



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

## Categorical Exemption Appeal 3516-3526 Folsom Street

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**DATE:** December 5, 2016  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Lisa Gibson, Acting Environmental Review Officer – (415) 558-9032  
Joy Navarrete, Senior Environmental Planner – (415) 575-9040  
Justin Horner, Environmental Coordinator – (415) 575-9023  
**RE:** Planning Case No. 2013.1383ENV  
Appeal of Categorical Exemption for 3516-3512 Folsom Street  
**HEARING DATE:** December 13, 2016  
**ATTACHMENTS:** A. Categorical Exemption Determination

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**PROJECT SPONSOR:** Fabian Lannoye, Bluorange Designs, 415- 533-0415  
**APPELLANT:** Ryan Patterson on behalf of Bernal Heights South Slope Organization, Bernal Safe & Livable, Neighbors Against the Upper Folsom Street Extension, Gail Newman and Marilyn Waterman

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### 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”) issuance of a Categorical Exemption under the California Environmental Quality Act (“CEQA Determination”) for the proposed project at 3516-3526 Folsom Street (the “Project”).

The Department, pursuant to Title 14 of the CEQA Guidelines, issued a Categorical Exemption for the Project on July 8, 2016 finding that the proposed Project is exempt from the California Environmental Quality Act (CEQA) as a Class 3 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 the Department for additional environmental review.

### SITE DESCRIPTION & EXISTING USE

The project site consists of two vacant lots located on the west side of the unimproved (“paper street”) segment of Folsom Street between Chapman Street and Bernal Heights Boulevard in the Bernal Heights neighborhood. The project site does not have vehicular or pedestrian access as the portion of Folsom

Street providing access to the project site is unimproved. The project lots are both 25-feet-wide and 70-foot-deep and total 1,750 square feet in size. The project site has an approximately 32 percent slope to the north. To the south of the project site is a vacant lot and a two-story, single-family residence at 3574 Folsom Street (constructed in 1925). To the east of the project site are four vacant lots and a two-story, single-family residence at 3577 Folsom Street that also fronts on Chapman Street (constructed in 1925). There is a concrete driveway that leads from Chapman Street to the 3574 Folsom Street and 3577 Folsom Street residences. To the north of the project site is the Bernal Heights Community Garden, and Bernal Heights Park is located farther to the north across Bernal Heights Boulevard. Residential structures in the project vicinity are primarily two to three stories and are either single-family or two-family dwellings. The surrounding parcels are zoned either RH-1 (to the south of the project site) or Public (to the north of the project site). There is a PG&E gas transmission pipeline beneath Folsom Street that extends from Bernal Heights Boulevard to Alemany Boulevard.

## **PROJECT DESCRIPTION**

The project site is located on the block bounded by Bernal Heights Boulevard to the north, Gates Street to the west, Powhattan Avenue to the south and Folsom Street to the east. The project site is located along the west side of an approximately 145 foot long unimproved segment of Folsom Street, north of Chapman Street, that ends at the Bernal Heights Community Garden. This unimproved right-of-way is known as a "paper street." Undeveloped land along this unimproved segment of Folsom Street has been subdivided into six lots, three on each side of Folsom Street. PG&E Natural Gas Transmission Pipeline 109 runs along Folsom Street under the project site. The project site is at a slope of approximately 32%.

The proposed project involves the construction of two single-family residences on two of the vacant lots along the west side of the unimproved portion of Folsom Street, and the construction of the connecting segment of Folsom Street to provide vehicle and pedestrian access to the project site. Both single-family homes would be 27 feet tall, two-story-over-basement buildings and would each include two off-street vehicle parking spaces accessed from a twelve-foot-wide garage door.

The 3516 Folsom Street building would be approximately 2,230 square feet in size with a side yard along its north property line. The 3526 Folsom Street building would be approximately 2,210 square feet in size with a side yard along its south property line. The proposed buildings would include roof decks and a full fire protection sprinkler system. The proposed buildings would be supported by a shallow building foundation using a mat slab with spread footings.

The proposed Folsom Street extension improvements would include an approximately 20-foot-wide road with an approximately 10-foot-wide sidewalk on the west side of the street, adjacent to the proposed residences. The proposed sidewalk would be stepped, would incorporate landscaping that would perform storm water retention, and would provide public access to Bernal Heights Boulevard/Bernal Heights Park (along the west side of the Bernal Heights Community Garden). The proposed project would not create direct vehicular access to Bernal Heights Boulevard as the Folsom Street extension would terminate at the Bernal Heights Community Garden. Construction of the street extension would

require the removal of the existing landscaped area within the public right-of-way where Folsom Street meets Chapman Street. An existing driveway utilized by both the 3574 Folsom Street and 3577 Folsom Street buildings would also be removed; however, the extension would provide access to the two existing residences.

The proposed project would include the installation of new street trees (subject to approval from PG&E) and street lighting on the west side of the street. No on-street parking would be provided along the Folsom Street extension. In addition to providing utilities for the proposed residences, the project sponsor would install utilities for the four vacant lots located on the "paper street" segment of Folsom Street (one on the west side and three on the east side). No residences are proposed at this time on those lots; the proposed connections would be provided to minimize disruption in the case of future development.

Construction would continue for approximately 12 months and would require excavation of up to approximately 10 feet below the existing ground surface.

## **BACKGROUND**

### **September 25, 2013—Environmental Evaluation Application Filed**

On September 25, 2013, Fabien Lannoye of Bluorange Designs (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for CEQA determination for the project described above.

### **July 8, 2016—CEQA Clearance<sup>1</sup>**

The Department determined that the project was categorically exempt under CEQA Class 3 New Construction and Conversion of Small Structures (CEQA Guidelines Section 15303(a)), and that no further environmental review was required.

### **October 13, 2016- Discretionary Review and Approval by Planning Commission**

The Planning Commission reviewed Discretionary Review Requests (Building Permit Application Nos. 2013.12.16.4318 and 2013.12.16.4322) at the October 13, 2016 Planning Commission Hearing. The Planning Commission approved the proposed project by not taking Discretionary Review and approving the project as proposed and in accordance with Chapter 31 of the San Francisco Administrative Code.

### **November 14, 2016—CEQA Appeal Filed**

Ryan J Patterson on behalf of Bernal Heights South Slope Organization, Bernal Safe & Livable, Neighbors Against the Upper Folsom Street Extension, Gail Newman and Marilyn Waterman (hereafter "Appellant") filed an appeal of the Categorical Exemption determination. The appeal letter was dated November 14, 2016 and filed with the Clerk of the Board on the same day. The appeal letter contained attached letters in support of the appeal from the Sierra Club San Francisco Group and the Bernal Heights Democratic Club, as well as copies of petitions from residents in support of the Discretionary Review Application noted above.

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<sup>1</sup> A Categorical Exemption was first issued for the proposed project on March 26, 2014. That Categorical Exemption was subsequently rescinded and a revised Categorical Exemption was issued on July 8, 2016.

**November 18, 2016—CEQA Appeal Timely Filed**

The Department determined that the appeal of the CEQA determination was timely filed and advised the Clerk of the Board to schedule the CEQA appeal hearing in compliance with Section 31.16(b)(4) of the San Francisco Administrative Code.

**CEQA GUIDELINES**

**Categorical Exemptions**

Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and are exempt from further environmental review.

In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment, and therefore are categorically exempt from the requirement for the preparation of further environmental review.

CEQA State Guidelines Section 15303 (New Construction or Conversion of Small Structures), or Class 3(a), allows for the construction of up to three single-family residences in urbanized areas and water main, sewage, electrical, gas and other utility extensions, including street improvements, to serve such construction.

