File No. 200103 **Committee Item No.** _____
Board Item No. 28

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting **Date:** August 11, 2020

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☐	☐	
☐	☐	
☐	☐	
☐	☐	

Prepared by: Lisa Lew **Date:** August 7, 2020
Prepared by: _____ **Date:** _____

From:	BOS Legislation, (BOS)
To:	Stephen M. Williams; John Kevlin
Cc:	PEARSON, ANNE (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Hillis, Rich (CPC); Teague, Corey (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lewis, Don (CPC); Varat, Adam (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Delumo, Jenny (CPC); Rosenberg, Julie (BOA); Sullivan, Katy (BOA); Longaway, Alec (BOA); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); Mchugh, Eileen (BOS); BOS Legislation, (BOS)
Subject:	APPELLANT WITHDRAWAL LETTER: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing to a Future Date
Date:	Monday, April 27, 2020 11:55:31 AM
Attachments:	image001.png

Good morning,

Please find linked below a letter received by the Office of the Clerk of the Board from the appellant, Stephen Williams of the Law Office of Stephen M. Williams, on behalf of William Hedden, to withdraw the contest of the CEQA Categorical Exemption for the proposed project at 1531-1581 Howard Street and 118-134 Kissling Street:

Appellant Withdrawal Letter - April 27, 2020

Please do not hesitate to contact our office with any questions, and I invite you to review the entire matter on our Legislative Research Center by following the link below:

Board of Supervisors File No. 200103

Best regards,
Jocelyn Wong
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
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jocelyn.wong@sfgov.org | www.sfbos.org

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Sent: Friday, March 20, 2020 11:08 AM
To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>; Stephen M. Williams <smw@stevewilliamslaw.com>; John Kevlin <jkevlin@reubenlaw.com>
Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; STACY, KATE (CAT) <Kate.Stacy@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Teague, Corey (CPC) <corey.teague@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Jain, Devyani (CPC) <devyani.jain@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lewis, Don (CPC) <don.lewis@sfgov.org>; Varat, Adam (CPC) <adam.varat@sfgov.org>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Delumo, Jenny (CPC) <jenny.delumo@sfgov.org>; Rosenberg, Julie (BOA) <julie.rosenberg@sfgov.org>; Sullivan, Katy (BOA) <katy.sullivan@sfgov.org>; Longaway, Alec (BOA) <alec.longaway@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>
Subject: INDEFINITE CONTINUANCE OF HEARING: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing to a Future Date

Good morning,

In accordance with Governor Gavin Newsom's statewide order for all residents to "Stay at Home" - and the numerous preceding local and state proclamations, orders and supplemental directions - aggressive directives have been issued to slow down and reduce the spread of the COVID-19 virus. Therefore, the Board of Supervisors – in conjunction with advice from the City Attorney that is consistent with all local, state and federal orders – will be continuing all special orders and appeals to the Board indefinitely until the emergency is over. The President of the Board will decide future scheduling of each continued matter for an appropriate meeting at a later date. We will provide Appellants and all parties involved with updates as soon as additional direction is received.

The Board of Supervisors and the Office of the Clerk of the Board are committed to providing members of the public with as much access as possible during this health crisis. We appreciate your patience as we are handling a number of critical issues while working remotely. If you have any questions or concerns in the meantime, please reach out and our team will be diligently reviewing and addressing all issues as timely as possible.

Thank you for your patience.

Brent Jalipa
Board of Supervisors - Clerk's Office
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San Francisco, CA 94102
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brent.jalipa@sfgov.org | www.sfbos.org

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Friday, February 28, 2020 4:50 PM
To: Stephen M. Williams <smw@stevewilliamslaw.com>; John Kevlin <jkevlin@reubenlaw.com>
Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; STACY, KATE (CAT) <Kate.Stacy@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Teague, Corey (CPC) <corey.teague@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Jain, Devyani (CPC) <devyani.jain@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lewis, Don (CPC) <don.lewis@sfgov.org>; Varat, Adam (CPC) <adam.varat@sfgov.org>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Delumo, Jenny (CPC) <jenny.delumo@sfgov.org>; Rosenberg, Julie (BOA) <julie.rosenberg@sfgov.org>; Sullivan, Katy (BOA) <katy.sullivan@sfgov.org>; Longaway, Alec (BOA) <alec.longaway@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: CONTINUANCE OF HEARING: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing on March 3, 2020

Good afternoon,

On Friday, January 31, 2020, the Office of the Clerk of the Board distributed a hearing date notification for the appeal of the CEQA Exemption Determination for the proposed project at 1531-1581 Howard Street and 118-134 Kissling Street. Pursuant to Administrative Code, Section 31.16(b)(4) the Office of the Clerk of the Board is required to schedule the initial hearing no less than 21 days and no more than 45 days following expiration of the appeal period; the regularly scheduled meeting of March 3, 2020, fulfills that obligation.

This email is being sent to notify you that on March 3, 2020, the Board is anticipated to entertain a motion to continue this appeal hearing to a date to be determined. If a motion is made to continue this matter, on March 3, 2020, public comment will be taken on the *continuance* of the hearing; the full discussion and public comment for the appeal will be considered at a meeting date to be determined.

Please do not hesitate to contact our office with any questions, and I invite you to review the entire matter on our Legislative Research Center by following the link below:

Board of Supervisors File No. 200103

Regards,

Lisa Lew
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SMW | LAW OFFICES OF
STEPHEN M. WILLIAMS

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Norman Yee, President
Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

April 26, 2020

RE:	**Withdrawal of Appeal of CatEx from Environmental Review**
PROJECT:	**Project / Zoning Map Amend from Residential to Car Storage**
ADDRESS:	**118-134 Kissling Street and 1531/1581 Howard Street**
ZONING:	**Western SoMa Area Plan; Residential Enclave District, (RED)**
	Western SoMa Light Industrial & Residential Historic District
	Board of Supervisors File No. 200103

President Yee and Madam Clerk:

On behalf of William Hedden (Appellant) I am writing to inform the Board that the Parties have reached an agreement resolving this matter and Appellant is hereby withdrawing the Appeal of the Categorical Exemption (reissued 12/24/19) granted by the Planning Dept to the project proposed at 1531-1581 Howard Street-118-134 Kissling Street ("Royal Motors").

We request that the Board of Supervisors dismiss the Appeal and we thank the Board for its patience and assistance with resolving this matter.

VERY TRULY YOURS,

STEPHEN M. WILLIAMS

LAW OFFICES OF
STEPHEN M. WILLIAMS

1934 Divisadero Street | San Francisco, CA 94115 | TEL: 415.292.3656 | FAX: 415.776.8047 | smw@stevewilliamslaw.com

Norman Yee, President
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

January 23, 2020

RE:	**Appeal of Categorical Exemption from Environmental Review**
PROJECT:	**Project / Zoning Map Amend from Residential to Car Storage**
ADDRESS:	**118-134 Kissling Street and 1531/1581 Howard Street**
ZONING:	**Western SoMa Area Plan; Residential Enclave District, (RED)**
	Western SoMa Light Industrial & Residential Historic District

President Yee and Members of the Board:

INTRODUCTION

On behalf of William Hedden (Appellant) and numerous other neighbors of the proposed Project I am writing to urge this Board to set aside the exclusion from environmental review under the provisions of the second California Environmental Quality Act (CEQA Categorical Exemption "*CatEx2"*) granted by the Planning Dept to the project proposed at 1531-1581 Howard Street-118-134 Kissling Street (the "Project").CatEx2 (reissued 12/24/19-Exhibit 1) is a retroactive part of a conditional use authorization and zoning map amendment re-approved October 25, 2018. Appellant owns the fifteen (15) unit, historic, rent-controlled apartment building (below) adjacent to the site at 230 11th Street. Kissling is *exclusively* zoned for housing (24+ units); the Project rezones for car parking.

Kissling Street is in a Historic District and is zoned residential only enclave (RED), the proposal to intensify the non-conforming use for more cars on "stackers" and modern metal screens more than thrity (30') feet tall is not compatible and lacks CEQA review.

The Project site is in the Eastern Neighborhoods, Western SoMa Area Plan and is part of the South of Market Mixed Use Districts. The Project involves nine different development lots with frontages on three different streets (Kissling, Howard and 12th) and three different zoning designations. Four of the lots of the Project on Kissling to be re-zoned, are currently zoned as *Residential Enclave District* (RED) and are being used as a parking lot by the Sponsor, a nearby automotive dealership. This is a non-conforming use in a RED District...that is supposed to sunset under Planning Code Section 185 & 186. Instead this Project would reinforce and intensify that non-conforming use and provide that it will not "sunset" but will be in place for many more decades to come.

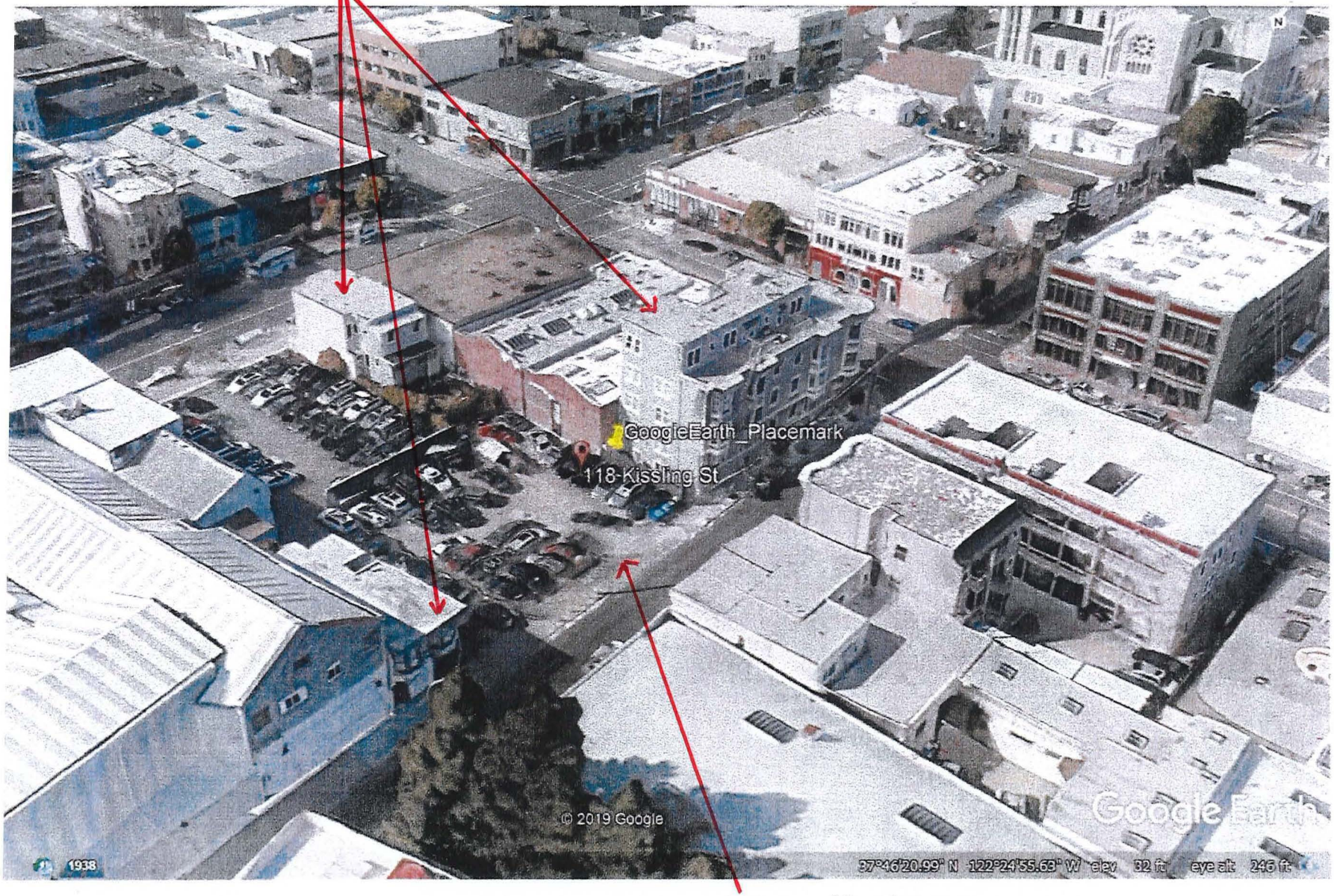
Because of this rezoning, the Project represents a huge loss of housing opportunities. The four RED lots represent the possibility of at least 24 units of housing, (and perhaps as many as 40 units) with a substantial portion devoted to affordable housing. Rezoning these "Residential Enclave" lots in this South of Market neighborhood is a violation of every policy the City has to provide more housing opportunities and to preserve housing opportunities, especially since these lots are in a true "blue-collar neighborhood" and could be developed with very high density. There are no density limits on these lots and Accessory Dwelling Units are permitted as of right. The CatEx fails to analyze any aspect of the zoning change and how replacing housing opportunities with hundreds of cars will impact the environment, the Historic District and the entire neighborhood.

The site is within Western SoMa Light Industrial & Residential Historic District, and oddly, no comprehensive analysis of this fact is included in the environmental review. There is no rational explanation of the negative impacts of the installation of a solid wall of car stackers across numerous residential lots in a Historic District and specifically, placing those stackers between buildings of importance and noted significance in the Historic District. (230 11th Street and 138 Kissling Street). The bald conclusion from 2015 that rezoning the lots to allow placing stackers filled with automobiles and metal screens more than 30' feet tall adjacent to and between and among historic buildings, in a historic district will have "no significant impact," is unsupported and simply untrue.

