

File No. 210486

Committee Item No. _____

Board Item No. 17

COMMITTEE/BOARD OF SUPERVISORS

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Committee: _____

Date: _____

Board of Supervisors Meeting

Date: June 8, 2021

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- Clerical Documents
- _____

Prepared by: Lisa Lew

Date: June 4, 2021

Prepared by: _____

Date: _____

From: [Ben Terrall](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Gibson, Lisa \(CPC\)](#)
Subject: Appeal filing to the CEQA Exemption Determination for Case No. 2020-010532PRJ - 1801 Mission Street
Date: Monday, April 26, 2021 4:00:23 PM
Attachments: [CAN BOSappeal_2020-010532PRJ.pdf](#)
[CAN LOA 1801 Mission .pdf](#)
[BOS_FeeWaiver\(1\).pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello-

Please find the attached appeal filing to the CEQA Exemption Determination for the project at 1801 Mission Street. Exhibit A of the filing includes the Planning Commission Discretionary Review Action and the CEQA Categorical Exemption Determination.

Also included in the email are a letter of authorization from Cultural Action Network, a neighborhood organization registered with the City, and the appeal fee waiver form for neighborhood organizations.

Another member of Cultural Action Network will drop off a hard copy of the appeal fee waiver form with a check. I have provided them with the number to call to arrange to meet at the Grove St loading dock.

Thank you.
Ben Terrall
member, Cultural Action Network

April 26, 2021

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

**RE: Case No. 2020-010532PRJ 1801 Mission Street
Appeal of the March 25, 2021 Planning Commission Decision**

Dear President Walton and Members of the Board Supervisors:

Please accept this submission by Cultural Action Network appealing the decision of the Planning Commission made on March 25, 2021 regarding the proposed project at 1801 Mission Street (hereafter "proposed project").

The current proposed project proposes to establish a limited restaurant use in a commercial space zoned for retail use, to allow a well-known destination cafe (dba The Creamery Coffee Shop) to relocate to the 1,763 square foot commercial space at the corner of Mission and 14th Streets. The project lies within the Mission neighborhood and within the American Indian Cultural District.

Summary

The Planning Commission Discretionary Review Action DRA-742 approved a change of use that incorporates a CEQA Categorical Exemption Determination, yet the proposed project directly conflicts with core guidelines of the Mission Area Plan and General Plan which precisely describe protecting and supporting Latino and other established local businesses in order to retain the existing culture and services that are oriented to serve the needs of the existing community.

Before examining the inconsistencies of the project with the Mission Area Plan and General Plan, it is useful to define the community as it was identified in the [Eastern Neighborhoods Environmental Impact Report](#) and [The Mission Area Plan](#) which was adopted as part of the Eastern Neighborhoods Plan and incorporated into the General Plan.

“At just under three persons per household, the average household in the Mission is 30 percent larger than the average household in San Francisco... Over 90 percent of the children in the plan area under the age of 18 live in the Mission and in Showplace Square/Potrero Hill... The Eastern Neighborhoods have a greater racial and ethnic mix that varies among neighborhoods... Almost 30 percent of the City’s Latino residents live in the Eastern Neighborhoods, almost all (90 percent) of them live in the Mission-- an established Latino cultural hub for San Franciscans and the entire Bay Area... [in] the Mission, 40-45 percent of the population are foreign-born... Non-citizens are concentrated in the Mission, where 65 percent of the foreign-born are not citizens... A high percentage (46 percent) of the people living in the Eastern Neighborhoods do not speak English at home... a relatively large segment of the adult population has not graduated from highschool... The percentage is highest in the Mission, where almost 30 percent do not have a high school diploma... The generally lower educational attainment for some residents of the Eastern Neighborhoods translates to a higher proportion of workers in lower-wage jobs that do not require college degree... A disproportionate share of the City’s residents holding occupations with lower skills requirement and lower wages lives in the Eastern Neighborhoods.”

We would respectfully ask the Supervisors to keep these unique characteristics of the Mission community and the importance of maintaining cultural diversity and supporting existing businesses and services within the district in mind while determining this proposed project’s inconsistency with the Mission Area Plan.

Mission Area Plan and General Area Plan Objectives

The project is demonstrably inconsistent with the Mission Area Plan Objectives to reinforce the importance of the Mission as the center of Latino life in San Francisco and to stabilize the Mission neighborhood by protecting existing businesses from displacement through the pressures of gentrification. The approved conversion of this retail space to limited restaurant use is specifically to enable the proposed project, a well-known cafe formerly located at 4th and Townsend Streets caters to high end earners in the tech industry and is famous as a destination for venture capitalists to make large tech deals, to move into an area where long standing community serving businesses face great pressure of displacement.

The proposed project is demonstrably inconsistent with General Plan Priority Policy of the Mission Street Neighborhood Commercial Transit District to preserve the contributions of legacy businesses to the history and identity of the District. As a destination location that can afford a higher lease rate because it caters to a population entirely antithetical to the existing culture of the Mission, the proposed project is a threat to the existing legacy businesses in its radius.

In their action to approve the change of use to limited restaurant use, Planning Commissioners failed to respond to community concerns and to address the proposed project's inconsistencies with Mission Area Plan and General Plan Policy and the physical impacts it would create. These objectives and policies are the guiding principles that should inform agency decision making. The Mission Area Plan provides clear guidance and instruction on stabilizing the neighborhood and its culture. This conversion proposal and expected new tenant directly counters the guidance the Commission is given by this Policy commitment to preserving existing and legacy businesses.

Standard of review

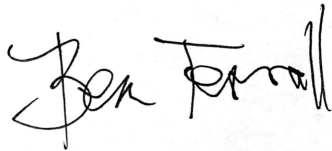
The Board must use the following standard of review under CEQA:

1. The proposed project incorporated the Eastern Neighborhoods PEIR through [CEQA Guidelines Section 15183](#) and the assertion that the proposed project is consistent with and encompassed within the analysis in the Eastern Neighborhoods PEIR, including its consistency with the Mission Area Plan and General Plan.
2. CEQA Guideline 15064(b) cautions, "the determination of whether a project may have a significant effect on the environment calls for **careful judgment** on the part of the public agency."
3. CEQA Guideline 15064(c) states, "[i]n determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the agency."
4. CEQA Guideline 15183 creates, "a streamlined review for qualifying projects that are consistent with a general plan for which an EIR was certified." *Wal-Mart Stores Inc. v. City of Turlock*, 138 Cal.App. 4th 273, 286 (2006).
5. CEQA Guideline 15183(d) states that the Section, "**shall only apply to projects** which meet the following conditions: (1) The project is consistent with: (A) A community plan adopted as part of a general plan, (B) A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or (C) A general plan of a local agency." The proposed project is inconsistent with these conditions and therefore did not qualify for review pursuant to CEQA Guideline Section 15183.

Conclusion

With an abundance of evidence that this action to approve the change of use to limited restaurant use for the proposed project is fully inconsistent with these Area Plans, Policies, and Objectives, this proposed project's adoption of a CEQA Categorical Exemption Determination is invalidated under CEQA Guidelines Section 15183 as projects must be consistent with Community Plan and General Plan policies to qualify for approval under a plan EIR, in this case the Eastern Neighborhoods EIR.

Sincerely,

A handwritten signature in black ink that reads "Ben Terrall". The signature is written in a cursive, slightly slanted style.

Ben Terrall
member, Cultural Action Network

cc: Environmental Review Officer, San Francisco Planning Department

EXHIBIT A



DISCRETIONARY REVIEW ACTION DRA-742

HEARING DATE: MARCH 25, 2021

Record No.: **2020-010532DRP**
Project Address: **1801 Mission Street**
Building Permit: **202010307806**
Zoning: UMU (Urban Mixed-Use) Zoning District
68-X Height and Bulk District
Block/Lot: 3548 / 039
Project Sponsor: Stephen Antonaros
2261 Market Street #324
San Francisco, CA 94114
DR Requestor: Ben Terrall, on behalf of the Cultural Action Network
2940 16th Street
San Francisco, CA 94103
Staff Contact: Richard Sucre – (628) 652-7364
richard.sucre@sfgov.org

ADOPTING FINDINGS RELATED TO TAKING DISCRETIONARY REVIEW OF RECORD NO. 2020-010532DRP AND THE APPROVAL OF BUILDING PERMIT APPLICATION NO. 202010307806 PROPOSING A CHANGE IN USE TO ESTABLISH A LIMITED RESTAURANT USE (DBA. CREAMERY COFFEE SHOP) MEASURING APPROXIMATELY 1,763 SQUARE FEET ON THE GROUND FLOOR OF A NEWLY CONSTRUCTED SEVEN-STORY RESIDENTIAL MIXED-USE BUILDING AT 1801 MISSION STREET WITHIN THE UMU (URBAN MIXED-USE) ZONING DISTRICT AND A 68-X HEIGHT AND BULK DISTRICT.

Preamble

On October 30, 2020, Stephen Antonaros (hereafter Project Sponsor) filed for Building Permit Application No. 202010307806 proposing a change in use to establish a limited restaurant use (dba. Creamery Coffee Shop) measuring approximately 1,763 square feet within a ground floor commercial space in a newly constructed seven-story residential mixed-use building at 1801 Mission Street within the UMU (Urban Mixed-Use) Zoning District and a 68-X Height and Bulk District.

On January 14, 2021, Ben Terrall, on behalf of the Cultural Action Network (hereinafter “Discretionary Review (DR) Requestor”) filed an application with the Planning Department (hereinafter “Department”) for Discretionary Review (2020-010532DRP) of Building Permit Application No. 202010307806.

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.

On March 25, 2021, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Discretionary Review Application 2020-010532DRP.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

Action

The Commission hereby takes Discretionary Review requested in Record No. 2020-010532DRP and approves Building Permit Application No. 202010307806 subject to the following conditions:

- The Project Sponsor shall provide a multi-lingual menu.
- The Project Sponsor shall incorporate appropriate cultural art within the interior of the commercial space.
- The Commission encourages the Project Sponsor to conduct additional community outreach with surrounding neighbors, nearby businesses and the American Indian Cultural District.
- The Commission encourages the Project Sponsor to hire new employees locally and acknowledges that previous employees will have the first right of refusal regarding employment. The Commission encourages outreach with the City and County of San Francisco’s Office of Economic and Workforce Development.

The reasons that the Commission took the action described above include:

1. There are extraordinary or exceptional circumstances in the case. The DR Requestor and their supporters demonstrated that additional outreach was needed and that certain operational conditions should apply to the proposed use. The proposal complies with the Planning Code, the General Plan, and conforms with the Urban Design Guidelines.
2. The Commission determined that modifications to the project were necessary and they instructed staff to approve the Project per plans marked Exhibit A on file with the Planning Department.

APPEAL AND EFFECTIVE DATE OF ACTION: Any aggrieved person may appeal this Building Permit Application to the Board of Appeals only after the Department of Building Inspection (DBI) takes action (issuing or disapproving) the permit. Such appeal must be made within fifteen (15) days of DBI's action on the permit. For further information, please contact the Board of Appeals at (628) 652-1150, 49 South Van Ness Ave, Suite 1475, San Francisco, CA 94103.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission did take Discretionary Review and approved the building permit with conditions as reference in this action memo on March 25, 2021.



Jonas P. Ionin
Commission Secretary

AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore

NAYS: None

ABSENT: Koppel

ADOPTED: March 25, 2021



CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
1801 MISSION ST		3548039
Case No.		Permit No.
2020-010532PRJ		202010307806
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
<p>Project description for Planning Department approval. The project includes establishment of a limited restaurant use (coffee shop) on the ground floor of a vacant commercial space measuring approximately 1,763 square feet within a newly-constructed seven-story residential building.</p>		

STEP 1: EXEMPTION CLASS

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).	
<input checked="" type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<p>Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:</p> <p>(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p> <p>FOR ENVIRONMENTAL PLANNING USE ONLY</p>
<input type="checkbox"/>	Class ____

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	<p>Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)</p>
<input type="checkbox"/>	<p>Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential?</p> <p>Note that a categorical exemption shall not be issued for a project located on the Cortese List if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).</p>
<input type="checkbox"/>	<p>Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?</p>
<input type="checkbox"/>	<p>Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non -archeological sensitive area? If yes, archeo review is required (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)</p>
<input type="checkbox"/>	<p>Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography). If yes, Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Slope = or > 25%: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.</p>
<p>Comments and Planner Signature (optional): Richard Sucre</p>	

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: (refer to <i>Property Information Map</i>)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input checked="" type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .

<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):
<input type="checkbox"/>	9. Other work that would not materially impair a historic district (specify or add comments): (Requires approval by Senior Preservation Planner/Preservation Coordinator)
<input type="checkbox"/>	10. Reclassification of property status. (Requires approval by Senior Preservation Planner/Preservation <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category A a. Per HRER or PTR dated b. Other (specify): </div> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category C (attach HRER or PTR) </div> </div>
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
<input type="checkbox"/>	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature:	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<input checked="" type="checkbox"/>	No further environmental review is required. The project is categorically exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.	
	Project Approval Action: Building Permit	Signature: Richard Sucre
	If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	11/18/2020
	Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.	

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Result in expansion of the building envelope, as defined in the Planning Code; |
| <input type="checkbox"/> | Result in the change of use that would require public notice under Planning Code Sections 311 or 312; |
| <input type="checkbox"/> | Result in demolition as defined under Planning Code Section 317 or 19005(f)? |
| <input type="checkbox"/> | Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption? |

If at least one of the above boxes is checked, further environmental review is required.

