

File No. 110977

Committee Item No. \_\_\_\_\_  
Board Item No. 35

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date October 4, 2011

**Cmte Board**

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget Analyst Report
- Legislative Analyst Report
- Introduction Form (for hearings)
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

**OTHER** (Use back side if additional space is needed)

- Appeal of Mitigated Negative Declaration – 3151-3155 Scott Street
- Planning Department's Response (Exhibits A, B, and C)
- Appellant's Brief

Completed by: Joy Lamug

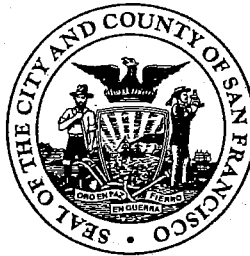
Date September 29, 2011

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

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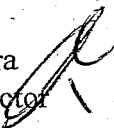
BOARD of SUPERVISORS



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

September 9, 2011

To: Cheryl Adams  
Deputy City Attorney

From: Rick Caldeira  
Deputy Director 

**Subject: Appeal of Mitigated Negative Declaration for 3151-3155 Scott Street**

An appeal of mitigated negative declaration issued for property located at 3151-3155 Scott Street was filed with the Office of the Clerk of the Board on September 8, 2011, by Lori Brooke and Steven L. Hammond on behalf of the Cow Hollow Association.

Pursuant to the Interim Procedures of Appeals for Negative Declaration and Categorical Exemptions No. 5, I am forwarding this appeal, with attached documents, to the City Attorney's office to determine if the appeal has been filed in a timely manner. The City Attorney's determination should be made within 3 working days of receipt of this request.

If you have any questions, you can contact me at (415) 554-7711.

c: Angela Calvillo, Clerk of the Board  
Kate Stacy, Deputy City Attorney  
Marlena Byrne, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Bill Wycko, Environmental Review Officer, Planning Department  
AnMarie Rodgers, Planning Department  
Tina Tam, Planning Department  
Nannie Turrell, Planning Department  
Andrea Contreras, Planning Department  
Linda Avery, Planning Department



# HammondLAW

1829 Market Street, San Francisco, CA 94103  
phone: 415.955.1915 fax: 415.955.1976

September 8, 2011

**VIA HAND DELIVERY**

San Francisco Board of Supervisors  
Attn: Clerk of the Board of Supervisors  
#1 Dr. Carlton B. Goodlet Place, #244  
San Francisco, California 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2011 SEP 8 AM 11:57  
BY *RBC*

Re: **3151-3155 Scott Street – Case No. 2010.0420E (the “Project”)**  
CHA Appeal of Final Mitigated Negative Declaration and Planning Commission  
Motion No. 18403 Affirming the Mitigated Negative Declaration on Appeal

Dear Supervisors and Clerk of the Board:

This office represents the Cow Hollow Association (“CHA”), a long standing non-profit neighborhood organization that represents the interests of approximately 1,800 residents in forty-eight blocks demarcated by Lyon, Pierce, Greenwich, and Pacific Streets. This letter serves as CHA’s Appeal of the Final Mitigated Negative Declaration (“FMND”) and San Francisco Planning Commission Motion No. 18403 affirming the Mitigated Negative Declaration after CHA’s appeal to that body (the “Motion”). Enclosed with this Appeal, please find a check in the amount of \$510.00 payable to the San Francisco Planning Department, CHA’s Neighborhood Organization Fee Waiver Request Form, and a copy of the Motion. The following neighborhood associations join this appeal:

- Marina Community Association (MCA)
- Marina Merchants Association (MMA)
- Marina Cow Hollow Neighbors and Merchants (MCHNM)
- Union Street Merchants Association (USMA)

A related appeal has been filed with the Board of Supervisors on the conditional use authorization for the Project (Case No. 2010.0420C).

Based on the following grounds for the appeal, CHA respectfully requests the Board of Supervisors 1) disapprove and rescind the FMND and Planning Commission Motion 18403, 2) direct the Planning Department to prepare a full Environmental Impact Report (“EIR”), and 3) provide adequate opportunity for public response to that EIR.

## **1. Improper Notice of Availability of and Intent to Adopt a Mitigated Negative Declaration**

Pursuant to CEQA Guidelines Section 15073(d), a lead agency must send copies of the Preliminary Mitigated Negative Declaration ("PMND") to the State Clearinghouse and Planning Unit of the Governor's Office of Planning and Research ("SCH") for distribution to the applicable responsible agencies, and the public review period is required to be 30 days, unless a shorter time period is approved by SCH.

Here, however, the Planning Department only provided the public a 20-day review period and failed to submit or provide the PMND to SCH. This shortened public review period of 20 days fails to comply with CEQA regulations. By so doing, the Planning Department prevented the appropriate state agencies from reviewing the findings of the PMND as required by law and prevented meaningful participation and review by the public. By letter dated June 10, 2011, this office notified the Planning Department of this concern and requested an extension of time. The Department, however, orally denied this request without explanation.

The state agencies that should have been granted the opportunity to review the PMND here are 1) the State Office of Historic Preservation (OHP), 2) the Department of Toxic Substances and Control (DTSC), 3) Caltrans, and 4) the Department of Occupational Safety and Hazards (Cal-OSHA).

Due to the Planning Department's failure to provide the required materials to SCH, DTSC and Cal-OSHA did not have an opportunity to review issues related to hazardous materials as analyzed in the PMND. Likewise, Caltrans was denied the opportunity to evaluate potential construction impacts on Lombard Street, a state highway over which it has discretionary powers. Finally, OHP had no opportunity to review the historic resource evaluation prepared for this project and comment on its adequacy.

For the above reasons, the Planning Department improperly noticed its Intent to Adopt a Mitigated Negative Declaration for the Project to the detriment of the public. Likewise, the Planning Department's failure to distribute the PMND to all appropriate and required state agencies constitutes a violation of CEQA Guidelines Section 15073(d). Consequently, it is incumbent on the Board of Supervisors to rescind the May 24, 2011 Notice of Intent to Adopt a Mitigated Negative Declaration and require the Planning Department to re-notice it with the required 30-day public review period and provide copies of the PMND to SCH for distribution to the required state agencies.