To allow the proposed Project as presently configured, it is mandatory to re-zone these restricted RED lots to allow the lots to be used for vehicle storage in large car stackers, a use which is not a permitted use in the RED Districts. As the name describes, RED zoned areas are enclaves in the South of Market area to be used *exclusively* for current and future residential uses---this is especially important in a Historic District. The Kissling site is surrounded by historic contributing residential buildings on three sides. (next page)

Appellant's building to the east and the homes to the west and north are all acknowledged historic resource buildings, contributing to the Historic District. The conclusion that rezoning these four residential lots to allow ultra-modern, all metal automobile stackers and metal screens in excess of thirty feet in height to cover four development lots will not have a significant impact on the Historic District or on the historic resources which are adjacent to the Kissling site on three (3) sides in unsupported and anti-intuitive. Such structures will devastate the appearance and "feeling" of the Historic District

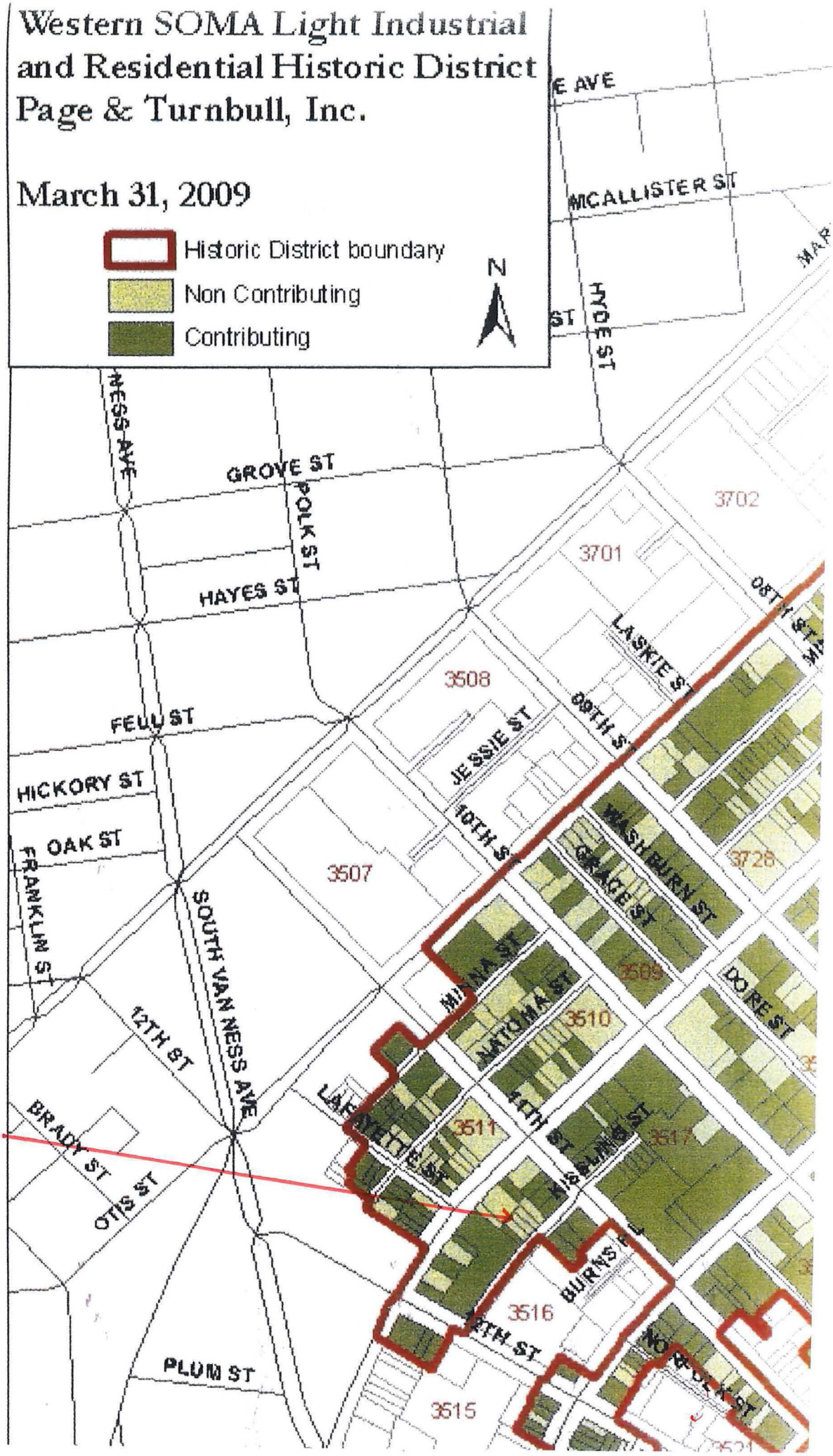
Historic Contributing Buildings in a Historic District on All Three Sides of Subject Site



Four Residential Lots to be Rezoned for 32' Car Stackers

DPR 523L (1/95)

Figure 1. Western SoMa Light Industrial and Residential Historic District map



Four Residential Lots on Kissling to be Rezoned for Parking Cars

Surrounded by Historic Buildings on Three Sides

The Project is opposed by its immediate neighbors because of potential negative impacts to the historic neighborhood and what is supposed to be a specifically preserved historic *residential* character on the narrow alley of Kissling Street. The proposed unbroken façade of metal screens in excess of thirty feet (30') in height will be decidedly out-of-character and out of place on historic Kissling Street.

No prior notice was given of the re-zoning of the subject lots because the Project was previously approved by the Planning Commission in error BEFORE any public notice of the rezoning. The Project has been hopelessly piecemealed by the Sponsor and "approval" (March 2016) was given to the Project Sponsor nearly four years ago in error for a use that is not permitted at the site. Both the Planning Dept and the Sponsor completely failed to note the zoning at the site when proposing and reviewing the proposal and failed to note that the Project proposed at the site is not a permitted use in the RED District and therefore the Project should not be approved without rezoning the site.

After Appellant pointed out this fact two years ago, the Planning Dept. rushed to belatedly and retroactively re-zone the lots from RED to RED-MX to allow car storage. The Dept then refused to review the environmental determination at first claiming the rezoning and increase in height to the Project are not a "substantial modifications." That incorrect determination was also reversed. The Project has been impermissibly "piecemealed" into several approvals over the past five years. Approvals which violate the Planning Code in most instances, and which certainly are an affront to over-arching policies of the Code and General Plan. No mention at all is made in any of the Project review documents of the massive loss of housing opportunities.

1. **The New (Second) CatEx Issued for the Project Fails to Address the "Substantial Modifications" of the Project and Was Issued in Error**

As set forth in Exhibit 1, (an explanatory Memorandum issued by the Environmental Review Officer on Christmas Eve), because of "substantial modifications" to the original Project over the years,(specifically, a substantial increase in height and retroactive need for rezoning the site) the Department was forced to set aside the original categorical exemption determination ("CatEx1") issued for the project on March 2, 2016. The Dept also rescinded a subsequent termination of "no substantial notification" issued on December 4, 2019. As stated in the Memo:

"Upon further review, the planning department has determined that the modifications to the project could be considered an intensification of the project. Today, the planning department therefore rescinded the categorical exemption issued on March 2, 2016 for the original project, as well as the December 4, 2019 determination of no substantial modification." (Exhibit 1, page 2).

Incredibly, the Department then doubles down on its previous errors by immediately issuing a new categorical exemption determination ("CatEx2") without addressing the

issue of the "substantial modifications" to the project which forced it to rescind the prior CatEx1 and to reverse the finding of no substantial modification. The new CatEx2 issued for the project on December 24, 2019, is actually attached to the Memorandum from the Environmental Review Officer which makes the specific findings of substantial modification and revokes the previous determination of no substantial modification. The new CatEx2 attached to the Memo, then fails to make the required analysis or address the finding of substantial modification stated in the Memo in the newly issued categorical exemption determination.

The Memo written by the Environmental Review Officer, finds "substantial modification" of the Project and then attached to that same Memo is CatEx2 which fails to address the substantial modification as required by CEQA. The last page of the Categorical Exemption Form ("Step 7") addresses what must be done after modification of a project previously found to be exempt.

TO BE COMPLETED BY PROJECT PLANNER
STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT
In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the
Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

Step 7 is not completed and the finding of substantial modification in the Memo is not part of the new CatEx2. The requirement clearly states that the "checklist shall be used" For example, the modified project obviously did: *"Result in expansion of the building envelope, as defined in the Planning Code;"* and the form was not complete to indicate the change. The Memo only states vaguely that the modification "could be considered an intensification of the project." It does not state whether further public notice is needed under the Planning Code or whether the "intensification" and/or new size of the Project require such notification.

On this ground alone the appeal must be granted, and the categorical exemption determination must be reconsidered and reissued.

2. City Policies for Preserving Housing Must Also be Applied to Preserving Housing Site Opportunities for New and Moderate-Income Housing

Although the project is not typically the type which might have significant environmental impacts, given the circumstances of the housing crisis, and the City's dire need for housing and affordable or moderately priced housing this Project will have untold negative environmental impacts. The City cannot encourage the construction of housing and affordable housing if it allows commercial project such as this to permanently remove the housing opportunities that exist in our neighborhoods. Especially residential neighborhoods surrounded on all sides by Historic, rent-controlled residential uses.

Rezoning these vacant parcels, parking lots and other properties currently in open storage use which are also currently undeveloped or underdeveloped and are viewed by the present zoning philosophy as opportunity sites for new, moderate-income, in-fill housing--only new residential uses are principally permitted in the RED Districts---is directly contrary to the General Plan, directly contrary to the housing policies of the City and directly contrary to all of the campaign promises made by the Mayor and the Supervisors alike. The loss of the potential 25-50 units of housing (the ONLY thing which can currently be built on these parcels) is a significant environmental impact.

Yet the Department has done nothing to address (or even discuss in the environmental review documents) these all-important issues and there is no mention at all the lost housing opportunity which is being squandered. A completely different standard than that mandated by our General Plan may not be applied to the Project and the multitude of housing preservation polices ignored. The Department did not require any review of the lost housing opportunities in this case. The environmental review process is established such that the Department must conduct the analysis in order to reach a conclusion of no possible impact and to issue a CatEx.

3. **The Findings of Overriding Benefits Are Not "Public" Benefits and Are in Direct Conflict with The General Plan Which Mandates Retention of Housing Opportunity Sites and Historic Resources**

The City's General Plan is the "constitution" for land-use development. All land use and development approvals must be consistent with the General Plan---this is one of the mandates of CEQA. To be consistent, a development approval must further objectives and policies of the General Plan. Although the City has significant discretion to determine whether a project is consistent with the General Plan, projects cannot be inconsistent with fundamental, mandatory and specific policies---the proposed Project as it impacts the residential lots on Kissling Street is inconsistent.

The proposed project is directly and bluntly inconsistent with the most fundamental aspects of the mandatory policies of our General Plan. It is acknowledged that the project re-zones what is to be multiple *opportunity sites for new, moderate-income, in-fill housing sites*. These are specifically preserved by the RED zoning **as opportunity sites for new, moderate-income, in-fill housing.** (See, Appendix A—Summary of District Standards --RED). Planning Code Section 813 states as follows:

SEC. 813. RED – RESIDENTIAL ENCLAVE DISTRICT.

Residential Enclave Districts (RED) encompass many of the clusters of low-scale, medium density, predominantly residential neighborhoods located along the narrow side streets of the South of Market area. Within these predominantly residential enclaves lie a number of vacant parcels, parking lots and other properties in open storage use. These properties are undeveloped or underdeveloped and are viewed as opportunity sites for new, moderate-income, in-fill housing.

The zoning controls for this district are tailored to the design needs and neighborhood characteristics of these enclaves and are intended to encourage and facilitate the

development of attractive, compatible and economically feasible in-fill housing while providing adequate residential amenities to the site and neighborhood.

Dwelling units are permitted as a principal use. Nonresidential uses, except art related activities, are not permitted, except for certain uses in historic buildings. Existing commercial activities in nonresidential structures may continue as nonconforming uses subject to the termination requirements of Sections 185 and 186. Accessory Dwelling Units are permitted within the district pursuant to subsection 207(c)(4) of this Code.

The proposed Project violates every aspect of the Code provisions for RED sites. The Project eliminates the multiple opportunities at this site for *new, moderate-income, in-fill housing.* The Project eliminates the possibilities that now exist for *attractive, compatible and economically feasible in-fill housing while providing adequate residential amenities to the site and neighborhood.* Car Stackers and metal screens taller than adjacent housing are NOT compatible, not attractive, provides no additional housing or amenities to the existing housing. Instead, such a project has exactly the opposite impacts. It removes all of the housing opportunities for the site and negatively impacts the existing housing on adjacent parcels.

The City, the Planning Commission and the Planning Department do not have the discretion to set aside these policies in favor of the Project which is acknowledged to eliminate the mandate for housing at the site. The Priority Policies forbid such a result under any but the most unusual circumstances, not present here.

The Residence Element to the City's General Plan states as follows:

"Two policies are to be given priority and are to be the basis upon which inconsistencies in this Element and other parts of the Master Plan are resolved. They are:

- **That the City's supply of affordable housing be preserved and enhanced.**
- **That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods." (bold type in the original)**

The Department fails to acknowledge that this Project, by re-zoning what is currently reserved for housing, violates these fundamental policies. The analysis presented by the Dept then does what the General Plan forbids it to do….it "balances" a litany of lesser policies and priorities against these ultimate priority policies and concludes that the Project meets assorted Urban Design Element-Transportation Element-Recreation and Open Space Element etc. and is sufficient to set aside and violate the priority policies. However, under CEQA, the Dept has the obligation to at least review the issues and not to completely ignore them. There is no mention of these impacts in any of the CEQA review documents.

Although this is not a referendum on Royal Motors (it doesn't matter who the applicant is, these policies may not be violated) the laundry list of "benefits" are all private benefits for a private business which sells luxury cars. Such matters are completely irrelevant to

the issues and policies to be considered by review under the General Plan for the purposes of CEQA. For this reason, the Categorical Exemption Determination is completely inadequate and cannot provide legal justification for violation of the most fundamental and important policies of the City's General Plan. It simply fails to correctly describe the impacts of the Project or to review the policies applicable to the Project.

There is no evidence to support the Dept's conclusion that specific overriding "commercial" or other so-called benefits of the Project outweigh the significant effects on the environment and the obvious violation of the General Plan's most important priority policies. In this instance the Categorical Exemption Determination is incomplete and invalid because it fails to offer a proper basis for approving the Project and simply fails to discuss possible environmental effects. The record simply does not support the Dept's finding that a CatEx may issue under the circumstances in front of the Board.

4. **The Categorical Exemption was Improperly Issued; the Project Description Fails to Note the Impacts on the Historic District, the Impacts from the Rezoning for the Project, the Creation of More Than 70 New Parking Spaces, or the Extent of the Substantial Excavation Necessary for the Project**

The most crucial aspect for Environmental Review is an accurate and detailed project description. The first Cat Ex issued in this case was issued on February 13, 2015, a full three and one-half (3 ½) years before the rezoning Project was brought before the Planning Commission. There was no mention of the rezoning in the project description nor is the loss of the housing opportunity sites mentioned anywhere in the Project description or the legislative documents supporting the Project. In other words, the Project received all its approvals far ahead of any analysis of what it entails and what the impacts will be. The original approval was granted for a non-permitted use.

Further, the Board should bear in mind that this is the *fourth project description* and the *fourth modification* to the description for this Project, as a matter of fundamental fairness the Dept should renew its CEQA review and reevaluate the Project and provide notice to the surrounding residential neighbors.

A. FIRST PROJECT DESCRIPTION

The below statement is the first Project Description from the December 18, 2014, EE Application:

"Project Description
The project proposes the reconfiguration of an existing motor vehicle repair operation. Currently Royal Automotive Group uses all of the properties above, plus Block 3516, Lot 55, for their motor vehicle services and vehicle storage for their various dealerships in the vicinity. The main motor vehicle repair operations take place within the buildings locate at Block 3516, Lots 44 and 55. Vehicle storage (including vehicles to undergo service and new vehicle overflow storage) takes place on the remaining lots. The project proposes to increase the number of vehicle storage spaces from 81 to 236 via the

installation of 4-level stackers on the existing surface vehicle storage lots. The project also proposes to construct a new, 1,283-square-foot car wash building on lot 63, to be used only as part of the motor vehicle repair services (i.e., the carwash would not be open to the public on a retail basis). The project also proposes to reduce an existing curb cut along Howard Street from 42 feet to 29 feet and remove an existing 46.5 foot curb cut along Kissling Street."