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

- | | |
|--------------------------|---|
| <input type="checkbox"/> | The proposed modification would not result in any of the above changes. |
|--------------------------|---|

If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed within 10 days of posting of this determination.

Planner Name:

Date:



March 19, 2020

To Whom It May Concern:

I, Rick Hall, president of Cultural Action Network, hereby authorize Ben Terrall to file appeal of the exemption from environmental review for 1801 Mission Street on behalf of Cultural Action Network.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Hall', written over a horizontal line.

Rick Hall, President
Cultural Action Network



BOARD OF SUPERVISORS APPEAL FEE WAIVER FOR NEIGHBORHOOD ORGANIZATIONS

APPLICATION

Appellant's Information

Name: _____

Address: _____ Email Address: _____

Telephone: _____

Neighborhood Group Organization Information

Name of Organization: _____

Address: _____ Email Address: _____

Telephone: _____

Property Information

Project Address: _____

Project Application (PRJ) Record No: _____ Building Permit No: _____

Date of Decision (if any): _____

Required Criteria for Granting Waiver

All must be satisfied; please attach supporting materials.

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

For Department Use Only

Application received by Planning Department:

By: _____ Date: _____

Submission Checklist:

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

- WAIVER APPROVED WAIVER DENIED

**KELLY SCOTT HILL
LARISA MARIA PEDRONCELLI**

1774

11-35/1210 CA
90365

April 26, 2021
Date

Pay To The
Order Of

SF PLANNING DEPT. | \$ 665.00

Six-hundred sixty-five and 00/100 Dollars



Bank of America

ACH R/T 121000358

For

BOS Appeal

Kelly Scott Hill MP

From: [BOS Legislation. \(BOS\)](#)
To: [Ben Terrall](#); [Steven Vettel](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [RUIZ-ESQUIDE, ANDREA \(CAT\)](#); [Hillis, Rich \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Sucre, Richard \(CPC\)](#); [Li, Michael \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation. \(BOS\)](#)
Subject: PLANNING DEPARTMENT RESPONSE: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Appeal Hearing June 8, 2021
Date: Tuesday, June 1, 2021 11:54:32 AM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board received the following response brief from Planning Department, regarding the appeal of the CEQA Exemption Determination for the proposed 1801 Mission Street project.

[Planning Department Response - June 1, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210486](#)

Best regards,

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
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From: [Li, Michael \(CPC\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Gibson, Lisa \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [JENSEN, KRISTEN \(CAT\)](#)
Subject: Planning Department Response - CEQA Appeal - 1801 Mission Street
Date: Tuesday, June 1, 2021 11:46:35 AM
Attachments: [Appeal Response 1801 Mission Street 060121.pdf](#)

Good Morning.

Please see the Planning Department's attached response to the CEQA appeal for the proposed project at 1801 Mission Street.

Thank you.

Michael Li, Senior Environmental Planner
Environmental Planning Division
San Francisco Planning
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[San Francisco Property Information Map](#)

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CATEGORICAL EXEMPTION APPEAL

1801 Mission Street

Date: June 1, 2021
To: Angela Calvillo, Clerk of the Board of Supervisors
From: Lisa Gibson, Environmental Review Officer, (628) 652-7571
Michael Li, michael.j.li@sfgov.org, (628) 652-7538

RE: **Planning Record No. 2020-010532PRJ**
Appeal of Categorical Exemption for 1801 Mission Street

Hearing Date: June 8, 2021
Attachment(s): None

Project Sponsor: Stephen Antonaros, Architect, (415) 864-2261
Appellant(s): Ben Terrall, Cultural Action Network

Introduction

This memorandum is a response to the letter of appeal to the board of supervisors (the board) regarding the planning department's (the department's) issuance of a categorical exemption under the California Environmental Quality Act (CEQA determination) for the proposed 1801 Mission Street project.

The department, pursuant to Article 19 of the CEQA Guidelines, issued a categorical exemption for the project on November 18, 2020 finding that the proposed project is exempt from the California Environmental Quality Act (CEQA) as a Class 1 categorical exemption.

The decision before the board is whether to uphold the department's decision to issue a categorical exemption and deny the appeal, or to overturn the department's decision to issue a categorical exemption and return the project to department staff for additional environmental review.

Site Description and Existing Use

The project site, on the southeast corner of 14th and Mission streets, is occupied by a six-story residential building with ground-floor retail space. Construction of the existing building was completed in September 2020, and the retail space is currently vacant.

Project Description

The proposed project is the establishment of an approximately 1,765-square-foot limited restaurant use/coffee shop in the vacant ground-floor retail space of the recently constructed six-story residential building on the project site.

Background

On October 30, 2020, Stephen Antonaros (project sponsor) filed a building permit application with the Department of Building Inspection to establish a limited restaurant use/coffee shop in the existing vacant retail space at 1801 Mission Street. A limited restaurant use/coffee shop is a principally permitted use in the Urban Mixed Use zoning district.

On November 18, 2020, the planning department (the department) determined that the project was categorically exempt under CEQA Class 1 – Existing Facilities, and that no further environmental review was required.

On January 14, 2021, Ben Terrall, for the Cultural Action Network (Appellant) filed a Request for Discretionary Review of Building Permit Application No. 202010307806. On March 25, 2021, the planning commission (the commission) heard the Request for Discretionary Review. The commission took a Discretionary Review Action, approved the proposed project, and imposed the following conditions of approval:

- The project sponsor shall provide a multilingual menu.
- The project sponsor shall incorporate appropriate cultural art within the interior of the commercial space.
- The commission encourages the project sponsor to conduct additional community outreach with surrounding neighbors, nearby businesses, and the American Indian Cultural District.
- The commission encourages the project sponsor to hire new employees locally and acknowledges that previous employees will have the first right of refusal regarding employment. The commission encourages outreach with the City and County of San Francisco's Office of Economic and Workforce Development.

On April 26, 2021, Appellant filed an appeal of the categorical exemption determination.

CEQA Guidelines

Categorical Exemptions

In accordance with CEQA section 21084, CEQA Guidelines sections 15301 through 15333 list classes of projects that have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from further environmental review.

CEQA Guidelines section 15301, Existing Facilities, or Class 1, establishes a categorical exemption for projects consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing

public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

In determining the significance of environmental effects caused by a project, CEQA Guidelines section 15064(f) states that the decision as to 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 section 15064(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."

Planning Department Responses

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

Response 1: The proposed project qualifies for a Class 1 categorical exemption under CEQA Guidelines section 15301. Section 15183 is not applicable.

The department determined that the proposed project is categorically exempt under CEQA Guidelines section 15301, not CEQA Guidelines section 15183. Thus, Appellant's concerns that the project does not satisfy the criteria established by CEQA Guidelines section 15183, which pertains to community plan evaluations, are moot.¹

As discussed above, the key consideration in the applicability of CEQA Guidelines section 15301 is whether the project involves negligible or no expansion of an existing use. The proposed project would establish a limited restaurant use/coffee shop in the existing vacant retail space without physically expanding the retail space. The project qualifies for a Class 1 categorical exemption pursuant to CEQA Guidelines section 15301, and none of the exceptions to issuance of a categorical exemption apply. Therefore, no further environmental review is required. Appellant has not provided substantial evidence demonstrating otherwise.

Response 2: The proposed project would not result in any significant physical environmental impacts.

The proposed project would not displace an existing use because the retail space has been vacant since the existing building was completed in September 2020. Appellant's concerns regarding displacement and the proposed project's perceived threat to existing businesses in the project vicinity are related to gentrification, which is a socioeconomic impact rather than a physical environmental impact. Pursuant to CEQA Guidelines sections 15064(e) and 15131, economic and social impacts are separate from environmental impacts and are

¹ On March 19, 2015, the department issued a Community Plan Exemption (CPE) pursuant to CEQA Guidelines section 15183 for a proposal to construct two mixed-use buildings, one at 1801 Mission Street and the other at 1863 Mission Street (the 2015 project). The department determined that the 2015 project was consistent with the development density established by the Eastern Neighborhoods Rezoning and Area Plans and therefore eligible for a CPE pursuant to CEQA Guidelines section 15183. The CPE for the 2015 project was not appealed to the board within 30 days of the issuance of the project's building permit in August 2017.

generally not studied in environmental analyses unless there is substantial evidence of related physical impacts on the environment. CEQA Guidelines section 15064(e) states in part:

Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project.

Appellant has not provided substantial evidence to support the claim that economic or social changes associated with implementation of the proposed project would result in significant physical environmental impacts.

As part of the proposed project's approval process, the commission considered whether the proposed project complied with the regulations of the planning code and was consistent with the objectives and policies of the General Plan, including the Mission Area Plan. As previously discussed under "Background," the commission's Discretionary Review Action imposed four conditions of approval on the proposed project to address Appellant's concerns regarding the proposed project's effects on the cultural identity of the neighborhood.

Although Appellant has not identified any evidence to support the claim that the project would result in environmental impacts associated with gentrification, the department provides the following information concerning the department's efforts to address the socioeconomic issues of racial and social equity, affordability, economic displacement, and gentrification.

The department agrees with Appellant that the Mission District (the Mission) is undergoing socioeconomic changes that are affecting existing residents, local small businesses, employment, and the character of the community. The COVID-19 pandemic has exacerbated many of these changes. The department is actively engaging with the community, elected leaders, and other City departments to undertake a series of policy and implementation efforts aimed at addressing socioeconomic issues. While economic displacement is a citywide phenomenon, the department recognizes the heightened effects are acutely felt by families and in communities of color, low-income communities, and neighborhoods that have historically been havens for immigrants and others seeking opportunity or freedom. The department is working together with other City agencies and community residents to develop a coordinated Recovery Strategies work program to provide immediate and ongoing measures to help address some of these challenges.²

The department is working on its Racial and Social Equity Action Plan, which aims to proactively advance equity in the department's internal and external processes such as community planning, policy development, resource allocation and process improvements. Phase 1, which focuses on internal functions such as hiring, promotions, discipline, etc. was adopted in 2019 and is currently being implemented. Phase 2 is currently under development and is anticipated to be presented to the Office of Racial Equity in 2022. The department's focus on racial and social equity was reaffirmed by the commission on June 11, 2020 by

² <https://sfplanning.org/project/recovery-strategies>

Resolution No. 20738, which centers the department's work program and resource allocation on racial and social equity and directs the department to develop proactive strategies to address structural and institutional racism in collaboration with Black and American Indian communities and other communities of color. Internally, the department has established a Community Equity Division to elevate, prioritize and expand racial and social equity work within the department and in the community.

In addition, the department has been especially engaged in efforts in the Mission, working with former District 9 Supervisor Campos, current District 9 Supervisor Ronen, and the Mayor's Office to preserve the viability of the Latino community in the Mission. Efforts specific to the Mission include the 2016 Mission Interim Controls for Restaurants and Storefront Mergers in the Mission Interim Controls Area, the Mission Action Plan 2020 (MAP2020), the Calle 24 Special Use District, and the Calle 24 Special Area Design Guidelines, which became effective on December 1, 2019, as well as the Mission Street Formula Retail Restaurant Subdistrict, which became effective on January 31, 2020.

MAP2020 is one of the most robust department efforts to date regarding anti-displacement and is an unprecedented collaboration between the City family and Mission community organizations and residents. The department has taken an innovative approach to building a set of broad strategies to preserve, strengthen, and protect existing residents, community services, local businesses, and the Mission's unique character. Most strategies in MAP2020 are currently under implementation, including tenant business and nonprofit protection programs, process improvement measures, and prioritization of affordable housing projects in the pipeline. More information on MAP2020 and updates on current implementation efforts can be found in the third annual status report, which is available on the department's website.³

Other ongoing department efforts include development of a Community Stabilization Initiative, incorporation of Environmental Justice and equity policies into the General Plan, the Cultural Districts Initiative, and the Housing Affordability Strategies project. The Community Stabilization Initiative is a multi-agency effort to assess the City's existing portfolio of tools, unify fragmented efforts into one comprehensive inventory, and identify priorities for the future. The initiative seeks to mitigate the impacts of ongoing displacement and help vulnerable populations thrive and contribute to the City's economy and culture. The City's efforts to integrate Environmental Justice and equity into the General Plan elements is still in the early stages of development, but once adopted, would guide future City policies and decisions and tie in with other General Plan policy updates. The department is also supporting the City's Cultural Districts Initiative, led by the Mayor's Office of Housing and Community Development. The program's stated purpose is to: "formalize a collaborative partnership between the City and communities and bring resources and help in order to stabilize vulnerable communities facing or at risk of displacement or gentrification and to preserve, strengthen, and promote our cultural assets and diverse communities so that individuals, families, businesses that serve and employ them, nonprofit organizations, community arts, and educational institutions are able to live, work and prosper within the City."⁴

³ San Francisco Planning Department, *Mission Action Plan 2020, Annual Status Report 2020*. Available online at https://default.sfplanning.org/Citywide/Mission2020/MAP2020_Status_Report_2020.pdf.

⁴ San Francisco Board of Supervisors, Cultural Districts Program legislation, May 2018. Available online at <https://sfbos.org/sites/default/files/o0126-18.pdf>.