In determining the significance of environmental effects caused by a project, CEQA State 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 State Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

**APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES**

The concerns raised in the November 14, 2016 appeal letter are cited below and are followed by the Department's responses.

**Issue 1: The Appellant asserts that there are potentially significant environmental impacts of the proposed project due to unusual circumstances related to the proposed project's location near PG&E Pipeline 109.**

**Response 1: The Appellant has not provided any evidence that there are unusual circumstances that present a reasonable possibility of a significant effect on the environment.**

The determination of whether a project is eligible for a categorical exemption is based on a two-step analysis: (1) determining whether the project meets the requirements of the categorical exemption, and (2) determining whether there are unusual circumstances at the site or with the proposal that would result in a reasonable possibility of a significant effect. The Appellant has not established what the unusual circumstances are at the site or with the project proposal. Instead, the Appellant identifies factors contributing to potentially significant environmental effects. These factors are each addressed below in Response 2. This response will focus on the Appellant's assertion that there are unusual circumstances that present a reasonable possibility of a significant effect on the environment.

The Appellant states that the project site is in a rare locale because it is "the only High Consequence Area in San Francisco where a vintage, 26-inch PG&E gas transmission pipeline is unprotected by asphalt for 125 feet—buried in 'variable topography' terrain, and that this section of Pipeline 109 raises concerns "identical" to the causes leading to the San Bruno explosion.

PG&E Transmission Pipeline 109 runs along Folsom Street from the 280 Freeway to Bernal Heights Boulevard, after which it circles Bernal Heights Park's eastern edge before continuing onto Alabama Street, Cesar Chavez Street and neighborhoods along Potrero Hill, Dogpatch and the Central Waterfront. The Pipeline's alignment takes it through a variety of residential neighborhoods in the southeast area of the City, and other similar pipelines run beneath streets in other areas of the city (see Figure 1). The presence of a gas transmission pipeline beneath areas adjacent to residential development is not unusual in San Francisco or throughout the state because residential homes are commonly served by gas lines. A High Consequence Area is defined under the Code of Federal Regulation<sup>2</sup> and includes any urbanized area, including the entire area of the City and County of San Francisco and nearly all of the urbanized areas in the San Francisco Bay Area. As gas transmission pipelines run under streets and roads throughout urbanized parts of the Bay Area, it is not a unique circumstance for a pipeline to run through a High Consequence Area.

According to PG&E, Pipeline 109 was installed in 1981 and was successfully strength tested at the time of installation. It has a maximum allowable operating pressure of 150 pound per square inch gage, which is 19.8% of the pipe's specified minimum yield strength. It is patrolled at least quarterly and is surveyed for leaks at least annually. PG&E uses a cathodic protection system on its pipelines to combat pipeline corrosion, and the system is inspected every two months. PG&E performed an External Corrosion Direct Assessment, which involves excavation and physical inspection of the pipeline, in 2009.

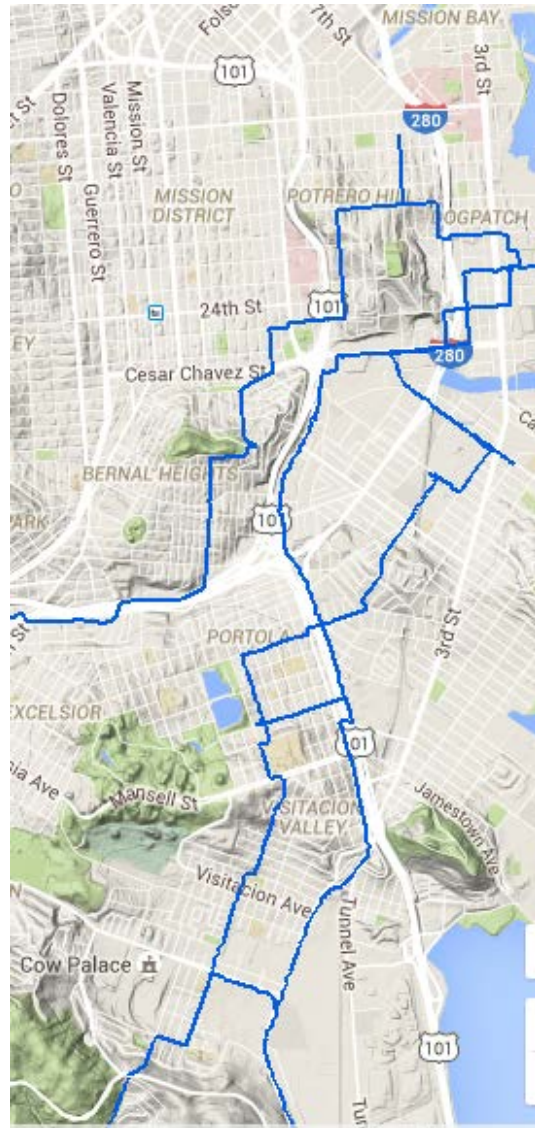
PG&E noted that Pipeline 109 differs from the San Bruno pipeline in that it operates at a much lower pressure, is smaller in diameter and is newer (the San Bruno pipeline was installed in 1954). The pipeline is operated at lower pressure specifically to reduce risk. PG&E has stated that the construction of the two homes would present no particular issues with respect to patrolling and maintaining the pipeline, as the

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<sup>2</sup> 49 CFR Part 192, Subpart O §192.903. "High consequence area means an area established by one of the methods described in paragraphs or (2) as follows: (1) An area defined as - (i) A Class 3 location under § 192.5; or (ii) A Class 4 location under § 192.5; or (iii) Any area in a Class 1 or Class 2 location where the potential impact radius is greater than 660 feet (200 meters), and the area within a potential impact circle contains 20 or more buildings intended for human occupancy; or (iv) Any area in a Class 1 or Class 2 location where the potential impact circle contains an identified site." A Class 3 location (i, above) is any location where there are 46 or more dwelling units within 200 meters of a pipeline, which includes all areas of San Francisco.

proposed home sites are no closer to the pipeline than existing residential properties on Folsom Street and other areas of San Francisco.<sup>3</sup>

Figure 1. PG&E Gas Transmission Line Network, Southeastern San Francisco



<sup>3</sup> Attachment to San Francisco Planning Commission Staff Report, Items 12(a) and 12(b), San Francisco Planning Commission, May 5, 2016. Found here: [http://commissions.sfplanning.org/cpcpackets/2013.1383DRP\\_2016-04-28.pdf](http://commissions.sfplanning.org/cpcpackets/2013.1383DRP_2016-04-28.pdf)

The Appellant states that this case is unique because it is the only location in San Francisco where a gas pipeline runs under undeveloped hillside—that all other gas pipelines that run under public rights-of-way in San Francisco are protected by asphalt. Earth movement and street improvements and maintenance along public rights of way under which PG&E natural gas transmission lines run do not constitute an unusual circumstance. PG&E natural gas lines run under a number of small and large streets in San Francisco that have experienced, and will continue to experience, maintenance that includes earth movement, excavation and related work in proximity to a natural gas transmission line.

As was stated on page 5 of the original Categorical Exemption, Section 4216.2(a)(1) of the California Government Code requires that any contractor or resident that excavates on private property must call 811 (Underground Service Alert (USA) North) at least two business days before excavation. USA will inform PG&E of the request to excavate and, in the case of work done in proximity to a pipeline such as that proposed by the Project Sponsor, require that a PG&E standby employee be contacted. PG&E staff must physically observe a safe excavation and must be present for any excavation within ten feet of their transmission lines, and will instruct and guide the excavating party, on-site, to avoid damage to the pipeline. These practices apply in the case of both housing construction and road improvements anywhere in San Francisco adjacent to a gas transmission pipeline. These practices, as required by law, are in place to ensure construction activities do not substantially affect underground services, including natural gas pipelines. Furthermore, the proposed project, including street improvements, would be subject to the same PG&E plan approvals and oversight as other excavation and street improvements in San Francisco.