B. SECOND PROJECT DESCRIPTION

The Project Description is part of a CatEx from the Conditional Use Authorization passed by the Planning Commission on March 10, 2016:

***"Project Description**. The project sponsor proposes to establish 4-level vehicle stacker storage (enclosed vehicle storage use) for 132 spaces on the subject lots [lots 056 (1581 Howard Street) and 064 (1531 Howard Street)], including a new 1-story car wash. Three vehicle stacker screens up to 32'-7" tall are proposed along Howard Street and up to 21'-8" tall are proposed along Kissling Street. The site is occupied by an existing auto repair facility (dba Royal Motors)."*

Conditional Use authorization was granted to the Project for a non-permitted use and without further CEQA review in direct violation of the zoning.

C. THIRD PROJECT DESCRIPTION

Below is the project description from the environmental document of August 8, 2017, new portions in red:

"Reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers, converting 8,069 square feet of existing surface vehicle storage on Lots 39, 40, 41, and 42 to four-level parking stackers, and construction of an approximately 1,283-gross-square-foot car wash on Lot 64. Installation of approximately 31'-8"-tall metal screening on portions of the Kissling Street frontage approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. The proposed stackers would accommodate approximately 200 net new vehicles. Parking storage and car wash facilities would not be open to the public. Reduction of existing 42-foot-wide curb cut on Howard Street to approximately 29 feet wide and removal a 46.5-foot-wide curb cut on Kissling Street. The project"

This project description and modification was incomplete and ended with a two-word sentence that led one to the conclusion that much was omitted. No mention is made in any of the prior project descriptions (including this one) of the need to rezone the site and the change of use from RED to RED-MX to allow the proposed use. Also, no mention is made of the dramatic increase in height on Kissling Street by 10 feet (from 21'8" to 31'8"). Both of these changes to the project are "substantial modifications" that require a new environmental review.

Accordingly, on the Dept's CatEx form, the "change of use" box should have been checked....The CatEx used to modify the existing CatEx does not include any reference to the rezoning and fails to "check the box" for that change of use and also fails to note the increase in height by 10 feet under Section 311.....New public notice of this new project should have been required. The CatEx Form for modifications used by the Dept states at page 7 as follows:

"DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

Result in expansion of the building envelope, as defined in the Planning Code;

Result in the change of use that would require public notice under Planning Code Sections 311 or 312; (both of these boxes should have been checked)

Result in demolition as defined under Planning Code Section 317 or 19005(f)?

Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?

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

(**bold** in the original---further environmental review required because of change of use and expansion of the envelope)

4. FOURTH PROJECT DESCRIPTION

Below is the Project Description from the new modified CatEx issued by Ms. Delumo on December 4, 2019----changes to project description in red:

"*The proposed project would reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers, converting 8,069 square feet of existing surface vehicle storage on Lots 39, 40, 41, and 42 to four-level parking stackers, and constructing an approximately 1,283-gross-square-foot car wash on Lot 64. The project would install approximately 32'-7"-tall metal screening on portions of the Kissling Street frontage approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. The proposed stackers would accommodate approximately 200 net new vehicles. The parking storage and car wash facilities would not be open to the public. The project would reduce the existing 42-foot-wide curb cut on the Howard Street frontage to approximately 29 feet wide and remove the existing 46.5-foot-wide curb cut on the Kissling Street frontage. The proposed project would amend the San Francisco zoning map by changing the zoning district for Lots 39, 40, 41 and 42 at the project site from RED (Residential Enclave) to RED-MX (Residential Enclave-Mixed).*"

The Dept at first claimed the changes to the Project were not "substantial" but Director Lisa Gibson reversed that destination on December 24, 2019. The third and the fourth modifications to the Project are "substantial" within the specific definitions of the Code. Planning Code Section 311 provides that a rezoning or "change in land category" is specifically defined as a change of use in the Eastern Neighborhoods that requires public notice under Section 311. Section 311 (b) (1) (B) states as follows:

(B) ***Eastern Neighborhood Districts.*** *In all Eastern Neighborhood Districts a change of use shall be defined as a change in, or addition of, a new land use category. A "land use category" shall mean those categories used to organize the individual land uses that appear in the use tables, immediately preceding a group of individual land uses, including but not limited to the following: Residential Use; Institutional Use; Retail Sales and Service Use; Assembly, Recreation, Arts and Entertainment Use; Office Use; Live/Work Units Use; Motor Vehicle Services Use; Vehicle Parking Use; Industrial Use; Home and Business Service Use; or Other Use.*

Rezoning or changing the land use category from RED to RED-MX in the Eastern Neighborhoods is a "*new land use category*" because the zoning is "*those categories used to organize the individual land uses that appear in the use tables."* Accordingly, the change of zoning and permitted use for these lots is specifically defined as a "change of use" under the statute which requires public notification. The Project must be reconsidered now that a new project description has been provided which includes the rezoning. Obviously, the rezoning is the most important and salient part of the new project because without it, no part of the new project could go forward. This is a change in *Motor Vehicle Service Use and Vehicle Parking Use* because none of those uses is permitted in the RED zoned areas---which is strictly residential and protected …. hence the need to rezone these lots.

Regardless of any historic uses at the site in question, rezoning to legalize a use which is NOT PERMITTED under the Planning Code (as here), is a "change of use" as defined by the Planning Code that requires public notice and a new environmental review. As stated in Section 311, a change in the land use category (not whatever use is in operation at the site) is the "change of use." The reference to change of use refers to the permitted use at a given site, it does not refer to an illegal or impermissible use that may exist at a site. In this instance, the lots to be rezoned may have been used as parking lots over many years, the zoning does not permit such a use. However, regardless of that fact, the move to rezone those lots and to legalize commercial vehicle storage in four story stackers is a "change of use" under the Planning Code although in the vernacular, or to the common person the use may be the same or similar to what is there now. The Code specifically refers to the change of permitted uses under the Planning Code as a "substantial modification," regardless of what actual use the site may have been put to.

Further, the changed project modifications require new notification under Section 311 because twice these modifications increased the height of the structures to be built on Kissling Street by ten (10) feet and the newest project description increases the envelope of the structures again by an additional one (1) foot. All told, the envelope of the building

has been increased some 11 feet by the ever-changing project description and modification of the project. As set forth above, this modification is also by definition a substantial modification under Administrative Code Section 31.08(i) (1) (A) because it is, ***"a change that would expand the building envelope"*** and therefore requires public notification under Section 311.

The Project also fails to note that it creates far greater than six more new net parking spaces at the site. The Applicant or the Environmental Planner simply failed to note this mandatory issue under the Transportation Impact. For unknown reasons, the Department mistakenly failed to analyze, under the transportation element, the creation of dozens of new parking spaces from the installation of the stackers and possible increased vehicle trips on narrow, residential Kissling Street. Further, Environmental Review is required given the substantial changes to the Project years later and the omission of crucial information in the Project description and the errors and omissions on the Cat Ex.

5. **The Environmental Review for the Project Fails to Note that the Project is <u>Entirely Within a Historic District & Surrounded by Contributing Buildings</u>**

The Project site at 118-134 Kissling Street is located within the eligible Western SoMa Light Industrial & Residential Historic District. One cannot obtain that information from a review of the environmental analysis for the Project as no mention of the Historic District is included in the environmental review---even the fact that the Historic District exists is omitted. Staff failed to note the site was in a Historic District and failed to note that the application was for a non-permitted use.

This important new eligible Historic District was certified and adopted by the Historic Preservation Commission in February 2011. None of the notices for the Project mention this fact and all the environmental review documents are devoid of any information or analysis related to this crucial fact. Further, the Project on Kissling Street is sandwiched between two important contributing and eligible buildings at 230 11th Street and 138 Kissling Street.

CEQA review and notably CEQA review in Historic Districts is about providing information and analysis to determine if the proposal could cause a detrimental impact in the Historic District and any surrounding historic resources. This was clearly not accomplished in this instance. The consultants' reports submitted by the Sponsor and the Dept's environmental paperwork---including the Application, CatEx, Modification of the CatEx, Public Notices and all other staff reports or analysis, completely omit this important fact. A review was made of the project and its impacts on the Historic District in May 2015, nearly five years ago and based on different plans and a mistaken belief that the zoning allowed the project. On this ground alone, the CatEx and Environmental review mandated by CEQA is insufficient. There is also no mention of the specific design guidelines adopted for the RED zoned Districts or even the RED-MX zoned areas. The impacts the resource of the Historic District MUST be included in any adequate CEQA review and analysis.

We request that the Board of Supervisors uphold and grant our appeal and return the CatEx to the Department for further consideration and for findings consistent with the General Plan.

VERY TRULY YOURS,

STEPHEN M. WILLIAMS

APPENDIX A

SUMMARY OF DISTRICT STANDARDS
RESIDENTIAL ENCLAVE DISTRICT (RED)

813 -- RED (RESIDENTIAL ENCLAVE) DISTRICT – Residential Enclave Districts (RED) encompass the clusters of low-scale, medium density, predominantly residential neighborhoods located along the narrow side streets of the South of Market SLR district. Within these predominantly residential enclaves lie a number of vacant parcels, parking lots and other properties in open storage use. These properties are undeveloped or underdeveloped and are viewed as opportunity sites for new, moderate-income, in-fill housing.
Art. 8 -- USES – Dwelling units are permitted as a principal use. Social services and institutional uses are permitted as conditional uses. Existing commercial activities in nonresidential structures may continue as nonconforming uses subject to the termination requirements of Sections 185 and 186.

803.4 -- USES NOT PERMITTED – Uses generally not permitted in any South of Market District: Adult entertainment, bookstore or theater; amusement game arcade or similar enterprise; shooting gallery; animal kennel, riding academy or livery stable; automobile, truck, van, recreational vehicle/trailer or camper sales, lease or rental; auto tow of inoperable vehicles; auto wrecking operation; drive-up facility; hotel, motel, hostel, inn, or bed and breakfast establishment; heavy industry subject to Sec 226(e)-(w); junkyard; landing field for aircraft; massage establishment; mortuary; movie theater and sports stadium or arena.

Art. 2.5 -- HEIGHT AND BULK – Generally 40-X (See Height and Bulk Zoning Maps and Standards in Article 2.5 of the City Planning Code.)

124 -- FLOOR AREA RATIO LIMIT - The commercial FAR for the district is 1:1.

813.03 -- DWELLING UNIT DENSITY – One unit per 400 square feet of lot area.

134 -- REAR YARDS – A rear yard of 25% of the lot depth would be required at the first level of residential use and above or may be modified or waived as per Section 134(e).

135 -- OPEN SPACE – Open space would be required for all commercial and industrial uses, at the following ratios: one sq. ft. of open space per 250 gross sq. ft. of general commercial, which includes retail, eating or drinking establishments, personal service, wholesale, home and business service, arts activities, institutional and like uses (1:250); 1:120 for manufacturing and light industrial, storage without distribution facilities, and like uses; and 1:90 for office use. Residences would require 60 sq. ft. of open space.

151 -- PARKING - Parking spaces for dwelling units require one space for each dwelling unit; workspace for architects and engineers would require one parking space per 1,000 sq. ft. of floor area (1:1000); artist and artisan production and performance spaces would have a 1:2000 requirement

EXHIBIT 1

SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: December 24, 2019

TO: Interested Parties

FROM: Lisa Gibson, Environmental Review Officer

RE: New Categorical Exemption Determination for 1531-1581 Howard Street/118-134 Kissling Street Project, Planning Department Case No. 2016-012474ENV

Today the planning department rescinded the California Environmental Quality Act (CEQA) categorical exemption determination issued for the 1531-1581 Howard Street/118-134 Kissling Street project (planning department case no. 2015-000332ENV) on March 2, 2016, as well as the subsequent determination of no substantial modification issued on December 4, 2019. In addition, today we issued a new categorical exemption determination for the modified project. This memorandum further explains these actions.

Issuance of Original Categorical Exemption Determination

On March 2, 2016, the planning department issued a Class 11 categorical exemption determination for the 1531-1581 Howard Street/118-134 Kissling Street project (planning department case no. 2015-000332ENV), pursuant to CEQA Guidelines section 15311. The project description in the categorical exemption for the original project states:

> Reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers and construction of an approximately 1,283-gross-square-foot (gsf) car wash on Lot 64. Installation of approximately 21'-8"-tall metal screening on portions of the Kissling Street frontage approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. Parking stackers would provide space for approximately 158 cars. Parking storage and car wash facilities would not be open to the public. Reduction of existing 42-foot-wide curb cut on Howard Street to approximately 29 feet wide and removal a 46.5-foot-wide curb cut on Kissling Street.

Determination of No Substantial Modification

On December 4, 2019, the planning department issued a determination of no substantial modification for a modification of the exempt project (planning department case no. 2016-012474ENV).[1] The modified project description is as follows, with redlining added here to show the difference between the original and modified project descriptions.

[1] On March 1, 2018, the planning department issued an initial determination of no substantial modification that the department later discovered contained a substantive typo in the modified project description. The department subsequently rescinded that determination on December 4, 2019.

Unrevised text is in plain font; additions are in *single-underline italics*; and deletions are in ~~single strikethrough~~:

> *The proposed project would* reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers, *converting 8,069 square feet of existing surface vehicle storage on Lots 39, 40, 41, and 42 to four-level parking stackers,* and constructing an approximately 1,283-gross-square-foot car wash on Lot 64. *The project would install* ~~Installation of~~ approximately ~~21'-8"~~ *32'-7"*-tall metal screening on portions of the Kissling Street frontage approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. ~~Parking stackers would provide space for approximately 158 cars.~~ *The proposed stackers would accommodate approximately 200 net new vehicles.* The parking storage and car wash facilities would not be open to the public. ~~Reduction of existing 42-foot-wide curb cut on Howard Street to approximately 29 feet wide and removal a 46.5-foot-wide curb cut on Kissling Street.~~ *The project would reduce the existing 42-foot-wide curb cut on the Howard Street frontage to approximately 29 feet wide and remove the existing 46.5-foot-wide curb cut on the Kissling Street frontage. The proposed project would amend the San Francisco zoning map by changing the zoning district for Lots 39, 40, 41 and 42 at the project site from RED (Residential Enclave) to RED-MX (Residential Enclave-Mixed).*

Rescission of Original Categorical Exemption and Determination of No Substantial Modification

Upon further review, the planning department has determined that the modifications to the project could be considered an intensification of the project. Today, the planning department therefore rescinded the categorical exemption issued on March 2, 2016 for the original project, as well as the December 4, 2019 determination of no substantial modification.

Issuance of New Categorical Exemption Determination

Today the planning department also determined that the modified project, like the original project, is categorically exempt from environmental review under Class 11, pursuant to CEQA Guidelines section 15311. We have therefore issued a new categorical exemption determination for the modified project, which is attached.

Attachment: Categorial Exemption Determination for 1531-1581 Howard Street/118-134 Kissling Street Project, Planning Department Case No. 2016-012474ENV, December 24, 2019.