Additionally, the department has completed the Housing Affordability Strategies project that examines how San Francisco can improve housing affordability over the next 30 years, particularly for low- and moderate-income households. Through in-depth analysis of development feasibility and city policies, programs, and public investments, the Strategies serve to help residents, City staff, and policymakers determine how different policies and funding strategies can work together to address affordability and community stability in San Francisco. The report was released in March 2020.⁵

The department is working on the Housing Element Update for 2022, which will serve as the City's housing plan and is grounded in racial and social equity. The Housing Element builds on the Housing Affordability Strategies project and Community Stabilization Initiative and will include a range of stabilization policies and actions for Priority Geographies including the Mission. The department is conducting extensive outreach to communities to shape the plan.

Conclusion

The department has determined that the proposed project is categorically exempt from environmental review under CEQA on the basis that: (1) the project meets the definition of one or more of the classes of projects that the Secretary of Resources has found do not have a significant effect on the environment, and (2) none of the exceptions specified in CEQA Guidelines section 15300.2 prohibiting the use of a categorical exemption are applicable to the project. Appellant has not demonstrated that the department's determination is not supported by substantial evidence in the record.

For the reasons stated above and in the November 18, 2020 CEQA determination, the CEQA determination complies with the requirements of CEQA, and the proposed project is appropriately exempt from environmental review pursuant to the cited exemption. The department therefore respectfully recommends that the board uphold the CEQA determination and deny the appeal.

⁵ San Francisco Planning Department, *San Francisco Housing Affordability Strategies*, March 2020. Available online at <https://sfplanning.org/housing-affordability-strategy>.

From: [BOS Legislation. \(BOS\)](#)
To: [Ben Terrall](#); [Steven Vettel](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [RUIZ-ESQUIDE, ANDREA \(CAT\)](#); [Hillis, Rich \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Sucre, Richard \(CPC\)](#); [Li, Michael \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation. \(BOS\)](#)
Subject: PROJECT SPONSOR RESPONSE BRIEF: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Appeal Hearing June 8, 2021
Date: Friday, May 28, 2021 1:05:41 PM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board received the following response brief from the project sponsor Steven L. Vettel of Farella Braun + Martell LLP, on behalf of Quest Blue LLC and Ivor Bradley, regarding the appeal of the CEQA Exemption Determination for the proposed 1801 Mission Street project.

[Appellant Supplemental Brief - May 28, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210486](#)

Best regards,

Jocelyn Wong

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From: [Vettel, Steven](#)
To: [BOS Legislation, \(BOS\)](#); [Wong, Jocelyn \(BOS\)](#)
Cc: [Ben Terral](#); ivorbradley@sbcglobal.net; [Stephen Antonaros](#)
Subject: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Appeal Hearing June 8, 2021
Date: Friday, May 28, 2021 12:55:31 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[2021-05-28 real party"s opposition to appeal 1801 Mission\(14137625.1\).pdf](#)

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Ms. Wong, please find attached Real Party in Interest's brief in opposition to the appeal of the CEQA categorical exemption for 1801 Mission Street. I understand that you will forward copies to all other interested parties. Thank you.

Steven L. Vettel

He/Him/His

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May 28, 2021

Hon. Shamann Walton, President
Board of Supervisors
City and County of San Francisco
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San Francisco, CA 94102
E-Mail: *Board.of.Supervisors@sfgov.org*

Re: Board File 210486
1801 Mission Street: Appeal of Class 1 CEQA exemption
Hearing Date: June 8, 2021

Dear President Walton and Supervisors:

I am writing on behalf of Quest Blue LLC, the owner of 1801 Mission Street, a recently completed mixed use residential building at the corner of Mission and 14th Street, and Ivor Bradley of the Creamery coffee shop, who has signed a lease for the 1,765 square foot vacant ground floor retail space in the building. We oppose the appeal filed by Ben Terrall of the Cultural Action Network of the existing facilities Class 1 CEQA exemption issued by the Planning Department prior to the Planning Commission's unanimous approval of the Creamery's tenant improvements building permit.

Factual background. 1801 Mission Street is a 6-story building with 17 dwelling units and one ground floor retail space constructed pursuant to a building permit issued in 2016. The building and its residential and retail uses are principally permitted in the Urban Mixed Use (UMU) zoning district and 68-X height and bulk district, and no Planning Commission hearing or authorization was required for issuance of the building permit. No party sought discretionary review of the building permit or timely appealed its issuance to the Board of Appeals.

The Planning Department on March 19, 2015, issued the project a CEQA Community Plan Exemption (CPE), tiering off of the Eastern Neighborhoods EIR, finding the building was consistent with the development densities approved by the Eastern neighborhoods rezoning, was not inconsistent with the Mission Area Plan, complied with the UMU zoning, and no peculiar circumstances existed that would require further environmental review. A copy of the 2015 CPE is attached to Appellant's supplemental brief as Exhibit A-3. No party appealed the 2015 CPE to the Board of Supervisors within the 30-day appeal permit after issuance of the 2016 building permit.

Following completion of the 1801 Mission Street building in September 2020, the owner marketed the ground floor retail space and has signed a lease with Ivor Bradley to relocate the Creamery coffee shop into the space. The building will not support a destination restaurant use (it has no commercial kitchen or venting), but rather the Creamery will operate as a coffee shop with limited moderately priced food menu items, such as pastries and sandwiches. The coffee shop is defined in the Planning Code as a Retail Sales and Services "limited restaurant,"¹ a principally permitted use in the UMU zoning district and fully consistent with the retail use of the ground floor analyzed in the 2015 CPE. The premises has not been occupied since the building was completed, such that no existing business is being displaced by the Creamery lease. On November 18, 2020 the Planning Department issued a routine Class 1 CEQA "existing facilities" exemption, stating that no physical impacts on the environment could occur by the retail sales and services use of a small existing retail space with no expansion of the premises.

The Creamery operated for over 12 years at the corner of Townsend and 4th Streets but was itself displaced in 2020 because the building at that site will soon be demolished to make way for a large residential project. Mr. Bradley, who is himself an immigrant, intends to rehire as many of his former employees from the displaced business as possible for his relocated business, many of whom are residents of the Mission. Mr. Bradley has also pledged to incorporate neighborhood appropriate elements into the business, including multilingual menus, interior art appropriate for the location in the Mission District and American Indian Cultural District, and to seek any new hires from the neighborhood, as directed by the Planning Commission.

The Appellant earlier filed a discretionary review request of Mr. Bradley's tenant improvements building permit. At the conclusion of the March 25 hearing, the Planning Commission unanimously approved the permit, subject to the following conditions:

- The project sponsor shall provide a multilingual menu.
- The project sponsor shall incorporate appropriate cultural art within the interior of the commercial space.
- The commission encourages the project sponsor to conduct additional community outreach with surrounding neighbors, nearby businesses, and the American Indian Cultural District.
- The commission encourages the project sponsor to hire new employees locally and acknowledges that previous employees will have the first right of refusal regarding

¹ ***Restaurant, Limited.*** A Retail Sales and Service Use that serves ready-to-eat foods and/or drinks to customers for consumption on or off the premises, that may or may not have seating. . . It includes, but is not limited to, foods provided by sandwich shops, *coffee houses*, pizzerias, ice cream shops, bakeries, delicatessens, and confectioneries meeting the above characteristics, but is distinct from a Specialty Grocery, Restaurant, and Bar. *S.F. Planning Code Section 102.*

employment. The commission encourages outreach with the City and County of San Francisco's Office of Economic and Workforce Development.

Mr. Bradley has publicly committed to implement the Planning Commission's conditions of approval and plans to welcome all neighbors and community members to the Creamery.

Mr. Terrall's appeal of the Class 1 exemption should be denied for the following reason, in addition to those set forth in the Planning Department's response.

1. Appellant alleges no physical impacts on the environment associated with the operation of a small coffee shop in an existing retail space, nor provides any substantial evidence of any physical impacts.

Review of projects under the California Environmental Quality Act (CEQA) is limited to the analysis of potential physical impacts on the environment. "A significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project." CEQA Guidelines Section 15002(f). "Economic and social changes resulting from a project shall not be treated as significant effects on the environment." *Id.* Section 15064(e).

In his appeal, Mr. Terrall presents no substantial evidence that the use of the existing retail space at 1801 Mission Street for a Retail Sales and Services limited restaurant use, with no expansion of the premises, will cause any adverse change in the physical environmental conditions that exist in the neighborhood. For that reason alone, his appeal should be denied.

In the supplemental brief Mr. Terrall filed earlier today, he now alleges, with no evidentiary support, that operation of this small limited restaurant will displace numerous other businesses and cause the entire North Mission neighborhood to fall into urban decay, thus leading to a physical environmental impact. The sole authority he cites for this argument is *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184. That case concerned two new shopping centers totaling 1.1 million square feet of retail space, including two Wal-Mart Superstores. Based on substantial evidence in the record, the court in that case ordered the city to evaluate whether those centers could cause urban decay in downtown Bakersfield, leading to physical environmental impacts. The scale of this matter (a single 1,765 square foot storefront) compared to the 1.1 million square feet in *Bakersfield Citizens*, plus the lack of any substantial evidence that the Creamery will lead to urban decay in the North Mission, makes Appellant's reliance on that case unpersuasive.

2. Appellant can point to no General Plan, Mission Area Plan or American Indian Cultural District policy with which this small business conflicts.

The appeal is limited to allegations that Mr. Bradley's small coffee shop will have a gentrifying effect in the Mission and is therefore inconsistent with the General Plan, the Mission Area Plan, and the American Indian Cultural District. Even if these allegations were true, they are not evidence of a potential adverse physical change in the environment.

Mr. Terrall claims that establishment of a small limited restaurant at 1801 Mission Street is in conflict with Mission Area Plan Policy 7.3.3, which states: "Protect and support Latino and other culturally significant local business, structures, property and institutions in the Mission." That policy does not state that protection of existing Latino businesses means excluding all other small businesses in the neighborhood. Appellant merely speculates that other nearby establishments serving coffee, most of which are not Latinx owned or operated businesses, will be adversely affected.

The American Indian Cultural District boundaries were established in April 2020 when Board directed MOHCD to prepare a Cultural, History, Housing, and Economic Sustainability Strategy Report ("CHHESS Report") for consideration of further actions. The district does not establish any land use controls beyond the underlying zoning and General Plan policies and contains no policies that could be deemed in conflict with a limited restaurant at 1801 Mission Street.

3. The Creamery's occupancy of an existing storefront qualifies it for a Class 1 CEQA existing facilities exemption.

CEQA recognizes several classes of projects that have no possibility of creating adverse physical impacts on the environment and are therefore exempt from CEQA review. The most common is the Class 1 existing facilities exemption associated with the occupancy of space in existing buildings by new users, provided the space is not substantially expanded. As set forth in Section 15301 of the CEQA Guidelines:

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. . . . The key consideration is whether the project involves negligible or no expansion of use. Examples include but are not limited to: (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

The leasing of the existing ground floor retail space at 1801 Mission Street to Mr. Bradley to operate a retail coffee shop fits precisely within the Class 1 exemption. 1801 Mission Street is an "existing facility" being leased to a tenant who will perform interior alterations including plumbing and electrical work and operate a small retail business. There is no possibility that this minor interior work in an existing building could cause significant adverse impacts on the physical environment. Nor has Mr. Terrall identified any unusual circumstances causing environmental impacts that would disqualify occupancy of the retail space from the Class 1 exemption.

Rather than discuss the applicable Class 1 exemption, Mr. Terrall's appeal argues that the approved use does not qualify for a Section 15183 community plan exemption because he alleges it is not consistent with the Mission Area Plan. However, that argument is five years too late. The 1801 Mission building, including the ground floor retail space, was granted such a Section

15183 CPE in 2014, and the time to appeal that CPE ran 30 days after the building permit was issued in 2016. The Board has no jurisdiction to overturn the CPE now.

Mr. Terrall also argues that the City has burden of proof to provide evidence that no physical environmental impacts would occur. That may be the standard of review when a local agency determines there are potential significant impacts on the environment and decides whether an EIR or a negative declaration is appropriate. But it is not the standard of review for categorical exemptions.

Rather, once an agency determines that a project falls within a categorical exemption, the burden shifts to the objecting party to produce evidence of a significant physical impact on the environment such that one of the exceptions to the categorical exemptions applies. *Berkeley Hillside Preservation v City of Berkeley* (2015) 60 Cal.4th 1086, 1105. Mr. Terrall has produced no evidence of potential physical environmental impacts and thus has failed to meet his burden of proof.

4. An action by the Board overturning this Class 1 CEQA exemption for an ordinary retail business opening in an existing retail space would set an unintended precedent, providing another appeal opportunity available to even one individual opposing any new retail sales and services use.

The San Francisco electorate passed Proposition H in November 2020, establishing the public policy in favor of reducing delays and limiting appeals for new small retail businesses. Such small businesses locating into existing buildings are routinely issued Class 1 CEQA exemptions, often with a mere Planning Department stamp on the building permit application.

We fear that, should the Board overturn this Class 1 exemption with no evidence of physical environmental impacts and no unusual circumstances disqualifying the Creamery from the Class 1 exemption, a precedent would be set that others could cite to file equally meritless appeals. Any opponent of any small retail business, including competitors, can already file for discretionary review of the business's building permit, creating delay and the need for a Planning Commission hearing prior to issuance of the building permit. An opponent can also appeal issuance of the building permit to the Board of Appeals, causing further delays and another hearing. An appeal of a routine Class 1 exemption to the Board of Supervisors would add a third appeal right for principally permitted small retail businesses, causing another delay awaiting Board action on the appeal. Such an outcome would directly conflict with the voters' message when it passed Proposition H and is not a precedent we believe this Board wishes to set.