While the Appellant provides statements regarding the project and conditions of the site and vicinity, the Appellant has not established that any of these conditions are unusual and that due to these unusual conditions, a significant environmental effect may result from implementation of the project. Furthermore, even if the Appellant were to establish that the location of this pipeline in proximity to the site were somehow unusual, PG&E regulations, which are approved and subject to the authority of the California Public Utilities Commission, require review of proposed plans for any work within 10 feet of their facilities and requires PG&E staff be present on-site whenever any work within this distance of a transmission line is performed. These existing regulations would ensure that any potential hazards cited by the Appellant do not occur.

**Issue 2: The Appellant claims that the project site is a sensitive and hazardous environment, due, in part, to the steepness of the project site, and emergency vehicle access, and therefore the project is ineligible for a Categorical Exemption.**

**Response 2: The Appellant has not provided substantial evidence that the project site is located in a sensitive or hazardous environment, as defined by the CEQA Guidelines.**

According to the CEQA Guidelines Section 15301, Categorical Exemptions may be used for Class 3-eligible projects except in cases where the project may negatively impact an environmental resource of critical or hazardous concern which is “designated, precisely mapped, and officially adopted pursuant to

law by federal, state, or local agencies.” The Appellant has not provided any evidence that the project site is located in a sensitive or hazardous area that is designated, mapped and officially adopted.

As noted on page 3 of the original Categorical Exemption, the project site is mapped in an area subject to the Slope Protection Act, adopted by the Board of Supervisors (BOS) in 2008. This ordinance created procedures for additional review of slope stability by DBI for properties within certain mapped areas and established a Structural Advisory Committee for review of permit applications within this area. The BOS found that the public health, safety, and welfare would be best protected if the Building Official requires permits for new construction in these areas to undergo additional review for structural integrity and potential effects on slope stability, including submission to the Structural Advisory Commission for consideration. If the Structural Advisory Commission finds that a project would result in unsafe conditions that cannot be addressed to the satisfaction of the Committee, the Building Official must deny the permit. Adherence to this ordinance has been found to adequately protect the public health, safety, and welfare. Thus, the existing regulatory program and requirements are sufficient to ensure that the proposed project would not result in a significant impact related to slope stability.

The project site contains no other environmental resource of hazardous or critical concern that has been designated or precisely mapped. Therefore, the project site is not located in a sensitive or hazardous environment for the purposes of CEQA Guidelines’ exceptions to Categorical Exemptions. The potential for the proposed project to result in significant environmental effects due to its location near the PG&E pipeline and the steepness of the slope are addressed in Response 1 and below, respectively. Potential environmental effects to emergency vehicle access and neighborhood character are addressed below and in Response 3.

The proposed project would create a street with a grade from 34% to 36.22% grade. While this would be a steep street, indeed among the steepest in San Francisco, such grades are not entirely unusual in San Francisco, particularly in the area south of Bernal Hill. Prentiss Street, Bradford Street, and Nevada Street, both in proximity to the project site and south of Bernal Hill, have comparable grades.<sup>4</sup>

The Project Sponsor has consulted the San Francisco Fire Department (SFFD) regarding emergency access.<sup>5</sup> While the width and grade of the proposed street improvement preclude SFFD apparatus from traversing the proposed street, the proposed project conforms to Fire Code Section 503.1.1, which requires all portions of the exterior walls of the first story of any constructed building to be within 150 feet of an approved fire apparatus access road. Both Folsom Street and Bernal Heights Boulevard are accessible to SFFD apparatus and are within 150 feet of all portions of the exterior walls of the first floor of both proposed homes. Furthermore, Fire Code Section 503.1.1 allows a Fire Code Official to offer an exception to the 150 foot requirement if subject buildings are equipped with an approved automatic sprinkler system. While the Project Sponsor is not requesting an exception to Fire Code Section 503.1.1, the

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<sup>4</sup> The Appeal Letter also notes that the proposed street would not necessarily be accepted by the City and that there may be issues related to maintenance as a maintenance agreement among all property owners facing the proposed street has not yet been finalized. Acceptance of liability or maintenance responsibility is not a physical environmental effect, so this issue is not relevant to the consideration of the appropriateness of the categorical exemption issuance under CEQA.

<sup>5</sup> Sponsor meeting with SFFD Assistant Fire Marshall Rich Hill, April 29, 2016.



proposed homes include automatic sprinkler systems. As the proposed houses are within 150 feet of approved fire access roads and include automatic sprinkler systems, the proposed project conforms with the Fire Code and the project therefore does not present a hazardous condition with respect to public safety related to emergency vehicle access.

Ultimately, however, the decision to approve the proposed street will be made by Public Works (PW). PW has received the sponsor's Street Improvement Permit application and has determined that the sponsor will have to apply for a Major Encroachment permit for the proposed street.<sup>6</sup> PW will apply the design and safety standards contained within its Subdivision Regulations<sup>7</sup> in its consideration of the application, which will include the preparation of a soils report and geotechnical report specifically for the proposed street. The proposed street will also require a General Plan Referral (GPR). The Planning Department's determination that the proposed road is exempt from environmental review under CEQA, or that the site of the proposed street is not a unique or hazardous condition under CEQA, does not constitute approval of the proposed street.

**Issue 3: The Appellant asserts that the proposed project would result in significant environmental impacts related to stormwater, traffic, the blocking of scenic vistas, parking, public health (garbage collection), and seismic safety.**

**Response 3: The Appellant has not provided substantial evidence to support a reasonable possibility that the project could result in significant environmental impacts related to these resources areas.**

#### Stormwater

The Appellant asserts that the improvement of the street would have unspecified environmental impacts related to drainage. As noted on page 8 of the original Categorical Exemption, while the proposed project would increase impervious surfaces on the project site, the proposed project may also improve drainage by installing drainage controls to direct run-off into the combined sewer system at a currently uncontrolled site. DPW's Subdivision Regulations require proposed streets to "remove sewage and storm water from each lot or parcel of land, and to remove storm water from all roads, streets, and sidewalks."<sup>8</sup> The proposed project will also be required to comply with SFPUC's design guidelines and before the street improvement permit can be finalized, SFPUC must review and approve the proposed plans. Therefore, the proposed project would not have significant environmental impacts related to drainage.<sup>9</sup>

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<sup>6</sup> Email from Rahul Shah, San Francisco Public Works Assistant Engineer, December 2, 2016.

<sup>7</sup> [http://www.sfpublishworks.org/sites/default/files/4740-2015%20Subdivision%20Regulations\\_final.pdf](http://www.sfpublishworks.org/sites/default/files/4740-2015%20Subdivision%20Regulations_final.pdf). While the proposed project does not include a subdivision, DPW staff has indicated that the infrastructure design standards contained in the Subdivision Regulations represent their most detailed treatment of their standards and would apply to the proposed project (phone conversation with Paul Mabry, DPW Chief Surveyor, November 28, 2016).

<sup>8</sup> *Ibid.* Page 68.

<sup>9</sup> The Appeal Letter also notes that the proposed street would not necessarily be accepted by the City and that there may be issues related to maintenance as a maintenance agreement among all property owners facing the proposed street has not yet been finalized. Acceptance of liability or maintenance responsibility is not a physical environmental effect, so this issue is not covered by CEQA.