## **2. Failure to Address the Adverse Social Effects on People Caused by the Project as a Factor in Determining the Significance of the Project's Physical Changes**

Economic and social changes caused by a project are not ordinarily treated as significant effects under CEQA. Cal. Code Regs. tit. xiv §15064(e). However,

[i]f the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect. (*Id.*)

Here, the size and density of the Project will harm its residents and the neighboring community.

For example, the Project will pack too many residents into inappropriately small units. If the Building were used for dwelling units, as opposed to group housing, current zoning would allow no more than 6 units. But the Project proposes to house at least 24 residents, their guests, and supervisors. Each resident unit will be only 143 square feet in size. Rather than create units of appropriate and reasonable size, the Project packs as many residents as possible into the Building in order to meet the Project's funding needs. This increased density will harm the Project's residents and will be a drastic change from the typical density in the neighborhood. The Planning Department, however, failed to consider whether adverse effect on the Project's residents and neighbors caused by its overcrowding (due to the physical changes to the Building) is a significant effect.

### **3. Historic Resources Analysis Flawed**

As described above, despite OHP's statutory purview over historic resources, the PMND was not provided to SCH and thus OHP had no opportunity to comment on the PMND's determination that the building is not historic pursuant to CEQA. Rather, the FMND relies solely on a summary determination of the Project Sponsor's Historic Resources Evaluation Report ("HRER") and the concurrence of Planning Department staff that the Project site (the "Building") does not appear to be eligible for listing on the California Register.

The Building was designed by noted San Francisco architect Charles J. Rousseau in conjunction with the 1915 Panama Pacific International Exposition, which led to the development of the Marina district. It is one of the last remaining buildings from the Panama Pacific International Exposition. The Building retains the character and appearance of its original design and, contrary to the Project Sponsor's claims, it was never altered to the extent represented.<sup>1</sup> For these reasons, CHA believes the Building is historic per CEQA guidelines and the Project's planned significant alteration of its façade constitutes a significant impact on its historical character.

### **4. Transportation Analysis Flawed**

Despite acknowledging the fact that the development and construction phase will impact congestion and traffic flow on Lombard Street (FMND, p. 46), no mitigation is included in the FMND to reduce this impact. Rather, mitigation is deferred to some future meeting between the project contractors and the City's Transportation Advisory staff "to develop feasible measures to

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<sup>1</sup> CHA has been unable to locate permits for any cutback to the Building.

reduce traffic congestion.” (*Id.*) Likewise, no consultation or coordination with Caltrans is proposed, nor are any actual mitigation measures identified. This is an inappropriate deferral of mitigation to post-project approval.

Lombard Street traffic is unavoidably increasing due to the re-routing of Doyle Drive. (Doyle Drive is the southern approach road for the Golden Gate Bridge. During an average weekday it carries over 144,000 travelers.) Moreover, coinciding with construction, the 34<sup>th</sup> America's Cup will significantly impact traffic congestion in the Cow Hollow and Marina neighborhoods. The increase in congestion and/or traffic circulation of the Project in conjunction with the Doyle Drive re-routing plan and the America's Cup was improperly dismissed in the FMND.

In addition, CEQA documents for projects that would increase usage of a state highway (here, Highway 101) or potentially disrupt the roadway with construction activities should be provided to Caltrans for consultation. The FMND does not mention any consultation with Caltrans, nor was Caltrans included on the initial study distribution list. The Planning Department's failure to distribute the initial study or PMND to Caltrans for comment violates both the letter and spirit of CEQA Guidelines and is in stark contrast to the mitigations proposed in the HUD Environmental Assessment (EA) on file with the City.

## **5. Hazards and Hazardous Materials Analysis Flawed**

The FMND notes that the site may contain hazardous materials, which would have to be abated, such as lead-based paint, PCBs, mercury, and asbestos. The FMND notes that Cal-OSHA regulates such removal, but, as described earlier, neither Cal-OSHA nor DTSC were consulted or provided the PMND to comment on. Cal-OSHA is also required to be notified when asbestos abatement is to be performed, as it is here.

The EA HUD performed found that project construction could subject workers and residents to hazards from asbestos, PCBs, and lead-based paints. The EA considers this impact potentially significant, and therefore identifies mitigation measures to assure that they are reduced to a less-than-significant level. The FMND relies on sections of the California Health and Safety Code and the San Francisco Building Code to address asbestos and lead-based paint. Yet, unlike the EA, no specific commitments or procedures are discussed in the FMND. In addition, the FMND blithely concludes that because of the small size of the structure and limited potential for PCB-containing light fixtures, it is unlikely that the potential impact from PCBs would be significant. This is an inadequate analysis in several ways. First, PCBs can be hazardous in very low levels, undercutting the City's assessment. Second, the City's conclusions of non-significance are contradicted by the HUD EA, which concludes that byproducts of PCB combustion are known carcinogens and respiratory hazards and PCB-containing ballasts in conjunction with fluorescent light fixtures are present at the project site. The EA identified a number of specified specific mitigation measures to reduce the hazard. The need for these measures clearly indicates that there was possibility of a significant impact, especially in light of the young age of anticipated occupants.

## 6. Mandatory Findings of Significance/Cumulative Impact Analysis/Growth Inducing Impacts Analysis Flawed

The cumulative impact analysis found at the end of each FMND technical section and in the Mandatory Findings of Significance concluded that no cumulative significant impacts would result from the Project. However, both the initial study and FMND failed to analyze the potential cumulative impacts to the environment associated with allowing the Special Use District and increased densities, as well as the nonconformance with the open space and rear-yard requirements. The FMND should have reviewed the possibility of additional Special Use Districts in the area and the resulting cumulative environmental impacts to traffic, air quality, and potentially other issues. Likewise, the approval of the Project's Special Use District must be considered to be growth inducing and thus required at least a qualitative analysis of such an impact. However, the Planning Department failed to analyze the possible impact of further zoning changes made possible by the precedent setting action of creating new Special Use Districts in the area.

Moreover, an EIR is required before the Planning Department and Board of Supervisors considers any request from any private developer or City Agency for a Special Use District to change the zoning to eliminate the environmentally protective requirements concerning housing density, open space, and parking that are required in NC-3 zoning district and a 40-X Height and Bulk District in which the Building is situated. The fact that the proposed uses and high density of occupancy will require new legislation by the Board of Supervisors to terminate and nullify existing environmental protections associated with parking and density requirements of the Planning and Zoning Ordinance indicates that there are numerous fair arguments that the Project may have significant impacts on the environment.

