

File No. 101027

Committee Item No. _____

Board Item No. 25

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date 09/14/10

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

Appeal of Final Environmental Impact Report for 935-965 Market Street (aka CityPlace)



Planning Department's Appeal Response Attachments

Completed by: Joy Lamug

Date 09/09/10

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

NOTICE OF CANCELLED MEETING

SAN FRANCISCO BOARD OF SUPERVISORS

NOTICE IS HEREBY GIVEN that the meeting of the San Francisco Board of Supervisors scheduled for Tuesday, September 7, 2010, at 2:00 p.m. at 1 Dr. Carlton B. Goodlett Place, Room 250, San Francisco, California, has been **CANCELLED**. Agenda items are being moved to the Regular Meeting of Tuesday, September 14, 2010, at 2:00 p.m., unless otherwise indicated.

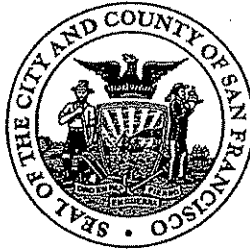
Please note, Special Order agenda items, scheduled for 2:30 p.m. will be heard at the Regular Meeting of the Board of Supervisors next Tuesday, September 14, 2010, at 2:30 p.m.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo, Clerk of the Board

POSTED: September 7, 2010

BOARD of SUPERVISORS



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

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

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

14

Date: Tuesday, September 7, 2010

Time: 2:30 p.m.

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

Subject: Hearing of persons interested in or objecting to the decision of the Planning Commission's July 8, 2010, Certification of a Final Environmental Impact Report identified as Planning Case No. 2005.1074E, through its Motion No. 18135, for a proposed retail shopping center (aka CityPlace) to demolish three existing mixed-use commercial and office buildings and construct a new five-story, approximately 90-foot tall building, containing approximately 375,700 gross square feet and approximately 188 off-street parking spaces in a two-story underground garage, with three levels below grade, one for retail use and the other two for parking, at 935-965 Market Street, between Fifth and Sixth Streets within the C-3-G (Downtown General Commercial) and C-3-R (Downtown Retail) Zoning Districts and a 120-X Height and Bulk District, Lot Nos. 071, 072, and 073, in Assessor's Block No. 3704. (District 6) (Appellant: Arthur D. Levy on behalf of Livable City and Walk San Francisco)

Pursuant to Government Code Section 65009, notice is hereby given, if you challenge, in court, the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public records in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on Thursday, September 2, 2010.



Angela Calvillo
Clerk of the Board

DATED: August 27, 2010



Fw: CityPlace [project sponsor continuance agreement - JT]
Rick Caldeira to: Joy Lamug

09/03/2010 01:19 PM

----- Forwarded by Rick Caldeira/BOS/SFGOV on 09/03/2010 01:25 PM -----

From: Judson True/BOS/SFGOV
To: Angela Calvillo/BOS/SFGOV@SFGOV, Rick Caldeira/BOS/SFGOV@SFGOV, Tara Sullivan/CTYPLN/SFGOV@SFGOV, Bill Wycko/CTYPLN/SFGOV@SFGOV
Cc: Cheryl Adams/CTYATT@CTYATT
Date: 09/03/2010 10:51 AM
Subject: Fw: CityPlace [project sponsor continuance agreement - JT]

See below for the file.

Judson True
Office of Supervisor David Chiu
City Hall, Room 264
San Francisco, CA 94102
415.554.7451 desk
415.554.7454 fax

----- Forwarded by Judson True/BOS/SFGOV on 09/03/2010 10:54 AM -----

From: "HMS" <hms@hmsassoc.com>
To: <david.chiu@sfgov.org>
Cc: <judson.true@sfgov.org>
Date: 09/03/2010 09:26 AM
Subject: CityPlace

Supervisor Chiu,

We represent Urban Realty, the developer of CityPlace. We agree to a one week continuance from Sept 7th to Sept 14th of the EIR Appeal filed on our project by Arthur Levy.

H. Marcia Smolens
HMS Associates



Fw: CityPlace [appellant continuance agreement - JT]
Rick Caldeira to: Joy Lamug

09/03/2010 01:19 PM

— Forwarded by Rick Caldeira/BOS/SFGOV on 09/03/2010 01:25 PM —

From: Judson True/BOS/SFGOV
To: Angela Calvillo/BOS/SFGOV@SFGOV, Rick Caldeira/BOS/SFGOV@SFGOV, Tara Sullivan/CTYPLN/SFGOV@SFGOV, Bill Wycko/CTYPLN/SFGOV@SFGOV
Cc: Cheryl Adams/CTYATT@CTYATT
Date: 09/03/2010 10:52 AM
Subject: Fw: CityPlace [appellant continuance agreement - JT]

See below for the file.

Judson True
Office of Supervisor David Chiu
City Hall, Room 264
San Francisco, CA 94102
415.554.7451 desk
415.554.7454 fax

— Forwarded by Judson True/BOS/SFGOV on 09/03/2010 10:57 AM —

From: Tom Radulovich <tom@livablecity.org>
To: Judson True <Judson.True@sfgov.org>
Cc: Arthur Levy <arthur@yesquire.com>
Date: 09/02/2010 05:14 PM
Subject: CityPlace

Judson,

I understand that some Members of the board of supervisors are interested in a one-week extension on the CityPlace hearing from September 7 to September 14, in consideration of the holiday, and of the packed board agenda, and to have more time to review the relevant documents and to see whether a mutually agreeable settlement can be reached. I am agreeable to a one-week extension if members of the Board of Supervisors desire one, but we would like to be informed either way ASAP.

Best,

Tom

Tom Radulovich
Executive Director
Livable City
995 Market Street, Suite 1450
San Francisco CA 94103
415 344-0489
tom@livablecity.org
www.livablecity.org

B05-11
COB
C.A. 2




ARTHUR D. LEVY
ATTORNEY

July 28, 2010

BY HAND DELIVERY

Ms. Angela Calvillo
Clerk of the San Francisco Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 JUL 28 PM 3:49
BY 

RE: Appeal of Certification of Final EIR and Adoption of CEQA Findings
Planning Commission
935-965 Market Street (aka CityPlace Project)
Case No. 2005.1074E

Dear Ms. Calvillo:

On behalf of Livable City, Walk San Francisco, and Arthur D. Levy, I submit this appeal to the Board of Supervisors of the Planning Commission's July 8, 2010 decisions to certify the Final Environmental Impact Report (EIR) and adopt CEQA findings for this project. A copy of the certification of the EIR is attached.

Appellants request that the Board grant this appeal and reverse the decisions of the Planning Commission on the grounds stated in the attached comment letters submitted in opposition to the certification, for the reasons stated in oral and written testimony provided to the Planning Commission, and on the following grounds:

1. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the impacts of the project on pedestrian safety and circulation, bicycle safety and circulation, automobile traffic volume, safety and circulation, and transit circulation, as more particularly set forth in the comment letters submitted by Livable City and the San Francisco Bicycle Coalition.
2. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the impacts of the project on pedestrian safety and circulation, bicycle safety and circulation, automobile traffic volume, safety and circulation, and transit circulation, as more particularly set forth in the comment letters submitted by Livable City and the San Francisco Bicycle Coalition.

3. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding transportation, circulation, and parking because of the excessive number of off-street parking spaces, off street loading exceptions, and impacts from queuing that have not been adequately mitigated.
4. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding transportation, circulation, and parking because of the excessive number of off-street parking spaces, off street loading exceptions, and impacts from queuing that have not been adequately mitigated.
5. The EIR's statement of project objectives fails to comply with CEQA by limiting the project description to the development to the sponsor's preference for a "large retail project," and otherwise for the reasons stated in the comment letter of Arthur D. Levy. In so doing, the EIR improperly constrains environmental analysis, informed decisionmaking, and public participation.
6. The EIR's statement of environmental characteristics fails to comply with CEQA because it does not contain a discussion of Mid-Market's architectural, visual, and historic context sufficient to enable the decision making bodies to evaluate the impact of demolition of the existing buildings and construction of a new shopping center on the Mid-Market corridor. EIR piecemeals contextual analysis by simply stating what the current site conditions do not contain. It fails to provide a sufficient contextual baseline to evaluate how the proposed project, if built, will affect the character of the surrounding environs. Context must not only frame the impact of what will be torn down to build this project; it must also enable analysis of how the project, if built, will affect the characteristic environment that surrounds it.
7. The EIR's statement of environmental characteristics fails to comply with CEQA because it fails to place the project in the context of the historic and visual character of the block in which the project is located, including the presence of the two adjacent National Register Historic Districts, the Market Street Theatre and Loft District (982-1112 Market, 973-1105 Market, I Jones, and 1-35 Taylor Streets) and the Uptown Tenderloin National Register Historic District (comprising 33 blocks in the north of Market Tenderloin district).
8. The EIR's environmental setting discussion fails to comply with CEQA because it does not provide a baseline of conditions sufficient to enable the decision making bodies to evaluate the impacts of the project on the visual, architectural, and historic character of Mid-Market.

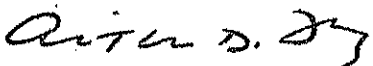
9. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the significance of St. Francis Theater and retail shops at 947-964 Market Street as an historical resource, including but not limited to the façade of the St. Francis as an historical resource that contributes to the character of the block through the ornament and fenestration on the façade of the retail shops on Market Street.
10. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation by illegally deferring the analysis of whether the façade of the St. Francis Theater and retail shops at 947-964 Market Street is an historical resource.
11. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the significance of St. Francis Theater and retail shops at 947-964 Market Street as an historical resource, including but not limited to the façade of the St. Francis as an historical resource that contributes to the character of the block through the ornament and fenestration on the façade of the retail shops on Market Street.
12. The discussion of Land Use Plans and Policies, Setting and Impacts fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the inconsistency of the project with the with City plans, policies, land use and zoning policies, including but not limited to the San Francisco General Plan (including but not limited to Policy 1.3 (Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts) and Objective 32 (Limit Parking in Downtown To Help Ensure that the Number of Auto Trips to and from Downtown Will Not Be Detrimental to the Growth or Amenity of Downtown)); Downtown Plan Policy 20.7; and with the following Priority Policies: (1) preservation and enhancement of neighborhood-serving retail uses; (2) protection of neighborhood character; (3) discouragement of commuter automobiles; and (4) landmark and historic building preservation.
13. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the inconsistency of the project with these City plans, policies, and land use and zoning requirements.
14. The EIR improperly defers analysis of Land Use Impacts by postponing full evaluation of the project's consistency with these City plans, policies, and land use and zoning requirements pending the issuance of building and demolition permits, and to future findings relating to project approval. This analysis must be performed prior to EIR certification and be included in the EIR in order to comply with CEQA.

Ms. Angela Calvillo
Clerk of the San Francisco Board of Supervisors
July 28, 2010
Page 4

15. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the impact of the project of the surrounding neighborhood and the historic Mid-Market Corridor.
16. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the impact of the project of the surrounding neighborhood and the historic Mid-Market Corridor.
17. The EIR fails to contain an adequate range and analysis of alternatives to permit informed decision making because each of the alternatives selected is for the construction of a large new shopping center.
18. The EIR fails to comply with CEQA by failing adequately to respond to comment letters.
19. The Planning Commission's procedure of considering public hearing "closed" and not conducting "Public Review" of the EIR fails to comply with CEQA, including but not limited to CEQA Guideline 15202(b).

Appellants reserve the right to add to and supplement these appeal points prior to and at the appeal hearing.

Respectfully submitted,


Arthur D. Levy

Enclosures
ADL:mna

cc: Bill Wycko, Environmental Review Officer (by hand)
Debra Dwyer (by email)

f:\docs\986-00\city place\eir appeal.doc



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 18135

HEARING DATE: July 8, 2010

Date: July 1, 2010
Case No.: 2005.1074E
Project Address: 935-965 Market Street (CityPlace)
Zoning: C-3-G (Downtown General Commercial) and
C-3-R (Downtown Retail) Districts
120-X Height and Bulk District
Block/Lot: Block 3704/Lots 071, 072, and 073
Project Sponsor: Jim Abrams of Gibson, Dunn & Crutcher, LLP representing
Urban Realty Co., Inc.
Staff Contact: Debra Dwyer - (415) 575-9031
debra.dwyer@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED RETAIL SHOPPING CENTER (ALSO KNOWN AS "CITYPLACE") WITH APPROXIMATELY 375,000 GROSS SQUARE FEET AND FIVE STORIES IN HEIGHT (90 FEET TALL) WITH ABOUT 264,010 GSF OF RETAIL USES; 4,000 GSF OF COMMON AREAS; 10,900 GSF OF MECHANICAL AND STORAGE SPACE; AND APPROXIMATELY 95,900 GSF OF PARKING, LOADING, AND CIRCULATION SPACE WITH APPROXIMATELY 188 PARKING SPACES (HEREINAFTER "PROPOSED PROJECT") AT 935-965 MARKET STREET.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby **CERTIFIES** the Final Environmental Impact Report identified as Case No. 2005.1074E, 935-965 Market Street (hereinafter "Project"), based upon the following findings:

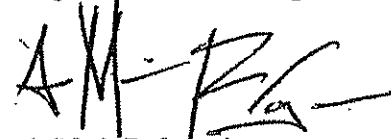
1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on October 1, 2008.
 - B. On November 4, 2009, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

www.sfplanning.org

- C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the environmental consultant on November 4, 2009.
 - D. On November 4, 2009, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
 - E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on November 4, 2009.
2. The Commission held a duly advertised public hearing on said DEIR on December 10, 2009 at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on December 21, 2009.
 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on May 12, 2010, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at Department offices.
 4. A Final Environmental Impact Report has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law.
 5. Project Environmental Impact Report files have been made available for review by the Commission and the public. These files are available for public review at the Department offices at 1650 Mission Street, 4th Floor, San Francisco, and are part of the record before the Commission.
 6. On July 8, 2010, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
 7. The project sponsor has indicated that the presently preferred alternative is the Proposed Project, described in the Final Environmental Impact Report.
 8. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File No. 2005.1074E, 935-965 Market Street, reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.

9. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report, and the project preferred by the project sponsor:
- A. Will have a project-specific significant effect on the environment by resulting in a significant and unavoidable traffic impact at the intersection of Fifth and Stevenson Streets; and
 - B. Will have a significant effect on the environment in that it would contribute to 2030 cumulative traffic increases and result in significant and unavoidable cumulative traffic impacts at the intersections of Fifth and Stevenson Streets and of Fifth and Mission Streets. In addition, the proposed project would result in a significant and unavoidable impact with respect to cumulative air quality due to the proposed project's greenhouse gas emissions under the recently adopted Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines Update.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of July 8, 2010.



AnMarie Rodgers for
Linda Avery
Commission Secretary

AYES: Miguel, Olague, Antonini, Borden, and Lee
NAYS: Moore and Sugaya
ABSENT: None
ADOPTED: July 8, 2010



ARTHUR D. LEVY
ATTORNEY

LETTER A

December 21, 2009

BY HAND AND EMAIL

Mr. Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street
Suite 400
San Francisco, California 94103

Re: **935-965 Market Street (CityPlace) Draft EIR**
Case No. 2005.1074E

Dear Mr. Wycko:

As a native San Franciscan and citizen concerned about retaining the distinctive character of our City's commercial districts and neighborhoods, I am pleased to submit the following comments regarding the Draft Environmental Impact Report (DEIR) for the "CityPlace" project.

Market Street is not only visually but also psychologically prominent to San Franciscans and its millions of visitors. Mid-Market, which stretches from Powell to Polk Streets, remains a central feature of this quintessentially San Franciscan urban environment.¹ Uniquely evocative of the City's regeneration after the Earthquake and Fire, Mid-Market is bounded by the historic hub at Powell and Market on the east and by Civic Center on the west.

The CityPlace project lies in an acutely sensitive zone. The Powell and Market shopping, tourist, and transit center lies within line of sight, half a block to the east. On the west, the project is a few doors down from the National Register Market Street Theater and Loft District. The district includes the landmarked Wilson Building at 973 Market on the same side of the block, and extends west of the project up both sides of Market Street. The Planning Commission and the Board of Supervisors must closely review the impact of this project on this fragile and distinctive environment.

8.6
(A-1)

¹ See "up from the deep (the hotel project) — Part Two: Mid-Market", <http://upfromthedeep.com/mid-market/> [as of Dec. 20, 2009].

The DEIR does not address the historic or architectural value of the buildings proposed to be demolished, or their contribution to the historic, architectural, and visual character of Mid-Market. The draft does not discuss or evaluate how the demolition of these buildings and their replacement with a modern shopping center will affect the district's character, which is enriched by several landmark buildings that surround the project site. The DEIR does not discuss the relationship of the existing buildings or the proposed new building to the adjacent Powell and Market hub or the National Register Historic Districts adjacent to the project.

6.1
(A-2)

8.6
(A-3)

8.6
(A-4)

In sum, the DEIR does not contain sufficient discussion, study, and illustrative and photographic material to enable the decision making bodies to evaluate the historic, architectural, and visual impacts of the project, not only on the buildings to be demolished, but also on the character of Mid-Market. This letter is intended to assist the Planning Commission and the Board of Supervisors in achieving meaningful and good faith environmental review of these dimensions and impacts of the project.

6.1
(A-5)

I. The Project Description

1.1. Statement of Project Objectives: The statement of project objectives is unduly narrow because it tends to limit CEQA's required development and evaluation of mitigation measures and project alternatives to a "large retail project" in the project location. As the DEIR's limited discussion of alternatives suggests, the statement of objectives artificially limits the DEIR's alternatives and mitigation analysis by apparently ruling out alternatives other than a large new retail complex. The DEIR does not consider alternatives such as incorporating and reusing one or more of the existing buildings for retail, office, or commercial use. The statement of objectives should be broadened to allow consideration of creative reuse alternatives that will reduce the adverse impacts on the surrounding visual, architectural, and historic character of Mid-Market and permit the meaningful environmental review and analysis that CEQA requires.

3.1
(A-6)

1.2. Statement of Environmental Characteristics:

1.2.1. The statement of environmental characteristics does not contain a discussion of Mid-Market's architectural, visual, and historic context sufficient to enable the decision making bodies to evaluate the impact of demolition of the existing buildings and construction of a new shopping center on the Mid-Market corridor.

6.1
(A-7)

1.2.2. The statement fails to place the project in the context of the historic and visual character of the block in which the project is located. The project is located between the National Register Hale Brothers Department Store [901 Market Street], on the one side, and the locally landmarked Wilson Building [973 Market Street] and the Hale Brothers Building [979 Market], on the other. The project is directly across the street from the locally landmarked Garfield Building [938-942 Market Street], Mechanics Savings Building [948 Market Street], and Warfield Theater [982 Market Street]. Nearby landmarks also include the locally landmarked Flood Building [879-898 Market Street] and the National Register U.S. Mint Building [88 Fifth Street] and Haas Candy Factory [54 Mint Street].

8.6
(A-8)

1.2.3. The statement of environmental characteristics is also deficient in failing to place the buildings proposed to be demolished and the new shopping center in the context of the two adjacent National Register Historic Districts, the Market Street Theatre and Loft District (982-1112 Market, 973-1105 Market, 1 Jones, and 1-35 Taylor Streets) and the Uptown Tenderloin National Register Historic District (comprising 33 blocks in the north of Market Tenderloin district).

8.6
(A-9)

1.2.4. The statement of environmental characteristics should be revised to place the project in the context of the visual, architectural, and historic character of Mid-Market, including the Powell and Market

6.1
(A-10)

hub, the surrounding landmark buildings, and the two adjacent Historic Districts.

6.1
(A-10)
(continued)

- 1.3. Absence of Consultations: The project description does not reflect any consultation with the National Park Service or the State Historic Preservation Office, which oversee the National Register Historic Districts and the adjacent National Register buildings.

8.2
(A-11)

2. **Historic, Cultural, and Aesthetic Environmental Setting:** The environmental setting discussion likewise does not provide a baseline of conditions sufficient to enable the decision making bodies to evaluate the impacts of the project on the visual, architectural, and historic character of Mid-Market. As noted above, the DEIR fails to place the existing buildings on the project site and the proposed new construction in their Mid-Market context. The environmental setting sections should provide information to enable a good faith evaluation of the relationship between the existing buildings and the proposed new shopping center and the character of the commercial district, including Powell and Market, the surrounding landmark buildings and the two Historic Districts.

6.1
(A-12)

3. **Historic, Cultural, and Aesthetic Impacts:**

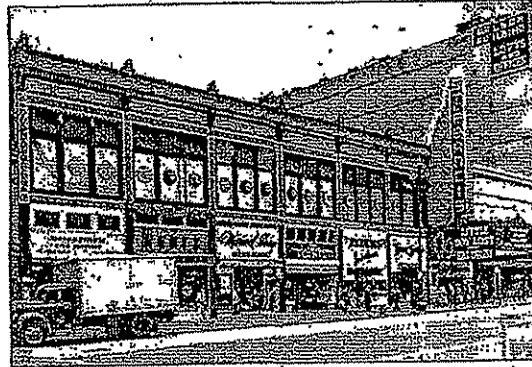
- 3.1. The DEIR fails to assess the significance of St. Francis Theater and retail shops at 947-964 Market Street as an historical resource. The St. Francis is a rare surviving San Francisco work of renowned architect John Galen Howard (1864-1931); the Supervising Architect of the Master Plan for University of California at Berkeley and the founder of the UC School of Architecture. Howard designed Berkeley's world famous Campanile and Doe Memorial Library, among several other National Register buildings on the Berkeley campus. In San Francisco, he designed the Adam Grant Building and the Bill Graham (Civic) Auditorium, but few other surviving commercial buildings and no other surviving theater.

8.4
(A-13)

- 3.1.1. The St. Francis operated as a movie theater and retail shops from its opening in 1910 until its closing in 2001. The St. Francis is individually rated in the San Francisco Downtown Survey as Category "B" ("of individual importance by virtue of architectural, historical and environmental criteria"), and as a "Priority I"

building (meaning highest priority for preservation) on the UMB survey.

- 3.1.2. Entirely apart from the former movie theater auditorium, the St. Francis contributes to the character of the block through the ornament and fenestration on the façade of the retail shops on Market Street.² The theater is located behind the shops, and is accessed



through a passageway at the west end of the building.

- 3.1.3. The character defining façade ornament and windows opening onto Market Street remain intact beneath the signage and are restorable, as are the retail shops themselves. The Downtown Survey reported that although the window wall composition has been covered up by signage, the "Handsome Renaissance/Baroque ornamentation is still visible, primarily in the cornice."

- 3.1.4. As a theater, the St. Francis is listed in the city's 2006 Context Statement as a candidate for the "San Francisco Neighborhood Movie Theater Non-contiguous Multiple Property Historic District." There is a dispute as to the integrity of the theater auditorium and whether "all historic fabric" has in fact been removed. The City should allow investigation and substantiation of a recent eyewitness report that the auditorium remains intact before proceeding further.

² Photo: St. Francis Theater and Storefronts in 1953. "up from the deep (the hotel project) — Part Two: Mid-Market", <http://upfromthedeep.com/mid-market/> [as of Dec. 20, 2009].

8.4
(A-13)
(continued)

8.4
(A-14)

- 3.2. The storefront of the building at 941-945 Market, also proposed for demolition as part of the project, is described in the Downtown Survey as "an excellent example of an Art Deco design." The survey rates the building as "C", having contextual importance, presumably a reference to its façade. The building is also classified as a "Priority I" building (meaning highest priority for preservation) in the UMB survey, and rated "3" out of 5 on the 1976 Citywide Architectural Survey.
- 3.3. As noted above, apart from the significance of these buildings as historical resources themselves, the DEIR fails to assess the impact of their demolition and replacement with a modern shopping center on the visual, architectural, and historic character of the surrounding district.
- 3.4. The DEIR does not analyze the cumulative impact of the demolition of these buildings and their replacement with a large modern building on the character of the Mid-Market corridor. There is no list of past, ongoing, and expected future demolitions or reference to any adopted study that might be sufficient to support a cumulative impact determination in compliance with CEQA Guideline § 15130(b)(1).
4. **Land Use Plans and Policies, Setting and Impacts.** This discussion of does not recognize, discuss, or analyze the inconsistency of the project with the following Priority Policies: (1) preservation and enhancement of neighborhood-serving retail uses; (2) protection of neighborhood character; (3) discouragement of commuter automobiles; and (4) landmark and historic building preservation.
5. **Alternatives.**
- 5.1. Other than the No Project alternative, each of the alternatives selected is for the construction of a large new shopping center. This unreasonably limits consideration of alternatives and mitigations to a project that is substantially of the same character and scale as the one proposed. No alternative has been offered to enable consideration of incorporating and creatively reusing one or more of the existing buildings, either as part of the shopping center or as commercial or office space. A reuse alternative should be developed to enable the decision making bodies to

8.5
(A-15)

6.1
(A-16)

6.1
(A-17)

1.0
(A-18)

3.1
(A-19)

Mr. Bill Wycko, Environmental Review Officer
Re: 935-965 Market Street (CityPlace) Draft EIR
December 21, 2009
Page 7

evaluate mitigating the adverse impacts of the project on the existing buildings and the character of the Mid-Market corridor.

5.2. There is no explanation of the rationale for selecting the alternatives discussed.

5.3. There is no identification of any alternatives that were considered and rejected.

Thank you for your consideration of these points and for your expected responses.

Respectfully submitted,



Arthur D. Lévy

ADL:msj

cc: Debra Dwyer (by email)
Mark Ellinger (by email)
San Francisco Architectural Heritage (c/o Jack Gold by email)

E:\docs\986-00\1634 pine\comment letter2.doc

↑ 3.1
(A-19)
(continued)



"Jane Weil"
<jane@janeweil.com>
11/20/2009 04:29 PM

to <jim.miller@sfgov.org>, <debra.dwyer@sfgov.org>
cc
bcc
Subject case 2005.1074E

Hello. I am a resident of SOMAGrand, 1160 Mission St, and walk down mid-Market St frequently. I have also worked in Historic Preservation and have studied the Department of Interior Guidelines.

I am writing about the proposed "City Place" commercial development for 935-965 Market Street, case 2005.1074E, block3704, lots 71-2-3. The current proposal requests permission to totally demolish the three existing buildings and replace them with one large contemporary building. It makes a case that the original buildings have been so altered over the years, that there is nothing of historic value to preserve. I disagree. I request that the developer be required to preserve the existing front facades, and restore them to their original 1909 appearance. There are many remnants of the original facades visible. I support the overall project concept and anything that can improve Market Street between 5th & 8th, but I hate to lose the beautiful facades and have them replaced with a cold, flat, uninteresting "varied glass curtain wall system" (page 7 of the Initial study). I would propose constructing the new building behind and above the historic facades.

8.4
(B-1)

Thank you very much for your consideration,
Jane Weil

**SIERRA CLUB
SAN FRANCISCO GROUP**
85 Second Street, Box SFG, San Francisco, CA

December 16, 2009

Bill Wyko, Environmental Review Officer
Planning Department, FAX 558-6409
1660 Mission Street
San Francisco CA 94103-2414

Re: 935-965 Market Street DEIR Case No. 2005.1074

Dear Mr. Wycko,

Thank you for the opportunity to comment on the subject DEIR. The Sierra Club also thanks you for including an analysis of the No Garage Alternative in DEIR. The Sierra Club requests a correction to this DEIR which will tend to reduce the suggested traffic impacts of the project and the no garage alternative:

Re: Page IV.C.24 Mode Split: This paragraph uses 2002 C-3 District data to show mode splits by auto for work trips and non-work trips. This data is no longer appropriate because the current and future higher gasoline prices, tolls, and parking fees have already reduced driving as shown by the reduced utilization of parking at the nearby City owned garages. Future driving will also be reduced as San Francisco takes steps to comply with AB 32 and SB 375 and Metropolitan Transit Agency proposals are implemented to reduce the citywide driving modal split by fifty percent.. The reduced garage patronage provides some guidance to determine current lower auto mode splits and the future changes can be estimated. Correcting the mode splits will also require correction of most of the numbers and tables that follow.

2.2
(C-1)

Historically DEIRs include estimates of future traffic based on projections by certain agencies. DEIRs should also include estimates of traffic reductions based on the impact of laws and agency proposals. If DEIRs do not include estimates of future reductions in the auto modal split the analysis, and what follows, could tend to enable additional driving.

2.3
(C-2)
2.2
(C-3)

Very truly yours,

Howard Strassner, Emeritus Chair Transportation Committee
419 Vicente, San Francisco CA 94116, 661-8786, (h,w)
email: rufhow@dslextreme.com

Comments on Draft Environmental Impact Report,
935-965 Market Street Project
San Francisco, California

December 10, 2009

Historic Resources

947-965 Market Street (Former Empress Theater)

The evaluation dismisses the historic significance of the building by saying "the building no longer retains integrity (of design, material, workmanship, setting, feeling and association) such that it no longer conveys its historic architectural significance."

8.4
(E-1)

1. There are seven aspects of integrity. Why are only six cited? Note: this also applies to the other two properties.
2. There is no evaluation of any of the "aspects" that define the integrity of a historic resource. Please respond by providing a detailed evaluation of all seven aspects of integrity for all properties.

Although much of the façade is currently covered over and therefore not visible, an investigation should be made of what exists underneath. Evidence of the upper level windows shows that, at least what is visible, has been changed from the original (as shown on page 93, Splendid Survivors). However, an evaluation is required of whether the changes to the Market Street façade have gained historic significance over time. The upper windows were removed and replaced. Aren't these windows representative of a time, style and other evaluative criteria that make them a historic part of the evolution of the building?

And what about the storefronts and other parts of the façade that are currently covered up? The DEIR says "including...concealment of large portions of the façade..." Concealment cannot be used as a factor to dismiss an evaluation of integrity. If that was acceptable, any project sponsor could place plywood over various parts of a building concealing what is behind. For purposes of a CEQA do we then say that because it isn't visible, it has no integrity? An evaluation is required of what actually exists behind what is "concealed," including descriptions and an evaluation of whether any modifications over time have gained historic significance of their own, even though they post-date the original design.

3. What were the comments of the City Planning Department's Preservation Technical Specialists on the historic resources evaluation?

8.1
(E-2)

4. What were the comments of the Historic Preservation Commission (HPC) on the DEIR? If the HPC did not review the DEIR, why was it not scheduled for a hearing? 8.1
(E-2)
(continued)

5. The DEIR repeatedly cites the conclusions of the Mid-Market Redevelopment Plan Final EIR as part of Question 4a of the Initial Study. The historic resources evaluation conducted for that document, which includes the DEIR, is now at least 10 years old. No evaluation is cited as to why a decade old survey is currently adequate for evaluation today. It would be helpful to know what methodology was used to prepare the historic resources evaluation for the DEIR, the assumptions behind using potentially outdated historic resource evaluations and whether any conclusions from past works, studies, etc. were verified and observed in the field, including looking behind the concealments. 8.3
(E-3)

Transportation and Circulation

The Transportation Study Area and Intersection Analysis Locations (Fig. IV.C.1) outlines the Study Area. This restricted area is wholly inadequate to evaluate traffic impacts associated with the proposed project. Third Street must be included as well as Folsom Street. These are major access streets into downtown and to the proposed development. 2.1
(E-4)

Also, because of the potential permanence of traffic restrictions on Market Street, there should be any analysis of how these changes to Market Street affect the streets to the south and east, including Mission Street, Howard Street, Folsom Street and the numbered streets from Third to Eighth Streets as related to the proposed project. 2.11
(E-5)

Parking. Almost every DEIR has the following language: "Parking—Parking supply is not considered to be a part of the permanent physical environment in San Francisco. Parking conditions are not static, as parking supply and demand varies day to night, day-to-day, month-to-month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel. 2.5
(E-6)

"Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. Environmental documents should, however, address the secondary physical impacts that could be triggered by a social impact (CEQA Guidelines § 15131(a)). The social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion. The absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, may induce many drivers to seek and find

alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service in particular, would be in keeping with the City's —Transit First policy. The City's Transit First Policy, established in the City's Charter Section 16.102 provides that —parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation.

↑
2.5
(E-6)
(continued)

“The transportation analysis accounts for potential secondary effects, such as cars circling and looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. “

Doesn't this statement apply to the proposed project? If not, why not and is additional evaluation required?

Submitted by:
Hisashi Sugaya
(Planning Commission Hearing of December 10, 2009)

The Yerba Buena Consortium

182 Howard Street, Suite 519, San Francisco, CA 94105

A Council of Yerba Buena Center's Housing, Health, and Social Service Providers

Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

December 16, 2009

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DEC 21 2009

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M E A

RE: 935-965 MARKET STREET PROJECT CITYPLACE
DRAFT ENVIRONMENTAL IMPACT REPORT
CASE NO. 2005.1074E
STATE CLEARINGHOUSE NO. 2008102089

Once again we have a DEIR that contains extensive data but misses the big issues and big problems.

All the parking analysis is based on data for a typical weekday. They are interesting numbers/ methodology. But of course maximum parking demand and impacts do not occur on a typical weekday. Instead maximum retail demand occurs on Saturdays, not weekdays. And then seasonally of course it peaks during the one month-plus Holiday shopping period. All peak load/ impact analysis should address these conditions instead. This is not just an environmental impact question, it is also an economic impact question since Saturdays and the Holiday season account for a greatly disproportionate share of retail sales volume, and parking/ traffic trouble then could seriously hurt the City's economy.

2.4
(F-1)

It is empirically clear that existing parking facilities fill up often during the holiday season. Last Saturday the 12th I observed that the mid-afternoon queue for the Fifth/ Mission Garage was backed up southward on Fifth all the way to Harrison Street, and on Howard all the way back to Fourth St. Next Saturday it will be even worse. But the artificially narrowed DEIR tally totally fails to capture this real world situation. And we are now in an economic recession, whereas during growth years the shopping traffic and parking demand was in the past and will be in the future greater beyond any doubt - just check the Fifth/ Mission Garage records from earlier this decade. These 2008-09 stats are artificially depressed due to the current recession and need to be adjusted upward for "average" economic conditions.

Moreover, the cumulative parking supply analysis failed to add potential cumulative future retail growth. This despite the current discussion of converting a substantial portion of the Metreon mall (now depressed and largely vacant) to comparable discount retail use.

2.12
(F-2)

The bottom line is there is a foreseeable significant retail parking shortage in coming years in the this district after economic recovery. The consequence of such a shortage will be increased on-street queues and degraded levels of service at the impacted intersections at the actual peak times of Saturdays and the Holiday season. The DEIR fails to report this very important fact and policy consideration.

Then we turn to pedestrian issues. But even though the Project and cumulative retail development traffic impacts fall mostly upon nearby SOMA streets and intersections, the pedestrian/ traffic safety issues of those locations are totally ignored by the DEIR.

↓ 2.8
(F-3)

Sixth Street with its very heavy existing traffic is widely known to be a very dangerous street for pedestrians, with many reported injury accidents. And it will be the necessary access route to the Project's garage, thus adding to this existing problem. The DEIR however ignores all this despite its importance to the hundreds of residents living almost next to the proposed Project in the Sixth Street Corridor!


2.8
(F-3)
(continued)

What a proper EIR would do is identify this issue, report the impact, and discuss potential mitigations. Certainly signalized mid-block pedestrian crossings someplace on the Market-Mission and Mission-Howard blocks of Sixth Street where most injury accidents occur would be on that list. An overall Sixth Street Pedestrian Safety Plan – none now exists – would also be an essential initial mitigation.

2.10
(F-4)

Other garage developers in the district have funded new signals/crosswalks in comparable situations (Fourth/Minna per the Fifth/Mission Garage Expansion and Third/Stevenson per the Jessie Square Garage Project) to improve both traffic flow to/from their garages and traffic/pedestrian safety. Why was this standard mitigation not included in this DEIR?

Sincerely,


John Elberling
Chair

FW Comments on the 935-965 Market Street Draft EIR
From: Debra Dwyer [Debra.Dwyer@sfgov.org]
Sent: Tuesday, January 05, 2010 5:38 PM
To: Barbara Sahn; Peter Mye; Abrams, Jim
Cc: Nannie Turrell; Bill Wycko
Subject: Fw: Comments on the 935-965 Market Street Draft EIR

Attached please find an additional comment on the DEIR for 935-965 Market Street.

Best regards,

Debra

Debra Dwyer
Environmental Planner
Major Environmental Analysis Section

ph 415.575.9031
fax 415.558.6409

San Francisco Planning Department
1650 Mission Street, Suite 400, San Francisco, CA 94103
www.sfgov.org/planning

----- Forwarded by Debra Dwyer/CTYPLN/SFGOV on 01/05/2010 05:36 PM -----

Bill
Wycko/CTYPLN/SFGO
V

01/05/2010 05:35
PM

To
Debra Dwyer/CTYPLN/SFGOV@sfgov.org
cc
Subject
Fw: Comments on the 935-965 Market
Street Draft EIR

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 01/05/2010 05:35 PM -----

Tom Radulovich
<tom@livablecity.org>

12/21/2009 05:00
PM

To
Bill Wycko <Bill.Wycko@sfgov.org>
cc
John Rahaim <john.rahaim@sfgov.org>
Subject
Comments on the 935-965 Market
Street Draft EIR

Fw Comments on the 935-965 Market Street Draft EIR

Mr. Wycko,

On behalf of Livable City, I submit the following comments on the 935-965 Market Street Draft EIR:

The Transportation Analysis contained in this Draft EIR inadequately analyzes and mitigates the impacts of this project on pedestrian safety and circulation, bicycle safety and circulation, traffic impacts, and transit circulation.

4.1
(H-1)

1. The EIR modeled the number of trips generated, and the percentage of trips generated, for various alternatives, including both the developer's preferred alternative, with up to 280 parking spaces, as well as a no-garage alternative, with no parking spaces. Regardless of the amount of parking in the alternatives, the number of trips generated AND the number of auto trips generated by the project do not vary. This illustrates a fatal flaw in the Planning Department's Transportation Analysis guidelines ? they cannot account for the effect of parking availability, or parking price, on travel behavior.

2.3
(H-2)

San Francisco's General Plan policies, as well as the Planning Code controls on parking in C-3 districts, are built on the understanding that additional parking generates additional auto trips:

"the amount and location of additional short term spaces allowed in the core should be carefully regulated. Short-term parking spaces attract more automobiles per day than long term spaces and do so during the midday periods when the number of traffic lanes is reduced by street parking and loading. Too much short-term parking would attract trips that otherwise would be made by transit and could add substantially to midday congestion.

Additional short term spaces in the core should be created primarily by converting existing long-term spaces to short term spaces. This could be achieved by setting high rates on all day use and not providing weekly or monthly rates. In the case of new buildings short term spaces could be provided within the building to replace long and short term spaces displaced by the new development, if excessive congestion in the immediate vicinity will not result." (Downtown Area Plan, Policy 20.7)

"A basic assumption of the Transportation Element is that a desirable living environment and a prosperous business environment cannot be maintained if traffic levels continue to increase in any significant way. A balance must be restored to the city's transportation system, and various methods must be used to control and reshape the impact of automobiles on the city. These include improving and promoting public transit, ridesharing, bicycling and walking as alternatives to the single-occupant automobile; limiting the city's parking capacity, especially long-term parking in commercial areas; directing major traffic movements to certain routes; and limiting the vehicular capacity of the city's streets and highways." (Transportation Element)

"Land use controls that will lead to a sustainable mode split, and reduced congestion could include: Establishing parking caps for residential and commercial uses" (Transportation Element, Policy 14.8)

The understanding that the cost and availability of parking influence travel behavior, and that more and cheaper parking induce additional auto

Fw Comments on the 935-965 Market Street Draft EIR trips, are the foundation of all contemporary parking management. This is based on the principle of supply and demand, which has been a fundamental principle of economic thought for at least two centuries. Yet the Planning Department's trip-generation models cannot adequately account for the differing travel behavior, and the differing transportation impacts, caused by traffic congestion.

2.3
(H-2)
(continued)

Additional traffic congestion will slow public transit in the plan area, and will degrade bicycle safety and access, and must be accounted for accurately.

2. The Draft EIR does not accurately account for, or mitigate, the impact of traffic generated by the project on pedestrians.

In its pedestrian analysis, the EIR focuses exclusively on "Pedestrian Level-of-Service", a measure of sidewalk crowding. It analyzes Pedestrian Level-of-Service only on Market Street, which has the widest sidewalks in San Francisco. This analysis is inadequate because it does not account for the potential injury to pedestrians by auto traffic generated by the project. Few, if any, pedestrians have been killed or injured by sidewalk congestion, but many are injured by collisions with autos. Many of the most dangerous intersections in the South of Market area are located on streets directly affected by this project, namely 6th Street, which will be a primary access corridor to the project. The corners of 6th and Market, 6th and Mission, 6th and Minna, and 6th and Jessie have high levels of pedestrian collisions. This project will generate significantly more traffic on 6th, as well as 5th and possibly Market Streets. The number of cars using narrow Stevenson Street will go from virtually none today to over 140 per hour, with significantly higher volumes at peak shopping times. These additional turn movements onto and off of Stevenson will cross bicycle lanes planned for 5th street as well as the busy (and narrow) sidewalks on 5th and 6th. Cars queuing to enter the garage, or waiting to exit onto the numbered streets, can result in blocked crosswalks and bicycle lanes.

2.8
(H-3)

In order to adequately address pedestrian safety, the project EIR must:

* use a pedestrian safety model, like the city's Pedestrian Injury Model, which can accurately model the impacts of additional traffic and additional turn movements on pedestrian safety.

* mitigate the impacts on pedestrians and cyclists by bringing sidewalks and crosswalks up to the City's adopted standards. The downtown Streetscape plan calls for:

** sidewalk widths on 'base case' streets of 12-14 feet. The project should widen sidewalks on 5th and 6th Streets to the city standard.

** bulbouts at street corners. The project should provide bulbouts into 5th and 6th streets at Market in accordance with city standards.

** additional street crossings. The additional traffic caused by the project will further endanger pedestrians crossing at the small streets parallel to Market. Crosswalks with corner bulbouts should be built at 6th and Stevenson, 6th and Jessie, and 5th and Jessie (aka Mint Plaza)

Tom Radulovich
Executive Director
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995 Market Street, Suite 1550
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FW Comments on the 935-965 Market Street Draft EIR
www.tivablecity.org



LETTER I

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San Francisco, CA 94103

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www.sfbike.org

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DEC 21 2009

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M.E.A.

Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Comments on Draft Environmental Impact Report for 935-965 Market Street (CityPlace) project

On behalf of the 11,000 members of the San Francisco Bicycle Coalition (SFBC), I hereby submit our comments on the Draft Environmental Impact Report (DEIR) prepared for 935-965 Market Street (CityPlace) published November 4, 2009. Setting aside the project's excessive and massively policy-incoherent parking garage dimensions as described in the DEIR (and recognizing that the project would require a Conditional Use authorization for such excessive accessory parking), we note the following deficiencies in the DEIR:

1. The DEIR presents a flawed estimate of automobile trips associated with the project, predicting as many new auto trips for the No Garage Alternative as for the proposed project:

The project-related demand for parking and loading under the No Garage Alternative would be the same as that for the proposed project. (DEIR, page VI.9)

This assertion casts strong doubt on the trip generation and assignment methodology utilized in preparing this DEIR (assumptions developed by the San Francisco Planning Department and published in the *Transportation Impact Analysis Guidelines for Environmental Review*, October 2002). Provision of any new auto parking in the project will contribute to an existing surplus of generally available auto parking in the vicinity of the project:

[T]he three largest facilities – the Fifth/Mission Garage, the Ellis/O'Farrell Garage, and the Union Square Garage – all operate with a surplus of available spaces. Overall, there are over 5,800 offstreet parking spaces in the vicinity of the project site; about 1,500 of these were unoccupied at the time of the parking survey. (DEIR, page IV.C.17)

Such an increase in auto parking supply by the proposed project can be reasonably expected to attract new auto trips to the project area (indeed, a growing body of research and evidence substantiates just such an auto trip generation effect), but the DEIR makes no distinction in "parking demand" between the addition of hundreds of new auto parking spaces and the omission of any new auto parking. The DEIR must present a more responsible account of the true need for, and likely effects of, auto parking in the project.

2.3
(I-1)



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2. We dispute the DEIR's assertion that the proposed project will create 'less-than-significant impacts' on bicycle travel. Given the DEIR's estimate of 280 new auto trips at PM peak entering and exiting Stevenson Street, we believe that such additional vehicle movements would present considerable, and potentially significant, new conflicts and safety impacts to pedestrian and bicycle circulation in the project area, particularly on Fifth Street (Bike Network Route #17) and Market Street (Bike Network Route #50), both designated bicycle routes. Market Street already carries very large volumes of bicycle traffic and both streets are expected to see increases in bicycle traffic as improvements derived from the 2009 San Francisco Bicycle Plan and other plans and projects are implemented. The project sponsor is able to claim 'less-than-significant impacts' because the city has failed to provide a threshold for determining significance of impacts on bicycle travel. The modeling and analysis fails to recognize the public safety and public health effects related to vehicle and bicycle circulation and must be revised and refined for this DEIR prior to certification.

2.7
(I-2)

TRANSPORTATION

3. Pedestrian effects are only evaluated in the DEIR on the basis of sidewalk crowding, not public safety or public health. The DEIR fails to address impacts of 280 new auto trips at PM peak, which will be crossing the pedestrian realm at both the intersections of Stevenson on 5th and 6th Street. As for comment #2 above, and given the city's many declared and adopted policy commitments for increased pedestrian activity on the streets and sidewalks in the project area, we believe that the DEIR should develop more rigorous modeling and analysis of public safety and public health effects related to vehicle and pedestrian circulation.

2.8
(I-3)

On these points the SF Bicycle Coalition respectfully finds the Draft EIR of the 935-965 Market Street (CityPlace) project to be inadequate and deficient, and we ask that the DEIR account for these points in a fair estimation of the true impacts of the project.

4.1
(I-4)

Sincerely,


 Andy Thornley
 Program Director
 San Francisco Bicycle Coalition

LETTER J

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DEC 21 2009

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M E A

Environmental Review Officer
San Francisco Planning Department
1650 Mission Street
San Francisco, CA 94103

To Whom It May Concern:

I have reviewed the Draft EIR for 935-965 Market Street.

According to the transportation section of the report, the project would add about 200 vehicle trips into the Project garage, and about 200 trips out, during the peak hour of the evening, for a total of about 400 vehicles. These would all be added on Stevenson Street, a small alley.

Meanwhile, the Project aims to remake Stevenson Street into a pedestrian-friendly "green street". Pedestrians would be drawn to new "microvendors" on Stevenson Street, among other attractions. Bicycles would likely frequent the microvendors as well.

Despite putting about 400 cars per hour on this pedestrian-oriented street, the EIR found that there would be no significant impact to pedestrians. Likewise, when these 400 cars have to cross the crosswalks of 5th and 6th Streets, which have many pedestrians, there was again no finding of significant impact to pedestrian.

How do we know that this volume of cars crossing will not cause a significant impact to pedestrians? Given the especially vulnerable pedestrians who live in this area, it appears that vehicle/pedestrian collisions would increase.

The Final EIR should include the finding of significant pedestrian impacts resulting from high numbers of vehicles on Stevenson Street and crossing the crosswalks along 5th and 6th Street.

2.8
(J.1)

Sincerely,

John Fordham
PO Box 1435
San Francisco, CA 94110



ARTHUR D. LEVY
ATTORNEY

June 29, 2010

HAND DELIVERED.

President Ron Miguel and Members of the Planning Commission
City & County of San Francisco
1650 Mission Street
Suite 400
San Francisco, California 94103

Re: 935-965 Market Street, CityPlace
Case Nos. 2005.1074E, 2008.0217CVX
On Calendar for July 8, 2010

Dear President Miguel and Members of the Planning Commission:

My name is Arthur Levy. I am the author of Comment Letter A, attached to the Comments and Responses to the Draft EIR for this project. Due to a pre-planned vacation during the week of July 5, I am submitting this letter as my testimony in opposition to the certification of the Final EIR and all entitlements requested for this project, including items 7 and 8a through 8d, which appeared on the June 10 calendar and were continued for hearing to July 8.

The Commission's Procedure of Considering Public Comment "Closed" and Not Conducting "Public Review" of Final EIRs Does Not Comply with CEQA.

The Commission's procedure of considering public hearing "closed" and not conducting "Public Review" of the Final EIR is improper. Although the Commission conducted a hearing on the DEIR in December 2009, there has been no opportunity for the public to present testimony on the Final EIR, which is only now before the Commission.

CEQA requires a public hearing. CEQA Guideline 15202(b) states "If an agency provides a public hearing on its decision to carry out or approve a project, the agency should include environmental review as one of the subjects for the hearing."

The Responses to Comments state that there will be a public hearing on the Final EIR. They state "The DEIR, together with this C&R document, will be presented to the Planning Commission in an advertised public hearing, and will be certified as a Final Environmental Impact Report (FEIR) if deemed adequate

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Telephone: 415.702.4550, Fax: 415.814.4080 E-mail: arthur@yesquire.com Web: www.yesquire.com

with respect to its accuracy, objectiveness, and completeness." (C&R.1, emphasis added.)

In sum, the Commission's procedures of failing to give public notice of a hearing on the Final EIR, of stating on its agenda that public comment is "closed" on the FEIR, of refusing to conduct "public review" of the FEIR, and of allowing speakers to address the issue only through a generalized public comment opportunity does not comply with Guideline 15202(b). It is also contrary to the statement in the Responses to Comments that there will be an "advertised public hearing" on the certification of the FEIR.

The Responses to Comments are Deficient.

The Project Description. The Responses to Comments fail to respond my objection to the inadequacy of the Project Description. (C&R.68-70.) The project description in the DEIR is artificially narrow because it limits the development to the sponsor's preference for a "large retail project." In so doing, it improperly constrains the scope and breadth of the entire environmental analysis in the DEIR and FEIR. They instead treat my comment as an objection to the alternatives analysis, which it is not. My comment on the Project Description is a point entirely distinct from the selection and adequacy of alternatives.

Statement of Environmental Characteristics. The Responses to Comments fail to respond my objection to the inadequacy of the Statement of Environmental Characteristics and, in particular, to the lack of an any context statement that provides an adequate baseline from which to evaluate the project's impacts on the character of this most distinctive stretch of the West's most historic thoroughfare, and its visual, aesthetic, and historic character. (C&R.73-75.)

The Responses instead treat my objections to the Statement of Environmental Characteristics as a comment on "Land Use/Aesthetics" impacts. The Response omits any discussion or recognition of the organic and integral character of Mid-Market. It instead improperly narrows the analysis to whether the project itself in not in an historic district or itself contains any historic resources. The Responses fail to consider the impact of a massive new, glass-front shopping center in an environmental setting that contains numerous historic resources, including historic buildings and historic districts. That the project is not itself located within the strict boundaries of an historic district and, at least in the view of the Planning Department, does not contain any historic resources, is not a sufficient response or analysis to whether the new structures are consistent with the environmental context that the numerous and significant adjacent historical resources create.

The DEIR's piecemealing of contextual analysis by simply stating what the current site conditions do not contain fails to provide a sufficient contextual baseline to evaluate how the proposed project, if built, will affect the character of the surrounding environs. Context must not only frame the impact of what will be torn down to build this project; it must also enable analysis of how the project, if built, will affect the characteristic environment that surrounds it. The FEIR is deficient in providing sufficient context to enable the analysis that CEQA requires.

Historic, Cultural and Aesthetic Environmental Setting. The Responses to Comments likewise conflate aesthetic impacts with historic impacts. (C&R.73-75.) Quite apart from historic impacts, the project needs to be evaluated for its impact on the aesthetic and local character of the environs. The FEIR fails to analyze the non-historic characteristics in any meaningful way, and the Responses are deficient in this respect as well.

With respect to the St. Francis Theater, the Responses concede that the building appears eligible for listing as an individual resource by virtue of its ratings under existing surveys and inclusion in the California Historic Resource Inventory with a status of 3S. (C&R.87.) The Responses also recognize that the façade of the building could itself qualify as an historical resource under National Park Service criteria.¹ (C&R.89.) Under these criteria, the façade of the St. Francis alone can be considered an historic resource "if the significant form, features and detailing are not obscured." (Emphasis in original.)

Today, much of John Galen Howard's original form, features and detailing are not obscured; they remain evident on the façade of the building. As the DEIR itself shows, most of this historic fabric remains evident and is only partially covered up by modern signage. (DEIR at IV.B.2.)

Even if the modern signage could be considered to substantially obscure the form, features, and detailing of the Galen Howard façade, there has been no investigation and analysis of whether the non-historic signage can be feasibly be removed and the now-hidden portions of the façade restored to full integrity. The NPS guidance states: "If the false front, curtain wall, or non-historic siding is

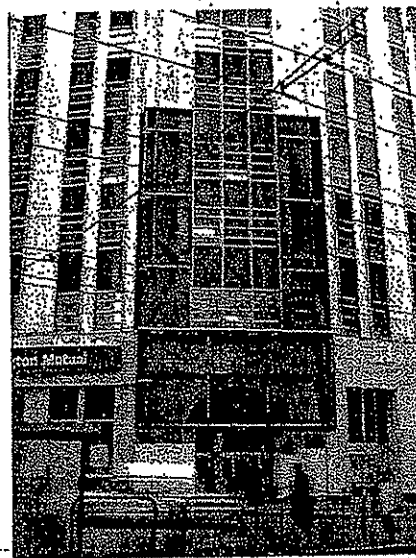
¹ U.S. Department of the Interior, National Park Service, "How to Apply the National Register Criteria for Evaluation," at p. 46, available at <http://www.nps.gov/history/nr/publications/bulletins/nrb15/nrb15.pdf> (as of 6/28/10).

removed and the original building materials are intact, then the property's integrity can be re-evaluated."

This project necessarily includes the removal of the modern signage, etc. as part of the demolition of the building. The integrity of the façade must be determined before, not after, the certification of the EIR. Otherwise, environmental analysis will be impermissibly deferred. The time for evaluating the integrity of the façade is now, not during demolition. This is a major deficit in the analysis of the historical resources for this project.

The opinion of the Page & Turnbull report that "documented changes to the building have been so great that a reevaluation of the building's integrity would not yield different results" does not address the question whether the entire façade can feasibly be restored. (C&R.89.)

A study in contrast is Burnham & Root's DeYoung Building at Third and Market Streets. For 40 years, it was sheathed in white enamel siding that covered up its Richardsonian Romanesque exterior.² According to Chronicle architecture critic, John King, "The masonry facade is virtually all that's left of the original [building]."³ Beginning in 2005, the siding was removed



² Photo from Curbed (12/27/07), "De Young Building: A Photo History", available at http://sf.curbed.com/archives/2007/12/27/de_young_building_a_photo_history.php (as of 6/28/10).

³ John King (San Francisco Chronicle, 12/27/07), "S.F.'s Restored De Young Building Stunning at Street Level," available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/12/27/BA6MU0UMF.DTL> (as of 6/28/10).

and the façade of the building was restored. It is now the Ritz Carleton Club and Residences. The building is now San Francisco Landmark No. 743.

The De Young Building demonstrates that huge expanses of siding and signage can effectively and feasibly be removed, and exteriors restored, to create landmarks whose only remaining characteristics is the façade. There is no showing that it would be infeasible to accomplish this for the St. Francis Theater façade.

Land Use Plans and Policies, Setting and Impacts. The Responses to Comments fail to adequately respond to my objection that the project is inconsistent with the Priority Policy requiring the protection of neighborhood character. (C&R.6-7.) As stated above, the DEIR and NOP/IS do not provide sufficient context for evaluating the impacts of a large modern glass-front shopping center on the historic and aesthetic fabric of Mid-Market. For the same reasons, the DEIR and Responses are inadequate to evaluate consistency with Priority Policy 2. Since the new building is inconsistent with that neighborhood character, it is inconsistent with this Priority Policy.

The proposed finding for compliance with Priority Policy 2 fails to consider the character of the neighborhood and Mid-Market, instead limiting its consideration to "the addition of several new stores and shopping opportunities thereby enhancing the downtown San Francisco experience."

The Responses also do not adequately respond regarding Priority Policy 4, discouragement of commuter automobiles. As the EIR itself makes clear, the project will generate significant additional traffic. It proposes to authorize 234 parking spaces. This will encourage and add traffic in the congested Powell and Market area. That the project happens to be located on the Market Street transit corridor is an insufficient response to the traffic it will generate.

The proposed finding for Priority Policy 4 fails to recognize that the addition of 234 parking spaces will stimulate new commuter traffic. That the project is served by transit does not detract from the fact that significant new parking capacity will be introduced at Powell and Market.

The Project therefore does not comply with CEQA or the requirements of Planning Code Sections 101.1(b) and 303 for Conditional Use Approval.

The Responses improperly defer consideration of Land Use Impacts by postponing full evaluation of the project's consistency with Priority Policies pending the issuance of building and demolition permits, and to future findings

President Miguel and Planning Commission
June 29, 2010
Page 6

relating to project approval. (C&R.7.) This analysis must be performed prior to EIR certification and be included in the EIR in order to comply with CEQA.

Alternatives. The Responses are inadequate with respect to the selection of alternatives. (C&R.69-70.)

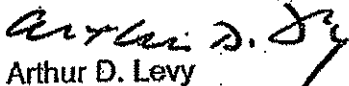
There is no alternative that incorporates at least the façade of the St. Francis, which as explained, appears likely to be an historical resource in its own right and enhances the aesthetic, historical and neighborhood character, and building scale of Mid-Market.

The proposed revision of the DEIR to reject incorporation of any of the existing buildings based on the sponsor's preference for "large floor plates to accommodate value-based retailers" is improper. This is a sponsor preference, and cannot be used to eliminate consideration of environmentally superior alternatives. Further, there is no evidence that incorporation of some or all of the existing buildings would necessarily prevent the use of large floor plates, or that large floor plates are indispensable to the feasibility of the project. The Responses contain no meaningful independent analysis of the validity of the sponsor's "large floor plate" claim, or that an alternative that incorporates some or all of the existing structures is infeasible.

The Responses fail to explain the basis for selecting the alternatives included in the EIR. They do not identify any alternatives (other than my proposed incorporation of some or all of the existing buildings) that were rejected. Neither is explained in the NOP/IS (page 103) or in the DEIR.

In sum, I urge you not to certify the FEIR until the project is revised to better respect the character of the environment into which it is being dropped. A massive glass-front shopping center bears no relationship to Powell and Market of Mid-Market. It would not only unlawfully demolish the resource of the St. Francis façade, but introduce a jarring new presence that is better suited to a suburban shopping center.

Respectfully submitted,


Arthur D. Levy

ADL:mna

President Miguel and Planning Commission
June 29, 2010
Page 7

cc: Deborah Dwyer (by e-mail)
Katherine Petrin (by e-mail)
Mark Ellinger (by e-mail)

President Miguel and Planning Commission
June 29, 2010
Page 8

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BOARD of SUPERVISORS



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July 30, 2010

Arthur D. Levy, Esq.
Pacific States Building
445 Bush Street, Sixth Floor
San Francisco, CA 94108

Subject: Appeal of Final Environmental Impact Report for Property Located at 935-965 Market Street (aka CityPlace)

Dear Mr. Levy:

The Office of the Clerk of the Board is in receipt of your appeal filed on July 28, 2010, from the decision of the Planning Commission's July 8, 2010, certification of a Final Environmental Impact Report identified as Planning Case No. 2005.1074E, through its Motion No. 18135 for a proposed project located at 935-965 Market Street (aka CityPlace).

A hearing date has been scheduled on **Tuesday, September 7, 2010, at a time to be determined**, at the Board of Supervisors meeting to be held in City Hall, Legislative Chamber, Room 250, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

If you have any questions, please feel free to contact Legislative Deputy Director, Rick Caldeira, at (415) 554-7711 or Legislative Clerk, Joy Lamug, at (415) 554-7712.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo
Clerk of the Board

c:

Cheryl Adams, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Acting Zoning Administrator, Planning Department
Bill Wycko, Environmental Review Officer, Planning Department
Nannie Turrell, Planning Department
AnMarie Rodgers, Planning Department
Tara Sullivan, Planning Department
Brett Bollinger, Planning Department
Debra Dwyer, Planning Department
Project Sponsor, Jim Abrams of Gibson, Dunn & Crutcher, LLP, 555 Mission Street, Suite 3000,
San Francisco, CA 94105



SAN FRANCISCO PLANNING DEPARTMENT

BY _____
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RECEIVED
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August 31, 2010

Ms. Angela Calvillo
Clerk of the Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Fac:
415.558.6409

Planning
Information:
415.558.6377

Re: 935-965 Market Street (CityPlace)
Planning Department File No. 2005.1074E

Dear Ms. Calvillo:

Enclosed for immediate distribution to members of the Board of Supervisors please find 18 copies of the Planning Department's Appeal Response for the appeal of the Planning Commission's decision to certify the 935-965 Market Street EIR. This item is on the agenda for September 7, 2010.

Please contact me at 415-575-9031 if you have any questions.

Sincerely,

Debra Dwyer
Environmental Planner

- cc: Joy Lamug, Board of Supervisors, Legislative Division
- Tara Sullivan, San Francisco Planning Department
- Bill Wycko, San Francisco Planning Department
- Tim Frye, San Francisco Planning Department
- Mark Luellen, San Francisco Planning Department
- Kelley Amdur, San Francisco Planning Department



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Appeal of EIR Certification 935-965 Market Street

DATE: August 31, 2010
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Bill Wycko, Environmental Review Officer – (415) 558-9048
 Debra Dwyer, Case Planner – Planning Department (415) 575-9031
RE: BOS File No. 10-1027 [Planning/Building Case No. 2005.1074E]
 Appeal of Certification of an Environmental Impact Report (“EIR”) and the
 Adoption of CEQA Findings for 935-965 Market Street (a.k.a. CityPlace)
HEARING DATE: September 7, 2010
ATTACHMENTS:

- A. Draft Environmental Impact Report
- B. Comments and Responses
- C. Errata to the Comments and Responses Document (June 3, 2010)
- D. Fehr and Peers letter to V. Wise, San Francisco Planning Department (February 16, 2010)
- E. Map of the Uptown Tenderloin National Register Historic District
- F. Page & Turnbull memorandum to M. Kometani, Turnstone Consulting (March 26, 2010)


PROJECT SPONSOR: Jim Abrams, Gibson, Dunn & Crutcher on behalf of Urban Realty Co., Inc.

APPELLANTS: Arthur Levy on behalf of himself, Livable City and Walk San Francisco (“Appellants”)

INTRODUCTION

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the “Board”) of the Planning Commission’s (the “Commission”) certification of an Environmental Impact Report pursuant to the California Environmental Quality Act (“CEQA Determination”) for a project at 935-965 Market Street (the “Project”). Although Appellants assert that the appeal is also of the Commission’s decision to adopt CEQA Findings, it should be noted that the adoption of CEQA Findings would only be before the Board if the project approval action was the subject of the appeal.

The Planning Department (the “Department”), pursuant to CEQA, the CEQA Guidelines, and Chapter 31 of the *San Francisco Administrative Code*, presented a final environmental impact report (“FEIR”) for the project at 935-965 Market Street for certification by the Commission. On July 8, 2010 the Commission certified the EIR, finding that the FEIR was adequate, accurate and fulfilled the City’s requirements pursuant to CEQA, the CEQA Guidelines, and Chapter 31 of the *San Francisco Administrative Code*. The

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Commission also adopted CEQA Findings, including a Statement of Overriding Considerations, prior to approving the project.

The decision before the Board is whether to uphold the Commission's decision to certify the EIR and deny the appeal, or to overturn the Commission's decision to certify the EIR, and return the project to the Department for staff to conduct additional environmental review.

SITE DESCRIPTION & PRESENT USE

The project site at 935-965 Market Street is located mid-block on the south side of Market Street between 5th and 6th Streets. The project site includes three addresses: 935-939 Market Street, 941-945 Market Street, and 947-965 Market Street (collectively referred to as 935-965 Market Street in the EIR). The three existing buildings on the project site contain approximately 186,400 gsf, including approximately 11,900 gsf of retail uses, 67,000 gsf of office uses, 95,700 gsf of vacant entertainment space, and 11,800 gsf of mechanical, storage, and service space. The 935-939 Market Street building is 94 feet tall and has five stories; the 941-945 Market Street building is 30 feet tall and has two stories; and the 947-965 Market Street building is 45 feet tall and has two stories. All three buildings are vacant.

The project site is located in the Mid-Market section of downtown San Francisco, which is an area generally between Fifth and Eleventh Streets along the Market and Mission Streets corridor. Union Square is about four blocks to the northeast (north of Geary Street) of the project site; the cable car turnaround at Market and Powell Streets is about one block to the northeast; and the Hallidie Plaza underground transit station entrance is one-half block to the northeast. The Yerba Buena Center Redevelopment Area is two blocks to the east and southeast. The Tenderloin neighborhood starts about one-half block to the northwest; and the Civic Center area is three to four blocks to the northwest. Overall, the project vicinity is a retail, entertainment, hotel and cultural activities center serving residents and visitors.

The project site is in the C-3-G (Downtown General Commercial) and C-3-R (Downtown Retail) Zoning Districts, and the 120-X Height and Bulk District. Both the C-3-G and C-3-R districts permit a base floor area ratio (FAR) of 6:1. A maximum FAR of 9:1 is allowable with the use of transferable development rights (TDRs) and subject to applicable height and bulk limitations. The project would result in a building with 8:1 FAR and would utilize TDRs.

PROJECT DESCRIPTION

The project at 935-965 Market Street consists of demolition of the three structures on-site and construction of a 90-foot-tall, five-story value-based retail shopping center with new retail uses, associated building services, one below-grade level of retail, and a two-level below-grade parking garage with 188 parking spaces plus a will-call area for large parcel pick-ups. Specifically, the project will construct an approximately 375,700-gsf building, with 264,010 gsf of retail uses; about 4,830 gsf of common areas such as the ground-floor lobby; about 10,900 gsf of mechanical and storage space; and about 95,960 gsf of parking, loading, and circulation. The project includes approximately 79,850 gsf of parking area. Approximately 21,710 gsf of the parking area would be accessory parking; the remaining gsf

(approximately 58,140 gsf) would be non-accessory parking.¹ The project would result in an increase of about 189,300 gsf of developed space on the project site. The Market Street façade would be a glass curtain wall system; other building facades would be painted aluminum. The main entrance on Market Street would provide access to each building level via an elevator core in the grand entry atrium. The Stevenson Street side of the building would include three independently-accessible retail spaces for micro vendors, as well as three loading docks and a trash area, and the parking garage entrance/exit. New landscape and street right-of-way improvements are proposed along the project's Stevenson Street frontage.

BACKGROUND

2005 – Environmental Evaluation Application Filed (Mixed-use project)

2007 – Revised Environmental Evaluation Application Filed for Modified Project (Retail)

2008 – Planning Department Entitlement Applications Filed

The project sponsor submitted an application for environmental evaluation in November 2005. The original application was for a mixed-use project. The project was modified to the current retail project in a revised environmental evaluation application in January 2007.

2005-2010 Environmental Review and Public Notice

Notice of Preparation of an EIR/Initial Study

On October 1, 2008, the Department determined that an EIR was required for this project and provided public notice of the determination. At the same time, the Department published an Initial Study which addressed the less-than-significant environmental impacts of the project with respect to Land Use, Aesthetics, Population and Housing, Cultural and Paleontological Resources, Noise, Wind and Shadow, Recreation, Utilities and Service Systems, Public Services, Biological Resources, Geology and Soils, ~~Hydrology and Water Quality, Hazards and Hazardous Materials, Minerals/Energy Resources, and~~ Agricultural Resources. As permitted though CEQA Guidelines Section 15063(c)(3)(A), an Initial Study may be used to focus an EIR on effects determined to be potentially significant. Therefore, the issues identified above, including Cultural and Paleontological Resources, were not further analyzed in the Draft EIR because all of the associated environmental impacts were found to be less-than-significant with mitigation.

Draft EIR

On November 4, 2009, the Department published the Draft EIR. The Department provided public notice of the availability of the Draft EIR for public review and comment and of the date of the Planning

¹ According to *Planning Code* Section 204.5, off-street parking is accessory if it is (1) located on the same lot as the development it serves; and (2) used by the occupants of the development to which it is accessory. Accessory parking facilities may not exceed the following parking amounts: (1) 150 percent of the required number of spaces where three or more spaces are required; and (2) 15 spaces or seven percent of the total gross floor area of the development, whichever is greater. Off-street parking which exceeds the code-specified accessory parking amounts is considered to be non-accessory parking. Projects require Conditional Use authorization (CU) for provision of non-accessory parking.

Commission public hearing on the Draft EIR; this notice was mailed to the Department's list of persons requesting such notice. In addition, Notices of Availability of the Draft EIR and of the date and time of the public hearing were posted near the project site on November 4, 2009, and copies of the Draft EIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the Draft EIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse. A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on November 4, 2009. The period for acceptance of public comments ended on December 21, 2009.

On December 10, 2009, the Commission held a duly advertised public hearing to receive public comments on the Draft EIR.

Issues raised regarding the Draft EIR included the following main topics:

1. Conflict with General Plan Priority Policies;
2. Land Use Planning/Aesthetics;
3. Population and Housing;
4. General Comments on the adequacy of the EIR;
5. Department Transportation Impacts Analysis Methodology with respect to study area, mode split, trip generation, parking impacts, loading impacts, bicycle impacts, pedestrian safety, and Better Market Street project;
6. Adequacy of analysis with respect to Historic Resources; and
7. Adequacy of Alternatives analysis.

Comments and Responses

The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the public review period for the Draft EIR, prepared revisions to the text of the Draft EIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the Draft EIR. This material was presented in a Comments and Responses document, which was published on May 12, 2010, distributed to the Commission and all parties who commented on the Draft EIR, and made available to others upon request at Department offices. The Department fully responded to all comments that had been received as of that date.

The Commission hearing to certify the EIR was scheduled for May 27, 2010, but was continued initially to June 10, 2010 and subsequently to July 8, 2010 at the request of members of the Commission.

On June 3, 2010 an Errata to the C&R was issued to reflect the adoption of the CEQA Guidelines Update by the Bay Area Air Quality Management District (BAAQMD) and additional information from SFMTA.

On June 29, 2010, an additional comment letter from Arthur D. Levy was directed to the Commission and to the Department. The letter largely reiterated comments made in Mr. Levy's December 21, 2009 letter on the Draft EIR, which were responded to in the C&R document. Additional points made in the letter were responded to at the time certification was considered by the Commission.

2008 – Planning Department Entitlement Applications Review

The project sponsor submitted the entitlement applications for the revised retail project with the Department in February 2008.

2009 and 2010 - Planning Commission Hearings

As described above, on December 10, 2009 the Planning Commission conducted a hearing to accept public comments on the draft EIR and for the members of the Commission to comment on the draft EIR.

On July 8, 2010 the Commission held a hearing to consider certification of the EIR. At the hearing, the Planning Commission found that the Final EIR reflected the independent judgment and analysis of the City and County of San Francisco. The Commission found that the FEIR was adequate, accurate and objective, and that the Comments and Responses document contained no significant revisions to the Draft EIR. The Commission certified the completion of the FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31 of the *San Francisco Administrative Code*.

Project Impacts

The EIR found that the proposed project would result in significant and unavoidable environmental effects with respect to traffic at the intersections of 5th and Stevenson Streets and 5th and Mission Streets. In addition, the proposed project would result in a significant and unavoidable impact with respect to cumulative air quality due to the proposed project's greenhouse gas emissions under the recently adopted BAAQMD CEQA Guidelines Update.

CEQA Findings and Statement of Overriding Considerations

Therefore, as described in CEQA Guidelines Section 15093, to approve the proposed project with ~~significant effects that are identified in the FEIR, but which are not avoided or reduced to a less than~~ significant level, the City must indicate that any such unavoidable significant effects are acceptable due to overriding financial, technological, social, or other policy considerations. This is known as a Statement of Overriding Considerations. In preparing such a statement, the City must balance the prescribed types of benefits of the proposed project against its unavoidable environmental risks. If the benefits of a project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable (CEQA Guidelines Section 15093).

Following certification of the EIR, the Commission considered and approved CEQA Findings with a Statement of Overriding Considerations when it approved the project.

APPELLANTS ISSUES AND PLANNING DEPARTMENT RESPONSES

Appellants have not raised any substantial new issues. For each point raised in the Appellants' appeal letter and attachments, the Board is directed to the particular pages in the DEIR and the C&R documents where the issue was addressed. These documents are provided as Attachments A and B respectively. Because Appellants raise certain concerns multiple times in their letter of appeal, some issues have been addressed here through master responses. Appellants also challenge the CEQA findings made by the

Planning Commission in its actions on the project following certification of the EIR. However, as stated above, the Commission's decision to adopt CEQA findings would only be before the Board if the project approval action was also the subject of the appeal, and it is not. The issues raised are presented in full below and are followed by the Department's responses.

MASTER RESPONSES

Master Issue 1: Adequacy of Department Transportation Impacts Analysis Methodology [Appellants Issues 1 - 4]

"1. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the impacts of the project on pedestrian safety and circulation, bicycle safety and circulation, automobile traffic volume, safety and circulation, and transit circulation, as more particularly set forth in the comment letters submitted by Livable City and the San Francisco Bicycle Coalition.

2. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the impacts of the project on pedestrian safety and circulation, bicycle safety and circulation, automobile traffic volume, safety and circulation, and transit circulation, as more particularly set forth in the comment letters submitted by Livable City and the San Francisco Bicycle Coalition.

3. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding transportation, circulation, and parking because of the excessive number of off-street parking spaces, off street loading exceptions, and impacts from queuing that have not been adequately mitigated.

4. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding transportation, circulation, and parking because of the excessive number of off-street parking spaces, off street loading exceptions, and impacts from queuing that have not been adequately mitigated."

Master Response 1: The transportation impact analysis prepared for the 935-965 Market Street EIR follows the San Francisco Planning Department's 2002 *Transportation Impact Analysis Guidelines for Environmental Review (SF Guidelines)*.² Analysis regarding the potential transportation impacts resulting from the project is provided in the DEIR on pp. IV.C.1 - 56 and in the Comments and Responses document on pp. C&R.7 - 68. The *SF Guidelines* methodology for trip generation calculations adapts the technical approaches used throughout California to the local context of San Francisco through use of travel behavior data from Citywide travel behavior surveys for employees, residents, and visitors and special purpose studies. The *SF Guidelines* were developed to create a detailed set of rates and percentages implementing a consistent approach for all transportation studies to identify the travel demand generated by a proposed project. Trip generation rates from the *SF Guidelines* were applied to

² San Francisco Planning Department. 2002. *Transportation Impact Analysis Guidelines for Environmental Review*. Online at <http://www.sfplanning.org/Modules/ShowDocument.aspx?documentid=6753>. Accessed August 4, 2010.

the project's proposed retail land use to establish work and non-work person trips generated by the proposed project. Doorway counts were conducted when the transportation study was initiated to establish the number of person trips generated from the then-existing land uses. The existing trips were subtracted from the trips generated by the proposed project to obtain a net increase in person trips. This is done because the traffic counts and pedestrian and bicycle assessments conducted at the initiation of the transportation study that form the transportation baseline already include the trips from the then-existing land uses.

The resulting new person trips were distributed to various directions of travel and assigned to travel modes (e.g., transit, walk, automobile), based on C-3 District data in the *SF Guidelines* for retail employee and visitor trips. Based on surveys of many downtown retail sites with and without on-site parking, only about one-third of retail travel is by auto and most access is by transit or walking, consistent with the constrained availability of parking and the dense, transit-and-pedestrian-oriented character of downtown retail in San Francisco. Application of actual survey modal data to each project alternative and variant is appropriate based on a parking supply of over 4,500 parking spaces in public facilities within the immediate project vicinity that would accommodate those who would drive independent of the amount of parking provided on this project site. The project's travel demand information is provided on pp. IV.C.23 - 25 of the DEIR. Comments regarding the adequacy of the travel mode and trip generation calculations are also addressed on pp. C&R.27 - 31 of the C&R document.

Please see Master Response 2 below for information on the analyses provided in the DEIR and C&R regarding potential impacts on pedestrian safety and circulation and bicycle safety and circulation.

The trip generation information and travel mode are used to prepare the transportation impacts analysis, including traffic and intersection levels of service, using the methodology found in the Transportation Research Board's *Highway Capacity Manual 2000*, a nation-wide standard. Existing intersection operating conditions are presented in the DEIR on pp. IV.C.5 - 7, and the impacts of the proposed project on intersection levels of service are presented on pp. IV.C.26 - 30. Supplemental transportation impact analysis is presented for additional intersections in the C&R document on pp. C&R.8 - 16. The EIR identifies substantially different project transportation impacts, depending upon the extent of parking provided on the project site. For the project approved by the Planning Commission with much of its parking demand satisfied on-site, significant impacts would occur at the Fifth/Stevenson and Fifth/Mission intersections due to the concentration of autos at the project site. By contrast, these significant impacts would not occur at either location for the project alternative with no on-site garage and instead a significant cumulative traffic impact would occur at the Fourth/Howard intersection due to increased use of the Fifth/Mission public garage. For the project variant with only one level of on-site parking, the only significant transportation impact would occur at Fifth/Stevenson under the 2030 cumulative plus project conditions. In summary, the transportation analysis reflects that propensities to drive are affected by the broader availability of parking in the immediate project vicinity as well as on-site and that transportation impacts would be different based on differences in the likely locations where drivers would park.

Potential transit impacts resulting from the proposed project are discussed in the DEIR on pp. IV.C.31 – 33, and no significant impacts to transit were identified.

The parking demand associated with the proposed project was calculated based on the *SF Guidelines*, using the employment and visitor information in the trip generation calculations. The parking demand for the proposed project would be 480 spaces for the weekday midday period. This information is presented on p. IV.C.25 and 38 of the DEIR. Comments regarding the adequacy of the parking demand calculations are addressed on pp. C&R.31 - 33 and C&R.35 – 37. No significant impacts with respect to parking were identified for the proposed project. Additional information regarding the parking impacts analysis and Appellants' assertions is provided in Master Response 3.

The potential project impacts with respect to loading were calculated using the methods described in the *SF Guidelines*. This analysis was presented in the DEIR on pp. IV.C.39 - 43. As discussed, the project would generate a loading demand of 2.7 spaces in the average hour and a loading demand of 3.4 spaces in the peak loading hour. The project would provide three loading spaces, and, pursuant to *Planning Code* Section 309, project sponsor requested an exception from the 11 loading spaces required by the *Planning Code*. Therefore, while the proposed project would not meet the loading demand for the peak loading hour, the project would meet the average loading demand. In addition, implementation of Mitigation Measure 2 to provide a loading management system would reduce the potential impacts related to loading to less-than-significant. Additional information regarding the loading impacts analysis and Appellants' assertions is provided in Master Response 3.

As described above, the DEIR and C&R provide adequate information and analysis regarding the potential transportation impacts of the proposed project. The information presented is based upon the results of a transportation impact study conducted at the direction of the Department utilizing accepted methods for analysis. Appellants have not provided any substantial evidence to support the assertion that the analysis was deficient and precluded informed decision-making. Nor have Appellants provided substantial evidence to support their assertion that the significance determinations were inappropriate or deficient. Pursuant to CEQA, in instances where no significant impacts have been identified, there is no requirement to develop or implement mitigation measures.

Master Issue 2: Pedestrian and Bicycle Safety and Circulation [Appellants Issues 1 and 2]

For the text of Appellants Issues 1. and 2., please see items 1 and 2 under Master Issue 1 above.

Master Response 2: The significance criterion for pedestrian impacts used in Section IV.C, Transportation and Circulation, on p. IV.C.22, is whether the project "would result in substantial overcrowding on public sidewalks, create potentially hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility to the site and adjoining areas." The existing pedestrian conditions are described in Section IV.C, Transportation and Circulation, on pp. IV.C.14 – 15 of the DEIR. No significant impacts to pedestrians were identified as described in Section IV.C, Transportation and Circulation, on pp. IV.C.33 – 36 of the DEIR. Additional analysis of pedestrian impacts was performed in

response to comments on the DEIR; the results of this analysis were provided on pp. C&R.44 - 60 in the C&R document, and again, no significant impacts to pedestrians were identified.

Appellants also assert that the Department should utilize other methods to assess pedestrian safety besides the qualitative pedestrian impacts discussion provided in the DEIR and C&R. The Department responded to this comment on pp. C&R.45 - 50. The methods utilized by the Department adequately discuss the potential pedestrian impacts of the project. As described in the DEIR and C&R, both quantitative and qualitative pedestrian analysis was conducted for the proposed project. The Department's analyses acknowledge that the project would result in substantial increases in pedestrians on sidewalks and in crosswalks, particularly along Fifth Street and Market Street, and that increased pedestrian conflicts with autos would occur but does not find a significant impact. Appellants have provided no new information or analysis to support the assertion that the project would have a significant impact on pedestrian safety.

The significance criterion used in Section IV.C, Transportation and Circulation for bicycle safety and circulation, on p. IV.C.22 of the DEIR, is whether the project "would create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility to the site and adjoining areas." The existing bicycle routes and travel behavior are described in Section IV.C, Transportation and Circulation, on pp. IV.C.15 - 17 of the DEIR. No significant impacts were identified in relation to this standard, as described in Section IV.C, Transportation and Circulation, on pp. IV.C.36 - 37 of the DEIR and on pp. C&R.43 - 44 in the C&R document. The impacts on bicyclists that would result from adding project-generated vehicles to Market Street and Fifth Street intersections during the PM peak hour are discussed on pp. IV.C.36 - 37 of the DEIR and on pp. C&R. 43 - 44 of the C&R document. The DEIR concluded the additional bicyclists and the additional vehicular traffic that would be generated by the proposed project and introduced into the local transportation network would not be substantial enough to affect the bicycle and vehicle traffic on the Market and Fifth Street corridors and mitigation was not needed. Appellants have provided no new information or analysis to support the assertion that the proposed project would have significant impacts on bicyclist safety.

Master Issue 3: Parking and Loading [Appellants Issues 3 and 4]

For the text of Appellants' Issues 3 and 4, please see items 3 and 4 under Master Issue 1 above.

Master Response 3:

Parking

The DEIR analysis regarding parking impacts is sufficient. As explained in Section IV.C, Transportation and Circulation, on p. IV.C.21 - 22, parking supply is not considered part of the physical environment and "parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. However, environmental documents should address the secondary physical impacts that a social impact could trigger (CEQA Guidelines Section 15131(a))." The analysis of potential impacts

related to parking is found in Section IV.C, Transportation and Circulation, on pp.IV.C.37 – 38 of the DEIR.

Pursuant to the *SF Guidelines*, the amount of parking provided on-site, or in the vicinity of the project site, does not change the number of trips generated by the proposed project, as trip generation is a function of square footage of a particular land use or number of dwelling units (see pp. C&R.29 – 31). The secondary effects of a parking deficit are incorporated into the transportation impact analysis as a change in vehicle circulation around the project site. This change results primarily from the assignment of project-generated vehicle trips to nearby parking structures. As discussed in the foregoing Master Response 1, all aspects of the transportation analysis reflect differences in project impacts based on project alternatives and variants that include different amounts of parking provided on-site.

In Chapter VI, Alternatives, of the DEIR, transportation analysis was provided for the No Garage Alternative (no on-site parking) as well as for the Reduced Parking Variant of the No Garage Alternative (one level of parking on-site). Summaries of the transportation impact analyses were provided on pp. VI.5 – 7 and pp. VI.9 – 16 for the Reduced Intensity Alternative and the No Garage Alternative, and on pp. C&R.132 – 144 of the C&R document for the Reduced Parking Variant of the No Garage Alternative. No potentially significant parking impacts were identified.

Since the size of the retail development remained the same for the No Garage Alternative and its variant as for the project, the analysis utilized the same number of project-generated trips. Using the *SF Guidelines*, what differs in the analysis for these scenarios is the assignment of trips for circulation within the project vicinity. As described in Master Response 1, the trip generation methodology utilized by the Department is a nationally accepted transportation impact analysis standard. Appellants assert that there is a correlation between the parking supply for a project and the number of trips generated by that project. However, a review of the literature on this topic demonstrates that there is no consensus regarding the precise nature of the relationship between parking supply and an increase in the number of vehicular trips.³ Appellants have not provided substantial evidence to demonstrate that the number of trips generated utilizing the Department's methodology is deficient or fails to capture a maximum number of trips for the parking analysis.

Since there were no significant parking impacts identified; there is no requirement to provide mitigation measures with respect to parking. As described on p. IV.C.38, the project sponsor has agreed to implement a series of improvement measures to minimize the potential for queuing on Stevenson Street, such as the installation of a "parking lot full" sign integrated with parking space counters, and directions to nearby parking facilities if substantial queues occur on a consistent basis. Appellants have provided no new information or analysis to support the assertion that the proposed project would have significant impacts on transportation and circulation.

³ Fehr & Peers. 2010. Letter to Viktoriya Wise, San Francisco Planning Department, regarding Treasure Island and Yerba Buena Redevelopment Plan Transportation Impact Analysis – Reduced Parking Alternative. A copy of this document is available for review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, California as part of Case File No. 2005.1074E and is also attached herein as Attachment D.

With respect to queuing analysis, the traffic analysis accounts for potential queuing at intersections. In addition, potential queuing as a result of operations at the garage ticket dispenser was discussed in the C&R, see pp. C&R.38 - 39. No significant impacts with respect queuing have been identified. Therefore, there would be no requirement to provide mitigation measures related to this issue.

Loading

With respect to loading impacts, the significance criterion for loading identified in Section IV.C, Transportation and Circulation, on p. IV.C.23, is whether the project "would result in a loading demand during the peak hour of loading activities that could not be accommodated within proposed on-site loading facilities or within convenient on-street loading zones, and would create potentially hazardous conditions or significant delays affecting traffic, transit, bicycles, or pedestrians." Potentially significant loading impacts were identified and Mitigation Measure M-TR-2 was made a condition of approval (see pp. IV.C.29 - 30 and p. IV.C.53.) The project sponsor has also agreed to implement an area-wide loading management system to coordinate delivery times and truck sizes with project tenants and to allow adjacent tenants and landowners to use the project loading dock during unscheduled times. The effects on transit operations of additional truck traffic related to off-street project loading are discussed in the DEIR on p. IV.C.33. As discussed in the DEIR on p. IV.C.39, the three off-street loading spaces provided on-site would meet the average hour loading demand for the project. A loading study indicated that the peak demand could be met with the three spaces if the retail tenants' service and delivery needs were coordinated with a one-hour delivery window for each tenant group and based on this information queuing impacts at the Fifth Street and Sixth Street intersections at Stevenson were identified as less-than-significant. Appellants have provided no new information or analysis to support the assertion that the proposed project would have additional significant impacts on loading other than those described above.

Master Issue 4: Deficiency of Environmental Setting and Baseline Conditions [Appellants Issues 6, 7, and 8]

"6. The EIR's statement of environmental characteristics fails to comply with CEQA because it does not contain a discussion of Mid-Market's architectural, visual, and historic context sufficient to enable the decision making bodies to evaluate the impact of demolition of the existing buildings and construction of a new shopping center on the Mid-Market corridor. EIR piecemeals contextual analysis by simply stating what the current site conditions do not contain. It fails to provide a sufficient contextual baseline to evaluate how the proposed project, if built, will affect the character of the surrounding environs. Context must not only frame the impact of what will be torn down to build this project; it must also enable analysis of how the project, if built, will affect the characteristic environment that surrounds it.

7. The EIR's statement of environmental characteristics fails to comply with CEQA because it fails to place the project in the context of the historic and visual character of the block in which the project is located, including the presence of the two adjacent National Register Historic Districts, the Market Street Theatre and Loft District (982 - 1112 Market, 973-1105 Market, 1 Jones, and 1-35 Taylor Streets) and the Uptown Tenderloin National Register Historic District (comprising 33 blocks in the north of Market Tenderloin district).

8. The EIR's environmental setting discussion fails to comply with CEQA because it does not provide a baseline of conditions sufficient to enable the decision making bodies to evaluate the impacts of the project on the visual, architectural, and historic character of Mid-Market."

Master Response 4: CEQA provides guidance on the approach to documenting the environmental setting, or baseline conditions, as follows:

An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives. (CEQA Guidelines Section 15125(a)).

Existing conditions are to be described so that the environmental impacts of a project can be "considered in the full environmental context" with special emphasis placed on "environmental resources that are rare or unique." Accordingly, the EIR provides a discussion of the environmental setting with regard to land use, aesthetics and visual character on pp. IV.A.1 - 3 and IV.B.1 - 10. In addition, baseline information regarding land use, aesthetics and historic cultural resources is provided in the Initial Study (Appendix A of the DEIR) on pp. 16-33 and 36 - 45. The written description of existing uses, historical resources, buildings heights and bulk as well as general architectural features has been provided. The project site is not within nor adjacent to any existing or potential historic districts, but is within the vicinity of several historic districts, including the Market Street Theater and Loft National Register Historic District. This is discussed in the NOP/IS on pp. 40 - 41 (Appendix A of the DEIR). The written descriptions are supplemented with visual simulations showing the new building within the context of the existing street wall.

Appellants also assert that the Uptown Tenderloin National Register Historic District (within the north of Market Tenderloin district) should have been included in the environmental setting for the proposed project. However, while the Uptown Tenderloin National Register Historic District is in proximity to the project site, the southern boundary of the district is north of Market Street. Please see the map of the district provided herein as Attachment E. There is a geographic and visual separation between the historic resources that comprise the district and the project site. Therefore, this district was properly excluded from the historic resource analysis.

In accordance to Section 15125(a), baseline conditions are the physical environmental conditions that exist at the time of the notice of preparation ("NOP") is published. In this case, the NOP for the 935-965 Market Street project was published on October 1, 2008. The analysis appropriately considers the environmental conditions as of that time. Therefore, the existing conditions information presented in the EIR is sufficient and would not contribute to incomplete or inaccurate analysis of potential impacts with respect to the architectural, visual and historic context of the Mid-Market corridor. Appellants do not provide a basis for the claim that existing conditions information is inaccurate.

Master Issue 5: Cultural Resources [Appellants Issues 7, 9, 10, 11, 15, 16]

“7. The EIR's statement of environmental characteristics fails to comply with CEQA because it fails to place the project in the context of the historic and visual character of the block in which the project is located, including the presence of the two adjacent National Register Historic Districts, the Market Street Theatre and Loft District (982 – 1112 Market, 973-1105 Market, 1 Jones, and 1-35 Taylor Streets) and the Uptown Tenderloin National Register Historic District (comprising 33 blocks in the north of Market Tenderloin district).

9. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the significance of St. Francis Theater and retail shops at 947-964 Market Street as an historical resource, including but not limited to the facade of the St. Francis as an historical resource that contributes to the character of the block through the ornament and fenestration on the facade of the retail shops on Market Street.

10. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decision making and public participation by illegally deferring the analysis of whether the facade of the St. Francis Theater and retail shops at 947-964 Market Street is an historical resource.

11. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the significance of St. Francis Theater and retail shops at 947-964 Market Street as an historical resource, including but not limited to the facade of the St. Francis as an historical resource that contributes to the character of the block through the ornament and fenestration on the facade of the retail shops on Market Street.

15. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the impact of the project of the surrounding neighborhood and the historic Mid-Market Corridor.

16. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the impact of the project of the surrounding neighborhood and the historic Mid-Market Corridor.”

Master Response 5:

CEQA and Historic Resources

The first step in the evaluation of historical resources under CEQA is to determine whether there is a historic resource present. Public Resources Code Section 21084.1 (Historical Resources) and CEQA Guidelines Section 15064.5 (Determining the Significance of Impacts on Historical and Unique Archaeological Resources) detail what qualifies as a historic resource under CEQA.

If historic resources are present, the second step is to determine whether the action or project proposed would cause a “substantial adverse change” to the historic resource, including off-site historic resources in the project vicinity. Section 15064.5 CEQA defines a substantial adverse change as one may have a significant effect on the environment.

CEQA Section 15064.5(b)(1) states: "Substantial adverse change in the significance of a historical resource means the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be materially impaired."

Historic Resources

The Department, using the 2-step methodology described above, first analyzed whether any of the existing structures at 935-965 Market Street were historical resources as defined by CEQA. Under the CEQA analysis, none of the buildings at 935-965 Market Street were considered to be historic resources.⁴

The second step of the CEQA analysis was whether the proposed project would have a substantial adverse impact to either on-site or off-site historic resources. Additional analysis was conducted to determine the potential effects of the new building on off-site historic resources in the project vicinity. A Historic Resource Evaluation (HRE)⁵ was prepared by a qualified historic preservation architecture firm to assess potential cultural resource impacts from the new building on both individual historic resources and historic districts in the project vicinity. Preservation staff found that the proposed project would not have an adverse impact because there are no historic resources on-site, and off-site historic resources in the project vicinity would still be able to convey their significance as historic resources if the project was completed. Although contemporary in style, the proposed project would be compatible in terms of use, scale and volume established by the existing development pattern along the Mid-Market Street corridor and vicinity. As described in the Initial Study, p. 41, (Appendix A of the DEIR), the proposed project would not obscure existing views of nearby historic structures, but would frame and direct views along Market Street. The transparent design and materials would be differentiated from older buildings and would not overwhelm nearby historic structures. Therefore, the project would not result in the material impairment of any historic resources.

Appellants raise no new issues with respect to historical resources from those raised in comments on the DEIR. Responses to these comments are provided in the C&R document, pp. C&R.78 - 94. As discussed in the Notice of Preparation/Initial Study ("NOP/IS," included in the EIR as Appendix A) and in Response to Comments, p. C&R.88, the Planning Department evaluated the St. Francis Theater (a.k.a. 947 - 965 Market Street) for its eligibility for inclusion in the California Register of Historical Resources ("CRHR") as part of environmental review of the proposed project. Citing information, analysis, and conclusions of several earlier studies that evaluated the historic and architectural significance of the building and area, the Planning Department has concluded that 947-965 Market Street is not eligible for inclusion in the CRHR because the building no longer retains sufficient integrity to be considered a

⁴ Memorandum from Dan Dibartolo, Preservation Planner, to Debra Dwyer, Environmental Planner. 2007. *Revised Historic Resource Evaluation Response 935, 943, 949-961 Market Street*. A copy of this document is available for review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, California as part of Case File No. 2005.1074E.

⁵ Page & Turnbull. 2007. *Historic Resource Analysis: 935-965 Market Street*. A copy of this document is available for review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, California as part of Case File No. 2005.1074E.

historical resource for the purposes of CEQA. The integrity of both the interior and exterior of 947 – 965 Market Street has been compromised.

As discussed on p. C&R.88, the significance of a building whose main architectural features are on the interior, such as a theater, would lose value as a historical resource if it were to lose its interior. In response to EIR Comment 3.1.4 in which the commentor (now one of the Appellants) refers to “a recent eyewitness report that the auditorium remains intact” (p. C&R.85), historic resource consultants Page & Turnbull recently visited the interior of the building.⁶ Their findings reiterate and reconfirm the conclusions of previous studies: that no historic architectural features of the St. Francis Theater remain on the interior; and, while portions of the historic façade and fenestration may remain behind plywood and other cladding materials, the overall character of the façade has been compromised by insensitive alterations and modernization. Further, even if additional historic fabric on the façade is uncovered in the future, the documented changes are so great that another evaluation of the building’s integrity would not yield different results (see p. C&R 89).

As discussed in the NOP/IS on pp. 40 - 41, the project site is not within nor adjacent to any existing or potential historic district, but is within the vicinity of several historic districts. As such, any remaining architectural features of the 935-965 Market Street façade do not contribute to the significance of any historic district resource. Although demolition of the façade would eliminate architectural features that may contribute visual interest and texture to the streetscape of the block, demolition of the façade would have no impact on the significance of any offsite historic resources. Visual and aesthetic impacts of the proposed project are analyzed in Section IV.B, Aesthetics, on pp. IV.B.11 – 14 of the DEIR. Appellants have provided no information or evidence to refute the analyses and conclusions of the EIR with respect to the historic significance of the 947-965 Market Street façade.

~~Appellants also assert that the determination with respect to the impact of the proposed building on the surrounding neighborhood and on the historic character of the Mid-Market corridor was not based on substantial evidence. Appellants raise no new issues with respect to project impacts on the neighborhood and historic character of the area from those raised in its comments on the DEIR, all of which were fully responded to in the Comments and Responses document. Impacts of the proposed project on the visual character of the Mid-Market corridor are thoroughly described and analyzed in Section IV.B, Aesthetics, on pp. IV.B.1 – 14, and are reiterated and discussed further in the C&R document on pp. C&R.73 – 75 and on pp. C&R.92 – 94. Appellants provide no new information or analysis that would call for changing any of the analyses and conclusions of the EIR with respect to the impact of the project on the neighborhood character of the Mid-Market area.~~

⁶ Page and Turnbull. 2010. Memorandum to M. Kometani of Turnstone Consulting regarding 935-965 Market Street site visits and accompanying photographs. A copy of this document is available for review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, California as part of Case File No. 2005.1074E and is also provided herein as Attachment F.

Master Issue 6: Land Use Plans and Policies [Appellants Issues 12, 13, 14]

"12. The discussion of Land Use Plans and Policies, Setting and Impacts fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the inconsistency of the project with the with City plans, policies, land use and zoning policies, including but not limited to the San Francisco General Plan (including but not limited to Policy 1.3 (Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts) and Objective 32 (Limit Parking in Downtown To Help Ensure that the Number of Auto Trips to and from Downtown Will Not Be Detrimental to the Growth or Amenity of Downtown); Downtown Plan Policy 20.7; and with the following Priority Policies; (1) preservation and enhancement of neighborhood-serving retail uses; (2) protection of neighborhood character; (3) discouragement of commuter automobiles; and (4) landmark and historic building preservation.

13. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the inconsistency of the project with these City plans, policies, and land use and zoning requirements.

14. The EIR improperly defers analysis of Land Use Impacts by postponing full evaluation of the project's consistency with these City plans, policies, and land use and zoning requirements pending the issuance of building and demolition permits, and to future findings relating to project approval. This analysis must be performed prior to EIR certification and be included in the EIR in order to comply with CEQA."

Master Response 6: City policies and regulations are generally discussed in Chapter III of the EIR, Plans and Policies, on pp. III.1 - 2, and no conflicts were identified. Compatibility of the proposed project with zoning and plans and policies was discussed in detail in the Initial Study on pp. 20 - 24 (DEIR Appendix A). The issue of lack of a discussion of compatibility with the Priority Policies 1, 2, 4, and 7 in Planning Code Section 101.1 was also raised in comments on the DEIR, and responded to on pp. C&R.6 - 7. Any conflict between the project and policies that relate to physical environmental issues are discussed in the DEIR under individual topic areas. A discussion of the area's neighborhood-serving retail uses and neighborhood character can be found on EIR pp. IV.A.1 - 3 and pp. IV.B.1 - 5, and in the Notice of Preparation of an Environmental Impact Report/Initial Study (NOP/IS), pp. 26 - 33, which is attached as Appendix A to the EIR. The project site's access to transit is discussed on EIR pp. IV.C.7 - 14 and the City's Transit First Policy is discussed on EIR pp. IV.C.21 - 22. Potential impacts to historical architectural resources are discussed in the NOP/IS, pp. 36 - 41.

As discussed in the NOP/IS and EIR, the proposed new building would be constructed within the existing boundaries of the combined lots, would not interfere with or change the existing street plan, and would not impede the passage of persons or vehicles. Furthermore, the surrounding uses and activities would interrelate with each other as they currently do. Thus, in terms of consistency with the Priority Policies identified in the comment, the proposed retail development would not divide the established community in the Mid-Market area; would not result in the loss of historic resources as defined under CEQA - and thus would not create an inconsistency with the City's historic preservation efforts - and, due to its location along the Market Street transit corridor, would provide a variety of local and regional transit options to its future patrons and employees, potentially discouraging commuter automobile use.

The proposed project would not be inconsistent with the cited Priority Policies and, as stated above, the relevant physical environmental effects of the proposed project that relate to the cited Priority Policies are covered in the Draft EIR under the appropriate environmental topics.

The project would provide accessory parking within the Downtown core. The prospective tenants are envisioned to be purveyors of value-based retail providing bulky or large items. While the General Plan and Downtown Plan objectives and policies with respect to parking in general would discourage the placement of parking in the Downtown core, these documents acknowledge certain circumstances for which the provision of parking may be warranted. Policy 1.6 of the Transportation Element of the General Plan states, "Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate." This section of the General Plan goes on to specify that automobiles should be accommodated for making certain kinds of trips such as those occurring when and where transit is not well-suited for the purpose, such as shopping for oversized or bulk items (as an alternative, retail delivery services should be encouraged.). While Objective 32 of the Downtown Plan calls for limitations to Downtown parking, it does not prohibit provision of parking. Additionally, with respect to short-term parking, the discussion supporting Policy 20.7 of the Downtown Plan acknowledges that for some shoppers, business visitors and others, transit is not a realistic alternative and some level of parking reasonably close to destinations may be provided. The parking provided at the site would not meet the parking demand anticipated for the proposed project nor would it be provided free of charge. The project's proposed parking would be consistent with some General Plan policies and inconsistent with others.

Conflict with land use plans, policies, or regulations does not, in itself, give rise to a significant environmental impact under CEQA. See CEQA Guidelines Section 15125 (d), which requires that an EIR discuss any inconsistencies between the proposed project and the applicable general plans and regional plans in the Environmental Setting section. ~~The compatibility of the proposed project with objectives and policies in the San Francisco General Plan and the Priority Policies in Planning Code Section 101.1 was considered by decision makers independent of the environmental review process, as part of their deliberations on whether to approve or disapprove the proposed project. This is not an improper deferral of analysis; if any conflicts had been identified as part of the environmental review for the proposed project, they would be discussed in Chapter III, Plans and Policies. The EIR is not intended to preempt the deliberations of bodies like the Planning Commission, or for an appeal of entitlement actions, the Board of Supervisors.~~

Master Issue 7: Compliance with CEQA Procedural Requirements [Appellants Issues 18 & 19]

"18. The EIR fails to comply with CEQA by failing adequately to respond to comment letters.

19. The Planning Commission's procedure' of considering public hearing 'closed' and not conducting 'Public Review' of the EIR fails to comply with CEQA, including but not limited to CEQA Guideline 15202(b)."

Master Response 7: Appellants have not provided specific information regarding how the responses provided by the Planning Department are deficient. The Department has complied with CEQA regarding the provision of relevant information regarding the potential environmental effects for this

project in order to allow for informed decision-making and public participation. The C&R document was published May 12, 2010 and responded fully and completely to all comments received as of that date. Additional information to respond to the June 29, 2010 letter and comments was provided by the Department at the EIR certification hearing.

Appellants' assertion that the Planning Commission procedures related to public hearings on Draft EIRs fail to comply with CEQA is incorrect. Pursuant to CEQA Guidelines Sections 15087(i) and 15202(a), there is no CEQA requirement that a public hearing be conducted during environmental review, including a hearing on certification of an EIR. Thus, public comment may be restricted to written comments. However, pursuant to *San Francisco Administrative Code* Section 31.14(d)(3), a public hearing on a DEIR is required to be held before the Planning Commission during the public comment period. The Planning Commission held a public hearing on the DEIR for the 935-965 Market Street Project on December 10, 2009, 36 days after publication of the DEIR. Therefore, the Commission complied with the local requirement and notice to hold a public hearing.

Through Commission direction, the C&R document must be published at least 10 days prior to the Commission's consideration of EIR certification. Ten days are required in the CEQA Guidelines to provide written responses to public agencies pursuant to CEQA Guidelines Section 15088(b). The date that the Commission will consider EIR certification is advertised on the cover of the C&R document as well as through the regular noticing and advertising of the Planning Commission hearings and agendas.

For this project, the C&R document was provided to the members of the Planning Commission and organizations and persons who commented on the DEIR two weeks prior to the original date for the Commission's consideration of EIR certification. In addition, the San Francisco Planning Commission permits additional public testimony regarding the proposed FEIR on the date certification is considered, and the Department and the Commission accept written communications regarding the proposed FEIR prior to certification. Nothing precludes interested parties from providing the Commission or the Department with written comments on the EIR such as Mr. Levy's June 29, 2010 letter.

Appellants are also incorrect in the assertion that the Commission has not complied with CEQA Guidelines section 15202(b). This section provides that the topic of environmental review for a proposed project be included at the public hearing for project approvals. The Commission complies with this section by considering and adopting CEQA Findings for a project, as appropriate, following environmental review and prior to project approvals. In addition, nothing prevents the Commission or members of the public from considering the results of the environmental analysis during a public hearing on project approvals.

Therefore, the Commission and the Department complied with CEQA, the CEQA Guidelines, and Chapter 31 of the *Administrative Code* with respect to EIR procedures.

RESPONSES TO SPECIFIC ISSUES RAISED ON APPEAL

Issue 1: "1. The EIR fails to comply with CEQA because it fails to include relevant "information and precludes informed decisionmaking and public participation regarding the impacts of the project on pedestrian safety and circulation, bicycle safety and circulation, automobile traffic volume, safety and circulation, and transit circulation, as more particularly set forth in the comment letters submitted by Livable City and the San Francisco Bicycle Coalition.

Response 1: Please see Master Responses 1 and 2.

Issue 2: "2. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the impacts of the project on pedestrian safety and circulation, bicycle safety and circulation, automobile traffic volume, safety and circulation, and transit circulation, as more particularly set forth in the comment letters submitted by Livable City and the San Francisco Bicycle Coalition."

Response 2: Please see Master Responses 1 and 2.

Issue 3: "3. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding transportation, circulation, and parking because of the excessive number of off-street parking spaces, off street loading exceptions, and impacts from queuing that have not been adequately mitigated."

Responses 3: Please see Master Responses 1 and 3.

Issue 4: 4. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because ~~they are unsupported by substantial evidence regarding transportation, circulation, and parking because of the excessive number of off-street parking spaces, off street loading exceptions, and impacts from queuing that have not been adequately mitigated."~~

Response 4: See Master Responses 1, and 3.

Issue 5: "5. The EIR's statement of project objectives fails to comply with CEQA by limiting the project description to the development to the sponsor's preference for a "large retail project," and otherwise for the reasons stated in the comment letter of Arthur D. Levy. In so doing, the EIR improperly constrains environmental analysis, informed decision making, and public participation."

Response 5: The project sponsor's objectives are listed in Chapter II, Project Description, on pp II.1 - 2 of the DEIR and are discussed on pp. C&R.69 - 70 of the C&R document. With respect to the project description, CEQA does not require that a project applicant offer a range of projects or project uses for environmental analysis (CEQA Guidelines Section 15124). The Department analyzed the project as proposed by the project sponsors. Therefore, the project description is not deficient for not considering uses other than a large retail project. The FEIR also included analysis of alternatives to the proposed project as required by CEQA.

Issue 6: "6. The EIR's statement of environmental characteristics fails to comply with CEQA because it does not contain a discussion of Mid-Market's architectural, visual, and historic context sufficient to enable the decision making bodies to evaluate the impact of demolition of the existing buildings and construction of a new shopping center on the Mid-Market corridor. EIR piecemeals contextual analysis by simply stating what 'the current site conditions do not contain. It fails to provide a sufficient contextual baseline to evaluate how the proposed project, if built, will affect the character of the surrounding environs. Context must not only frame the impact of what will be torn down to build this project; it must also enable analysis of how the project, if built, will affect the characteristic environment that surrounds it."

Response 6: See Master Response 4.

Issue 7: "7. The EIR's statement of environmental characteristics fails to comply with CEQA because it fails to place the project in the context of the historic and visual character of the block in which the project is located, including the presence of the two adjacent National Register Historic Districts, the Market Street Theatre and Loft District (982 - 1112 Market, 973-1105 Market, 1 Jones, and 1-35 Taylor Streets) and the Uptown Tenderloin National Register Historic District (comprising 33 blocks in the north of Market Tenderloin district)."

Response 7: See Master Responses 4 and 5.

Issue 8: "8. The EIR's environmental setting discussion fails to comply with CEQA because it does not provide a baseline of conditions sufficient to enable the decision making bodies to evaluate the impacts of the project on the visual, architectural, and historic character of Mid-Market."

Response 8: See Master Response 4.

Issue 9: "9. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the significance of St. Francis Theater and retail shops at 947-964 Market Street as an historical resource, including but not limited to the facade of the St. Francis as an historical resource that contributes to the character of the block through the ornament and fenestration on the facade of the retail shops on Market Street."

Response 9: See Master Response 5.

Issue 10: "10. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decision making and public participation by illegally deferring the analysis of whether the facade of the St. Francis Theater and retail shops at 947-964 Market Street is an historical resource."

Response 10: See Master Response 5.

Issue 11: "11. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the significance of St. Francis Theater and retail shops at 947-964 Market Street as an historical resource, including but not limited to the facade of the St. Francis as

an historical resource that contributes to the character of the block through the ornament and fenestration on the facade of the retail shops on Market Street.”

Response 11: See Master Response 5.

Issue 12: “12. The discussion of Land Use Plans and Policies, Setting and Impacts fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the inconsistency of the project with the with City plans, policies, land use and zoning policies, including but not limited to the San Francisco General Plan (including but not limited to Policy 1.3 (Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts) and Objective 32 (Limit Parking in Downtown To Help Ensure that the Number of Auto Trips to and from Downtown Will Not Be Detrimental to the Growth or Amenity of Downtown); Downtown Plan Policy 20.7; and with the following Priority Policies; (1) preservation and enhancement of neighborhood-serving retail uses; (2) protection of neighborhood character; (3) discouragement of commuter automobiles; and (4) landmark and historic building preservation.”

Response 12: See Master Response 6.

Issue 13: “13. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the inconsistency of the project with these City plans, policies, and land use and zoning requirements.”

Response 13: See Master Response 6.

Issue 14: “14. The EIR improperly defers analysis of Land Use Impacts by postponing full evaluation of the project's consistency with these City plans, policies, and land use and zoning requirements pending the issuance of building and demolition permits, and to future findings relating to project approval. This analysis must be performed prior to EIR certification and be included in the EIR in order to comply with CEQA.”

Response 14: See Master Response 6.

Issue 15: “15. The EIR fails to comply with CEQA because it fails to include relevant information and precludes informed decisionmaking and public participation regarding the impact of the project of the surrounding neighborhood and the historic Mid-Market Corridor.”

Response 15: See Master Response 5.

Issue 16: “16. The significance determinations in the EIR and the CEQA findings fail to comply with CEQA because they are unsupported by substantial evidence regarding the impact of the project of the surrounding neighborhood and the historic Mid-Market Corridor.”

Response 16: See Master Response 5.

Issue 17: “17. The EIR fails to contain an adequate range and analysis of alternatives to permit informed decision making because each of the alternatives selected is for the construction of a large new shopping center.”

Response 17: An EIR must analyze a reasonable range of potentially feasible alternatives to the proposed project. Pursuant to case law, CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR.⁷ The alternatives to be analyzed should be appropriate to the proposed project based on its own facts when reviewed in light of statutory purpose (CEQA Guidelines Section 15126.6(a)). As explained there, the range of alternatives should be governed by the rule of reason and multiple combinations and permutations are not required (CEQA Guidelines Section 15126.6(f)). The alternatives should be designed to reduce or eliminate the significant environmental impacts of the proposed project while still meeting some or all of the project sponsor's objectives.

The issue raised by Appellants was previously responded to on pp. C&R.69 - 70 of the Comments and Responses document:

"The alternatives evaluated in the EIR (the No Project, Reduced Intensity, and No Garage Alternative) are identified in Section G, Alternatives, of the Initial Study on p. 103 (included as Appendix A to the EIR). These alternatives are analyzed in Chapter VI, Alternatives, of the EIR. In addition, the Reduced Parking Variant of the No Garage Alternative has been added. The analysis of project impacts for the Reduced Parking Variant is provided in Section D, Draft EIR Text Changes, under "Chapter VI, Alternatives." This variant of the No Garage alternative would result in the same size retail project as the proposed project, but would provide one level of below-grade parking with approximately 80 parking spaces instead of none with the No Garage Alternative or two levels of parking (188 spaces) with the proposed project. This variant is within the range of alternatives analyzed as part of the Draft EIR, but provides clarification of the potential impacts that would result from the provision of one level of parking instead of none or two levels.

As described on EIR p. VI.1, the rationales for the alternatives evaluated in the EIR are based on the City's assessment of the potential for reductions to or elimination of potentially significant and otherwise unavoidable project impacts related to transportation and traffic-related air quality. The No Project Alternative, Reduced Intensity Alternative, and No Garage Alternative and its Reduced Parking Variant analyzed in this EIR would continue to meet some or all of the project sponsor's objectives and would avoid or lessen the significant effects of the proposed project."

Appellants have provided no new information or analysis expanding on this comment that supports the statement that the range of alternatives provided in the DEIR and the C&R document is not adequate.

Issue 18: "18. The EIR fails to comply with CEQA by failing adequately to respond to comment letters."

Response 18: See Master Response 7.

⁷ Remy, Michael, T. Thomas, J. Moose, W. Manley. 2007. *Guide to CEQA*. Solano Press Books. Point Arena, California.

Issue 19: "19. The Planning Commission's procedure' of considering public hearing 'closed' and not conducting 'Public Review' of the EIR fails to comply with CEQA, including but not limited to CEQA Guideline 15202(b)."

Response 19: See Master Response 7.

CONCLUSION

The transportation impact analysis conducted by the Department for the project followed the *SF Guidelines*, which utilize established and appropriate methodologies. Appellants have not provided any substantial evidence to refute the conclusions of the Department.

The Department has found that none of the existing buildings at 935-965 Market Street are historic resources as they do not retain integrity. Further, the project would not materially impair any individual historic resources or historic districts in the project vicinity in a manner that would compromise those resources' ability to convey their significance. Appellants have not provided any substantial evidence to refute the conclusions of the Department.

For the reasons stated above the Commission's certification of the EIR complies with the requirements of CEQA, the CEQA Guidelines and Chapter 31 of the *San Francisco Administrative Code*. The Department, therefore, recommends that the Board uphold the Commission's decision to certify the EIR and deny the appeal.

ATTACHMENTS

**Document is available
at the Clerk's Office
Room 244, City Hall**