### Traffic

The Appellant asserts that the proposed project would be “seriously detrimental” to traffic in the area due to the neighborhood’s narrow streets and the proposed project’s lack of parking and street improvements. The Appellant also states that the Project site and vicinity present unique circumstances with respect to traffic because the location is the only viable entrance to a neighborhood of 28 homes and therefore the addition of vehicle trips from even two additional homes would pose “a significant public safety hazard.”

As noted on pages 7-8 of the original Categorical Exemption, while the addition of residential units can increase car trips, the Department determined that the two homes included in the proposed project would not generate a volume of vehicle trips that would adversely affect the local transportation system. Using the Planning Department’s 2002 Transportation Impact Analysis Guidelines for Environmental Review (October 2002), the proposed project is estimated to generate approximately nine daily automobile trips.<sup>10</sup> The change in traffic in the project area as a result of the proposed project would be indiscernible to most drivers in this particular location. The proposed project would add a negligible increment of vehicle traffic to the cumulative long-term traffic increase on the neighborhood’s roadway network. Thus, the project would not substantially affect the neighborhood’s existing or cumulative traffic conditions.

### Blocking of Vistas

The Appellant asserts that the proposed project would create a wall that would block significant public vistas from Bernal Heights Boulevard that would constitute a significant environmental impact. The CEQA Guidelines do not permit a categorical exemption to be used for a project that would result in damage to scenic resources “within a highway officially designated as a state scenic highway.” Neither Bernal Heights Boulevard nor any other nearby street is a designated state scenic highway.

As noted on pages 5-6 of the original Categorical Exemption, the project site is located downhill from Bernal Heights Park and Bernal Heights Boulevard. For the purposes of CEQA, the Planning Department evaluates impacts to significant views and vistas, as designated in the General Plan. The Urban Design Element of the General Plan includes three maps relevant to the proposed project: 1) *Street Areas Important to Urban Design and Views*, 2) *Quality of Street Views*, and 3) *Plan to Strengthen City Pattern through Visually Prominent Landscaping*. Neither Bernal Heights Boulevard nor Folsom Street is included on the map *Street Areas Important to Urban Design and Views*. Bernal Heights Boulevard, Folsom Street and Chapman Street in the area of the proposed project are designated as having Average views on the *Quality of Street Views* map. Bernal Hill is identified as an Important Vista Point to be Protected on the *Plan to Strengthen City Pattern Through Visually Prominent Landscaping* map.

The proposed project (two buildings reaching a height of 30 feet) would not obstruct views from Bernal Heights Park. The Bernal Heights East Slope Design Guidelines include roof treatment guidelines to minimize or avoid obscuring views, and the north elevation of the proposed project would comply with

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<sup>10</sup> San Francisco Planning Department, *Transportation Calculations for 3516-3526 Folsom Street*, June 20, 2016. This document, and all documents cited in this report, are available for public inspection at the San Francisco Planning Department, 1650 Mission Street, 4<sup>th</sup> Floor, San Francisco, CA 94103 as part of case file #2013.1383APL.

the Bernal Heights East Slope Design Guidelines. Furthermore, the proposed roofs of the two buildings would sit below the elevation of Bernal Heights Boulevard.<sup>11</sup> Therefore, the two proposed 30 ft. tall buildings would not result in a substantial demonstrable adverse effect to any scenic views or resources.

#### Parking

The Appellant asserts that the proposed project would be “seriously detrimental” to parking in the area due to the lack of on-street parking on the proposed improved street, and due to the fact that the off-street parking provided by the proposed project would be non-functional due to the design of the street and the homes’ driveways.

As noted on page 7 of the original Categorical Exemption, San Francisco does not consider parking supply as part of the permanent physical environment and therefore, does not consider changes in parking conditions to be environmental impacts as defined by CEQA. Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel. The small number of projected vehicle trips generated by the proposed project, approximately nine per day (which includes vehicle trips by the residents who will utilize the project’s off-street parking), would not result in a parking deficit and therefore any secondary impacts from a parking shortfall on the environment would not ensue, including increased traffic congestion, emissions, safety or noise.

For informational purposes, the proposed project is located in the Bernal Heights Special Use District. Planning Code Section 242 requires new construction with between 1,301 square feet and 2,250 square feet of usable floor area to provide two functional off-street parking spaces per residential unit in the Bernal Heights Special Use zoning district. The proposed project includes two parking spaces per residential unit (four, in total). Guests and visitors arriving by car would be able to utilize nearby on-street parking. According to the Department’s transportation analysis guidelines, the parking demand for the proposed project is three spaces. As the proposed project includes four spaces, there would be no parking shortfall.

#### Public Health (Garbage Collection)

The Appellant asserts that the proposed project would create significant public health impacts due to the fact that garbage, recycling and compost pickup may need to be performed at the bottom of the proposed new street in front of current residences on Folsom and Chapman streets.

In San Francisco, residents, employees and waste management personnel routinely transport waste receptacles along public streets and sidewalks, and waste management vehicles are routinely stopped or parked in front of existing residences and buildings as part of regular service. The Appellant has not provided substantial evidence of any particular significant adverse impacts that these same activities would have if performed at this particular location, nor how the proposed project would create circumstances dissimilar to waste collection practices elsewhere in San Francisco.

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<sup>11</sup> According to the project sponsor, the sidewalk elevation at Bernal Heights Boulevard is +325”. The roof elevation of the proposed project is +324.5” and the proposed top of parapet is +328”.

Seismic Safety

The Appeal letter asserts that the project site “is in an area that would be exposed to strong earthquake shaking.” As noted on pages 6-7 of the original Categorical Exemption, geotechnical reports were completed for the proposed project and concluded that the proposed improvements could be safely supported using a spread footing and/or mat building foundation, provided adherence to the site preparation and foundation design recommendations included in the reports.

In the *California Building Industry Association v. Bay Area Air Quality Management District* case decided in 2015, the California Supreme Court held that CEQA does not generally require lead agencies to consider how existing environmental conditions might impact a project’s users or residents, except where the project would significantly exacerbate an existing environmental condition. Accordingly, the examination of the proposed project with respect to seismic risk is relevant only to the extent that the project significantly exacerbates the seismic safety conditions. The proposed project itself would not increase the risk or severity of seismic events.

Furthermore, the Department of Building Inspection (DBI) is responsible for ensuring compliance with construction requirements, building safety and seismic design standards, as well as compliance with the requirements of the Slope Protection Act (please see Response 2, above, for more detail about implementation of the Slope Protection Act).

**Issue 4: The Appellant claims that the environmental review should have included the development of the four adjacent vacant lots since project construction would provide utilities to all lots along the street extension. The appellant further asserts that construction of the street extension would result in significant cumulative impacts with the subsequent development of the adjacent lots.**

**Response 4: The project as proposed is two homes and a street improvement, and does not include development of the adjacent lots. Nevertheless, development of the four adjacent lots would not result in significant cumulative environmental impacts.**

Pursuant to CEQA, the Department analyzed the project as proposed in the Environmental Evaluation application which was for the construction of two single-family residences on two vacant lots located on the “paper street” segment of Folsom Street. The adjacent lots are all under different ownership than the project lots. Any future development proposals on the adjacent lots would require further environmental review, including consideration of cumulative impacts, and City approval.

