



# SAN FRANCISCO PLANNING DEPARTMENT

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## Appeal of Community Plan Exemption 2000 – 2070 Bryant Street Project

**DATE:** August 30, 2016

**TO:** Angela Calvillo, Clerk of the Board of Supervisors

**FROM:** Lisa M. Gibson, Acting Environmental Review Officer – (415) 575-9034  
Chris Kern, Senior Planner – (415) 575-9037  
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**RE:** File No. 160773, Planning Department Case No. 2013.0677E – Appeal of the Community Plan Exemption for the 2000 – 2070 Bryant Street Project. Block/Lot: 4022/001, 002, and 021

**PROJECT SPONSOR:** Linsey Perlov, 2070 Bryant Street JV LLC

**APPELLANT:** Peter Papadopoulos

**HEARING DATE:** September 13, 2016

**ATTACHMENTS:** A – July 5, 2016 appeal letter from Rachel Mansfield-Howlett  
B – July 22, 2016 letter from Rose Zoia  
C – Planning Commission Motion 19658 (Adoption)  
D – Eastern Neighborhoods Capital Projects

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### INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the Board) regarding the Planning Department's (the "Department") issuance of a Community Plan Exemption (CPE) under the *Eastern Neighborhoods Rezoning and Area Plan Final*

*Environmental Impact Report* (“Eastern Neighborhoods PEIR or PEIR”)<sup>1</sup> in compliance with the California Environmental Quality Act (“CEQA”) for the 2000 – 2070 Bryant Street Project (the “Project”).

The Department, pursuant to CEQA, the CEQA Guidelines, 14 Cal. Code of Reg. Sections 15000 *et seq.*, and Chapter 31 of the San Francisco Administrative Code, determined that the Project is consistent with the development density established by zoning, community plan, and general plan policies in the Eastern Neighborhoods Rezoning and Area Plans (the “Eastern Neighborhoods Area Plans”) project area, for which a Programmatic EIR was certified, and issued the CPE on May 11, 2016. The Department determined that the Project would not result in new significant environmental effects, or effects of greater severity than were already analyzed and disclosed in the PEIR, and that the Project is therefore exempt from further environmental review under CEQA in accordance with CEQA Section 21083.3 and CEQA Guidelines Section 15183.

The decision before the Board is whether to uphold the Planning Department’s determination that the Project is exempt from further environmental review pursuant to CEQA Section 21083.3 and CEQA Guidelines Section 15183 and deny the appeal, or to overturn the Department’s CPE determination for the Project and return the CPE to the Department for additional environmental review.

## PROJECT DESCRIPTION

The Project involves the demolition of seven existing buildings, merging of three lots into two parcels, and construction of two new buildings and a 25-foot-wide east-west pedestrian mews between the two buildings that would be publically accessible during daytime hours. The Project consists of a six-story, 68-foot-tall, approximately 203,656-gross-square-foot (gsf) mixed-use residential and commercial building with a ground-level garage at 2000 Bryant Street (the north building) and a 100 percent affordable eight-story, 85-foot-tall, approximately 127,983 gsf mixed-use residential and arts activity building with a ground-level car-share garage at 2070 Bryant Street (the south building). In total, the mixed-use buildings would provide 335 dwelling units (136 affordable dwelling units in the south building and 196 market-rate and three affordable dwelling units in the north building), 7,007 gsf of commercial retail space, 3,938 gsf of Production, Distribution and Repair (PDR) space, 6,947 gsf of arts activity space, and approximately 26,800 sf of common useable open space in the form of courtyards, rooftop terraces, and the pedestrian mews. The two ground-level garages, which would total approximately 14,223 gsf would provide 84 off-street vehicle parking spaces, four car-share spaces, and 237 bicycle parking spaces. Approximately 7,911 cubic yards of soil to a depth of up to 14 feet below grade for the foundation system and elevator pits, depending on the location on the site, will be excavated. Plantings will be added to the adjacent sidewalks, along with street furniture, sidewalk

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<sup>1</sup> The *Eastern Neighborhoods Rezoning and Area Plan Final EIR* (Planning Department Case No. 2004.0160E), State Clearinghouse No. 2005032048) was certified by the Planning Commission on August 7, 2008. The project site is within the *Eastern Neighborhoods Rezoning and Area Plan* project area.

bicycle parking, and sidewalk bulbouts at various locations around the project site. At its hearing of June 2, 2016, the Planning Commission required the Project to increase the amount of PDR space from 3,938 gsf to 12,000 gsf, resulting in the reduction of the number of dwelling units in the north building from 199 to 194 and a reduction of commercial retail space from 7,007 gsf to about 5,000 gsf.

## SITE DESCRIPTION

The rectangular project site is approximately 65,000 square feet (sf) in size (about 1.50 acres) and consists of three lots bounded by 18<sup>th</sup> Street to the north, Bryant Street to the east, Florida Street to the west, and existing one- to two-story buildings and a future six-story building (currently under construction) to the south.

The project site is fully developed and occupied by the following buildings and uses:

- Lot 001 contains a two-floor 2,640 gross-square-feet (gsf) wood building at 2000 – 2008 Bryant Street with a ground-floor restaurant and a vacant second-floor residence; a two-floor, 4,480 gsf building at 2010 – 2012 Bryant Street with an audio recording studio; a one-floor, 3,810 gsf wood building at 2014 Bryant Street with a carpet and upholstery business; a two-floor, 3,540 gsf architecture office at 2813 – 2815 18<sup>th</sup> Street; and a one-floor, 6,160 gsf automotive repair shop at 611 Florida Street consisting of wood frame/metal sided buildings.
- Lot 002 contains a two-floor, 1,870 gsf wood frame residential building at 2028 – 2030 Bryant Street with two vacant residential units.
- Lot 021 contains a two-story, 50,000 gsf concrete and steel frame industrial building which contains a machinist shop, theater rehearsal space (Innermission), and the American Conservatory Theater scene shop.

The existing buildings were constructed between 1892 and 1950, total about 72,500 gsf, and have Floor Area Ratios (FARs) ranging from about 1.0:1 to 2.0:1. The local vicinity is a largely flat area of the Mission District characterized by a mix of two- to five-story older and more recently constructed residential buildings interspersed with one- to three-story buildings containing various production, distribution and repair uses.

## ENVIRONMENTAL REVIEW PROCESS

The original environmental evaluation application (Case No. 2013.0617E) for the Project was filed by the sponsor, Linsey Perlov of 2070 Bryant Street JV LLC, on September 25, 2013. Revised environmental evaluation applications were filed by Ms. Perlov on August 24, 2015 and March 23, 2016.<sup>2</sup>

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<sup>2</sup> The revised CPE issued for the Project on May 11, 2016, rather than an earlier CPE issued on June 2, 2015, is the subject of this appeal response. Please see page 2 of the Certificate of Exemption for a brief discussion of the project originally proposed in 2014.

On May 11, 2016, the Department issued a CPE Certificate and Checklist, based on the following determinations:

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

Approval of the Project was first considered by the Planning Commission on May 19, 2016, at which time it was continued to June 2, 2016. On June 2, 2016, the Planning Commission adopted the CPE with approval of the Project under Planning Code Section 329 (Large Project Authorization), which constituted the Approval Action under Chapter 31 of the Administrative Code. A Conditional Use Authorization was also approved under Planning Code Sections 303 and 307 for removal of the three existing residential units.

On July 5, 2016, an appeal of the CPE determination (and adoption of a Conditional Use Authorization for the Project) was filed by Rachel Mansfield-Howlett on behalf of Peter Papadopoulos. The three page appeal letter from Ms. Mansfield-Howlett is included as Attachment A to this appeal response. Ms. Mansfield-Howlett's letter also included 525 pages of materials which are provided with the appeal letter on the cd disk ("Mansfield-Howlett\_070516.pdf). On July 22, 2016 Ms. Rose Zoia submitted a twelve page letter to the Board of Supervisors with additional comments in support of the Appeal. Ms. Zoia's twelve page letter is included as Attachment B to this Appeal Response. Ms. Zoia's twelve page letter also included an additional 1,057 pages of materials which are also provided on the cd disk ("Zoia\_072216.pdf").

## CEQA GUIDELINES

### Community Plan Exemptions

CEQA Section 21083.3 and CEQA Guidelines Section 15183 *mandate* that projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, *shall* not require additional environmental review except as might be

necessary to examine whether there are project-specific effects which are peculiar to the project or its site and that were not disclosed as significant effects in the prior EIR. Guidelines Section 15183 specifies that examination of environmental effects shall be limited to those effects that: a) are peculiar to the project or parcel on which the project would be located; b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent; c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR; or d) are previously identified significant effects which, as a result of substantial information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR. Guidelines Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, then an additional EIR need not be prepared for that project solely on the basis of that impact.

### **Significant Environmental Effects**

In determining the significance of environmental effects caused by a project, CEQA Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines 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.”

### **SAN FRANCISCO ADMINISTRATIVE CODE**

Section 31.16(e)(3) of the Administrative Code states: “The grounds for appeal of an exemption determination shall be limited to whether the project conforms to the requirements of CEQA for an exemption.”

San Francisco Administrative Code Section 31.16(b)(6) provides that in reviewing an appeal of a CEQA decision, the Board of Supervisors “shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions.”

### **CONCERNS RAISED AND PLANNING DEPARTMENT RESPONSES:**

The three-page appeal letter from Ms. Mansfield-Howlett (Attachment A to this appeal response) incorporated separate letters from Spike Kahn and Fernando Marti, and a variety of studies and reports in support of the appeal. These two letters are attached as Exhibit C to Ms. Mansfield-Howlett’s appeal letter and may be found on pages 179 through 186 of the pdf file named “Mansfield-Howlett\_070516” that is included on the cd disk. The extensive additional materials attached to Ms. Mansfield-Howlett’s appeal letter are also included on Mansfield-Howlett pdf included on the cd disk. The three-page appeal

letter contains seven bulleted items expressing the general bases for the appeal. These seven general concerns are listed in order below as Concerns 1 through 6 (the fifth bulleted item is included under the discussion for Concern 2).

Additional comments, reports and studies were received from Rose M. Zoia on July 22, 2016. Ms. Zoia's twelve page letter is included as Attachment B to this appeal letter. The extensive reports and studies are provided in the cd disk in the pdf file named "Zoia\_072216." Ms. Zoia's comments, as well as the concerns included in the letters incorporated into Ms. Mansfield-Howlett's appeal, are addressed in the responses to the seven general concerns as appropriate.

**Concern 1: The CEQA findings are inadequate and incomplete, fail to adequately describe the Project's components and are not supported by substantial evidence.**

**Response 1: The CEQA findings adopted by the Planning Commission on June 2, 2016 as part of the Commission's approval of the Large Project Authorization for the Project are not subject to appeal under San Francisco Administrative Code Section 31.16(e)(3).**

Per San Francisco Administrative Code Section 31.16(e)(3), the grounds for appeal of a CEQA exemption determination are limited to whether the project conforms to the requirements of CEQA for an exemption. The CEQA findings are a part of the Project approval action, which is not before the Board of Supervisors in this appeal of the Community Plan Exemption. Regardless, neither state law nor Chapter 31 of the Administrative Code requires that any findings be made for an exemption determination, including a Community Plan Exemption. Detailed CEQA findings are required to be made only when an EIR has been prepared, there are significant unmitigated environmental impacts associated with the project, and the agency decides to approve the project despite those impacts, pursuant to CEQA Guidelines Section 15091.

**Concern 2: The Project does not qualify for a Community Plan Exemption under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3 because the approval is based upon an out of date 2008 EIR prepared for the Eastern Neighborhoods Area Plan and the EIR's analyses and determinations can no longer be relied upon to support the claimed exemption in the areas of, inter alia, land use, consistency with area plans and policies, recreation and open space, traffic and circulation, transit and transportation, and cumulative impacts.**

**Response 2: The appeal does not identify new substantial information which was not known at the time the Eastern Neighborhoods PEIR was certified establishing that the Project would result in significant impacts that were not discussed in the Eastern Neighborhoods PEIR or in more severe adverse impacts than discussed in the PEIR. Substantial changes have not occurred with respect to the circumstances under which the Eastern Neighborhoods Plan has been undertaken such that a major revision of the Eastern**

Neighborhoods PEIR is required due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The Appellant and Ms. Zoia allege that the Department's determination to issue a CPE for the Project is invalid because substantial changes have occurred with respect to the circumstances under which the Eastern Neighborhoods Area Plans were approved due to the involvement of new significant environmental effects and a substantial increase in the severity of previously identified significant effects in the Eastern Neighborhoods PEIR. Bullet five of Ms. Mansfield-Howlett's July 5, 2016 appeal letter, states:

“Substantial changes in circumstances require major revisions to the Eastern Neighborhoods Area Plan EIR due to the involvement of new significant environmental effects and an increase in the severity of previously identified significant impacts; there is new information of substantial importance that would change the conclusions set forth in said EIR and the requirements of the Mitigation Monitoring and Reporting Program.”

On page 1 of her July 22, 2016, Ms. Zoia objects to the Project's approval

“utilizing a CPE based on an outdated Eastern Neighborhoods Area Plan Program EIR that is no longer viable because it has been exceeded in scope and pace in the areas of housing development and loss of Production, Distribution and Repair uses (PDR). The outdated EIR also does not account for significant and unforeseen changes in the areas of direct, indirect, and cumulative population, housing and displacement and traffic commutes and congestion.”

Similar concerns are included in the April 27, 2016 letter from Spike Kahn to the Department (incorporated into Ms. Mansfield-Howlett's appeal letter on pages 179 through 183). Impacts resulting from these allegedly changed circumstances include various cumulative impacts associated with recent and future development in the Mission District, including social and economic impacts leading to displacement of socio-economically disadvantaged residents and local businesses (particularly in the Mission District), loss of PDR space, and significant issues related to parking and traffic.

In order to provide context for the response to these concerns, a brief review of the Eastern Neighborhoods PEIR and discussion of CEQA's requirements for when a certified EIR must be revised is provided before addressing the appeal's concerns with significant new environmental effects and increased severity of significant effects that were previously identified in the Eastern Neighborhoods PEIR.

#### Eastern Neighborhoods PEIR and the Project CPE

As discussed on pages 4 and 5 of the CPE Certificate, The Eastern Neighborhoods PEIR is a comprehensive programmatic report that presents an analysis of the environmental effects of

implementation of the Eastern Neighborhoods Rezoning and Area Plans, as well as the potential impacts under several proposed alternatives. According to CEQA Guidelines Section 15168, a program EIR:

... is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either: (1) geographically; (2) as logical parts in the chain of contemplated actions; (3) in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or (4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

Use of a program EIR: (1) provides an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action; (2) ensures consideration of cumulative impacts that might be slighted in a case-by-case analysis; (3) avoids duplicative reconsideration of basic policy considerations; (4) allows the Lead Agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts; and (5) allows reduction in paperwork. Subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.

The Eastern Neighborhoods PEIR evaluated three rezoning alternatives, two community-proposed alternatives which focused largely on the Mission District, and a “No Project” alternative. The alternative selected, or the Preferred Project, represents a combination of Options B and C. The Planning Commission adopted the Preferred Project after fully considering the environmental effects of the Preferred Project and the various scenarios discussed in the PEIR.

As discussed on page 15 of the CPE Checklist, the Eastern Neighborhoods PEIR identified significant impacts related to land use, transportation, cultural resources, shadow, noise, air quality, and hazardous materials. Additionally, the PEIR identified significant cumulative impacts related to land use, transportation, and cultural resources. Mitigation measures were identified that reduced all impacts to less than significant, except for those related to land use (cumulative impacts on PDR use), transportation (program-level and cumulative traffic impacts at nine intersections; program-level and cumulative transit impacts on seven SFMTA lines), cultural resources (cumulative impacts from demolition of historical resources), and shadow (program-level impacts on parks).

Individual development projects, like the proposed project, that would be implemented under the Eastern Neighborhoods Plan are required to undergo project-level environmental review to determine if they would result in additional impacts specific to the development proposal, the project site, and if the proposed development would be within the development projections and the 20-year timeframe that the Eastern Neighborhoods PEIR analyzes, so as to assess whether additional environmental review is required. The Project was therefore evaluated under a CPE Checklist pursuant to CEQA Guidelines



Section 15183, which provides an exemption from environmental review for projects that are consistent with the development density established by the zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site.

The CPE Checklist fully described the proposed project (consistent with CEQA Guidelines Section 15124), its environmental setting (consistent with CEQA Guidelines Section 15125), and its potential impacts to the environment (consistent with CEQA Guidelines Section 15126). Consistent with CEQA Guidelines Section 15183, the CPE Checklist evaluated whether the proposed project would result in significant impacts that: (1) are peculiar to the project or project site; (2) were not identified as significant project-level, cumulative, or off-site effects in the Eastern Neighborhoods PEIR; or (3) are previously identified significant effects, which as a result of substantial new information that was not known at the time that the Eastern Neighborhoods PEIR was certified, are determined to have a more severe adverse impact than discussed in the PEIR.

Impacts to the environment that might result with implementation of the Project were analyzed in the CPE Checklist according to the project's potential impacts upon the specific setting for each environmental topic, clearly stated significance criteria, and substantial evidence in the form of topic-specific analyses. Consistent with CEQA Guidelines Section 15130, the CPE Checklist also includes analysis of the proposed project's potential cumulative impacts for each environmental topic. The CPE Checklist determined that the proposed project would not have a significant impact that was not previously identified in the Eastern Neighborhoods PEIR for all CEQA Guidelines Appendix G environmental topics. The CPE Checklist incorporated seven Mitigation Measures from the Eastern Neighborhoods PEIR to avoid impacts previously identified in the PEIR with regard to archeological resources, noise, air quality, and hazardous materials.

The CPE determination prepared for the Project evaluates its potential project-specific environmental effects and incorporates by reference information contained in the Eastern Neighborhoods PEIR. Project-specific studies related to transportation, noise, air quality, wind and hazardous materials were prepared for the Project to determine if it would result in any significant environmental impacts that were not identified in the Eastern Neighborhoods PEIR. As indicated above under Environmental Review Process, above, no such impacts were found.

#### CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations)

As a general matter, the circumstances under which a subsequent or supplemental EIR must be prepared for an EIR that has been certified for a project such as the Eastern Neighborhoods Area Plans are provided by CEQA Guidelines Section 15162(a), which states:

- a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on

the basis of substantial evidence in the light of the whole record, one or more of the following:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
  - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Concern 2 alleges that substantial changes with respect to the circumstances under which the Eastern Neighborhoods Area Plans has been undertaken have occurred, including growth that has exceeded that which was considered in the Eastern Neighborhoods PEIR, the pace of that growth, and impacts associated with displacement of existing residents and businesses. Concern 2 also alleges that there have been substantial increases in the severity of previously identified significant effects including (as noted above), in relation to traffic, parking, air quality and loss of PDR space. These concerns are responded to as follows:

### Population and Housing

As evidence that the Eastern Neighborhoods PEIR is out of date, Ms. Zoia states on page 3 of her letter to the Board of Supervisors Attachment B):

“The EIR projections for housing, including this project and those in the pipeline, have been exceeded when cumulative impacts are considered, i.e., “past, present, and reasonably foreseeable probable future projects.” (Guidelines, § 15355) The projections for the Mission show 2,451 units built or in the pipeline, which is in excess of the number of units in the Preferred Project, as well as Options A, B and C from the EIR (Mission Projects Completed or Under Environmental Review 2008 to 2/23/16 (Planning Department Data, Exhibit Section A).”