SAN FRANCISCO
PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
1531-1581 Howard Street/118-134 Kissling Street		3516039, 3516040, 3516041, 3516042, 3516056, 3516064
Case No.		**Permit No.**
2016-012474ENV		
■ **Addition/ Alteration**	☐ **Demolition (requires HRE for Category B Building)**	☐ **New Construction**

Project description for Planning Department approval.
The proposed project would reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers, converting approximately 8,069 square feet of existing surface vehicle storage on Lots 39, 40, 41, and 42 to four-level parking stackers, and constructing an approximately 1,283-gross-square-foot car wash on Lot 64. The project would install approximately 32'-7"-tall metal screening on portions of the Kissling Street frontage and approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. The proposed stackers would accommodate approximately 200 net new vehicles. The vehicle storage and car wash facilities would not be open to the public. The project would reduce the existing 42-foot-wide curb cut on the Howard Street frontage to approximately 29 feet wide and remove the existing 46.5-foot-wide curb cut on the Kissling Street frontage. The proposed project would amend the San Francisco zoning map by changing the zoning district for Lots 39, 40, 41 and 42 at the project site from RED (Residential Enclave) to RED-MX (Residential Enclave-Mixed).

STEP 1: EXEMPTION CLASS

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).

☐	**Class 1 - Existing Facilities.** Interior and exterior alterations; additions under 10,000 sq. ft.
☐	**Class 3 - New Construction.** Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
☐	**Class 32 - In-Fill Development.** New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. **FOR ENVIRONMENTAL PLANNING USE ONLY**
■	**Class ____** Categorical exemption class 11 (CEQA Guidelines section 15311)

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

☐	**Air Quality:** Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? *(refer to EP _ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)*
■	**Hazardous Materials:** If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? *if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).*
☐	**Transportation:** Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
■	**Archeological Resources:** Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeo review is requried *(refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)*
☐	**Subdivision/Lot Line Adjustment:** Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)*. If yes, Environmental Planning must issue the exemption.
☐	**Slope = or > 25%:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)* **If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.**
☐	**Seismic: Landslide Zone:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* **If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.**
■	**Seismic: Liquefaction Zone:** Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? *(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)* **If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.**

Comments and Planner Signature (*optional*): Jenny Delumo

PLEASE SEE ATTACHED

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE

TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: *(refer to Property Information Map)*	
■	**Category A:** Known Historical Resource. **GO TO STEP 5.**
☐	**Category B:** Potential Historical Resource (over 45 years of age). **GO TO STEP 4.**
☐	**Category C:** Not a Historical Resource or Not Age Eligible (under 45 years of age). **GO TO STEP 6.**

STEP 4: PROPOSED WORK CHECKLIST

TO BE COMPLETED BY PROJECT PLANNER

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

STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW

TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
☐	1. Project involves a **known historical resource (CEQA Category A)** as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
☐	2. **Interior alterations to publicly accessible spaces**.
☐	3. **Window replacement** of original/historic windows that are not "in-kind" but are consistent with existing historic character.
☐	4. **Façade/storefront alterations** that do not remove, alter, or obscure character-defining features.
☐	5. **Raising the building** in a manner that does not remove, alter, or obscure character-defining features.
☐	6. **Restoration** based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.

☐	7. **Addition(s)**, including mechanical equipment that are minimally visible from a public right-of-way and meet the *Secretary of the Interior's Standards for Rehabilitation*.
☐	8. **Other work consistent** with the *Secretary of the Interior Standards for the Treatment of Historic Properties* (*specify or add comments*):
■	9. **Other work** that would not materially impair a historic district (specify or add comments): See PTR Form for 2016-000332ENV. Project is largely consistent with what was previously analyzed. No impact on eligible Western SoMa Light Industrial and Residential Historic District. New construction does not materially impair the surrounding eligible historic district. *(Requires approval by Senior Preservation Planner/Preservation Coordinator)*
☐	10. **Reclassification of property status**. *(Requires approval by Senior Preservation Planner/Preservation* ☐ Reclassify to Category A a. Per HRER or PTR dated b. Other *(specify)*: ☐ Reclassify to Category C *(attach HRÉR or PTR)*
	Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.
■	**Project can proceed with categorical exemption review**. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. **GO TO STEP 6.**
Comments (*optional*):	
Preservation Planner Signature:	Richard Sucre

STEP 6: CATEGORICAL EXEMPTION DETERMINATION

TO BE COMPLETED BY PROJECT PLANNER

■	**No further environmental review is required. The project is categorically exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.**	
	Project Approval Action: This determination may be appealed either 30 days from the date of issuance or 30 days from the date of approval of a new conditional use authorization by the Planning Commision, if required - whichever is later	**Signature:** Jenny Delumo 12/24/2019
	Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.	

CEQA Impacts

The project sponsor enrolled in the Maher Program with the Department of Public Health on 2/5/2015 and submitted a environmental property assessment report. The project sponsor submitted a noise report on 3/2/2016 confirming that the proposed project would be able to achieve compliance with San Francisco Noise Ordinance. Portions of the project site are in the Air Pollutant Exposure Zone, but the project would not introduce new sensitive receptors to the project site and does not have the potential to potential to emit substantial pollutant concentrations. A portion of the northeast corner of lot 039 is located in the seismic liquefaction zone; the project sponsor has submitted a geotechnical report for the project site. The Planning Department determined that the proposed project would not have the potential to adversely affect transit pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit pedestrian and/or bicycle facilities and does not require a transportation study. The Planning Department conducted a preliminary archaeological review and made a determination of no effect on archaeological resources.

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

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

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
Case No.	Previous Building Permit No.	New Building Permit No.
Plans Dated	Previous Approval Action	New Approval Action
Modified Project Description:		

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

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

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

☐	The proposed modification would not result in any of the above changes.

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

Planner Name:	**Date:**

STEPHEN M WILLIAMS
MARGIE LAO-WILLIAMS

3325
11-35/1210 CA
30090

1-23-20
Date

Pay To The Order Of SF Planning Dept. $ 640 -

Six Hundred and Forty 00 Dollars

Photo Safe Deposit® Details on back

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ACH R/T 121000358

For 118-138 Kissling Conditional Appeal

MP

Harland Clarke

From:	BOS Legislation, (BOS)
To:	Stephen M. Williams; John Kevlin
Cc:	PEARSON, ANNE (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Teague, Corey (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lewis, Don (CPC); Varat, Adam (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Delumo, Jenny (CPC); Rosenberg, Julie (BOA); Sullivan, Katy (BOA); Longaway, Alec (BOA); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS Legislation, (BOS)
Subject:	PLANNING DEPARTMENT RESPONSE: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing on March 3, 2020
Date:	Monday, February 24, 2020 1:37:53 PM
Attachments:	image001.png

Greetings,

Please find linked below appeal response received by the Office of the Clerk of the Board from the Planning Department, regarding the appeal of the CEQA Exemption Determination for the proposed project 1531-1581 Howard Street and 118-134 Kissling Street.

Planning Department Response - February 24, 2020

The hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on March 3, 2020.

I invite you to review the entire matter on our Legislative Research Center by following the link below:

Board of Supervisors File No. 200103

Regards,

Lisa Lew
San Francisco Board of Supervisors
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San Francisco Planning

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SFPLANNING.ORG / 415.575.9010

Categorical Exemption Appeal

1531-1581 Howard Street / 118-134 Kissling Street

DATE:	February 24, 2020
TO:	Angela Calvillo, Clerk of the Board of Supervisors
FROM:	Lisa Gibson, Environmental Review Officer – (415) 575-9032 Jenny Delumo – Jenny.Delumo@sfgov.org; (415-575-9146
RE:	Planning Record No. 2016-012474APL Appeal of Categorical Exemption for 1531-1581 Howard Street / 118-134 Kissling Street
HEARING DATE:	March 3, 2020
ATTACHMENT(S):	A – 1531-1581 Howard Street/118-134 Kissling Street Project History B – Preservation Team Review Form for 1531-1581 Howard Streets; 118-134 Kissling Streets, May 12, 2015

PROJECT SPONSOR:	John Kevlin, on behalf of Royal Automotive Group, (415) 567-9000
APPELLANT(S):	Stephen Williams of the Law Office of Stephen M. Williams, on behalf of William Hedden

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) December 24, 2019 issuance of a categorical exemption determination under the California Environmental Quality Act (CEQA) for the proposed 1531-1581 Howard St / 118-134 Kissling Street project (the project).

The department, pursuant to Article 19 of the CEQA Guidelines, issued a categorical exemption for the project on December 24, 2019 finding that the proposed project is exempt from CEQA as a Class 11 categorical exemption for accessory structures.

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

This memorandum responds to all of the issues raised in the January 23, 2020 letter of appeal. However, many of the appellant's claims are irrelevant to the decision before the board on this CEQA appeal. Issues that are unrelated to the department's December 24, 2019 determination that the proposed project is categorically exempt from CEQA are addressed for informational purposes only.

SITE DESCRIPTION AND EXISTING USE

The approximately 61,900-square-foot project site is comprised of nine lots (Assessor's Block 3516 and Lots 39, 40, 41, 42, 44, 55, 56, 63 and 64), and is located on the block bounded by Howard Street to the north, Kissling Street to the south, 12th Street to the west and 11th Street to the east. The project site is within the South of Market (SoMa) neighborhood and the California and National Register eligible Western SoMa Light Industrial and Residential Historic District. The project site is not a contributor to the eligible historic district. DBA Royal Motors operates an existing automotive repair facility on the project site. The Royal Automotive Group (hereinafter project sponsor) proposes work on six of the site's nine lots: 39, 40, 41, 42, 56, and 64, which are currently used for surface vehicle storage. No work is proposed on Lots 44, 55, and 63. Lots 56 and 64 are in a WMUG (Western SoMa Mixed Use-General) zoning district and lots 39, 40, 41, and 42 are in a RED (Residential Enclave) zoning district.

The surrounding area is characterized by a mix of residential and commercial properties. Two- to three-story residential buildings with retail or parking garages on the ground floor are located adjacent to the project site's eastern property line and across from the project site's Howard Street frontage. One- to two-story commercial properties, including other auto body repair facilities, are located to the east, west and south of the project site on Howard, Kissling, and 12th streets. The immediate neighborhood also includes a public parking garage at the corner of 12th and Kissling streets.

PROJECT DESCRIPTION

The proposed project would reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers, converting 8,069 square feet of existing surface vehicle storage on Lots 39, 40, 41, and 42 to four-level parking stackers, and constructing an approximately 1,283-gross-square-foot car wash on Lot 64. The project would install approximately 32'-7"-tall metal screens on portions of the Kissling Street frontage and approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. The proposed stackers would accommodate approximately 200 net new vehicles. The parking storage and car wash facilities would not be open to the public and would be for the existing auto repair business only. The project would reduce the existing 42-foot-wide curb cut on the Howard Street frontage to approximately 29 feet wide and remove the existing 46.5-foot-wide curb cut on the Kissling Street frontage. The proposed project would amend the San Francisco zoning map by changing the zoning district for Lots 39, 40, 41 and 42 at the project site from RED (Residential Enclave) to RED-MX (Residential Enclave-Mixed).

BACKGROUND

The following is a brief summary of the relevant project background for the appeal of the December 24, 2019 categorical exemption for the 1531-1581 Howard Street / 118-134 Kissling Street project. The letter of appeal focusses largely on procedural details and actions by the department and the San Francisco Planning Commission that are not directly pertinent to the matter before the Board, which is limited to the question of whether the department's December 24, 2019 determination that the proposed project is categorically exempt was correct in accordance with CEQA. This Background section focuses on the information that is

salient to this CEQA appeal. A more detailed recounting of the procedural history of the planning department's review of the project is provided in Attachment A for informational purposes only.

Overview

The proposed project would result in the following changes to the existing automotive repair facility on the site:

- Construction of a car wash
- Installation of car stackers
- Construction of metal screens on the Howard and Kissling street frontages
- Modifications to existing curb cuts

On December 18, 2014 the project sponsor submitted an application for environmental review to the department's Environmental Planning Division for this project. As is often the case, the project sponsor made a number of adjustments to the details of the project description during the time that the project has been under review by the planning department, including changes to the number and configuration of the proposed car stackers, and changes to the height and configuration of the proposed screens. However, the basic components of the proposed project have remained constant since the time the original application for environmental review was received by the department on December 18, 2014. Furthermore, at every iteration of the project the environmental review considered the entirety of the project as it was proposed to the department, pursuant to CEQA Guidelines section 15003(h).

On December 24, 2019 the department issued a categorical exemption for conversion of existing surface vehicle storage spaces to vertical vehicle storage stackers on six lots (Lots 39, 40, 41, 42, 56, and 64), a zoning map amendment to facilitate the conversion to vertical vehicle storage stackers on four of the lots (Lots 39, 40, 41, and 42), installation of metal screens on the project site's Kissling Street and Howard Street frontages to screen the vehicle storage stackers, construction of a private car wash to support the existing facility, and curb cut modifications on the project site's Kissling Street and Howard Street frontages.

Project History

On March 2, 2016, the department determined that the project as originally proposed was categorically exempt under CEQA Class 11 – Accessory Structures, and that no further environmental review was required.

On March 10, 2016, the planning commission approved a conditional use authorization for the first phase of the project considered in the environmental review under Planning Commission Motion No. 19588 at a noticed public hearing.

On September 27, 2016, the project sponsor submitted an application for a conditional use authorization and an application for a legislative amendment to the planning department's Current Planning Division for a second phase of the project.

On October 20, 2016 the project sponsor submitted a new environmental review application to the department for modifications to the project components approved in Planning Commission Motion No 19588. The new application proposed to increase the number of car stackers and to adjust the proposed height of the metal screens along the Kissling Street frontage. The Environmental Planning Division determined that the project description in the sponsor's October 20, 2016 application constituted a modification of the project for which the department issued a categorical exemption determination on

March 2, 2016. Accordingly, the department evaluated whether these proposed modifications to the previously approved project constituted a substantial modification under section 31.08(i) of chapter 31 of the San Francisco Administrative Code.

On August 8, 2017, the department determined that the project described in the October 20, 2016 application for a CEQA determination was not a substantial modification to the project that received a categorical exemption under Class 11 on March 2, 2016. Accordingly, the department further determined pursuant to section 31.08(i)(3) of chapter 31 of the San Francisco Administrative Code that no additional CEQA environmental review was required for the currently proposed project.[1]

On October 25, 2018, the planning commission approved a conditional use authorization and adopted a zoning map amendment under Planning Commission Motion No. 20329 at a noticed public hearing for the second phase of the project described in the September 27, 2016 conditional use authorization and legislative amendment applications.[2] As discussed in Attachment A, the planning commission was aware that the project under consideration at the October 25, 2018 hearing and approved under Planning Commission Motion No. 20329 was the second phase of the project, and that it had previously approved the first phase under Planning Commission Motion No. 19588.

While the conditional use authorization approved under Planning Commission Motion No. 19588 and the conditional use authorization and zoning map amendment approved under Planning Commission Motion No. 20329 addressed different aspects of the proposed project, each of the CEQA determinations made for the project considered the whole of project that was being currently proposed.

On December 16, 2019 the appellant filed an appeal of the December 4, 2019 no substantial modification determination. In response to this appeal, the department elected to rescind both the determination of no substantial modification and the March 2, 2016 categorical exemption determination.