Hon. Shamann Walton, President
May 28, 2021
Page 6



For all of the above reasons, in addition to those set forth by the Planning Department response, we request that the Board deny this appeal and uphold the Class 1 exemption.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'S. Vettel', is written over a horizontal line.

Steven L. Vettel

cc: Ben Terrall, appellant
San Francisco Planning Department
Ivor Bradley
Stephen Antonaros, architect

35419\14117844.1

From: [BOS Legislation. \(BOS\)](#)
To: [Ben Terrall](#); [Steven Vettel](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [RUIZ-ESQUIDE, ANDREA \(CAT\)](#); [Hillis, Rich \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Sucre, Richard \(CPC\)](#); [Li, Michael \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation. \(BOS\)](#)
Subject: APPELLANT SUPPLEMENTAL BRIEF: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Appeal Hearing June 8, 2021
Date: Friday, May 28, 2021 11:19:41 AM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board received the following supplemental information from appellant, Ben Terrall, on behalf of the Cultural Action Network, regarding the appeal of the CEQA Exemption Determination for the proposed 1801 Mission Street project.

[Appellant Supplemental Brief - May 28, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210486](#)

Best regards,

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
jocelyn.wong@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



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The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: [Ben Terrall](#)
To: [BOS Legislation, \(BOS\)](#); [Wong, Jocelyn \(BOS\)](#)
Subject: Case No. 2020-010532PRJ 1801 Mission St. / submittal
Date: Friday, May 28, 2021 11:04:17 AM
Attachments: [1801Mission_BriefSubmittal.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Ms. Wong,

Please find attached a submittal for the appeal of the March 25, 2021 Planning Commission Decision regarding the pending project at 1801 Mission Street, case no. 2020-010532PRJ.

Thanks in advance for letting me know via this email address that this was received in a timely fashion.

Best,

Ben Terrall
Cultural Action Network

May 28, 2021

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

**RE: Case No. 2020-010532PRJ 1801 Mission Street
Appeal of the March 25, 2021 Planning Commission Decision**

Dear President Walton and Members of the Board Supervisors:

Please accept this submission by Cultural Action Network appealing the decision of the Planning Commission made on March 25, 2021 regarding the proposed project at 1801 Mission Street (hereafter "proposed project").

The current proposed project would establish a limited restaurant use in a commercial space zoned for retail use, to allow a well-known destination cafe (dba The Creamery Coffee Shop) to relocate to the 1,763 square foot commercial space at the corner of Mission and 14th Streets. The project lies within the Mission Area Plan neighborhood and within the American Indian Cultural District.

Summary of Concerns

The Planning Commission Discretionary Review Action DRA-742 approved a change of use that incorporates a CEQA Categorical Exemption Determination, yet the proposed project directly conflicts with core guidelines of the Mission Area Plan, General Plan, and Cultural District legislation which precisely describe protecting and supporting Latino and other established local businesses, and to preserve, strengthen and promote our cultural assets and diverse communities, and to retain the existing culture and services that are oriented to serve the needs of the existing community. Founded on March 31st, 2020, the American Indian Cultural District (AICD) is the first established Cultural District of its size in the United States dedicated to recognizing, honoring, and celebrating the American Indian legacy, culture, people, and contributions.¹

As outlined in detail below, there is precedent for denying a CPE for commercial projects due to the indirect impacts they will have in a community and its physical

¹ <https://americanindianculturaldistrict.org>

environment. Per the *Bakersfield Citizens for Local Control v. City of Bakersfield* decision, “***the lead agency cannot divest itself of its analytic and informational obligations by summarily dismissing the possibility of ... deterioration as a social or economic effect of the project.***” The court decision in this case clearly states that the displacement of existing businesses, by a larger, highly resourced entity providing similar offerings, must view the vacancy, deterioration of the fabric of a neighborhood, and potential for urban decay, as environmental impacts.

The court ruling stated, “when there is evidence suggesting that the economic and social effects caused by the [proposed project] ultimately could result in urban decay or deterioration, then the ***lead agency is obligated to assess this indirect impact.***”²

Not only were the impacts of this proposed project not meaningfully studied or assessed because it was provided with a CEQA Categorical Exemption Determination, but these kinds of impacts are not even raised in the Case Report. The American Indian Cultural District impacts are not only not studied -- ***the American Indian Cultural District isn't even mentioned a single time in the Discretionary Review Analysis.***³

This project is not consistent with the Cultural District code of the General Plan, nor the objectives of the Mission Area Plan. There is strong local anecdotal supporting evidence that such a proposal will have environmental impacts on the corridor by driving out local immigrant businesses with increased rents and spaces kept open with the goal of replacing them with higher end tenants. As a result of the covid-19 pandemic and the tenuous survival of our businesses, the pressure of these effects could be exacerbated. And because *Gentry v. City of Murrieta* makes **clear that the burden of providing detailed evidence does not fall on the public--it falls on the government to prove this is not the case.** This evidence has not been presented to prove that the environmental impacts described above will not happen and, therefore, a CPE is not valid in this instance. In fact, the American Indian Cultural District is not even mentioned in the original case report for the Planning Commissioners.

We know that we can expect this conversion of retail into cafe space to accommodate the Creamery will have gentrification impacts, and thus physical CEQA impacts, on this low-income neighborhood at the heart of the American Indian Cultural District, because the business owner told us this, first privately, and later publicly at his hearing:

² <https://casetext.com/case/bakersfield-cit-loc-con-v-city-bakers>

³ Exhibit A

“The creamery has been voted numerous times as one of the most influential places to eat for business people and for numerous others that are looking to converse and talk about possible deals and so forth and it just resulted in a number of major companies being started at the Creamery such as Stripe, AirBNB and the Microsoft deal to acquire Twitter was discussed at the Creamery and so I feel that my business model worked very well...We are a destination and I’m looking to move to a new location in the Mission to try and recreate the business.”

- Ivor Bradley, Planning Commission Hearing, March 25, 2021⁴

As we saw on Valencia Street, **it only takes one major player to disrupt a vulnerable community and cause the systemic collapse in the radius around it.** The *Bakersfield Citizens for Local Control v. City of Bakersfield*, decision described this as an “atomic bomb” effect, stressing the need to consider “the potential to indirectly cause urban decay by precipitating a downward spiral of closures... ultimately destroying existing neighborhoods”; an effect from which the Mission Area Plan policy is explicit in its protections. These protections give the Planning Commission and other agencies clear guidance and instruction on stabilizing the neighborhood and its culture.

What a healthy urban ecosystem needs for this area of the North Mission is **additional access to goods and services provided by retail uses.** The American Indian and Latinx community would be better served with the retail use that the original zoning intended--the use that was analyzed and approved by the Planning Department in its assessment of the development project at 1801 Mission Street, and the use that the immigrant community anticipated when this building opened.

I. Standard of Review

The Board must use the following standard of review under CEQA:

CEQA Guideline 15064(c) states, “[i]n determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the agency.”⁵

CEQA Guideline 15183(d) states that the Section, “**shall only apply to projects** which meet the following conditions to allow for the use of a CPE: (1) The project is consistent with: (A) A community plan adopted as part of a general plan, (B) A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or (C) A general plan

⁴ https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=20&clip_id=38145

⁵ [§ 15064. Determining the Significance of the Environmental Effects Caused by a Project.](#)

of a local agency.” The proposed project is inconsistent with these conditions and therefore did not qualify for review pursuant to CEQA Guideline Section 15183.⁶

As noted by the Supreme Court, “[i]f there is substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it [can] be ‘fairly argued’ that the project *might* have a significant environmental impact.” *Berkeley Hillside Preservation v. City of Berkeley*, 60 Cal.4th 1086, 1112 (2015).⁷

Bakersfield Citizens for Local Control v. City of Bakersfield established that “when there is evidence suggesting that the economic and social effects caused by the proposed [project] ultimately could result in urban decay or deterioration, then the lead agency is obligated to assess this indirect impact.” ...**“The lead agency cannot divest itself of its analytical and informational obligations by summarily dismissing the possibility of urban decay or deterioration as a ‘social or economic effect’ of the project.”** *Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184 (2004)⁸

CEQA Guideline 15183 creates, “a streamlined review for qualifying projects that are consistent with a general plan for which an EIR was certified.” *Wal-Mart Stores Inc. v. City of Turlock*, 138 Cal.App. 4th 273, 286 (2006).⁹

The proposed project incorporated the Eastern Neighborhoods PEIR through CEQA Guidelines Section 15183 and the assertion that the proposed project is consistent with and encompassed within the analysis in the Eastern Neighborhoods PEIR, including its consistency with the Mission Area Plan and General Plan.

CEQA Guideline 15064(b) cautions, “the determination of whether a project may have a significant effect on the environment calls for **careful judgment** on the part of the public agency.”

Finally, the Court in *Gentry v. City of Murrieta* also established that an agency “[will] not be allowed to hide behind its own failure to gather relevant data.... CEQA places the burden of environmental investigation on the government rather than the public. **If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record.** Deficiencies in the record may actually enlarge the scope of fair argument by

⁶ [§ 15183. Projects Consistent with a Community Plan, General Plan, or Zoning.](#)

⁷ <https://casetext.com/case/berkeley-hillside-preservation-v-city-of-berkeley>

⁸ <https://casetext.com/case/bakersfield-cit-loc-con-v-city-bakers>

⁹ <https://casetext.com/case/wal-mart-stores-v-city-of-turlock>

lending a logical plausibility to a wider range of inferences.” 36 Cal.App. 4th 1359, 1379 (1995).¹⁰

We trust that the Board will take these standards of review to heart in making their decision.

II. 1801 MISSION STREET- PROPOSED PROJECT CONFLICTS WITH GENERAL AND AREA PLANS

The current proposed project proposes to establish a limited restaurant use in a commercial space zoned for retail use, for the purpose of establishing a well-known destination cafe (dba The Creamery Coffee Shop) to relocate to the 1,763 square foot commercial space at the corner of Mission and 14th Streets. The project lies within the Mission neighborhood and within the American Indian Cultural District.

A. The proposed project is inconsistent with the Community Plan and General Plan and does not qualify for CEQA Categorical Exemption Determination.

CEQA Guideline 15183 creates, “a streamlined review for qualifying projects that are consistent with a general plan for which an EIR was certified.” *Wal-Mart Stores Inc. v. City of Turlock*, 138 Cal.App. 4th 273, 286 (2006).¹¹

More explicitly, CEQA Guideline 15183(d) states that the Section, “*shall only apply to projects* which meet the following conditions: (1) The project is consistent with: (A) A community plan adopted as part of a general plan, (B) A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or (C) A general plan of a local agency.” The proposed project is inconsistent with these conditions and therefore did not qualify for review pursuant to CEQA Guideline Section 15183.

The General Plan is, “intended to be an integrated, internally consistent and compatible statement of objectives and policies and its objectives and *policies are to be construed in a manner which achieves that intent.*”¹² In particular, the proposed project is inconsistent with the following:

- 1. General Plan section 107.2 - Cultural District - Findings, Purpose, and Goals of Creating Cultural Districts - Purpose:**
“San Francisco’s Cultural Districts program seeks to formalize a

¹⁰ <https://casetext.com/case/gentry-v-city-of-murrieta>

¹¹ [§ 15183. Projects Consistent with a Community Plan, General Plan, or Zoning.](#)

¹² <https://generalplan.sfplanning.org/>

collaborative partnership between the City and communities and bring resources in order to stabilize vulnerable communities facing or at risk of displacement or gentrification, and to preserve, strengthen and promote our cultural assets and diverse communities, so that individuals, families, businesses that serve and employ them, nonprofit organizations, community arts, and educational institutions are able to live, work and prosper within the City.”¹³

The city has created Cultural Districts with the policy goal of “promoting culturally competent and culturally appropriate City services and policies that encourage the health and safety of the community, culture, or ethnic groups in Cultural Districts” (Goal 10), and “**slowing down gentrification and mitigating its effects on vulnerable, minority communities**” (Goal 11). Yet the project was automatically given a CEQA Categorical Exemption Determination without review to determine alignment with these policies, simply because it was within a building that had received a Community Plan Exemption (CPE) in years prior.. However, that CPE¹⁴ was **approved based on the condition that the commercial ground floor space was zoned for retail use**, not as a limited use restaurant. This newly proposed use represents an entirely different condition from that which was originally approved.

Cultural districts were also created with the intent of “promoting and strengthening collaboration between the City and communities to maximize cultural competency and pursue social equity within some of the City’s most vulnerable communities” (Goal 12), yet there was no communication with the American Indian Cultural District, in which this project is situated, nor the Calle 24 Latino Cultural District, whose expansion will be nearby this location. In addition to the Planning Department not providing cultural district notification, the Project Sponsor did not reach out to neighboring organizations within the American Indian Cultural District to discuss this proposed change of use. It wasn’t until Cultural Action Network filed for a Discretionary Review that any conversations even began to occur..

Not only was the American Indian Cultural District not notified regarding the project, as noted above, the Cultural District is not even mentioned in the Planning Department’s Discretionary Review Analysis submitted to the Planning Commission, upon which they based their approval of the conversion.¹⁵

¹³ https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_admin/0-0-0-59535#JD_107.2

¹⁴ Exhibit A

¹⁵ <https://commissions.sfplanning.org/cpcpackets/2020-010532DRP.pdf>

And even further, after listening to public outcry during Commission testimony that this project was in the American Indian Cultural District, the Planning Commissioners took it upon themselves to prescribe “cultural” conditions for approval without consultation with the American Indian Cultural District, Calle 24 Latino Cultural District, or members of the American Indian and Latinx communities.¹⁶ There is no American Indian or Latinx representation on the Planning Commission.