The status of development and population growth under in the Eastern Neighborhoods Plans and the Mission Plan Area as of February 23, 2016 is discussed under “Changes in the Physical Environment” on pages 17 and 18 of the CPE Checklist. The discussion begins by noting that the Eastern Neighborhoods PEIR projected that implementation of the Eastern Neighborhoods Plans could result in an increase of approximately 7,400 to 9,900 net dwelling units and 3,200,000 to 6,600,000 square feet of net non-residential space (excluding PDR loss) through the year 2025, resulting in a total population increase of approximately 23,900 to 33,000 people. As of February 23, 2016, projects containing 9,749 dwelling units and 2,807,952 square feet of non-residential space (excluding PDR loss) have completed, approved or are proposed to complete environmental review within the Eastern Neighborhoods plan areas, corresponding to an overall population increase of approximately 23,760 to 25,330 persons were all proposed projects approved and completed. Of the 9,749 dwelling units that are under review or have completed environmental review, building permits have been pulled for 4,829 dwelling units,<sup>3</sup> or approximately 50 percent of those units (information is not available regarding building permit non-residential square footage). Thus, completed units are well below the PEIR projection.

The discussion continues on page 18 of the CPE Checklist, noting that the Eastern Neighborhoods PEIR projected that implementation of the Mission Area Plan could result in an increase of 800 to 2,100 net dwelling units and 700,000 to 3,500,000 sf of non-residential space (excluding PDR loss), corresponding to an overall population increase of approximately 4,720 to 12,210 persons. As of February 23, 2016, projects containing 2,451 dwelling units and 355,842 square feet of non-residential space (excluding PDR loss), including the 2000-2070 Bryant project, had been completed, approved or are proposed to complete environmental review within the Mission Plan Area, corresponding to an overall population increase of

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<sup>3</sup> This number includes all units approved under CEQA for projects anticipated by the Eastern Neighborhoods PEIR (including CPEs and other types of CEQA documents). Once a project has been approved under CEQA, the building permit process must still be completed. When used in the context of a building permit, the term “pulled” encompasses the different levels of review a permit undergoes from when it is filed (application accepted) to complete (project has been constructed). According to Current Planning staff, projects that are under construction can take up to two years before they are completed and ready for occupancy.

8,765 to 10,650 persons. Of the 2,451 dwelling units that are under review or have completed environmental review, building permits have been pulled for 1,340 dwelling units, or approximately 55 percent of those units, well below the PEIR projection. Although the number of foreseeable dwelling units in the Mission Area Plan may exceed the range of development anticipated by the Eastern Neighborhoods PEIR by approximately 350 dwelling units, should all proposed projects be approved and completed, the total amount of non-residential space is well below the maximum evaluated in the Eastern Neighborhoods PEIR, as is the overall population increase. The CPE correctly concluded (on page 18 of the Checklist) as follows:

“In summary, projects proposed within the Eastern Neighborhoods Plan Areas have not exceeded the overall population growth that was projected in the Eastern Neighborhoods PEIR; therefore, foreseeable growth within the plan areas do not present substantial new information that was not known at the time of the PEIR and would not result in new significant environmental impacts or substantially more severe adverse impacts than discussed in the PEIR.”

As pointed out on page 18 of the CPE Checklist, the Eastern Neighborhoods PEIR utilized growth projections to analyze the physical environmental impacts that could result from development under the Eastern Neighborhoods Plan on Land Use; Population, Housing, Business Activity, and Employment; Transportation; Noise; Air Quality; Parks, Recreation, and Open Space; Utilities/Public Services; and Water. Nowhere in the Eastern Neighborhoods PEIR is it stated or inferred that the projections were intended as a cap or limit to growth within the areas that would be subject to the Eastern Neighborhoods Plans. The growth projections were based upon the best estimates available at the time the Eastern Neighborhoods PEIR was prepared. Regardless, and as discussed below, growth under the Eastern Neighborhoods Plans to date has not exceeded the growth projections used in the Eastern Neighborhoods PEIR.

#### Pace of Development

Ms. Zoia also asserts that growth in the Eastern Neighborhoods Plan area has occurred at a pace not anticipated by the Eastern Neighborhoods PEIR such that significant and unforeseen changes in the areas of direct, indirect, and cumulative population, housing and displacement and traffic commutes and congestion have occurred.<sup>4</sup> The Eastern Neighborhoods PEIR impact analyses were not based on any anticipated pace or phasing of growth (or loss of PDR space). The Eastern Neighborhoods PEIR is a comprehensive programmatic environmental document that identifies the potential environmental impacts associated with the type and intensity of development that is projected to occur under the area

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<sup>4</sup> As evidence of changed circumstances, Ms. Zoia cites (on page 1 of her July 22, 2016 letter included as Attachment B) an “outdated Eastern Neighborhoods Area Plan Program EIR that is no longer viable because it has been exceeded in scope and pace in the areas of housing development and loss of Production, Distribution and Repair uses.”

plans, including the Mission Area Plan, and within the plan area boundaries, including the project site boundaries, over an approximate 20-year timeframe regardless of the pace of that development. In general, a program EIR is effective for the entire planning horizon identified in the associated plan, unless conditions substantially change such that the information or analysis provided in the EIR is no longer valid. In this case, the Eastern Neighborhoods PEIR evaluated the impacts of development in the Plan Area that could occur through the year 2025.

As discussed above, individual development projects that are consistent with the development density provided under the Eastern Neighborhoods Plan are exempt from environmental review except to determine if they would result in significant impacts specific to the development proposal or the project site that were not identified in the Eastern Neighborhoods PEIR.

### Loss of PDR

The Appeal includes several references to the loss of PDR at rates and amounts not anticipated by the Eastern Neighborhoods PEIR. On page 5 of her July 22, 2016 letter to the Board of Supervisors (Attachment B), Ms. Zoia states:

“Similarly, the loss of PDR including projects in the pipeline has exceeded the EIR's 25-year pace by 178% for the Eastern Neighborhoods, and by 186% for the Mission (Eastern Neighborhoods PDR Loss, Planning Data, April 5, 2016, Exhibit Section C). This proposed market rate project will eradicate another 44,000 square feet of PDR use. The proposed meager 12,000 square feet of PDR space will do little to mitigate the impact.”

Again, the Eastern Neighborhoods PEIR did not analyze the potential land use impacts upon PDR according to a rate of loss. The loss of PDR space resulting from implementation of the Eastern Neighborhoods Plans was found to be a significant and unavoidable impact in the Eastern Neighborhoods PEIR. The Project's contribution to loss of PDR space is disclosed under Topic 1(b) of the CPE Checklist, which provides an analysis of the anticipated loss of PDR evaluated in the Eastern Neighborhoods PEIR on page 20, observing that the Eastern Neighborhoods PEIR analyzed a range of potential rezoning options and considered the effects of losing between approximately 520,000 to 4,930,000 square feet of PDR space in the Plan Area through the 2025 (compared to an estimated loss of approximately 4,620,000 square feet of PDR space in the Plan Area under the No Project alternative). As of February 23, 2016, projects resulting in the removal of 1,715,001 and 273,073 net square feet of PDR space within the Eastern Neighborhoods and Mission Plan areas, respectively, have completed or are proposed to complete environmental review. Therefore, the potential loss of PDR space from development completed and proposed since adoption of the Eastern Neighborhoods Plan is well within the range assumed in the PEIR of 520,000 to 4,930,000 square feet. Moreover, neither the Eastern Neighborhoods Area Plans nor the Eastern Neighborhoods PEIR caps the conversion of PDR at 4,930,000 square feet. The loss of 520,000 to 4,930,000 square feet of PDR loss assumed in the PEIR is a projection that the Planning Department used to evaluate whether adoption of the Plan would have a significant impact on land use. The validity of the PEIR does not depend on actual build out under the adopted plan

precisely tracking with the growth projections underlying the analysis. For the purposes of CEQA, it is sufficient that the PEIR disclosed that adoption of the plan would have a significant and unavoidable cumulative impact on land use due to the loss of PDR space. The loss of PDR space was the central issue of the Eastern Neighborhoods PEIR and adoption of the Eastern Neighborhoods Area Plans. It was the subject of substantial public comment and review, and of lengthy public hearings before the Planning Commission and the Board of Supervisors. Even if PDR loss exceeded the projections used to evaluate land use impacts in the PEIR, which is not the case, it would not follow that major revisions to the Eastern Neighborhoods PEIR would be required in order to inform the public and decision-makers about the impacts of the Eastern Neighborhoods Area Plans on land use due to the loss of PDR.

Of the Project's contribution to this cumulative PDR loss, the CPE Checklist discussion correctly concludes: "The proposed loss of 53,565 gsf of existing PDR uses represents a considerable contribution to the cumulative loss of PDR space analyzed in the Eastern Neighborhoods PEIR, but would not result in significant impacts that were not identified or a more severe adverse impact than analyzed in the PEIR." In addition, in approving the Project, the Planning Commission required an additional 8,000 square feet of replacement PDR space in the Project, such that the proposed loss of PDR space is approximately 45,565 square feet, somewhat less than analyzed in the CPE Checklist. As stated above, the losses of PDR to date are fully anticipated by the Eastern Neighborhoods PEIR. Therefore, the Appellant and Ms. Zoia are incorrect in asserting that the loss of PDR or the pace of PDR loss to date constitutes an increase in the impact associated with the loss of PDR anticipated by the Eastern Neighborhoods PEIR.

The Appellant also includes an informational document regarding the importance of PDR as a source of well-paid employment and an important contributor to San Francisco's and the Mission District's diversity and unique character.<sup>5</sup> However, these features do not implicate an environmental impact beyond their relationship with the loss of PDR space that will occur with the implementation of the Eastern Neighborhoods Area Plans and the Project – an impact that is disclosed in the Eastern Neighborhoods PEIR.

Finally, the Project will provide approximately 12,000 sf of PDR space in the north building and 6,900 sf of artist space in the south building.

#### Housing Prices, Changing Economic Conditions and Displacement

In support of their contention that the Eastern Neighborhoods PEIR is out of date, the Appellant asserts that the high cost of housing and consequent displacement of residents and businesses represent

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<sup>5</sup> See "*Urban Manufacturing: An Equity Engine*," SF Made and Citi Community Development, No Date (pages 189 through 193 of Ms. Mansfield-Howlett's appeal letter included on the cd disk).

substantial changes to the circumstances considered in the Eastern Neighborhoods PEIR. On pages 4 and 5 of her July 22, 2016 letter (Attachment B) to the Board of Supervisors, Ms. Zoia states:

“This project approval represents the first major project of roughly 50 projects in the pipeline of projects proposed in the Mission, bringing more than 2,000 luxury housing units to the Mission. In the aggregate, these projects will have significant detrimental impacts.”

Ms. Zoia provides a bullet list of eight items as evidence of changing demographics and economic conditions in the Eastern Neighborhoods and Mission Plan areas purported to represent changed circumstances not considered by the Eastern Neighborhoods PEIR (see pages 4 and 5 of Ms. Zoia’s letter included as Attachment B). On pages 6 and 7 Ms. Zoia then makes a connection between the “sky-rocketing of housing rental prices” and the displacement of current residents by far wealthier renters and owners with longer commutes and increased transportation impacts:

“The EIR did not take into account the disparate impact on racial minorities and lower-income residents displaced by market rate gentrification and forced to relocate and commute long distances daily. It did not discuss or anticipate the proliferation of new tech shuttles, the rise of reverse commutes out of the city, nor San Francisco’s internationally recognized displacement crisis which has resulted in long commutes for the newly displaced.”

A number of studies and reports are attached to Ms. Zoia’s letter relating to gentrification and displacement in the Mission District<sup>6</sup> and to issues such as the health effects of gentrification,<sup>7</sup> the effects of long-distance commuting,<sup>8</sup> and an examination as to whether wealthier individuals own more cars and drive more.<sup>9</sup>

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<sup>6</sup> For example, “*Potential Effects of Limiting Market-Rate Housing in the Mission*,” City and County of San Francisco, Office of the Controller, September 10, 2015 (pages 27 through 67 of Ms. Zoia’s letter on the cd disk); “*Displacement in the Mission District*,” City and County of San Francisco Board of Supervisors, Budget and Legislative Analyst, October 27, 2015 (pages 68 through 111); and “*Case Study on Gentrification and Displacement Pressures in the Mission District of San Francisco, CA*,” Center for Community Innovation, University of California, Berkeley, June 2015 (pages 134 through 172).

<sup>7</sup> For example, “*Health Effects of Gentrification*,” Center for Disease Control and Prevention, No Date (pages 200 through 203 of Ms. Zoia’s letter on the cd disk) and “*The Public Health Costs of Traffic Congestion*,” Harvard School of Public Health, 2010 (pages 432 through 450).

<sup>8</sup> For example, “*Bay Area workers commuting from edges of ‘megaregion,’ new report says*,” The Mercury News, June 30, 2016 (pages 410 through 412 of Ms. Zoia’s letter on the cd disk) and “*Transit Oriented Development and Affordable Housing*,” Association of Bay Area Governments, No Date (pages 511 through 562).

<sup>9</sup> “*Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy*,” California Housing Partnership Corporation, No Date (pages 495 through 510 of Ms. Zoia’s letter on the cd disk).

In her April 27, 2016 letter to the Planning Department Spike Kahn (see pages 179 through 183 of the pdf file “Mansfield-Howlett\_070516” on the cd disk) also asserts (among other issues discussed elsewhere in this Appeal Response) that an “infusion of new residents – most notably economically well-heeled in what is otherwise a working class neighborhood” results in displacement of existing residents and business, citing a number of benefits associated with local, community-serving businesses and nonprofits. She refers to the loss of PDR space that will occur with the Project in the context of displacement:

“The proposed project developer plans on building just 3983 sq ft of PDR space - although he claims he will be replacing 11,000 sq ft, only 3983 will be built in his plan - and has not committed to renting this space out at affordable rates comparable to the PDR space that is now gone. We are not talking about empty warehouses, work sent off shore and long abandoned. This was a thriving block only 1 year ago, before the evictions and displacement by this developer began.”

Ms. Kahn notes that these businesses “clearly constitute ‘physical conditions’ which are of ‘historic or aesthetic significance’ and therefore merit consideration under CEQA.” Citing CEQA Guidelines Section 15064(e) (referred to as 15604(e) in her letter), Ms. Kahn argues: “Should the project proceed, it will cause significant economic and social changes in the immediate area that will result in physical changes, including impacts on air quality, traffic and transportation, as well as negative impacts on the Cultural District.”

Pursuant to CEQA Guidelines Sections 15131 and 15064(e), economic impacts are separate from environmental impacts and generally not studied in environmental analyses unless there is substantial evidence of related physical impacts on the environment. Section 15064(e) states in part:

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

Substantial evidence is not provided in the Appeal as to how and in what way displacement results in a physical impact on the Project’s environmental setting. Nor is substantial evidence provided to support the assertion that the development of new housing units pursuant to the Eastern Neighborhoods or Mission Area Plans are causing displacement. In particular, the Appellant and Ms. Zoia do not establish a causal link between gentrification and displacement and the Project, or to a significant environmental impact that would result with implementation of the Project that was not previously considered in the Eastern Neighborhoods PEIR. Regardless, Ms. Kahn alleges that impacts upon air quality, traffic and transportation will result. The Project’s potential impacts with regard to each of these topics are analyzed



in the CPE Checklist on the basis of information and data prepared by qualified consultants and Ms. Kahn provides no substantial evidence to support her claim. Mitigation measures from the Eastern Neighborhoods PEIR have been required as determined appropriate.

In regards to Ms. Kahn's comment that displaced businesses merit consideration under CEQA, the CPE Checklist provides a complete analysis of the effects of removing the existing structures at the project site, including potential impacts with regards to demolition and hazardous materials, loss of historic resources, and construction traffic, air quality and noise. The CPE imposed mitigation measures from the Eastern Neighborhoods PEIR as appropriate for control of toxic air contaminant emissions from construction equipment and hazardous materials during and after demolition.

Finally, Section IV.D of the Eastern Neighborhoods PEIR provides an analysis of potential impacts related to population, housing, business activity and employment according to whether the rezoning options would:

- Induce substantial growth or concentration of population,
- Displace a large number of people (involving either housing or employment), or
- Create a substantial demand for additional housing in San Francisco, or substantially reduce the housing supply.

As discussed above, the Eastern Neighborhoods PEIR notes that economic or social effects of a project are not treated as significant effects on the environment unless social or economic changes brought about by a project result in substantial adverse physical changes. The Eastern Neighborhoods PEIR evaluates the potential of the proposed rezoning options to displace existing residents and businesses (see pages 243 through 249 of the PEIR). On page 249, the Eastern Neighborhoods PEIR concludes that "the increase in population that would be expected to occur as a secondary effect of the proposed rezoning and adoption of the proposed area plans would not, in itself result in adverse physical effects, and would serve to advance some key City policy objectives..." With regard to residential displacement, the Eastern Neighborhoods PEIR states on page 250 that

"none of the proposed project options would directly result in displacement of residents...each of the proposed rezoning options would result in less displacement as a result of housing demand than otherwise expected under the No-Project scenario, because the addition of more new housing in the Eastern neighborhoods would provide some relief for housing market pressures without directly affecting existing residents."

With regards to the displacement of businesses, the Eastern Neighborhoods PEIR similarly concludes on page 250 that

"none of the proposed project options would directly result in displacement of businesses or employment. However, all of the proposed rezoning options would reduce the land supply otherwise available under existing zoning and No-Project conditions for

PDR uses, contributing to eventual displacement of some existing PDR business activity and employment.”

Thus, the Eastern Neighborhoods PEIR disclosed potential impacts with regards to residential and business displacement with the rezoning options but determined they would be less-than-significant in terms of the three criteria noted above.

### Traffic

In her April 27, 2016 letter to the Planning Department (see page 183 of the Mansfield-Howlett pdf on the cd disk), Ms. Kahn states:

“Traffic and parking are also a significant issue. The project site is on Bryant Street, a major thoroughfare used by the increasing commuter shuttle buses, UCSF shuttle, and the 27 Bryant MUNI buses that criss-cross Bryant St. The addition of 196 new households, along with the hundreds of units in the pipeline will significantly increase traffic along these corridors, and exacerbate parking in the neighborhood. The Department should also consider alternative measures for mitigation of these impacts.”

On page 7 of her July 22, 2016 letter to the Board of Supervisors (Attachment B) Ms. Zoia states:

“There are also substantial traffic and transportation impacts not foreseen in the EIR. It is no surprise that the EIR was unable to foresee significant changes to travel conditions in 2016 because it used a baseline based on a series of land use and growth studies written in 2002.”

As discussed above, Ms. Zoia proceeds to note several “transportation scenarios” not anticipated by the Eastern Neighborhoods PEIR, including “sky-rocketing” residential rental prices, high rates of evictions, “an influx of unanticipated luxury renters” who allegedly drive more miles per day, and the effects of displaced local residents who now must “commute back into the city to continue their former lives at work and taking their children to school.” No substantial evidence was presented in support of these allegations.

