

FROM:
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TO:
Angela Calvillo, Clerk
San Francisco Board of Supervisors
City Hall, Room 244
San Francisco, CA 94102

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

DATE: May 21, 2020

RE: **MTA Statutory Exemption No. 2020-004631ENV ["Slow Streets"]**

NOTICE OF APPEAL OF STATUTORY EXEMPTION

PLEASE TAKE NOTICE that Coalition for Adequate Review hereby appeals to the San Francisco Board of Supervisors the environmental determination(s) of the San Francisco Planning Department dated April 21, 2020, and all actions implementing the San Francisco Municipal Transportation Agency's ("MTA's") "Slow Streets" Project ("the Project"), including "Slow Streets," "D5 Safe and Slow Streets," "Panhandle Social Distancing and Safety Project," and all other street closures, barriers to travel, traffic and parking lane removal, installation of bicycle lanes, and other changes affecting public streets in San Francisco under the claim of an "emergency" exemption from CEQA due to the Covid epidemic.

A copy of MTA's CEQA exemption document No. 2020-004631ENV, is attached as Attachment A. That document was not publicly available and was only obtained through a Sunshine Ordinance request on May 11, 2020, long after MTA began implementing the Project. Attachment B is MTA's Map of some streets included in the Project. Attachment C is MTA's May 19, 2020 announcement of implementation of the Project on Fell Street by removing a traffic lane and installing a bicycle lane with no environmental review.

Appellant is unable to attach an "approval" action, because MTA has refused to provide whatever "approval" action(s) it has taken on this Project, and/or it has conducted no publicly accessible meetings to approve its Project, and/or has implemented it without

any prior approval action. Although an approval action by the Director of MTA is referred to in the exemption document, MTA has refused to provide a copy of it after Appellant's Sunshine Ordinance and Public Records Act requests. (Attachment A, page 2.)

With no prior public notice, beginning on April 21, 2020, MTA has implemented its "Slow Streets" Project, closing many streets in San Francisco to vehicles, based on a claim that the Project is statutorily exempt from the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§21000 *et seq.*), citing 14 Cal. Code Regs. (CEQA Guidelines) §15269(c) "Emergency Projects." (Attachment A, page 2; Attachment B.)

On May 16, 2020, MTA announced it would close more streets under a "Next Phase" of Slow Streets. On May 19, 2020 MTA announced it would remove a traffic lane and parking on Fell Street to install a bicycle lane, asserting another "emergency" with a new name, "Panhandle Social Distancing and Safety Project."

None of MTA's implementation actions have been preceded by any public notice or public hearing. The public has been wholly excluded from and denied the right to participate in MTA's creation of the Project, its scope, and its implementation.

The Project claims with no support that MTA asserts authority to close public streets because "essential walk and bike travel while transit service levels are temporarily reduced" is an emergency. MTA provides no correlation between its decision to reduce public transit and the streets it claims must be closed, since few of those streets had any public transit to begin with, and no evidence supports any need for more space for people to walk or ride bicycles for essential trips on those streets or any other due to the "COVID-19 public health emergency." (Attachment A, page 1.)

Moreover, the Project does not fall within the CEQA's Statutory Exemption or definition of an emergency, which can only be a "sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services," including "fire, flood, earthquake, or other soil or geological movements, as well as such occurrences as riot, accident, or sabotage." (Pub. Res. Code §21060.3 ["Emergency"].)

The emergency exemption provided under CEQA is not meant to be used to justify MTA's determination to close streets to cars, but for serious emergencies where peril to life and property is imminent and drastic.

The narrowly construed standards for an emergency exemption are not met by MTA's desire to exclude and delay the vast majority of travelers in motor vehicles and transit on public streets in San Francisco on behalf of the less than 3 percent who travel by bicycle.

Nor does motor vehicle travel impair in any way bicyclists' use of public streets and pedestrians' use of sidewalks.


Even if the City's Covid directives allow trips by any mode for *essential* travel, MTA's actions are not supported by any evidence that sidewalks in the "Slow Streets" Project do not already accommodate *essential* travel by pedestrians, and that existing bicycle facilities, including dedicated lanes, do not already accommodate *essential* travel by bicycles.

