansion, like the building expansion that will house them, will provide a deeper art experience for the public at SFMOMA. More information about the museum, its public programs, and collections is enclosed and can also be accessed at www.sfmoma.org. A brief description of the Fisher Collection, excerpted from the 2010 catalogue of the collection's introductory exhibition at SFMOMA, entitled *Warhol to Calder: Introducing the Fisher Collection*, is also enclosed. The full catalogue is available in the Planning Department's case files.

Planning Commission Action. On November 10, 2011, the Planning Commission took the following actions in furtherance of the SFMOMA Expansion Project at 151 Third Street/670-676 Howard Street and the relocation of Fire Station No. 1 to 935 Folsom Street, all on unanimous votes:

1. Certification of Final EIR;
2. Approval of CEQA Findings (adopting Mitigation Monitoring and Reporting Programs, finding project alternatives infeasible and adopting a Statement of Overriding Benefits);
3. Recommendation to the Board of Supervisors to rezone 676 Howard Street to C-3-S (Downtown Support) and to rezone 935 Folsom to P (Public);



4. Recommendation to the Board of Supervisors to amend Map 2 of the Community Facilities Element of General Plan to designate 935 Folsom as a Fire Station site;
5. Determination that the vacation of Hunt Street, the relocation of Fire Station No. 1 to 935 Folsom Street, and the subdivision of the 935 Folsom lot are consistent with the General Plan.

The Planning Commission will hold a hearing on the final design of the SFMOMA Expansion project by Snøhetta and EHDD Architecture in January 2012, during which the Commission may impose conditions of approval on its Planning Code Section 309 permit consideration, including the mitigation measures and improvement measures set forth in the Final EIR.

November 28 Land Use Committee Hearing. At the Land Use Committee meeting of November 28, 2011, you will be considering three items in furtherance of the project: (1) the General Plan amendment referenced above; (2) the rezonings referenced above (introduced by Supervisor Kim); and (3) the vacation of Hunt Street (also introduced by Supervisor Kim).

The rezoning and General Plan amendments are necessary because although most of the SFMOMA site is zoned C-3-O and C-3-S with 500- and 320-foot height limits, 676 Howard Street, the current home of Fire Station No. 1, is zoned P (Public) with a 320-foot height limit. The museum expansion will replace the current station, which is seismically compromised, poorly located, and functionally inadequate, with a new station at 935 Folsom Street. Supervisor Kim's rezoning ordinance (and the General Plan Map amendment) will rezone 676 Howard Street from P to C-3-S and rezone 935 Folsom from MUR to P to accommodate the new uses.

Supervisor Kim's ordinance to vacate Hunt Street is necessary to assemble the land for the SFMOMA Expansion, as contemplated by the Conditional Land Disposition and Acquisition Agreement between the City and SFMOMA that the Board approved in 2010. Hunt Street is a landlocked 30- x 115-foot alley located between 151 Third and 670-676 Howard Street. It is used almost solely as a parking lot for firefighters at the 676 Howard Street Station, which will relocate to 935 Folsom Street before the street vacation is final.

We are moving forward now on these items so that the replacement for Fire Station No. 1 can begin construction in early 2012, in advance of the 2013 construction of the SFMOMA Expansion project. The Arts Commission has already given final design approval to the replacement Fire Station (contingent on the Board of Supervisors rezoning the site), and we are ready to break ground on the new fire station as soon as the rezoning becomes effective.

Widespread support. I hope that you will agree that this project is a great deal for the City. It gives SFMOMA the chance to grow into one of the best museums of contemporary and modern art in the world; provides a home for the Fisher Collection and the museum's expanding permanent collection; opens up the museum to all four surrounding streets and alleys; brings great architecture by world-renowned architects to the City; and even improves public safety South of Market. All this is at no cost to the City. For these reasons, the SFMOMA Expansion and Fire Station Relocation projects have widespread support.



W Hotel. To our knowledge, the only concern about the museum expansion are those expressed by the owners of the W Hotel at 181 Third Street, who seem to believe they have a right to preserve private views from certain of their hotel rooms. The owners of the W asked the Planning Commission not to certify the Final EIR and not to approve the vacation of Hunt Street. The museum expansion will reach a height of only about 200 feet, compared to the 500- and 320-foot height limits and the 320-foot height of the W Hotel. There is no way to expand the museum without affecting some views from some hotel rooms. However, as you well know, private views are not protected in San Francisco.

The W's opposition to the vacation of Hunt Street is based on its owner's belief that SFMOMA must grant the W a private easement for its loading and valet parking needs through the interior of the block. SFMOMA has committed through the EIR process to provide the W with vehicular and loading access across the SFMOMA site, so that loading and valet parking operations for the hotel will be improved over existing conditions. The Planning Commission indicated on November 10 that it intends to impose that requirement (EIR Improvement Measure TR-7) as a condition of the Section 309 permit it will consider in January. We believe imposition of that Improvement Measure will assure the W continued access to its loading and valet parking operations.