The travel demand analysis methodology employed in the Eastern Neighborhoods PEIR is provided on pages 267 through 269 of the PEIR. Briefly, the analysis relied upon the San Francisco County Transportation Authority (SFCTA) countywide travel demand forecasting model to develop forecasts for development and growth under the No Project and three zoning options (A, B and C) through the year 2025 in the Eastern Neighborhoods study area. This approach took into account both future development expected within the boundary of the Eastern Neighborhoods Area Plans and the expected growth in housing and employment for the remainder of San Francisco and the nine-county Bay Area. As Ms. Zoia points out, the analysis was based on assumptions about future land uses (that is, anticipated development) that were prepared by the Planning Department as part of its 2002 Land Use Allocation

forecasting process, the same forecasting effort that was the basis for the three rezoning options. Growth forecasts were prepared for each traffic analysis zone (or TAZ) in the Eastern Neighborhoods study area and the remainder of the City. As the Eastern Neighborhoods PEIR points out on page 268,

“[n]o separate cumulative model run was undertaken, because, as noted, the 2025 forecasts developed by the Planning Department include growth in the remainder of San Francisco, as well as in the rest of the Bay Area. Thus, each rezoning option effectively is [sic] represents a different cumulative growth scenario for the year 2025, including growth from development that would occur with implementation of the proposed Eastern Neighborhoods Rezoning and Area Plans, as well as other, non-project-generated growth accounted for in the 2025 No-Project scenario.”

As pointed out on page 7 of the CPE Certificate for the Project, significant and unavoidable impacts were identified in the Eastern Neighborhoods PEIR for transportation and circulation (specifically, traffic and transit).<sup>10</sup> Ms. Zoia provides no evidence that traffic conditions in the area of the Project today represent “changed circumstances” necessitating a subsequent or supplemental EIR for the Eastern Neighborhoods Area Plans, nor does she identify specific transportation and circulation impacts that would result from the Project that were not already analyzed in the PEIR.

As stated on page 30, the Project’s potential impacts with respect to transportation and circulation were analyzed consistent with the Planning Department’s 2002 Transportation Impacts Analysis Guidelines for Environmental Review and presented in a comprehensive Transportation Impact Study (see footnote 28 on page 30). The potential transportation and circulation impacts of the Project are evaluated under Topic 4 of the CPE Checklist (pages 25 through 32). As discussed on page 19, 26 and of the CPE Checklist, the City (with the Planning Commission’s adoption of resolution 19579 on March 3, 2016) no longer considers automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, to be a significant impact on the environment under CEQA. Consistent with resolution 19579, the CPE Checklist provides an analysis of the Project’s anticipated project-specific and cumulative contribution to Vehicle Miles Travelled (VMT) and induced automobile travel. In both instances, the analysis determined that the Project would not result in a significant project-specific or cumulative impact. Similarly and as also discussed on page 19 of the CPE Checklist (under Aesthetics and Parking), the Project qualifies as an infill project: it is in a transit priority area, it is on an infill site, and it is a mixed-use residential project. Consistent with CEQA Section 21099, aesthetics and parking are not considered as significant environmental effects for infill projects.

The Transportation and Circulation section provides a comprehensive analysis of the Project’s anticipated trip generation and its potential effects on transit, pedestrians, bicyclists, loading, and construction traffic.

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<sup>10</sup> In other words, the Eastern Neighborhoods PEIR did anticipate significant and unavoidable impacts related to traffic congestion and transit (see pages S-17 through S-22).

The analysis is based upon the Transportation Impact Study (TIS) prepared for the proposed project (see footnote 28 on page 30) and is consistent with the Planning Department's Transportation Impact Analysis Guidelines for Environmental Review (SF Guidelines) and the analysis and conclusions presented in the Eastern Neighborhoods PEIR. On the basis of the substantial evidence provided by the TIS and an analysis of the Project's potential transportation and circulation effects in relation to the Eastern Neighborhoods PEIR, the CPE Checklist concluded (on page 32) that the Project "would not result in significant impacts that were not identified in the Eastern Neighborhoods PEIR related to transportation and circulation and would not contribute considerably to cumulative transportation and circulation impacts that were identified in the Eastern Neighborhoods PEIR."

Ms. Zoia's contention that the CPE is flawed because the Eastern Neighborhoods PEIR did not consider traffic and transportation effects resulting from displacement is not based upon substantial evidence; the various reports and studies included with Ms. Zoia's letter do not provide specific analysis connecting displacement in the Mission District with observable traffic and transportation effects (noting again that traffic congestion is no longer considered an impact under CEQA).

#### Conclusion

On page 7 of her July 22, 2016 submittal to the Board Clerk (Attachment B), Ms. Zoia states: "The CPE cannot be approved because Planning has no objective criteria to determine when CPEs cannot be approved under the EIR." This is incorrect. The Planning Department properly relies upon CEQA Guidelines Section 15183 to determine if additional environmental review is required for projects that are consistent with the development density established under existing zoning, community plans, or general plan policies, including the Eastern Neighborhoods Plan, for which an EIR was certified. In accordance with this provision of the CEQA Guidelines, additional environmental review *shall* not be required for such projects except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. As established in the CPE Checklist, the Project would not result in significant effects which are peculiar to the project or its site that were not previously disclosed in the Eastern Neighborhoods PEIR.

The Appellant and Ms. Zoia do not provide substantial evidence to support their contention that there are substantial changes in circumstances which require major revisions to the Eastern Neighborhoods PEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified environmental effects. There are no substantial changes to the Eastern Neighborhoods Plans, substantial changes with respect to the circumstances which were analyzed by the Eastern Neighborhoods PEIR, or new information of substantial importance such that a new, subsequent or supplemental EIR would be required pursuant to CEQA Guidelines Section 15162. The Eastern Neighborhoods PEIR did consider the effects of displacement of residents and businesses as a result of

the rezoning options considered and found those impacts to be less-than-significant.<sup>11</sup> Contrary to the Appellant's and Ms. Zoia's assertion, growth and the pace of growth in both the Eastern Neighborhoods and Mission Plan areas (as measured by dwelling units and population) do not represent or implicate a new significant environmental effect or increased severity of an environmental effect analyzed in the Eastern Neighborhoods PEIR such that a subsequent or supplemental document would have to be prepared pursuant to CEQA Guidelines Section 15162(a)(1). Nor does the discussion presented in the CPE regarding growth represent "new information of substantial importance" pursuant to CEQA Guidelines Section 15162(a)(3).

**Concern 3: The claimed community benefits of the Eastern Neighborhoods Area Plan, outlined in the 2008 PEIR, its approvals and the Statement of Overriding Considerations, have not been fully funded, implemented, or are underperforming and the determinations and findings for the Project that rely on the claimed benefits to override impacts outlined in the PEIR are not supported. The City should have conducted Project level review based upon up to date data and the actual community benefits that have accrued since the adoption of the 2008 and has not.**

**Response 3: The Appellant's contentions concerning community benefits are not valid grounds for an appeal of the CPE because they do not demonstrate that the Project would result in significant effects which are peculiar to the project or its site that were not disclosed in the Eastern Neighborhoods PEIR.**

As stated above, CEQA Section 21083.3 and CEQA Guidelines Section 15183 mandate that projects that are consistent with the development density established under existing zoning, community plans, or general plan policies for which an EIR was certified shall not require additional environmental review except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. The Appellant's contentions concerning the funding and implementation of community benefits do not demonstrate that the project would result in significant effects which are peculiar to the project or its site that were not disclosed in the Eastern Neighborhoods PEIR. Therefore, these contentions do not form a valid ground for an appeal of the determination that the project qualifies for a CPE. As such, the following discussion about the status of the community benefits identified in the CEQA findings and Statement of Overriding Consideration for the adoption of the Eastern Neighborhoods Area Plans is provided for informational purposes.

The Appellant does not specify which community benefits "have not been fully funded, implemented or are underperforming..." or which findings and determinations for the Project "rely on the claimed benefits to override impacts outlined in the PEIR." Regardless, as the following discussion indicates, community benefits are being provided under the Eastern Neighborhoods Plan through an established process.

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<sup>11</sup> In regards to the issue of displacement, note that the Project evaluated in the CPE proposes to provide 136 affordable dwelling units in the south building and three affordable dwelling units in the north building.

The Eastern Neighborhoods Plan included, as an informational item considered by the Planning Commission at the time of the original Eastern Neighborhoods Plans approvals in 2008, a Public Benefits Program detailing a framework for delivering infrastructure and other public benefits as described in an Implementation Document titled Materials for Eastern Neighborhoods Area Plans Initiation Hearing.<sup>12</sup> The Public Benefits Program consists of:

- 1) an Improvements Program that addresses needs for open space, transit and the public realm, community facilities and affordable housing;
- 2) a Funding Strategy that proposes specific funding strategies and sources to finance the various facilities and improvements identified in the Improvements Plan, and matches these sources to estimated costs; and
- 3) a section on Program Administration that establishes roles for the community and City agencies, provides responsibilities for each, and outlines the steps required to implement the program.

Some of the benefits were to be provided through requirements that would be included in changes to the Planning Code. For example, Planning Code Section 423 (Eastern Neighborhoods Community Infrastructure Impact Fee) fees are collected for “Transit”, “Complete Streets”, “Recreation and Open Space”, “Child Care”, and in some portions of the Mission District and the South of Market Area, “Affordable Housing”. With the adoption of Planning Code Section 419, affordability levels are set at higher levels that throughout the rest of the City in the UMU Zoning District (which is unique to the Eastern Neighborhoods Plan area). Other benefits were to be funded by fees accrued with development and through other sources of funding. The Public Benefits Program was not intended to be a static list of projects; rather, it was designed to be modified by a Citizens Advisory Committee as needs were identified through time.

The current list of public benefit projects are is provided as Attachment D to this Appeal Response. The Appellant’s assertion that “the claimed benefits to override impacts outlined in the PEIR are not supported,” stating that benefits have not been have not been fully funded, implemented, or are underperforming, is incorrect. The Attachment D list shows that of the 66 capital projects that currently comprise the Public Benefits Program, 10 are complete, 16 are under construction (including the new Folsom and 17<sup>th</sup> Street public park located three blocks from the Project site), six are fully funded and awaiting construction, and the remaining 34 are in various stages of planning.

In terms of the process for implementing the Public Benefits Program, new development within the Eastern Neighborhoods Plan area, including the Project, are required to pay development impact fees upon issuance of the “first construction document” (either a project’s building permit or the first

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<sup>12</sup> San Francisco Planning Department, *Materials for Eastern Neighborhoods Area Plans Initiation Hearing*, Case No. 2004.0160EMTUZ. April 17, 2008. Accessed August 22, 2016 at: <http://sf-planning.org/sites/default/files/FileCenter/Documents/1507VOL3 - Implementation.pdf>

addendum to a project's site permit), which are collected to fund approximately 30 percent of the infrastructure improvements planned within the Eastern Neighborhoods Plan area. Additional funding mechanisms for infrastructure improvements are identified through the City's 10-year Capital Plan. Eighty percent of development impact fees must go towards Eastern Neighborhoods priority projects, including development of the new park at 17<sup>th</sup> and Folsom streets, until those priority projects are fully funded. The fees are dispersed to fund infrastructure improvements within the entirety of the Eastern Neighborhoods Plan area, on a priority basis established by the Eastern Neighborhoods Citizen Advisory Committee (CAC) and the City's Interagency Plan Implementation Committee (IPIC). The IPIC works with the CAC to prioritize future infrastructure improvements. Additionally, the Planning Department and Capital Planning Program are working with the implementing departments to identify additional State and federal grants, General Fund monies, or other funding mechanisms such as land-secured financing or Infrastructure Finance Districts to fund the remaining emerging needs. Impact fees are distributed among the following improvement categories: open space, transportation and streetscape, community facilities, childcare, library, and program administration. As stated in the January 2015 Planning Department's Interagency Plan Implementation Committee Annual Report,<sup>13</sup> the Planning Department forecasts that pipeline projects, including the proposed project, would contribute approximately \$79.6 million in impact fee revenue within the Eastern Neighborhoods Plan area between 2016 and 2020.

Infrastructure projects that are currently underway are also listed in the Planning Department's Interagency Plan Implementation Committee Annual Report. These include various streetscape, roadway, park, and childcare facility improvements. Additionally, the Transportation Sustainability Fee was adopted in November 2015 (BOS File Number 150790). Expenditures are allocated according to Table 411A.6A. in the Ordinance, giving priority to specific projects identified in different Area Plans. These processes and funding mechanisms are intended to provide for implementation of infrastructure improvements to keep pace with development and associated needs of existing and new residents and businesses within the area. The CPE Checklist provides further information regarding improvements within the Eastern Neighborhoods Plan Area. In regards to transit and as discussed on page 30 of the CPE Checklist, Mitigation Measures E-5 through E-11 in the Eastern Neighborhoods PEIR were adopted as part of the Eastern Neighborhoods Area Plans with uncertain feasibility to address significant transit impacts. While these plan-level measures are not applicable to the Project, each is in some stage of implementation (see discussion on page 30 of the CPE Checklist). In regards to recreation, the funding and planning several Eastern Neighborhoods parks and open space resources is discussed on pages 44

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<sup>13</sup> City and County of San Francisco, Interagency Plan Implementation Committee Annual Report, website: [http://www.sf-planning.org/ftp/files/plans-and-programs/plan-implementation/2011\\_IPIC%20Report\\_FINAL.pdf](http://www.sf-planning.org/ftp/files/plans-and-programs/plan-implementation/2011_IPIC%20Report_FINAL.pdf), January 2015.

and 45 of the CPE Checklist. In addition, the proposed new park at 17<sup>th</sup> Street and Folsom is fully funded and currently under construction.<sup>14</sup>

To conclude, the public benefits included in the Public Benefits Program are in the process of being provided under the Eastern Neighborhoods Area Plans. As is generally the case with development fee-based provision of community benefits, the capital facilities are constructed as fees are collected; they are rarely provided in advance of development. The Appellant's assertion that the provision of community benefits is so deficient as to render the environmental determinations in the Eastern Neighborhoods PEIR moot is not supported by substantial evidence. As described above, the CPE does provide an up-to-date description of the provision of transportation and recreation community benefits. For these and other impact analyses the CPE properly concludes that the Project would not result in a significant impact not previously identified in the Eastern Neighborhoods PEIR.

**Concern 4: The Project does not comply with the requirements of the Urban Mixed Use Zoning District and the 68-X Height and Bulk District.**

**Response 4: The Appellant does not identify an environmental impact associated with the Project's alleged non-compliance with the requirements of the Urban Mixed Use zoning district and the 68-X Height and Bulk district that was not analyzed in the CPE. Regardless, the Project is consistent with its zoning and height and bulk districts and impacts associated with land use were appropriately analyzed in the CPE Checklist.**

The Project is a mixed-use development containing residential, commercial/retail and PDR land uses which are each permitted by right in the UMU zoning district (Planning Code Section 843). The potential impacts of the project with regard to Land Use and Land Use Planning are analyzed under Topic 1 of the CPE Checklist, on pages 20 to 21. Consistency with the requirements of zoning and height and bulk designations are addressed under Impact (2), which asks if the Project would conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental impact. As discussed on page 21 of the CPE Checklist, the Citywide and Current Planning Divisions both determined that the proposed project was consistent with the development density of the Eastern Neighborhoods Area Plan and the City's Planning Code and Zoning Map. The Current Planning determination (see footnote 13 on page 21) states:

“The UMU district permits residential dwelling units without specific density limitations, allowing physical controls such as height and bulk to control dwelling unit density...The UMU District also permits non-residential development at a floor area ration of 5.0:1 in a 68-X Height and Bulk District...The Project is seeking a height concession pursuant to California Government Code Section 65915-65918 and would therefore exceed the applicable 68-foot limit...As proposed with the allowable height

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<sup>14</sup> See <http://sf-planning.org/proposed-park-site-17th-and-folsom>.



concession pursuant to California State Code, the project is permitted in the UMU District and is consistent with the development density as envisioned in the Mission Area Plan.”

The Citywide Planning determination (see footnote 14 on page 21) states:

“The proposed project is consistent with the bulk, density, and land uses envisioned in the Mission Area Plan. This project falls within the Northeast Mission generalized zoning district, meant to maintain the area’s unique mix of uses, including mixed residential and lighter industrial uses. The plan also calls for transportation improvements and reduced parking in order to encourage alternatives to automobile travel. As a mixed use residential project with reduced parking, the proposed project is consistent with this designation.”

The South Building, consisting of 100 percent affordable housing units in an 85-foot tall building, is allowed to add up to three stories (to a height of 96 feet) pursuant to the State density bonus law (California Government Code Section 65915), and newly enacted Sections 206-206.5 of the Planning Code, which sets forth the City’s affordable housing density bonus program. At 85 feet in height, the South Building would be within the 96-foot height permitted by state and local affordable housing density bonus programs in a 68-X height and bulk district.

Height and bulk are typically associated with potential impacts related to shadow and wind, which are analyzed under Topic 8 in the CPE Checklist (pages 42 through 44). A preliminary shadow fan prepared by the Planning Department determined that the Project would not have an impact on any park subject to Section 295 of the Planning Code or any other public park. A qualitative, screening-level wind assessment prepared by a qualified consultant determined that the Project would not result in an exceedance of the wind hazard criterion for the pedestrian areas around the project site.

To conclude, the Project is consistent with both its UMU zoning designation and its 68-X height and bulk designation.

#### **Concern 5: The Project is inconsistent with the General Plan and the Mission Area Plan.**

On page 8 of her July 22, 2016 submittal to the Board of Supervisors (Attachment B), Ms. Zoia provides the following as evidence the Project’s alleged inconsistency with the General Plan and the Mission Area Plan:

“The destruction of the decades-old CELLspace/Inner Mission building is inconsistent with objective 7.1.2 of the Mission Area Plan: "recognize the value of existing facilities, including recreational and cultural facilities, and support their expansion and continued use.”

“Additionally, the demolition of this performance space is inconsistent with Goal 6 of the SF General Plan Arts Element to "Enhance, Develop, and Protect the Physical

Environment of the Arts in San Francisco and Policy VI-1.4 to "Preserve existing performing spaces in San Francisco." CELLspace is such a prominent building in the Mission arts scene that its image is featured in the Mission Area Plan. (Pp. 11, 68, 75)."

**Response 5: The Project is consistent with the development density established under the Eastern Neighborhoods Area Plan, and would not result in significant impacts on the physical environment due to conflicts with the General Plan or the Mission Area Plan that are peculiar to the project or the project site.**

Topic 1(b) (Land Use and Land Use Planning) of the CPE Checklist limits review of the Project's conflicts with any applicable land use plan, policy, or regulation to those "adopted for the purpose of avoiding or mitigating an environmental effect." Project-related policy conflicts and inconsistencies do not constitute, in and of themselves, significant environmental impacts.

The removal of the approximately 10,000-square-foot space in one of the existing buildings previously occupied by Cellspace/Inner Mission would not result in a physical impact upon the environment. (Again, note that the Project includes about 19,000 sf of replacement PDR and artist space.) The consistency of the Project with those General Plan and Mission Area Plan policies that do not relate to physical environmental issues or result in physical environmental effects (such as those cited above by Ms. Zoia), were considered by the Planning Commission as part of their determination on whether to approve, modify, or disapprove the Project.