As required by CEQA Guidelines Section 15300.2, the original Categorical Exemption analyzed Cumulative Impacts (see pages 9-10). Since the 3516 and 3526 Folsom Street project is the first proposed development on the “paper street” segment of Folsom Street, the project sponsor would be required by DPW’s Subdivision Regulations to construct pedestrian, vehicular, and utility access to this segment of Folsom Street.<sup>12</sup> At this time, it is unknown whether utilities would come from Bernal Heights Boulevard to the north or from Chapman Street to the south. This would be determined by PG&E and SFPUC once

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<sup>12</sup> DPW Subdivision Regulations. Page 66.

the project is entitled. It is anticipated that utility lines would run under the entire length of the street extension, which would reduce or avoid the need for future utility-related construction activities should development occur on the adjacent lots.

CEQA prohibits piecemeal environmental review of large projects into many little projects, which each have minimal potential to impact the environment, but cumulatively could have significant impacts. The project application does not constitute piecemeal development under CEQA for the following reasons: the proposed project does not involve subdivision or creation of new lots as the six vacant lots along the “paper street” segment of Folsom Street have existed since at least 1935; Project Sponsor is not the owner of the adjacent lots; and as previously stated, the Department has not received any applications from the other property owners to construct projects on their properties, thus there is no larger project from which this one is being separated.

The Appellant asserts that development of the four adjacent lots in combination with the proposed project would lead to significant cumulative impacts related to parking, traffic and public safety. As discussed on page 9 of the original Categorical Exemption, pursuant to CEQA, cumulative impacts refers to two or more individual effects which, when considered together, are considerable or which compound or increase other physical environmental impacts. The Appellant claims that significant cumulative parking impacts would result because the proposed off-street vehicle parking spaces would not be accessible and zero on-street parking spaces would be provided along the Folsom Street extension. However, the Appellant does not provide any evidence to support the claim that the proposed parking garages would not be accessible to the residents. The width of the proposed street and curb cuts provide adequate turning radius for ingress and egress. Furthermore, the project sponsor made recent project changes that involve widening the street extension from 15.5 feet to 20 feet, as well as widening the two proposed curb cuts from 10 feet to 12 feet. While the Planning Code does not require the project sponsor to provide on-street vehicle parking spaces, any further development on the project site would be required to meet the off-street parking requirements of the Bernal Heights Special Use zoning district.

The Appellant claims that the proposed street extension would result in cumulative traffic impacts because the street extension would be too narrow and would result in trucks and vehicles being forced to park their cars elsewhere, which would block the intersection of Folsom and Chapman streets, as well as other streets in the project vicinity. While it is correct that the proposed project would not provide any new on-street parking spaces, visitors and others unable to use the off-street parking provided by the proposed project would park along curb areas on adjacent streets already used for parking. They would not, therefore, block the intersection of Folsom and Chapman streets. As stated in Response #3, the addition of two single-family residences would generate an estimated 9 daily vehicle trips. While, as noted above, the Department has not received any applications from the other property owners to construct projects on their properties, should development occur on the four adjacent lots, which are each permitted to construct one single-family residence, it is estimated that an additional 18 daily vehicle trips would be generated. The addition of 18 daily vehicle trips in combination with the proposed project’s nine daily vehicle trips would be dispersed through-out the day and would not be considered a substantial number of trips that could adversely affect the local transportation system.

The Appellant claims that there would be a cumulative public safety impact related to future development on the vacant lots which would require additional construction activities that would impact the existing pipeline. As stated above, the proposed project would provide utility access to the four adjacent vacant lots which would reduce or avoid subsequent ground disturbance of the proposed street extension should future development occur. See Response #1 and #2 above for further discussion regarding project construction in relation to the nearby pipeline.

Furthermore, any subsequent development would be required to comply with the same regulations as the proposed project including, but not limited to, compliance with the San Francisco Building Code, Slope Protection Act, and PG&E regulations for work in proximity to their pipeline. The Appellant does not provide any evidence to support the claim that implementation of the proposed project would result in significant cumulative impacts. No further response is required.

## **CONCLUSION**

No substantial evidence supporting a fair argument that a significant environmental effect may occur as a result of the project has been presented that would warrant preparation of further environmental review. The Department has found that the proposed project is consistent with the cited exemption. The Appellant has not provided any substantial evidence or expert opinion to refute the conclusions of the Department.

For the reasons stated above and in the July 8, 2016 Categorical Exemption Determination, the CEQA Determination complies with the requirements of CEQA and the Project is appropriately exempt from environmental review pursuant to the cited exemption. The Department therefore recommends that the Board uphold the CEQA Categorical Exemption Determination and deny the appeal of the CEQA Determination.

# Attachment A



# SAN FRANCISCO PLANNING DEPARTMENT

## Certificate of Determination Exemption from Environmental Review

Case No.: 2013.1383ENV  
 Project Title: 3516 and 3526 Folsom Street  
 Zoning: RH-1 (Residential – House, One Family) Use District  
 40-X Height and Bulk District  
 Block/Lot: 5626/013 and 5626/014  
 Lot Size: 1,750 square feet (each lot)  
 Project Sponsor: Fabien Lannoye, Bluorange designs  
 415-533-0415  
 Fabien@novadesignsbuils.com  
 Staff Contact: Justin Horner – (415) 575-9023  
 Justin.Horner@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 is located on the block bounded by Bernal Heights Boulevard to the north, Gates Street to the west, Powhattan Avenue to the south and Folsom Street to the east. The project site is located along the west side of an approximately 145 foot long unimproved segment of Folsom Street, north of Chapman Street, that ends at the Bernal Heights Community Garden. This unimproved right-of-way is known as a "paper street." Undeveloped land along this unimproved segment of Folsom Street has been subdivided into six lots, three on each side of Folsom Street. PG&E Natural Gas Transmission Pipeline 109 runs along Folsom Street under the project site. The project site is at a slope of 28%.

The proposed project involves the construction of two single-family residences on two of the vacant lots along the west side of the unimproved portion of Folsom Street, and the construction of the connecting segment of Folsom Street to provide vehicle and pedestrian access to the project site. Both single-family homes would be 27 feet tall, two-story-over-basement buildings and would each include two off-street vehicle parking spaces accessed from a twelve-foot-wide garage door.

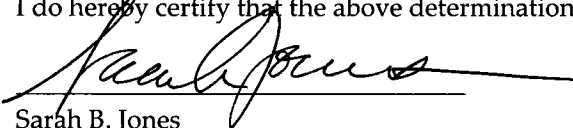
(Continued on next page)

### EXEMPT STATUS:

Categorical Exemption, Class 3 (California Environmental Quality Act [CEQA] Guidelines Section 15301).  
 See page 2.

### DETERMINATION:

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

  
 Sarah B. Jones  
 Environmental Review Officer

July 8, 2016  
 Date

cc: Fabien Lannoye, Project Sponsor  
 Richard Sucre, Current Planner

Virna Byrd, M.D.F.  
 Supervisor Campos, District 9, (via Clerk of the Board)



**PROJECT DESCRIPTION (continued):**

The 3516 Folsom Street building would be approximately 2,230 square feet in size with a side yard along its north property line. The 3526 Folsom Street building would be approximately 2,210 square feet in size with a side yard along its south property line. The proposed buildings would include roof decks and a full fire protection sprinkler system. The project sponsor proposes to create a mural on the south façade of the 3526 Folsom Street building. The proposed buildings would be supported by a shallow building foundation using a mat slab with spread footings.