Enclosed is a copy of my letter dated November 9, 2011, which responds in detail to the W's opposition to the street vacation. We request that you reject the W's opposition and move forward with the vacation of Hunt Street – without it the SFMOMA Expansion project cannot be built.

Conclusion. The SFMOMA Expansion project will in the long run improve the Yerba Buena area and be a benefit to the W Hotel and other visitor-serving businesses in the area. The St. Regis Hotel, which will also lose some private hotel room views, is fully supportive of the expansion project, as are the Yerba Buena Alliance, the Yerba Buena CBD, and SF Travel.

If you need any further information prior to the November 28 hearing, please contact me or our community liaison, David Prowler, at 544-0445; david@prowler.org.

Sincerely,

Steven L. Vettel

cc: Sup. Jane Kim
Alisa Miller, Clerk's Office
Neal Benezra, Director, SFMOMA
Greg Johnson, Museum Expansion Project Director
David Prowler

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File 111213
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November 9, 2011

Bruce R. Storrs, City Surveyor
Department of Public Works
Bureau of Street-Use and Mapping
875 Stevenson Street, Room 460
San Francisco CA 94103-0942

Hon. Christina Olague, President
San Francisco Planning Commissioner
1650 Mission Street, Suite 400
San Francisco CA 94103

Hon. David Chiu, President
San Francisco Board of Supervisors
City Hall
1 Carlton B. Goodlett Place, Room 244
San Francisco CA 94102

Re: Vacation of Hunt Street in conjunction with development of the SFMOMA
Expansion Project

Dear Mr. Storrs, Commissioners and Supervisors:

I am writing on behalf the San Francisco Museum of Modern Art (SFMOMA) to respond to the letter dated November 9, 2011, from Christine Griffith of SSL Law Firm, representing KSSF Enterprises Ltd., the owner of the W Hotel. KSSF objects to the proposed vacation of Hunt Street.

As you know, SFMOMA proposes a major expansion of its museum facilities at 151 Third Street that will extend the museum footprint to Howard Street. Located between the existing museum property and the Howard Street expansion site is Hunt Street, a 30' x 115' landlocked public street. Hunt Street must be vacated, and the underlying land conveyed by the City to SFMOMA for the SFMOMA Expansion project to proceed. The Board of Supervisors has already approved a Conditional Land Disposition and Acquisition Agreement, dated October 15, 2010, authorizing the land conveyance upon approval of the vacation of the street. The Planning Commission and Board of Supervisors may consider the street vacation once the Planning Commission certifies the project's Final EIR, calendared for tomorrow, November 10.

The W Hotel is located at 181 Third Street, and a small portion of Hunt Street abuts the W property in the interior of the block. Attached as Exhibit A is a drawing indicating the

location of the SFMOMA Expansion site, Hunt Street, and the W Hotel. Currently, most of Hunt Street is occupied with parking by firefighters at Fire Station No. 1 (676 Howard Street), all of whom will relocate to a new station at 935 Folsom as part of the Expansion project. The W also uses a small segment of Hunt Street and a vacant portion of the SFMOMA's property at 151 Third Street (called the "Natoma loading area") for loading and valet parking vehicles to drive between the W's porte cochere and loading dock and Natoma Street. However, the W Hotel property also has direct street access on Third Street and on Howard Street, and its porte cochere and loading dock have direct access to Howard Street.

Nonetheless, SFMOMA has agreed voluntarily to provide the W Hotel with vehicular access across its property 24/7 and has designed the Expansion project so that the W can continue to access its porte cochere and loading dock from both Howard Street and Natoma Street after the Expansion project is completed. Exhibit B shows the current W Hotel loading and valet parking operations (EIR C&R Figure 2) and the future loading and valet parking operations this voluntary agreement will provide (EIR C&R Figures 3 and 4). The ceiling height of this configured loading access area will be at least 14.5 feet, fully sufficient to accommodate the W's loading, trash and parking needs. Improvement Measures TR-7 has been added to the EIR, and upon the Planning Commission imposing this measure as a condition of approval (to which SFMOMA consents), SFMOMA's agreement to provide access will become an enforceable condition of project approval. Improvement Measure TR-7 is copied below:

Improvement Measure TR-7 (Loading)

As an improvement measure to minimize the potential for conflicts within the Natoma loading area and to ensure that deliveries for SFMOMA and W Hotel are adequately accommodated:

- SFMOMA shall provide an on-site loading dock manager to coordinate loading, manage the delivery demand, provide assistance for truck maneuvers into and out of the loading area, and coordinate trash collection activity.
- SFMOMA shall ensure that the W Hotel has 24-hour access across the Natoma loading area.
- The SFMOMA on-site loading dock manager shall coordinate and integrate scheduling of truck deliveries for SFMOMA and the W Hotel.
- The SFMOMA on-site loading dock manager and overnight security staff shall actively manage the loading area 24 hours a day to ensure that trucks park efficiently and do not dwell in loading spaces, or block valet and loading access for the W Hotel.
- The SFMOMA on-site loading dock manager shall, to the extent possible, schedule deliveries destined to the Natoma loading area (e.g., restaurant deliveries) to before 7:00 a.m. to minimize conflicts with other daytime couriers such as Federal Express and United Parcel Service.
- Delivery vehicles longer than 35 feet shall be prohibited from entering the Natoma loading area.

Accordingly, there is simply no merit to KSSF's objection to the vacation of Hunt Street. Maintenance of Hunt Street as a public street is not necessary for the W Hotel's loading and

parking needs and it would preclude completely construction of the SFMOMA Expansion project. Our specific rebuttal to the points set forth in Ms. Griffith's letter are below:

1. Hunt Street is *not* necessary for public use. Only relocating firefighters and the W Hotel make use of it, and alternative means are being provided to the W. The EIR does not state that Hunt Street is needed for continued *public* use; it indicates only that the W Hotel's *private* loading and parking requirements should be accommodated, and the SFMOMA Expansion design and Improvement Measure TR-7 do just that.

2. Case and statutory law do *not* prohibit a City from vacating a street and conveying the underlying land to a private party. We agree that a city may not reserve an unvacated public street for the exclusive use of a private party (*Rumford v. City of Berkeley* (1982) 31 Cal.3d 545), but once a city vacates a street, it may dispose of the underlying land in the manner, and upon the terms and conditions, it so chooses. Cal. Streets. & High. Code § 8355. Such conveyances occur often. For example, in 1979, the City vacated the western leg of Hunt Street that extended to Third Street and conveyed the underlying land to the original developer of the W Hotel. It is ironic indeed that the W Hotel's current owners now claim an identical convenience to SFMOMA is unlawful.

3. Because the design of the SFMOMA Expansion and Improvement Measure TR-7 will require SFMOMA to continue to accommodate the W Hotel's loading and parking access from Natoma Street, the vacation of Hunt Street will *not* increase traffic on New Montgomery, Howard or Third Street.

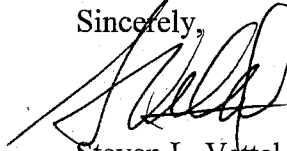
4. Vacation of Hunt Street is fully consistent with the General Plan. The Planning Department's draft General Plan referral motion sets forth in detail how the street vacation advances many General Plan policies and does not conflict with Urban Design Policies 2.8-2.10.

5. Even after the vacation of Hunt Street, the W Hotel will abut and have full vehicular and pedestrian access to Third Street and Howard Street, such that no compensation is due the owners for the taking of any abutters rights to Hunt Street. "The general rule is that an abutting owner or occupant is not entitled to access to his or her land at every point between it and the highway but only to reasonable and convenient access to the property and the improvements on it. He or she is only entitled to one such access." *Miller & Starr, California Real Estate* 3d § 15:69, citing *Highland Development Company v. City of Los Angeles* (1985) 170 Cal.App.3d 169. Moreover, the W Hotel does not abut Natoma Street, such that it has no legal right of access to that distant street.

Thank you for this opportunity to respond to KSSF's objection. The SFMOMA Expansion project cannot proceed without Hunt Street being vacated, such that the street vacation is most definitely in the public interest. Alternative arrangements are in place (in both the design and proposed conditions of approval) for the W Hotel to continue to have 24/7 access across the SFMOMA property for its loading and valet parking needs. Accordingly, we

respectfully request that the City proceed with the vacation of Hunt Street upon certification of EIR, such that the conveyance of the underlying land to SFMOMA as contemplated by the October 15, 2010, Conditional Land Disposition and Acquisition Agreement may occur.