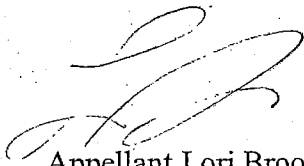
The City was required to prepare an EIR in the unpublished opinion, *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2007) A112987 (First Appellate Dist., Div. Four). The plaintiffs there showed "substantial evidence to support a fair argument that amendments to the housing element may have significant impact on the environment, thus requiring the preparation of an EIR." Here, the proposed Special Use District would create precedent for a policy to implement increased high-density housing through spot zoning or piecemeal planning. This represents a de facto amendment to the housing element, thus requiring preparation of an EIR.

Further, piecemeal planning and modifications to the housing element require an EIR. Instructive is the case *Pocket Protectors v. City of Sacramento* (2004) 124 Cal. App. 4th. 903, 927. In *Pocket Protectors*, the appellate court noted that the purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect that a proposed project is likely to have on the environment. The actions of the City Departments allowing denser habitation with no off-street or on-site parking that would lead to increased traffic congestion, air pollution, and noise were factors that the court determined raised the fair argument in the *San Franciscans for Livable Neighborhoods* case. The same is true here.

### Conclusion

Based upon the foregoing reasons in support of its appeal, and because the Project will have significant individual and cumulative impacts on the environment, CHA respectfully requests the Board of Supervisors disapprove and rescind the FMND and Planning Commission Motion 18403, direct the Planning Department to prepare a full EIR, and provide adequate opportunity for public response to that EIR.

Very truly yours,



Appellant Lori Brooke  
President  
Cow Hollow Association

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San Francisco, CA 94147  
(415) 749-1841



Steven L. Hammond  
Hammond Law  
Attorney for Cow Hollow Association

1829 Market Street  
San Francisco, CA 94103  
(415) 955-1915

cc: John Millar, President Marina Community Association  
Alex Feldman, President Marina Merchants Association  
Patricia Vaughey, President Marina Cow Hollow Neighbors and Merchants  
Lesley Leonhart, President Union Street Merchants Association





# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Motion 18403

HEARING DATE: July 14, 2011

*Hearing Date:* July 14, 2011  
*Case No.:* 2010.0420E  
*Project Address:* 3151-3155 Scott Street  
*Zoning:* NC-3 (Moderate-Scale Neighborhood Commercial District)  
40-X Height and Bulk District  
*Block/Lot:* 0937/001  
*Project Sponsor:* Hershey Hirschkop, Community Housing Partnership  
280 Turk Street  
San Francisco, CA 94102  
*Staff Contact:* Andrea Contreras – (415) 575-9044  
andrea.contreras@sfgov.org

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415.558.6377

### ADOPTING FINDINGS RELATED TO THE APPEAL OF THE PRELIMINARY MITIGATED NEGATIVE DECLARATION, FILE NUMBER 2010.0420E FOR THE PROPOSED DEVELOPMENT ("PROJECT") AT 3151-3155 Scott Street

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby AFFIRMS the decision to issue a Mitigated Negative Declaration, based on the following findings:

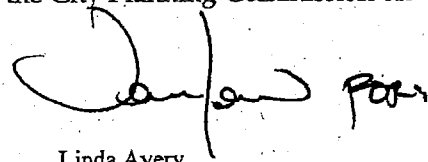
1. On October 6, 2010, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, the Planning Department ("Department") received an Environmental Evaluation Application form for the Project, in order that it might conduct an initial evaluation to determine whether the Project might have a significant impact on the environment.
2. On May 25, 2011, the Department determined that the Project, as proposed, could not have a significant effect on the environment.
3. On May 25, 2011, a notice of determination that a Mitigated Negative Declaration would be issued for the Project was duly published in a newspaper of general circulation in the City, and the Mitigated Negative Declaration posted in the Department offices, and distributed all in accordance with law.
4. On June 14, 2011, an appeal of the decision to issue a Mitigated Negative Declaration was timely filed by Steven L. Hammond of Hammond Law, representing the Marina Community Association, Marina Merchants Association, Marina Cow Hollow Neighbors and Merchants, Union Street Merchants Association, and Cow Hollow Association.

[www.sfplanning.org](http://www.sfplanning.org)

5. A staff memorandum, dated July 7, 2011, addresses and responds to all points raised by appellant in the appeal letter and by commenters in the comment letters. That memorandum is attached as Exhibit A and staff's findings as to those points are incorporated by reference herein as the Commission's own findings. Copies of that memorandum have been delivered to the City Planning Commission, and a copy of that memorandum is on file and available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400.
6. On July 6, 2011, amendments were made to the Preliminary Mitigated Negative Declaration, adding the following text to clarify the description of the proposed elevator, the garbage collection and storage plan, and cumulative transportation impacts accounting for the 34th America's Cup. Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the Preliminary Mitigated Negative Declaration. The changes do not require "substantial revision" of the Preliminary Mitigated Negative Declaration, and therefore recirculation of the Preliminary Mitigated Negative Declaration would not be required.
7. On July 14, 2011, the Commission held a duly noticed and advertised public hearing on the appeal of the Preliminary Mitigated Negative Declaration, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.
8. All points raised in the appeal of the Preliminary Mitigated Negative Declaration at the July 14, 2011 City Planning Commission hearing have been responded to either in the Memorandum or orally at the public hearing.
9. After consideration of the points raised by appellant, both in writing and at the July 14, 2011 hearing, the San Francisco Planning Department reaffirms its conclusion that the proposed project could not have a significant effect upon the environment.
10. In reviewing the Preliminary Mitigated Negative Declaration issued for the Project, the Planning Commission has had available for its review and consideration all information pertaining to the Project in the Planning Department's case file.
11. The Planning Commission finds that Planning Department's determination on the Mitigated Negative Declaration reflects the Department's independent judgment and analysis.

The City Planning Commission HEREBY DOES FIND that the proposed Project, could not have a significant effect on the environment, as shown in the analysis of the Mitigated Negative Declaration, and HEREBY DOES AFFIRM the decision to issue a Mitigated Negative Declaration, as prepared by the San Francisco Planning Department.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission on July 14, 2011.



