



BOARD OF SUPERVISORS  
SAN FRANCISCO

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

2019 MAY 22 PM 2:50

May 22, 2019

RE: **Appeal of Categorical Exemption from Environmental Review**  
PROJECT: **Embarcadero Navigation Center**  
ADDRESS: **Seawall Lot 330**  
ZONING: **Sec. 829. South Beach Downtown Residential Mixed-Use (SB-DTR);  
Sec. 240.3. Waterfront Special Use District No. 3.  
Port Commission CEQA Approval Hearing Date: April 23, 2019**

President Yee and Members of the Board:

**INTRODUCTION**

On behalf of the Portside Master Association and Portside Homeowners Association (Appellants) and numerous other neighbors of the proposed Navigation Center at Seawall Lot 330, I am writing to urge the Board to set aside the exemption from environmental review under the provisions of the California Environmental Quality Act (CEQA Categorical Exemption Determination---“CatEx”) granted by the San Francisco Port Commission for the proposed 200-bed Navigation Center to be located at Seawall Lot 330 (SWL 330) (the “Project”).

The CatEx was affirmed by the Port Commission on April 23, 2019, when it approved a Memorandum of Understanding (“MOU”) for the location and operation of the Project with the San Francisco Department of Homelessness and Supportive Housing. The CatEx approved by the Port Commission’s action is attached hereto as Exhibit 1. Appellants are the homeowner’s association and master association for Portside, which has two-hundred and twenty (220) residences and four (4) commercial parcels located in two buildings under the San Francisco-Oakland Bay Bridge at 38 Bryant Street and 403 Main Street. Portside is adjacent to the subject site for the Project, across Bryant Street to the northeast of SWL 330.

The Project site is in the Eastern SoMa (South of Market) Area Plan and is part of the state lands held in trust by, and subject to, the jurisdiction of the Port of San Francisco. The Project site at Seawall Lot 330 includes two parcels zoned as Southbeach Downtown Residential Mixed Use (SB-DTR) and has been used for many years as a parking lot by near-by businesses and residents. However, what has been completely missed by Planning and Port staff is the fact that this Project Site is also in a Special Use District and is subject to restrictive review and use under the City’s Administrative and Planning Codes and under the Port Codes, Guidelines and Regulations. In the rush to approve the Project, these overlays of mandatory land use and zoning regulation have been ignored by

the environmental review and are completely unmentioned in the CatEx and in the environmental applications submitted by the Department of Public Works.

Importantly for this appeal, none of the environmental documents/applications or review by environmental staff or the Port staff note that the site is *entirely* within the *Waterfront Special Use District No. 3*, and is subject to land use controls in addition to those set forth in the Planning and Port Codes. The fact that a project is entirely located within the Waterfront Special Use District MUST be included in any adequate CEQA review and analysis. This fact must be noted, discussed and resolved to comply with CEQA and its mandate that the Project be consistent with the general plan, all policies, zoning designations and regulations applicable to the Project Site. There is also no reference to, or analysis of, the applicable and mandated Waterfront Design Review Process which should have been directed by the Port Commission before it rushed to approve the proposed Project. These errors and omissions are fatal to the CatEx issued for the Project.

The site is entirely within Waterfront Special Use District No. 3 (Planning Code Sections 240 & 240.3), and oddly, no analysis (or even a mention) of this fact is included in any of the environmental review documents or permit applications. There is no discussion or note of the mandatory requirement that ALL PROJECTS in this area be reviewed by the Design Advisory Committee for impacts on the Waterfront and the Historic Port of San Francisco and specifically, placing a massive homeless shelter between the Waterfront and the public on Port property.

The public policy objectives established by the Special Use District and the public trust land managed by the Port must be reviewed and reconciled prior to approval. Under the waterfront design review process established under the Codes to review the urban design and function of new developments under the Port Commission's jurisdiction within the Waterfront Special Use District, a prior review and public hearing are mandatory. There has been no review or findings to ensure the Project is consistent with applicable provisions of the Port's Waterfront Land Use Plan and its Waterfront Design and Access goals, objectives and criteria. The Port Commission was obligated to refer the Project to the Committee.

The Project is surrounded by residential uses on three sides with Appellants' buildings to the northeast, the Watermark building to the west (both acknowledged and importantly designed buildings for visual enhancement of the Waterfront) and Bayside Village to the south. The Project is opposed by its immediate neighbors because of potential negative impacts to the neighborhood and the failure to conduct what is supposed to be a mandated review process to identify and integrate the State, regional and local objectives pertaining to new proposed uses in order to optimize the public enjoyment and beneficial use of this public trust resource. None of these mandates has been mentioned or reviewed in the rushed and scant environmental "review" given to this Project.

No prior notice was given to the District Supervisor, the residents or the general public of the proposed massive homeless shelter (as also mandated in the Code) before the Mayor's unilateral press release announcement of March 4, 2019, that a 200-bed homeless shelter would be located at the Project site. The unilateral imposition of a homeless shelter on this neighborhood violates the specific Code provisions for location

and integration of “Navigation Centers” in our neighborhoods. Such a use is prohibited on the Waterfront and is defined as an “*unacceptable non-maritime land use*” under the Administrative Code. The proposed Project also far exceeds the size and scope limits placed on such Navigation Centers in the Code. The Project is being imposed on the community as an authoritarian “top-down” directive from the Mayor’s Office. The tenor of the legislation passed by this Board to authorize Navigation Centers in neighborhoods is not authoritarian or dictatorial and instead focuses on community outreach and participation----all ignored in this instance.

The CatEx was issued in error for a use that was not properly vetted or reviewed as mandated by CEQA for this site. The Project Description is inadequate and inaccurate as both the Dept., the Port and the Sponsor (Dept of Public Works) in its application and submittals, fail to note the overlay of zoning at the site when proposing and reviewing the proposal and failed to note that the Project proposed at the site is located in the Waterfront Special Use District No. 3 and is subject to specific land use controls not analyzed or reviewed (or even mentioned) before issuing the exemption under CEQA.

**1. The Environmental Review Fails to Note that the Project is Entirely Within a Special Use District and Subject to Additional, Mandated Review Processes**

The Project site at SWL 330 is located within the Waterfront Special Use District No. 3. One cannot obtain that information from a review of the environmental analysis for the Project as no mention of the Special Use District is included in the environmental review--even the fact that the Special Use District exists is omitted. The CatEx fails to note the site is in a Special Use District and fails to explain that the application must undergo a mandatory review process to be conducted by the Port’s Design Advisory Committee.

This important and relatively new Special Use District was certified and adopted by Planning and the Port to ensure compliance with a variety of land use plans and mandates, including the Waterfront Special Use District No. 3, the Northeast Waterfront Area Plan and the objectives and policies of the General Plan. None of the notices for the Project mention these facts and the environmental review documents are devoid of any information or analysis related to these crucial zoning and land use overlays. Further, the Proposed Project is sandwiched between two important contributing buildings, Portside and the Watermark with no mention of impacts on those residents.

CEQA review and notably, CEQA review in a Special Use District, is about providing information and analysis to determine if the proposal could cause a detrimental impact in the District and any surrounding protected resources. This was clearly not accomplished in this instance. No mention is made in ANY of the environmental documents, the MOU, the applications (or elsewhere) of even the existence of this Special Use District. Staff is apparently unaware the Project is in the Waterfront Special Use District No. 3.

The reports submitted by the Dept., and its environmental paperwork---including the Application, CatEx, Modification of the CatEx, Public Notices, the MOU and all other staff reports or analysis, completely omit important facts. On this ground alone, the

CatEx and Environmental review mandated by CEQA is insufficient, incomplete and inadequate.

In order to grant to the Project a Class 32 Exemption for In-Fill Development, the environmental review and analysis must establish that, *“(t)he project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.”* Obviously, this cannot be accomplished if the application and environmental review documents fail to correctly identify the zoning of the site and fail to note the requirements of the Special Use District or the overlay of applicable land use regulations.

For this location on land under Port jurisdiction, any adequate review must also include a list of permits and other approvals required to implement the Project and a list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the Project description must reflect the specifics of the proposed Project, the Project site, (including an accurate description of its zoning) and its surroundings---the subject CatEx falls woefully short and the appeal should be granted.

## **2. The Waterfront Special Use District Mandates a Public Review Process for All Proposed Projects to be Developed on Port Property**

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. 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 and cannot ignore mandated reviews and public hearings. The General Plan of San Francisco includes the Northeast Waterfront Plan and the overall Waterfront Plan adopted by the Port Commission in 1997

The proposed project is directly and bluntly inconsistent with the most fundamental aspects of the mandatory policies of these Plans for the Waterfront which includes the Waterfront Special Use District. Planning Code Section 240 which establishes the Special Use District also establishes a specific, mandated public process for all proposed developments within the SUD. The statutory scheme establishes a Waterfront Design Review Process *“in order to best achieve the public objectives that have been established in law and policy for the property under the jurisdiction of the Port Commission.”*

This mandatory review process is conducted by the Waterfront Design Review Committee who are appointed by the Mayor, the Director of Planning and the Director of the Port. The Committee is charged with reviewing all Projects in Waterfront Special Use District No. 3 under Port jurisdiction of at least ½ acre (Section 240.3(d)) including non-maritime projects (Section 240 (c)(4)), such as that currently proposed. The Committee is also charged with reviewing and considering the environmental documents under CEQA before making its final recommendations. (Section 240 (c)(7)) ---and so, the “Approval

Action” for the Project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code may well rest with the Committee subject to review by the Commission. The review by the Committee is held at a public hearing to ensure the proposed project is consistent with applicable provisions of the Waterfront Land Use Plan, Waterfront Design including Access Goals, objectives and criteria. (Section 240 (c)(6)). In this instance, this was not done and is not analyzed or mentioned in the environmental review.

The Dept and the Port failed to acknowledge that this Project is subject to this public review process and that it should have been conducted prior to the Port hearing on the proposed Project so that the Committee could transmit its recommendations and findings to the Port and to Planning---including a review of the environmental determination issued of the Project as specified in the statute. These mandates for Projects on the subject site cannot be ignored under CEQA or otherwise. The Dept has the obligation prior to issuing a CatEx, to at least review the issues from these various land use area plans, acknowledge the overlay of zoning of the parcel and not to completely ignore the policy and legislative mandates.

This appeal is not a referendum on the homeless or on the provision of homeless services, it doesn't matter who the applicant is, these policies may not be violated. Matters such as the applicant and parties to whom services are to be provided 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 fundamental and important policies of the City's General Plan. It simply fails to correctly describe the Project, the overlay zoning of the site or to review the policies applicable to the Project.

In this instance the Categorical Exemption Determination is invalid because it fails to offer a proper basis for approving the Project and simply fails to discuss possible environmental effects. The most crucial aspect for Environmental Review is an accurate and detailed project description. This CatEx was hurried through the process and fails in the most fundamental manner to identify the site's zoning. The CatEx issued in this instance was issued by Planning on April 19, 2019 and was brought before the Port Commission just four days later on April 23 for approval. The record does not support the Dept's finding that a CatEx may issue under the circumstances in front of the Board.

**3. Chapter 61 of the Administrative Code Forbids a Homeless Shelter (Residential) as a Waterfront Land Use---It is Termed as an “Unacceptable Non-Maritime Land Use”**

The CatEx fails to reconcile the myriad of land use and zoning overlays applicable to the site including, as noted above, the fact that the site is zoned as a Special Use District with specific limitations on its use and the procedures to establish new projects. Further, in response to proposed inappropriate uses for Port land in the past and to salvage the historic uses of Port land, the Board of Supervisors passed an ordinance which establishes a list of “acceptable” and “unacceptable,” “*non-maritime land uses.*” Chapter 61 of the Administrative Code addresses Waterfront Land Use and specifically, Section 61.5(c)(2)

sets forth a list of what has been determined to be “unacceptable non-maritime land uses” as follows:

*(2) A list of additional unacceptable non-maritime land uses developed as part of the Waterfront Land Use Planning process shall be included in the "Waterfront Land Use Plan" and added to this Section. Uses added to this list through the Waterfront Plan process include:*

- (i) Non-maritime private clubs;*
- (ii) Residential;*
- (iii) Nonaccessory parking (excludes interim parking);*
- (iv) Adult entertainment;*
- (v) Non-marine animal services;*
- (vi) Mortuaries;*
- (vii) Heliports (except for landings for emergency or medical services);*
- (viii) Oil refineries;*
- (ix) Mini-storage warehouses;*
- (x) Sports facilities with seating capacity greater than 22,000, unless approved by the voters of San Francisco.*

Accordingly, homeless shelters as a residential use are a forbidden unacceptable non-maritime land use which may not be located on Port land. Further, the statute has a prohibition for the City to apply for such a permit. Section 61.5 (b) states:

*(b) **Prohibition of Unacceptable Non-Maritime Land Uses.** No City agency or officer may take, or permit to be taken, any action to permit the development of any unacceptable non-maritime land use (as set forth below) on the waterfront.*

In this instance the City is the applicant (DPW) for the permits for the homeless shelter (residential use) on the waterfront as specifically forbidden by the statutory scheme. The CatEx fails to mention or reconcile these conflicting land use directives and statutes.

#### **4. City Policies/Procedures to Establish Navigation Centers Are Being Ignored**

Although the Project is not typically the type which might have significant environmental impacts, given the circumstances of the location of this Project in a Special Use District on Port property, the Project may have untold negative impacts on the surrounding neighbors and do a grave injustice to the required land use for the site on the Waterfront. Constructing a Navigation Center on this vacant parcel parking lot---is directly contrary to the General Plan and the other applicable policies of the City mostly because the City has utterly failed to follow the directives of the statutory policies and processes for establishing such facilities.

Navigation Centers, like most city-sponsored facilities, are a creation of statute. Chapter 106 of the City’s Administrative Code specifically addresses how such “Navigation Centers” shall be established, the parameters of the size and the mandates for the operation of such centers. Unfortunately, in the case before the Board, virtually all the

mandates of the statutory scheme are being ignored and the community has been completely steamrolled by the Mayor's Office.

First and foremost, the statute calls for extensive public outreach and community consultation BEFORE a site is selected. Section 106.3(e) provides that the City administrator should first identify a site where a Navigation Center may be located and then enter into consultation with the member of the Board of Supervisors who represents the district in which the identified site is located. This was not done in this case. The Mayor announced through the press the location and that was the first time Supervisor Haney or any of the neighbors heard of the proposal--not the way to obtain community buy-in.

Next, after a site is identified, the statute calls for "*a thorough community outreach process with neighbors, neighborhood associations, and merchant associations on the site selection.*" Again, this was not done. The Project and the site were presented as a *fait-de-accompli* to all neighbors, merchants and associations near to SWL330. If the Mayor and other City officials had followed the outreach process in the code section first and formed a community partnership with the neighborhood, the reception would have been much different. This Project was presented as a directive from on-high.

The statute also calls for a limited size and scope for Navigation Centers. Section 106.2 (a) (1) states that a Navigation Center shall offer "*beds for no fewer than 40 and no more than 100 residents at a time, including, to the extent feasible, flexible housing arrangements whereby groups, families, and couples may stay together.*" The announcement from the Mayor at the out-set stated that the facility would be 200-beds---double the maximum prescribed by the statute. These facilities are also to be "temporary" ---meaning lasting no more than 2 years at any site. The announcement for this Proposed Project was 4 years at the outset (with an option to make it longer). Again, the plain statutory language is being ignored.

## CONCLUSION

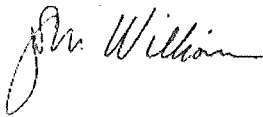
The City has done nothing to address these all-important issues from the Code and General Plan. There is no mention at all the lost development opportunity which is being squandered at the site. Completely different standards may not be applied to the Project and the multitude of land use polices ignored for political gain. The processes are established such that the City must conduct a real analysis in order to reach a conclusion of no possible impact to the physical environment and that the Project complies with the zoning and land use plans applicable to the site in order to issue a CatEx----that was not done at all in this instance.

The Special Area Plans and their mandates have been ignored. Within the context of this regulatory framework and the strong caring interest that San Francisco's residents have for the Port, the Waterfront Land Use Plans sets forth an implementation process for development projects which includes soliciting early community input for specific sites before the Port issues approvals for new development proposals. The interagency design

review committee including Planning Department and Port representatives must review projects to ensure that early in the process the interests of respective agencies are addressed and resolved satisfactorily, consistent with the Port's Waterfront Design & Access policies, thereby improving predictability and minimizing delays in the regulatory process and ensuring proper environmental review.

Appellants request that the Board of Supervisors uphold and grant the appeal and return the CatEx to the Port for further consideration and for findings consistent with the General Plan and the other land use overlays applicable to the site

VERY TRULY YOURS,

A handwritten signature in cursive script, appearing to read "Stephen M. Williams".

STEPHEN M. WILLIAMS





# SAN FRANCISCO PLANNING DEPARTMENT

## CEQA Categorical Exemption Determination

2019 MAR 22 PM 2:50  
jn

### PROPERTY INFORMATION/PROJECT DESCRIPTION

<b>Project Address</b>		<b>Block/Lot(s)</b>
SFDPW: Seawall Lot 330		3771002
<b>Case No.</b>		<b>Permit No.</b>
2019-002440ENV		
<input type="checkbox"/> <b>Addition/ Alteration</b>	<input type="checkbox"/> <b>Demolition (requires HRE for Category B Building)</b>	<input checked="" type="checkbox"/> <b>New Construction</b>
<p><b>Project description for Planning Department approval.</b></p> <p>The project site is located at Seawall Lot 330, on an irregularly shaped parcel of approximately 75,106 square feet, within the South of Market neighborhood. The parcel has frontages along the Embarcadero to the northeast, Beale Street to the southwest, and a vehicular access point along Bryant Street to the northwest. The existing site is owned by the Port of San Francisco and is currently leased out for private parking. The proposed project would occupy parcel 3771002 on Seawall Lot 330. The neighboring parcel to the north, 3770002, would remain as a parking lot.</p> <p>The proposed project includes the removal of approximately 155 surface parking spaces at the subject parking lot and the construction of a 200-bed, Shelter Access for Everyone (SAFE) Center, providing services and temporary shelter. The project would include the installation of two portable structures to serve as dormitories containing 200 total beds (total of approximately 11,350 square feet); a ventilation system equivalent to MERV13 filtration (or better) would be used for the structures. The project would also include the installation of an additional demountable tensile structure of approximately 6,000 square feet, which includes 1,640 square feet of office space, 2,520 square feet of community/dining space with a pantry room, and 1,840 square feet of additional support space. No meals will be prepared on site.</p> <p><b>SEE PAGE 5 FOR FULL PROJECT DESCRIPTION.</b></p>		

### STEP 1: EXEMPTION CLASS

<b>*Note: if neither class applies, an <i>Environmental Evaluation Application</i> is required.*</b>	
<input type="checkbox"/>	<b>Class 1 - Existing Facilities.</b> Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	<b>Class 3 - New Construction.</b> 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.
<input checked="" type="checkbox"/>	<p><b>Class 32 - In-Fill Development.</b> New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:</p> <p>(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.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p> <p><b>FOR ENVIRONMENTAL PLANNING USE ONLY</b></p>
<input type="checkbox"/>	<b>Class _____</b>

## STEP 2: CEQA IMPACTS

### TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an *Environmental Evaluation Application* is required.

<input checked="" type="checkbox"/>	<p><b>Air Quality:</b> 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 &gt; CEQA Catex Determination Layers &gt; Air Pollution Exposure Zone)</p>
<input type="checkbox"/>	<p><b>Hazardous Materials:</b> 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 yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box.</i> 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 &gt; Maher layer).</p>
<input type="checkbox"/>	<p><b>Transportation:</b> Does the project create six (6) or more net new parking spaces or residential units? 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?</p>
<input type="checkbox"/>	<p><b>Archeological Resources:</b> 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? (refer to EP_ArcMap &gt; CEQA Catex Determination Layers &gt; Archeological Sensitive Area)</p>
<input type="checkbox"/>	<p><b>Subdivision/Lot Line Adjustment:</b> 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 &gt; CEQA Catex Determination Layers &gt; Topography)</p>
<input type="checkbox"/>	<p><b>Slope = or &gt; 20%:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 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 &gt; CEQA Catex Determination Layers &gt; Topography) If box is checked, a geotechnical report is required.</p>
<input type="checkbox"/>	<p><b>Seismic: Landslide Zone:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 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 &gt; CEQA Catex Determination Layers &gt; Seismic Hazard Zones) If box is checked, a geotechnical report is required.</p>
<input checked="" type="checkbox"/>	<p><b>Seismic: Liquefaction Zone:</b> Does the project involve any of the following: (1) square footage expansion greater than 1,000 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 &gt; CEQA Catex Determination Layers &gt; Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required.</p>

If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an *Environmental Evaluation Application* is required, unless reviewed by an Environmental Planner.

Comments and Planner Signature (optional): Laura Lynch

Please see Page 6

### STEP 3: PROPERTY STATUS - HISTORIC RESOURCE

TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input checked="" type="checkbox"/>	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.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	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.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	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.	
<input type="checkbox"/>	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.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.

<input type="checkbox"/>	7. <b>Addition(s)</b> , including mechanical equipment that are minimally visible from a public right -of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. <b>Other work consistent</b> with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):
<input type="checkbox"/>	9. <b>Other work</b> that would not materially impair a historic district (specify or add comments):  (Requires approval by Senior Preservation Planner/Preservation Coordinator)
<input type="checkbox"/>	10. <b>Reclassification of property status.</b> (Requires approval by Senior Preservation Planner/Preservation <input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C a. Per HRER dated    (attach HRER) b. Other (specify):
<b>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</b>	
<input type="checkbox"/>	<b>Further environmental review required.</b> Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. <b>GO TO STEP 6.</b>
<input type="checkbox"/>	<b>Project can proceed with categorical exemption review.</b> The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. <b>GO TO STEP 6.</b>
<b>Comments (optional):</b>	
<b>Preservation Planner Signature:</b>	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION**  
**TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	<b>Further environmental review required.</b> Proposed project does not meet scopes of work in either <i>(check all that apply):</i> Step 2 - CEQA Impacts Step 5 - Advanced Historical Review <b>STOP! Must file an <i>Environmental Evaluation Application</i>.</b>	
<input checked="" type="checkbox"/>	<b>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.</b>	
	<b>Project Approval Action:</b> Approval of MOU by SF Port Commission  If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	<b>Signature:</b> <i>Laura C. Lynch</i>  4/19/19
	Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of 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 first approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.	

## Full Project Description

The project site is located at Seawall Lot 330, on an irregularly shaped parcel of approximately 75,106 square feet, within the South of Market neighborhood. The parcel has frontages along the Embarcadero to the northeast, Beale Street to the southwest, and a vehicular access point along Bryant Street to the northwest. The existing site is owned by the Port of San Francisco and is currently leased out for private parking. The proposed project would occupy parcel 3771002 on Seawall Lot 330. The neighboring parcel to the north, 3770002, would remain as a parking lot.

The proposed project includes the removal of approximately 155 surface parking spaces at the subject parking lot and the construction of a 200-bed, Shelter Access for Everyone (SAFE) Center, providing services and temporary shelter. The project would include the installation of two portable structures to serve as dormitories containing 200 total beds (total of approximately 11,350 square feet); a ventilation system equivalent to MERV13 filtration (or better) would be used for the structures. The project would also include the installation of an additional demountable tensile structure of approximately 6,000 square feet, which includes 1,640 square feet of office space, 2,520 square feet of community/dining space with a pantry room, and 1,840 square feet of additional support space. No meals will be prepared on site. The project would additionally install temporary structures to contain 25 toilets, 6 urinals, and 18 showers, and place 12 shipping containers on-site for client storage needs. The temporary structural installations would be placed to create an approximately 10,000 square foot outdoor gathering space. All structures would be placed on 4-6" reinforced concrete pads and anchored to the existing parking-lot surface, with minimal excavation of approximately 4 feet in depth for footings of temporary structure pads. The project will retain approximately 140-150 public parking spaces at the adjacent parcel (3770002). Loading would occur on-site with vehicle access from the existing curb cut along Bryant Street. Fifteen of the existing trees within the parking lot would be removed, and the project would include additional landscaping. The project would require an encroachment permit, for the installation of utilities, from both the San Francisco Port and the San Francisco Public Works Department. The proposed project would be constructed through the Department of Public Works, and would therefore incorporate that Department's Standard Construction Measures for Public Works Projects.

Operation of the project: The Department of Homelessness and Supportive Housing (HSH) will provide a SAFE Center for approximately 200 adults experiencing homelessness. Safe Centers will provide room and board to those experiencing homelessness while case managers work to connect them to support services, including income, public benefits, health services, shelter, and housing. SAFE Centers are different from traditional shelters, with lower barriers for participation by clients, allowing for people to come inside with partners, pets, and possessions. The Centers stay open 24 hours a day, 7 days a week. HSH makes placements into these centers through its Outreach Programs. External referrals or drop-ins are not accepted. A client's length of stay can range from a few hours to up to 30 days; with possible extensions, for those with a known pathway to a supportive housing placement.

Staff will be present at the Navigation Center to monitor activities on-site, including, but not limited to, coordination of site security, uniform and effective program entry, property searches, methods to control access, managing and tracking clients, and collaboration with service partners who are on the program site. Staff will provide oversight, janitorial service and maintenance for the sleeping areas, bathrooms/showers, client laundry facilities, client storage areas, the dining and client community room and general grounds of the program site. Staff will also provide access for clients to the delivered meals, beverages, and snacks, will conduct wellness checks, and will escort clients to critical appointments off-site. Staff will educate clients about how to avoid or reduce impacts and implement "good neighbor" considerations if they return to the streets.

The Memorandum of Understanding between the Port and the HSH for the construction and operation of the SAFE Center also includes a set of Good Neighbor Policies that the SAFE Center operator must follow, which address issues including, but not limited to, the following: communication and information with the neighborhood; avoiding or minimizing the impact on the neighborhood of Navigation Center clients entering, exiting, or waiting for services; discouraging and addressing excessive noise from program clients and others who may be just outside the program site; discouraging loitering in the area immediately surrounding the site; maintaining the safety and cleanliness of the area immediately surrounding the facility; and preventing any blocking of driveways or sidewalks near the site.

A private security company will be hired for security services onsite and 24/7 front desk coverage, and the SAFE Center will contract with a community-based provider who will hire SAFE Center clients to keep the surrounding area clean.

## CEQA Impacts

**Hazardous Materials:** The project would involve soil disturbance of approximately 43 cubic yards of soil for the installation of foundations and for utility work. Additionally, the project would involve the change of use from an industrial use (parking lot) to a housing use (navigation center, providing temporary housing and services). Projects that are located on sites with known or suspected soil and/or groundwater contamination, and that involve soil disturbance and/or changes of use from industrial to housing uses, are subject to the provisions of San Francisco Health Code (SFHC) Article 22A, which is administered by the Department of Public Health (DPH). The project enrolled in the Maher Program on 4/5/2019. A San Francisco Health Code Article 22A Compliance work plan was issued on 4/14/2019, requiring further testing prior to the issuance of any permit related to construction. The project is not located on any list compiled pursuant to Government Code section 65962.5 (hazardous and toxic waste sites).

**Air Quality:** The proposed project is subject to the Clean Construction Ordinance which requires the use of Tier 2 or higher engines with the most effective Verified Diesel Emission Control Strategy (VDECS). The ordinance prohibits portable diesel engines in most cases, restricts equipment idling to two minutes, and requires contractors to properly maintain and tune their equipment in accordance with manufacturer specifications. The project is required to comply with SF Health Code Article 38 and San Francisco's Clean Construction Ordinance and the Dust Control Ordinance. Additionally, a ventilation system equivalent to MERV13 filtration (or better) would be used for the structures in compliance with Article 38 SF Health Code / American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 52.2.

**Transportation:** Project involves the removal of approximately 146 parking spaces. No new curb cuts for vehicular access are proposed. Loading would occur on-site using the existing curb cut on Bryant Street. The Department reviewed the Transportation Study Determination Request on April 3, 2019, and determined that there is no need for further transportation study. A final Transportation Determination Memo was issued April 19, 2019.

**Seismic Hazards - Liquefaction:** A Geotechnical Memorandum was prepared by SF Public Works Bureau of Engineering - Structural Engineering Section on 4/2/2019, confirming the property is on a site subject to liquefaction. The project would be required to receive a building permit from the Port's Chief Harbor Engineer, who would review all structural plans and determine adequate foundation types. Additionally, a geotechnical report would be prepared for the project and reviewed, prior to the issuance of any permit related to construction activity.

**Water Quality:** The project anticipates soil disturbance of approximately 224 square feet. The project would be required to adhere to the provisions of the State General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order 2009-0009DWQ), and the Port of San Francisco's stormwater requirements which include compliance with Public Works Code 147 and the Port would review compliance for both the construction and operation of the proposed project.

**Noise:** The project would comply with the San Francisco Police Code Section 2907(a) by limiting noise related to construction equipment to noise levels of 80dBA when at a distance of 100 feet from such equipment. The contractor shall use best available noise control techniques, including mufflers, ducts, engine enclosures and acoustic attenuating shields or shrouds for all construction-noise equipment and trucks. Police Code Section 2907(a) limits construction activity to the hours of 7:00am to 8:00pm on weekdays; if construction outside those hours is necessary, the project would be required to receive authorization from the Department of Public Works and additional limitation on noise generated from equipment may be applied. Mechanical building equipment, such as heating, ventilation and air conditioning (HVAC) systems, could create operational noise. However, these noise sources would be subject to the San Francisco Noise Ordinance (Article 29 of the Police Code). Section 2909(d) of the noise ordinance establishes maximum noise levels for fixed noise sources (e.g., mechanical equipment) of 55 dBA (from 7 a.m. to 10 p.m.) and 45 dBA (from 10 p.m. to 7 a.m.) inside any sleeping or living room in any dwelling unit located on residential property to prevent sleep disturbance. Furthermore, section 2909(b) of the noise ordinance regulates noise levels at residential and commercial properties. Noise at residential properties is limited to no more than 5 dBA above the ambient noise level at the property plane. The proposed project's mechanical and HVAC systems would be required to meet these noise ordinance standards.

Natural Habitat: The project site consists of a parking lot with trees with limited landscaped areas. The project would involve the removal of approximately 15 trees and a limited amount of existing landscaping. The existing mostly paved site, used as a parking lot, is not suitable habitat for endangered, rare or threatened species and has no value for such habitat. Additionally, in accordance with the Standard Construction Measures for Public Works, the project site would be screened to determine whether biological resources may be affected by construction. If biological resources are present, a qualified biologist will carry out a survey of the project and identify whether habitat for special-status species and/or migratory birds are present. If necessary, measures will be implemented to protect biological resources, such as installing wildlife exclusion fencing, establishing buffer zones, etc. The project is also required to comply with the federal Migratory Bird Treaty Act and the State Endangered Species Act.

General Plan and Zoning: The proposed project would not conflict with General Plan objectives or policies and would meet applicable controls for the area. The project is located within the East SOMA Area Plan and the South Beach Downtown Residential Mixed-Use District (SB-DTR). Pursuant to Planning Code Section 829.46, a homeless shelter use is permitted. The Port of San Francisco Waterfront Land Use Plan allows short-term (generally up to 10 years) interim uses on Port property that are consistent with the City's zoning for the site. The project is a permitted use under applicable zoning. Therefore, the proposed project would be consistent with General Plan designations and policies and applicable zoning designations and regulations.



# SAN FRANCISCO PLANNING DEPARTMENT

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## Neighborhood Notice

**Public Notice and Comment.** On March 12, 2019, the Planning Department mailed a "Notification of Project Receiving Environmental Review" to community organizations, tenants of the affected property and properties adjacent to the project site, and those persons who own property within 300 feet of the project site. Approximately 13 individuals responded to the notice. Some individuals requested more information about the project, to be added to the distribution list for future environmental review documents or comments related to the merits of the project.

Comments related to the California Environmental Quality Act include Geology and Soils, Air Quality, Public Services, Transportation, and Hazards Materials. The comments as it pertains to each environmental topic are summarized below.

### **Geology and Soils – Liquefaction:**

The project is located within a mapped liquefaction zone. The project would involve temporary structures that would require foundations. The Seismic Hazards Mapping Act (seismic hazard act, located in Public Resources Code 2690 *et seq.*), enacted in 1990, protects public safety from the effects of strong ground shaking, liquefaction, landslides, or other ground failures or hazards caused by earthquakes. The California Geological Survey designates the project site as within an area that may be prone to earthquake-induced ground failure during a major earthquake due to liquefaction hazard. Because of this, site design and construction must comply with the seismic hazard act, its implementing regulations, and the California Department of Conservation's guidelines for evaluating and mitigating seismic hazards. In addition to the seismic hazard act, adequate investigation and mitigation of failure-prone soils is also required by the mandatory provisions of the *California Building Code* (state building code, California Code of Regulations, Title 24). In particular, Chapter 18 of state building code, Soils and Foundations, provides the parameters for geotechnical investigations and structural considerations in the selection, design and installation of foundation systems to support the loads from the structure above. Section 1803 sets forth the basis and scope of geotechnical investigations conducted. Section 1804 specifies considerations for excavation, grading and fill to protect adjacent structures and prevent destabilization of slopes due to erosion and/or drainage. Additionally, 1803.2 of the California State Building Code states that the building official shall be permitted to waive the requirement for a geotechnical investigation where satisfactory data from adjacent areas is available that demonstrates an investigation is not necessary for any of the conditions in Sections 1803.5.1 through 1803.5.6 and Sections 1803.5.10 and 1803.5.11. The project would be required to receive a building permit from the Port's Chief Harbor Engineer, who would review all structural plans and determine adequate foundation types. Additionally, a geotechnical report would be prepared for the project and reviewed, prior to the issuance of any permit related to construction activity.

### **Air Quality – Article 38 Air Pollutant Exposure Zone**

In April 2007, the City and County of San Francisco adopted an Ordinance requiring public projects to reduce emissions at construction sites starting in 2009. In March 2015, the City expanded the existing Ordinance to require public projects to further reduce emissions at construction sites in certain areas with high levels of background concentrations of air pollutants. The proposed project would be constructed through the Department of Public Works and is therefore subject to the Clean Construction Ordinance,

中文詢問請電: 415.575.9010

Para información en Español llamar al: 415.575.9010

Para sa impormasyon sa Tagalog tumawag sa: 415.575.9121



which requires the use of Tier 2 or higher engines with the most effective Verified Diesel Emission Control Strategy (VDECS), prohibits portable diesel engines in most cases, restricts equipment idling to two minutes, and requires contractors to properly maintain and tune their equipment in accordance with manufacturer specifications. The ordinance also requires the preparation of a Construction Emissions Minimization Plan and the monitoring of construction emissions from the start of construction. While emission reductions from limiting idling, educating workers and the public and properly maintaining equipment are difficult to quantify, other measures in the Clean Construction Ordinance, specifically the requirement for equipment with Tier 2 engines and Level 3 VDECS can reduce construction emissions by 89 to 94 percent compared to equipment with engines meeting no emission standards and without a VDECS<sup>1</sup> Emissions reductions from the combination of Tier 2 equipment with level 3 VDECS is almost equivalent to requiring only equipment with Tier 4 Final engines.

### Hazards and Hazardous Materials

Pursuant to Article 22A of the Health Code, the project is required to enroll in the Maher Program, which is administered by the Department of Public Health (DPH). On April 5<sup>th</sup> 2019, the project enrolled within the Maher Program through the department of Public Health. The Department of Public Health would be the responsible agency to review and request any additional soil testing at the site, prior to the issuance of a Port Building Permit. Where such analysis reveals the presence of hazardous substances that exceed Cal/EPA public health risk levels given the intended use, the project sponsor must submit a site mitigation plan (SMP) to DPH. The SMP must identify the measures that the project sponsor will take to assure that the intended use will not result in public health or safety hazards in excess of the acceptable public health risk levels established by Cal/EPA or other applicable regulatory standards. The SMP also must identify any soil and/or groundwater sampling and analysis that it recommends the project sponsor conduct following completion of the measures to verify that remediation is complete

If remediation is required, it would typically be achieved through one of several methods that include off-haul and disposal of contaminated soils,<sup>3</sup> on-site treatment of soil or groundwater, or a vapor barrier installation. Alternatively, or in addition, restriction on uses or activities at the project site may be required along with a recorded deed restriction. Compliance with Health Code Article 22A and related regulations

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<sup>1</sup> PM emissions benefits are estimated by comparing off-road PM emission standards for Tier 2 with Tier 1 and 0. Tier 0 off-road engines do not have PM emission standards, but the United States Environmental Protection Agency's *Exhaust and Crankcase Emissions Factors for Nonroad Engine Modeling – Compression Ignition* has estimated Tier 0 engines between 50 hp and 100 hp to have a PM emission factor of 0.72 g/hp-hr and greater than 100 hp to have a PM emission factor of 0.40 g/hp-hr. Therefore, requiring off-road equipment to have at least a Tier 2 engine would result in between a 25 percent and 63 percent reduction in PM emissions, as compared to off-road equipment with Tier 0 or Tier 1 engines. The 25 percent reduction comes from comparing the PM emission standards for off-road engines between 25 hp and 50 hp for Tier 2 (0.45 g/bhp-hr) and Tier 1 (0.60 g/bhp-hr). The 63 percent reduction comes from comparing the PM emission standards for off-road engines above 175 hp for Tier 2 (0.15 g/bhp-hr) and Tier 0 (0.40 g/bhp-hr). In addition to the Tier 2 requirement, ARB Level 3 VDECSs are required and would reduce PM by an additional 85 percent. Therefore, compliance with the ordinance would result in between an 89 percent (0.0675 g/bhp-hr) and 94 percent (0.0225 g/bhp-hr) reduction in PM emissions, as compared to equipment with Tier 1 (0.60 g/bhp-hr) or Tier 0 engines (0.40 g/bhp-hr).

<sup>3</sup> Off-haul and disposal of contaminated materials from the project site would be in accordance with the federal Resource Conservation and Recovery Act (RCRA) and United States Department of Transportation regulations and the California Hazardous Waste Control program (Cal. Health and Safety Code Section 21000 *et seq.*)

identified above would ensure that project activities that disturb or release hazardous substances that may be present at the project site would not expose users of the site to unacceptable risk levels for the intended project uses. Additionally, the project is required to conform with Article 22B of the San Francisco Health Code, requiring dust control methods to be applied throughout construction. A San Francisco Health Code Article 22A Compliance work plan was issued on 4/14/2019, requiring further testing prior to the issuance of any permit related to construction. The project is not located on any list compiled pursuant to Government Code section 65962.5 (hazardous and toxic waste sites).

**Public Services—Comment raises concerns related to emergency vehicle responses as a result of the proposed use.** The project would be required to receive a building permit from the Port's Chief Harbor Engineer, who would review all plans and determine whether there is adequate access for emergency vehicles pursuant to applicable building codes and regulations, including but not limited to, driveway width, access, turning radii for large emergency vehicles, and other factors.

**Transportation –**

The project involves the removal of approximately 146 parking spaces. No new curb cuts for vehicular access would be provided. The project was reviewed by transportation planners at the San Francisco Planning Department and a Transportation Study Determination Memo was prepared. This memo determined that due to low p.m. peak volume of vehicle trips compared to existing conditions, and because loading would occur on-site, there was no potential for conflicts on the existing public rights of way.

Date: May 22, 2019

3355

**INVOICE/RECEIPT**

NAME: Stephen M. Williams

ADDRESS: 1934 Divisadero Street, SF CA ZIP: 94115  
Street City State

Enclosed is the information you requested from the Clerk of the Board.

Please remit \$ 617.00 For: CEQA Appeal - Embarcadero Navigation Center

Make Check Payable to: **City and County of San Francisco**

Return original invoice with payment to: Board of Supervisors  
City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Original plus copy to Customer, copy to Accountant

\*\*\*\*\*FOR OFFICE USE ONLY\*\*\*\*\*

Date Rec'd 5/22/19 Initial: JW Amt Rec'd \$ 617.00  
Check # \_\_\_\_\_

2019 MAY 22 PM 2:50  
SAN FRANCISCO, CA 94102