The proposed Folsom Street extension improvements would include an approximately 20-foot-wide road with an approximately 10-foot-wide sidewalk on the west side of the street, adjacent to the proposed residences. The proposed sidewalk would be stepped, would incorporate landscaping that would perform storm water retention, and would provide public access to Bernal Heights Boulevard/Bernal Heights Park (along the west side of the Bernal Heights Community Garden). The proposed project would not create direct vehicular access to Bernal Heights Boulevard as the Folsom Street extension would terminate at the Bernal Heights Community Garden. Construction of the street extension would require the removal of the existing landscaped area within the public right-of-way where Folsom Street meets Chapman Street. An existing driveway utilized by both the 3574 Folsom Street and 3577 Folsom Street buildings would also be removed; however, the extension would provide access to the two existing residences.

The proposed project would include the installation of new street trees (subject to approval from PG&E) and street lighting on the west side of the street. No on-street parking would be provided along the Folsom Street extension. In addition to providing utilities for the proposed residences, the project sponsor would install utilities for the four vacant lots located on the "paper street" segment of Folsom Street (one on the west side and three on the east side). No residences are proposed at this time on those lots; the proposed connections would be provided to minimize disruption in the case of future development. Construction would continue for approximately 12 months and would require excavation of up to approximately 10 feet below the existing ground surface.

**Project Approvals**

**Approval Action:** If discretionary review before the Planning Commission is requested, the discretionary review hearing is the Approval Action for the project. If no discretionary review is requested, the issuance of a building permit by the Department of Building Inspection (DBI) is the Approval Action. 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.

**EXEMPT STATUS (continued):**

CEQA Guidelines Section 15303, or Class 3, provides an exemption from environmental review for construction of new, small facilities or structures. Section 15303(a) specifically exempts up to three single-family homes in urbanized areas, and Section 15303(d) specifically exempts utility extensions and street improvements to service such construction.

The proposed project would construct two-single family homes on two lots, with utility extensions and street improvements to service the two structures. Therefore, the proposed project qualifies for an exemption from CEQA under CEQA Guidelines Sections 15303(a) and (d).

#### **DISCUSSION OF ENVIRONMENTAL ISSUES:**

CEQA Guidelines Section 15300.2 establishes exceptions to the application of a categorical exemption for a project. As discussed in this certificate of exemption, none of the established exceptions apply to the proposed project.

CEQA Guidelines Section 15300.2, subdivision (a), provides that a Class 3 categorical exemption cannot be used where the project may negatively impact an environmental resource of critical or hazardous concern which is "designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies." For the reasons discussed below under "Resources of Hazardous or Critical Concern," there is no possibility that the proposed project would have a significant effect on the environment related to this circumstance.

CEQA Guidelines Section 15300.2, subdivision (b), provides that a categorical exemption is inapplicable when the cumulative impact of successive projects of the same type in the same place, are significant. For the reasons discussed below under "Cumulative Impacts," there is no possibility that the proposed project would have a significant effect on the environment related to this circumstance.

CEQA Guidelines Section 15300.2, subdivision (c), provides that a categorical exemption shall not be used where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. For the reasons discussed in this certificate of exemption, there is no possibility that the proposed project would have a significant effect on the environment due to unusual circumstances.

CEQA Guidelines Section 15300.2, subdivision (d), provides that a categorical exemption shall not be used for a project that would result in damage to a scenic resource within a highway officially designated as a state scenic highway. Neither Bernal Heights Boulevard nor any other nearby street is a designated state scenic highway. Therefore, there is no possibility that the proposed project would have a significant effect on the environment related to this circumstance.

CEQA Guidelines Section 15300.2, subdivision (f), provides that a categorical exemption shall not be used for a project that may cause a substantial adverse change in the significance of a historical resource. For the reasons discussed below under "Historic Resources," there is no possibility that the proposed project would have a significant effect on a historic resource.

**Resources of Hazardous or Critical Concern.** According to the CEQA Guidelines, Categorical Exemptions may be used for Class 3-eligible projects except in cases where the project may negatively impact an environmental resource of critical or hazardous concern which is "designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies."

The project site is mapped in an area subject to the Slope Protection Act, adopted by the Board of Supervisors (BOS) in 2008. This ordinance created procedures for additional review of slope stability by

DBI for properties within certain mapped areas and established a Structural Advisory Committee for review of permit applications within this area. The BOS found that the public health, safety, and welfare would be best protected if the Building Official requires permits for new construction in these areas to undergo additional review for structural integrity and potential effects on slope stability, including submission to the Structural Advisory Commission for consideration. If the Structural Advisory Commission finds that a project would result in unsafe conditions that cannot be addressed to the satisfaction of the Committee, the Building Official must deny the permit. Thus, the existing regulatory program and requirements are sufficient to ensure that the proposed project would not result in a significant impact related to slope stability. Adherence to this ordinance has been found to adequately protect the public health, safety, and welfare.

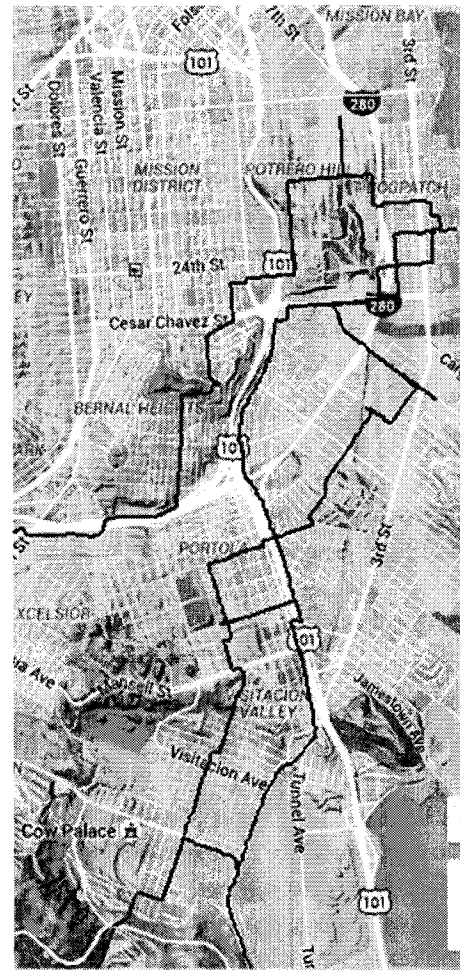
The project site contains no other environmental resource of hazardous or critical concern that has been designated or precisely mapped. Therefore, the proposed project would not have a significant impact on environmental resources of hazardous or critical concern and this exception to the Categorical Exemption does not apply.

**Utilities.** PG&E Transmission Pipeline 109 runs under Folsom Street from the 280 freeway to Bernal Heights Boulevard, including under the project site, after which it circles Bernal Heights Park's eastern edge before continuing onto Alabama Street, Cesar Chavez Street and neighborhoods along Potrero Hill, Dogpatch and the Central Waterfront. The Pipeline's alignment takes it through a variety of residential neighborhoods in the southeast area of the City, and other similar pipelines run beneath streets in other areas of the city (see Figure 1). The presence of a gas transmission pipeline beneath areas adjacent to residential development is not unusual in San Francisco or throughout the state because residential homes are commonly served by gas lines.

According to PG&E, Pipeline 109 was installed in 1981 and was successfully strength tested at the time of installation. It has a maximum allowable operating pressure of 150 pound per square inch gage which is 19.8% of the pipe's specified minimum yield strength. It is patrolled at least quarterly, and is surveyed for leaks at least annually. The system PG&E uses to combat pipeline erosion is inspected every two months. PG&E also performs External Corrosion Direct Assessments, which involve excavation and physical inspection of the pipeline.

PG&E has stated that the construction of the two homes will present no particular issues with respect to patrolling and maintaining the pipeline, as the proposed home sites are no closer to the pipeline than existing residential properties on Folsom Street and other areas of San Francisco.