Linda Avery  
Commission Secretary

**Motion No. 18403**  
**Hearing Date: July 14, 2011**

**Case No. 2010.0420E**  
**3151-3155 Scott Street**

**AYES:** Commissioners Olague, Miguel, Moore, Sugaya and Fong  
**NOES:** Commissioner Antonini  
**ABSENT:** Commissioner Borden  
**ADOPTED:** July 14, 2011

CASE NUMBER:  
For Staff Use only

# APPLICATION FOR Board of Supervisors Appeal Fee Waiver

## 1. Applicant and Project Information

APPLICANT NAME: Lori Brooke		
APPLICANT ADDRESS: 2628 Greenwich St. San Francisco, CA 94123		TELEPHONE: (415 ) 749-1841
		EMAIL: lbrooke@lmi.net
NEIGHBORHOOD ORGANIZATION NAME: Cow Hollow Association		
NEIGHBORHOOD ORGANIZATION ADDRESS: PO Box 471136 San Francisco, CA 94147		TELEPHONE: (415 ) 749-1841
		EMAIL: info@cowhollowassociation.org
PROJECT ADDRESS: 3151-3155 Scott Street, San Francisco, CA 94123		
PLANNING CASE NO.: 2010.0420E	BUILDING PERMIT APPLICATION NO.: File No. 110935/Case No. 2010.0420C	DATE OF DECISION (IF ANY): July 14, 2011

RECEIVED SUPERVISORS  
 BOARD OF SUPERVISORS  
 SAN FRANCISCO  
 2011 SEP 8 AM 11:58  
 [Signature]

## 2. Required Criteria for Granting Waiver

(All must be satisfied; please attach supporting materials)

- The appellant is a member of the stated neighborhood organization and is authorized to file the appeal on behalf of the organization. Authorization may take the form of a letter signed by the President or other officer of the organization.
- The appellant is appealing on behalf of an organization that is registered with the Planning Department and that appears on the Department's current list of neighborhood organizations.
- The appellant is appealing on behalf of an organization that has been in existence at least 24 months prior to the submittal of the fee waiver request. Existence may be established by evidence including that relating to the organization's activities at that time such as meeting minutes, resolutions, publications and rosters.
- The appellant is appealing on behalf of a neighborhood organization that is affected by the project and that is the subject of the appeal.

# Neighborhood Newsletter

The Cow Hollow Association (CHA) was established in 1946 to protect and preserve the residential character of one of San Francisco's distinctive neighborhoods. With association boundaries representing over 1,800 residences, we are one of the most active associations with a commitment to community involvement and improved quality of life in our residential neighborhood.

## Modern Museum in Historic Presidio

In mid 2007, the Presidio Trust (PT) issued a nationwide Request for Proposals (RFP) for cultural institution facilities to be built on the Parade Ground of the Presidio. Two responses were received: a proposal by Don Fisher, wealthy local businessman, former PT Board member and founder of the GAP; and one by the Presidio Historical Society (PHA) to build a history museum.

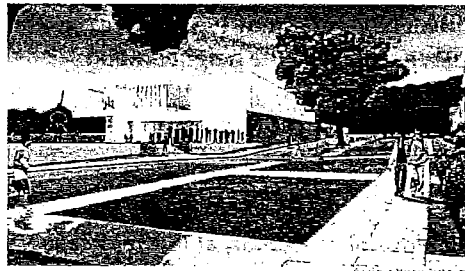
In October, 2007, some members of the CHA Board and Advisory Board met with Fisher's lawyer (and former PT and CHA Board member) Mary Murphy for an informal discussion about Fisher's plans and our concerns about greatly increased traffic and parking.

Later that fall, the CHA Board wrote the PT staff requesting that it address the traffic and parking consequences to the surrounding neighborhoods, specifically in the Lombard St. Gate and adjacent Cow Hollow neighborhood.

December, members of the CHA Board voiced these same objections at a public meeting with the PT staff. Later in

December, Fisher and the PHA publicly presented their competing proposals.

Fisher unveiled a proposal to put a modern architecture whitish building, directly catty corner to the 1812 wing of the Officers Club, at the very top of the Parade Ground immediately across from the 1880 Barracks. The building would be 100,000 sq.ft. of new construction, with walls largely of glass so that the modern,



often bold painting, prints and mobiles, could be displayed to the outside, and with balconies and roof space for the display of a number of Fisher's large abstract sculptures. The PHA proposed a considerably smaller historical museum designed to be compatible with the surrounding buildings.

In mid January, CHA and Advisory Board representatives met with Sup. Alioto-Pier to voice our objections to and concerns

regarding the location, size, architecture and traffic and parking adverse consequences implicated by the Fisher proposal.

The CHA board has passed a resolution (unanimous) opposing the Fisher. It reads:

*The Cow Hollow Association (CHA) is opposed to the Fisher Contemporary Art museum being located on the Presidio Main Post. The proposed enormous size, incongruous style and outside art displays are profoundly inconsistent with the historical character of that Park site. The increased traffic both inside and outside the Park, insufficient parking and consequent noise and pollution would be detrimental to the natural environment of this National Park.*

*The CHA recognizes the civic-mindedness of the Fisher family, and hopes that this art collection will be placed in the City of San Francisco. The CHA represents over 1,800 households in the area adjacent to the Presidio and is directly affected by this proposed very significant expansion of Presidio activities. We submit this both as neighbors to the Presidio and as citizens of the City of San Francisco.*

(continued on page 3)

## Van Ness Bus Rapid Transit Update

At meetings January 29 and March 4, the Van Ness Bus Rapid Transit (BRT) Project moved another step toward realization. The purpose of the Van Ness BRT is to increase transit's share of transportation on Van Ness by speeding up the pace at which buses move from Mission to Lombard and vice-versa. The project will use regular Muni buses that will complete their full existing routes (eg the 49 will go from Fisherman's Wharf to City College), but will be able to move faster through the Van Ness corridor by means of dedicated lanes and the ability to control traffic signals to avoid stopping at lights.

