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To: [BOS Legislation, \(BOS\)](#)
Cc: [Navarrete, Joy \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [CROSSMAN, BRIAN \(CAT\)](#)
Subject: Board File No. 250554 - Planning Department Response Letter
Date: Monday, June 9, 2025 11:03:47 AM
Attachments: [3400 Laquna FEIR Appeal - Planning Department Response Memo - Final 06092025.pdf](#)

Dear Office of the Clerk of the Board,

Please find attached the Planning Department's response to the appeal of the 3400 Laguna Street FEIR.

Thank you,
Megan

Megan Calpin (she/her), Senior Environmental Planner
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ENVIRONMENTAL IMPACT REPORT CERTIFICATION APPEAL

3400 Laguna Street

Date: June 9, 2025
To: Angela Calvillo, Clerk of the Board of Supervisors
From: Lisa Gibson, Environmental Review Officer – (628) 652-7571
Joy Navarrete, Principal Environmental Planner – (628) 652-7561
Megan Calpin, Senior Environmental Planner – (628) 652-7508

RE: **Planning Case No. 2022-009819ENV**
Appeal of Environmental Impact Report Certification for 3400 Laguna Street

Hearing Date: June 17, 2025

Project Sponsor: Mary Linde, CEO, Heritage on the Marina – (415) 202-0343
Appellant(s): Tania Albukerk, Save the Marina's Heritage

Introduction

This memorandum are a response to the letter of appeal to the board of supervisors (the board) regarding the certification of a final environmental impact report (FEIR) under the California Environmental Quality Act (CEQA) for the 3400 Laguna Street Project (the proposed project). The FEIR was certified by the planning commission (the commission) on April 17, 2025. The appeal to the board was filed on May 19, 2025 by Tania Albukerk on behalf of Save the Marina's Heritage.

The planning department provided the FEIR, which consists of the draft environmental impact report (DEIR) and the responses to comments document, to the clerk of the board on June 4, 2025. On June 6, 2025, the department provided Planning Commission Motion 21725, which certified the final environmental impact report for the 3400 Laguna Street project on April 17, 2025.

The decision before the board is whether to uphold the certification of the FEIR by the commission and deny the appeal, or to overturn the commission's decision to certify the FEIR and return the project to the planning department (the department) for additional review.

Site Description and Existing Use

The approximately 68,090-square-foot (approximately 1.6-acre) project site at 3400 Laguna Street is located on a corner lot southeast of the Laguna Street and Bay Street intersection in the Marina neighborhood. The project site is bounded by Bay Street to the north, single- and multi-family residences near to and along Octavia Street to the east, Francisco Street to the south, and Laguna Street to the west. Moscone Recreation Center is located to the west and Upper Fort Mason (the southwest portion of Fort Mason) is north of the project site. Land uses in the surrounding area include a mixture of single- and multi-family residential, public, and commercial uses.

The project site is within the RM-1 (Residential-Mixed, Low Density) Zoning District, and a 40-X Height and Bulk District. The project site has been occupied by the Heritage on the Marina residential care retirement community since 1925. Heritage on the Marina consists of four existing interconnected structures and a separate Caretaker's Cottage, totaling five structures on site and approximately 83,200 gross square feet with a maximum height of 41 feet.¹ The interconnected structures include: the Julia Morgan Building, the Perry Building, the Perry Building Connector, and the Health Center.

Project Description

The proposed project would demolish two of the five existing buildings (the Perry Building Connector and the Health Center) and construct two new buildings (the Bay Building and the Francisco Building) of heights not to exceed 40 feet (excluding permitted rooftop appurtenances) in the same locations as the demolished structures. The existing Julia Morgan and Perry buildings would be interconnected to the two new buildings, similar to the existing on-site buildings' configuration. The proposed project would also renovate the Julia Morgan and Perry buildings. In total, the proposed project would add approximately 58,380 square feet of net new institutional use to result in a total of 141,580 square feet and increase the number of residential care suites by 23, from 86 to 109. The proposed project would maintain the current operation at the site as a residential care facility.

The project would also construct a below-grade parking garage, with a new two-directional driveway off Bay Street. A porte cochère would be part of the construction of the new Bay Building, allowing for off-street accessible loading for residents and guests. The proposed project would also include streetscape improvements, such as bulbouts at both project site intersections and the addition of street trees along the Laguna Street frontage.

Project construction would take approximately 29 months and is currently anticipated to occur between January 2027 and June 2029. The proposed project would require excavation of 9,600 cubic yards of soil to a maximum depth of 15 feet below ground level. The total area of soil disturbance would be 29,750 square feet.