On December 24, 2019, the department determined that, like the project analyzed in the first CEQA determination, the modified project is categorically exempt under CEQA Class 11 – Accessory Structures, and that no further environmental review is required. The department also determined that the December 24, 2019 categorical exemption could be appealed to the board within 30 days of its issuance or 30 days after approval of a new conditional use authorization, if required. The project sponsor does not propose any changes to the project as approved under Planning Commission Motion No. 19588 (the March 10, 2016 conditional use authorization) and Motion No. 20329 (the October 25, 2018 conditional use authorization and zoning map amendment). Thus, the appeal period for the December 24, 2019 categorical exemption was 30 days from its issuance.

On January 23, 2020, the appellant filed an appeal of the categorical exemption determination, and on January 29, 2020, the department determined the appeal was timely filed.

[1] On December 4, 2019, the department reissued the determination of no substantial modification to correct a typographical error.

[2] The categorical exemption determination issued on August 8, 2017, addressed both phases of the project.

CEQA GUIDELINES

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

CEQA Guidelines section 15311, or Class 11, consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including, but not limited to: (a) on-premise signs; (b) small parking lots; and (c) placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items in generally the same locations from time to time in publicly owned parks, stadiums, or other facilities designed for public use.

In determining the significance of environmental effects caused by a project, CEQA Guidelines section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines section 15064(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

PLANNING DEPARTMENT RESPONSES

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

Response 1: **The environmental review of the proposed project appropriately and adequately analyzed the potential physical environmental effects of the proposed project, including the potential impacts from rezoning of Lots 39, 40, 41, and 42 from RED to RED-MX on housing and population, transportation and circulation, and to the California and National Register eligible Western SoMa Light Industrial and Residential Historic District.**

The appellant states that the "CatEx fails to analyze any aspect of the zoning changes and how replacing housing opportunities with hundreds of cars will impact the environment, the Historic District and the entire neighborhood." This argument ignores the present uses of the property. DBA Royal Motors, an automotive repair facility, currently operates on the project site. The facility includes surface vehicle storage on Lot 56 and 64. Those lots are zoned WMUG which permits that use. The facility also includes surface vehicle storage on Lots 39, 40, 41, and 42 as an existing legal non-conforming use. This is because those lots are in a RED zoning district, which does not permit vehicle storage. The proposed project would rezone those lots to a RED-MX zoning district, which does allow for vehicle storage, and install four-level vehicle storage stackers. The department conducted a review of the proposed project's potential impacts and concluded that the proposed rezoning would not result in significant physical environmental impacts for the following reasons.

The proposed project would convert Lots 39, 40, 41, 42, 56, and 64 from surface vehicle storage to vertical vehicle storage using stackers, which would allow for an additional net new 200 vehicle storage spaces on the lots. DBA Royal Motors would use the stackers for storage of vehicles it services on site, in a manner similar to how those lots currently operate. As the vehicle stackers are for storage, and not public use, most of the vehicles stored there would not move on and off the site each day. Currently, vehicles are stored on site within the existing surface vehicle storage. Because there is not enough room on the project site to store all of the vehicles serviced, vehicles are also stored at the parking garage located across the street from the project site at the corner of 12th and Kissling streets. The objective of adding car stackers on the project site is to reduce the number of vehicles that need to be stored at the offsite garage. This increase in onsite vehicle storage would not affect the number of vehicles serviced at the site. However, decreasing the number of vehicles stored offsite would reduce the movement of vehicles between the project site and the offsite parking garage by an average of approximately 80 vehicle trips per day. Thus, the proposed project would reduce the number of vehicle trips to and from the project site compared to existing conditions and would not substantially increase per-capita vehicle miles travelled.

The department reviewed the proposed project and documented its determination of the project's potential impacts to historic resources in a Preservation Team Review (PTR) Form.[3] The review was conducted on the original project, which included installing four-level vehicle storage stackers on Lots 56 and 64; construction of a single-story car wash on Lot 64; and installing approximately 30-foot-tall painted metal screens along the project's Kissling Street and Howard Street frontages. The department concluded that the project would be consistent with the historic industrial character of the surrounding eligible Western SoMa Light Industrial and Residential Historic District, as well as new construction within the district boundaries. The preservation review further determined that the proposed metal screens are relatable to the district's contributing industrial resources and evoke the industrial aesthetic of the surrounding district. Thus, the historic preservation review considered the proposed height of the metal screens in relation to existing contributors to the eligible historic district. As discussed in the project setting section, the immediate neighborhood is characterized by a mix of residential and commercial uses, including other automotive repair facilities. For these reasons, the department concluded that overall, the proposed project is consistent with the district's mixed character and does not impact the eligible historic district's character-defining features. Department preservation specialists also considered the currently proposed project, including the additional height proposed for the Kissling Street screens, and concluded that the currently proposed project would not change the determination in the PTR form and would not impact the district. The December 24, 2019 categorical exemption determination states: "See PTR Form for 2016-000332ENV. Project is largely consistent with what was previously analyzed. No impact on eligible Western SoMa Light Industrial and Residential Historic District. New construction does not materially impair the surrounding eligible historic district."

The appellant further argues that Lots 39, 40, 41, and 42 should not be rezoned from RED to RED-MX because, under Planning Code sections 185 and 186, the legal non-conforming uses on those lots are supposed to "sunset" and the loss of sites that are zoned for housing could result in "negative environmental impacts". In accordance with chapter 31 of the San Francisco Administrative Code, section

[3] San Francisco Planning Department, *Preservation Team Review Form for 1531-1581 Howard Streets; 118-134 Kissling Streets*, May 12, 2015. This document is included as Attachment B.

31.10 (a), and Appendix G of the CEQA Guidelines, the department uses the following questions when considering a project's potential housing- and population-related impacts:

Would the project:

1) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
2) Displace substantial numbers of existing people or housing units, necessitating the construction of replacement housing?

The project site is an existing automotive repair facility that has been in continuous operation at this location for more than 50 years. There is no housing on the project site. Thus, the proposal to add vehicle storage stackers on an existing surface vehicle storage lot, construct a single-story car wash and metal screens, and rezone four of the lots on the project site to support the long-standing existing land use on the site would not displace existing people or housing. If additional employees are required to operate the additional vehicle storage spaces and new car wash, the additional employees would not be of such numbers that they would induce substantial unplanned population growth.

The environmental review included an analysis of the potential impacts of the proposed project's excavation, contrary to the appellant's claim. The project sponsor proposed more than 50 cubic yards of excavation in an area with potential for groundwater and/or soil contamination, and thus enrolled in the Maher program with the San Francisco Department of Public Health.[4] A portion of the northeast corner of Lot 39 is located in the seismic liquefaction zone. Thus, the project sponsor submitted a geotechnical report for the project site[5] that describes the subsurface conditions and provides recommendations for construction of the proposed project. The department also determined that the proposed project would not result in impacts on archeological resources.

Thus, the environmental review adequately analyzed the proposed project's potential impacts on the physical environment and found impacts to be less than significant.

Response 2: The categorical exemption determination issued on December 24, 2019 analyzed the currently proposed project, rather than the original project. Thus, a determination of a substantial modification is not warranted.

The appellant contends that the categorical exemption determination issued on December 24, 2019 should have included a determination as to whether the currently proposed project is a substantial modification. As noted above, on December 24, 2019 the department reconsidered the December 4, 2019 determination of no substantial modification and concluded that the proposed additional vehicle storage on the existing surface vehicle storage lots (Lots 39, 40, 41, and 42) and rezoning of those lots from RED to RED-MX could

[4] Maher Ordinance Application, *118-120, 124 and 130 Kissling Street, 1531and 1581 Howard Street,* February 5, 2015.
[5] Rockridge Geotechnical, *Geotechnical Study, Proposed Royal Motors Expansion, 1525Howard Street, San Francisco, California,* December 4, 2014.

be considered an intensification of the project that could constitute a substantial modification when compared to the original project. On that basis, the department decided to rescind the March 2, 2016 categorical exemption determination and December 4, 2019 determination of no substantial modification. Pursuant to chapter 31 of the San Francisco Administrative Code, section 31.08(i)(2), when the Environmental Review Officer (ERO) determines that a change in a project is a substantial modification, the ERO shall make a new CEQA decision. Pursuant to chapter 31, on December 24, 2019, the department concluded that the currently proposed project, like the original project, is categorically exempt under Class 11 and issued a new categorical exemption determination for the currently proposed project. Thus, a determination of no substantial modification is not warranted.

The only matter before the board under this appeal is whether the department's December 24, 2019 categorical exemption determination meets the requirements of CEQA. The planning commission approvals of the project, and the previous environmental review determinations relating to the originally proposed project, are irrelevant to this CEQA appeal of the adequacy of the December 24, 2019 categorical exemption determination. The December 24, 2019 categorical exemption determination, as discussed in this appeal response, adequately evaluated the potential environmental impacts of the entirety of the currently proposed project, including the modifications to the previously approved project.

Response 3: The letter of appeal raises several issues that are not relevant to the board's decision to either reject or uphold this appeal of the department's CEQA determination for the proposed project. The department's responses to these issues are provided below for informational purposes only.

The appellant asserts that rezoning Lots 39, 40, 41, and 42 from a RED zoning district, which allows residential uses, to a RED-MX zoning district would represent "a huge loss of housing opportunities" that must be analyzed as part of the environmental review. Whether a particular parcel is used for one land use or another is not a project under CEQA unless it requires a discretionary action that is proposed by a project sponsor. No one is proposing housing on Lots 39, 40, 41, and 42, and whether they are kept in a RED zoning district is a policy issue for decision makers to make. Furthermore, the RED-MX zoning district allows for residential uses. Thus, the proposed rezoning would not preclude housing from being built on Lots 39, 40, 41, and 42 in the future, if proposed. In addition, as discussed in Response 1, the proposed rezoning would not result in significant physical environmental effects.

The appellant contends that the conditional use authorization for vehicle storage on the lots zoned RED should not have been approved prior to the approval of the rezoning of those lots to RED-MX. The executive summary for the conditional use authorization approved on October 25, 2018 states that "the conditional use authorization is contingent upon the proposed Zoning Map Amendment to San Francisco Map Sheet No. ZN07, which would rezone Block No. 3516 and Lot Nos. 039 (118-120 Kissling Street), 040 (124 Kissling Street), 041 (13 Kissling Street), and 042 (134 Kissling Street) from RED (Residential Enclave) to RED-MX (Residential Enclave-Mixed) Zoning District…without the rezoning, the existing and intended use at 118-134 Kissling Street would not be permitted." This procedure of approving a legal non-conforming use contingent upon a future approval is not uncommon for projects which require multiple entitlements, or that require an approval by the board, such as a zoning map amendment. In addition, the

conditional use authorization included a provision that the conditional use was not valid until the board approves the rezoning.

The appellant contends that rezoning Lots 39, 40, 41, and 42 from RED to RED-MX is inconsistent with the General Plan and the potential loss of future housing on those lots is a significant environmental impact. A proposed project's inconsistency with existing plans and policies, such as the General Plan, does not in and of itself indicate a significant physical environmental effect. Furthermore, the department determined that the proposed project, including the rezoning, is, on balance, consistent with the General Plan. The department found that the proposed project is consistent with objectives 2, 3 and 4 of the Commerce and Industry Element, objective 1 of the Urban Design Element, and with the Western SoMa Area Plan. The determination of General Plan consistency was approved by the Planning Commission on October 25, 2018 during its consideration of the project sponsor's request for a conditional use authorization and zoning map amendment. The planning commission's general plan consistency determination is not subject to review by the board under this appeal of the department's December 24, 2019 categorical exemption determination.

The appellant contends that the project description revisions were not appropriately analyzed. It is not unusual for a project sponsor to file an application for environmental review with a project description that is subsequently revised prior to issuance of the environmental review determination. Projects typically undergo planning code and design review concurrently with environmental review, which may alter the project that is ultimately brought to the planning commission for approval. The project description used for an environmental determination may also be revised from that presented in the project sponsor's application to provide more details about the project. Here, the environmental review analyzed the final project. In this case, the project description for the categorical exemption determination provides more details relevant for environmental analysis than the project description in the conditional use authorization. It is not unusual or inappropriate for the project description in an environmental determination to reflect more detail than the project description for a conditional use application.

The appellant contends that the environmental review and project approvals were inappropriately noticed, and that the department improperly approved the project prior to rezoning. The CEQA Guidelines and chapter 31 of the San Francisco Administrative Code do not instruct the department on the type of environmental notice to conduct for projects eligible for a categorical exemption. However, the department's policy is to issue a notification of a project receiving environmental review for projects that are eligible for categorical exemptions under Class 32. This practice is in acknowledgement that Class 32 exemptions are typically granted for relatively large projects – specifically, for example, projects involving additions or new development of more than 10,000 square feet (as permitted under Class 1 and Class 3) or more than four new residential dwelling units (as permitted under Class 3). The department does not issue such notices for projects eligible for any other exemption classes, as these are typically smaller projects and/or modifications to existing facilities like the proposed project in this case.

The department determined that the proposed project is categorically exempt from environmental review under Class 11. Thus, consistent with the department's established practice, the department did not mail a notice of project receiving environmental review. However, the proposed project approvals were subject

to public noticing requirements under the planning code, and the department duly noticed the planning commission hearings for the conditional use authorization approved on March 10, 2016 Planning Commission Motion No. 19588) and the conditional use authorization and zoning map amendment approved on October 25, 2018 (Planning Commission Motion No. 20329). Furthermore, in accordance with chapter 31 the department posted the categorical exemption determination for the project on the department's website, https://sfplanning.org/resource/ceqa-exemptions. The project link provides access to more information about the project, including the documents associated with the project. The categorical exemption determination was also posted at the department's office and provided to interested parties and decision makers who would carry out or approve the project.

The appellant claims that the department issued the first categorical exemption for the proposed project on February 13, 2015 and asserts that the determination should have included a description of the rezoning proposed under the modified project. This is incorrect. As noted in the Background section, the first categorical exemption for the proposed project was issued on March 2, 2016. That categorical exemption did not include the proposed rezoning of Lots 39, 40, 41, and 42, as the project sponsor had not yet proposed that action. Once the project sponsor applied for environmental review of the additional vehicle storage stackers and rezoning, the department began the environmental review of that scope of work.

Finally, contrary to the statement by the appellant, the proposed project is not subject to specific guidelines for construction in RED and RED-MZ zoning districts, as asserted by the appellant.

CONCLUSION

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

For the reasons stated above and in the December 24, 2019 CEQA categorical exemption determination, the CEQA determination complies with the requirements of CEQA and the department properly found that the project is exempt from environmental review pursuant to the cited exemption. The department therefore respectfully recommends that the board uphold the CEQA categorical exemption determination and deny the appeal of the CEQA determination.

Categorical Exemption Appeal

Attachment A:

1531-1581 Howard Street / 118-134 Kissling Street Project History

Overview of the Planning Department's Environmental Review of the Project

On December 18, 2014 the project sponsor submitted an application for environmental review to the department's Environmental Planning Division. The application was for a proposal to alter the existing automotive repair facility on the project site by converting existing surface vehicle storage on two lots (Lots 56 and 64) to vertical vehicle storage stackers, installing metal screens on the project site's Kissling Street and Howard Street frontages to screen the vertical vehicle storage stackers, constructing a private car wash to support the existing facility, and making curb cut modifications on the project site's Kissling Street and Howard Street frontages.