Ms. Zoia argues that the Project is inconsistent with policies to retain PDR space:

"This project, which eliminates 44,000 sf of PDR on the North portion of the site, is also inconsistent with the following Mission Area Plan sections:

1.7: "Retain the Mission's Role as an Important Location for Production, Distribution, and Repair (PDR) Activities"; and 2.1: "Ensure that a significant percentage of new housing created in the Mission is affordable to people with a wide range of incomes." From 2006 to first quarter 2015 only 7.8% of new housing built in the Mission was Affordable. (SF Planning Department Housing Balance Report No. 3, p.10, Table 7, Exhibit Section E)"

As discussed above under Concern 2, the loss of PDR space resulting from implementation of the Eastern Neighborhoods Plan was found to be a significant and unavoidable impact in the Eastern Neighborhoods Plan PEIR. To address that impact, the City created PDR zones in the Eastern Neighborhoods Plan Area, including the Mission Area, in which PDR uses would be protected and competing uses, including residential and office developments, are not permitted, and made findings that the loss of PDR uses and space outside the PDR zoning districts was acceptable and overridden by the other benefits of the Plan. The Project's contribution to loss of PDR space is disclosed under Topic 1(b) of the CPE Checklist, which provides an analysis of the anticipated loss of PDR evaluated in the Eastern Neighborhoods Plan PEIR on page 20, observing that as of February 23, 2016, projects resulting in the removal of 1,715,001 and 273,073 net square feet of PDR space within the Eastern Neighborhoods Plan and Mission District subarea, respectively, have completed or are proposed to complete environmental review. Of the Project's

contribution to this cumulative PDR loss, the discussion correctly concludes: “The proposed loss of 53,565 gsf of existing PDR uses represents a considerable contribution to the cumulative loss of PDR space analyzed in the Eastern Neighborhoods PEIR, but would not result in significant impacts that were not identified or a more severe adverse impact than analyzed in the PEIR.”

As discussed above in Concern 4, the Planning Department’s Citywide Planning and Policy Analysis Division determined that the Project was consistent with the General Plan and with the bulk, density, and land uses as envisioned in the Mission Area Plan. The determination further states:

“This project falls within the Northeast Mission generalized zoning district, meant to maintain the area’s unique mix of uses, including mixed residential and lighter industrial uses. The plan also calls for transportation improvements and reduced parking in order to encourage alternatives to automobile travel. As a mixed use residential project with reduced parking, the proposed project is consistent with this designation.”

The Citywide determination concludes:

“For the purposes of the Citywide Planning and Policy Analysis division, the project is eligible for consideration of a Community Plan Exemption under California Public Resources Code Sections 21159.21, 21159.23, 21159.24, 21081.2, and 21083.3, and/or Section 15183 of the California Environmental Quality Act (CEQA) Guidelines.”

As a general matter, the determination of whether a project is consistent with a specific plan or policy can be subjective, and is best made with a broad understanding of the often-competing policy objectives in a planning document. Consequently, policy consistency determinations are ultimately made by the City’s decision-making bodies such as the Planning Commission and the Board of Supervisors independent of the environmental review process, as part of the decision to approve or reject the project. In its approval of the Project’s Large Project Authorization, the Planning Commission determined that the project is generally consistent with the objectives and policies of the General Plan, including the Mission Area Plan. As noted above, Appellant’s appeal of the Large Project Authorization approval is pending before the Board of Appeals, not the Board of Supervisors.

Accordingly, the Project would not result in significant impacts on the physical environment due to inconsistent with the General Plan, the Eastern Neighborhoods Plan, or the Mission Subarea Plan that are peculiar to the project or the project site.

**Concern 6:** The determinations and findings concerning the Large Project Approval (separately appealed to the Board of Appeals on June 17, 2016 by Peter Papadopoulos) are inadequate and incomplete and are not supported by substantial evidence.

**Response 6:** The determinations and findings adopted by the Planning Commission on June 2, 2016 as part of the Commission's approval of the Large Project Authorization for the Project are not subject to appeal under San Francisco Administrative Code Section 31.16(e)(3).

Please see the Response 1 for a discussion of Administrative Code Section 31.16(e)(3). The determinations and findings of the Large Project Authorization are the subject of the appellant's appeal of the LPA to the Board of Appeals, not this appeal of the CPE to the Board of Supervisors.

#### **CONCLUSION:**

The Appellant has not demonstrated that the CPE fails to conform to the requirements of CEQA for a community plan exemption pursuant to CEQA Section 21083.3 and CEQA Guidelines Section 15183. The Planning Department conducted necessary studies and analyses, and provided the Commission with the information and documents necessary to make an informed decision at a noticed public hearing in accordance with the Planning Department's CPE Checklist and standard procedures, and pursuant to CEQA and the CEQA Guidelines. Therefore, the Planning Department respectfully recommends that the Board uphold the Department's determination for the CPE and reject Appellant's purported appeal of the Planning Commission's Large Project Authorization approval CEQA Findings.

**ATTACHMENT A**

**Rachel Mansfield-Howlett**

**Appeal Letter**

**July 5, 2016**

CEQA APPEAL

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Clerk of the Board of Supervisors  
Environmental Review Officer  
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Room #244  
San Francisco, CA 94102

July 5, 2016

*Via Hand Delivery*

**RE: Case No. 2013.0677CUA, 2000-2070 BRYANT STREET Project  
Appeal of the June 2, 2016 Planning Commission Decisions**

Dear Members of the Board of Supervisors:

Resident Peter Papadopoulos appeals the following decisions of the Planning Commission made on June 2, 2016 regarding the 2000-2070 Bryant Street Project ("Project" hereafter) proposed by applicant Nick Podell, Nick Podell Company.

- 1) Adoption of a Community Plan Exemption and CEQA findings under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3.1
- 2) Adoption of Conditional Use Approvals

The Final Motions for the relevant appeals are attached as **Exhibit A**. Evidence in support of the appeals is attached as **Exhibits B-C** and is also contained in the letters submitted to the Planning Department objecting to the approval of the Project and the Community Plan Exemption, incorporated here by reference. **Exhibit D** contains links to the Eastern Neighborhoods Area Plan EIR (PEIR); Motion 17661 of the Planning Commission, which adopted CEQA Findings for the PEIR; and the Mitigation Monitoring and Reporting Program for the PEIR. **Exhibit E** contains the \$562 appeal fee for the CEQA appeal. **Exhibit F** contains the Notice to Board of Supervisors of Appeal From Action of the City Planning Commission Form for Conditional Uses.

**I. Appeal of the adoption of the Community Plan Exemption**

The appeal of the approval of the Community Plan Exemption is filed on the following bases:

- The CEQA findings are inadequate and incomplete, fail to adequately describe the Project's components and are not supported by substantial evidence.

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- The Project does not qualify for a Community Plan Exemption under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3 because the approval is based upon an out of date 2008 EIR prepared for the Eastern Neighborhoods Area Plan and the EIR's analyses and determinations can no longer be relied upon to support the claimed exemption in the areas of, *inter alia*, land use, consistency with area plans and policies, recreation and open space, traffic and circulation, transit and transportation, and cumulative impacts.
- The claimed community benefits of the Eastern Neighborhoods Area Plan, outlined in the 2008 PEIR, its approvals and the Statement of Overriding Considerations, have not been fully funded, implemented, or are underperforming and the determinations and findings for the Project that rely on the claimed benefits to override impacts outlined in the PEIR are not supported. The City should have conducted Project level review based upon up to date data and the actual community benefits that have accrued since the adoption of the 2008 and has not.
- The Project does not comply with the requirements of the Urban Mixed Use Zoning District and the 68-X Height and Bulk District.
- Substantial changes in circumstances require major revisions to the Eastern Neighborhoods Area Plan EIR due to the involvement of new significant environmental effects and an increase in the severity of previously identified significant impacts; there is new information of substantial importance that would change the conclusions set forth in said EIR and the requirements of the Mitigation Monitoring and Reporting Program.
- The Project is inconsistent with the General Plan and the Mission Area Plan.
- The determinations and findings concerning the Large Project Approval (separately appealed to the Board of Appeals on June 17, 2016 by Peter Papadopoulos) are inadequate and incomplete and are not supported by substantial evidence.

## II. Appeal of the adoption of the Conditional Uses

The appeal of the Conditional Uses are filed on the following bases:

- Project approvals must be based upon compliance with the requirements of CEQA (separately appealed herein) and are not.
- The determinations and findings for the Large Project Approval (separately appealed to the Board of Appeals on June 17, 2016 by Peter Papadopoulos) are inadequate and incomplete and are not supported by substantial evidence.
- The Project does not comply with the requirements of the Urban Mixed Use Zoning District and the 68-X Height and Bulk District.
- The Project's reliance on the yet to be designed future affordable housing component of the Project to meet open space, affordable housing and other requirements, including the 35% land dedication alternative, is unsupported.

- The Project does not meet the criteria outlined in Planning Code sections 303, 317, and 101.1(b) and the determinations are not supported by substantial evidence.
- The approval improperly relies on adoption of a state density bonus rather than the adoption of a special use district.
- The approval contains errors and omissions and is not supported by substantial evidence.

### III. Exhibits (Attached)

- Exhibit A:** Planning Commission Motion No. 19657 and No. 19658  
**Exhibit B:** Link to the videos of the May 19 and June 2, 2016 Planning Commission hearings in which testimony was given on the Project.  
**Exhibit C:** Letters and other documents in support of the appeals  
**Exhibit D:** Link to the Eastern Neighborhoods Area Plan EIR, Motion 17661 of the Planning Commission, which adopted CEQA Findings for the Plan EIR, and Mitigation Monitoring Report  
**Exhibit E:** CEQA Fee  
**Exhibit F:** Notice to Board of Supervisors of Appeal From Action of the City Planning Commission Form re. Conditional Uses.

Thank you,  
*Rachel Mansfield-Howlett*

Rachel Mansfield-Howlett  
Attorney for Appellant



**ATTACHMENT B**

**Rose M. Zoia**

**Comment Letter**

**July 22, 2016**

EX 021

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Law Office of Rose M. Zoia

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July 22, 2016

*via hand delivery*

President London Breed and San Francisco Board of Supervisors  
San Francisco City Hall  
1 Dr Carlton B Goodlett Pl #244  
San Francisco, CA 94102

RE: 2000-2070 BRYANT STREET Project  
Case No. 2013.0677CUA

Dear President Breed and Supervisors:

On behalf of appellant Peter Papadopoulos, please accept these comments on the above-referenced project relative to the Community Plan Exemption (CPE) from the California Environmental Quality Act (CEQA) and the Conditional Use (CU) authorization.

The project is zoned Urban Mixed Use (UMU) and includes the demolition of six existing buildings, merging three lots into two new parcels, the construction of a six-story, 68-foot tall mixed-use building of approximately 203,656 square feet with a ground-level garage on the north parcel, and the construction of an eight-story, 85-foot tall, 136-unit affordable residential and arts activity building of approximately 127,983 square feet, with a ground-level car-share garage.

The proposed project would be the largest market-rate housing project in the Mission and would stand as a permanent fixture in the community. Yet, the Planning Commission employed a routine approval process utilizing a CPE based on an outdated Eastern Neighborhoods Area Plan Program EIR that is no longer viable because it has been exceeded in scope and pace in the areas of housing development and loss of Production, Distribution and Repair uses (PDR). The outdated EIR also does not account for significant and unforeseen changes in the areas of direct, indirect, and cumulative population, housing and displacement and traffic commutes and congestion. This project is also

inconsistent with the General Plan and the Mission Area Plan and is ineligible for the CPE.

The project was granted a CU Authorization and numerous building and code exceptions in conjunction with an affordable housing development whose plans are not yet even finalized as well as the replacement of only three (3) dwelling units instead of the actual eight (8) units that were on site historically.

Appellant is seeking reversal of: 1) the Planning Commission's adoption of a CPE and CEQA findings under Section 15183 of the CEQA Guidelines (14 Cal. Code Regs.) and Public Resources Code Section 21083.3, and 2) CU approval.

### **The Project is Not Exempt from CEQA**

#### **The Law**

The Planning Commission relied on Public Resources Code section 21083.3, subdivision (a) to find the project exempt from CEQA. That section provides

If a parcel has been zoned to accommodate a particular density of development or has been designated in a community plan to accommodate a particular density of development and an environmental impact report was certified for that zoning or planning action, the application of this division to the approval of any subdivision map or other project that is consistent with the zoning or community plan shall be limited to effects upon the environment which are peculiar to the parcel or to the project and which were not addressed as significant effects in the prior environmental impact report, or which substantial new information shows will be more significant than described in the prior environmental impact report.

The implementing regulation, Guideline section 15183, provides that

(a) . . . projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site

(b) In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:

(1) Are peculiar to the project or the parcel on which the project would be located,

(2) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent,

(3) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or

(4) Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.

The approval is based upon an out-of-date 2008 Program EIR prepared for the Eastern Neighborhoods Area Plan. There are impacts that were not analyzed as significant effects in the EIR, including potentially significant off-site impacts and cumulative impacts; and there is substantial new information which shows that previously identified significant effects are more adverse. (Guidelines, §§ 15183(b), 15183(j))

### **Based on the Evidence, the Exemption is Not Warranted**

The EIR projections for housing, including this project and those in the pipeline, have been exceeded when cumulative impacts are considered, i.e., “past, present, and reasonably foreseeable probable future projects.” (Guidelines, § 15355) The projections for the Mission show 2,451 units built or in the pipeline, which is in excess of the number of units in the Preferred Project, as well as Options A, B and C from the EIR (Mission Projects Completed or Under Environmental Review 2008 to 2/23/16 (Planning Department Data), Exhibit Section A).

The EIR cites the Mission as having a population of greater than 50% Latinos. By 2013, the Mission District population had fallen to 39% Latinos according to An Assessment of Housing and Housing Affordability in the Mission Promise Neighborhood (p.6, Exhibit Section B) A 2015 study by the Board of Supervisors' Budget and Legislative Analyst predicted that if current trends continue, the Latino population will fall to 31% by 2025. (Policy Analysis Report, October 27, 2015, p.12, Exhibit Section B)

This project approval represents the first major project of roughly 50 projects in the pipeline of projects proposed in the Mission, bringing more than 2,000 luxury housing units to the Mission. In the aggregate, these projects will have significant detrimental impacts. This trend also demands a significant change in policy. (Luxury Developments Map, Exhibit Section B) (Analysis of Q1 2016 SF Planning Department "Pipeline Report", Exhibit Section E)

Significant new developments that were not anticipated at the time the EIR was prepared include, but are not limited to:

- The continuing imbalance of affordable/unaffordable housing, as reflected in the recent Housing Balance Report (Housing Balance Report, Planning Department Report - Memo - March 2016 Report (corrected), Exhibit Section E);
- The steep rise in housing prices and concomitant introduction of luxury housing and retail space in the Mission (Priceonomics, *The San Francisco Rent Explosion*, p.3 "One Bedroom Price by Neighborhood", Exhibit Section B);
- Increasing pressures to produce affordable housing due to the overproduction of "market rate" housing;
- The influx of high paying jobs along with the proliferation of "tech shuttles" (Community Organizing and Resistance in SF's Mission District, p.3, Figure 4, Exhibit Section B);
- The failure of the City to produce adequate affordable housing in the Mission since the Eastern Neighborhoods Plan was approved;

- The continuing and alarming gentrification of the Mission at a level unforeseen by the EIR (Community Organizing and Resistance in SF's Mission District, p.2, Exhibit Section B);
- The disappearance of redevelopment agency money to fund affordable housing, without new resources compensating for the loss (*Cities Struggle with Ending Redevelopment Money*, San Francisco Chronicle, Jan 17, 2012. <http://www.sfgate.com/bayarea/article/Cities-struggle-with-ending-redevelopment-agencies-2572818.php>, Exhibit Section E); and
- Major unforeseen development projects in the Eastern Neighborhoods such as the UCSF Hospital buildout, Pier 70 buildout, 5M project, Mission Bay buildout, Warriors Stadium, and the Armory's new "Madison Square Garden of the West" entertainment space.

Similarly, the loss of PDR including projects in the pipeline has exceeded the EIR's 25-year pace by 178% for the Eastern Neighborhoods, and by 186% for the Mission (Eastern Neighborhoods PDR Loss, Planning Data, April 5, 2016, Exhibit Section C). This proposed market rate project will eradicate another 44,000 square feet of PDR use. The proposed meager 12,000 square feet of PDR space will do little to mitigate the impact.

There are also substantial traffic and transportation impacts not foreseen in the EIR. It is no surprise that the EIR was unable to foresee significant changes to travel conditions in 2016 because it used a baseline based on a series of land use and growth studies written in 2002. As stated in the EIR:

This analysis of travel demand is based on assumptions about future land uses (e.g., anticipated development) prepared by the Planning Department as part of its Land Use Allocation 2002 forecasting process, the same forecasting effort that was the basis of the three rezoning options developed for the 2003 *Rezoning Options Workbook* that form the basis of the project description in this EIR.

(EIR, p. 268)

Below the “three rezoning options” is the so-called “2025 No Project” baseline:

Assumes future development and growth consistent with the forecasts by the Association of Bay Area Governments (ABAG) for San Francisco and the Bay Area based on ABAG’s *Projections 2002*, the current regional growth forecast at the time that the Land Use Allocation 2002 was developed.

(*Ibid.*)

While the EIR presumed some increase in traffic, it did not anticipate any of the following transportation scenarios:

- The sky-rocketing of housing rental prices, including a 71% increase in the Mission between 2011-2014 alone, that has resulted in a level of displacement of the Mission working class that was unforeseen by the EIR. (Priceonomics, *The San Francisco Rent Explosion*, p.3, Exhibit Section B). These displacements were not only due to the unaffordability of the rental units for its existing residents, many of them working-class Latino families, but also from Ellis-Act and No Fault Evictions.
- “Between 2009 and 2013, of the seven neighborhoods with the most Ellis Act evictions, the Mission continued to exhibit the highest number of evictions with 71 evictions, a demonstration of its lucrative housing market.” (Case Studies on Gentrification and Displacement in the Bay Area, p.33, Table 4.6, Exhibit Section B)
- This has been accompanied by an influx of unanticipated luxury renters who are far more likely to own more than one car and drive more often (Transit Oriented Development and Affordable Housing, p.15, Figure 5, Exhibit Section D). These higher-income earners also drive more miles per day. (Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy, p. 8, Figure 1, Exhibit Section D). Many of these new residents now commute *out* of the city to Silicon Valley, thus creating the additional unanticipated scenario where San Francisco has become a bedroom community for Silicon Valley.

- Simultaneous with this influx of new wealthier residents who own more cars and drive more often, is the phenomenon of the displacement of local, mostly Latino residents forced to vacate their homes in the city in search of more affordable housing in outlying areas, such as Vacaville, and put in the position of having to commute back into the city to continue their former lives at work and taking their children to school.

The EIR did not take into account the disparate impact on racial minorities and lower-income residents displaced by market rate gentrification and forced to relocate and commute long distances daily. It did not discuss or anticipate the proliferation of new tech shuttles, the rise of reverse commutes out of the city, nor San Francisco's internationally recognized displacement crisis which has resulted in long commutes for the newly displaced.