Moreover, the Project is preempted under the California and United States Constitutions, which prohibit closing public streets to travelers, including those in motor vehicles. Further, the Project plainly conflicts with the Vehicle Code and other statutory provisions.

MTA's Project and its Statutory Exemption are illegal under CEQA, and the Board of Supervisors must order MTA to immediately fully restore motor vehicle travel and remove barriers to vehicle travel on all streets affected by the Project and restore them to their conditions before MTA's "Slow Streets" Project.

Appellant will submit further briefing and comment on or before the scheduled hearing date on this appeal.

Pursuant to information provided by the Board of Supervisor's Clerk's office, and because the Board of Supervisors' office is closed, Appellant electronically files this Appeal and a Fee Waiver application, and will send payment on or before the date when the Clerk advises that the Board will resume scheduling hearings, including a hearing on this Appeal.



Mary Miles
Attorney for Coalition for Adequate Review

cc: Environmental Review Officer, San Francisco Planning Department

ATTACHMENTS:

- A: MTA and Planning Statutory Exemption No. 2020-004631ENV ["Slow Streets, Phase 1"]
- B: MTA's May 16, 2020 Map of its "Slow Streets" Project
- C: MTA's May 19, 2020 Announcement of its "Panhandle Social Distancing and Safety Project"

ATTACHMENT A



Slow Streets, Phase 1

As a result of the coronavirus (COVID-19) public health emergency, the San Francisco Municipal Transportation Agency (SFMTA) proposes to create limited “Slow Streets” to manage traffic speeds and allow roadways to be used as a shared space for foot and bicycle traffic (the project). This space is needed for essential walk and bike travel while transit service levels are temporarily reduced. Vehicle traffic would be allowed on these streets but would be limited to local (e.g. access for residents and businesses) and emergency vehicle access.

With Muni service reduced, many San Francisco residents need to walk and take other travel modes to make essential trips. However, they cannot practically maintain the six feet of social distance required by the city’s Public Health Order C19-07 on many sidewalks, park paths, and bikeways, especially when passing queues outside grocery stores and other essential services. Currently, many pedestrians are choosing to walk in the street and are at a higher risk of colliding with a vehicle in the roadway. There is also data showing drivers operating at higher and unsafe speeds at this time, which puts those individuals walking at greater risk for severe injuries in a collision.

The Slow Streets proposed below for Phase 1 of this project are lower-traffic residential streets that connect neighborhoods to essential services in the absence of Muni service. The chosen streets have been reviewed by SFMTA staff for feasibility and would not adversely affect operations on COVID-19 Core Service Muni routes and major emergency vehicle traffic corridors. Phase 1 indicates that the streets below are the first streets subject to this program; later phases would include more street segments as the need is identified to address the public emergency. Those segments have not been determined at this time but similar considerations would be used by SFMTA to identify future phases.

Table 1. Slow Streets: Phase 1

Street	From	To
17 th Street	Noe	Valencia
20 th Avenue	Lincoln	Ortega
22 nd Street	Valencia	Chattanooga
41 st Avenue	Lincoln	Vicente
Ellis	Polk	Leavenworth
Holloway	Junipero Serra	Harold
Kirkham	Great Highway	7 th Avenue
Phelps	Oakdale	Evans
Ortega	Great Highway	14 th Avenue
Page	Stanyan	Octavia
Quesada	Lane	Fitch
Scott	Eddy	Page



On designated Slow Streets, materials such as cones, A-frames, plastic traffic diverters and delineators would be placed to slow and discourage vehicular through traffic in order to enable people to safely walk, run, or bike and maintain six feet social distancing in the streets.

For most Slow Streets, implementation would occur approximately 10 blocks at a time within the corridors described below. City and County of San Francisco staff would monitor each street where implemented to ensure the transportation benefits of Slow Streets are not undermined by crowding and congregation.

Slow Streets would not create any legal change in the designation of the public right-of-way; people walking or running in the street would be allowed to be in the street as the California Vehicle Code currently permits, but would not have the right-of-way over motor vehicles. People walking or running would be required to yield to vehicular traffic.