At its January meeting, the Van Ness Citizens Advisory Committee (CAC) adopted the Alternatives Screening Report and the Description of Alternatives Report. The latter removes from consideration several alternatives that were deemed "fatally flawed" -- such as a subway. The EIR/EIS process will

now move forward with two no-project alternatives and three "build" alternatives:

1. Curb Lane BRT with parallel parking
2. Center Lane BRT with dual medians
3. Center Lane BRT with center median.

More information about and artists' renderings of these alternatives is available on the project's website at [www.vannessbrrt.org](http://www.vannessbrrt.org).

Of greatest concern to the Cow Hollow Association is the potential for the reduction in traffic lanes on Van Ness to intensify congestion and back-up along Lombard during the morning commute, resulting in spillover traffic onto the north-south streets that pass through our neighborhood. We urge interested Cow Hollow residents to attend the next meeting and ask the responsible agencies to include complete and adequate studies of these potential impacts in the EIR/EIS. The project leaders have already acknowledged that increased traffic on streets other than Van Ness will be the primary impact to be studied, but we need to make sure that issue is translated into adequate studies, reliable data

and a proper analysis of those data in projecting negative impacts from the project.

At its March meeting the CAC received a briefing about the proposed changes to Muni transit service that were reported recently in the San Francisco Chronicle. These proposals are the result of MUNI's two-year Transit Effectiveness Project (for more information, visit [www.sftfp.com](http://www.sftfp.com)). The CAC also considered issues crucial to the adequacy of the EIR/EIS process: assumptions about future land use along the Van Ness corridor; assumptions about existing traffic conditions; estimates of future travel demand; and how to model future conditions.

Now is the perfect time to get involved! You can apply for a seat on the CAC (see the project website at [www.vannessbrrt.org](http://www.vannessbrrt.org) or simply attend the meetings and offer comments during the public comment period at each meeting. All such comments are recorded and made part of the project's official record. No prior participation is necessary.

## Undergrounding Utility Lines Update

We have studied the Underground Utilities Task Force (UUTF) Report of December 2006, met with Catherine Stefani of Sup. Alioto-Pier's office, Dan McKenna of DPW, Dan Weaver, head of the UUTF Task Force, and representatives of PG&E.

On November 19, 2007, the Board of Supervisors met to receive the UUTF Report and receive comments. The CHA spoke ( Board member Dave Bancroft), as did John Brooke (UUTF and CHA member.)

There are two tracks for getting our utility wires undergrounded: (1) A City wide undertaking, paid for from utility surcharges remitted to the City by the CPUC. This track is deemed unfeasible as those funds have been borrowed for over 5 years into the future, no other funds are

available, and if when they ever are, neighborhood competition for them and City politics make the chances for us very remote; (2) Forming a Community Benefit or Facilities District (CBD; CFD) under the Mello Roos Act of 1982, where the costs are born by the neighborhood residents, typically paid by the floating of City bonds, backed by property tax assessments on the benefited neighborhood residences.

On November 19, 2007, at our mid year meeting with Cow Hollow residents, we made an interim report on the status of our undergrounding efforts.

On December 6, 2007, The Board of Supervisors, following the recommendations of CHA, passed resolutions urging City agencies, headed by DPW, to develop information material identifying the steps for the formation of CBD/CFDs for undergrounding utility wires, including the proper order for

contacting who, at what agencies, for what guidance and determinations.

We will be proceeding to (1) see that it is implemented and (2) independently seek to determine the same and any additional information necessary.

Before completing that, in order to determine by neighborhood canvassing whether the costs of undergrounding are realistic, we will be seeking to get updated, and as accurate as possible, block by block estimates of what the assessment and monthly payments would be per residence to underground the wires on the various blocks needing it. Imperfect estimates have been \$13,500 for a 25 foot front residence, meaning an assessment of somewhere around (but probably somewhat upwards of) \$100 a month deductible and offset by increased property values.

## Modern Museum in Historic Presidio

(continued from page 1)

We note here that the Fisher is expected to draw, even at only 70% capacity, over 500,000 visitors a year, and the adjacent Disney Museum and 90 room hotel, between 300,000 and 400,000, for a total of upwards of 1,000,000 additional visitors. The Fisher will have underground parking for only 100 cars, and the parade ground is being re-landscaped to remove most of the existing parking. Similar objections have been made by

famed landscape designer Lawrence Halperin (who designed the Lucas facility), CHA, PHA and the majority of citizen comments received by the PT and on file in its library.

The next step is for the PT to do a draft EIS, comply with the National Historic Preservation Act, amend the Presidio Trust Master Plan to now allow for this major new construction, in the course of all of which it will be provisionally selecting a site for the Fisher. It is believed that the PT presently strongly favors the top of the Parade ground, as that is what the RFP called for, and Fisher has publicly

stated that is the only place he will accept. Both in the course of these processes and after publication of the draft EIS, public comment will be critical.

The CHA will be consulting and coordinating with other neighborhood and civic groups, including NAPP, Marina Community Association, Presidio Height Residents Association, Coalition for San Francisco Neighborhoods and the Presidio Historical Association to formulate and present opposition to the Fisher Museum on the Main Post.

## Doyle Drive Update

Representatives of the Doyle Drive Project made a presentation to the Board of Directors at the February meeting. The purpose of this presentation was to update the Board on changes that were under review regarding traffic exits near Lombard Street (Richardson Drive) and Marina Boulevard. The CHA has been concerned that the new Marina exit for southbound drivers during the morning commute would back up traffic on Doyle Drive encouraging many more drivers to take the Lombard Street exit.

Consequently we feared Lombard would become increasingly backed-up

and commuters would seek cross-over streets through our neighborhood to avoid the traffic on Lombard.

The Doyle Drive Project engineers and traffic experts have taken the CHA concerns to heart and have designed the new Marina exit off of Doyle with synchronized stop lights (rather than the previous stop signs). The lights will have a "green-light" for extended periods during the morning commute which will allow drivers to exit towards Marina Boulevard in a manner (and speed!) similar to what exists currently. We were encouraged by the presentation that this new solution will in fact keep traffic flowing in a manner similar to current patterns.

A new entrance to the Presidio is also planned. That entrance will be along a widened Girard Road. Girard ends at Lincoln Blvd, just east of the YMCA parking lot.