2. Mission Area Plan - Objective 7.3 - Reinforce the Importance of the Mission as the Center of Latino Life in San Francisco - Plan Policy

7.3.3 - “Protect and support Latino and other culturally significant local businesses, structures, property and institutions in the Mission.”¹⁷

The proposed conversion of the retail space at 1801 Mission Street to establish a limited restaurant use in a commercial space zoned for retail use for the purpose of installing a gentrifying cafe is antithetical to the goals of Mission Area Plan Objective 7.3 which provides direction to protect and support Latino and other culturally significant local businesses ***for the purpose of stabilizing the neighborhood and culture.***

1801 Mission Street is already surrounded by legacy businesses providing coffee, breakfast and lunch, one of which, New Star Market, has been serving pour over coffee with San Francisco Coffee Company beans roasted down the street, breakfast items - pastries, breakfast sandwiches and bagels - and lunch items - sandwiches, salads, piroshki, since it was established in 1988. New Star Market, an immigrant business ***located almost next door to the proposed project,*** serves the Latinx community by providing affordable coffee, breakfast and lunch items in addition to market goods, but also serves as a community hub and beacon for the goings on of the neighborhood.

Within a block radius of 1801 Mission, Doña Mago, La Noisette, Carlin’s Cafe, The Sandwich Place and Four Barrel Coffee all provide the same goods and create a saturation of cafe uses in this part of the North Mission. Expanding that radius slightly, we find El Cafetazo and Muddy Waters Coffee House providing the same goods and service as well. With the exception of high end offerings of Four Barrel Coffee, these legacy cafes have managed to create an ecosystem that has supported and sustained this American Indian and Latinx community for decades. But this ecosystem has become increasingly fragile with the pressures of hyper-gentrification and now the devastation of the pandemic. However, all of these immigrant owned and operated businesses have survived with community

¹⁶ https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=20&clip_id=38145

¹⁷ [San Francisco General Plan :: Missionhttps://generalplan.sfplanning.org > Mission](https://generalplan.sfplanning.org/Mission)

love and support, ***because they serve as community anchors that sustain the culture.***

Inserting any additional cafe use into the center of this tenuous low-income ecosystem, nevermind one that states that it intends to be a place for the world's biggest tech movers and shakers to hobnob and make billion-dollar deals, is a recipe for collapse. At 1800 square foot, this gentrifying cafe proposal is significantly larger than the legacy immigrant-owned neighboring cafes that surround, and could easily lead to the loss of all of the surrounding businesses as they are likely to lose the competition with this larger, more resourced provider who is replicating the same goods and services. Price pressures on their leases will lead to mass vacancy, ultimately destabilizing the neighborhood, its culture and leaving vacancy and deterioration, all of which would have been assessed as potential outcomes had this cafe use been reviewed at the time the CPE was prepared.

"The Creamery," originally established in the South of Market neighborhood that catered to an extremely wealthy clientele and the ***"perfect place for the SF technorati to be seen,"***¹⁸ could lead to the collapse of this entire two block fabric of community-serving, culturally focused business community. SFGate wrote about the Creamery's rise and how it ***"illustrates how the city's technology boom is changing the neighborhoods where it concentrates,*** elevating small businesses into must-visit destinations and turning their owners into minor celebrities."¹⁹ This is not simply a cafe, but rather a power-player gentrifying destination business and one who has partnered with developer Tishman Speyer ***to also reopen later at its prior location in downtown once the new development being built there is complete..***

Conclusion

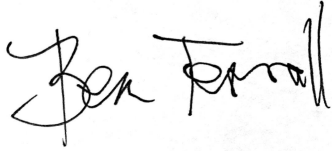
In conclusion, this proposal to establish a limited restaurant use in a commercial space zoned for retail use for the purpose of establishing a well-known destination cafe is in conflict with the General Plan and Mission Area Plan including their Cultural District objectives and goals that were created to stabilize vulnerable communities facing or at risk of displacement or gentrification. As such, it was ineligible for environmental review through CEQA Guideline 15183, and the CEQA Categorical Exemption Determination by the for this proposed project should be denied for further meaningful review. The legacy immigrant businesses of the North Mission that have long provided these same goods, deserve to continue their service to the American Indian and Latinx community in whose fabric they are ingrained. They have been the backbone of the community during the Covid-19

¹⁸ <https://techcrunch.com/2020/08/17/a-requiem-for-the-creamery/>

¹⁹ <https://www.sfgate.com/restaurants/article/Creamery-is-deal-central-for-SF-techies-3707983.php>

pandemic and have survived this existential threat. Neither these businesses nor the community should have to face the threat of displacement and cultural erosion that this project would bring with it.

Sincerely,

A handwritten signature in black ink that reads "Ben Terrall". The signature is fluid and cursive, with the first name "Ben" and last name "Terrall" clearly distinguishable.

Ben Terrall
member, Cultural Action Network

EXHIBIT LIST

- A - 2 CEQA Categorical Exemption Determination
- A - 7 Discretionary Review Action DRA-742
- A - 10 Community Plan Evaluation

EXHIBIT A



CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
1801 MISSION ST		3548039
Case No.		Permit No.
2020-010532PRJ		202010307806
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
<p>Project description for Planning Department approval. The project includes establishment of a limited restaurant use (coffee shop) on the ground floor of a vacant commercial space measuring approximately 1,763 square feet within a newly-constructed seven-story residential building.</p>		

STEP 1: EXEMPTION CLASS

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).	
<input checked="" type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<p>Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:</p> <p>(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p> <p>FOR ENVIRONMENTAL PLANNING USE ONLY</p>
<input type="checkbox"/>	Class _____

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	<p>Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)</p>
<input type="checkbox"/>	<p>Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential?</p> <p>Note that a categorical exemption shall not be issued for a project located on the Cortese List if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).</p>
<input type="checkbox"/>	<p>Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?</p>
<input type="checkbox"/>	<p>Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non -archeological sensitive area? If yes, archeo review is required (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)</p>
<input type="checkbox"/>	<p>Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography). If yes, Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Slope = or > 25%: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.</p>
<p>Comments and Planner Signature (optional): Richard Sucre</p>	

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: (refer to <i>Property Information Map</i>)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input checked="" type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .

<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):
<input type="checkbox"/>	9. Other work that would not materially impair a historic district (specify or add comments): (Requires approval by Senior Preservation Planner/Preservation Coordinator)
<input type="checkbox"/>	10. Reclassification of property status. (Requires approval by Senior Preservation Planner/Preservation <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category A a. Per HRER or PTR dated b. Other (specify): </div> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category C (attach HRER or PTR) </div> </div>
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
<input type="checkbox"/>	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature:	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<input checked="" type="checkbox"/>	No further environmental review is required. The project is categorically exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.	
	Project Approval Action: Building Permit	Signature: Richard Sucre
	If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	11/18/2020
	Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.	

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a “substantial modification” and, therefore, be subject to additional environmental review pursuant to CEQA.

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required.	

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed within 10 days of posting of this determination.	
Planner Name:	Date:

DISCRETIONARY REVIEW ACTION DRA-742

HEARING DATE: MARCH 25, 2021

Record No.: **2020-010532DRP**
Project Address: **1801 Mission Street**
Building Permit: **202010307806**
Zoning: UMU (Urban Mixed-Use) Zoning District
68-X Height and Bulk District
Block/Lot: 3548 / 039
Project Sponsor: Stephen Antonaros
2261 Market Street #324
San Francisco, CA 94114
DR Requestor: Ben Terrall, on behalf of the Cultural Action Network
2940 16th Street
San Francisco, CA 94103
Staff Contact: Richard Sucre – (628) 652-7364
richard.sucre@sfgov.org

ADOPTING FINDINGS RELATED TO TAKING DISCRETIONARY REVIEW OF RECORD NO. 2020-010532DRP AND THE APPROVAL OF BUILDING PERMIT APPLICATION NO. 202010307806 PROPOSING A CHANGE IN USE TO ESTABLISH A LIMITED RESTAURANT USE (DBA. CREAMERY COFFEE SHOP) MEASURING APPROXIMATELY 1,763 SQUARE FEET ON THE GROUND FLOOR OF A NEWLY CONSTRUCTED SEVEN-STORY RESIDENTIAL MIXED-USE BUILDING AT 1801 MISSION STREET WITHIN THE UMU (URBAN MIXED-USE) ZONING DISTRICT AND A 68-X HEIGHT AND BULK DISTRICT.

Preamble

On October 30, 2020, Stephen Antonaros (hereafter Project Sponsor) filed for Building Permit Application No. 202010307806 proposing a change in use to establish a limited restaurant use (dba. Creamery Coffee Shop) measuring approximately 1,763 square feet within a ground floor commercial space in a newly constructed seven-story residential mixed-use building at 1801 Mission Street within the UMU (Urban Mixed-Use) Zoning District and a 68-X Height and Bulk District.

On January 14, 2021, Ben Terrall, on behalf of the Cultural Action Network (hereinafter “Discretionary Review (DR) Requestor”) filed an application with the Planning Department (hereinafter “Department”) for Discretionary Review (2020-010532DRP) of Building Permit Application No. 202010307806.

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.

On March 25, 2021, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Discretionary Review Application 2020-010532DRP.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

Action

The Commission hereby takes Discretionary Review requested in Record No. 2020-010532DRP and approves Building Permit Application No. 202010307806 subject to the following conditions:

- The Project Sponsor shall provide a multi-lingual menu.
- The Project Sponsor shall incorporate appropriate cultural art within the interior of the commercial space.
- The Commission encourages the Project Sponsor to conduct additional community outreach with surrounding neighbors, nearby businesses and the American Indian Cultural District.
- The Commission encourages the Project Sponsor to hire new employees locally and acknowledges that previous employees will have the first right of refusal regarding employment. The Commission encourages outreach with the City and County of San Francisco’s Office of Economic and Workforce Development.

The reasons that the Commission took the action described above include:

1. There are extraordinary or exceptional circumstances in the case. The DR Requestor and their supporters demonstrated that additional outreach was needed and that certain operational conditions should apply to the proposed use. The proposal complies with the Planning Code, the General Plan, and conforms with the Urban Design Guidelines.
2. The Commission determined that modifications to the project were necessary and they instructed staff to approve the Project per plans marked Exhibit A on file with the Planning Department.

APPEAL AND EFFECTIVE DATE OF ACTION: Any aggrieved person may appeal this Building Permit Application to the Board of Appeals only after the Department of Building Inspection (DBI) takes action (issuing or disapproving) the permit. Such appeal must be made within fifteen (15) days of DBI's action on the permit. For further information, please contact the Board of Appeals at (628) 652-1150, 49 South Van Ness Ave, Suite 1475, San Francisco, CA 94103.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission did take Discretionary Review and approved the building permit with conditions as reference in this action memo on March 25, 2021.



Jonas P. Ionin
Commission Secretary

AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore

NAYS: None

ABSENT: Koppel

ADOPTED: March 25, 2021



SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2009.1011E
 Project Address: 1801 and 1863 Mission Street
 Zoning: UMU (Urban Mixed Use) and Mission Street NCT
 (Neighborhood Commercial Transit), respectively
 68-X and 40-X/65-X, respectively
 Block/Lot: 3548/039 and 3548/033, respectively
 Lot Size: 3,600 square feet and 8,000 square feet, respectively
 Plan Area: Eastern Neighborhoods (Mission)
 Project Sponsor: Stephen Antonaros, Architect
 (415) 864-2261, santonaros@sbcglobal.net
 Staff Contact: Michael Li
 (415) 575-9107, michael.j.li@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
 Information:
415.558.6377

PROJECT DESCRIPTION

The project site consists of two non-contiguous parcels, 1801 Mission Street (Block 3548, Lot 039) and 1863 Mission Street (Block 3548, Lot 033), in San Francisco's Mission neighborhood. Lot 039 is an approximately 3,600-square-foot rectangular parcel on the southeast corner of 14th and Mission streets, and Lot 033 is an approximately 8,000-square-foot rectangular parcel on the east side of Mission Street between 14th and 15th streets. Lot 033 is a through lot that has a second frontage on Minna Street. Both parcels are currently vacant, but there is a small storage shed near the southeast corner of Lot 039. Both parcels were previously used as surface parking lots.

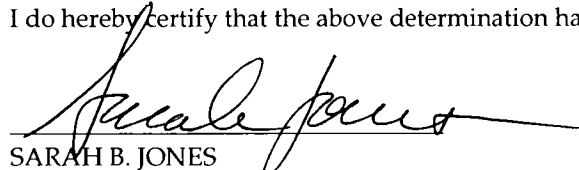
(Continued on next page)

EXEMPT STATUS

Exempt per Section 15183 of the California Environmental Quality Act (CEQA) Guidelines and California Public Resources Code Section 21083.3.

DETERMINATION

I do hereby certify that the above determination has been made pursuant to State and Local requirements.


 SARAH B. JONES
 Environmental Review Officer

March 19, 2015
 Date

cc: 1801 Mission LLC and 1863 Mission LLC, Project Sponsor
 Chris Townes, Current Planning Division
 Supervisor David Campos, District 9

Virna Byrd, M.D.F.
 Exclusion/Exemption Dist. List

In total, the proposed project would provide 54 dwelling units (22 studios, five one-bedroom units, and 27 two-bedroom units), approximately 2,125 square feet of retail space, approximately 740 square feet of office space, 25 off-street parking spaces, 68 Class 1 bicycle parking spaces, and one Class 2 bicycle parking space.