The designation by the SFMTA of certain San Francisco streets as Slow Streets has been taken to facilitate members of the public maintaining six feet social distance while making essential trips by all modes to prevent and mitigate a public health emergency and are temporary in nature.

Approval Action:
Director of Transportation
Authorization

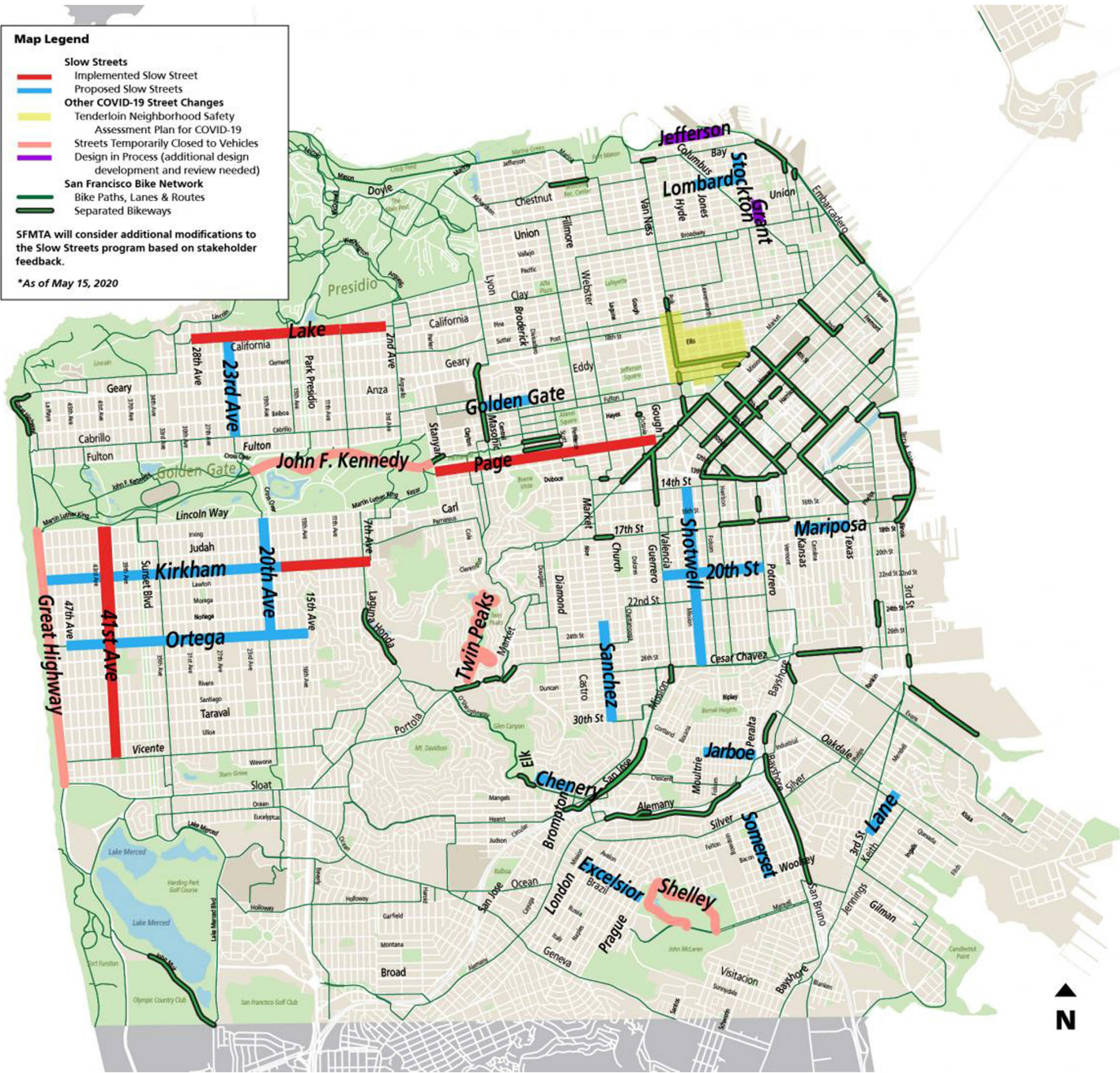
Statutorily Exempt pursuant to CEQA Guidelines Section 15269(c): Emergency Projects	
	4/21/2020
Andrea Contreras	Date
San Francisco Municipal Transportation Agency	
	4/21/2020
Laura Lynch	Date
San Francisco Planning Department	