Sincerely,



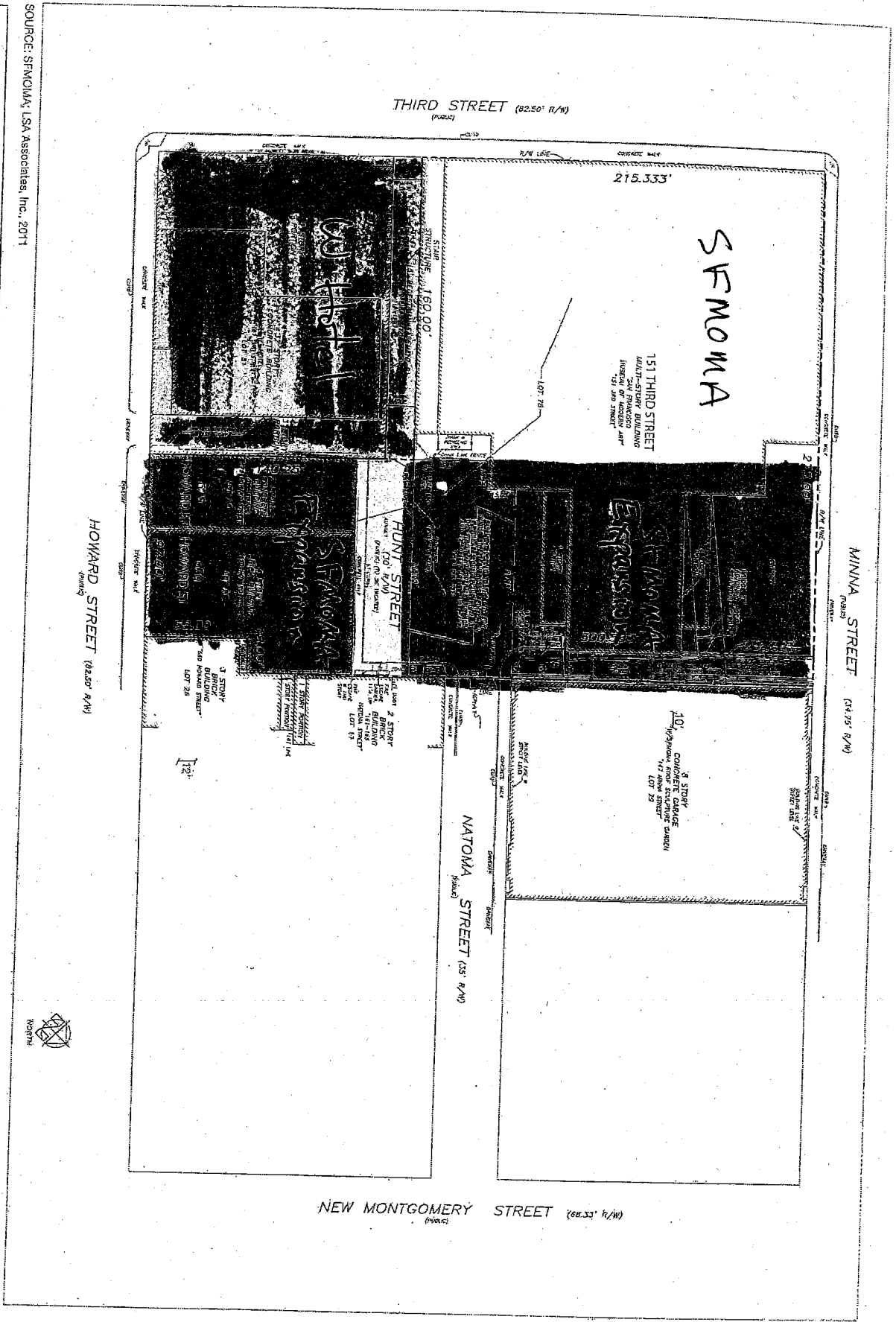
Steven L. Vettel

SLV
Enclosures

cc: Christine W. Griffith, SSL Law Firm
Dennis J. Herrera, Esq., City Attorney

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Exhibit A



SOURCE: SFMOMA; LSA Associates, Inc., 2011

LCW CONSULTING

SFMOMA EXPANSION AND FIRE STATION RELOCATION AND HOUSING PROJECT TRANSPORTATION STUDY

FIGURE 3: SFMOMA EXPANSION SITE

Exhibit B

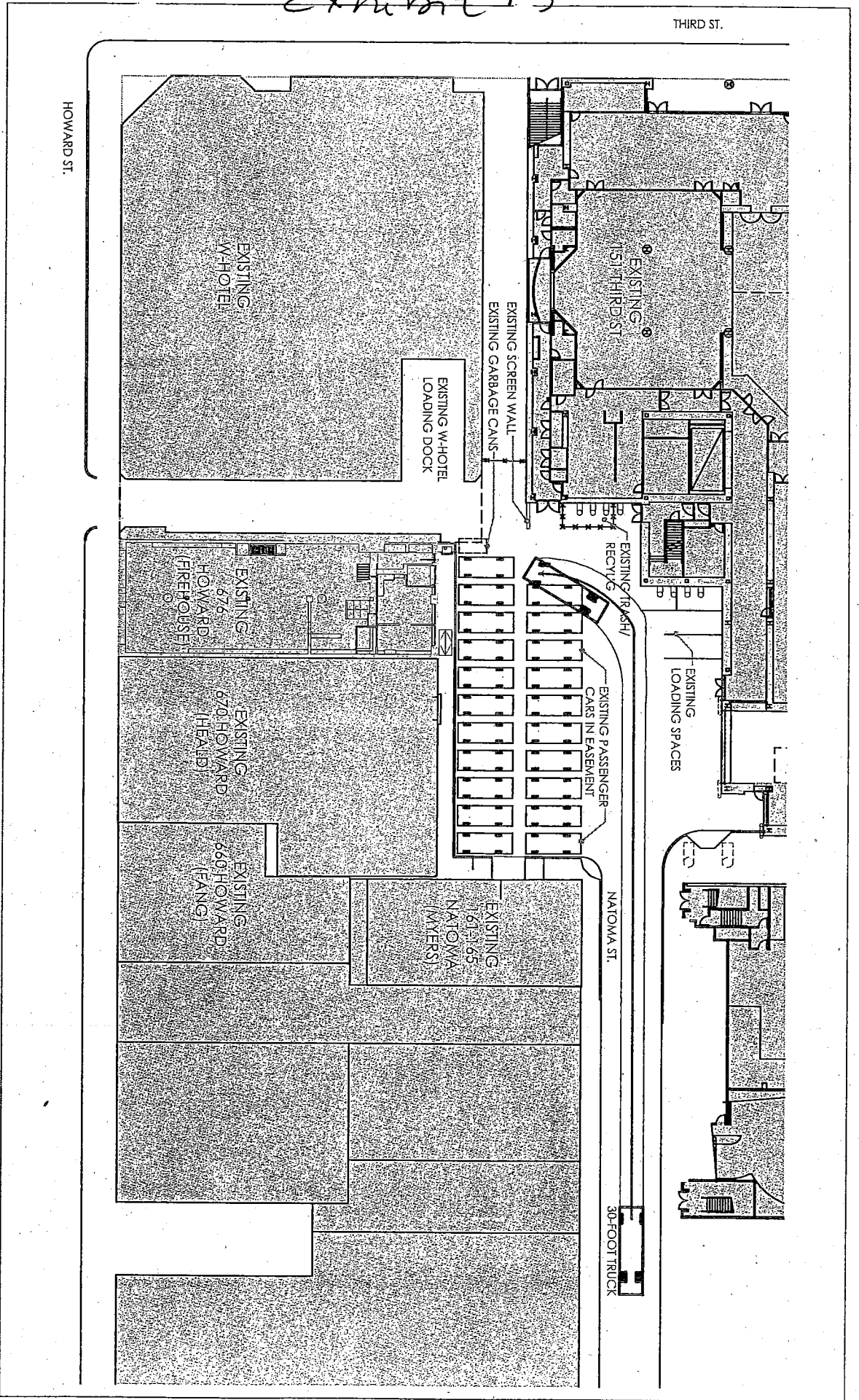


FIGURE 2

NOT TO SCALE

■ BUILDING FOOTPRINT

SOURCE: SFMOMA, SEPTEMBER 2011.

SFMOMA Expansion and Fire Station
Relocation and Housing Project
Comments and Responses Document
Existing Ground Floor Loading Conditions