Between submission of the December 18, 2014 environmental review application and issuance of the December 24, 2019 categorical exemption determination, the project sponsor made minor adjustments to the project description. However, the December 24, 2019 categorical exemption for the project still consisted of converting the existing surface vehicle storage spaces on the project site to vertical vehicle storage stackers (Lots 39, 40, 41, 42, 56, and 64), a zoning map amendment to facilitate the conversion to vertical vehicle storage stackers on four of the lots (Lots 39, 40, 41, and 42), installing of metal screens on the project site's Kissling Street and Howard Street frontages to screen the vehicle storage stackers, constructing a private car wash to support the existing facility, and curb cut modifications on the project site's Kissling Street and Howard Street frontages. Thus, the essential components of the project have not changed since the time the original application for environmental review was received by the department on December 18, 2014.

Below is a detailed account of the project's history, including the applications submitted, CEQA determinations made and approvals granted for the project.

Planning Department Review of the Original Project
Planning Department Case No. 2015-000332PRJ

On December 18, 2014 the Royal Automotive Group (hereinafter project sponsor) submitted an application for CEQA environmental review to the planning department's (hereinafter department) Environmental Planning Division. The project description in this application is as follows:

> The project proposes the reconfiguration of an existing motor vehicle repair operation. Currently Royal Automotive Group uses all of the properties above, plus Block 3516, Lot 55, for their motor vehicle services and vehicle storage for their various dealerships in the vicinity. The main motor vehicle repair operations take place within the buildings located at Block 3516, Lots 44 and 55. Vehicle storage (including vehicles to undergo service and new vehicle overflow storage) takes place on the remaining lots. The project proposes to increase the number of vehicle storage spaces from 81 to 236 via the installation of 4-level stackers on the existing surface vehicle storage lots (Lots 39, 40, 41, 42, 43, 56, and 64). The project also proposes to construct a new, 1,283-square-foot car wash building on lot 63, to be used only as part of the motor vehicle repair services (i.e., the carwash would not be open to the public on a retail basis). The project also proposes to reduce an existing curb cut along Howard Street from 42 feet to 29 feet and remove an existing 46.5-foot curb cut

> along Kissling Street. The proposed depth of excavation is 2 feet for the car stackers and 2 feet for the car wash. The proposed area of excavation is 2,958 square feet for the Kissling Street lots, 1,547 square feet for Lot 56, and 2,750 square feet for Lot 64.

On February 22, 2016 the project sponsor amended and resubmitted the application to the department, which superseded the December 15, 2014 application. The project description contained in this amended application for environmental review is as follows:

> The project proposes the reconfiguration of an existing motor vehicle repair operation. Currently, Royal Automotive Group uses all of the properties above for their motor vehicle services and vehicle storage for their various dealerships in the vicinity. The main motor vehicle repair operations take place within the buildings located at Block 3516, Lots 44 and 55. Vehicle storage (including vehicles to undergo service and new vehicle overflow storage) takes place on the. remaining lots. The project proposes to increase the number of vehicle storage spaces from 81 to 158 via the installation of 4-level stackers on Lots 56 and 64. The project also proposes to construct a new, 1,283-square-foot car wash building on lot 64, to be used only as part of the motor vehicle repair services (i.e., the carwash would not be open to the public on a retail basis). The project also proposes to reduce an existing curb cut along Howard Street from 42 feet to 29 feet and remove an existing 46.5-foot curb cut along Kissling Street. New, 30-foot-tall screen walls are proposed along Howard and Kissling Streets abutting lots 39, 40, 41, 42 and 64. The site currently consists of 27,272 square feet of surface lot area devoted to vehicle storage use. The proposed depth of excavation is 2 feet for the car stackers and 2 feet for the car wash. The proposed area of excavation is 1,547 square feet for Lot 56 and 2,750 square feet for Lot 64.

The project description in the amended environmental review application removed the proposal to install vehicle storage stackers on Lots 39, 40, 41, and 42, which had been included in the environmental review application submitted on December 15, 2014. Correspondingly, the amended application reduced the number of total vehicle storage spaces proposed for the project site from 236 spaces to 158 spaces (a net increase of 77 spaces from existing conditions per the project application) as compared to the December 15, 2014 application, and did not propose any excavation on those lots.

On March 4, 2015, the project sponsor submitted an application to the department's Current Planning Division for a conditional use authorization. The project description contained in this conditional use authorization application is as follows:

> The Project proposes reconfiguring Royal Motors existing motor vehicle repair operation. Specifically, the Project proposes to increase the number of vehicle storage spaces on the site from 81 to 236, by installing 4-level stackers on the existing surface vehicle storage lots. The Project also includes a new, 1,283 square foot car wash building on Lot 064, to be used only as part of the motor vehicle repair service. It would not be open to the public on a retail basis. The Project also proposes to reduce an existing curb cut along Howard Street from 42 feet to 29 feet, and to remove an existing 46.5-foot curb cut along Kissling Street, allowing for more on-street parking. New 30-foot-tall screen walls would be added along Howard and Kissling Streets on lots 039, 040, 041, 042, and 064.

The project description in the amended environmental review application submitted by the project sponsor proposed a total of 158 vehicle storage spaces (net increase of 77 spaces) whereas the project description in the conditional use authorization application submitted by the project sponsor proposed a total of 236 vehicle storage spaces (net increase of 155 spaces). All other features of the proposed project are the same in the two applications. However, the amended environmental review application includes additional details relevant to environmental review, such as depth of excavation. Similarly, the conditional use authorization application includes additional information relevant to current planning review.

On February 23, 2016, the project sponsor submitted an amendment to the previously-filed application for a conditional use authorization, which further revised the project description to modify the heights of the proposed screens along the Kissling Street and Howard Street frontages from approximately 30′ tall along both streets to approximately 21′-8″ along Kissling Street and approximately 32′-7″ along Howard Street.

On March 2, 2016, the department determined that the project was categorically exempt under CEQA Class 11 – Accessory Structures, and that no further environmental review was required. The project description contained in the categorical exemption determination issued by the department on that date is as follows:

> "Reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers and construction of an approximately 1,283-gross-square-foot (gsf) car wash on Lot 64. Installation of approximately 21'-8"-tall metal screening on portions of the Kissling Street frontage approximately 32'-7"-tall metal screens on portions of the Howard Street frontage. Parking stackers would provide space for approximately 158 cars. Parking storage and car wash facilities would not be open to the public. Reduction of existing 42-foot-wide curb cut on Howard Street to approximately 29 feet wide and removal a 46.5-foot-wide curb cut on Kissling Street."

On March 10, 2016, the planning commission approved a conditional use authorization at a noticed public hearing for the project as described in the February 23, 2016 conditional use authorization application under Planning Commission Motion No. 19588. The Lots 39, 40, 41, and 42 were not included as they fell within the RED (Residential Enclave) zoning district, which does not permit vehicle storage. The project description contained in Planning Commission Motion No. 19588 is as follows:

> "The project sponsor proposes to establish 4-level vehicle stacker storage (enclosed vehicle storage use) for 132 spaces on the subject lots [lots 056 (1581 Howard Street) and 064 (1531 Howard Street)], including a new 1-story car wash. Three vehicle stacker screens up to 32'-7" tall are proposed along Howard Street and up to 21'-8" tall are proposed along Kissling Street. The site is occupied by an existing auto repair facility (dba Royal Motors)."

The proposed curb cut modifications are described in the findings section of Planning Commission Motion No. 20329.

The project description in Planning Commission Motion No. 19588 (the conditional use authorization approved on March 10, 2016) was for a total of 132 vehicle storage spaces (net increase of 51 spaces) on Lots 56 and 64. However, the March 2, 2016 categorical exemption determination states that the proposed project would result in approximately 158 vehicle storage spaces (net increase of 77 spaces, consistent with the

applicant's proposal). This is because the amended environmental review application submitted by the project sponsor on February 22, 2015 states that the project would result in 158 vehicle storage spaces. It is common for an environmental review to be based on earlier versions of project plans that are larger in scope or scale than are finally approved. This practice is allowable under CEQA, as it presents a "worst case" scenario of a project's potential environmental effects. There are no other differences between the March 2, 2016 categorical exemption determination and the project description in Planning Commission Motion No. 19588.

Planning Department Review of the Modified Project

Planning Department Case No. 2016-012474PRJ

On September 27, 2016 the project sponsor submitted an application for a second conditional use authorization and an application for a Legislative Amendment to the department's Current Planning Division. The project description contained in this second conditional use authorization application is as follows:

> On March 10, 2016, the Planning Commission approved Application No. 2015-000332CUA to permit (1) the construction of a non-retail car wash structure accessory to the existing motor vehicle repair operation on an adjacent parcel and (2) construction of vehicle storage stackers on lots 56 and 64, to be screened from view by a new screen wall along Howard and Kissling Streets. By this application, the Project Sponsor proposes to add 4-level vehicle stackers on lots 39-42, which are currently used for surface lot vehicle storage. The Project also includes adding an additional 10 feet of height to the already-approved architectural screening wall. There are 28 vehicle storage spaces on these lots and the stackers would allow for a total of 96 vehicle storage spaces on lots 39, 40, 41, and 42.

Compared to the project description in the conditional use authorization approved on March 10, 2016, the project description in the second conditional use authorization would result in an additional 68 vehicle storage spaces on Lots 39, 40, 41, and 42 and an additional 10 feet of height to the 21'-8"-tall screens along the Kissling Street frontage.

On September 27, 2016 the project sponsor also submitted an application for a Legislative Amendment to the department's Current Planning Division. The project description contained in this legislative amendment application included rezoning Lots 39, 40, 41, and 42 from a RED zoning district to a RED-MX (Residential Enclave-Mixed) zoning district. The project sponsor filed the application for a Legislative Amendment to facilitate the addition of mechanical vehicle stackers on an existing vehicle storage surface lot, as RED zoning generally does not permit non-residential uses.

On October 20, 2016 the project sponsor submitted an application for a CEQA determination to the planning department's Environmental Planning Division. The project description contained in this application for environmental review is as follows:

> On March 10, 2016, the Planning Commission approved Application No. 2015-000332CUA to permit (1) the construction of a non-retail car wash structure accessory to the existing motor vehicle repair operation on an adjacent parcel and (2) construction of vehicle storage stackers on lots 56 and 64, to be screened from view by a new screen wall along Howard and Kissling Streets. The Project Sponsor now proposes to add 4-level vehicle stackers on

> lots 39-42, which are currently used for surface lot vehicle storage. The Project also includes adding an additional 10 feet of height to the already-approved architectural screening wall. There are 28 vehicle storage spaces on these lots and the stackers would allow for a total of 96 vehicle storage spaces.

Compared to the project description contained in the March 2, 2016 categorical exemption determination, the project description in the environmental review application submitted on October 20, 2016 would result in an additional 68 vehicle storage spaces on Lots 39, 40, 41, and 42 and increase the height of the screens along the Kissling Street frontage by approximately 10 feet. The Environmental Planning Division determined that the project description in the sponsor's October 20, 2016 application for a CEQA determination constituted a modification of the project for which the department issued a categorical exemption determination on March 2, 2016. Accordingly, the department evaluated whether the modification to the project was a substantial modification under section 31.08(i) of chapter 31 of the San Francisco Administrative Code. Thus, for the purposes of the environmental review, the department treated the project as described in the March 1, 2016 categorical exemption determination and the project described in the October 20, 2016 application for a CEQA determination as one project.

For the purposes of the Current Planning Division's review, department staff considered the project approved under Planning Commission Motion No. 19588 (the March 10, 2016 conditional use authorization) the first phase of the project and considered the project described in the September 27, 2016 application for a conditional use authorization and legislative amendment the second phase of the project.

The project description for the modified project in the October 20, 2016 environmental review application matches the project description for the modified project in the September 27, 2016 conditional use authorization application in all respects. However, it does not include the proposed rezoning of Lots 39, 40, 41, and 42 from RED to RED-MX.

On August 8, 2017, the department determined that the modified project was not a substantial modification to the project that received a categorical exemption under Class 11 on March 2, 2016. This is because the modified project would not meet the substantial modification criteria identified in the categorical exemption checklist, which is based on section 31.08(1)(A) of chapter 31 of the San Francisco Administrative Code. The department determined that the proposed project would not result in a change of use. Rather, the proposed project would allow for the continuation of the existing land use at the site. Thus, the modified project did not include a change of use requiring section 311 or 312 noticing and instead required noticing under planning code section 309. In addition, the vehicle storage stackers would be open air and the screens would not create a building envelope pursuant to San Francisco Planning Code section 102, which defines a building is as "Any structure having a roof supported by columns or walls". Accordingly, the department further determined pursuant to section 31.08(1)(3) of chapter 31 of the San Francisco Administrative Code that no additional CEQA environmental review was required for the modified project. The project description contained in this determination of no substantial modification is as follows:

> "Reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lots 56 and 64 to four-level parking stackers, converting 8,069 square feet of existing surface vehicle storage on Lots 39, 40, 41, and 42 to four-level parking stackers, and construction of an approximately 1,283-gross-square-foot car wash on Lot 64. Installation of approximately 31'-8"-tall metal screening on portions of the Kissling Street frontage approximately 32'-7-tall metal screens on portions of the Howard Street frontage. The proposed stackers would accommodate approximately

> 200 net new vehicles. Parking storage and car wash facilities would not be open to the public. Reduction of existing 42-foot-wide curb cut on Howard Street to approximately 29 feet wide and removal a 46.5-foot-wide curb cut on Kissling Street. The project [sic]"

As shown above, the project description for the determination of no substantial modification was cut off after "the project" and thus inadvertently omitted the description of the proposed rezoning of Lots 39, 40, 41, and 42.

The project description in the amended environmental review application for the original project proposed to increase the number of vehicle storage spaces on Lots 56 and 64 from 81 to 158 (net new 77 spaces). The project description in the environmental review application for modified project proposed to increase the number of vehicle storage spaces on Lots 39, 40, 41, and 42 from 28 to 96 spaces (68 net new spaces). This would result in a total of 145 net new spaces. During the environmental and current planning review of the modified project the project sponsor proposed up to 200 net new vehicle storage spaces on the project site across Lots 39, 40, 41, 42, 56, and 64. Thus, the environmental review for the modified project analyzed 200 net new vehicle storage spaces.

On October 25, 2018, the planning commission approved a conditional use authorization and adopted a zoning map amendment under Planning Commission Motion No. 20329 at a noticed public hearing for the project described in the September 27, 2016 conditional use authorization and legislative amendment applications. The project description contained in Planning Commission Motion No. 20329 is as follows:

> "The Project includes constructing a four-level, 30-ft 6-in. tall, vehicle storage stacker for 96 spaces on Lots 039, 040, 041, and 042 in Block No. 3516 for an existing automotive repair shop (DBA Royal Motors). The Project also includes construction of a 32-ft 7-in. tall screen wall along Kissling Street."