Figure 1. Pipeline Transmission Network



PG&E natural gas lines run under a number of small and large streets in San Francisco that have experienced, and will continue to experience, maintenance that includes earth movement, excavation and related work in proximity to a natural gas transmission line.

Section 4216.2(a)(1) of the California Government Code requires that any contractor or resident that excavates on private property must call 811 (Underground Service Alert (USA) North) at least two business days before excavation. USA will inform PG&E of the request to excavate and, in the case of work done in proximity to a pipeline such as that proposed by the Project Sponsor, require that a PG&E standby employee be contacted. PG&E staff must physically observe a safe excavation and must be present for any excavation within ten feet of their transmission lines, and will instruct and guide the excavating party, on-site, to avoid damage to the pipeline. These practices apply in the case of both housing construction and road improvements anywhere in San Francisco adjacent to a gas transmission pipeline. These practices, as required by law, are in place to ensure construction activities do not substantially affect underground services, including natural gas pipelines. Furthermore, PG&E regulations require review of proposed plans for any work within 10 feet of their facilities. Therefore, these regulations would ensure that no significant environmental effect would occur from construction in proximity to PG&E's natural gas pipeline.

In light of the above, there is no possibility that the proposed project would have a significant effect on the environment related to unusual circumstances with regards to the presence of the PG&E natural gas pipeline.

**Emergency Access.** While the width and grade of the proposed street improvement preclude the San Francisco Fire Department (SFFD) apparatus from traversing the proposed street, the proposed project would be required to conform to Fire Code Section 503.1.1, which mandates all portions of the exterior walls of the first story of any constructed building to be within 150 feet of an approved fire apparatus access road. Both Folsom Street and Bernal Heights Boulevard are accessible to SFFD apparatus and are within 150 feet of all portions of the exterior walls of the first floor of both proposed homes. Furthermore, the proposed homes include automatic sprinkler systems. As the proposed houses are within 150 feet of approved fire access roads and include automatic sprinkler systems, the proposed project conforms with the Fire Code and the project therefore does not present a hazardous condition with respect to public safety related to emergency access.

**Aesthetics.** The project site is located downhill from Bernal Heights Park and Bernal Heights Boulevard. The Urban Design Element of the General Plan includes three maps relevant to the proposed project: 1) Street Areas Important to Urban Design and Views, 2) Quality of Street Views, and 3) Plan to Strengthen City Pattern through Visually Prominent Landscaping. Neither Bernal Heights Boulevard nor Folsom Street is included on the map "Street Areas Important to Urban Design and Views". Bernal Heights Boulevard, Folsom Street and Chapman Street in the area of the proposed project are designated as having average views on the "Quality of Street Views map". Bernal Hill is identified as an important vista point to be protected on the "Plan to Strengthen City Pattern Through Visually Prominent Landscaping map".

The proposed project (two buildings reaching a height of 30 feet) would not obstruct views from Bernal Heights Park. The Bernal Heights East Slope Design Guidelines include roof treatment guidelines to minimize or avoid obscuring views, and the north elevation of the proposed project would comply with

the Bernal Heights East Slope Design Guidelines. Furthermore, the proposed roofs of the two buildings would sit below the elevation of Bernal Heights Boulevard.

Therefore, the two proposed 30 foot. tall buildings would not result in a substantial demonstrable adverse effect to any scenic views or resources.

**Historic Resources.** The project site is currently vacant, undeveloped land, and does not include any historic resources. Neither the project site nor the immediately surrounding neighborhood is within a historic district designated under federal, state or local regulations.

As the proposed project requires excavation up to a depth of 40 feet, it was subject to a Preliminary Archeological Review (PAR) by a Planning Department Archeologist. The PAR determined that the proposed project would result in no effect on archeological resources.<sup>1</sup>

Thus, the proposed project would not result in an adverse impact to a historic resource.

**Geotechnical.** The dimensions of each lot are 25 feet wide by 70 feet deep. Both lots have an approximately 32 percent slope from the north to south side of the lot. Each residence would be constructed on a flat building pad with concrete retaining walls used in the front and rear yard areas to provide access to the garage and create usable outdoor living areas. The buildings would be constructed using a spread footing and/or mat foundation, requiring excavation several feet in depth.

A geotechnical report was prepared for each of the two proposed residences (3516 and 3526 Folsom Street) and includes information gathered from a site reconnaissance by the geotechnical engineer and two soil borings, one on each lot.<sup>2</sup> Both borings encountered 3 to 4 feet of stiff clay and sandy soil over chert bedrock. No groundwater was encountered, though based on the hillside location and soil and bedrock morphology it is possible that groundwater seepage from offsite irrigation could be encountered during excavation on the project site.

The geotechnical reports include the same evaluation and recommendations given the adjacency of the two lots and similar geotechnical/geological site conditions. The project site was evaluated for potential liquefaction, landslides, surface rupture, lateral spreading, and densification and was found to have a low risk. The geotechnical reports indicate the project site is not within an identified landslide or liquefaction zone as mapped by the California Divisions of Mines and Geology.<sup>3</sup> The project site is in an area that would be exposed to strong earthquake shaking. However, the 2013 San Francisco Building Code (Building Code) requires the Site Classification and Values of Site Coefficients be used in the design of new structures to minimize earthquake damage. The geotechnical reports include seismic design

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<sup>1</sup> Preliminary Archeological Review Log, September 26, 2013. A copy of this document, and all documents cited below, are available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case file No. 2013.1383E.

<sup>2</sup> H. Allen Gruen, *Report Geotechnical Investigation Planned Residence at 3516 Folsom Street*, and *Report Geotechnical Investigation Planned Residence at 3526 Folsom Street*, August 3, 2013. Copies of these documents are available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2013.1383E.

<sup>3</sup> California Department of Conservation, *Seismic Hazard Zones, City and County of San Francisco*, November 17, 2000. Available online at [http://gwmw.consrv.ca.gov/shmp/download/quad/SAN\\_FRANCISCO\\_NORTH/maps/ozn\\_sf.pdf](http://gwmw.consrv.ca.gov/shmp/download/quad/SAN_FRANCISCO_NORTH/maps/ozn_sf.pdf). Accessed July 8, 2016.

parameters for use in the project design by the structural engineer, in compliance with the Building Code, during the building permit plan check process.

Both geotechnical reports conclude that the proposed improvements could be safely supported using a spread footing and/or mat building foundation, provided adherence to the site preparation and foundation design recommendations included in the reports. The San Francisco Building Code ensures the safety of all new construction in the City. Decisions about appropriate foundation and structural design are considered as part of DBI's permit review process. Prior to issuing a building permit for the proposed project, DBI would review the geotechnical report to ensure that the proposed project complies with building safety and seismic design standards, as well as compliance with the requirements of the Slope Protection Act. Therefore, potential damage to structures from geologic hazards on the project site would be addressed through compliance with the San Francisco Building Code. Thus, the proposed project would have no significant geotechnical impacts.

**Shadow.** The project site is located to the southwest of the Bernal Heights Community Garden. Therefore, a shadow analysis was prepared by the Project Sponsor/Architect. The shadow analysis provides simulations that show that the proposed project would cast new shadow on the Bernal Heights Community Garden, but that shadow would be limited to only certain periods in the winter and summer and the new shadow would only fall on a portion of the southwestern corner of the community garden mainly in the evening after 5:30 pm. In most cases throughout the year, the shadow cast by the proposed project either does not fall on the community garden or is contained within shadow already cast by existing structures on Gates Street.

While the proposed project would cast new shadow on the community garden, it is not expected to substantially affect the use or enjoyment of the Bernal Heights Community Garden such that a significant environmental effect would occur.