At 1801 Mission Street, the project sponsor would construct a seven-story, 68-foot-tall, approximately 22,610-square-foot mixed-use building containing 17 dwelling units, approximately 1,110 square feet of ground-floor retail space, approximately 740 square feet of second-floor office space, seven parking spaces, and 28 Class 1 bicycle parking spaces. A total of approximately 2,430 square feet of usable open space would be provided. The parking garage would be accessed from 14th Street. Of the seven parking spaces being provided, two would be at grade, and the other five would be housed in a mechanical stacker. The Class 1 bicycle parking spaces would be located in secure storage rooms on the first and second floors. This building would rest on a mat foundation that is supported by deep-seated piers or densified soils; pile driving could be required. Construction of this building would require the excavation and removal of approximately 1,400 cubic yards of soil.

At 1863 Mission Street, the project sponsor would construct an approximately 35,265-square-foot mixed-use building that would be four stories and 38 feet tall along Minna Street and seven stories and 65 feet tall along Mission Street. The building would contain 37 dwelling units, approximately 1,015 square feet of retail space, 18 parking spaces, 40 Class 1 bicycle parking spaces, and one Class 2 bicycle parking space. A total of approximately 3,790 square feet of usable open space would be provided. The parking garage would be accessed from Minna Street. All 18 parking spaces would be housed in a mechanical stacker. The Class 1 and Class 2 bicycle parking spaces would be inside the building on the first floor. This building would rest on a mat foundation; pile driving would not be required. Construction of this building would require the excavation and removal of approximately 4,100 cubic yards of soil.

PROJECT APPROVAL

For the purposes of environmental review, the buildings are being analyzed together as if they were a single project. For the purposes of the approval/entitlement process, the buildings are considered two separate projects.

The proposed building at 1801 Mission Street requires the following approvals:

- **Site/Building Permit** (*Planning Department and Department of Building Inspection*)
- **Condominium Map** (*Department of Public Works*)

Issuance of the building permit by the Department of Building Inspection would constitute the Approval Action for the proposed building at 1801 Mission Street. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

The proposed building at 1863 Mission Street requires the following approvals:

- **Site/Building Permit** (*Planning Department and Department of Building Inspection*)
- **Condominium Map** (*Department of Public Works*)

Issuance of the building permit by the Department of Building Inspection would constitute the Approval Action for the proposed building at 1863 Mission Street. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

COMMUNITY PLAN EXEMPTION OVERVIEW

California Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 provide an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that: (a) are peculiar to the project or parcel on which the project would be located; (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent; (c) are potentially significant off-site and cumulative impacts that were not discussed in the underlying EIR; or (d) are previously identified in the EIR, but which, as a result of substantial new information that was not known at the time that the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for the project solely on the basis of that impact.

This determination evaluates the potential project-specific environmental effects of the 1801 and 1863 Mission Street project described above, and incorporates by reference information contained in the Programmatic EIR for the Eastern Neighborhoods Rezoning and Area Plans (PEIR).¹ Project-specific studies were prepared for the proposed project to determine if the project would result in any significant environmental impacts that were not identified in the Eastern Neighborhoods PEIR.

After several years of analysis, community outreach, and public review, the Eastern Neighborhoods PEIR was adopted in December 2008. The Eastern Neighborhoods PEIR was adopted in part to support housing development in some areas previously zoned to allow industrial uses, while preserving an adequate supply of space for existing and future production, distribution, and repair (PDR) employment and businesses. The Eastern Neighborhoods PEIR also included changes to existing height and bulk districts in some areas, including the project site at 1801 and 1863 Mission Street.

The Planning Commission held public hearings to consider the various aspects of the proposed Eastern Neighborhoods Rezoning and Area Plans and related Planning Code and Zoning Map amendments. On August 7, 2008, the Planning Commission certified the Eastern Neighborhoods PEIR by Motion No. 17659 and adopted the Preferred Project for final recommendation to the Board of Supervisors.^{2,3}

In December 2008, after further public hearings, the Board of Supervisors adopted and the Mayor signed the Planning Code amendments related to the Eastern Neighborhoods Rezoning and Area Plans. New

¹ San Francisco Planning Department Case No. 2004.0160E and State Clearinghouse No. 2005032048.

² San Francisco Planning Department, *Eastern Neighborhoods Rezoning and Area Plans Final Environmental Impact Report*, Case No. 2004.0160E, certified August 7, 2008. Available online at: <http://www.sf-planning.org/index.aspx?page=1893>, accessed January 26, 2015.

³ San Francisco Planning Commission Motion No. 17659, August 7, 2008. Available online at: <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=1268>, accessed January 26, 2015.

zoning districts include districts that would permit PDR uses in combination with commercial uses; districts mixing residential and commercial uses and residential and PDR uses; and new residential-only districts. The districts replaced existing industrial, commercial, residential single-use, and mixed-use districts.

The Eastern Neighborhoods PEIR is a comprehensive programmatic document that presents an analysis of the environmental effects of implementation of the Eastern Neighborhoods Rezoning and Area Plans, as well as the potential impacts under several proposed alternative scenarios. The *Eastern Neighborhoods Draft EIR* evaluated three rezoning alternatives, two community-proposed alternatives which focused largely on the Mission District, and a “No Project” alternative. The alternative selected, or the Preferred Project, represents a combination of Options B and C. The Planning Commission adopted the Preferred Project after fully considering the environmental effects of the Preferred Project and the various scenarios discussed in the PEIR.

A major issue of discussion in the Eastern Neighborhoods rezoning process was the degree to which existing industrially zoned land would be rezoned to primarily residential and mixed-use districts, thus reducing the availability of land traditionally used for PDR employment and businesses. Among other topics, the Eastern Neighborhoods PEIR assesses the significance of the cumulative land use effects of the rezoning by analyzing its effects on the City's ability to meet its future PDR space needs as well as its ability to meet its housing needs as expressed in the City's *General Plan*.

As a result of the Eastern Neighborhoods rezoning process, the project site has been rezoned to a UMU (Urban Mixed Use) District and the Mission Street NCT (Neighborhood Commercial Transit) District. These districts are intended to promote a vibrant mix of uses while maintaining the characteristics of this formerly industrially zoned area while optimizing the available access to existing public transportation. They are also intended to serve as a buffer between residential districts and PDR districts in the Eastern Neighborhoods. The proposed project and its relation to PDR land supply and cumulative land use effects is discussed further in the Community Plan Exemption (CPE) Checklist, under Land Use. The 1801 and 1863 Mission Street lots, which are located in the Mission Plan Area of the Eastern Neighborhoods program, were designated as 68-X and 40-X/65-X Height and Bulk Districts, respectively. This would allow a building up to 68 feet in height at the southeast corner of 14th and Mission streets, a building up to 40 feet in height fronting Minna Street, and a building up to 65 feet in height fronting Mission Street.

Individual projects that could occur in the future under the Eastern Neighborhoods Rezoning and Area Plans will undergo project-level environmental evaluation to determine if they would result in further impacts specific to the development proposal, the site, and the time of development and to assess whether additional environmental review would be required. This determination concludes that the proposed project at 1801 and 1863 Mission Street is consistent with and was encompassed within the analysis in the Eastern Neighborhoods PEIR. This determination also finds that the Eastern Neighborhoods PEIR adequately anticipated and described the impacts of the proposed 1801 and 1863 Mission Street project and identifies the mitigation measures applicable to the 1801 and 1863 Mission Street project. The proposed project is also consistent with the zoning controls and the provisions of the

Planning Code applicable to the project site.^{4,5} Therefore, no further CEQA evaluation for the 1801 and 1863 Mission Street project is required. In sum, the Eastern Neighborhoods PEIR and this Certificate of Exemption for the proposed project comprise the full and complete CEQA evaluation necessary for the proposed project.

PROJECT SETTING

The project site is located on the block bounded by 14th, Mission, 15th, and Minna streets in San Francisco's Mission neighborhood and consists of residential, commercial, and industrial uses. The surrounding buildings vary in appearance and height; two- and three-story buildings are generally multi-family residential in character and consist of wood-frame construction, while the shorter one- and two-story buildings are of more industrial appearance consisting of masonry and concrete construction materials. The State Armory and Arsenal is on the west side of Mission Street across from the project site; this building reaches a maximum height of approximately 65 feet, is clad entirely in brick, and is unique in its architectural form.

POTENTIAL ENVIRONMENTAL EFFECTS

The Eastern Neighborhoods PEIR included analyses of environmental issues including: land use; plans and policies; visual quality and urban design; population, housing, business activity, and employment (growth inducement); transportation; noise; air quality; parks, recreation, and open space; shadow; archeological resources; historic architectural resources; hazards; and other issues not addressed in the previously issued Initial Study for the Eastern Neighborhoods Rezoning and Area Plans. The proposed 1801 and 1863 Mission Street project is in conformance with the height, use and density for the site described in the Eastern Neighborhoods PEIR and would represent a small part of the growth that was forecast for the Eastern Neighborhoods plan areas. Thus, the plan analyzed in the Eastern Neighborhoods PEIR considered the incremental impacts of the proposed 1801 and 1863 Mission Street project. As a result, the proposed project would not result in any new or substantially more severe impacts than were identified in the Eastern Neighborhoods PEIR.

Significant and unavoidable impacts were identified in the Eastern Neighborhoods PEIR for the following topics: land use, historic architectural resources, transportation and circulation, and shadow. The proposed project would not remove any existing PDR uses and would therefore not contribute to any land use impact. The proposed project would not result in demolition, alteration, or modification of any historic resources. Therefore, the proposed project would not contribute to any historic resource impact. Traffic and transit ridership generated by the proposed project would not considerably contribute to the traffic and transit impacts identified in the Eastern Neighborhoods PEIR. Although at its highest point the proposed project would reach approximately 68 feet in height, the proposed project would not cast shadow on any parks or open spaces.

The Eastern Neighborhoods PEIR identified feasible mitigation measures to address significant impacts related to noise, air quality, archeological resources, historical resources, hazardous materials, and

⁴ Adam Varat, San Francisco Planning Department, *Community Plan Exemption Eligibility Determination, Citywide Planning and Policy Analysis, Case No. 2009.1011E, 1801 & 1837 Mission Street*, March 19, 2014. This document is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2009.1011E.

⁵ Jeff Joslin, San Francisco Planning Department, *Community Plan Exemption Eligibility Determination, Current Planning Analysis, Case No. 2009.1011E, 1801 and 1863 Mission Street*, January 28, 2015. This document is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2009.1011E.

transportation. **Table 1** lists the mitigation measures identified in the Eastern Neighborhoods PEIR and states whether each measure would apply to the proposed project.

Table 1 – Eastern Neighborhoods PEIR Mitigation Measures

Mitigation Measure	Applicability
E. Transportation	
E-1: Traffic Signal Installation	Not applicable: Plan-level mitigation by San Francisco Municipal Transportation Agency (SFMTA).
E-2: Intelligent Traffic Management	Not applicable: Plan-level mitigation by SFMTA.
E-3: Enhanced Funding	Not applicable: Plan-level mitigation by SFMTA & San Francisco County Transportation Authority.
E-4: Intelligent Traffic Management	Not applicable: Plan-level mitigation by SFMTA & Planning Department.
E-5: Enhanced Transit Funding	Not applicable: Plan-level mitigation by SFMTA.
E-6: Transit Corridor Improvements	Not applicable: Plan-level mitigation by SFMTA.
E-7: Transit Accessibility	Not applicable: Plan-level mitigation by SFMTA.
E-8: Muni Storage and Maintenance	Not applicable: Plan-level mitigation by SFMTA.
E-9: Rider Improvements	Not applicable: Plan-level mitigation by SFMTA.
E-10: Transit Enhancement	Not applicable: Plan-level mitigation by SFMTA
E-11: Transportation Demand Management	Not applicable: Plan-level mitigation by SFMTA
F. Noise	
F-1: Construction Noise (Pile Driving)	Applicable: Project includes pile driving. Project Mitigation Measure M-NO-1.
F-2: Construction Noise	Applicable: Temporary construction noise from use of heavy equipment. Project Mitigation Measure M-NO-2.
F-3: Interior Noise Levels	Applicable: Noise-sensitive uses where street noise exceeds 60 dBA. Requirement satisfied by sponsor.

Mitigation Measure	Applicability
F-4: Siting of Noise-Sensitive Uses	Applicable: Project includes siting of residential space in where street noise exceeds 60 dBA. Requirement satisfied by sponsor.
F-5: Siting of Noise-Generating Uses	Not applicable: Project would not include noise-generating uses.
F-6: Open Space in Noisy Environments	Applicable: Project includes open space where street noise exceeds 60 dBA. Project Mitigation Measure M-NO-3.
G. Air Quality	
G-1: Construction Air Quality	Applicable: Project required to comply with Construction Dust Control Ordinance; project located in area of poor air quality. Project Mitigation Measure M-AQ-1.
G-2: Air Quality for Sensitive Land Uses	Not applicable: Project required to comply with Health Code Article 38.
G-3: Siting of Uses that Emit Diesel Particulate Matter (DPM)	Not applicable: Project would not include uses that emit DPM.
G-4: Siting of Uses that Emit other Toxic Air Contaminants (TACs)	Not applicable: Project would not include uses that emit TACs.
J. Archeological Resources	
J-1: Properties with Previous Studies	Not applicable: No previous archeological research design and treatment plan is on file for the project site.
J-2: Properties with no Previous Studies	Applicable: Project located in Mission Dolores Archeological District. Requirement satisfied by sponsor.
J-3: Mission Dolores Archeological District	Applicable: Project involves 8 to 12 feet of soil excavation/disturbance where resources may be present in Mission Dolores Archeological District. Project Mitigation Measure M-CP-1.
K. Historical Resources	
K-1: Interim Procedures for Permit Review in the Eastern Neighborhoods Plan Area	Not applicable: Plan-level mitigation completed by Planning Department.
K-2: Amendments to Article 10 of the Planning Code Pertaining to Vertical Additions in the South End Historic District (East SoMa)	Not applicable: Plan-level mitigation completed by Planning Commission.