¹ Reflects the maximum building height (without rooftop appurtenances); existing buildings vary across the site. The existing Perry Building is 40.5 feet tall (rounded to 41 feet tall) and no changes to this building's height are proposed.

Background

On September 5, 2022, Heritage on the Marina (hereinafter project sponsor) filed an application for the proposed project with the planning department for CEQA determination.

The department published the DEIR on August 28, 2024, and circulated the initial study at the same time. Written public comment was received during the public comment period from August 28, 2024, through October 15, 2024. The commission held a duly noticed public hearing on the DEIR on September 26, 2024, at which time public testimony was received. The department then prepared a responses to comments document to address environmental issues raised by written comments received during the public comment period and at the public hearing for the DEIR. The department published the responses to comments (RTC) document on April 3, 2025. The RTC contained additional analysis and reports that verified and expanded upon the DEIR contents. The department prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. The DEIR and RTC documents together constitute the FEIR.

The planning commission certified the FEIR on April 17, 2025, with Motion No. 21725.

On May 19, 2025, Tania Albuquerk (appellant), representing Save the Marina's Heritage, filed an appeal of the FEIR.

On May 22, 2025, the department determined the appeal was timely.

On June 6, 2026, the Law Office of Stephen M. Williams submitted a supplemental appeal letter on behalf of Save the Marina's Heritage.

CEQA, CEQA Guidelines, and San Francisco Administrative Code Chapter 31

Environmental Impact Reports

CEQA Article 9, section 15161, and CEQA Guidelines section 15362 describe that an environmental impact report (EIR) is an informational document to inform public agency decision makers and the public generally of the "significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project."

Significant Environmental Effects

CEQA Guidelines section 15064(f) provides that the determination of whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

Chapter 31 of the San Francisco Administrative Code

Section 31.16(c)(3) of the San Francisco Administrative Code provides that, in reviewing an appeal of a CEQA decision, the board of supervisors shall determine if the “final EIR complies with CEQA, including that it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and that the Planning Commission certification findings are correct.”

Planning Department Responses

The concerns raised in the appeal letter are addressed in the responses below.

Response 1 (Project Description): The conceptual level plans included and evaluated in the FEIR are adequate for use in the project description and FEIR analysis. The FEIR project description correctly establishes the existing baseline conditions for the project site.

The appellant incorrectly asserts that the architectural plans prepared for the proposed project by the project sponsor’s architect are not adequate for use in the FEIR analysis and certification process because they are shown as interim drafts in the planning submittal.

The referenced plans are included as Figures 2-3 through 2-10 on pages 2-9 through 2-16 of the DEIR (and dated January 10, 2024). After publication of the DEIR and prior to certification of the FEIR, the project plans were refined and were included as revised Figures 2-3 through 2-9 on pages 5-15 through 5-29 of the RTC (and dated March 14, 2025). These refinements are described in Chapter 2 of the RTC, as applicable. The plans provided in the DEIR and RTC depict the physical elements of the project as proposed at the time and at a sufficient level of detail to be evaluated for the purposes of CEQA. CEQA does not require final design plans to be included in the environmental analysis, but rather requires a level of detail that is adequate to depict and describe the physical elements of the project as those elements may relate to physical environmental effects. Article 9 of the CEQA Guidelines, *Contents of Environmental Impact Reports*, under Section 15124 Project Description, dictates the relevant scope of an EIR project description. A selection of pertinent provisions of the guidelines are shown below:

“The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

- (a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map. ...
- (c) A general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.”

The conceptual plans included in the FEIR satisfy the requirements of CEQA and serve to inform the analysis and to allow interested parties, responsible agencies, and decision makers to understand the changes to the environment that could occur with implementation of the project. CEQA necessarily contemplates that projects may be refined in response to feedback and thus, deviate from what was described in draft

environmental impact reports. Therefore, the FEIR includes adequate and accurate detail in the project description.

Final design-level project plans will be submitted by the project sponsor when applying for the building permit, as is common practice and required by the department of building inspection (building department). Those plans will be reviewed by planning and building department staff to ensure consistency with the plans submitted at the FEIR certification and project approval stage.

The appellant also asserts that adjacent properties owned by the project sponsor are improperly excluded from the description of existing conditions in the FEIR's project description and subsequent analysis of environmental effects. While it is acknowledged that the project sponsor may own and operate properties outside of the project site evaluated in the FEIR, these properties are not within the scope of the proposed project and are therefore not included in the description of the project site (refer to footnote 2 on page 2-1 of the DEIR). The project site boundary is properly limited to the area in which the proposed project activities, including demolition, site preparation, construction, and future operations, would occur. Existing and proposed operations at the project site occur independently of any off-site properties and uses that may be owned and operated by the project sponsor either in association with, or separately from the project site use. Further, a "project" is defined by CEQA as a "whole action" subject to discretionary approval that has the potential to cause a direct or indirect physical change to the environment. There are no project activities proposed for the off-site properties as submitted in the project application materials. As such, these off-site properties are properly excluded from the FEIR project description.

Response 2 (Public Notice): The Planning Department complied with State and local notification requirements pertaining to the Responses to Comments publication and FEIR Certification hearing.

The appellant incorrectly asserts that the Planning Department failed to comply with noticing requirements for the April 17, 2025, EIR certification hearing by not notifying residents within 300 feet of the project pursuant to planning code section 306.3. The appellant contends that at least 63 units were excluded from the notification list for the April 17, 2025, hearing.

Planning code section 306.3, Notice of Hearings, pertains to approval actions by the planning commission and is not relevant to environmental review under CEQA or pursuant to San Francisco Administrative Code Chapter 31. Note that certification of a FEIR is not approval of a project. Following the publication of the Responses to Comments document on April 3, 2025, the planning department notified interested parties, agencies, and organizations of the publication and the subsequent FEIR certification hearing pursuant to Chapter 31.15, Final Environmental Impact Reports. Those notified – the interested parties, agencies, and organizations – included those who commented on the Notice of Preparation of a Draft Environmental Impact Report (published November 1, 2023), the Reissued Notice of Preparation of a Draft Environmental Impact Report (published May 8, 2024), and the DEIR (published August 28, 2025). Notifications were sent both electronically and via posted mail. The Responses to Comments document was also posted on the San Francisco Planning Department's Environmental Review Documents page as well as with the State CEQA Clearinghouse. The Responses to Comments document included the FEIR certification hearing date on the front cover page.

The planning department, in accordance with CEQA and Chapter 31 of the Administrative Code, acted properly in notifying only interested parties, agencies, and organizations of the RTC publication and FEIR certification hearing date.

Response 3 (Transportation): The FEIR's transportation analysis adequately addresses the project's project-specific and cumulative impacts.

The appellant asserts that the FEIR's conclusion that transportation impacts would be less than significant overlooks the cumulative impacts of localized traffic congestion – namely that the methodology and scope of the analysis fails to include specific conditions like peak loading times, emergency vehicle access, and spillover traffic patterns on narrow residential streets. Further, the appellant asserts that the analysis does not consider the factors required under CEQA Guidelines section 15064.3, which relate to “safety and liability.”

As specified in CEQA Guidelines section 15064.3, the metric for evaluation of transportation impacts under CEQA is vehicle miles traveled. A project's effect on automobile delay (i.e., increased congestion) shall not constitute a significant environmental impact, except where those effects could result in secondary impacts. This section of the CEQA Guidelines does not make reference to “safety or liability” as incorrectly stated by the appellant. However, CEQA does consider factors that relate to the safe operation of the transportation system concerning conflicts with programs, plans, ordinances or policies addressing the operation of the circulation system; potential design hazards or incompatible uses; and effects on emergency access and evacuation.

The appellant claims that the project would inevitably worsen the “congestion and danger at the three-way intersection of Bay, Laguna, and Marina Boulevard.” The proposed project was reviewed by the planning department's Street Design Advisory Team (SDAT), as described in DEIR Appendix E. SDAT determined that the placement of the new vehicle driveway and freight loading egress further away from the Bay and Laguna Street intersection would provide better visibility for drivers and roadway users than the current condition. Furthermore, eliminating vehicle egress from the existing curb cut at the project site closer to the Bay and Laguna Street intersection, would reduce conflicts. These factors are further addressed on pages 31 through 35 of the initial study included as Appendix B to the DEIR and such impacts were determined to be less than significant. Cumulative impacts are addressed on pages 35 through 36 and were also determined to be less than significant.

The appellant goes on to state that there are existing hazardous conditions at area intersections and at roadways that border the same block as the project site. However, these comments relate to existing conditions and compliance with traffic safety rules and regulations. These are enforcement issues outside of the scope of the project and therefore outside of the purview of CEQA review. As indicated in the analysis on pages 31 through 35 of the initial study, the project would not create or exacerbate known hazardous conditions related to the transportation system operations in the vicinity of the project site. Per the San Francisco Transportation Impact Analysis Guidelines, the department evaluates whether the project would result in a hazard that could reasonably stem from the project. In this context, a “hazard” refers to a project-generated vehicle potentially colliding with a person walking, bicycling, or driving or public transit vehicle that could cause serious or fatal physical injury. Human error or non-compliance with laws, weather conditions, time-of-day, and other factors can affect whether a collision could occur. However, for purposes

of CEQA, hazards refer to engineering aspects of a project (e.g., speed, turning movements, complex designs, distance between street crossings, sightlines) that may cause a greater risk of collisions that result in serious or fatal physical injury than a typical project. None of these hazards are present for the proposed project. The project also provides adequate loading capacity as required by the City, as stated on pages 34 and 35, specifically. In addition, the appellant also alleges that by removing nine on-street parking spaces, the project will adversely impact public parking in the neighborhood. As described on page 28 of the initial study, however, effects related to parking deficits are not applicable to the analysis of the project's environmental effects, per CEQA section 21099(d)(1). Moreover, the initial study concluded based on screening criteria for the project that the project would not create a substantial vehicle parking deficit, and therefore would not result in secondary effects.

Response 4 (Aesthetics): The FEIR properly excludes an analysis of aesthetic impacts from environmental review under CEQA, pursuant to CEQA section 21099(d).

The appellant asserts that the project does not qualify for an exemption from an analysis of aesthetic impacts because the project does not meet the definition of a qualified project under CEQA section 21099(d). As stated on page 7 of the initial study, CEQA section 21099(d) states: "Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment." The appellant asserts that the exemption relies on the project qualifying as a residential project and does not dispute that the project is located on an infill site within a transit priority area. The appellant incorrectly characterizes the classification of the existing and proposed use on the site. While the planning code classifies the existing and proposed use as an institutional use, not residential, under CEQA 21099(a)(1) it is considered an employment center. Per CEQA Guidelines section 21099(a)(1), "Employment center project" means a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area. For the RM-1 zoning district in which the project site is located, the San Francisco Planning Code table 209.2, Zoning Control Table for RM Districts, allows for limited commercial uses and as discussed above, the project would have floor area ratio of 2.08. The proposed project is also on an infill site because it is on a lot located within an urban area that has been previously developed and the project is in a transit priority area because it is within one-half mile of a major transit stop. The use can be considered an employment center project under CEQA, as explained on page 7 of the initial study. Therefore, the project is exempt from an analysis of aesthetic impacts.

Regarding the analysis of aesthetic impacts as those effects relate to historic resources, contrary to the appellant's assertion, a robust visual and contextual analysis of the project's potential impacts on cultural resources is in fact provided in section 3.B, Historic Resources of the DEIR. As stated, the Historic Resources Response (HRR) prepared by the City found that overall, the proposed massing of the new construction would not block public views of the Julia Morgan Building's primary façade, as the proposed setbacks would not obstruct public views of the existing historic structures, would not compete with the primacy of the Julia Morgan Building, and would not impact the existing setback of the lawn. Section 3.B, Historic Resources, of the DEIR provides an in depth discussion of the proposed project's potential to impact the eligibility of the Julia Morgan Building for listing in an historic register, including those effects that relate to aesthetic conditions and compliance with the Secretary of the Interior's Standards. Furthermore, comments received from the public on this topic are thoroughly addressed in the RTC responses. Refer to Response CR-1 on pages 4-11 through 4-14 of the RTC.

Response 5 (Alternatives): The FEIR evaluates a reasonable range of alternatives and identifies the appropriate environmentally superior alternative, in compliance with CEQA Guidelines section 15126.6.

The appellant asserts that the FEIR does not evaluate a reasonable range of alternatives, and excludes potential alternatives that could partially achieve some project objectives, while reducing potential environmental effects of the proposed project. Under CEQA Guidelines section 15126.6, the range of alternatives to the proposed project should include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more significant effects. The following alternatives to the project were evaluated in the DEIR: (1) No Project Alternative, (2) Rehabilitation Alternative, and (3) Reduced Construction Alternative. These alternatives represent a reasonable range of potential alternatives to the proposed project in light of the objective of avoiding or reducing the severity of the impacts identified as less than significant with mitigation, because there are no significant and unavoidable impacts identified in the FEIR. These alternatives would further reduce already less-than-significant impacts related to historic architectural resources, air quality, archeological resources, human remains, tribal cultural resources, construction vibration, and biological resources that were identified for the proposed project.