The proposed rezoning of Lots 39, 40, 41, and 42 from RED to RED-MX are described in the findings section of Planning Commission Motion No. 20329.

It was disclosed to the planning commission that Planning Commission Motion No. 20329 would be an approval of the second phase of the project and that the first phase was approved under Planning Commission Motion No. 19588 (the March 10, 2016 conditional use authorization). This disclosure occurred as follows:

1. In the executive summary for Planning Commission Motion No. 20329, which notes that a "Phase One Approval" was granted by the planning commission under Planning Commission Motion No. 19588.
2. In the preamble for Planning Commission Motion No. 20329, which stated that: "On March 2, 2016, the proposed project was determined to be exempt from the California Environmental Quality Act (CEQA) under CEQA State Guidelines 15311, or Class 11. On October 20, 2016 the Project Sponsor proposed a modification to the approved project. On August 8, 2017, in accordance with Chapter 31 of the Administrative Code, the Planning Department determined the modification of the CEQA exempt project did not constitute a substantial modification of the Project."
3. At the October 25, 2018 hearing before the planning commission for Planning Commission Motion No. 20329, department staff stated that: "on March 10, 2016 this planning commission approved motion 19588, adopting findings related to the approval of a CUA pursuant to planning code section 303 and 844.71 for enclosed vehicle storage with a total of 132 spaces for an existing

automotive repair facility within the zoning district. The project was phase 1 of an automotive repair expansion for the entity doing business as Royal motors"

Compared to the project description in the August 8, 2017 determination of no substantial modification, the project description in Planning Commission Motion No. 20329 (the conditional use authorization approved on October 25, 2018) does not include the proposed vehicle storage stackers on Lots 56 and 64 as proposed changes to those lots were previously approved by the planning commission under Planning Commission Motion No. 19588. Similarly, as the modified project did not propose any changes to the height of the screen proposed along Howard Street or curb cut modifications on the project site's Kissling Street frontage or Howard Street frontage, the screen and the curb cut modifications are not included in the project description in Planning Commission Motion No. 20329. However, the Howard Street screen and the Howard Street and Kissling Street curb cut modifications are included in the project description for the August 8, 2017 determination of no substantial modification

Appeal of the Determination of No Substantial Modification

On November 26, 2018, the appellant filed an appeal of the March 2, 2016 categorical exemption determination and of the August 8, 2017 determination of no substantial modification. The department found the appeal was not timely. However, as discussed above, the project description for the modified project contained in the August 8, 2017 determination of no substantial modification inadvertently omitted the description of the proposed rezoning of Lots 39, 40, 41, and 42. Thus, the department re-issued the determination of no substantial modification correcting this omission on December 4, 2019 and provided a new appeal period for this determination.

On December 16, 2019, the appellant appealed the December 4, 2019 determination of no substantial modification. The department reconsidered the determination of no substantial modification and concluded that the proposed additional vehicle storage stackers on Lot 39, 40, 41, and 42, which would result in an additional 68 vehicle storage spaces on those lots, and the proposed rezoning of Lots 39, 40, 41, and 42 from RED to RED-MX could be considered an intensification of the project, which would constitute a substantial modification as defined in section 31.08(i)(A) of chapter 31 of the administrative code.

Issuance of the New Categorical Exemption

On December 24, 2019, the department rescinded the December 4, 2019 determination of no substantial modification. Accordingly, pursuant to section 31.08(i)(2) of chapter 31 of the administrative code, on December 24, 2019, the department also rescinded the March 2, 2016 categorical exemption determination. Finally, on December 24, 2019, the department determined that, like the original project, the modified project was categorically exempt under CEQA Class 11 – Accessory Structures, and that no further environmental review was required.

Appeal of the New Categorical Exemption

On January 23, 2020, the appellant filed an appeal of the categorical exemption determination, and on January 29, 2020 the department determined the appeal was timely filed.

As discussed above, the planning commission was aware that the project under consideration at the October 25, 2018 hearing and approved under Planning Commission Motion No. 20329 was the second phase of the project, and that it approved the first phase under Planning Commission Motion No. 19588.

The project sponsor does not propose any changes to the project as approved under Planning Commission Motion No. 19588 and Planning Commission Motion No. 20329.

Categorical Exemption Appeal

Attachment B:

1531-1581 Howard Street / 118-134 Kissling Street Preservation Team Review Form

PRESERVATION TEAM REVIEW FORM

Preservation Team Meeting Date:	02/10/2015	Date of Form Completion	05/12/2015

PROJECT INFORMATION:		
Planner:	Address:	
Rich Sucre	1531-1581 Howard Streets; 118-134 Kissling Streets	
Block/Lot:	Cross Streets:	
3516/039-042, 044, 055, 056, 063-064	Howard, 12th, and Kissling Streets	
CEQA Category:	Art. 10/11:	BPA/Case No.:
A		2015-000332ENV

PURPOSE OF REVIEW:			PROJECT DESCRIPTION:	
(•) CEQA	( ) Article 10/11	( ) Preliminary/PIC	(•) Alteration	( ) Demo/New Construction

DATE OF PLANS UNDER REVIEW:	12/12/2014

PROJECT ISSUES:	
☐	Is the subject Property an eligible historic resource?
☒	If so, are the proposed changes a significant impact?
	Additional Notes:
	- The proposed project includes construction of a new car wash structure (1,283 sf), installation of new off-street car stackers, and installation of new metal screens (30-ft tall) along the property lines on Kissling Street (APN 3516/039-041) and on Howard Street (APN/056 & 064). - Currently the project sites are occupied by surface parking lots. The project site is located in the Western SoMa Light Industrial & Residential Historic District.

PRESERVATION TEAM REVIEW:			
Historic Resource per CEQA	(•) Yes	( ) No *	( ) N/A

Individual	Historic District/Context
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria:	Property is eligible for inclusion in a California Register Historic District/Context under one or more of the following Criteria:
Criterion 1 - Event: ( ) Yes (•) No	Criterion 1 - Event: (•) Yes ( ) No
Criterion 2 -Persons: ( ) Yes (•) No	Criterion 2 -Persons: ( ) Yes (•) No
Criterion 3 - Architecture: ( ) Yes (•) No	Criterion 3 - Architecture: (•) Yes ( ) No
Criterion 4 - Info. Potential: ( ) Yes (•) No	Criterion 4 - Info. Potential: ( ) Yes (•) No
Period of Significance: n/a	Period of Significance: 1906-1936
	( ) Contributor (•) Non-Contributor

Complies with the Secretary's Standards/Art 10/Art 11:	◉ Yes	○ No	○ N/A
CEQA Material Impairment:	○ Yes	◉ No	
Needs More Information:	○ Yes	◉ No	
Requires Design Revisions:	○ Yes	◉ No	
Defer to Residential Design Team:	○ Yes	◉ No	

* If No is selected for Historic Resource per CEQA, a signature from Senior Preservation Planner or Preservation Coordinator is required.

PRESERVATION TEAM COMMENTS:
As noted in the South of Market Historic Resource Survey, the project sites are assigned a California Historic Resource Status Code (CHRSC) of "6Z," which defines the properties as "found ineligible for NR, CR or Local Designation through survey evaluation." The existing surface parking lots are non-contributing resources to the eligible Western SoMa Light Industrial and Residential Historic District, which is considered to be a historic resource for the purposes of CEQA. Therefore, the demolition of these surface parking lots will not cause a substantial adverse impact upon any qualified historic resource in the vicinity of the project site. In addition, Department staff finds that the proposed project would not cause a significant adverse impact upon a historic resource such that the significance of the surrounding historic district would be materially impaired. The Department finds that the new construction is consistent with the historic industrial character of the surrounding eligible historic district, as well as the new construction within the district boundaries. The proposed project includes the new construction of painted metal screens (approximately 30-ft tall) along the property line on Kissling and Howard Streets. The height of these new screens/fences is relatable to the district's contributing industrial resources, which range in height from four-to-five-stories in height, and the new construction within the district boundaries, which range in height from four-to-six stories in height. The painted metal material palette evokes the industrial aesthetic of the surrounding district. Further, the proposed use as an off-street car stacking facility is consistent with the uses found within the surrounding district. Overall, the new construction is consistent with the district's mixed character and does not impact the district' character-defining features.

Signature of a Senior Preservation Planner / Preservation Coordinator:	Date:
Omaa	5-18-2015

Lew, Lisa (BOS)

From: BOS Legislation, (BOS)
Sent: Friday, March 20, 2020 11:08 AM
To: BOS Legislation, (BOS); Stephen M. Williams; John Kevlin
Cc: PEARSON, ANNE (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Teague, Corey (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lewis, Don (CPC); Varat, Adam (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Delumo, Jenny (CPC); Rosenberg, Julie (BOA); Sullivan, Katy (BOA); Longaway, Alec (BOA); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS)
Subject: INDEFINITE CONTINUANCE OF HEARING: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing to a Future Date

Categories: 200103

Good morning,

In accordance with Governor Gavin Newsom's statewide order for all residents to "Stay at Home" - and the numerous preceding local and state proclamations, orders and supplemental directions - aggressive directives have been issued to slow down and reduce the spread of the COVID-19 virus. Therefore, the Board of Supervisors – in conjunction with advice from the City Attorney that is consistent with all local, state and federal orders – will be continuing all special orders and appeals to the Board indefinitely until the emergency is over. The President of the Board will decide future scheduling of each continued matter for an appropriate meeting at a later date. We will provide Appellants and all parties involved with updates as soon as additional direction is received.

The Board of Supervisors and the Office of the Clerk of the Board are committed to providing members of the public with as much access as possible during this health crisis. We appreciate your patience as we are handling a number of critical issues while working remotely. If you have any questions or concerns in the meantime, please reach out and our team will be diligently reviewing and addressing all issues as timely as possible.

Thank you for your patience.

Brent Jalipa
Board of Supervisors - Clerk's Office
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-7712 | Fax: (415) 554-5163
brent.jalipa@sfgov.org | www.sfbos.org


Click here to complete a Board of Supervisors Customer Service Satisfaction form

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Friday, February 28, 2020 4:50 PM
To: Stephen M. Williams <smw@stevewilliamslaw.com>; John Kevlin <jkevlin@reubenlaw.com>
Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; STACY, KATE (CAT) <Kate.Stacy@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Teague, Corey (CPC) <corey.teague@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Jain, Devyani (CPC) <devyani.jain@sfgov.org>; Navarrete, Joy (CPC) <joy.navarrete@sfgov.org>; Lewis, Don (CPC) <don.lewis@sfgov.org>; Varat, Adam (CPC) <adam.varat@sfgov.org>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Delumo, Jenny (CPC) <jenny.delumo@sfgov.org>; Rosenberg, Julie (BOA) <julie.rosenberg@sfgov.org>; Sullivan, Katy (BOA) <katy.sullivan@sfgov.org>; Longaway, Alec (BOA) <alec.longaway@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: CONTINUANCE OF HEARING: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing on March 3, 2020

Good afternoon,

On Friday, January 31, 2020, the Office of the Clerk of the Board distributed a hearing date notification for the appeal of the CEQA Exemption Determination for the proposed project at 1531-1581 Howard Street and 118-134 Kissling Street. Pursuant to Administrative Code, Section 31.16(b)(4) the Office of the Clerk of the Board is required to schedule the initial hearing no less than 21 days and no more than 45 days following expiration of the appeal period; the regularly scheduled meeting of March 3, 2020, fulfills that obligation.

This email is being sent to notify you that on March 3, 2020, the Board is anticipated to entertain a motion to continue this appeal hearing to a date to be determined. If a motion is made to continue this matter, on March 3, 2020, public comment will be taken on the *continuance* of the hearing; the full discussion and public comment for the appeal will be considered at a meeting date to be determined.

Please do not hesitate to contact our office with any questions, and I invite you to review the entire matter on our Legislative Research Center by following the link below:

Board of Supervisors File No. 200103

Regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org


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Lew, Lisa (BOS)

From: BOS Legislation, (BOS)
Sent: Wednesday, March 4, 2020 9:10 AM
To: Stephen M. Williams; John Kevlin
Cc: PEARSON, ANNE (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Teague, Corey (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lewis, Don (CPC); Varat, Adam (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Delumo, Jenny (CPC); Rosenberg, Julie (BOA); Sullivan, Katy (BOA); Longaway, Alec (BOA); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS Legislation, (BOS)
Subject: RE: CONTINUANCE OF HEARING: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing on April 14, 2020

Categories: 200103

Good morning,

On Tuesday, March 3, 2020, the Board of Supervisors made an motion to continue this appeal hearing to April 14, 2020. Full discussion and public comment for the appeal will be considered at the April 14, 2020 meeting.

Please do not hesitate to contact our office with any questions, and I invite you to review the entire matter on our Legislative Research Center by following the link below:

Board of Supervisors File No. 200103

Regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
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From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Friday, February 28, 2020 4:50 PM
To: Stephen M. Williams <smw@stevewilliamslaw.com>; John Kevlin <jkevlin@reubenlaw.com>
Cc: PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; STACY, KATE (CAT) <Kate.Stacy@sfcityatty.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; Rahaim, John (CPC) <john.rahaim@sfgov.org>; Teague, Corey (CPC) <corey.teague@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Gibson, Lisa (CPC) <lisa.gibson@sfgov.org>; Jain, Devyani (CPC) <devyani.jain@sfgov.org>; Navarrete, Joy (CPC)

<joy.navarrete@sfgov.org>; Lewis, Don (CPC) <don.lewis@sfgov.org>; Varat, Adam (CPC) <adam.varat@sfgov.org>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Starr, Aaron (CPC) <aaron.starr@sfgov.org>; Delumo, Jenny (CPC) <jenny.delumo@sfgov.org>; Rosenberg, Julie (BOA) <julie.rosenberg@sfgov.org>; Sullivan, Katy (BOA) <katy.sullivan@sfgov.org>; Longaway, Alec (BOA) <alec.longaway@sfgov.org>; BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: CONTINUANCE OF HEARING: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing on March 3, 2020

Good afternoon,

On Friday, January 31, 2020, the Office of the Clerk of the Board distributed a hearing date notification for the appeal of the CEQA Exemption Determination for the proposed project at 1531-1581 Howard Street and 118-134 Kissling Street. Pursuant to Administrative Code, Section 31.16(b)(4) the Office of the Clerk of the Board is required to schedule the initial hearing no less than 21 days and no more than 45 days following expiration of the appeal period; the regularly scheduled meeting of March 3, 2020, fulfills that obligation.

This email is being sent to notify you that on March 3, 2020, the Board is anticipated to entertain a motion to continue this appeal hearing to a date to be determined. If a motion is made to continue this matter, on March 3, 2020, public comment will be taken on the *continuance* of the hearing; the full discussion and public comment for the appeal will be considered at a meeting date to be determined.

Please do not hesitate to contact our office with any questions, and I invite you to review the entire matter on our Legislative Research Center by following the link below:

Board of Supervisors File No. 200103

Regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org


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From:	BOS Legislation, (BOS)
To:	Stephen M. Williams; John Kevlin
Cc:	PEARSON, ANNE (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Hillis, Rich (CPC); Teague, Corey (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lewis, Don (CPC); Varat, Adam (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Delumo, Jenny (CPC); Rosenberg, Julie (BOA); Sullivan, Katy (BOA); Longaway, Alec (BOA); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); Mchugh, Eileen (BOS); BOS Legislation, (BOS)
Subject:	HEARING NOTICE: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing on August 11, 2020
Date:	Tuesday, July 28, 2020 11:24:26 AM
Attachments:	image001.png

Good morning,

The Office of the Clerk of the Board has scheduled a remote hearing for Special Order before the Board of Supervisors on **August 11, 2020, at 3:00 p.m.**, to hear the appeal of the determination of categorical exemption from environmental review under CEQA for the proposed project of 1531-1581 Howard Street and 118-134 Kissling Street.

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

Public Hearing Notice - July 28, 2020

I invite you to review the entire matter on our Legislative Research Center by following the links below:

Board of Supervisors File No. 200103

Regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a "virtual" meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.
Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.

 Click here to complete a Board of Supervisors Customer Service Satisfaction form

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BOARD of SUPERVISORS

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

NOTICE OF PUBLIC HEARING

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

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

Date: **Tuesday, August 11, 2020**

Time: **3:00 p.m.**

Location: **REMOTE MEETING VIA VIDEOCONFERENCE**
Watch: www.sfgovtv.org
SF Cable Channel 26 once the meeting starts, the telephone number and Meeting ID will be displayed on the screen.
Public Comment Call-In: https://sfbos.org/remote-meeting-call

Subject: **File No. 200103.** Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on December 24, 2019, for the proposed project at 1531-1581 Howard Street and 118-134 Kissling Street, Assessor's Parcel Block No. 3516, to reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lot Nos. 56 and 64 to four-level parking stackers; converting approximately 8,069 square feet of existing surface vehicle storage on Lot Nos. 39, 40, 41, and 42 to four-level parking stackers, and constructing an approximately 1,283-gross-square-foot car wash on Lot No. 64; install metal screening on portions of the Kissling Street frontage and on portions of the Howard Street frontage; reduce the existing 42-foot-wide curb cut on the Howard Street frontage to approximately 29 feet wide and remove the existing curb cut on the Kissling Street frontage; and amending the zoning map by changing the zoning district for Lot Nos. 39, 40, 41, and 42 at the project site from RED (Resident Enclave) to RED-MX (Residential Enclave-Mixed). (District 6) (Appellant: Stephen Williams of the Law Office of Stephen M. Williams, on behalf of William Hedden) (Filed January 23, 2020)

DATED ~ MAILED ~ EMAILED ~ POSTED: July 28, 2020

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

PUBLIC COMMENT CALL-IN
WATCH: SF Cable Channel 26, once the meeting starts, and the telephone number and Meeting ID will be displayed on the screen; or
VISIT: https://sfbos.org/remote-meeting-call

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

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102 or sent via email (board.of.supervisors@sfgov.org). Information relating to this matter is available in the Office of the Clerk of the Board or the Board of Supervisors' Legislative Research Center (https://sfbos.org/legislative-research-center-lrc). Agenda information relating to this matter will be available for public review on Friday, August 7, 2020.

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

Lisa Lew (lisa.lew@sfgov.org ~ (415) 554-7718)
Jocelyn Wong (jocelyn.wong@sfgov.org ~ (415) 554-7702)

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

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

DATED ~ MAILED ~ EMAILED ~ POSTED: July 28, 2020

From:	BOS Legislation, (BOS)
To:	Stephen M. Williams; John Kevlin
Cc:	PEARSON, ANNE (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Teague, Corey (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lewis, Don (CPC); Varat, Adam (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Delumo, Jenny (CPC); Rosenberg, Julie (BOA); Sullivan, Katy (BOA); Longaway, Alec (BOA); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS Legislation, (BOS)
Subject:	HEARING NOTICE: Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing on March 3, 2020
Date:	Tuesday, February 18, 2020 9:18:00 AM
Attachments:	image001.png

Good morning,

The Office of the Clerk of the Board has scheduled a hearing for Special Order before the Board of Supervisors on **March 3, 2020, at 3:00 p.m.**, to hear the appeal of the determination of categorical exemption from environmental review under CEQA for the proposed project of 1531-1581 Howard Street and 118-134 Kissling Street.

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

Public Hearing Notice - February 18, 2020

I invite you to review the entire matter on our Legislative Research Center by following the links below:

Board of Supervisors File No. 200103

Regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

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BOARD of SUPERVISORS

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

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

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

Date: **Tuesday, March 3, 2020**

Time: **3:00 p.m.**

Location: **Legislative Chamber, City Hall, Room 250**
1 Dr. Carlton B. Goodlett, Place, San Francisco, CA 94102

Subject: **File No. 200103.** Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on December 24, 2019, for the proposed project at 1531-1581 Howard Street and 118-134 Kissling Street, Assessor's Parcel Block No. 3516, to reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lot Nos. 56 and 64 to four-level parking stackers; converting approximately 8,069 square feet of existing surface vehicle storage on Lot Nos. 39, 40, 41, and 42 to four-level parking stackers, and constructing an approximately 1,283-gross-square-foot car wash on Lot No. 64; install metal screening on portions of the Kissling Street frontage and on portions of the Howard Street frontage; reduce the existing 42-foot-wide curb cut on the Howard Street frontage to approximately 29 feet wide and remove the existing curb cut on the Kissling Street frontage; and amending the zoning map by changing the zoning district for Lot Nos. 39, 40, 41, and 42 at the project site from RED (Resident Enclave) to RED-MX (Residential Enclave-Mixed). (District 6) (Appellant: Stephen Williams of the Law Office of Stephen M. Williams, on behalf of William Hedden) (Filed January 23, 2020)

Continues on Next Page

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102. Information relating to this matter can be found in the Legislative Research Center at sfgov.legistar.com/legislation. Meeting agenda information relating to this matter will be available for public review on Friday, February 28, 2020.

Angela Calvillo
Clerk of the Board

DATED/MAILED/POSTED: February 18, 2020

BOARD of SUPERVISORS

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

PROOF OF MAILING

Legislative File No. 200103

Description of Items: Hearing - Appeal of Determination of Exemption From Environmental Review - 1531-1581 Howard Street and 118-134 Kissling Street- 3 Notices Mailed

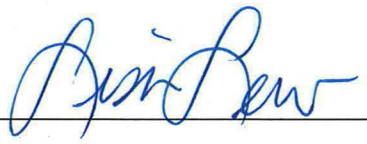
I, Lisa Lew , an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: February 18, 2020

Time: 8:35 am

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

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

Signature: 

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

BOARD of SUPERVISORS

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

January 31, 2020

File Nos. 200103-200106
Planning Case No. 2016-012474ENV

Received from the Board of Supervisors Clerk's Office one check payment in the amount of Six Hundred Forty Dollars ($640), representing the filing fee paid by Stephen Williams of the Law Office of Stephen M. Williams, on behalf of William Hedden for the appeal of the Categorical Exemption under CEQA for the proposed 1531-1581 Howard Street and 118-134 Kissling Street Project:

Planning Department
By:

Tony Yeung
Print Name

2/4/20
Signature and Date

From:	BOS Legislation, (BOS)
To:	Stephen M. Williams; John Kevlin
Cc:	PEARSON, ANNE (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Teague, Corey (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lewis, Don (CPC); Varat, Adam (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Delumo, Jenny (CPC); Rosenberg, Julie (BOA); Sullivan, Katy (BOA); Longaway, Alec (BOA); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS Legislation, (BOS)
Subject:	Appeal of CEQA Exemption Determination - Proposed 1531-1581 Howard Street/118-134 Kissling Street Project - Appeal Hearing on March 3, 2020
Date:	Friday, January 31, 2020 8:45:11 AM
Attachments:	image001.png

Greetings,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **March 3, 2020, at 3:00 p.m**. Please find linked below the letter of appeal filed for the proposed project at 1531-1581 Howard Street and 118-134 Kissling Street, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

Appeal Letter - January 23, 2020

Planning Department Memo - January 29, 2020

Clerk of the Board Letter - January 31, 2020

I invite you to review the entire matter on our Legislative Research Center by following the link below:

Board of Supervisors File No. 200103

Regards,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

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BOARD of SUPERVISORS

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San Francisco, CA 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

January 31, 2020

Stephen M. Williams
Law Offices of Stephen M. Williams
1934 Divisadero Street
San Francisco, CA 94115

Subject: **File No. 200103 - Appeal of CEQA Categorical Exemption Determination - Proposed Project at 1531-1581 Howard Street/ 118-134 Kissling Street**

Dear Mr. Williams:

The Office of the Clerk of the Board was in receipt of a memorandum dated January 29, 2020, from the Planning Department regarding their determination on the timely filing for appeal of the Categorical Exemption Determination issued by the Planning Department under CEQA for the proposed project at 1531-1581 Howard Street/118-134 Kissling Street.

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

Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, March 3, 2020, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by noon:

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

11 days prior to the hearing: any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and two copies of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

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

Very truly yours,

for Angela Calvillo
Clerk of the Board

c: John Kevlin, Project Sponsor
Anne Pearson, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
John Rahaim, Planning Director
Corey Teague, Zoning Administrator, Planning Department
Scott Sanchez, Acting Deputy Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Devyani Jain, Deputy Environmental Review Officer, Planning Department
Joy Navarette, Environmental Planning, Planning Department
Don Lewis, Environmental Planning, Planning Department
Adam Varat, Acting Director of Citywide Planning, Planning Department
Dan Sider, Director of Executive Programs, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
Jenny Delumo, Staff Contact, Planning Department
Julie Rosenberg, Executive Director, Board of Appeals
Katy Sullivan, Legal Assistant, Board of Appeals
Alec Longaway, Legal Process Clerk, Board of Appeals

San Francisco Planning

1650 MISSION STREET, SUITE 400
SAN FRANCISCO, CA 94103
SFPLANNING.ORG / 415.575.9010

Categorical Exemption Appeal Timeliness Determination

DATE: **January 29, 2020**

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

FROM: **Lisa Gibson, Environmental Review Officer – (415) 575-9032**

RE: **Appeal Timeliness Determination – 1531-1581 Howard Street/ 118-134 Kissling Street Categorical Exemption Determination; Planning Department Case No. 2016-012474ENV**

On January 23, 2020, Stephen Williams of the Law Offices of Stephen M. Williams, on behalf of William Hedden, filed an appeal with the Office of the Clerk of the Board of Supervisors of the categorical exemption determination for the proposed project at 1531-1581 Howard Street/118-134 Kissling Street project. As explained below, the appeal is timely.

Date of Issuance of the Categorical Exemption	30 Days after Date of Issuance of the Categorical Exemption	Appeal Deadline (Must Be Day Clerk of Board's Office Is Open)	Date of Appeal Filing	Timely?
Tuesday, December 24, 2019	Thursday, January 23, 2020	Thursday, January 23, 2020	Thursday, January 23, 2020	Yes

On Tuesday, December 24, 2019 the planning department issued a categorical exemption for the project.

Appeal Deadline: The planning department has determined that the appeal filing deadline in this case is 30 days from issuance of the categorical exemption determination. The categorical exemption determination was issued on Tuesday, December 24, 2019. The 30th day after the date issuance was Thursday, January 23, 2020 (appeal deadline).

Appeal Filing and Timeliness: The appellant filed the appeal of the exemption determination on Thursday, January 23, 2020, prior to the end of the appeal deadline. Therefore, the appeal is timely.

From:	BOS Legislation, (BOS)
To:	Rahaim, John (CPC)
Cc:	PEARSON, ANNE (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Teague, Corey (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Navarrete, Joy (CPC); Lewis, Don (CPC); Varat, Adam (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Delumo, Jenny (CPC); Rosenberg, Julie (BOA); Sullivan, Katy (BOA); Longaway, Alec (BOA); BOS-Supervisors; BOS-Legislative Aides; Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS Legislation, (BOS)
Subject:	Appeal of CEQA Exemption Determination - Proposed Project - 1531-1581 Howard Street/118-134 Kissling Street
Date:	Friday, January 24, 2020 11:02:42 AM
Attachments:	Appeal Ltr 012320.pdf COB Ltr 012420.pdf image001.png

Good morning, Director Rahaim,

The Office of the Clerk of the Board is in receipt of an appeal of the CEQA Categorical Exemption for the proposed project at 1531-1581 Howard Street/118-134 Kissling Street. The appeal was filed by Stephen M. Williams of the Law Offices of Stephen M. Williams, on behalf of William Hedden.

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

Regard,

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

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BOARD of SUPERVISORS

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

January 24, 2020

To: John Rahaim
Planning Director

From: Angela Calvillo
Clerk of the Board of Supervisors

Subject: Appeal of California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review - 1531-1581 Howard Street/118-134 Kissling Street

An appeal of the CEQA Determination of Exemption from Environmental Review for the proposed project at 1531-1581 Howard Street/118-134 Kissling Street was filed with the Office of the Clerk of the Board on January 23, 2020, by Stephen M. Williams of the Law Offices of Stephen M. Williams, on behalf of William Hedden.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

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

c:

Anne Pearson, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
Corey Teague, Zoning Administrator, Planning Department
Scott Sanchez, Acting Deputy Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Devyani Jain, Deputy Environmental Review Officer, Planning Department
Joy Navarette, Environmental Planning, Planning Department
Don Lewis, Environmental Planning, Planning Department
Adam Varat, Acting Director of Citywide Planning, Planning Department
Dan Sider, Director of Executive Programs, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
Jenny Delumo, Staff Contact, Planning Department
Julie Rosenberg, Executive Director, Board of Appeals
Katy Sullivan, Legal Assistant, Board of Appeals
Alec Longaway, Legal Process Clerk, Board of Appeals

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

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

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

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

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

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

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Appeal of Determination of Exemption From Environmental Review - 1531-1581 Howard Street and 118-134 Kissling Street

The text is listed:

Hearing of persons interested in or objecting to the determination of exemption from environmental review under the California Environmental Quality Act issued as a Categorical Exemption by the Planning Department on December 24, 2019, for the proposed project at 1531-1581 Howard Street and 118-134 Kissling Street, Assessor's Parcel Block No. 3516, to reconfigure an existing motor vehicle repair operation by converting approximately 9,691 square feet of existing surface vehicle storage on Lot Nos. 56 and 64 to four-level parking stackers; converting approximately 8,069 square feet of existing surface vehicle storage on Lot Nos. 39, 40, 41, and 42 to four-level parking stackers, and constructing an approximately 1,283-gross-square-foot car wash on Lot No. 64; install metal screening on portions of the Kissling Street frontage and on portions of the Howard Street frontage; reduce the existing 42-foot-wide curb cut on the Howard Street frontage to approximately 29 feet wide and remove the existing curb cut on the Kissling Street frontage; and amending the zoning map by changing the zoning district for Lot Nos. 39, 40, 41, and 42 at the project site from RED (Resident Enclave) to RED-MX (Residential Enclave-Mixed). (District 6) (Appellant: Stephen

Williams of the Law Office of Stephen M. Williams, on behalf of William Hedden) (Filed January 23, 2020)

Signature of Sponsoring Supervisor: Alicia Lomeli

For Clerk's Use Only

File No. 200103