Mitigation Measure	Applicability
K-3: Amendments to Article 10 of the Planning Code Pertaining to Alterations and Infill Development in the Dogpatch Historic District (Central Waterfront)	Not applicable: Plan-level mitigation completed by Planning Commission.
L. Hazardous Materials	
L-1: Hazardous Building Materials	Applicable: Demolition of existing building. Project Mitigation Measure M-HZ-1.

Please see the attached Exhibit C: Mitigation Monitoring and Reporting Program (MMRP),⁶ for the complete text of the applicable mitigation measures. With implementation of these mitigation measures, the proposed project would not result in significant impacts beyond those analyzed in the Eastern Neighborhoods PEIR.

PUBLIC NOTICE AND COMMENT

A “Notification of Project Receiving Environmental Review” was mailed on April 22, 2014 to occupants of properties adjacent to the project site and to owners of properties within 300 feet of the project site. Overall, concerns and issues raised by the public in response to the notice were taken into consideration and incorporated in the environmental review as appropriate for CEQA analysis. No public comments were received regarding physical environmental effects.

CONCLUSION

As summarized above and further discussed in the CPE Checklist:⁷

1. The proposed project is consistent with the development density established for the project site in the Eastern Neighborhoods Rezoning and Area Plans;
2. The proposed project would not result in effects on the environment that are peculiar to the project or the project site that were not identified as significant effects in the Eastern Neighborhoods PEIR;
3. The proposed project would not result in potentially significant off-site or cumulative impacts that were not identified in the Eastern Neighborhoods PEIR;
4. The proposed project would not result in significant effects, which, as a result of substantial new information that was not known at the time the Eastern Neighborhoods PEIR was certified, would be more severe than were already analyzed and disclosed in the PEIR; and
5. The project sponsor will undertake feasible mitigation measures specified in the Eastern Neighborhoods PEIR to mitigate project-related significant impacts.

Therefore, the proposed project is exempt from further environmental review pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

⁶ The mitigation measures would be adopted as Conditions of Approval, and the MMRP would be attached to Planning Commission approval documents as Exhibit C.

⁷ The CPE Checklist is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2009.1011E.

ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	MONITORING AND REPORTING PROGRAM			
	Responsibility for Implementation	Mitigation/Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>MITIGATION MEASURES</p> <p><u>Project Mitigation Measure M-CP-1: Archeological Testing (Mitigation Measure J-3 of the Eastern Neighborhoods PEIR)</u></p> <p>Based on a reasonable presumption that archeological resources may be present on the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archeological consultant from the rotational Department Qualified Archeological Consultants List (QACL) maintained by the Planning Department archeologist. The project sponsor shall contact the Planning Department archeologist to obtain the names and contact information for the next three archeological consultants on the QACL. The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant’s work shall be conducted in accordance with this measure at the direction of the ERO. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and</p>	Project sponsor.	Prior to issuance of any permit for soil-disturbing activities and during construction.	Project Sponsor; ERO; archeologist.	Considered complete upon ERO’s approval of FARR.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation/Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
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comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of 4 weeks. At the direction of the ERO, the suspension of construction can be extended beyond 4 weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Section 15064.5(a)(c).

Consultation with Descendant Communities. On discovery of an archeological site¹ associated with descendant Native Americans, the Overseas Chinese, or other descendant group, an appropriate representative² of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site, and to consult with ERO regarding appropriate archeological treatment of the site; of recovered data from the site; and if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archeological Resources Report shall be provided to the representative of the descendant

¹ The term “archeological site” is intended to minimally include any archeological deposit, feature, burial, or evidence of burial.
² An “appropriate representative” of the descendant group is defined, in the case of Native Americans, as any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission; and in the case of the Overseas Chinese, the Chinese Historical Society of America. An appropriate representative of other descendant groups should be determined in consultation with the Planning Department archeologist.

MONITORING AND REPORTING PROGRAM

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group.

Archeological Testing Program. The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (ATP). The archeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project; the testing method to be used; and the locations recommended for testing. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes an historical resource under CEQA.

At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If, based on the archeological testing program, the archeological consultant finds that significant archeological resources may be present, the ERO, in consultation with the archeological consultant, shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. No archeological data recovery shall be undertaken without the prior approval of the ERO or the Planning Department archeologist. If the ERO determines that a significant

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archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor, either:

- A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or
- B) A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance, and that interpretive use of the resource is feasible.

Archeological Monitoring Program. If the ERO, in consultation with the archeological consultant, determines that an archeological monitoring program shall be implemented, the archeological monitoring program shall minimally include the following provisions:

- The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to the commencement of any project-related soils-disturbing activities. The ERO, in consultation with the archeological consultant, shall determine which project activities shall be archeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), or site

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<p>remediation shall require archeological monitoring because of the risk these activities pose to potential archeological resources and to their depositional context.</p> <ul style="list-style-type: none"> ▪ The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource. ▪ The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits. ▪ The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis. ▪ If an intact archeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile-driving/construction activities and equipment until the deposit is 				

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evaluated. If, in the case of pile-driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile-driving activity may affect an archeological resource, the pile-driving activity shall be terminated until an appropriate evaluation of the resource has been made, in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO.

Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.

Archeological Data Recovery Program. The archeological data recovery program shall be conducted in accordance with an archeological data recovery plan (ADRP). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. The ADRP

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will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- **Field Methods and Procedures.** Descriptions of proposed field strategies, procedures, and operations.
- **Cataloguing and Laboratory Analysis.** Description of selected cataloguing system and artifact analysis procedures.
- **Discard and De-accession Policy.** Description of and rationale for field and post-field discard and de-accession policies.
- **Interpretive Program.** Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.
- **Security Measures.** Recommended security

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measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.

- **Final Report.** Description of proposed report format and distribution of results.
- **Curation.** Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.

Human Remains and Associated or Unassociated Funerary Objects. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils-disturbing activity shall comply with applicable state and federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco; and in the event of the Coroner’s determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission, who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines, Section 15064.5[d]). The agreement should take into

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consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

Final Archeological Resources Report. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert in the final report.

Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one copy, and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound, one unbound, and one unlocked, searchable PDF copy on CD of the FARR, along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/CRHR. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented

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above.

Project Mitigation Measure M-NO-1: Construction Noise from Pile Driving (Mitigation Measure F-1 of the Eastern Neighborhoods PEIR)

Project sponsor, contractor(s).

During construction period.

Project sponsor to provide monthly noise reports during construction.

Considered complete upon final monthly report.

The project sponsor shall ensure that piles be pre-drilled wherever feasible to reduce construction-related noise and vibration. No impact pile drivers shall be used unless absolutely necessary. Contractors shall use pile-driving equipment with state-of-the-art noise shielding and muffling devices. To reduce noise and vibration impacts, sonic or vibratory sheetpile drivers, rather than impact drivers, shall be used wherever sheetpiles are needed. The project sponsor shall also require that contractors schedule pile-driving activity for times of the day that would minimize disturbance to neighbors.

Project Mitigation Measure M-NO-2: Construction Noise (Mitigation Measure F-2 of the Eastern Neighborhoods PEIR)

Project sponsor, contractor(s).

During construction period.

Project sponsor to provide monthly noise reports during construction.

Considered complete upon final monthly report.

The project sponsor shall develop a set of site-specific noise attenuation measures under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted to the Department of Building Inspection (DBI) to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the

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following control strategies as feasible:

- Erect temporary plywood noise barriers around a construction site, particularly where a site adjoins noise-sensitive uses;
- Utilize noise control blankets on a building structure as the building is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings housing sensitive uses;
- Monitor the effectiveness of noise attenuation measures by taking noise measurements; and
- Post signs on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem, with telephone numbers listed.

Project Mitigation Measure M-NO-3: Open Space in Noisy Environments (Mitigation Measure F-6 of the Eastern Neighborhoods PEIR)

To minimize effects on development in noisy areas, for new development including noise-sensitive uses, the Planning Department shall, through its building permit review process, in conjunction with noise analysis required pursuant to Mitigation Measure F-4, require that

Project sponsor, contractor(s).	Prior to entitlement/building permit approval.	Planning Department.	Considered completed upon approval of project plans by the Planning Department.
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<p>open space required under the Planning Code for such uses be protected, to the maximum feasible extent, from existing ambient noise levels that could prove annoying or disruptive to users of the open space. Implementation of this measure could involve, among other things, site design that uses the building itself to shield on-site open space from the greatest noise sources, construction of noise barriers between noise sources and open space, and appropriate use of both common and private open space in multi-family dwellings, and implementation would also be undertaken consistent with other principles of urban design.</p>	Project sponsor/ contractor(s).	Prior to construction activities requiring the use of off-road equipment.	Submit certification statement.	Project sponsor / contractor(s) and the ERO.	Considered complete on submittal of certification statement.
<p>Project Mitigation Measure M-AQ-1: Construction Air Quality (Mitigation Measure G-1 of the Eastern Neighborhoods PEIR)</p>					
<p>A. <i>Engine Requirements.</i></p>					
<p>1. All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed either U.S. Environmental Protection Agency (USEPA) or California Air Resources Board (ARB) Tier 2 off-road emission standards, and have been retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy. Equipment with engines meeting Tier 4 Interim or Tier 4 Final off-road emission standards automatically meet this</p>					

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<p>requirement.</p> <p>2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited.</p> <p>3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The Contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two minute idling limit.</p> <p>4. The Contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.</p>				
<p>B. <i>Waivers.</i></p> <p>1. The Planning Department's Environmental Review Officer or designee (ERO) may waive the alternative source of power requirement of Subsection (A)(2) if an alternative source of power is limited or infeasible at the project site. If the</p>				

MONITORING AND REPORTING PROGRAM

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<p>ERO grants the waiver, the Contractor must submit documentation that the equipment used for on-site power generation meets the requirements of Subsection (A)(1).</p> <p>2. The ERO may waive the equipment requirements of Subsection (A)(1) if: a particular piece of off-road equipment with an ARB Level 3 VDECS is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use off-road equipment that is not retrofitted with an ARB Level 3 VDECS. If the ERO grants the waiver, the Contractor must use the next cleanest piece of off-road equipment, according to Table below.</p>				

Table – Off-Road Equipment Compliance Step-down Schedule

Compliance Alternative	Engine Emission Standard	Emissions Control
1	Tier 2	ARB Level 2 VDECS
2	Tier 2	ARB Level 1 VDECS
3	Tier 2	Alternative Fuel*

How to use the table: If the ERO determines that the equipment requirements cannot be met, then the project sponsor would need to meet Compliance Alternative 1. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 1, then the Contractor must meet Compliance Alternative 2. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 2, then the Contractor must meet Compliance Alternative 3.

** Alternative fuels are not a VDECS.

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<p>C. <i>Construction Emissions Minimization Plan.</i> Before starting on-site construction activities, the Contractor shall submit a Construction Emissions Minimization Plan (Plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the Contractor will meet the requirements of Section A.</p> <ol style="list-style-type: none"> 1. The Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed, the description may include: technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used. 2. The ERO shall ensure that all applicable requirements of the Plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the Contractor agrees to comply fully with the Plan. 				

MONITORING AND REPORTING PROGRAM

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<p>3. The Contractor shall make the Plan available to the public for review on-site during working hours. The Contractor shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during working hours and shall explain how to request to inspect the Plan. The Contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.</p> <p>D. <i>Monitoring.</i> After start of construction activities, the Contractor shall submit quarterly reports to the ERO documenting compliance with the Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the Plan.</p>				
<p><u>Project Mitigation Measure M-HZ-1: Hazardous Building Materials Abatement (Mitigation Measure L-1 of the Eastern Neighborhoods PEIR)</u></p> <p>The project sponsor shall ensure that any equipment containing polychlorinated biphenyls (PCBs) or di (2 ethylhexyl) phthalate (DEHP), such as fluorescent</p>	Project sponsor	Prior to any demolition or construction activities.	Project sponsor; Planning Department.	Prior to any demolition or construction activities.

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light ballasts, are removed and properly disposed of according to applicable federal, state, and local laws prior to the start of renovation, and that any fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed of. Any other hazardous materials identified, either before or during work, shall be abated according to applicable federal, state, and local laws.

From: [BOS Legislation, \(BOS\)](#)
To: [Ben Terrall](#); [Steven Vettel](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [RUIZ-ESQUIDE, ANDREA \(CAT\)](#); [Hillis, Rich \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Sucre, Richard \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Subject: HEARING NOTICE: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Appeal Hearing June 8, 2021
Date: Tuesday, May 25, 2021 8:25:57 AM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board has scheduled a remote hearing for Special Order before the Board of Supervisors on **June 8, 2021, at 3:00 p.m.**, to hear an appeal of CEQA Categorical Exemption Determination, for the proposed 1801 Mission Street project.