The CHA expressed concerns that this may contribute to congestion in this area as the Bay School, YMCA, and Parade Ground traffic all pass through this intersection. According to the Doyle Drive engineers the Presidio Trust would not allow any other routes than the one described above. Construction of the new Doyle Drive is scheduled to begin in 2010.

## Bridge Motel

Although the Bridge Motel on Lombard, adjacent to the Walgreens at Divisadero, is outside the boundaries of the CHA, many members have expressed concern about the run-down condition of this building.

Several years ago, this was less of a concern as a large bike store and a bar were tenants in this building. Both of those stores have subsequently closed and are now vacant and boarded up.

The Bridge Motel rents rooms on a daily or weekly basis and many of the tenants are referrals from diversion

programs and the San Francisco Court system.

The CHA spoke to both Captain Casciato of the SFPD Northern Station and Mr. Curtis Christy-Cirillo of the City Attorney's office. Both were very knowledgeable about the situation at the Bridge and assured us that this building is "on their radar screen".

Undercover officers from the SFPD are regular visitors to the motel (approximately twice a week), looking for drugs or other illegal activities. The SF Building Department is examining the building for code violations, and the Department of Public Health has been

making inspections. Supervisor Alioto-Pier, the Marina Homeowners Association, the Marina Merchants Association and others have been actively involved in voicing concerns.

The building is privately owned and the current owner has been cooperative and quick to respond to building violation notices or complaints from the SFPD.

In the short term we can only hope that the vacant ground floor retail spaces are rented which would certainly enhance that area along Lombard Street.

*Mark Your Calendars***CHA Annual Meeting****Thursday, May 8, 2008**

5:30 - 7:30 pm  
 St. Francis Yacht Club  
 Refreshments served

*Bring a new neighbor to the annual meeting, and if they join the CHA, you receive free renewal for 2008-2009*

**CHA Board Members**

Lori Brooke (President)  
 Meg Ruxton (Secretary)  
 Martina Ehlers (Treasurer)  
 David Bancroft  
 Lynn Fuller  
 Bill Gorman

Tony Imhof  
 Malcolm Kaufman  
 Elaine Larkin  
 Tom McAteer  
 Mark Sherman

P.O. Box 471136  
 San Francisco, CA 94147

E-mail:  
[info@cowhollowassociation.org](mailto:info@cowhollowassociation.org)  
 Web:  
[www.cowhollowassociation.org](http://www.cowhollowassociation.org)

**Block Captains**

**Question** - What's the best way to experience greater enjoyment from living in Cow Hollow and gain increased safety?

**Answer** - Meet and get to know your neighbors.

**Details** - Your CHA has started building a team of Block Captains for each Cow Hollow block. We have about 50% coverage so far with more on the way.

If you wish to get involved by becoming a Block Captain, contact Malcolm Kaufman at [kaufman@pulsefactors.com](mailto:kaufman@pulsefactors.com) or contact him to find out if you already have a Block Captain and how to reach them.

**Public CHA Meeting Muni Overhaul Planned**

Other than the Annual Meeting, the CHA board meetings are held at people's homes making it difficult to open the meetings to a large crowd. The CHA board wanted our members to have a chance mid-year to hear what CHA is working on, ask questions and get involved.

CHA held its first ever public board meeting on November 15, 2007 in the community room of St. Mary the Virgin Episcopal Church. We discussed Presidio development, traffic calming, crime, block captains and undergrounding utility wires. The meeting was a success and CHA will likely continue this new tradition in 2008.

In March, the CHA board received a briefing from Peter Strauss with the SF Municipal Railway (MUNI) about a multi-year initiative to improve the efficiency of MUNI.

The project has two parts: first, a study of usage patterns and second, implementation of service changes to conform more closely with those usage patterns. The first part of

the project is complete and the second is in the public workshop stage. Proposed service changes that would affect Cow Hollow include the elimination of the 3 Jackson line and the extension of the 24 Divisadero line down to the Marina. For more information, visit <http://www.sftepp.com/>.

**Support for the Presidio Historical Association**

As many in Cow Hollow know, the Presidio Historical Association is leading an effort to keep the Presidio's status as a National Historic Landmark. Currently, the proposed mega-museum that is proposed near the former Spanish and Mexican Presidio and Parade Grounds would violate many standards for historical preservation. This would destroy the historic integrity of the Presidio and place its National Landmark status in question. The Presidio Historical Association began in 1959 as a small group of distinguished San Franciscans who were successful in rehabilitating Fort Point, opening it to the public and obtaining its status as a National Historic Site from Congress. Its mission is to be an advocate for historic preservation and education at the Presidio.

They ask that you help their efforts by becoming a member and sending your check of \$30 or more to: Presidio Historical Association, P.O. Box 29163, San Francisco, CA 94129. Please include your name, address, phone number and e-mail address.

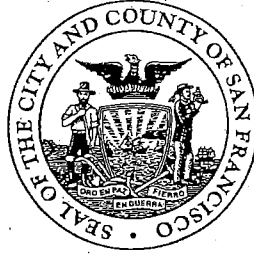
Further information is available at : [www.presidioassociation.org](http://www.presidioassociation.org)



**Board of Directors**

Last Name	First Name	Officer/Committee Roles	Address (94123)	Term
Bancroft	David	- Ad Hoc - Neighborhood Enhancements	2934 Broderick	2011-13
Bea	Louise	- Presidio	2727 Pierce	2010-12
Brooke	Lori	- President - Communications	2628 Greenwich	2010-12
Fuller	Lynn	- VP - Membership / Communications	2949 Divisadero	2011-13
Kaufman	Malcolm	- Membership - Ad Hoc	2485 Union #2	2010-12
Kirkwood	Amanda	- Block Captains - Membership	2636 Union	2011-13
Larkin	Elaine	- Zoning Co-Chair	2648 Union	2011-13
Lauterbach	Martina	- Treasurer & Zoning Co-Chair - Communications	2655 Greenwich	2010-12
Merijohn	George	- Ad Hoc	2766 Greenwich	2010-12
Sherman	Mark	- Secretary - Community & Gov'n Relations	2924 Baker	2011-13
Wood	Geoff	- Zoning - Ad Hoc	2758 Baker	2010-12

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

September 12, 2011

Lori Brooke, President  
Cow Hollow Association  
PO Box 471136  
San Francisco, CA 94147

Steven L. Hammond, Esq.  
Hammond Law  
Attorney for Cow Hollow Association  
1829 Market Street  
San Francisco, CA 94103

**Subject: Appeal of Mitigated Declaration for a Project Located at 3151-3155 Scott**

Dear Ms. Brooke and Mr. Hammond:

The Office of the Clerk of the Board is in receipt of attached memorandum dated September 9, 2011, from the City Attorney's Office regarding the timely filing of an appeal of the mitigated declaration for a project located at 3151-3155 Scott Street.

The City Attorney has determined that the appeal was filed in a timely manner.

A hearing date has been scheduled on **Tuesday, October 4, 2011, at 4:00 p.m.**, at the Board of Supervisors Meeting to be held in City Hall, tentatively in Hearing Room 416, 4<sup>th</sup> Floor, at 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Pursuant to the Interim Procedures 7 and 9, please provide to the Clerk's Office **by**:

**8 days prior to the hearing:** any documentation which you may want available to the Board members prior to the hearing;

**11 days prior to the hearing:** names of interested parties to be notified of the hearing.

Please provide 18 copies of the documentation for distribution, and, if possible, names of interested parties to be notified in label format.

If you have any questions, you may contact Legislative Deputy Director, Rick Caldeira on (415) 554-7711 or Legislative Clerk, Joy Lamug on (415) 554-7712.

Very truly yours,

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, Zoning Administrator, Planning Department  
Bill Wycko, Environmental Review Officer, Planning Department  
Project Sponsor, Hershey Hirschkop, Community Housing Partnership, 280 Turk Street, SF, CA 94102

AnMarie Rodgers, Planning Department  
Tina Tam, Planning Department  
Nannie Turrell, Planning Department  
Linda Avery, Planning Department  
Andrea Contreras, Planning Department



DENNIS J. HERRERA  
City Attorney

MARLENA G. BYRNE  
Deputy City Attorney

DIRECT DIAL: (415) 554-4620  
E-MAIL: marlena.byrne@sfgov.org

## MEMORANDUM

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Marlena G. Byrne  
Deputy City Attorney *MGB*

DATE: September 9, 2011

RE: Appeal of a Mitigated Negative Declaration for Project Located at 3151-3155 Scott Street

You have asked for our advice on the timeliness of an appeal to the Board of Supervisors by Lori Brooke and Steven L. Hammond, on behalf of the Cow Hollow Association, received by the Clerk's Office on September 8, 2011, of the Planning Department's issuance and the Planning Commission's affirmation of a Mitigated Negative Declaration (MND) under the California Environmental Quality Act ("CEQA") for a project located at 3151-3155 Scott Street. The proposed work involves the conversion of a building formerly used as a 29-room tourist hotel (d.b.a. King Edward II) to a group housing use with up to 24 affordable group housing units for transitional age youth (i.e. youth transitioning out of foster care because they have turned 18 years old) between the ages of 18 and 24, one manager's unit and rooms for programmatic needs. The Appellant provided a copy of Planning Commission Motion No. 18403, affirming the Department's issuance of the MND at its regularly scheduled meeting of July 14, 2011.

After affirming the Department's issuance of the MND, at the same hearing the Planning Commission approved a conditional use authorization for the proposed project and recommended approval to the Board of Supervisor's of Zoning Map and Planning Code text change amendments to create the Lombard and Scott Street Affordable Group Housing Special Use District (SUD) for the proposed project. Accordingly, the appeal is ripe for review.

We are informed that the Planning Commission's approval of the proposed project's conditional use authorization was timely appealed to the Board of Supervisors, and that appeal is pending. Additionally, the Board of Supervisors has not made a final decision on the proposed SUD for the project. Accordingly, because the appeal of the MND was filed with the Clerk's Office during the pendency of the conditional use authorization appeal and because the Board of Supervisor's has not yet approved the SUD, the appeal of the MND is also timely. Therefore, the appeal should be calendared before the Board of Supervisors. We recommend that you so advise the Appellant.

A question may be raised about whether our conclusion in this memorandum is consistent with the advice we issued in our February 22, 2008 memorandum to the Clerk of the Board about when CEQA appeals are ripe for review and timely filed. In that public memorandum, we said that a "for a project requiring a conditional use permit a CEQA appeal will be ripe and timely if filed after the Planning Commission approves the conditional use permit but before the 30-day period for appeal of the conditional use permit to the Board of Supervisors expires." The general scenario this Office addressed in that memorandum was one where the conditional use permit has become final because the administrative process has been completed, with no appeal of that

## Memorandum

TO: Angela Calvillo  
Clerk of the Board of Supervisors  
DATE: September 9, 2011  
PAGE: 2  
RE: Appeal of a Mitigated Negative Declaration for Project Located at 3151-3155 Scott Street

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permit having been filed within the 30-day period. But we did not specifically address the situation here, where the conditional use permit is timely appealed, and thus a discretionary project approval is pending before the Board at the time the appeal of the CEQA determination is filed. Under this situation, the appeal is timely for the reasons we describe above.

Please let us know if we may be of further assistance.

MGB

cc: Rick Caldeira, Deputy Director, Clerk of the Board  
Joy Lamug, Board Clerk's Office  
Andrea Ausberry, Board Clerk's Office  
Cheryl Adams, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Bill Wycko, Environmental Review Officer, Planning Department  
AnMarie Rodgers, Planning Department  
Linda Avery, Planning Department  
Tina Tam, Planning Department  
Nannie Turrell, Planning Department  
Sarah Jones, Planning Department  
Andrea Contreras, Planning Department  
Sara Velve, Planning Department  
Lydia Ely, Mayor's Office of Housing



# Hammond LAW

1829 Market Street, San Francisco, CA 94103  
phone: 415-955-1915 fax: 415-955-1976

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2011 SEP 26 PM 4:59  
ML

September 26, 2011

\*\* Complete copy of document is located in

## Via Hand Delivery

File No. 110977

Angela Calvillo  
Clerk of the Board of Supervisors  
#1 Dr. Carlton B. Goodlet Place, #244  
San Francisco, California 94102

Re: **3151-3155 Scott Street – Case No. 2010.0420CETZ**

Dear Ms. Calvillo:

Please find enclosed written documentation Cow Hollow Association is making available to Board of Supervisors members prior to the October 4, 2011 hearings on the appeal of the mitigated negative declaration, the appeal of the conditional use authorization, and the special use district ordinance for 3151-3155 Scott Street.