Existing revenue sources for transportation infrastructure are stretched to the limit as evidenced by the fact that the city is proposing a new sales tax increase to help cover this shortfall. Further, major reverse commutes of double decker shuttle busses were not anticipated, and the fact that the Supervisors' Budget & Legislative Analyst is currently conducting a study on the socioeconomic impacts of these busses indicates that these reverse commutes have real and undetermined impacts.

Recent increases in congestion, however, are now recognized through a detailed analysis in the 2015 Congestion Management Program study by the San Francisco County Transportation Authority. The report showed that the evening commute speed in San Francisco decreased 21% from 2013-2015 (p.21, Table 4-1, Exhibit Section D). Also, the INRIX 2015 Traffic Scorecard ranked San Francisco's commute the 3<sup>rd</sup> worst in the country. (Exhibit Section D, p. 2)

The CPE also cannot be approved because Planning has no objective criteria to determine when CPEs cannot be approved under the EIR. At the May 12, 2016, Planning Commission hearing, Commissioner Dennis Richards asked Environmental Review Officer Sara Jones whether there was a formula her office used to decide that an EIR was outdated. She answered, "We do not have a clear bright line for saying this EIR is no good anymore." (SFGovTV, May 12, 2016, 2:29)

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In addition, the community benefits promised in the Eastern Neighborhoods Area Plan are underfunded, implemented, and/or are underperforming. Overall, the mitigations in the EIR have not kept pace with the building of luxury housing and their impacts. (SF Planning Department Housing Balance Report No. 3, p.10, Table 7, Exhibit Section E).

Further, in order to qualify for a CPE, the project must be shown not to “conflict with any applicable land use plan, policy, or regulation.” (Bryant St CPE Checklist, p. 20) There are significant inconsistencies between the project, the General Plan, and the Mission Area Plan. The destruction of the decades-old CELLspace/Inner Mission building is inconsistent with objective 7.1.2 of the Mission Area Plan: “recognize the value of existing facilities, including recreational and cultural facilities, and support their expansion and continued use.”

Additionally, the demolition of this performance space is inconsistent with Goal 6 of the SF General Plan Arts Element to “Enhance, Develop, and Protect the Physical Environment of the Arts in San Francisco and Policy VI-1.4 to “Preserve existing performing spaces in San Francisco.” CELLspace is such a prominent building in the Mission arts scene that its image is featured in the Mission Area Plan. (Pp. 11, 68, 75).

This project, which eliminates 44,000 sf of PDR on the North portion of the site, is also inconsistent with the following Mission Area Plan sections:

1.7: “Retain the Mission’s Role as an Important Location for Production, Distribution, and Repair (PDR) Activities”; and

2.1: “Ensure that a significant percentage of new housing created in the Mission is affordable to people with a wide range of incomes.” From 2006 to first quarter 2015 only 7.8% of new housing built in the Mission was Affordable. (SF Planning Department Housing Balance Report No. 3, p.10, Table 7, Exhibit Section E)

Finally, this project will also contribute to significant impacts in the areas of population and housing and general welfare of the population as the result of displacement and increased traffic congestion as a result of such displacement. The Centers for Disease Control and Prevention website states that “displacement has many health implications that contribute to disparities among

special populations, including the poor, women, children, the elderly, and members of racial/ethnic minority groups.” (Health Effects of Gentrification, <https://www.cdc.gov/healthyplaces/healthtopics/gentrification.htm>, Exhibit Section B)

The Story of the Mission Promise Neighborhood Community Baseline Results from the 2014 Neighborhood Survey notes:

Historically, the Mission has been a central location for gentrification and the displacement of low-income communities of color in the city. More recently (post-Great Recession), dynamic market forces—driven by the thriving regional technology economy—continue to accelerate the changing landscape of this formerly affordable neighborhood, tightening the squeeze on low-income families.

(Exhibit Section B, p. 8)

This survey also notes that “Families forced out of the city to find affordable housing may lose health benefits (Healthy SF) which are critical for their well-being.” (*Id.*, p.7) The Harvard Center for Risk Analysis recently summarized the findings of an expert committee convened by the Health Effects Institute in Boston as follows: “They find strong evidence on exposure to traffic-generated pollution and negative health effects. They find strong evidence for a causative role for traffic related air pollution and premature death, particularly from heart attacks and strokes.” (The Public Health Costs of Traffic Congestion, A Health Risk Assessment, Exhibit Section D, p. 1)

This same Harvard analysis estimates that residents of San Francisco and Oakland would suffer approximately 90 premature deaths as a result of traffic congestion in 2015. (Exhibit Section D, p. 7)

An exemption is not proper and review of this project must be based on updated information.

### **The CU Approval is Not Warranted**

The Planning Commission issued a CU Authorization to permit the removal of three (3) residential units for new construction of a six-story, 68-foot tall, mixed-use building of approximately 203,656 square feet with 199 dwelling units,

ground floor retail/trade shop spaces, 12,000 square feet of ground floor Production, Distribution, and Repair space, one car-share parking space, 84 off-street parking spaces, 128 Class 1 bicycle parking spaces, and 18 Class 2 bicycle parking spaces.

The Commission relied on incorrect assumptions regarding the benefit of the land dedication and its accompanying number of affordable housing units. Rather than the 136 affordable units estimated by the developer and Mayor's Office of Housing (MOH), it appears the total number of affordable units that could be built on this site is only about 80. (Bryant St Affordable Housing Calculations, Exhibit Section F)

The affordable housing aspect was not adequately designed before approval of the CU. There appears to be no convincing evidence that 98 "by right" units of affordable housing can be built on this site. The Planning report references a "Letter provided by MOHCD" which states 98 units can fit into the land dedication. While there is a letter from Mayor's Office of Housing Director Olson Lee, on the very last page of the case file (pp. 507-509), it makes no reference to analysis of unit counts.

There is no MOH letter contained in the file that provides an analysis of the ability of the land dedication site to hold this number of units. It appears possible to fit 70 small units (using TCAC minimum sizes) within 5 residential floors and maintaining 25% setback. This is exactly 35% of market-rate 199 units. However, the 98 units "by right" appears grossly exaggerated, unless a rear yard reduction is granted, or a senior building with all studios is assumed.

Thus, the CU Approval is not warranted because the project relies on too many unsupported assumptions regarding the affordable housing design and layout, made worse by the lack of a final design. Reliance on the yet-to-be designed future affordable housing component of the south building is misplaced. It is not known or guaranteed that the south building, once set-backs and other zoning restrictions, including open space requirements, are imposed, will accommodate the promised 136 affordable housing units.

This CU approval also improperly relies on the adoption of the state density bonus, which is not used in San Francisco. Historically, the result is achieved by the adoption of a special use district.

Moreover, achieving 136 units of affordable housing with the density bonus program seems unlikely given the small portion of the lot left over for the affordable development, the required rear yard setbacks (based on even more requests for reductions), the expectation of upper floor setbacks in this taller affordable building to the south of a narrow alley, and the fact that this greater than 68 foot-high building would require more expensive concrete construction. CU approvals should only be deemed as necessary and desirable on the basis of a project's own merits and not unforeseeable, long-term conditions.

In addition, in order to fit 136 units the building height is proposed to be two stories higher than the six stories permitted by zoning, based on the application of the state density bonus. However, the state density bonus applies to areas with density limits. The Eastern Neighborhoods Area Plan does not contain density limits but envelope building limits. Thus, the reliance on the state density bonus is improper.

The applicant admits the project meets the open space requirements only when considered along with the open space that may be provided by the affordable project. By counting the mid-block alley as open space, the applicant makes unsupported assumptions about the design of the affordable housing project, as well as directly contradicts the mid-block alley's stated and intended use as a freight loading zone. In order to count this mid-block alley as open space, this project must include design elements that bar traffic and invite residential recreation. It is not permissible to qualify one area as both the off-street loading area as well as recreational open space.

Planning Code section 317 recognizes that "San Francisco faces a continuing shortage of affordable housing" and thus establishes detailed procedures for the loss of such housing. Section 101.1(b) states that the Master Plan of the City of San Francisco establishes Priority Policies, some of which are to preserve and enhance the City's supply of affordable housing and that to maintain a diverse economic base by "protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced."

Thus, the findings required by Planning Code section 303 cannot be made because the proposed use at the size and intensity proposed at this location will not provide a development that is necessary or desirable for, and compatible

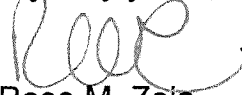
with, the neighborhood; the proposed use will not serve the neighborhood, in whole or in significant part, and the nature of the use does not require a larger size in order to function; and the use and mass of the structures will be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity.

Finally, this project's CU approval mandates that it include three (3) replacement Below Market Rate units in compensation for the current three dwelling units proposed for demolition. However, this figure ignores another five (5) documented dwelling units inside of CELLspace that are also slated for demolition.

Based on substantial evidence in the record, the project is not exempt from CEQA review. In addition, the findings required for the CU approval cannot be made.

Thank you for your close attention to this matter.

Very truly yours,



Rose M. Zola

*Encl.*

**ATTACHMENT C**

**Planning Commission Motion 19658**

**Large Project Authorization**

**for the**

**2000 – 2070 Bryant Street Project**



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414A)
- Other (EN Impact Fees, Sec 423; TSF, Sec 411A)

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## Planning Commission Motion No. 19658

HEARING DATE: JUNE 2, 2016

Case No.: 2013.0677X  
 Project Address: 2000-2070 BRYANT STREET  
 Zoning: UMU (Urban Mixed Use) Zoning District  
 68-X Height and Bulk District  
 Block/Lot: 4022/001, 002 and 021  
 Project Sponsor: Nick Podell, Nick Podell Company  
 22 Battery Street, Ste. 404  
 San Francisco, CA 94111  
 Staff Contact: Richard Sucre – (415) 575-9108  
[richard.sucre@sfgov.org](mailto:richard.sucre@sfgov.org)

ADOPTING FINDINGS RELATING TO A LARGE PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 329, TO ALLOW EXCEPTIONS TO 1) REAR YARD PURSUANT TO PLANNING CODE SECTION 134, 2) GROUND FLOOR CEILING HEIGHT FOR NON-RESIDENTIAL USES PURSUANT TO PLANNING CODE 145.1, 3) OFF-STREET LOADING PURSUANT TO PLANNING CODE SECTION 152.1, 4) HORIZONTAL MASS REDUCTION PURSUANT TO PLANNING CODE SECTION 270.1 AND 5) FLEXIBLE UNITS-MODIFICATION OF THE ACCESSORY USE PROVISIONS OF PLANNING CODE SECTION 803.3(B)(1)(C) PURSUANT TO PLANNING CODE SECTIONS 329(D)(10), AND TO ALLOW CONSTRUCTION OF A NEW SIX-STORY, 68-FT TALL, MIXED-USE BUILDING (APPROXIMATELY 203,656 SQUARE FEET) WITH 199 DWELLING UNITS (CONSISTING OF 30 STUDIOS, 89 1-BEDROOM UNITS, AND 80 2-BEDROOM UNITS), UP TO 7,007 SQUARE FEET OF RETAIL/TRADE SHOP, AND 12,000 SQUARE FEET OF PDR SPACE, LOCATED AT 2000-2070 BRYANT STREET, LOTS 001, 002 AND 021 IN ASSESSOR'S BLOCK 4022, WITHIN THE UMU (URBAN MIXED-USE) ZONING DISTRICT AND A 68-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

### PREAMBLE

On June 12, 2014, Nick Podell and Linsey Perlov of Nick Podell Company (hereinafter "Project Sponsor") filed Application No. 2013.0677X (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Large Project Authorization to construct a new six-story, 68-ft tall, mixed-use building with 199 dwelling units, 7,007 square feet of ground floor retail, and 3,938 square feet of ground floor PDR use, at 2000-2070 Bryant Street (Block 4022 Lots 001, 002 and 021) in San Francisco, California.

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Eastern Neighborhoods Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on August 7, 2008, by Motion No. 17661, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter "CEQA"). The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The Eastern Neighborhoods EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Eastern Neighborhoods Plan, the Commission adopted CEQA Findings in its Motion No. 17661 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On May 11, 2016, the Department determined that the proposed application did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Eastern Neighborhoods Area Plan and was encompassed within the analysis contained in the Eastern Neighborhoods Final EIR. Since the Eastern Neighborhoods Final EIR was finalized, there have been no substantial changes to the Eastern Neighborhoods Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Eastern Neighborhoods Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.



Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Eastern Neighborhoods Plan EIR that are applicable to the project. These mitigation measures are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2013.0677X at 1650 Mission Street, Fourth Floor, San Francisco, California.

On May 19, 2016, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2013.0677X. The Commission continued the project to the June 2, 2016 Planning Commission Hearing.

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

**MOVED**, that the Commission hereby authorizes the Large Project Authorization requested in Application No. 2013.0677X, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The proposed project is located on three lots (with a lot area of 65,000± square feet), which are bounded by Florida, 18<sup>th</sup> and Bryant Streets, which have approximately 325-ft of frontage along Florida Street, and 325-ft of frontage along Bryant Street, and 200-ft of frontage along 18<sup>th</sup> Street. Currently, the subject lot contains six buildings, including: 2000 Bryant Street, a two-story mixed-use building with a ground floor commercial space and a dwelling unit on the second floor; 2010-2012 Bryant Street, a two-story arts activity building; 2028 Bryant Street, a two-story residential building with two dwelling units; 2815 18<sup>th</sup> Street, a two-story office building; 611 Florida Street, a one-to-two-story warehouse and automotive repair building; and 2044-2070 Bryant Street, a one-to-two-story warehouse/light industrial/arts activity building.
3. **Surrounding Properties and Neighborhood.** The project site is located within the UMU Zoning Districts in the Mission Area Plan. The immediate context is mixed in character with mixed residential, commercial and industrial development along 18<sup>th</sup>, Bryant and Florida Streets. The immediate neighborhood includes a three-to-four-story former industrial building, two-story commercial properties, and a four-to-five-story larger-scale residential development. To the south of the project site on the same block, the adjacent buildings include two-to-three-story and

six-story multi-family dwellings. The project site has three street frontages: 18<sup>th</sup> Street, which is 66-ft wide with parallel parking on either side of the street; Bryant Street, which is 80-ft wide with parallel parking on either side of the street and Florida Street, which is also 80-ft wide with perpendicular parking on the east side of the street bordering the project site. Other zoning districts in the vicinity of the project site include: RH-2 (Residential, House, Two-Family) and PDR-1-G (Production, Distribution, Repair-General).

4. **Project Description.** The Project includes demolition of the six existing buildings on the project site (collectively measuring approximately 68,690 square feet), and new construction of a six-story, 68-ft tall, mixed-use building (approximately 203,656 square feet) with 199 dwelling units, ground floor retail/trade shop spaces along 18<sup>th</sup> Street and Florida Street (up to 7,007 square feet), 12,000 square feet of PDR space, 1 car-share parking space, 84 off-street parking spaces, 128 Class 1 bicycle parking spaces, and 18 Class 2 bicycle parking spaces. The Project includes a dwelling unit mix consisting of 80 two-bedroom units, 89 one-bedroom units, and 30 studio units. The Project also incorporates one off-street freight loading space within the private mid-block alley. The Project includes common open space (approximately 15,920 square feet) via two interior courtyards and a roof terrace. The Project would also include a lot merger and subdivision of Lots 001, 002 and 021 on Block 4022. The new lots would measure 230-ft by 200-ft (Project), and 95-ft by 200-ft (Land Dedication Site).
5. **Public Comment.** The Department has numerous public correspondences regarding the proposed project. Much of this public correspondence has expressed opposition to the proposed project; however, the Department has also received letters in support of the Project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Permitted Uses in UMU Zoning Districts.** Planning Code Sections 843.20, 843.45 and 843.78-843.87 states that residential, retail and industrial (PDR) uses are principally permitted use within the UMU Zoning District.

*The Project would construct new residential, retail and PDR uses within the UMU Zoning District; therefore, the Project complies with Planning Code Sections 843.20, 843.45, and 843.78-843.87.*

*On June 2, 2016, the Commission increased the amount of PDR space within the Project to 12,000 square feet, in order to mitigate the loss of existing PDR space and further meet the goals of the Mission Area Plan.*
  - B. **Floor Area Ratio.** Planning Code Section 124 establishes a FAR (Floor Area Ratio) of 5:1 for properties within the UMU Zoning District and a 68-X Height and Bulk District.

*The Project's lot is 46,000 sq ft, thus resulting in a maximum allowable floor area of 230,000 sq ft for non-residential uses. The Project would construct up to 7,007 sq ft of non-residential space and 12,000 square feet of PDR space, and would comply with Planning Code Section 124.*

- C. **Rear Yard.** Planning Code Section 134 requires a minimum rear yard equal to 25 percent of the total lot depth of the lot to be provided at every residential level. The Project would merge the subject lots and subdivide the lot, so that the Project would be located on a lot measuring 230-ft by 200-ft (or 46,000 square feet). Therefore, the Project would have to provide a rear yard, which measures approximately 11,500 sq ft.

*Currently, the Project is designed to have full lot coverage on the ground floor level and does not provide a rear yard at the lowest level containing a dwelling unit. The Project provides open space through two interior courtyards and a roof terrace. The Project provides a total of 15,920 sq ft of code-complying open space. This amount of open space, which would have been provided through the required rear yard, is thus exceeded. Since the Project does not provide a code-complying rear yard, the Project is seeking an exception to the rear yard requirement as part of the Large Project Authorization.*

*The Project occupies the majority of the block bounded by 18<sup>th</sup>, Florida, 19<sup>th</sup> and Bryant Streets. The subject block does not possess a pattern of mid-block open space, since the majority of the project site is currently occupied by a one-to-two-story industrial building. By providing for two interior courtyards, the Project maintains the street wall along 18<sup>th</sup>, Bryant and Florida Streets, and provides sufficient dwelling unit exposure for all dwelling units.*

- D. **Useable Open Space.** Planning Code Section 135 requires a minimum of 80 sq ft of open space per dwelling unit, if not publically accessible, or 54 sq ft of open space per dwelling unit, if publically accessible. Private useable open space shall have a minimum horizontal dimension of six feet and a minimum area of 36 sq ft is located on a deck, balcony, porch or roof, and shall have a minimum horizontal dimension of 10 feet and a minimum area of 100 sq ft if located on open ground, a terrace or the surface of an inner or outer court. Common useable open space shall be at least 15 feet in every horizontal dimension and shall be a minimum area of 300 sq ft. Further, inner courts may be credited as common useable open space if the enclosed space is not less than 20 feet in every horizontal dimension and 400 sq ft in area, and if the height of the walls and projections above the court on at least three sides is such that no point on any such wall or projection is higher than one foot for each foot that such point is horizontally distant from the opposite side of the clear space in the court.

*For the proposed 199 dwelling units, the Project is required to provide 15,920 sq ft of useable open space. Overall, the Project meets the open space requirements for the 199 dwelling units through a roof terrace, which measures 15,920 sq ft. Therefore, the Project complies with Planning Code Section 135.*

*In addition to the code-complying open space, the Project also includes two inner courtyards, which are 40-ft in width, but do not meet the dimensional requirements of Planning Code Section 135. This open space is in addition to the provided code-complying open space on the roof terrace.*

- E. **Streetscape and Pedestrian Improvements.** Planning Code Section 138.1 requires a streetscape plan, which includes elements from the Better Streets Plan, for new construction on a lot greater than a half-acre in size.