**Transportation.** Using the Planning Department's 2002 Transportation Impact Analysis Guidelines for Environmental Review (October 2002), the proposed project is estimated to generate approximately nine daily automobile trips. The change in traffic in the project area as a result of the proposed project would be indiscernible to most drivers. The proposed project would add a negligible increment of vehicle traffic to the cumulative long-term traffic increase on the neighborhood's roadway network. Thus, the project would not substantially affect the neighborhood's existing or cumulative traffic conditions.

Planning Code Section 242 requires, generally, two functional off-street parking spaces per residential unit in the Bernal Heights Special Use District. The proposed project includes two parking spaces per residential unit (four, in total). Guests and visitors arriving by car would be able to utilize nearby on-street parking. According to the Department's transportation impact analysis guidelines, the parking demand for the proposed project is three spaces. As the proposed project includes four spaces, there would be no parking shortfall.

San Francisco does not consider parking supply as part of the permanent physical environment and therefore, does not consider changes in parking conditions to be environmental impacts as defined by CEQA. Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of

travel. The small number of projected vehicle trips generated by the proposed project, approximately nine per day (which includes vehicle trips by the residents who would utilize the project's off-street parking), would not result in a parking deficit and therefore any secondary impacts from a parking shortfall on the environment would not ensue, including increased traffic congestion, emissions, safety or noise.

In light of the above, the proposed project would not result in any significant transportation impacts.

**Biological Resources.** Nearby Bernal Hill is a natural area that has been evaluated for the presence of birds and bird habitat. According to San Francisco Recreation and Parks' Significant Natural Resources Areas Management Plan (SNRAMP), two sensitive bird species have been observed at Bernal Hill: Say's phoebe (*Sayornis saya*) and Wilson's warbler (*Wilsonia pusilla*). There is also a single area of important bird habitat, which includes the entire grasslands area of Bernal Hill.

The project site contains trees and vegetation not unlike those found on Bernal Hill. The Project Sponsor would be required to comply with the Federal Migratory Bird Treaty Act (MBTA) as well as California Department of Fish and Game Code 3513 regarding the protection of nesting birds during construction. California Department of Fish and Wildlife (DFW) biologists have broadly defined the nesting season as February 1st through August 15th (although there are more specific dates for certain species of birds). If timing restrictions make it impossible to avoid the nesting season, the construction areas should be surveyed for nesting birds and active nests should be avoided. A biologist should inspect the construction areas for active nests. If adult birds are observed flying to and from a nest, or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest should be delayed until the nest is no longer active. The active nest should be watched, and when the chicks have left the nest and activity is no longer observed around the nest, it is safe to continue construction activity in the nest area.

As the proposed project would be required to comply with the MBTA and DFW regulations, and as there is abundant substantially similar, and protected, habitat available nearby on Bernal Hill, project construction would not have a significant effect on any bird species or their habitat and the development of these two lots, adjacent to other similar development, would not result in a significant impact on bird species or habitat.

**Water Quality.** The proposed project would not generate wastewater or stormwater discharges that have the potential to degrade water quality or contaminate a public water supply. Project-related wastewater and stormwater would flow to the City's combined stormwater/sewer system and would be treated to standards contained in the City's National Pollutant Discharge Elimination System (NPDES) Permit for the Southeast Treatment Plant prior to discharge into San Francisco Bay. Additionally, the proposed project is required to comply with the Stormwater Management Ordinance, which require the project to maintain or reduce the existing volume and rate of stormwater runoff at the site by retaining runoff onsite, promoting stormwater reuse, and limiting site discharges before entering the combined sewer collection system.

The proposed project would also be required to comply with requirements of the Construction Site Runoff Ordinance, which regulates the discharge of sediment or other pollutants from construction sites and prevents erosion and sedimentation due to construction activities. Furthermore, before the street

improvement permit can be finalized, SFPUC must review and approve the proposed plans. Therefore, the proposed project would not have significant environmental impacts related to water quality.

**Cumulative Impacts.** CEQA Guidelines Section 15300.2, subdivision (b), provides that a categorical exemption is inapplicable when the cumulative impact of successive projects of the same type in the same place, are significant. For the reasons discussed below there is no possibility that the proposed project in combination with reasonably foreseeable cumulative projects would have a significant effect on the environment.

The project as proposed in the Environmental Evaluation application is for the construction of two single-family residences on two vacant lots located on the "paper street" segment of Folsom Street as well as utility extensions and street improvements that would serve the two homes and four undeveloped lots along this segment of Folsom Street. The four adjacent lots are all under different ownership than the project lots and no Environmental Evaluation applications are on file with the Planning Department for development of those lots. Any future development proposals on the adjacent lots would require further environmental review and City approval.

Since the 3516 and 3526 Folsom Street project is the first proposed development on the "paper street" segment of Folsom Street, the project sponsor would be required to construct pedestrian and vehicular access to this segment of Folsom Street. The project sponsor has also agreed to construct utilities to service the remaining four undeveloped lots so as to avoid any need to excavate the improved section of Folsom Street in the event homes are proposed for the four remaining vacant lots in the future. At this time, it is unknown whether utilities would come from Bernal Heights Boulevard to the north or from Chapman Street to the south. This would be determined by PG&E and the SFPUC once the project is entitled. It is anticipated that utility lines would run under the entire length of the street extension, which would reduce or avoid the need for future utility-related construction activities should development occur on the adjacent lots.

Pursuant to CEQA, cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other physical environmental impacts. The proposed project would construct two single-family homes, improve a segment of Folsom Street, and provide utilities for the two proposed homes and four adjacent lots. While there are no Environmental Evaluation applications on file with the Planning Department for the four adjacent lots, the improvements proposed by the project would facilitate future development of those lots. The cumulative effects of the proposed project in addition to development of the four adjacent lots are addressed below.

*Shadow.* The vacant lots to the east of the project site would have the potential to shade the Bernal Heights Community Garden. If those lots are developed, they would be required to undergo environmental review in accordance with CEQA and would require a shadow analysis. As discussed above, the proposed project would shade a portion of the southwestern corner of the community garden mainly in the evening after 5:30 pm. Therefore, the proposed project would not result in a considerable contribution to any cumulative shadow impact that could result from development of the adjacent lots.

*Transportation.* The addition of two single-family residences would generate an estimated 9 daily vehicle trips. Should development occur on the four adjacent lots, which are each permitted to construct one



single-family residence, it is estimated that an additional 18 daily vehicle trips would be generated. The addition of 18 daily vehicle trips in combination with the proposed project's 9 daily vehicle trips would be dispersed through-out the day and would not be considered a substantial number of trips that could adversely affect the local transportation system.

In addition, any subsequent development would be required to comply with the same regulations as the proposed project including, but not limited to, compliance with the San Francisco Building and Fire Codes, Slope Protection Act, PG&E regulations for work in proximity to their pipeline, the SFPUC's Stormwater Management Ordinance and Construction Site Runoff Ordinance, the MBTA and DFW regulations protecting nesting birds and the Bernal Heights East Slope Design Guidelines. These regulations would ensure that development of the adjacent lots, would not result in significant effects to geology/soils, emergency access, water quality, utilities, biological resources, and aesthetics.

Thus, the proposed project would not result in a considerable contribution to any cumulative environmental impacts.

**Conclusion.** The proposed project satisfies the criteria for exemption under the above-cited classification(s). In addition, none of the CEQA Guidelines Section 15300.2 exceptions to the use of a categorical exemption applies to the proposed project. For the above reasons, the proposed project is appropriately exempt from environmental review.