ATTACHMENT B

Map Legend

- **Slow Streets**
 - Implemented Slow Street
 - Proposed Slow Streets
 - **Other COVID-19 Street Changes**
 - Tenderloin Neighborhood Safety Assessment Plan for COVID-19
 - Streets Temporarily Closed to Vehicles
 - Design in Process (additional design development and review needed)
 - **San Francisco Bike Network**
 - Bike Paths, Lanes & Routes
 - Separated Bikeways
- SFMTA will consider additional modifications to the Slow Streets program based on stakeholder feedback.

*As of May 15, 2020



ATTACHMENT C

<https://www.sfmta.com/projects/panhandle-social-distancing-and-safety-project>

Panhandle Social Distancing and Safety Project

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Project Introduction

The SFMTA is proposing a parking protected bikeway on Fell Street between Baker Street and Shrader Street to provide relief to crowding and support social distancing on the Panhandle Path. This temporary project is being proposed as an emergency response to COVID-19.

Improvements

Protected Bikeways

Parking and Curb Management Changes

Project Overview

Within the project limits, Fell Street is one-way westbound with four travel lanes and unmetered parking on both sides of the street. The proposed improvements involve repurposing a travel lane in order to fit a parking protected westbound bikeway on the south side of Fell Street. The protected bikeway will be located curbside, with a three-foot access aisle to access the floating parking. The cross sections below detail the existing and proposed conditions for the corridor.

Existing

Proposed

A signal protected intersection design at Masonic was considered but a mixing zone treatment was chosen because:

- New curbside bikeway with signal separation would result in signal heads out of alignment with bikeway and lanes, potentially resulting in confusion and red light running

- A signal modification and changes to the red light camera would be required and would delay the project, substantially if signal modifications could not be made using existing hardware
- A fully protected option is available along the path

As a result of this project, approximately 12 out of 136 parking spaces on the south side of Fell Street will be removed in order to provide space for turning lanes and visibility zones.

To view the latest draft of the proposed conceptual design, please follow this [link](#).

Construction

This parking protected bikeway will be paint and safe-hit post construction only. Any construction related lane closures will have little to no effect on transit, pedestrians, and bicyclists. Project construction will be carried out by SFMTA Shops and will not require coordination with other agencies.

Construction is anticipated to begin in June 2020.

Contact Information

Mike Sallaberry

Mike.Sallaberry@sfmta.com



San Francisco Planning

BOARD OF SUPERVISORS APPEAL FEE WAIVER FOR NEIGHBORHOOD ORGANIZATIONS

APPLICATION

Appellant's Information

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

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

Email Address: page364@earthlink.net

Telephone: (415) 863-2310

Neighborhood Group Organization Information

Name of Organization: Coalition for Adequate Review

Address: PLEASE SEE ABOVE

Email Address: SEE ABOVE

Telephone: SEE ABOVE

Property Information

Project Address: Citywide

Project Application (PRJ) Record No: 2020-004631ENV Building Permit No:

Date of Decision (if any):

Required Criteria for Granting Waiver

All must be satisfied; please attach supporting materials.

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

For Department Use Only

Application received by Planning Department:

By: _____ Date: _____

Submission Checklist:

- APPELLANT AUTHORIZATION CURRENT ORGANIZATION REGISTRATION MINIMUM ORGANIZATION AGE
- PROJECT IMPACT ON ORGANIZATION
- WAIVER APPROVED WAIVER DENIED

FROM:
Rob Anderson, Director
Coalition for Adequate Review

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

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

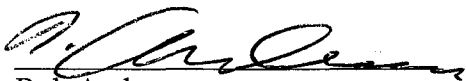
DATE: May 21, 2020

This will advise that Mary Miles, Attorney at Law, is authorized to represent Coalition for Adequate Review in the Appeal of the Planning Department's and the Municipal Transportation Agency's Exemption on the Slow Streets Project dated April 21, 2020.

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

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

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


Rob Anderson