*The Project includes the new construction of a six-story mixed-use building on a lot with approximately 230-ft of frontage along Florida Street, 200-ft of frontage along 18<sup>th</sup> Street and approximately 230-ft of frontage along Bryant Street. Currently, the Project includes new streetscape elements, such as new concrete sidewalks, linear planters along the street edge, new street trees, bicycle parking spaces, and corner bulb-outs. The Project would incorporate perpendicular on-street parking along Florida Street, parallel on-street parking on Bryant Street, and two on-street loading zones on 18<sup>th</sup> Street. Therefore, the Project complies with Planning Code Section 138.1.*

- F. **Bird Safety.** Planning Code Section 139 outlines the standards for bird-safe buildings, including the requirements for location-related and feature-related hazards.

*The subject lot is not located in close proximity to an Urban Bird Refuge. The Project meets the requirements of feature-related standards and does not include any unbroken glazed segments 24-sq ft and larger in size; therefore, the Project complies with Planning Code Section 139.*

- G. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street, rear yard or other open area that meets minimum requirements for area and horizontal dimensions. To meet exposure requirements, a public street, public alley, side yard or rear yard must be at least 25 ft in width, or an open area (either an inner court or a space between separate buildings on the same lot) must be no less than 25 ft in every horizontal dimension for the floor at which the dwelling unit is located.

*The Project organizes the dwelling units to have exposure either on one of the public streets (18<sup>th</sup>, Florida, or Bryant Streets), within one of the two code-complying interior courtyards, or along the private alley, which measures 25-ft wide. Therefore, the Project complies with Planning Code Section 140.*

- H. **Street Frontage in Mixed Use Districts.** Planning Code Section 145.1 requires off-street parking at street grade on a development lot to be set back at least 25 feet on the ground floor; that no more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new structure parallel to and facing a street shall be devoted to parking and loading ingress or egress; that space for active uses be provided within the first 25 feet of building depth on the ground floor; that non-residential uses have a minimum floor-to-floor height of 17 feet; that the floors of street-fronting interior spaces housing non-residential active uses and lobbies be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces; and that frontages with active uses that are not residential or PDR be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level.

*The Project meets most of the requirements of Planning Code Section 145.1. At grade, the off-street parking is setback by more than 25-ft from the street. The Project has only one 11-ft wide garage entrance along Bryant Street. The Project features at-grade off-street parking, which is setback more than 25-ft from the street. The Project features active uses on the ground floor with residential amenities, a ground floor retail/trade shop use, walk-up dwelling units with direct, individual pedestrian access to a public sidewalk, flexible units along. Finally, the Project features appropriate street-facing ground level spaces, as well as the ground level transparency and fenestration requirements.*

*For the PDR and arts uses, the Project incorporates a ground floor ceiling height, which ranges from 18-ft to 19-ft 11-in. Due to the existing grade of the project site, the ground floor ceiling height for the non-residential varies from 17-ft tall along Florida Street down to 14-ft 5-in along Bryant Street; therefore, the Project does not meet the requirements for ground floor ceiling height, as required in Planning Code Section 145.1. Therefore, the Project is seeking an exception to the ground floor ceiling height requirement as part of the Large Project Authorization.*

- I. **Off-Street Parking.** Planning Section 151.1 of the Planning Code allows off-street parking at a maximum ratio of .75 per dwelling unit.

*For the 199 dwelling units, the Project is allowed to have a maximum of 149 off-street parking spaces. Currently, the Project provides 85 off-street parking spaces via mechanical lifts. Of these 85 off-street parking spaces, 2 handicap parking spaces have been identified, as well as 1 car-share parking spaces. Therefore, the Project complies with Planning Code Section 151.1.*

- J. **Off-Street Freight Loading.** Planning Section 152.1 of the Planning Code requires two off-street freight loading space for apartment use between 200,001 and 500,000 gsf.

*The Project includes approximately 203,656 square feet of apartment use; thus, the Project requires at least two off-street freight loading spaces. The Project is proposing two on-street loading space along 18<sup>th</sup> Street, and one off-street loading zone within the mid-block alley, which is accessed from Florida Street. The Project is seeking an exception to the requirement to provide two off-street loading spaces as part of the Large Project Authorization.*

- K. **Bicycle Parking.** Planning Section 155.2 of the Planning Code requires at least 100 Class 1 bicycle parking spaces plus one Class 1 bicycle parking space for every four dwelling units and one Class 2 bicycle parking spaces for every 20 dwelling units. In addition for the retail use, one Class 1 space is required for every 7,500 square feet of occupied area and a minimum of two Class 2 bicycle parking spaces are required and an additional Class 2 bicycle parking space is required for every 2,500 square feet of occupied area.

*The Project includes 199 dwelling units, up to 7,007 square feet of ground floor retail/trade shop use, and 12,000 square feet of PDR use; therefore, the Project is required to provide 128 Class 1 bicycle parking spaces and 18 Class 2 bicycle parking spaces. The Project will provide 128 Class 1 bicycle*

*parking spaces and 18 Class 2 bicycle parking spaces. Therefore, the Project complies with Planning Code Section 155.2.*

- L. **Car Share Requirements.** Planning Code Section 166 requires one car-share parking space for projects with 50 to 200 residential units.

*Since the Project includes 199 dwelling units, it is required to provide a minimum of two car-share parking spaces. The Project provides two car-share parking spaces. Therefore, the Project complies with Planning Code Section 166.*

- M. **Unbundled Parking.** Planning Code Section 167 requires that all off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.

*The Project is providing off-street parking that is accessory to the dwelling units. These spaces will be unbundled and sold and/or leased separately from the dwelling units; therefore, the Project meets this requirement.*

- N. **Dwelling Unit Mix.** Planning Code Section 207.6 requires that no less than 40 percent of the total number of proposed dwelling units contain at least two bedrooms, or no less than 30 percent of the total number of proposed dwelling units contain at least three bedrooms.

*For the 199 dwelling units, the Project is required to provide at least 80 two-bedroom units or 60 three-bedroom units. The Project provides 30 studios, 89 one-bedroom units and 80 two-bedroom units. Therefore, the Project meets the requirements for dwelling unit mix.*

- O. **Horizontal Mass Reduction.** Planning Code Section 270.1 outlines the requirements for horizontal mass reduction on large lots within the Eastern Neighborhoods Mixed Use Districts. For projects with street frontage greater than 200-ft in length, one or more mass reduction breaks must be incorporated to reduce the horizontal scale of the building into discrete sections not more than 200-ft in length. Specifically, the mass reduction must 1) be not less than 30-ft in width; 2) be not less than 60-ft in depth from the street-facing building façade; 3) extend up to the sky from a level not higher than 25-ft above grade or the third story, whichever is lower; and, 4) result in discrete building sections with a maximum plan length along the street frontage not greater than 200-ft.

*Since the overall frontage is 230-ft along Bryant and Florida Streets, larger than 200-ft, the Project is required to provide a single horizontal mass break along Bryant and Florida Streets, which is not less than 30-ft wide by 60-ft deep, and extends from the third-story up to the sky. Per the Planning Code, this mass break must result in discrete building sections along the street frontage of not greater than 200-ft.*

*Over the entire project site, the Project incorporates a private alley as part of the horizontal mass reduction to provide separation between the principal project and the land dedication site. This alley is 25-ft wide and is open to the sky from the ground floor. Since the provided horizontal mass reduction does not meet the dimensional requirements of the Planning Code, the Project is seeking an exception to the horizontal mass reduction requirements as part of the Large Project Authorization.*

- P. **Shadow.** Planning Code Section 295 restricts net new shadow, cast by structures exceeding a height of 40 feet, upon property under the jurisdiction of the Recreation and Park Commission. Any project in excess of 40 feet in height and found to cast net new shadow must be found by the Planning Commission, with comment from the General Manager of the Recreation and Parks Department, in consultation with the Recreation and Park Commission, to have no adverse impact upon the property under the jurisdiction of the Recreation and Park Commission.

*Based upon a detail shadow analysis, the Project does not cast any net new shadow upon property under the jurisdiction of the Recreation and Parks Commission.*

- Q. **Loss of Dwelling Units through Demolition.** Planning Code Section 317 requires Conditional Use Authorization from the Planning Commission for the removal of three or more dwelling units in any zoning district.

*The Project Sponsor has submitted a Conditional Use Authorization Application for the removal of three dwelling units on the project site (See Case No. 2013.0677CUA).*

- R. **Transportation Sustainability Fee.** Planning Code Section 411A is applicable to new development that results in more than twenty dwelling units.

*The Project includes 192,711 gsf of new residential use, up to 7,007 gsf of retail/trade shop use, and 12,000 gsf of PDR use. This square footage shall be subject to the Transportation Sustainability Fee, as outlined in Planning Code Section 411A.*

- S. **Residential Child-Care Impact Fee.** Planning Code Section 414A is applicable to new development that results in at least one net new residential unit.

*The Project includes 192,711 gsf of new residential use associated with the new construction of 199 dwelling units. This square footage shall be subject to the Residential Child-Care Impact Fee, as outlined in Planning Code Section 411A.*

- T. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Since the subject property is located within the UMU Zoning District, the Project is subject to the inclusionary affordable housing requirements identified in Planning Code Section 419. The

subject property has been designated as Tier B, thus a minimum of 16 percent of the total units constructed shall be considered affordable.

*The Project Sponsor shall address the inclusionary affordable housing requirements through the land dedication alternative outlined in Planning Code Section 419.3.*

*This requirement is subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. If the requirement is modified, the project would be required to provide an additional three on-site BMR units.*

*The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project or submit to the Department a contract demonstrating that the project's on- or off-site units are not subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under Section 1954.52(b), the Project Sponsor has entered into an agreement with a public entity in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. and submits an Affidavit of such to the Department. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by the Mayor's Office Housing and the City Attorney's Office. The Project Sponsor has indicated the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City and approved herein. The Project Sponsor submitted such Affidavit on May 4, 2016 and a draft of the Costa Hawkins agreement on May 4, 2016. The EE application was submitted on September 25, 2013. Pursuant to Planning Code Section 415.3 and 415.6 the on-site requirement is 16%. Of the 199 units, the Project Sponsor would provide three dwelling units as affordable rental units if the Charter amendment passes. The designation of these three units would be in combination with the land dedication alternative outlined in Planning Code Section 419.3.*

*If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable. The Project must execute the Costa Hawkins agreement prior to Planning Commission approval or must revert to payment of the Affordable Housing Fee.*

- U. Inclusionary Affordable Housing Program-Land Dedication.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects



that consist of five or more units, where the first application was applied for on or after July 18, 2006. Under Planning Code Section 419.6, the Land Dedication Alternative may be elected as an alternative to the inclusionary housing component. As further described in Planning Code Section 419.5(a)(2), an Applicant may dedicate a portion of the total development area of the principal site to the City and County of San Francisco for the purpose of constructing units affordable to qualifying households. To meet this requirement, the developer must convey title to land in fee simple absolute to the Mayor's Office of Housing and Community Development (MOHCD). The dedicated site must result in a total amount of inclusionary units not less than 40 units; however, MOH may conditionally approve and accept dedicated sites which result in no less than 25 units at their discretion. Per Planning Code Section 419.2, all sites within the UMU Zoning District electing to utilize the land dedication alternative would be subject to the "Tier B" requirements.

*In addition to designating three on-site BMR units, the Project Sponsor has elected to pursue the land dedication alternative to meet the inclusionary affordable housing program requirements. As a result of the pending lot subdivision, the new mixed-use building would be located on a parcel measuring 46,000 sq ft. Since the Project is located on a site that has at least 30,000 square feet of developable area, the Project Sponsor must provide a dedicated site that is capable of holding at least 35% of the total number of units from the Principal Project. The Principal Project possesses 199 dwelling units; therefore, the land dedication site must be able to construct at least 70 dwelling units. The Project Sponsor meets these requirements and shall subdivide Lot 21 on Assessor's Block 4022, and convey the new parcel located at 2070 Bryant Street to MOHCD, which would measure 19,000 sq ft (or 95-ft by 200-ft). Of this land, approximately 19,000 square feet would consist of developable area. The Project Sponsor has demonstrated that up to 98 dwelling units may be constructed on the dedicated land (as of right), and up to 136 dwelling units with a density bonus. If the Project were to pursue the on-site affordable housing alternative, the Project would be required to provide 16% or 32 below-market-rate dwelling units on the project site.*

*MOHCD concurs with the Project Sponsor's dedicated land and has conveyed a letter expressing conditional approval of the dedicated land.*

- V. **Eastern Neighborhood Infrastructure Impact Fees.** Planning Code Section 423 is applicable to any development project within the MUO (Mixed Use Office) Zoning District that results in the addition of gross square feet of non-residential space.

*The Project includes approximately 203,656 square feet of new development consisting of approximately 192,711 sq ft of residential use, up to 7,007 sq ft of retail/trade shop use, 12,000 sq ft of PDR use, and up to 11,994 sq ft of garage. Excluding the square footage dedicated to the garage, the other uses are subject to Eastern Neighborhood Infrastructure Impact Fees, as outlined in Planning Code Section 423. These fees must be paid prior to the issuance of the building permit application.*

7. **Large Project Authorization in Eastern Neighborhoods Mixed Use District.** Planning Code Section 329(c) lists nine aspects of design review in which a project must comply; the Planning Commission finds that the project is compliant with these nine aspects as follows:

A. Overall building mass and scale.

*The Project is designed as a large-scale, six-story, 68-ft tall, brick warehouse, which encompasses the full block on 18<sup>th</sup> Street between Bryant and Florida Street. This large-scale massing is appropriate given the larger neighborhood context, which includes larger-scale, four-story reinforced concrete industrial buildings. The surrounding neighborhood is extremely varied with many examples of smaller-scale residential properties and larger-scale industrial properties—both of which range in height from one-to-five-stories in height. The Project's overall mass and scale are further broken down by the fine detail evident in the choice of exterior materials (brick), ground floor storefronts and accentuated cornices. In addition, the Project incorporates a 25-ft wide private alley, which provides separation from the adjacent land dedication site. Overall, these features provide variety in the building design and scale, while providing for a feature that strongly relates to the varied neighborhood context. Thus, the project is appropriate and consistent with the mass and scale of the surrounding neighborhood.*

B. Architectural treatments, facade design and building materials:

*The Project's architectural treatments, façade design and building materials include a brick, aluminum-sash windows, wood storefronts, and terra cotta glazed tiles. The Project's overall design aesthetic harkens back to industrial buildings of the 19<sup>th</sup> and 20<sup>th</sup> century. The Project successfully draws from these older industrial properties in a contemporary manner, and provides a design, which incorporates finer detailing on the exterior, as evident in the material palette, cornice, window surrounds and storefront. The Project provides for a unique and contemporary expression along the street, which draws from the mixed-industrial character within the surrounding area, while also referencing older architectural styles. The Project evokes a 19<sup>th</sup> century brick warehouse with a red brick exterior, terracotta tile, and wood storefront. Overall, the Project offers a high quality architectural treatment, which provides for unique and expressive architectural design that is consistent and compatible with the surrounding neighborhood.*

C. The design of lower floors, including building setback areas, commercial space, townhouses, entries, utilities, and the design and siting of rear yards, parking and loading access;

*Along the lower floors, the Project provides for residential amenities (lounge, fitness room, and entry lobby), ground floor retail, ground floor PDR space, walk-up dwelling units with individual pedestrian access on Bryant Street, and "flexible units" on Florida Street. These dwelling units, retail space and PDR space will provide for activity on the street level along with the new streetscape improvements. In addition, the Project is seeking an exception to permit five "flexible units" along Florida Street. The Project minimizes the impact to pedestrian by providing one 11-ft wide garage entrance on Bryant*

*Street, and one 24-ft wide loading zone along Florida Street. In addition, off-street parking is setback from the ground floor by more than 25-ft.*

- D. The provision of required open space, both on- and off-site. In the case of off-site publicly accessible open space, the design, location, access, size, and equivalence in quality with that otherwise required on-site;

*The Project provides code-complying open space via a roof terrace. In addition, the Project provides additional open space through two inner courtyards. The Project also includes semi-public street improvements, including a private mid-block alley.*

- E. The provision of mid-block alleys and pathways on frontages between 200 and 300 linear feet per the criteria of Section 270, and the design of mid-block alleys and pathways as required by and pursuant to the criteria set forth in Section 270.2;

*The Project is not subject to the mid-block alley requirements, since the subject block is not larger than 400-ft. The Project is voluntarily providing a mid-block pedestrian alley adjacent to the six-story mixed-use building.*

- F. Streetscape and other public improvements, including tree planting, street furniture, and lighting.

*In compliance with Planning Code Section 138.1, the Project would provide new street trees along 18<sup>th</sup>, Florida and Bryant Streets, as specified by the Department of Public Works. In addition, the Project includes streetscape elements, including new concrete sidewalks, linear planters along the street edge, new street trees, bicycle parking spaces, and corner bulb-outs. These improvements would vastly improve the public realm and surrounding streetscape.*

- G. Circulation, including streets, alleys and mid-block pedestrian pathways;

*The Project provides ample circulation in and around the project site through the sidewalk improvement and a voluntary mid-block alley. The primary focal point for retail visitors would occur along 18<sup>th</sup> and Florida Streets, while the residents have a ground-floor entrance on 18<sup>th</sup> Street. Automobile access is limited to the one entry/exit on Bryant Street. An off-street loading zone is provided along Florida Street. The Project incorporates two interior courtyards, which are accessible to residents.*

- H. Bulk limits;

*The Project is within an 'X' Bulk District, which does not restrict bulk.*

- I. Other changes necessary to bring a project into conformance with any relevant design guidelines, Area Plan or Element of the General Plan;

*The Project, on balance, meets the Objectives and Policies of the General Plan. See Below.*

8. **Large Project Authorization Exceptions.** Proposed Planning Code Section 329 allows exceptions for Large Projects in the Eastern Neighborhoods Mixed Use Districts:

A. **Rear Yard:** Exception for rear yards, pursuant to the requirements of Section 134(f);

Modification of Requirements in the Eastern Neighborhoods Mixed Use Districts. The rear yard requirement in Eastern Neighborhoods Mixed Use Districts may be modified or waived by the Planning Commission pursuant to Section 329...provided that:

(1) A comparable, but not necessarily equal amount of square footage as would be created in a code conforming rear yard is provided elsewhere within the development;

*The Project provides for a comparable amount of open space, in lieu of the required rear yard. Overall, the Project will be located on a lot measuring 46,000 sq ft in size, and would be required to provide a rear yard measuring 11,500 sq ft. The Project provides common open space for the 199 dwelling units through two inner courtyards and a roof terrace. In total, the Project provides approximately 15,920 sq ft of code-complying open space, thus exceeding the amount of space, which would have been provided in a code-conforming rear yard.*

(2) The proposed new or expanding structure will not significantly impede the access to light and air from adjacent properties or adversely affect the interior block open space formed by the rear yards of adjacent properties; and

*The Project does not impede access to light and air for the adjacent properties. Many of the abutting residential properties have narrow rear yards or no rear yard. The Project is setback from the neighboring properties and is separated by a private mid-block alley and the land dedication site.*

(3) The modification request is not combined with any other residential open space modification or exposure variance for the project, except exposure modifications in designated landmark buildings under Section 307(h)(1).

