

To whom it may concern,

The San Francisco Planning Commission should revoke certification of the Pier 70 FEIR to avoid cause for inverse condemnation. The Planning Commission is the entity with the power to control the Pier 70 project and thus mitigate this liability. The FEIR has factual and procedural errors that knowingly conceal Pier 70's breach of state interest as defined in SB743.

The doctrine of inverse condemnation has been summarized as Article I, section 19 of the California Constitution requires that just compensation be paid when private property is taken or damaged for public use. A regulatory taking occurs when a regulation does not substantially advance legitimate state interests. The FEIR fails to consider alternatives which would advance city and state interests while mitigating damage to neighboring residents:

1. Building out transit infrastructure and demonstrating effective transit performance before adding additional load on grossly inadequate infrastructure.
2. Implementing and reporting comprehensive metrics on transit service that ensure customers will want choose public transit over single passenger TNCs. The flight of paying customers from public transit to TNCs is not the root cause of traffic congestion. The failure of public transit to deliver safe, rapid and reliable service is the only plausible rationale for passengers to pay TNC premiums.
3. Providing equal consideration to TNC mass transit services so that competitive market forces can incentivize public transit service improvement while providing the environmental advantages of multi-passenger transit.
4. Construction of underground structures for all parking at Pier 70 to free above ground space for residences.
5. The Planning Commission has opined that impact to property views is not a consideration for project approval. Building Pier 70 residences partially or completely underground perfectly aligns with this Planning Commission opinion.

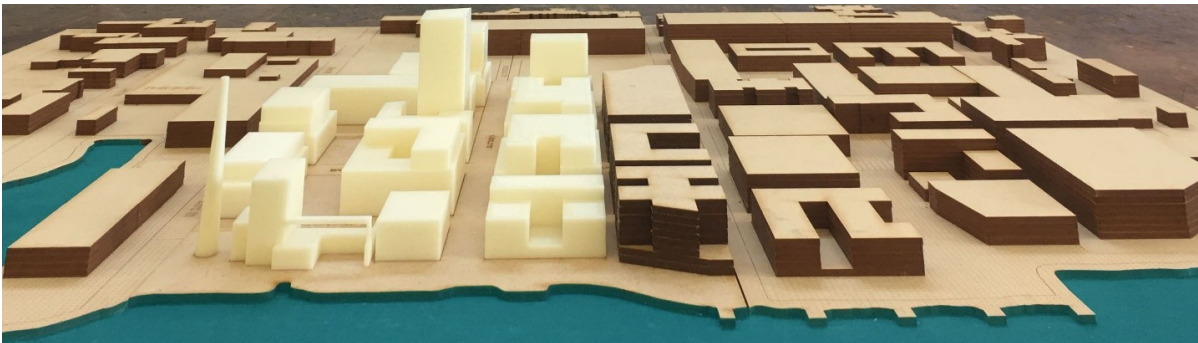
California courts have ruled that landowners have an easement of reasonable view and that is an appropriate factor to consider in awarding damages. (People v. Ricciardi 1943) The proposed project impacts the views across the entire east slope of Potrero Hill as follows:

Table 1
Bay View Obscured by Proposed Project

Home Elevation	200'	175'	165'	155'	140'
Percent Bay View Obscured	30%	50%	60%	80%	100%

Percent = $(\text{area above project}) / (\text{area above} + \text{below project})$

Adjacent project proposals under control of the city of San Francisco are expected to completely obviate scenic vistas with planned 300' heights as shown below:



There are numerous breaches of state interest associated with the factual errors of the FEIR:

1. FEIR RESPONSE SB-1: SENATE BILL 743: none of the listed rail stops satisfy reasonable requirements as a major transit station. If legislative intent was to provide cities with unlimited power to exempt CEQA visual analysis, SB743 would have stipulated that cities may at their sole discretion eliminate visual analysis. Moreover, the explicit designation major transit station clearly distinguishes there must also be minor transit stations. The unique features of major transit station can only be ancillary facilities (ticketing, rest rooms, etc.).
2. FEIR RESPONSE SB-1: SENATE BILL 743: the Pier 70 EIR comment response that system wide on-time performance for MUNI ranged from 57-60 percent from January 2016 through March 2017 may be equivalently stated as between 40% to 43% of MUNI failed to meet published service intervals. This proves there is not routine transit service.
3. FEIR RESPONSE PH-2: POPULATION GROWTH AND PLAN INCONSISTENCIES: as noted in the Pier 70 EIR comment response, the Proposed Project would result in sizable population growth locally and on the project site. Items 1 and 2 above demonstrate that local population growth will result in indirect or secondary impacts which must be legally considered significant.
4. FEIR RESPONSE TR-2: TRAFFIC CONGESTION justifies using VMT efficiency metric (i.e., a rate) as opposed to an absolute increase in

VMT as an appropriate threshold. As discussed previously, Pier 70 is a transit desert. Using VMT efficiency falsely assumes public transit functions adequately, is safe and has capacity. The use of VMT efficiency metric promotes extreme infrastructure over-utilization.

The underlying regulatory intent is to promote growth in areas with suitable transit services to encourage usage of mass transit. This area does not have the quality of service needed to encourage public transit usage. SFMTA's historical failure to provide adequate transit to these neighborhoods is documented in the 1997 Ballpark FEIR. Thirty years later SFMTA has still failed to provide adequate transit service, for example the 3 mile commute between Potrero Hill and the Financial District takes between 45 minutes to 1 hour. The decision of the Planning Commission to dismiss well known traffic congestion and transit inadequacies from its FEIR deliberation is in direct opposition to legitimate state interest.

On June 3, 2014, city voters approved an initiative that requires voter approval in a citywide election before any waterfront development project exceeding established height limit zoning can go forward. Forest City, which was planning the Pier 70 project, lobbied city officials to promote the Proposition F without providing voters adequate information on visual impact to the waterfront or impact on adjacent neighborhoods.

The omission of meaningful neighborhood impact review in the FEIR and Proposition F have deprived the public of any opportunity to pass an informed judgment. Scenic vistas are a significant factor in many Potrero Hill property values. Neither Forest City nor the city of San Francisco dispute that existing property views will be significantly obscured.

The Planning Commission denial of the true state of public transit disregards the overwhelmingly obvious fact that customers are abandoning public transit for quality-focused service providers. The city of San Francisco is effectively creating precedent that allows the reallocation of personal financial value to high wealth developers across the entire bay water front.

Thank you for your consideration of this information.

Sincerely,

Clair D Clark