Under CEQA, a Lead Agency may structure its alternatives analysis around a reasonable definition of a fundamental underlying purpose, and need not study alternatives that cannot achieve that basic purpose. An EIR need not consider alternatives that are infeasible (CEQA Guidelines section 15126.6). CEQA does not dictate a set number of alternatives that must be analyzed. Rather, as stated in section 15126.6(f) of the CEQA Guidelines and supported by abundant CEQA case law, the range of alternatives required in an EIR is governed by the “rule of reason,” which requires an EIR to set forth only those alternatives necessary to permit a reasoned choice. (See, e.g., *In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1163; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 566; *Yerba Buena Neighborhood Consortium, LLC v. Regents of University of California* (2023) 95 Cal.App.5th 779, 796–797.) Refer to pages 5-1 through 5-2 of the DEIR which describe the CEQA requirements for alternatives analyses.

In summary, the DEIR followed the requirements of CEQA in identifying a range of reasonable alternatives to the project, or to the location of the project, that feasibly attain the project’s basic objectives while avoiding or substantially lessening significant adverse environmental effects of the project for consideration by decision-makers.

The appellant also incorrectly asserts that the FEIR improperly dismisses the selected alternatives for consideration as the environmentally superior alternative and suggests that the proposed project is identified as the environmentally superior alternative. In fact, the FEIR identifies the Rehabilitation Alternative as the environmentally superior alternative (refer to page 5-16 of the DEIR). The CEQA findings adopted by the planning commission on April 17, 2025, however, support the proposed project approval in light of all relevant factors.

Response 6 (Shadow): The FEIR’s shadow analysis adequately addresses the project-specific impacts.

The appellant incorrectly asserts that the proposed project would cast severe shadows on the Julia Morgan building and landscaping such that the historic integrity of the site would be damaged. The appellant also falsely states that the FEIR was inadequate in failing to conduct a quantitative shadow analysis, including a technical memorandum, to assess the proposed project's shadow impacts under CEQA.

The criterion the City has adopted for determining the significance of shadow impacts under CEQA is whether the proposed project would create new shadow in a manner that substantially and adversely affects outdoor recreation facilities or other public areas, regardless of whether those facilities or areas are protected by planning code section 295 (i.e., under jurisdiction of public entities other than the San Francisco Recreation and Park Commission or privately owned and publicly accessible open space). In addition, as under planning code section 295, the CEQA analysis of shadow impacts takes into account the use of the open space; the time of day and year of project shadow; the physical layout and facilities affected; the intensity, size, shape, and location of the shadow; and the proportion of open space affected.

The planning department acknowledges that shadows may result from buildings 40 feet tall or less; however, such shadows are to be tolerated in the dense urban environment of San Francisco, as reflected in planning code section 295 and the planning department's standard methodology for CEQA shadow analysis, in which shadow analysis may be required only if the proposed project exceeds 40 feet in height. These factors are further addressed on pages 58 through 60 of the initial study included as Appendix B to the DEIR. The proposed project would not create new shadows that substantially affect existing outdoor recreation facilities or other public areas; rather as discussed in the initial study, shadows from the project would only reach the edge of nearby open space, and only for brief periods during winter months. Such impacts were determined to be less than significant.

The appellant describes the height of the proposed Francisco building as 55 feet with penthouse elevators, which is not accurate for purposes of the planning code. The proposed Bay and Francisco buildings would adhere to the existing height limit at the project site, which is zoned for 40-X height and bulk. Section 260(b)(1)(A) of the planning code exempts necessary building mechanical equipment and appurtenances up to 16 feet for the project site's height and bulk district. Thus, the measured height of the proposed Francisco building would be 40 feet per the planning code. The rooftop equipment would be located adjacent to other structures (the existing Perry Building) or centrally on the roof and have a small footprint compared to the overall roof area, thus having a minimal effect of shading any areas not on the roof itself. Therefore, the FEIR adequately and accurately analyzed shadow impacts, which the department determined to be less than significant.

Conclusion

For all of the reasons provided in this appeal response, the FEIR complies with the requirements of CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code, and provides an adequate, accurate, and objective analysis of the potential impacts of the proposed project. The appellant has not demonstrated that the planning commission's certification of the FEIR was not supported by substantial evidence in the record. Therefore, the planning department respectfully recommends that the board uphold the planning commission's certification of the FEIR and deny the appeal.