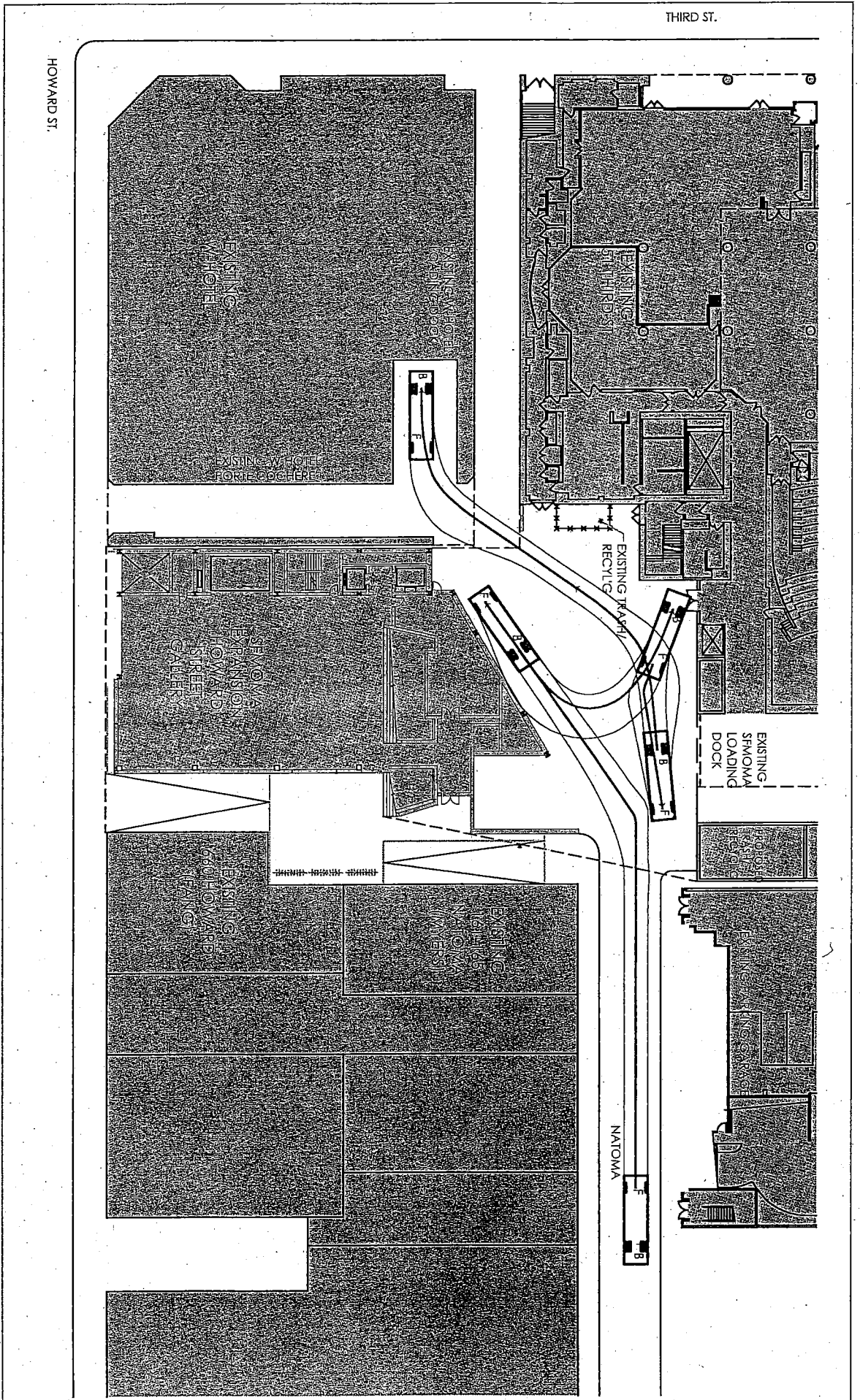


FIGURE 3

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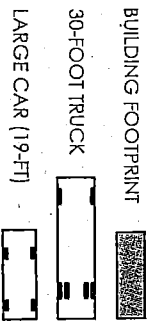
SOURCE: SFMOMA, SEPTEMBER 2011.

SFMOMA Expansion and Fire Station Relocation and Housing Project
 Comments and Responses Document
 Proposed Ground Floor Loading Conditions



THIRD ST.

HOWARD ST.



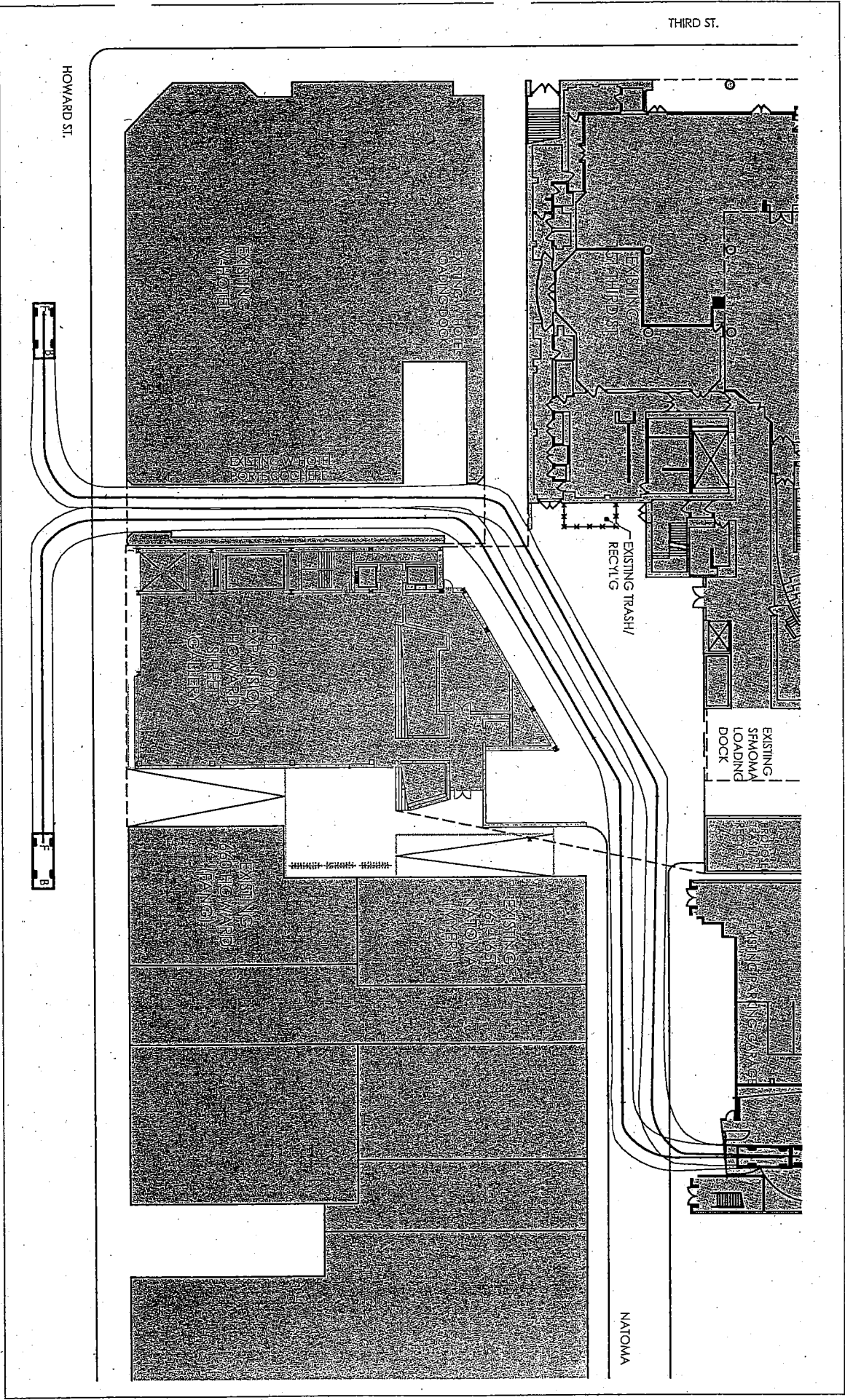
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SOURCE: SEMOMA, SEPTEMBER 2011.

FIGURE 4

*SFMOMA Expansion and Fire Station
Relocation and Housing Project
Comments and Responses Document
Proposed Valet Route*



SSL
LAW
FIRM
LLP

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FACSIMILE: 415.814.6401
chris@sslawfirm.com

November 9, 2011

VIA ELECTRONIC MAIL & U.S. MAIL

Bruce Storrs, City Surveyor
Department of Public Works
Bureau of Street Use and Mapping
875 Stevenson Street, Room 460
San Francisco, CA 94103-0942

E-mail: b.storrs@sfdpw.org

Re: Proposed Vacation of Hunt Street

Dear Mr. Storrs:

We are writing on behalf of KSSF Enterprises Ltd., owner of the W Hotel. KSSF Enterprises Ltd. has been asked by counsel for the San Francisco Museum of Modern Art to consent to the vacation of the eastern segment of Hunt Street, located in Assessor's Block 3722, as an abutting property owner to that public street segment.

KSSF Enterprises Ltd. does not consent to the vacation of the eastern segment of Hunt Street. Furthermore, we do not believe that the City can legally vacate the eastern segment of Hunt Street.

In order to vacate Hunt Street, the Board of Supervisors must find that the street segment is "unnecessary for present or prospective public use." Cal. Streets & Highway Code section §8324. *Citizens for Improved Sorrento Access, Inc. v. City of San Diego* (2004) 118 Cal.App.4th 808, 813. Additionally, the closure of a public street must be in the "public interest." *Heist v. County of Colusa* (1984) 163 Cal.App.3d 841, 849. In this instance, the Board can find neither of these things.

Hunt Street is currently used for parking, loading and traffic moving through the mid-block area bounded by New Montgomery, Howard and Third Streets, and accessed by Natoma Street. The mid-block area has been used in this manner for many years and both SFMOMA and the W Hotel require the continued use of a mid-block space for these activities. The SFMOMA expansion project Draft EIR recognizes that SFMOMA and the W Hotel will continue to use and require a mid-block area for loading and access activities even after the SFMOMA expansion. Draft EIR, p. 38-39. Thus, the City has already recognized—in its own environmental disclosure document—that the Hunt Street area is necessary for present and prospective public use.

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Vacating Hunt Street to make way for the SFMOMA expansion would run contrary to several cases that hold that the City may not close or vacate a street for exclusive private use—here, for the exclusive private use of SFMOMA. *Constantine v. City of Sunnyvale* (1949) 91 Cal.App.2d 278, 282; *City of Lafayette v. County of Contra Costa* (1979) 91 Cal.App.3d 749; *Citizens Against Gated Enclaves v. Whitley Heights Civic Assoc.* (1994) 23 Cal.App.4th 812.