Please find the following link to the hearing notice for the matter:

[Public Hearing Notice - May 25, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210486](#)

Best regards,

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
jocelyn.wong@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO Sent via Email and/or U.S. Postal Service

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a remote public hearing to consider the following appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Tuesday, June 8, 2021

Time: 3:00 p.m.

Location: REMOTE MEETING VIA VIDEOCONFERENCE

Watch: www.sfgovtv.org

Watch: SF Cable Channel 26, 78 or 99 (*depending on your provider*) once the meeting starts, the telephone number and Meeting ID will be displayed on the screen.

Public Comment Call-In: <https://sfbos.org/remote-meeting-call>

Subject: **File No. 210486.** Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on November 18, 2020, for the proposed project at 1801 Mission Street, Assessor's Parcel Block No. 3548, Lot No. 039 for establishment of a limited restaurant use (coffee shop) on the ground floor of a vacant commercial space, measuring 1,763 square feet within a newly-constructed seven-story residential building. (District 9) (Appellant: Ben Terrall, on behalf of the Cultural Action Network) (Filed April 26, 2021)

On March 17, 2020, the Board of Supervisors authorized their Board and Committee meetings to convene remotely and allow for remote public comment due to the Coronavirus -19 pandemic. Therefore, Board of Supervisors meetings that are held through videoconferencing will allow remote public comment. Visit the SFGovTV website (www.sfgovtv.org) to stream the live meetings or watch them on demand.

PUBLIC COMMENT CALL-IN

WATCH: SF Cable Channel 26, 78 or 99 (*depending on your provider*) once the meeting starts, the telephone number and Meeting ID will be displayed on the screen; or

VISIT: <https://sfbos.org/remote-meeting-call>

Please visit the Board's website (<https://sfbos.org/city-board-response-covid-19>) regularly to be updated on the City's response to COVID-19 and how the legislative process may be impacted.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102 or sent via email (board.of.supervisors@sfgov.org). Information relating to this matter is available in the Office of the Clerk of the Board or the Board of Supervisors' Legislative Research Center (<https://sfbos.org/legislative-research-center-lrc>). Agenda information relating to this matter will be available for public review on Friday, June 4, 2021.

For any questions about this hearing, please contact one of the Legislative Clerks:

Lisa Lew (lisa.lew@sfgov.org ~ (415) 554-7718)

Jocelyn Wong (jocelyn.wong@sfgov.org ~ (415) 554-7702)

Please Note: *The Department is open for business, but employees are working from home. Please allow 48 hours for us to return your call or email.*



Angela Calvillo
Clerk of the Board of Supervisors
City and County of San Francisco

jw:ll:ams

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

PROOF OF MAILING

Legislative File No. 210486

Description of Items: Hearing - Appeal of Determination of Environmental Exemption -
1801 Mission Street -277 Notice Mailed

I, Jackie Hickey, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: May 20, 2021

Time: 3:00 PM

USPS Location: Repro Pick-up Box in Building Management's Office (Rm 8)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: *Jackie Hickey*

Instructions: Upon completion, original must be filed in the above referenced file.

From: [BOS Legislation, \(BOS\)](#)
To: [Ko, Yvonne \(CPC\)](#); [Yeung, Tony \(CPC\)](#); [BOS-Operations](#)
Cc: [BOS Legislation, \(BOS\)](#)
Subject: APPEAL FILING FEE PICKUP: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Appeal Hearing June 8, 2021
Date: Wednesday, May 5, 2021 10:19:33 AM
Attachments: [image001.png](#)
[Appeal Fee Waiver 042621.pdf](#)
[Appeal Check Pickup.doc](#)

Hi Yvonne,

The check for the appeal filing fee for the CEQA Exemption Determination appeal of the proposed 1801 Mission Street project, is ready to be picked up at the Clerk's Office. Please coordinate with our Operations team, copied here, to set up a date and time for pick up. A fee waiver was filed for this project and is attached this to email.

Ops,

Check No. 1774 should be in your possession currently. Please have Planning sign the attached pick-up form and scan it to leg clerks when completed.

Thank you!

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
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From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Sent: Wednesday, May 5, 2021 10:15 AM

To: Ben Terrall <btterrall@gmail.com>

Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; STACY, KATE (CAT) <Kate.Stacy@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; RUIZ-ESQUIDE, ANDREA (CAT) <Andrea.Ruiz-Esquide@sfcityatty.org>; Hillis, Rich (CPC) <rich.hillis@sfgov.org>; Teague, Corey (CPC) <corey.teague@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Jain, Devyani (CPC) <devyani.jain@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lewis, Don (CPC) <don.lewis@sfgov.org>; Varat, Adam (CPC) <adam.varat@sfgov.org>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; Sucre, Richard (CPC) <richard.sucre@sfgov.org>; Rosenberg, Julie (BOA) <julie.rosenberg@sfgov.org>; Longaway, Alec (BOA) <alec.longaway@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Mchugh, Eileen (BOS) <eileen.e.mchugh@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Subject: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Appeal Hearing June 8, 2021

Greetings,

The Office of the Clerk of the Board has scheduled for a remote hearing Special Order before the Board of Supervisors on **June 8, 2021, at 3:00 p.m.** Please find linked below an appeal letter regarding the proposed 1801 Mission Street project, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Appeal Letter - April 26, 2021](#)

[Planning Department Memo - May 3, 2021](#)

[Clerk of the Board Letter - May 5, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210486](#)

Regards,

Jocelyn Wong

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

T: 415.554.7702 | F: 415.554.5163

jocelyn.wong@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



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May 6, 2021

File No. 210275

Planning Case No. 2020-010532PRJ

Received from the Board of Supervisors Clerk's Office one check, one in the amount of Six Hundred Sixty Five Dollars (\$665) the filing fee paid by Kelly Hill for the appeal of the Categorical Exemption Determination under CEQA for the proposed 1801 Mission Street project:

Planning Department By:

Tony Young
Print Name

[Signature] 5/6/21
Signature and Date

From: [BOS Legislation. \(BOS\)](#)
To: [Ben Terrall](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [RUIZ-ESQUIDE, ANDREA \(CAT\)](#); [Hillis, Rich \(CPC\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Sucre, Richard \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation. \(BOS\)](#)
Subject: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Appeal Hearing June 8, 2021
Date: Wednesday, May 5, 2021 10:14:45 AM
Attachments: [image001.png](#)

Greetings,

The Office of the Clerk of the Board has scheduled for a remote hearing Special Order before the Board of Supervisors on **June 8, 2021, at 3:00 p.m.** Please find linked below an appeal letter regarding the proposed 1801 Mission Street project, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Appeal Letter - April 26, 2021](#)
[Planning Department Memo - May 3, 2021](#)
[Clerk of the Board Letter - May 5, 2021](#)

I invite you to review the entire matters on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 210486](#)

Regards,

Jocelyn Wong

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May 5, 2021

Ben Terrall
2940 16th Street
San Francisco, CA 94114

**Subject: File No. 210486 - Appeal of California Environmental Quality Act (CEQA)
Determination of Exemption from Environmental Review - Proposed
1801 Mission Street Project**

Dear Mr. Terrall:

The Office of the Clerk of the Board is in receipt of a memorandum dated May 3, 2021, from the Planning Department regarding their determination on the timely filing of appeal of the Exemption Determination issued by the Planning Department under CEQA for the proposed 1801 Mission Street project.

The Planning Department has determined that the appeal was filed in a timely manner (copy attached).

Pursuant to Administrative Code, Section 31.16, a remote hearing date has been scheduled for **Tuesday, June 8, 2021, at 3:00 p.m.**, at the Board of Supervisors meeting.

Please provide to the Clerk's Office by noon:


20 days prior to the hearing: names and addresses of interested parties to be
Wednesday, May 19, 2021 notified of the hearing, in spreadsheet format; and

11 days prior to the hearing: any documentation which you may want available to
Friday, May 28, 2021 the Board members prior to the hearing.

For the above, the Clerk's office requests electronic files be sent to bos.legislation@sfgov.org.

If you have any questions, please feel free to contact Legislative Clerks Lisa Lew at (415) 554-7718, Jocelyn Wong at (415) 554-7702, or Brent Jalipa at (415) 554-7712.

Very truly yours,


Angela Calvillo
Clerk of the Board

jw:ll:ams

- c: Anne Pearson, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
Andrea Ruiz-Esquide, Deputy City Attorney
Rich Hillis, Director, Planning Department
Corey Teague, Zoning Administrator, Planning Department
Scott Sanchez, Acting Deputy Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Devyani Jain, Deputy Environmental Review Officer, Planning Department
Joy Navarette, Environmental Planning, Planning Department
Don Lewis, Environmental Planning, Planning Department
Adam Varat, Acting Director of Citywide Planning, Planning Department
Dan Sider, Director of Executive Programs, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
Jonas Ionin, Planning Commission Secretary, Planning Department
Richard Sucre, Staff Contact, Planning Department
Julie Rosenberg, Executive Director, Board of Appeals
Alec Longaway, Legal Process Clerk, Board of Appeals



CATEGORICAL EXEMPTION APPEAL TIMELINESS DETERMINATION

Date: April 30, 2021
To: Angela Calvillo, Clerk of the Board of Supervisors
From: Lisa Gibson, Environmental Review Officer – (628) 652-7571
RE: **Appeal Timeliness Determination –1801 Mission Street Categorical Exemption;
Planning Department Case No. 2020-010532PRJ**

On April 26, 2021, Ben Terral, member of Cultural Action Network (Appellant), filed an appeal with the Office of the Clerk of the Board of Supervisors of the Categorical Exemption for the proposed project at 1801 Mission Street. As explained below, the appeal is timely.

Date of Approval Action	30 Days after Approval Action	Appeal Deadline (Must Be Day Clerk of Board’s Office Is Open)	Date of Appeal Filing	Timely?
Thursday, March 25, 2021	Saturday, April 24, 2021	Monday, April 26, 2021	Monday, April 26, 2021	Yes

Approval Action: On November 18, 2020, the Planning Department issued a Categorical Exemption for the proposed project. The Approval Action was the Discretionary Review hearing for the project at Planning Commission, which occurred on Thursday, March 25, 2021 (Date of the Approval Action).

Appeal Deadline: Sections 31.16(a) and (e) of the San Francisco Administrative Code state that any person or entity may appeal an exemption determination (including a CPE) to the Board of Supervisors during the time period beginning with the date of the exemption determination (including a CPE) and ending 30 days after the Date of the Approval Action. The 30th day after the Date of the Approval Action was Saturday, April 24, 2021. The next day when the Office of the Clerk of the Board of Supervisors was open was Monday, April 26, 2021 (Appeal Deadline).

Appeal Filing and Timeliness: The Appellant filed the appeal of the exemption determination Monday, April 26, 2021, prior to the end of the Appeal Deadline. Therefore, the appeal is timely.

From: [BOS Legislation, \(BOS\)](#)
To: [Hillis, Rich \(CPC\)](#)
Cc: [PEARSON, ANNE \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [RUIZ-ESQUIDE, ANDREA \(CAT\)](#); [Teague, Corey \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lewis, Don \(CPC\)](#); [Varat, Adam \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Sucre, Richard \(CPC\)](#); [Rosenberg, Julie \(BOA\)](#); [Longaway, Alec \(BOA\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Subject: Appeal of CEQA Exemption Determination - Proposed 1801 Mission Street Project - Timeliness Determination
Date: Wednesday, April 28, 2021 8:20:58 AM
Attachments: [Appeal Ltr 042621.pdf](#)
[04.27.21 - COB Ltr - CEQA Det.pdf](#)
[image001.png](#)

Dear Director Hillis,

The Office of the Clerk of the Board is in receipt of an appeal of the Exemption Determination for the proposed 1801 Mission Street project. The appeal was filed by Ben Terrall, on behalf of the Culture Action Network.

Please find the attached letter of appeal and timely filing determination request letter from the Clerk of the Board. Kindly review for timely filing determination. Thank you.

Best regards,

Jocelyn Wong

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April 27, 2021

To: Rich Hillis
Planning Director

From: *ACC* Angela Calvillo
Clerk of the Board of Supervisors

Subject: Appeal of California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review - 1801 Mission Street

An appeal of the CEQA Determination of Exemption from Environmental Review for the proposed 1801 Mission Street was filed with the Office of the Clerk of the Board on April 26, 2021, by Ben Terrall, on behalf of the Cultural Action Network.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner.

If you have any questions, please feel free to contact Legislative Clerks Lisa Lew at (415) 554-7718, Jocelyn Wong at (415) 554-7702 or Brent Jalipa at (415) 554-7712.

c: Anne Pearson, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
Andrea Ruiz-Esquide, Deputy City Attorney
Corey Teague, Zoning Administrator, Planning Department
Scott Sanchez, Acting Deputy Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Devyani Jain, Deputy Environmental Review Officer, Planning Department
Joy Navarette, Environmental Planning, Planning Department
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Adam Varat, Acting Director of Citywide Planning, Planning Department
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Aaron Starr, Manager of Legislative Affairs, Planning Department
Jonas Ionin, Planning Commission Secretary, Planning Department
Richard Sucre, Staff Contact, Planning Department
Julie Rosenberg, Executive Director, Board of Appeals
Alec Longaway, Legal Process Clerk, Board of Appeals

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date _____

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Subject:

The text is listed below or attached:

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only: