

# REUBEN, JUNIUS & ROSE, LLP

**John Kevlin**  
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September 24, 2019

**Delivered Via Email and Messenger ([bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org))**

President Norman Yee and Supervisors  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

**Re: 344 14th Street  
Opposition to Appeal of the Community Plan Evaluation (“CPE”)  
Planning Department Case No. 2014.0948ENV  
Our File No.: 10518.02**

Dear President Yee and Supervisors:

This office represents MM Stevenson, LLC (the “Project Sponsor”) the owner of the property at 344 14th Street (the “Property”). The Project Sponsor proposes a zero-parking, 7-story mixed-income building with 60 units, including 39 family-sized units, and five ground-floor retail spaces in a transit-rich infill location currently underutilized as a surface parking lot (the “Project”). The Property is one of the few soft sites remaining in the Mission. The Project utilizes the State Density Bonus Program to increase the density at the site while also providing eight on-site affordable housing units.

As detailed in the Planning Department’s response to the appeal of the Community Plan Evaluation (“CPE”), the CPE itself, and technical studies prepared for the Project, substantial evidence demonstrates that the City’s use of a CPE based on the Eastern Neighborhoods Area Plan EIR is proper for the Project, and that the CPE is legally sufficient under CEQA.

The appellant fails to show that (1) the Eastern Neighborhoods Area Plan EIR is stale for purposes of the Community Plan Evaluation, (2) any new information would result in new or more severe significant impacts than what was identified in the Eastern Neighborhoods Plan EIR, or (3) that the analysis in the CPE is inadequate. Past precedent makes clear that the use of the Eastern Neighborhoods Area Plan EIR for CPEs is proper. Likewise, the CPE as well as the background technical studies address all of the appellant’s concerns relating to the Property’s location within a liquefaction zone, the drainage patterns on the site, the aging sewer system, impacts on historic resources, and the traffic analysis. Therefore, the appeal is without merit and should be dismissed.

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## A. Project Benefits and Changes Since 2014

The Project was first proposed in 2014. Since then, the Project has been modified significantly based on feedback from Planning Department staff, community members, and the Planning Commission.

In the past five years, the Project Sponsor has engaged many community groups, local businesses, and neighbors by holding a number of community meetings and conducting considerable follow-up correspondence and meetings, particularly with United to Save the Mission, the Mission Economic Development Agency, and the “Woodwardians.”

The Project Sponsor solicited feedback, listened to concerns, and made significant changes in response to these meetings, as well as feedback from the Planning Commission and Planning staff. Changes include: removing the proposed PDR building on the adjacent property; eliminating the accessory parking and basement level; moving the lobby to 14th Street; splitting the retail into five distinct spaces; lowering the parapet; and reducing the size of the three-bedroom units to provide additional junior and 1-bedroom units.

In the intervening five years since the Project was first proposed, construction costs have increased tremendously, raising the stakes for sponsors to ensure that approved projects can receive financing and actually be built. As noted in a *San Francisco Chronicle* article, it is increasingly difficult to build moderate-sized residential projects in the current economic climate.<sup>1</sup> In addition, new impact fees have been established since the Project was first proposed and affordability rates have increased significantly.

Under this changed development landscape, the Project still provides numerous benefits to the Mission and the City at large, including sixty new housing units, eight permanently affordable units at a range of AMI levels, local employment opportunities, and impact fee payments that will fund infrastructure, schools, childcare, and other programs.

## B. Standard of Review

Under San Francisco Administrative Code Section 31.16, the Board of Supervisors is required to affirm the exemption determination if it finds that the project conforms to the requirements for exemptions set forth in CEQA.

Under CEQA, projects consistent with development density established by an area plan EIR such as the Eastern Neighborhoods Area Plan EIR (the “EIR”) do not require additional environmental review except as necessary to determine whether project-specific effects not identified in the EIR exist.<sup>2</sup> In fact, CEQA “**mandates**” that projects consistent with development density established through an area plan EIR “**shall not**” require additional environmental review

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<sup>1</sup> “SF residential projects languish as rising costs force developers to cash out,” *San Francisco Chronicle*, August 27, 2018.

<sup>2</sup> CEQA Guidelines, Section 15183(b).

except in limited circumstances.<sup>3</sup> Such limited circumstances include when it is necessary to examine whether the project will result in (1) significant effects that are peculiar to the project or its site, (2) new significant impacts that were not analyzed under the prior EIR, (3) potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR, or (4) increased severity of significant impacts discussed in the prior EIR.<sup>4</sup> In other words, if an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated, then a CPE is appropriate.<sup>5</sup>

When it comes to the adequacy of the environmental analysis itself, the question is whether the determination is supported by substantial evidence in light of the whole record.<sup>6</sup> Substantial evidence means “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”<sup>7</sup> CEQA does not require technical perfection, scientific certainty, or an exhaustive analysis of all potential issues or all information that is available on an issue.<sup>8</sup> Nor is a lead agency required to conduct every recommended test and perform all recommended research in evaluating a project's environmental impacts.<sup>9</sup> The standard is whether the environmental document, when looked at as a whole, provides a reasonable, good faith disclosure and analysis of the project's environmental impacts.<sup>10</sup>

### **C. The CPE’s Reliance on the Eastern Neighborhoods EIR Is Appropriate**

Like all prior housing projects it has challenged, appellant’s overarching issue is with the Eastern Neighborhoods Area Plan EIR itself, and specifically that the EIR is stale and cannot be used for any housing project going forward.

The standard under CEQA is not whether circumstances have changed since the EIR was drafted, but whether those changes have led to new or more severe significant environmental impacts. The appellant here lists changed circumstances regarding gentrification, traffic, pedestrian and bicycle safety, and the production of more housing than anticipated under the Eastern Neighborhoods EIR. However, it does not allege or present any evidence about new or more severe significant impacts, the standard under CEQA for tiering off of an area plan EIR.

This appeal mirrors a number of CEQA-based objections to housing projects in the Eastern Neighborhoods filed in recent years, which tend to repeat the same arguments about the EIR. Appellant’s goal with each individual project appears to be to indirectly impose a moratorium on all new construction within Eastern Neighborhoods by convincing the Board of Supervisors to

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> CEQA Guidelines, Section 15183(c).

<sup>6</sup> Public Resources Code, Section 21168.

<sup>7</sup> CEQA Guidelines, Section 15384(a).

<sup>8</sup> *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1397; *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 26.

<sup>9</sup> CEQA Guidelines, Section 15204(a).

<sup>10</sup> CEQA Guidelines, Section 15151.

throw out a CEQA document for an individual project. Three recent examples provide clear precedent for the Board to reject this appeal because it does not raise any germane CEQA issues.

1. 901 16<sup>th</sup> Street/1200 17<sup>th</sup> Street

In October 2017, the San Francisco Superior Court in *Save the Hill and Grow Potrero Responsibly v. City and County of San Francisco* upheld an Eastern Neighborhoods CPE and focused EIR in a lawsuit filed by opponents of the 901 16<sup>th</sup> Street/1200 17<sup>th</sup> Street project at the base of Potrero Hill. The Board of Supervisors previously affirmed the CEQA clearance document unanimously, in July of 2016.<sup>11</sup> Relevant to the Project at issue here, the opponents of that project claimed the Eastern Neighborhoods Area Plan EIR is outdated, that residential growth has outpaced the EIR's forecasts, and that cumulative impacts—and in particular traffic—were inadequately analyzed.

The Superior Court rejected each of these grounds. The Eastern Neighborhoods EIR does not have an expiration date or chronological limits; instead, a CPE is appropriate if a project's impacts were addressed in the Plan-level EIR, such as the Eastern Neighborhoods EIR.<sup>12</sup> Exceeding growth forecasts—or presenting evidence that growth forecasts may eventually be exceeded at some indeterminate point in the future—does not render the EIR or a CPE based on the EIR moot. Instead, the appellants were required to point to evidence that this exceedance would actually cause or contribute to significant environmental effects that were not addressed as significant impacts in the prior EIR.<sup>13</sup> There was none in the record, and so this argument failed. The Court of Appeals recently upheld the Superior Court's ruling.

Here, the appellant has similarly not identified any evidence showing new or more significant environmental impacts due to growth projections, much less any that the Project would make a considerable contribution to. Simply pointing out that development patterns in the Eastern Neighborhood produce somewhat more housing or changes in traffic from what was originally analyzed is insufficient to invalidate the CPE.

2. 1296 Shotwell Street

In February 2017, the Board unanimously rejected the appeal of a 9-story, 69,500 square foot, 94-unit density bonus project at 1296 Shotwell Street in the Mission that demolished an approximately 11,000 square foot PDR building.

Like the appellant here, that project's opponent claimed the EIR was “woefully out of date”, and that an Eastern Neighborhoods CPE could not be used to address cumulative conditions, transportation and circulation, socioeconomic impacts, land use, aesthetics, and significance findings.

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<sup>11</sup> Board of Supervisors Motion No. M16-097, attached as **Exhibit A**.

<sup>12</sup> *Save the Hill and Grow Potrero Responsibly v. City and County of San Francisco*, Order Denying Petition for Writ of Mandamus (Case No. CPF-16-515238), p. 21.

<sup>13</sup> *Id.* at pp. 24-25.

In rejecting that appeal, this Board made findings that the density bonus project at 1296 Shotwell was eligible for a CPE. Its potential environmental effects were properly analyzed in the EIR, and the appeal did not identify new or substantially greater effects than those discussed in the EIR. This Board rejected all other Eastern Neighborhoods-specific grounds for overturning the CPE, including indirect impacts allegedly caused by gentrification such as cumulative growth impacts, transportation impacts, community benefits delivery, and inconsistency with the Mission Area Plan.<sup>14</sup>

The Project is smaller, shorter, has fewer dwelling units, and will not replace a desirable use like PDR. Although 1296 Shotwell was a 100% affordable project and the Project is mixed-income, affordability is not a CEQA issue. There is no evidence in the record that a mixed-income residential project, as opposed to a 100% affordable project, results in heightened impacts to the physical environment such as health and safety, construction impacts, or transportation.

### 3. 2750 19th Street

Most recently, in October 2018 the Board of Supervisors again considered an appeal of a CPE based on the Eastern Neighborhoods Area Plan EIR. The project involved an infill residential development in the Mission. The Board of Supervisors upheld the CPE and the use of the Eastern Neighborhoods EIR, finding that the project was consistent with the Eastern Neighborhoods EIR and that it would not result in new significant environmental effects, or effects of greater severity than were already analyzed and disclosed in the EIR.<sup>15</sup>

Because the appellant's argument that the Eastern Neighborhoods EIR is stale mimics the arguments made in these prior appeals, and because the appellant has not indicated that the Project would result in any new or more severe significant impacts, these arguments must be rejected.

## **D. The CPE and Background Technical Studies Address Appellant's Concerns**

As noted above, CEQA does not require an exhaustive analysis of every potential environmental issue in a single CPE. Instead, the analysis is sufficient if it is supported by substantial evidence, and the environmental document is adequate if it provides a reasonable, good faith disclosure and analysis of the project's environmental impacts. That said, the concerns raised by the appellant were evaluated in the Eastern Neighborhoods Area Plan EIR, the Project's CPE, and the underlying technical studies. The appellant does not provide any expert opinions to refute the accuracy of the analysis in the Eastern Neighborhoods EIR or the CPE, and appears to base its arguments on a prior iteration of the Project that proposed a subterranean parking garage, but which was omitted from the approved Project.

- Liquefaction Zone. The appellant contends that the geotechnical review was inadequate due to the site's location within a liquefaction zone and the increased rainfall this year

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<sup>14</sup> Board of Supervisors Motion No. M17-018, attached as **Exhibit B**.

<sup>15</sup> Board of Supervisors Motion No. M18-148, attached as **Exhibit C**.

compared to when the soil testing was conducted. As noted in the response from the geotechnical consultant attached as **Exhibit D**, the geotechnical study evaluated liquefaction potential based on the estimated historic high groundwater elevation. In addition, the soil conditions beneath the site do not vary with fluctuations in the groundwater level. Finally, the recommended foundation has been successfully utilized on sites throughout San Francisco with similar soil conditions.<sup>16</sup>

- Drainage Patterns. The appellant asserts that the foundation of the Project could substantially alter existing drainage patterns. As noted in the response from the geotechnical consultant, the Project eliminated the proposed below-grade garage, and the building is now at-grade with only 6% of the total soil volume affected by the foundation. Therefore, there is no risk that the foundations installed for the Project will cause any drainage issues.<sup>17</sup>
- Sewer System. The CPE adequately addresses the capacity of the current sewer system and notes that the San Francisco Public Utilities Commission is in the process of implementing the Sewer System Improvement Program, which is a multi-billion dollar upgrade to the City's sewer and stormwater infrastructure, irrespective of the proposed Project. As noted in the CPE, the current sewer system has the capacity to serve projected growth through year 2040. Therefore, the incremental increase in wastewater treatment resulting from the Project would not require expansion of existing wastewater facilities or construction of new facilities. The appellant does not provide any evidence that this projection is incorrect or that the addition of the Project to the Plan Area will require additional upgrades to the sewer system aside from what is already proposed.
- Impacts on Historic Resources. The CPE specifically discusses the Project's potential impacts on adjacent historic properties. It states that the Department of Building Inspection will be responsible for ensuring the Project's building permits and construction conform to recommendations in the Project's geotechnical report, which ensure protection of the adjacent buildings. In addition, a construction vibration analysis was conducted, which found that the Project would not result in vibration at levels that could result in adverse impacts to adjacent historic structures.<sup>18</sup> As noted in the response from the geotechnical consultant, because the proposed building will be at grade, there is no risk of undermining adjacent structures.<sup>19</sup> The appellant makes conclusory statements regarding the potential impact and provides no expert opinions to refute the CPE's determination.
- Cumulative Traffic Analysis. This Board has considered and rejected arguments about cumulative transportation analysis in the Mission on at least three separate occasions

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<sup>16</sup> See Rockridge Geotechnical Response to Appeal Comments Letter, attached as **Exhibit D**.

<sup>17</sup> *Id.*

<sup>18</sup> See 344 14th Street CPE, p. 24.

<sup>19</sup> See Rockridge Geotechnical Response to Appeal Comments Letter, attached as **Exhibit D**.

since 2017. Two conclusions emerge from the Planning Department's supplemental analyses of the transportation network in the Mission, both of which support the CPE's conclusion that the Project will not cause a new or increased significant transportation effect. First, car volumes at key locations in the Mission do not exceed forecasts from the Eastern Neighborhoods Area Plan EIR, and in some cases are actually lower than the baseline used for the EIR. Next, the EIR actually over-estimated the total demand for vehicle trips, and therefore the strain the Project and other new development would put on the existing roadway network.

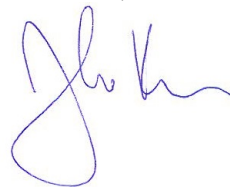
- RHNA Goals. The appellant mentions that San Francisco is not meeting its RHNA goals for affordable housing units. Although this may be an important overarching policy consideration, it is not a threshold of significance under CEQA and does not have any bearing on the adequacy of the CPE. Also, a project that would add 60 new residential units, including eight permanently affordable units, would actually help San Francisco meet its RHNA obligations.

#### **E. Conclusion**

Requiring further environmental review to be conducted for the Project is unnecessary and unsupported by law. The appellant has not provided any evidence that the analysis in the CPE was flawed or inadequate. Overturning the CPE on the basis of its reliance on the Eastern Neighborhoods Plan EIR would not only go against established precedent, but would also discourage this beneficial mixed-income housing project and similar projects in any part of the City that conduct CEQA review using a Community Plan Evaluation, further exacerbating the shortage of housing of all income types in San Francisco. Appellant has not provided substantial evidence to meet its burden to overturn the City's decision to issue a CPE for the Project. Therefore, we respectfully request that you deny the appeal.

Very truly yours,

**REUBEN, JUNIUS & ROSE, LLP**



John Kevlin

Enclosures: Exhibits

cc: Supervisor Sandra Lee Fewer  
Supervisor Catherine Stefani  
Supervisor Aaron Peskin  
Supervisor Gordon Mar  
Supervisor Vallie Brown  
Supervisor Matt Haney  
Supervisor Rafael Mandelman  
Supervisor Hillary Ronen  
Supervisor Shamann Walton  
Supervisor Ahsha Safai  
Angelia Calvillo, Clerk of the Board  
Justin Horner, Environmental Planner, Planning Department  
Lisa Gibson, Environmental Review Officer, Planning Department



**Exhibit A**

**Board of Supervisors**

**Motion No. M16-097**

1 [Affirming Final Environmental Impact Report Certification - 901-16th Street and 1200-17th  
2 Street Project]

3 **Motion affirming the Planning Commission’s certification of the Final Environmental**  
4 **Impact Report prepared for the proposed project located at 901-16th Street and**  
5 **1200-17th Street.**

6  
7 WHEREAS, The proposed project is located on a 3.5-acre site consisting of four  
8 parcels bounded by 16th Street to the north, Mississippi Street to the east, 17th Street to the  
9 south, and residential and industrial buildings to the west; and

10 WHEREAS, The project site currently contains four existing buildings: two metal shed  
11 industrial warehouse buildings (102,500 square feet), a vacant brick office building (1,240  
12 square feet), and a modular office structure (5,750 square feet), and an open surface parking  
13 lot that is also used for access by the University of California, San Francisco to its on-site  
14 storage; and

15 WHEREAS, The proposed project would merge four lots into two lots, demolish two  
16 metal shed warehouses and the modular office structure, preserve the brick office building,  
17 and construct two new mixed use buildings on site; and

18 WHEREAS, The “16th Street Building” at 901-16th Street would consist of a new six-  
19 story, approximately 402,943 gross square foot residential mixed-use building with 260  
20 dwelling units and 20,318 gross square feet of retail on the northern lot; and

21 WHEREAS, The “17th Street Building” at 1200-17th Street would consist of a new four-  
22 story, approximately 213,509 gross square foot residential mixed use building with 135  
23 dwelling units and 4,650 gross square feet of retail on the southern lot, and

24 WHEREAS, The historic brick office building would be rehabilitated for retail or  
25 restaurant use; and

1           WHEREAS, Combined, the two new buildings would contain a total of 395 dwelling  
2 units and approximately 24,698 gross square feet of retail space, with a total of 388 vehicular  
3 parking spaces, 455 off-street bicycle parking spaces, and approximately 14,669 square feet  
4 of public open space, 33,149 square feet of common open space shared by project  
5 occupants, and 3,114 square feet of open space private to units; and

6           WHEREAS, CEQA State Guidelines, Section 15183, provides an exemption from  
7 environmental review for projects that are consistent with the development density established  
8 by existing zoning, community plan, or general plan policies for which an EIR was certified,  
9 except as might be necessary to examine whether there are project-specific effects which are  
10 peculiar to the proposed project or its site; and

11           WHEREAS, The project site is located within the Showplace Square/Potrero Subarea  
12 of the Eastern Neighborhoods Rezoning and Area Plan (Eastern Neighborhoods Plan), for  
13 which a comprehensive program-level EIR was prepared and certified (Eastern  
14 Neighborhoods PEIR); and

15           WHEREAS, The proposed project was initially evaluated under a Community Plan  
16 Exemption (CPE) Checklist (published on February 11, 2015, and included as Appendix A to  
17 the draft EIR); and

18           WHEREAS, The CPE Checklist determined that the proposed project would not result  
19 in new, project-specific environmental impacts, or impacts of greater severity than were  
20 already analyzed and disclosed in the Eastern Neighborhoods PEIR for the following issue  
21 topics: land use and land use planning; aesthetics; population and housing; paleontological  
22 and archeological resources; noise; air quality; greenhouse gas emissions; wind and shadow;  
23 recreation; utilities and service systems; public services; biological resources; geology and  
24 soils; hydrology and water quality; hazards and hazardous materials; mineral and energy  
25 resources; and agriculture and forest resources; and

1           WHEREAS, The CPE Checklist incorporated seven Mitigation Measures from the  
2 Eastern Neighborhoods PEIR to avoid impacts previously identified in the PEIR with regard to  
3 archeological resources, air quality, noise, and hazardous materials; and

4           WHEREAS, The CPE Checklist further determined that a focused EIR would be  
5 prepared to address potential project-specific impacts to transportation and circulation and  
6 historic architectural resources that were not identified by the Eastern Neighborhoods PEIR;  
7 and

8           WHEREAS, The San Francisco Planning Department, as lead agency, published and  
9 circulated (with the CPE Checklist) a Notice of Preparation ("NOP") on February 11, 2015,  
10 that solicited comments regarding the scope of the EIR for the proposed project; and

11           WHEREAS, The Planning Department held a public scoping meeting on March 4,  
12 2015, at the Potrero Hill Neighborhood House, 953 De Haro Street, San Francisco to receive  
13 comments on the scope and content of the EIR; and

14           WHEREAS, On August 12, 2015, the Planning Department published a draft EIR for  
15 the proposed project; and

16           WHEREAS, On October 1, 2015, the Planning Commission held a duly noticed public  
17 hearing on the draft EIR, and then prepared a Responses to Comments (RTC) document,  
18 published on April 28, 2016, to address environmental issues raised by written and oral  
19 comments received during the public comment period and at the public hearing for the draft  
20 EIR; and

21           WHEREAS, The Planning Department prepared a Final Environmental Impact Report  
22 ("FEIR") for the Project, consisting of the CPE Checklist, the DEIR, any consultations and  
23 comments received during the review process, any additional information that became  
24 available and the Comments and Responses document, all as required by law; and  
25

1           WHEREAS, On May 12, 2016, the Planning Commission reviewed and considered the  
2 FEIR and CPE and, by Motion No. 19643, found that the contents of said report and the  
3 procedures through which the FEIR and CPE were prepared, publicized and reviewed  
4 complied with the provisions of the California Environmental Quality Act ("CEQA"), the State  
5 CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code; and

6           WHEREAS, By Motion No. 19643 the Commission found the FEIR and the CPE to be  
7 adequate, accurate and objective, reflected the independent judgment and analysis of the  
8 Department and the Commission and that the Comments and Responses document  
9 contained no significant revisions to the DEIR, adopted findings relating to significant impacts  
10 associated with the Project and certified the completion of the FEIR in compliance with CEQA  
11 and the State CEQA Guidelines, and Chapter 31; and

12           WHEREAS, By letter to the Clerk of the Board of Supervisors dated June 10, 2016,  
13 from Rachel Mansfield-Howlett, on behalf of Save the Hill and Grow Potrero Responsibly  
14 ("Appellant") filed an appeal of the CPE and FEIR to the Board of Supervisors; and

15           WHEREAS, On July 26, 2016, this Board held a duly noticed public hearing to consider  
16 the appeal of the CPE and FEIR certification filed by Appellant and, following the public  
17 hearing, affirmed the exemption determination; and

18           WHEREAS, In reviewing the appeal of the exemption determination, this Board has  
19 reviewed and considered the CPE and FEIR, the appeal letters, the responses to concerns  
20 documents that the Planning Department prepared, the other written records before the Board  
21 of Supervisors, and heard testimony and received public comment regarding the adequacy of  
22 the CPE and FEIR; and

23           WHEREAS, The CPE and FEIR files and all correspondence and other documents  
24 have been made available for review by this Board and the public; and

1           WHEREAS, These files are available for public review by appointment at the Planning  
2 Department offices at 1650 Mission Street, and are part of the record before this Board by  
3 reference in this Motion; now, therefore, be it

4           MOVED, That this Board of Supervisors hereby affirms the decision of the Planning  
5 Commission in its Motion No. 19643 to certify the FEIR together with the CPE and finds the  
6 CPE and FEIR to be complete, adequate, and objective, and reflecting the independent  
7 judgment of the City and in compliance with CEQA, the State CEQA Guidelines, and Chapter  
8 31.

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**City and County of San Francisco**

**Tails**

**Motion: M16-097**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 160684

**Date Passed:** July 26, 2016

Motion affirming the Planning Commission's certification of the Final Environmental Impact Report prepared for the proposed project located at 901-16th Street and 1200-17th Street.

July 26, 2016 Board of Supervisors - APPROVED

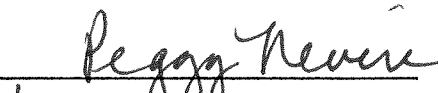
Ayes: 9 - Avalos, Breed, Campos, Farrell, Kim, Mar, Tang, Wiener and Yee

Noes: 1 - Peskin

Excused: 1 - Cohen

File No. 160684

I hereby certify that the foregoing Motion was APPROVED on 7/26/2016 by the Board of Supervisors of the City and County of San Francisco.

  
for Angela Calvillo  
Clerk of the Board

**Exhibit B**

**Board of Supervisors**

**Motion No. M17-018**



1 [Affirming the Determination of Infill Project Environmental Review - Proposed Project at 1296  
2 Shotwell Street]

3 **Motion affirming the determination by the Planning Department that a proposed infill**  
4 **project at 1296 Shotwell Street is eligible for streamlined environmental review under**  
5 **the California Environmental Quality Act.**

6  
7 WHEREAS, On November 21, 2016, the Planning Department issued a Certificate of  
8 Determination for an Infill Project under the Eastern Neighborhoods Rezoning and Area Plan  
9 Final Environmental Impact Report (FEIR), finding that the proposed project located at 1296  
10 Shotwell Street ("Project") is eligible for streamlined environmental review as an infill project  
11 under the California Environmental Quality Act (CEQA), Public Resources Code,  
12 Section 21000 et seq., (specifically, Public Resources Code, Section 21094.5), and the CEQA  
13 Guidelines, 14 California Code of Regulations, Section 15000 et seq., (specifically, CEQA  
14 Guidelines Section 15183.3) (Infill Determination); and

15 WHEREAS, The proposed project involves the demolition of an existing one-story  
16 industrial building and construction of a 100 percent-affordable senior housing project,  
17 encompassing a total of approximately 69,500 gross square feet with 94 dwelling units (93  
18 affordable units plus one unit for the onsite property manager), including 20 units for formerly  
19 homeless seniors; and

20 WHEREAS, By letter to the Clerk of the Board, received by the Clerk's Office on  
21 December 30, 2016, J. Scott Weaver, on behalf of the Inner Mission Neighbors Association  
22 (Appellant) appealed the Infill Determination, and provided a copy of Planning Commission  
23 Motion No. 19804, adopted on December 1, 2016, approving a 100% Affordable Housing  
24 Bonus Program Authorization under Planning Code, Sections 206 and 328, which constituted  
25 the approval action for the proposed project; and

1           WHEREAS, The Planning Department's Environmental Review Officer, by  
2 memorandum to the Clerk of the Board dated January 3, 2017, determined that the appeal  
3 had been timely filed; and

4           WHEREAS, On February 14, 2017, this Board held a duly noticed public hearing to  
5 consider the appeal of the Infill Determination filed by Appellant and, following the public  
6 hearing, affirmed the Infill Determination; and

7           WHEREAS, In reviewing the appeal of the Infill Determination, this Board reviewed and  
8 considered the determination, the appeal letter, the responses to the appeal documents that  
9 the Planning Department prepared, the other written records before the Board of Supervisors  
10 and all of the public testimony made in support of and opposed to the Infill Determination  
11 appeal; and

12           WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors  
13 affirmed the determination that the project qualified for streamlined environmental review as  
14 an infill project based on the written record before the Board of Supervisors as well as all of  
15 the testimony at the public hearing in support of and opposed to the appeal; and

16           WHEREAS, The written record and oral testimony in support of and opposed to the  
17 appeal and deliberation of the oral and written testimony at the public hearing before the  
18 Board of Supervisors by all parties and the public in support of and opposed to the appeal of  
19 the Infill Determination is in the Clerk of the Board of Supervisors File No. 170024 and is  
20 incorporated in this motion as though set forth in its entirety; now, therefore, be it

21           MOVED, That the Board of Supervisors of the City and County of San Francisco  
22 hereby adopts as its own and incorporates by reference in this motion, as though fully set  
23 forth, the Infill Determination; and, be it

24           FURTHER MOVED, That after carefully considering the appeal of the determination,  
25 including the written information submitted to the Board of Supervisors and the public

1 testimony presented to the Board of Supervisors at the hearing on the Infill Determination, this  
2 Board concludes that the project is eligible for streamlined environmental review under CEQA  
3 Guidelines, Section 15183.3 and Public Resources Code, Section 21094.5 because the  
4 project site has been previously developed and is located in an urban area, the Project  
5 satisfies the performance standards provided in Appendix M of the CEQA Guidelines, and the  
6 Project is consistent with the Sustainable Communities Strategy; and, be it

7 FURTHER MOVED, That this Board finds that the effects of the proposed infill project  
8 were analyzed in the Eastern Neighborhoods FEIR, and no new information shows that the  
9 significant adverse environmental effects of the infill project are substantially greater than  
10 those described FEIR, the proposed project would not cause any significant effects on the  
11 environment that either have not already been analyzed in the FEIR or that are substantially  
12 greater than previously analyzed and disclosed, or that uniformly applicable development  
13 policies would not substantially mitigate potential significant impacts; and, be it

14 FURTHER MOVED, That the Board of Supervisors finds that based on the whole  
15 record before it there are no substantial project changes, no substantial changes in project  
16 circumstances, and no new information of substantial importance that would change the  
17 conclusions set forth in the Infill Determination by the Planning Department that the proposed  
18 project is eligible for streamlined environmental review; and, be it

19 FURTHER MOVED, That this Board finds that, as set forth in Planning Commission  
20 Motion No. 19804, the project sponsor will undertake feasible mitigation measures specified in  
21 the Eastern Neighborhoods FEIR to mitigate project-related significant impacts.  
22  
23  
24  
25



**City and County of San Francisco**

**Tails**

**Motion: M17-018**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 170025

**Date Passed:** February 14, 2017

Motion affirming the determination by the Planning Department that a proposed infill project at 1296 Shotwell Street is eligible for streamlined environmental review under the California Environmental Quality Act.

February 14, 2017 Board of Supervisors - APPROVED

Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

File No. 170025

I hereby certify that the foregoing Motion was APPROVED on 2/14/2017 by the Board of Supervisors of the City and County of San Francisco.

A handwritten signature in black ink, appearing to read "Angela Calvillo", written over a horizontal line.

Angela Calvillo  
Clerk of the Board

**Exhibit C**

**Board of Supervisors**

**Motion No. M18-148**

1 [Affirming the Community Plan Evaluation - 2750-19th Street]

2  
3 **Motion affirming the determination by the Planning Department that a proposed project**  
4 **at 2750-19th Street is exempt from further environmental review under a Community**  
5 **Plan Evaluation.**

6  
7 WHEREAS, On May 30, 2018, the Planning Department issued a Community Plan  
8 Evaluation (“environmental determination”), pursuant to CEQA, the CEQA Guidelines, 14 Cal.  
9 Code of Reg., Sections 15000 et seq., and Chapter 31 of the San Francisco Administrative  
10 Code, finding that the proposed project at 2750-19th Street (“Project”) is consistent with the  
11 development density established by zoning, community plan, and general plan policies in the  
12 Eastern Neighborhoods Rezoning and Area Plan (the “Area Plan”) for the project site, for  
13 which a Programmatic EIR (the “PEIR”) was certified; and

14 WHEREAS, The Project consists of the demolition of the three existing industrial  
15 buildings on the project site, retention of the principal two-story façade along 19th and Bryant  
16 streets, and construction of a six-story, 68-foot-tall (77-foot, 7-inch tall with rooftop equipment)  
17 mixed-use building with approximately 10,000 square feet of ground-floor PDR, 60 residential  
18 units (35 one-bedroom units and 25 two-bedroom units) above and bicycle and vehicle  
19 parking in a basement; and

20 WHEREAS, The Project would include 3,200 sf of common open space on the second  
21 floor and a 4,800 sf roof deck; a residential lobby entrance located on Bryant Street and  
22 basement vehicle parking entry located on 19th Street; 26 vehicle parking spaces and 60  
23 Class 1 bicycle parking spaces in the basement, and three Class 2 bicycle parking spaces  
24  
25

1 along 19th Street; remove an existing curb cut on Bryant Street and would retain an existing  
2 10-foot curb cut on 19th Street that would be used for the proposed garage entrance; and

3 WHEREAS, On August 23, 2018, the Planning Commission adopted the CPE and  
4 approved the Large Project Authorization for the Project (Planning Commission Resolution  
5 No. 20264), which constituted the Approval Action under Chapter 31 of the Administrative  
6 Code; and

7 WHEREAS, By letter to the Clerk of the Board, received by the Clerk's Office on  
8 September 24, 2018, Larisa Pedroncelli and Kelly Hill, on behalf of Our Mission No Eviction  
9 ("Appellant"), appealed the environmental determination; and

10 WHEREAS, The Planning Department's Environmental Review Officer, by  
11 memorandum to the Clerk of the Board dated October 1, 2018, determined that the appeal  
12 had been timely filed; and

13 WHEREAS, On October 30, 2018, this Board held a duly noticed public hearing to  
14 consider the appeal of the environmental determination filed by Appellant and, following the  
15 public hearing, affirmed the environmental determination; and

16 WHEREAS, In reviewing the appeal of the environmental determination, this Board  
17 reviewed and considered the environmental determination, the appeal letter, the responses to  
18 the appeal documents that the Planning Department prepared, the other written records  
19 before the Board of Supervisors and all of the public testimony made in support of and  
20 opposed to the environmental determination appeal; and

21 WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors  
22 affirmed the determination that the Project does not require further environmental review  
23 based on the written record before the Board of Supervisors as well as all of the testimony at  
24 the public hearing in support of and opposed to the appeal; and  
25

1           WHEREAS, The written record and oral testimony in support of and opposed to the  
2 appeal and deliberation of the oral and written testimony at the public hearing before the  
3 Board of Supervisors by all parties and the public in support of and opposed to the appeal of  
4 the environmental determination is in the Clerk of the Board of Supervisors File No. 180956  
5 and is incorporated in this motion as though set forth in its entirety; now, therefore, be it

6           MOVED, That the Board of Supervisors of the City and County of San Francisco  
7 hereby adopts as its own and incorporates by reference in this motion, as though fully set  
8 forth, the environmental determination; and, be it

9           FURTHER MOVED, That the Board of Supervisors finds that based on the whole  
10 record before it there are no substantial project changes, no substantial changes in project  
11 circumstances, and no new information of substantial importance that would change the  
12 conclusions set forth in the environmental determination by the Planning Department that the  
13 Project does not require further environmental review; and, be it

14           FURTHER MOVED, That after carefully considering the appeal of the environmental  
15 determination, including the written information submitted to the Board of Supervisors and the  
16 public testimony presented to the Board of Supervisors at the hearing on the environmental  
17 determination, this Board concludes that the Project is consistent with the development  
18 density established by the zoning, community plan, and general plan policies in the Eastern  
19 Neighborhoods Area Plan project area, for which the PEIR was certified; would not result in  
20 new significant environmental effects, or effects of greater severity than were already  
21 analyzed and disclosed in the PEIR; and therefore does not require further environmental  
22 review in accordance with CEQA, Section 21083.3 and CEQA Guidelines, Section 15183.





**City and County of San Francisco**

**Tails**

**Motion: M18-148**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 180957

**Date Passed:** October 30, 2018

Motion affirming the determination by the Planning Department, that the proposed project at 2750-19th Street is exempt from further environmental review under a Community Plan Evaluation.

October 30, 2018 Board of Supervisors - APPROVED

Ayes: 11 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

File No. 180957

**I hereby certify that the foregoing Motion was APPROVED on 10/30/2018 by the Board of Supervisors of the City and County of San Francisco.**

A handwritten signature in black ink, appearing to read "Angela Calvillo", written over a horizontal line.

**Angela Calvillo  
Clerk of the Board**

**Exhibit D**

**Rockridge Geotechnical Response  
to Appeal Comments Letter**

September 10, 2019  
Project No. 15-1019

Mr. Manouch Moshayedi  
Mx3 Ventures, LLC  
2429 West Coast Highway, Ste.205  
Newport Beach, California 92663

Subject: Response to Appeal Comments  
Proposed Mixed-Use Development  
14<sup>th</sup> & Stevenson Streets  
San Francisco, California

Dear Mr. Moshayedi,

This letter responds to three appeal comments presented in a letter dated August 26, 2019, prepared by Larisa Pedroncelli and Kelly Hill, Members of Our Mission No Eviction regarding the proposed 14<sup>th</sup> & Stevenson Streets development. Specifically, we are responding to the following comments:

1. ***Inadequate soils testing and geotechnical review was performed in a liquefaction zone with known tributaries running under the project site. Soil samples were taken after an outlier period of extended drought and the remaining foundation of the College of Physicians and Surgeons of San Francisco building limited easy access for soils testing in several areas. Heavy rainfall during the 2017-2018 and 2018-2019 seasons has made the soil conditions different from what was tested in the spring of 2016 when the geotechnical report was prepared.***

**Response:** Although our field investigation was performed at the end of a long drought, the soil conditions beneath the site do not vary with fluctuations in the groundwater level. Our engineering analysis, including the analysis to evaluate liquefaction potential, was performed using the estimated historic high groundwater elevation, not the groundwater elevation measured during our investigation. Our field investigation included either drilling a boring or performing a cone penetration test at the four corners of the proposed building. In our opinion, these field exploration points adequately characterize the subsurface conditions beneath the site. Further, the foundation systems recommended in our May 6, 2016 report (deep foundations or mat on improved ground) have been used successfully throughout San Francisco on sites with similar soil conditions as those on the subject property.

2. ***The footprint of this foundation could substantially alter existing drainage patterns for the area and the tributaries running under the proposed site. In conjunction with the diversion already taking place as a result of the foundations of 380 Valencia Street and the Annunciation Cathedral at 245 Valencia Street, further diversion or a change in current diversion patterns could resulting in flooding of perimeter areas.***

Mr. Manouch Moshayedi  
Mx3 Ventures, LLC  
September 10, 2019  
Page 2

**Response:** The foundation system for the proposed at-grade building will consist of either deep foundations or a mat foundation on ground improvement elements. These foundation elements will only comprise approximately six percent of the total soil volume in which the elements are installed and, therefore, will have negligible impact on the groundwater elevation beneath and surrounding the site. There is **no risk** that foundations installed for this project will cause flooding of perimeter areas.

3. ***The CEQA findings did not address the potential impacts to the adjacent historic resources of the Woodward Street Historic District and the nationally registered San Francisco Armory historic landmark. With the inadequate geotechnical investigation, the potential for undermining foundations, flooding, and substantial adverse changes to these historical resources was not considered; nor were mitigating measures recommended.***

**Response:** From a geotechnical/geological standpoint, the proposed building and its foundation, including ground improvement, will have no impact on the surrounding developments, including the historical resources of the Woodward Street Historic District and San Francisco Armory. The recommended foundation system and ground improvement methods have been used in numerous projects throughout San Francisco, including in filled areas with subsurface conditions similar to those beneath the subject property, without impacting adjacent structures and resources. The recommended foundations and ground improvement are installed without vibrations while generating minimal spoils. As stated above, there is no risk the foundations installed for this project will cause flooding of the surrounding area. Further, because the proposed building will be constructed at grade and construction of the deep foundations or ground improvement elements do not require excavations, there is **no risk** of undermining of adjacent structures.

We trust this letter presents the information required at this time. If you have any questions, please do not hesitate to call.

Sincerely yours,  
ROCKRIDGE GEOTECHNICAL, INC.

A handwritten signature in blue ink, appearing to read 'C. S. Shields'.

Craig S. Shields, P.E., G.E.  
Principal Geotechnical Engineer