*The Project is not seeking an exception to the requirements for residential open space or dwelling unit exposure. The Project provides code-complying open space on the roof terrace and all dwelling units meet the exposure requirements defined in Planning Code Section 140.*

B. **Off-Street Loading:** Exception from satisfaction of loading requirements per Section 152.1 pursuant to the criteria contained therein.

For projects in the Eastern Neighborhoods Mixed Use Districts that are subject to Section 329, the Planning Commission may waive these requirements per the procedures of Section 329 if

it finds that the design of the project, particularly ground floor frontages, would be improved and that such loading could be sufficiently accommodated on adjacent streets and alleys.

*The Project would provide two on-street loading parking spaces on 18<sup>th</sup> Street and one off-street loading space within the private mid-block alley accessible from Florida Street. The on-street loading would meet the retail and residential needs of the Project. The Project offers additional off-street loading within the private mid-block alley, which can serve the ground floor PDR and flexible units. Overall, the Project's proposed loading assists in improving the ground floor street frontage and would improve character of the streets.*

- C. Horizontal Mass Reduction: Modification of the horizontal massing breaks required by Section 270.1 in light of any equivalent reduction of horizontal scale, equivalent volume of reduction, and unique and superior architectural design, pursuant to the criteria of Section 270.1(d).

The Planning Commission may modify or waive this requirement through the process set forth in Section 329. When considering any such application, the Commission shall consider the following criteria:

- 1) no more than 50% of the required mass is reduced unless special circumstances are evident;

*The Project incorporates a horizontal mass break from the ground floor up to the sky, which is 25-ft in width, across the entire length of the project site. The Project exceeds the required amount of mass that would have been reduced under a code-complying mass reduction.*

- 2) the depth of any mass reduction breaks provided is not less than 15 feet from the front facade, unless special circumstances are evident;

*The Project incorporates a mass break, which is more than 15-ft deep from the front façade.*

- 3) the proposed building envelope can be demonstrated to achieve a distinctly superior effect of reducing the apparent horizontal dimension of the building; and

*Through the incorporation of the mid-block alley and horizontal mass break, the Project achieves a distinctly superior building form, due to the separation from the adjacent land dedication site and the building's overall style. The Project evokes a style reminiscent of larger-scale, 19<sup>th</sup> century-early 20<sup>th</sup> century brick warehouses, which often features finer grain details and a rectilinear massing.*

- 4) the proposed building achieves unique and superior architectural design.

*The Project achieves a unique and superior architectural design that appropriately evokes an industrial aesthetic from the 19<sup>th</sup> century – early 20<sup>th</sup> century. The Project's massing and scale is appropriate given the larger neighborhood context. Overall, the Project provides finer grain details, which are appropriate given the Project's design and style.*

- D. Flexible Units: Modification of the accessory use provisions of Section 803.3(b)(1)(c) for Dwelling Units. Dwelling Units modified under this Subsection shall continue to be considered Dwelling Units for the purposes of this Code and shall be subject to all such applicable controls and fees. Additionally, any building that receives a modification pursuant to this Subsection shall (i) have appropriately designed street frontages to accommodate both residential and modified accessory uses and (ii) obtain comment on the proposed modification from other relevant agencies prior to the Planning Commission hearing, including the Fire Department and Department of Building Inspection. Modifications are subject to the following:

(i) A modification may only be granted for the ground floor portion of Dwelling Units that front on a street with a width equal to or greater than 40 feet.

*The Project seeks an exception to the accessory use provisions for five dwelling units on the ground floor along Florida Street. Florida Street is wider than 40-ft, and is a qualifying street.*

(ii) The accessory use may only include those uses permitted as of right at the subject property. However, uses permitted in any unit obtaining an accessory use modification may be further limited by the Planning Commission.

*The Project will only include accessory uses that are principally-permitted uses in the UMU Zoning District, as defined in Planning Code Section 843.*

(iii) The Planning Commission may grant exceptions to the size of the accessory use, type and number of employees, and signage restrictions of the applicable accessory use controls.

*The Project is seeking modification to the accessory use provisions for dwelling units to allow for greater flexibility in the size and type of an accessory use, to provide for a limited number of employees, and to allow for public access.*

- E. Where not specified elsewhere in Planning Code Section 329(d), modification of other Code requirements which could otherwise be modified as a Planned Unit Development (as set forth in Section 304), irrespective of the zoning district in which the property is located;

*In addition to the exception for rear yard, off-street loading, horizontal mass reduction, and accessory use provisions for dwelling units, the Project is seeking an exception to the requirements ground floor ceiling height for non-residential uses (Planning Code Section 145.1).*

*Under Planning Code Section 145.1(c)(4), the ground floor ceiling height for non-residential uses is required to be a minimum of 17-ft in the UMU Zoning District. Currently, the Project specifies a ground floor ceiling height, which ranges from 14-ft 5-in to 17-ft. Although the ground floor ceiling height varies, the architectural expression along the street frontage is consistent and the overall design reinforces the concept of a tall ground floor. The Commission supports this exception, due to the overall quality of design and the streetscape improvements along 18<sup>th</sup>, Florida and Bryant Streets.*

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

## **HOUSING ELEMENT**

### **Objectives and Policies**

#### **OBJECTIVE 1**

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

##### **Policy 1.1**

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

##### **Policy 1.2**

Focus housing growth and infrastructure necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park and Hunter's Point Shipyard.

##### **Policy 1.10**

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

*The Project is a higher density residential development, which provides up to 199 new dwelling units in a mixed-use area. The Project abuts smaller-scale residential uses and one-to-two-story commercial buildings. The project site was recently rezoned as part of a long range planning goal to create a cohesive residential and mixed-use neighborhood. The Project includes 3 on-site affordable housing units for rent (if the upcoming Charter Amendment passes) and will dedicate a portion of the project site to MOHCD for the purpose of developing up to 136 affordable housing units. These two methods comply with the City's affordable housing goals. The Project is also in proximity to public transportation options.*

#### **OBJECTIVE 4**

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

**Policy 4.1**

Develop new housing, and encourage the remodeling of existing housing, for families with children.

**Policy 4.4**

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

**Policy 4.5**

Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

*The Project will dedicate a portion of the project site to MOHCD, thus meeting the affordable housing requirements. Additionally, should a proposed Charter amendment pass, the project would provide an additional 3 on-site affordable units for rent. These methods encourage diversity among income levels within the new development. In addition, the Project provides the appropriate amount of new two-bedroom units, and meets the requirements for dwelling unit mix.*

**OBJECTIVE 11**

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

**Policy 11.1**

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

**Policy 11.2**

Ensure implementation of accepted design standards in project approvals.

**Policy 11.3**

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

**Policy 11.4**

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

**Policy 11.6**

Foster a sense of community through architectural design, using features that promote community interaction.

**Policy 11.8**

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.



*The Project responds to the site's mixed-character by providing new ground floor retail and PDR opportunities and new dwelling units. The Project appropriately responds to the varied character of the larger neighborhood. The Project's facades provide a unique expression not commonly found within the surrounding area, while providing for a material palette, which draws from the surrounding industrial context.*

## **COMMERCE AND INDUSTRY ELEMENT**

### **Objectives and Policies**

#### **OBJECTIVE 6:**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

#### **Policy 6.1**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The Project provides new opportunity for new ground floor retail and PDR uses, which are consistent with the goals for the UMU Zoning District. The surrounding neighborhood does not have an overabundance of ground floor retail uses. The Project would provide new opportunity for neighborhood-serving retail uses. In addition, as expressed by the Commission, the Project will provide 12,000 square feet of PDR use, which will provide a mix of uses on the ground floor and assist in mitigating the loss of the existing PDR uses.*

## **RECREATION AND OPEN SPACE ELEMENT**

### **Objectives and Policies**

#### **OBJECTIVE 4:**

**PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.**

#### **Policy 4.5:**

Require private usable outdoor open space in new residential development.

#### **Policy 4.6:**

Assure the provision of adequate public open space to serve new residential development.

*The Project will create common open space areas in a new mixed-use development through inner courts and a roof terrace. The Project will not cast shadows over open spaces under the jurisdiction of the Recreation and Park Department.*

## **TRANSPORTATION ELEMENT**

### **Objectives and Policies**

**OBJECTIVE 24:**

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

**Policy 24.2:**

Maintain and expand the planting of street trees and the infrastructure to support them.

**Policy 24.3:**

Install pedestrian-serving street furniture where appropriate.

**Policy 24.4:**

Preserve pedestrian-oriented building frontages.

*The Project includes new street trees along the public rights-of-way. In addition, the Project includes streetscape elements, including new concrete sidewalks, linear planters along the street edge, new street trees, bicycle parking spaces, and corner bulb-outs. Frontages are designed with active spaces oriented at the pedestrian level. The new garage entrance/exit is narrow in width and assists in minimizing pedestrian and bicycle conflicts.*

**OBJECTIVE 28:**

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

**Policy 28.1:**

Provide secure bicycle parking in new governmental, commercial, and residential developments.

**Policy 28.3:**

Provide parking facilities which are safe, secure, and convenient.

*The Project includes 128 Class 1 bicycle parking spaces and 18 Class 2 bicycle parking spaces in secure, convenient locations, thus meeting the amount required by the Planning Code.*

**OBJECTIVE 34:**

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

**Policy 34.1:**

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

**Policy 34.3:**

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

**Policy 34.5:**

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

*The Project adheres to the principally permitted parking amounts within the Planning Code. The parking spaces are accessed by one ingress and egress point. Parking is adequate for the project and complies with maximums prescribed by the Planning Code.*

**URBAN DESIGN ELEMENT**

**Objectives and Policies**

**OBJECTIVE 1:**

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

**Policy 1.7:**

Recognize the natural boundaries of districts, and promote connections between districts.

**OBJECTIVE 2:**

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

**Policy 2.6:**

Respect the character of older development nearby in the design of new buildings.

*The Project is located within the Mission neighborhood, which is characterized by the mix of uses. As such, the Project provides expressive street façades, which respond to form, scale and material palette of the existing neighborhood, while also providing a new contemporary architectural vocabulary.*

**OBJECTIVE 4:**

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

**Policy 4.5:**

Design walkways and parking facilities to minimize danger to pedestrians.

**Policy 4.13:**

Improve pedestrian areas by providing human scale and interest.

*Although the project site has three street frontages, it only provides one vehicular access points for the off-street parking, thus limiting conflicts with pedestrians and bicyclists. Numerous street trees will be planted on each street. Along the project site, the pedestrian experience will be greatly improved.*

## **MISSION AREA PLAN**

### **Objectives and Policies**

#### **Land Use**

##### **OBJECTIVE 1.1**

IN AREAS OF THE MISSION WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

##### **Policy 1.2.1**

Ensure that in-fill housing development is compatible with its surroundings.

##### **Policy 1.2.2**

For new construction, and as part of major expansion of existing buildings in neighborhood commercial districts, require ground floor commercial uses in new housing development. In other mixed-use districts encourage housing over commercial or PDR where appropriate.

##### **Policy 1.2.3**

In general, where residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix requirements.

##### **Policy 1.2.4**

Identify portions of the Mission where it would be appropriate to increase maximum heights for residential development.

#### **Housing**

##### **OBJECTIVE 2.3**

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES

##### **Policy 2.3.3**

Require that a significant number of units in new developments have two or more bedrooms, except Senior Housing and SRO developments unless all Below Market Rate units are two or more bedrooms.

##### **Policy 2.3.5**

Explore a range of revenue-generating tools including impact fees, public funds and grants, assessment districts, and other private funding sources, to fund community and neighborhood improvements.

**Policy 2.3.6**

Establish an impact fee to be allocated towards an Eastern Neighborhoods Public Benefit Fund to mitigate the impacts of new development on transit, pedestrian, bicycle, and street improvements, park and recreational facilities, and community facilities such as libraries, child care and other neighborhood services in the area.

**Built Form**

**OBJECTIVE 3.1**

PROMOTE AN URBAN FORM THAT REINFORCES THE MISSION'S DISTINCTIVE PLACE IN THE CITY'S LARGER FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER

**Policy 3.1.8**

New development should respect existing patterns of rear yard open space. Where an existing pattern of rear yard open space does not exist, new development on mixed-use-zoned parcels should have greater flexibility as to where open space can be located.

**OBJECTIVE 3.2**

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM

**Policy 3.2.1**

Require high quality design of street-facing building exteriors.

**Policy 3.2.3**

Minimize the visual impact of parking.

**Policy 3.2.4**

Strengthen the relationship between a building and its fronting sidewalk.

**Policy 3.2.6**

Sidewalks abutting new developments should be constructed in accordance with locally appropriate guidelines based on established best practices in streetscape design.

**Transportation**

**OBJECTIVE 4.7**

IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN THE MISSION

**Policy 4.7.2**

Provide secure, accessible and abundant bicycle parking, particularly at transit stations, within shopping areas and at concentrations of employment.

**OBJECTIVE 4.8**

ENCOURAGE ALTERNATIVES TO CAR OWNERSHIP AND THE REDUCTION OF PRIVATE VEHICLE TRIPS

**Policy 4.8.1**

Continue to require car-sharing arrangements in new residential and commercial developments, as well as any new parking garages.

**Streets & Open Space**

**OBJECTIVE 5.3**

CREATE A NETWORK OF GREEN STREETS THAT CONNECTS OPEN SPACES AND IMPROVES THE WALKABILITY, AESTHETICS and ecological sustainability OF THE NEIGHBORHOOD.

**Policy 5.3.1**

Redesign underutilized portions of streets as public open spaces, including widened sidewalks or medians, curb bulb-outs, "living streets" or green connector streets.

**Policy 5.3.2**

Maximize sidewalk landscaping, street trees and pedestrian scale street furnishing to the greatest extent feasible.

*The Project features an appropriate mix of uses encouraged by the Area Plan for this location. The Project provides 199 new dwelling units, which will be available for rent. In addition, the Project is located within the prescribed height guidelines, and includes the appropriate dwelling unit mix, since more than 40% or 80 units are two-bedroom dwellings. The Project also incorporates an appropriate mix of uses for the UMI Zoning District, as evidenced by the 12,000 square feet of PDR use. The Project introduces a contemporary architectural vocabulary that draws from the neighborhood's industrial aesthetic, which is sensitive to the prevailing scale and neighborhood fabric. The Project provides for a high quality designed exterior, which features a variety of materials, colors and textures, including brick and aluminum windows. The Project provides ample common open space and also improves the public rights of way with new streetscape improvements, street furniture, corner bulb outs, and landscaping. The Project minimizes the impact of off-street parking and is in proximity to public transit options. The Project will also pay the appropriate development impact fees, including the Eastern Neighborhoods Impact Fees.*

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*Although the project site currently contains existing neighborhood-serving uses, including a restaurant and auto repair shop, the Project would assist in enhancing the larger neighborhood by providing new space for new neighborhood-serving uses and other retail opportunities. The Project improves the urban form of the neighborhood by constructing new ground floor retail and PDR uses. These new retail spaces will provide goods and services to area workers, residents and visitors, while creating new ownership and employment opportunities for residents. The Project would add new residents, visitors, and employees to the neighborhood, which would assist in strengthening nearby retail uses.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*Although the Project would demolish three existing housing units, the Project would provide 199 new dwelling units, thus resulting in an overall increase in the neighborhood housing stock. Further, the Project will dedicate a portion of the project site to MOHCD, who will develop the land with affordable housing, and, should a proposed Charter amendment pass, the Project will provide three on-site BMR units for rent. The Project is expressive in design, and relates well to the scale and form of the surrounding neighborhood. For these reasons, the Project would protect and preserve the cultural and economic diversity of the neighborhood.*

- C. That the City's supply of affordable housing be preserved and enhanced.

*The Project will not displace any identified affordable housing units. The three existing units are not identified as affordable housing units. The Project will comply with the City's Inclusionary Housing Program, therefore increasing the stock of affordable housing units in the City.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The project site is served by nearby public transportation options. The Project is located within one block of bus lines for the 27-Bryant & within three blocks of the bus lines for the 22-Fillmore and 33-Stanyan. Future residents would be afforded proximity to bus line. The Project also provides off-street parking at the principally permitted amounts and sufficient bicycle parking for residents and their guests.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The Project does not include commercial office development. The Project provides new ground floor retail use, PDR use and housing, which is a top priority in the City. The new retail use will provide new opportunity for the service sector.*

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*Currently, the project site does not contain any City Landmarks or historic buildings.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The Project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.*

9. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

*The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Large Project Authorization would promote the health, safety and welfare of the City.



## DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Large Project Authorization Application No. 2013.0677X** under Planning Code Section 329 to allow the new construction of a six-story, 68-ft tall, mixed-use building with 199 dwelling units, up to 7,007 square feet of retail/trade shop use, and a total of 12,000 gsf of PDR use, and a modification to the requirements for: 1) rear yard (Planning Code Section 134); 2) ground floor ceiling height for non-residential uses (Planning Code Section 145.1); 3) off-street freight loading (Planning Code Section 152.1); 4) horizontal mass reduction (Planning Code Section 270.1); and, 5) flexible units-modification to the accessory use provisions of 803.3(b)(1)(c) (Planning Code Sections 329(d)(10)), within the UMU (Urban Mixed Use) Zoning District and a 68-X Height and Bulk District. The project is subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 29, 2016, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.


The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures identified in the Eastern Neighborhoods Plan EIR and contained in the MMRP are included as conditions of approval.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Section 329 Large Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 2, 2016.



Jonas P. Ionin  
Commission Secretary

AYES: Antonini, Fong, Johnson, Hillis and Richards

NAYS: Moore and Wu

ABSENT: None

ADOPTED: June 2, 2016

## EXHIBIT A

### AUTHORIZATION

This authorization is for a Large Project Authorization to allow for the new construction of a six-story, 68-ft tall, mixed-use building with 199 dwelling units, 7,007 gsf of ground floor retail use, 3,938 gsf of PDR use, and a modification to the requirements for rear yard, open space, permitted obstructions over the street, ground floor ceiling height, off-street loading and accessory use provisions for dwelling units, located at 2000-2070 Bryant Street, Lots 001, 002 and 021 in Assessor's Block 4022 pursuant to Planning Code Section 329 within the UMU (Urban Mixed Use) Zoning Districts, and a 68-X Height and Bulk District; in general conformance with plans, dated May 4, 2016, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0677X and subject to conditions of approval reviewed and approved by the Commission on June 2, 2016 under Motion No. 19658. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on June 2, 2016 under Motion No. 19658.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19658 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Office Development Authorization and any subsequent amendments or modifications.

### SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

### CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new authorization.

## Conditions of Approval, Compliance, Monitoring, and Reporting

### PERFORMANCE

**Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Additional Project Authorization.** The Project Sponsor must obtain a Conditional Use Authorization under Planning Code Sections 303 and 317 for removal of three residential units, and satisfy all the

conditions thereof. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Mitigation Measures.** Mitigation measures described in the MMRP for the Eastern Neighborhoods Plan EIR (Case No. 2013.0677E) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## **DESIGN – COMPLIANCE AT PLAN STAGE**

**Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Garbage, Composting and Recycling Storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
5. Public right-of-way, underground; and based on Better Streets Plan guidelines;
6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
7. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*

**Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application for each building. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## **PARKING AND TRAFFIC**

**Unbundled Parking.** All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than 149 off-street parking spaces for the 199 dwelling units in the UMU Zoning District.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Car Share.** Pursuant to Planning Code Section 166, no fewer than one car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than 128 Class 1 bicycle parking spaces and 18 Class 2 bicycle parking spaces for the 199 dwelling units, 7,007 square feet of ground floor retail use, and 3,938 square feet of PDR use.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate “add-on” option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner’s rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## PROVISIONS

**PDR Use.** The Project shall incorporate 12,000 square feet of PDR use.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**Eastern Neighborhoods Infrastructure Impact Fee.** Pursuant to Planning Code Section 423 (formerly 327), the Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions through payment of an Impact Fee pursuant to Article 4.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

**First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

*For information about compliance, contact the First Source Hiring Manager at 415-581-2335, [www.onestopSF.org](http://www.onestopSF.org)*

## **MONITORING**

**Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Revocation Due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*



## OPERATION

**Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*

**Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>*

**Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## INCLUSIONARY HOUSING

**Land Dedication Alternative.** The Project Sponsor has chosen to satisfy the affordability requirement for the Project through a land dedication pursuant to Planning Code Section 419.6 and 419.5(a)(2)(A)-(J). The Project Sponsor has been in discussions with the Mayor's Office of Housing (MOH) and the Planning Department. On May 12, 2016, MOH provided a letter to the Planning Department that confirmed that the site that the Project Sponsor has selected (a portion of 2070 Bryant St [Block 4022 Lot 021]), is acceptable under Planning Code Section 419.5(2), subject to the conditions included therein.

In the event the land dedication process is completed, and the fee title to the land dedication site is transferred to the City prior to the issuance of the first construction document for the Project, the Project will have fully complied with the Planning Code's Section 415 inclusionary affordable housing requirements. In the event, for whatever reason, fee title to the land dedication site is not transferred to

the City by issuance of the first construction document for the Project, the Project Sponsor will be subject to the requirements of Planning Code Section 415 and 419.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

**Eastern Neighborhoods Affordable Housing Requirements for UMU.** Pursuant to Planning Code Section 419.3, Project Sponsor shall meet the requirements set forth in Planning Code Section 419.3 in addition to the requirements set forth in the Affordable Housing Program, per Planning Code Section 415. Prior to issuance of first construction document, the Project Sponsor shall select one of the options described in Section 419.3 or the alternatives described in Planning Code Section 419.5 to fulfill the affordable housing requirements and notify the Department of their choice. Any fee required by Section 419.1 et seq. shall be paid to the Development Fee Collection Unit at DBI prior to issuance of the first construction document an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section 107A.13.3 of the San Francisco Building Code.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

1. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is currently required to provide 16% of the proposed dwelling units as affordable to qualifying households, but is subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. The Project contains 199 units. Should the proposed Charter Amendment pass, the Project Sponsor shall fulfill this requirement by providing the 3 affordable units on-site (1.5% of the units) in addition to the land dedication option described above. If the Project is subject to a different requirement if the Charter Amendment is approved and new legislative requirements take effect, the Project will comply with the applicable requirements at the time of compliance. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

2. **Unit Mix.** The Project will provide an affordable unit mix of one studio, one one-bedroom, and one two-bedroom units, or the unit mix that may be required if the inclusionary housing requirements change as discussed above. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

3. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
4. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than one and a half percent (1.5%), or the applicable percentage as discussed above, of the each phase's total number of dwelling units as on-site affordable units.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
5. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*
6. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:  
<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project.

The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.

- b. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average fifty-five (55) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco," but these income levels are subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. If the Project is subject to a different income level requirement if the Charter Amendment is approved and new legislative requirements take effect, the Project will comply with the applicable requirements. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
- f. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions (as defined in California Government Code Section 65915 et seq.) provided herein. The Project Sponsor has executed the Costa Hawkins agreement and will record a Memorandum of Agreement prior

to issuance of the first construction document or must revert payment of the Affordable Housing Fee.

- g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.
- h. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable.

**ATTACHMENT D**

**Eastern Neighborhoods**

**List of Capital Projects**

**August, 2016**

Eastern Neighborhoods  
List of Capital Projects

| IPIC Category    | Capital Plan Sub-Category | Project Title   | Scope  | Status  |
|------------------|---------------------------|---|--|---|
| Complete Streets | Green Connections         | 22nd Street (Pennsylvania to Illinois)                    | Streetscaping, including but not limited street trees, landscaping, and pedestrian lighting.   | Planned: fully funded, final design underway.   |
| Complete Streets | Green Connections         | CalTrain bridge lighting                                  | Lighting of CalTrain bridges with artistic lighting.   | Planned - fully funded.   |
| Complete Streets | Green Connections         | Blue Greenway (24th to Cove)                              |  | Planned   |
| Complete Streets | Green Connections         | Blue Greenway (Illinois)                                  |  | Planned   |
| Open Space       |                           | Angel Alley Improvements (CCG Recipient)                  | Creation of a community gather space at Tennessee and 22nd Street  | Complete  |
| Open Space       |                           | Tunnel Top Park (CCG Recipient)                           | Creation of a mini-park at 25th and Pennsylvania Streets.  | Phase I Complete; Phase II to begin summer 2016   |
| Open Space       | Open Space New            | New Park(s) Central Waterfront                            | Placeholder for one or more new parks, open space, or recreational facility for the Central Waterfront.  | Planning underway. Not fully funded. CW/D Public Realm Plan expected to be completed by summer 2016, which will inform how to move forward with both new parks and rehabilitation of parks in CW. |
| Open Space       | Open Space New            | Dogpatch Art Plaza  | Located at the dead-end portion of 19th Street, the plaza envisions a pedestrian space of 8,000 sf designed to accommodate special events and rotating art exhibits, bulb-outs, café and other movable seating and bleacher seating.   | Planned and underway: to be under construction soon.  |
| Open Space       | Open Space Rehab          | Park Rehab: Central Waterfront                            | Though not yet scoped out, funds have been set aside to establish new parks and/or improve Esprit Park.  | Planning underway. Not fully funded. CW/D Public Realm Plan expected to be completed by summer 2016, which will inform how to move forward with both new parks and rehabilitation of parks in CW. |
| Open Space       | Open Space Rehab          | Warm Water Cove Park                                      | Improvement to and expansion of Warm Water Cover Park.   | Planning underway as part of the Dogpatch Public Realm Plan   |
| Complete Streets |                           | Dogpatch and Potrero Sidewalk Landscaping (CCG Recipient) | Installation of sidewalk landscaping in the Dogpatch and Potrero Hill neighborhoods.   | Complete  |
| Complete Streets | Green Connections         | 22nd Street Steps (Missouri to Texas)                     | Stairs and open space landscaping, along 22nd Street alignment between Texas and Missouri.   | Planned: fully funded; to be constructed by adjacent Project Sponsor.   |
| Complete Streets | Green Connections         | 22nd Street (Pennsylvania to Texas )                      | One block of landscaping between Pennsylvania (where the Green Connections project will end) and the 22nd Street stair.  | Conceptual - not currently funded.  |
| Complete Streets | Streetscape Projects      | 6th Street Streetscape                                    | Pedestrian safety improvements on 6th Street from Market to Howard Streets. Project could sidewalk widening on both sides of 6th Street, vehicle travel lane reduction, "flex" zone and textured median with raised refuges, pedestrian scale lighting, new street furnishings and tree grates as well | Planned and underway: community engagement currently underway.  |
| Complete Streets | Vision Zero               | 6th and Minna (traffic signal)                            | 6th and Minna (traffic signal)   | Complete  |
| Complete Streets | Vision Zero               | King St (Bike lanes between 2nd/3rd)                      | King St (Bike lanes between 2nd/3rd)   | Planned - not complete.   |
| Complete Streets | Streetscape Projects      | SoMa Alleyways Phase II                                   | Alley improvements that include raised crosswalks, stamped asphalt, traffic calming, chicanes, street trees, among other features. Minna and Natoma Streets, from 6th Street to Mary Street; Tehama, Clementina, Shipley, and Clara streets, from 6th Street to 5th Street                             | Complete  |
| Open Space       | Open Space Rehab          | South Park Rehabilitation                                 | Park features are proposed to include a variety of different programmatic spaces, including a children's play area, a large open meadow, plazas of varying scales, and a variety of areas designed for sitting and/or picnicking to increase park capacity.  | Planned and underway: under construction.   |

Eastern Neighborhoods  
List of Capital Projects

| IPIC Category    | Capital Plan Sub-Category | Project Title  | Scope   | Status  |
|------------------|---------------------------|--|---|---|
| Complete Streets | Vision Zero               | 5th Street (green backed sharrows)                         | Green back sharrows from Market to Townsend on 5th St.  | Complete  |
| Complete Streets | Streetscape Projects      | 2nd Street Streetscape                                     | Includes sidewalk widening, curbside bikeways with floating parking and bus boarding islands, vehicle lane reduction and traffic signal modifications   | Planned and underway: fully funded; construction expected fall 2016.  |
| Open Space       | Open Space New            | Brannan Street Warf  |   | Complete  |
| Complete Streets | Streetscape Projects      | 7th Street Streetscape                                     | Includes streetscape improvements on Seventh Street between Market and Harrison Streets. Elements include: Reducing the amount of traffic lanes from four to three; the addition of a buffer separated bike lane or "cycle track"; corner bulbs and bus bulbs at intersections reducing pedestrian    | Planned: (update coming soon)   |
| Complete Streets | Major Projects            | Folsom Streetscape   | Includes streetscape improvements on Folsom Street between Fifth Street and 11th Street. Improvements include: the addition of an improved separated bi-directional bike lane "cycle track" with a buffer using either parking or raised traffic islands; corner bulbs and bus bulbs at intersections | Planned - Partially Funded, EIR to be complete by winter 2016-17. Community engagement and design planned for 2017, approvals 2018, construction 2019 or after. |
| Complete Streets | Major Projects            | Howard Streetscape   | Streetscape improvements on Folsom Street between Fifth Street and 11th Street and start construction. Improvements include: The current four lane one way street will be converted to one eastbound and two westbound traffic lanes and a planted median; the existing Howard Street bike            | Planned - Partially Funded, EIR to be complete by winter 2016-17. Community engagement and design planned for 2017, approvals 2018, construction 2019 or after. |
| Complete Streets | Streetscape Projects      | SoMa Alleyways (Minna, Shipley, Clara, Natoma, Clementina) | Alley improvements that include raised crosswalks, stamped asphalt, traffic calming, chicanes, street trees, among other features.  | Complete  |
| Complete Streets | Streetscape Projects      | 7th and 8th Street Restriping                              | Remove one travel lane on 7th Street between Harrison and Market Streets and study the operation of the new lane configuration. The lane reduction will help inform the environmental review for the preferred design of the ENTRIPS 7th Street Streetscape.  | Complete  |
| Open Space       | Open Space New            | New Park(s) Soma   | Placeholder for one or more new parks, open space, or recreational facility for the South of Market.  | Planned and underway, Rec and Park actively seeking acquisition; not fully funded.  |
| Open Space       | Open Space Rehab          | Gene Friend/SOMA Recreation Center Reconstruction          | Plans for the rehabilitation of Gene Friend currently include demolishing the existing structure and rebuilding a larger, more flexible and attractive facility.  | Planned and underway: completed initial phase of community engagement; currently in planning phase.   |
| Complete Streets | Streetscape Projects      | Bartlett Street / Mission Mercado                          | Streetscape improvements to make the street segment double as a plaza. Interventions include widened sidewalks, raised shared surface, new street trees and landscaping, and pergola structures.  | Planned and underway: under construction.   |
| Complete Streets | Streetscape Projects      | Potrero Ave.   | Repaving and utility upgrades from Alameda to 25th Street. Bus bulbs, ped and bike improvements throughout. Focused streetscaping between 21st and 25th including median, widened sidewalks and pedestrian lighting.  | Planned and underway: currently under construction.   |
| Complete Streets | Streetscape Projects      | Mission District Traffic Calming                           | In Mission Streetscape Plan (Hampshire, Shotwell, 20, 26)   | Conceptual - not currently funded.  |
| Complete Streets | Vision Zero               | 16th and Capp (traffic signal)                             | 16th and Capp (traffic signal)  | Complete  |
| Open Space       | Open Space Rehab          | Mission Rec Center   | The project is currently being scoped with the goal of completely rebuilding the enclosed Recreation Center.  | Planned: seed funding provided through IPIC; planning to begin mid 2016.  |
| Open Space       | Open Space New            | 17th and Folsom Street Park                                | A new park at 17th and Folsom that will include a children's play ara, demonstration garden, outdoor amphitheater and seating, among other amenities.   | Planned and underway: under construction.   |
| Open Space       | Open Space Rehab          | Franklin Square  | The smaller near-term project is to install a exercise course at the park.  | Planned: athletic course project fully funded; beginning design with construction 2016.   |
| Open Space       | Open Space Rehab          | Jose Coronado Playground                                   | The project could include playing field resurfacing and new fencing.  | Planned: - additional scoping exected.  |



Eastern Neighborhoods  
List of Capital Projects

| IPIC Category    | Capital Plan Sub-Category | Project Title   | Scope   | Status  |
|------------------|---------------------------|---|---|---|
| Open Space       | Open Space Rehab          | Juri Commons (Playground)                                       | This smaller near-term project looks to reconstruct the playground at this small park.  | Planned, fully funded.  |
| Open Space       |                           | Fallen Bridge Park (CCG Recipient)                              | Further improvement of Fallen Bridge Park, a community-created park, located at the base of the I-101 pedestrian bridge on its west side.   | Complete  |
| Open Space       | Open Space Rehab          | Garfield Square Aquatics Center                                 | This project includes enhancing the facility to a higher capacity Aquatics Center, which, besides refurbishing the pool, would also include adding additional amenities such as a multi-purpose room and a slide. | Planned and underway: currently completing community engagement for final design.                         |
| Transit          | Major Projects            | Mission Street (Muni Forward) - Mission                         |   | Planned and underway. Frequency increase in 2015. Construction scheduled for 2016.                        |
| Transit          | Major Projects            | 16th Street Multimodal Corridor Project                         |   | Planned and underway: fully funded, phased implementation to begin soon; hard construction to begin 2018. |
| Complete Streets | Streetscape Projects      | Cesar Chavez (Hairball short term improvements)                 |   | Conceptual - not currently funded.  |
| Complete Streets | Vision Zero               | 11th/13th/Bryant (bicycle intersection improvements)            | 11th/13th/Bryant (bicycle intersection improvements)  | Planned.  |
| Complete Streets |                           | Hope SF Potrero Street Safety improvements                      | [need to check]   | Planned and underway.   |
| Complete Streets | Green Connections         | 22nd Street Steps (Arkansas to Missouri)                        | Stairs along the north side of Potrero Recreation center along the 22nd Street right-of-way and alignment.  | Conceptual - not currently funded.  |
| Complete Streets | Green Connections         | 17th Street (phased with Loop OS)                               | Streetscape improvements to activate the portion of 17th Street that crosses under the 101.   | Planned; funding being sought.  |
| Complete Streets | Green Connections         | 17th Street Green Street  | Green connection streetscape interventions along 17th Street within Showplace Square.   | Conceptual - not currently funded.  |
| Complete Streets | Green Connections         | Wisconsin @ Jackson Playground                                  | Green connection streetscape interventions Wisconsin Street between Jackson Playground and 16th Street.   | Conceptual - not currently funded.  |
| Complete Streets | Streetscape Projects      | Cesar Chavez (East)   |   | Conceptual - not currently funded.  |
| Open Space       | Open Space Rehab          | Jackson Playground  | Scope for the rehabilitation of Jackson Playground is currently being developed between Rec and Park, Friends of Jackson Playground, Live Oak School and other interested parties.                                | Planned: Planning underway. Funding actively being sought.  |
| Open Space       | Open Space New            | Daggett Park  | A new park on the former Daggett right-of-way.  | Near Complete.  |
| Open Space       |                           | Connecticut Friendship Garden Outdoor Classroom (CCG Recipient) | Creation of a community outdoor classroom at the Connecticut Street Friendship Garden immediately adjacent to Potrero Recreation Center.  | Planned and underway.   |
| Open Space       | Open Space New            | The Loop  | A series of open space and streetscape interventions at the intersections of 17th Street and Highway 101 that would activate and enliven the underutilized space along and under the freeway.                     | Conceptual; actively seeking funding.   |
| Open Space       | Open Space New            | Irwin Plaza   | Plaza improvements at the intersection of 16th Street and Irwin.  | Conceptual - not currently funded.  |

Eastern Neighborhoods  
List of Capital Projects

| IPIC Category    | Capital Plan Sub-Category | Project Title  | Scope  | Status  |
|------------------|---------------------------|--|--|---|
| Transit          | Transit                   | New bus routing in Showplace/Potrero and Central Waterfront. |  | Community consultation underway.                  |
| Complete Streets | Streetscape Projects      | 8th Street Streetscape                                       | Streetscape improvements on Eighth Street between Market and Harrison Streets. Elements include: The addition of an improved buffer separated bike lane "cycle track" using either parking or raised traffic islands; corner bulbs and bus bulbs at intersections reducing pedestrian crossing distances and | Planned: (update coming soon)                     |
| Complete Streets | Streetscape Projects      | Ringold Alley  | Streetscape improvements that include enhanced lighting, landscaping, paving, furnishings, and undergrounding utility lines.   | Planned and underway. Construction to begin soon. |
| Complete Streets | Streetscape Projects      | Western SOMA Gateway Treatments at highway off-ramps         |  | Conceptual - not currently funded.                |
| Open Space       | Open Space New            | 12th Street Greening (Eagle Plaza adjacent)                  | Possible improvements between Folsom and Betrice that would include a "living streets" treatment that would include widened sidewalks, landscaping and some programmed uses.   | Conceptual - not yet officially proposed          |
| Open Space       | Open Space New            | 12th Street Greening (Eagle Plaza)                           | Eagle Plaza envisions are share surface treatment between Betrice and Harrison, with a single south bound travel lanes, plaza plantings, seating, lighting and other amenities to allow the space to be used for both active and passive recreational use and for events.                                    | Planned and underway through in-kind.             |
| Complete Streets | Streetscape Projects      | 7th Street from Townsend to 16th Street                      | Conceptual placeholder for extending streetscaping and complete streets treatment for southern portion of 7th Street.  | Conceptual - not currently funded. Awaiting RAB.  |
| Complete Streets | Green Connections         | GC Segments: Basic Signage and Wayfinding                    | General low-level low-cost interventions for all portions of identified "Green Connections" within Eastern Neighborhoods.  | General placeholder                               |
| Complete Streets | Streetscape Projects      | Infill Street Tree Planting                                  |  | General placeholder                               |
| Complete Streets | Streetscape Projects      | EN Streetscape Improvements through 2025                     |  | general placeholder                               |
| Complete Streets | Vision Zero               | Walk First Long-Term, Comprehensive Improvements             | All WalkFirst Phase 2 improvements in Eastern Neighborhoods.   | Conceptual - not currently funded.                |
| Open Space       | Open Space - Other        | Community Challenge Grant Projects                           |  | Ongoing. Third funding cycle recently opened.     |