The vacation of Hunt Street is not in the “public interest.” If the street were vacated, the mid-block traffic noted above would instead occur on New Montgomery, Howard and Third Streets. These are areas of significant congestion even without the additional burden of re-routed traffic. At least three major public thoroughfares would be significantly and negatively impacted by the vacation of Hunt Street, resulting in impacts to a large number of San Francisco drivers.

Vacating Hunt Street also violates the City’s own policies on street vacation. General Plan, Urban Design Element, Policies 2.8-2.10. The City’s General Plan provides that the City must “[m]aintain a strong presumption against the giving up of street areas for private ownership or use...” General Plan, Urban Design Element, Policy 2.8. To that end, the General Plan states that “[n]o release of a street area shall be recommended which would result in:

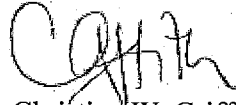
1. Detriment to vehicular or pedestrian circulation;
2. Interference with the rights of access to any private property; [...]
4. Obstruction or diminishing of a significant view, or elimination of a viewpoint; [...]
9. Reduction of street space in areas of high building intensity, without provision of new open space in the same area of equivalent amount and quality and reasonably accessible for public enjoyment; [or, ...]
11. Adverse effect upon any element of the General Plan or upon an area plan or other plan of the Department of City Planning.”

Vacation of the Hunt Street and Easement Areas will result in several of the adverse affects that these General Plan provisions seek to avoid.

Finally, in the event that the City does proceed with vacating Hunt Street, it will be acting in violation of the Federal Constitution and Article I, section 19 of the California Constitution which require just compensation for the taking or damaging of private property for public use. Vacating Hunt Street will substantially impair the W Hotel’s right of access as an abutting landowner. *People v. Ricciardi* (1943) 23 Cal.2d 390, 398 (“An abutting landowner on a public highway has a special right of easement and use in the public road for access purposes, and this is a property right which cannot be damaged or taken away from him without due compensation. [Citation.]”); see also, *Rose v. California* (1942) 19 Cal.2d 713. Vacating Hunt Street will not only entirely cut off the W Hotel’s vehicular access to Hunt Street, it will substantially impair the W Hotel’s access to Natoma Street. This will have the impact of disabling loading and delivery access to the W Hotel, preventing trash and recycling removal and hindering the flow of vehicular traffic on and off the W Hotel’s property.

Thank you for your consideration of this correspondence. Please notify me of any hearing, formal or informal, any proposed and/or final action, and any other action whatsoever regarding this matter. Please contact me at (415) 814-6400 if you have any questions about our position.

Sincerely,



Christine W. Griffith

cc: Peter Wong, KSSF Enterprises Ltd.
Derek Sassano, KSSF Enterprises Ltd.
Michael Pace, W San Francisco
Steve Vettel, Farella Braun + Martel
Dennis Herrera, San Francisco City Attorney
San Francisco Planning Commission (*by email to Linda.Avery@sfgov.org*)
San Francisco Board of Supervisors (*by email to Board.of.Supervisors@sfgov.org*)

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NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE & ECONOMIC DEVELOPMENT COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Economic Development Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Monday, November 28, 2011
Time: 1:00 p.m.
Location: Committee Room 263 located at City Hall
1 Dr. Carlton B. Goodlett Place, San Francisco, CA
Subject: 676 Howard Street and 935 Folsom Street
(SFMOMA Expansion/Fire Station Relocation and Housing Project)

File No. 111080. Ordinance amending the San Francisco Planning Code Sectional Map ZN01 of the Zoning Maps to change the use classification of 676 Howard Street (Block No. 3722, Lot No. 28) from Public (P) to Downtown-Support District (C-3-S) and a portion of 935 Folsom Street (Block No. 3753, Lot No. 140) from Mixed Use-Residential (MUR) to Public (P) as part of the San Francisco Museum of Modern Art (SFMOMA) Expansion/Fire Station Relocation and Housing Project; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the priority policies of Planning Code Section 101.1.

File No. 111213. Ordinance ordering the summary vacation of Hunt Street as part of the SFMOMA Expansion/Fire Station No. 1 Relocation and Housing Project; adopting findings pursuant to the California Streets and Highways Code Sections 8330 et seq.; adopting findings pursuant to the California Environmental Quality Act; adopting findings that the vacation and sale are in conformity with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1; and authorizing official acts in furtherance of this Ordinance.

File No. 111240. Ordinance amending the San Francisco General Plan by amending Map 2 of the Community Facilities Element as part of the San Francisco Museum of Modern Art Expansion (SFMOMA)/Fire Station Relocation and Housing Project; adopting findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public records in these matters, and shall be brought to the attention of the Members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, November 25, 2011


Angela Calvillo, Clerk of the Board