Cow Hollow Association makes these documents available on its own behalf as well as on behalf of Marina Community Association, Marina Merchants Association, Marina Cow Hollow Neighbors and Merchants, and Union Street Merchants Association.

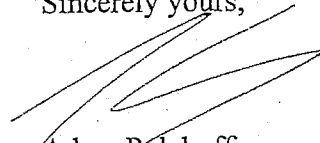
Because these three hearings are related, and may be consolidated by the Board, Cow Hollow Association is providing all its written correspondence for the three hearings in this single packet. The following documents are included:

1. Letter dated September 26, 2011 re The City Violated CEQA by Failing to Perform the Required CEQA Analysis Before Approving the Project
2. CHA Appeal to Board of Supervisors dated September 8, 2011 of Final Mitigated Negative Declaration and Planning Commission Motion No. 18403 Affirming the Mitigated Negative Declaration on Appeal
3. CHA Appeal to Planning Commission dated June 14, 2011 of Mitigated Negative Declaration dated June 14, 2011
4. Letter dated September 21, 2011 re The City's Special Use District Ordinance (Planning Code Section 235) is an Improper Method to Effectuate California Government Code Section 65915's Density Bonus Requirements

Angela Calvillo  
Re: 3151 – 3155 Scott Street  
September 23, 2011  
Page 2

5. Letter dated September 23, 2011 re Cow Hollow Association's Request to Add Restrictions to Conditional Use Authorization
6. CHA Appeal to Board of Supervisors dated August 15, 2011 of Planning Commission Motion No. 18405 Authorizing the Conditional Use Requested in Application No. 2010.0420C
7. Cow Hollow Association's Public Comments dated July 7, 2011 on Proposed Planning Code Text Amendment and Zoning Map Amendment to Establish the Lombard and Scott Street Affordable Group Housing Special Use District

Sincerely yours,



Adam Polakoff  
Attorney for Cow Hollow Association

encl.



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** September 26, 2011  
**TO:** Angela Calvillo, Clerk of the Board  
**FROM:** Bill Wycko, Environmental Review Officer, Planning Department  
**RE:** Appeal of the Final Mitigated Negative Declaration for 3151-3155 Scott Street, Assessor's Block 0937, Lot 001 Planning Department Case No. 2010.0420E  
**HEARING DATE:** October 4, 2011

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

Attached are three hard copies of the Planning Department's memorandum to the Board of Supervisors regarding the appeal of the Final Mitigated Negative Declaration for 3151-3155 Scott Street. Two of the three copies are for distribution to the project sponsor and appellant.

If you have any questions regarding this matter, please contact Andrea Contreras at 575-9044 or [andrea.contreras@sfgov.org](mailto:andrea.contreras@sfgov.org).

Thank you.

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2011 SEP 26 PM 12:31  
BY *[Signature]*



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

## APPEAL OF FINAL MITIGATED NEGATIVE DECLARATION 3151-3155 Scott Street

DATE: September 26, 2011

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Bill Wycko, Environmental Review Officer – (415) 575-9048  
Andrea Contreras, Case Planner – (415) 575-9044

RE: File No. 110977, Planning Case No. 2010.0420E  
Appeal of Final Mitigated Negative Declaration for 3151-3155 Scott Street

HEARING DATE: October 4, 2011

ATTACHMENTS: A – Letter of Appeal, dated September 8, 2011  
B – Response to Appeal of Preliminary Mitigated Negative Declaration, dated July 14, 2011; contains Department response as Exhibit A, PMND appeal letters as Exhibit B, and Amended Initial Study and Mitigated Negative Declaration as Exhibit C

BY Rec  
2011 SEP 26 PM 12:31

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Planning  
Department:  
415.558.6377  
SAN FRANCISCO

PROJECT SPONSOR: Hershey Hirschkop, Community Housing Partnership

APPELLANT: Steven L. Hammond, on behalf of Cow Hollow Association, Marina Community Association, Marina Merchants Association, Marina Cow Hollow Neighbors and Merchants, and Union Street Merchants Association

### INTRODUCTION:

This memorandum and the attached documents ("Final Mitigated Negative Declaration [FMND] Appeal Packet") are a response to the letter of appeal to the Board of Supervisors (the "Board") regarding the Planning Department's (the "Department") issuance of a FMND under the California Environmental Quality Act ("CEQA Determination") for a project at 3151-3155 Scott Street (the "project").

A FMND was adopted on July 14, 2011 by the Planning Commission when they voted to approve Motion No. 18405, thereby upholding the CEQA Determination and approving the Conditional



Use authorization after finding that there was no substantial evidence that the project would have a significant effect on the environment. (As noted below under "Background," the Preliminary Mitigated Negative Declaration ("PMND") was appealed to the Planning Commission by the same Appellant that filed the FMND appeal.)

The decision before the Board is whether to uphold the Department's decision to issue a FMND and deny the appeal, or to overturn the Department's decision to issue a FMND and return the project to the Department staff for preparation of an Environmental Impact Report ("EIR").

#### SITE DESCRIPTION & PRESENT USE:

The project site is on a block bounded by Lombard Street, Scott Street, Greenwich Street and Divisadero Street in the Marina District. The project site is located on the southwestern corner of Scott and Lombard Streets in an area mixed with commercial and residential uses. The site consists of Lot 1 on Assessor's Block 0937. Lot 1 is approximately 3,436 square feet (sf), and currently contains a vacant 8,125-sf building that is three stories in height plus basement. The building was most recently used as a 29-room tourist hotel with no on-site parking or open space. The hotel was closed by its owners in June 2010.

The property is within an NC-3 (Moderate-Scale Neighborhood Commercial) Zoning District and a 40-X Height and Bulk District.

#### PROJECT DESCRIPTION:

The proposed project described in the CEQA Determination includes conversion a three-story-over-basement, 29-room hotel ("Edward II Inn & Suites") to 25 units of group housing with approximately 1,856 sf of supportive services/community space and associated building alterations. The project would include interior reconfiguration of the building for the proposed use, and minor exterior work including repainting, window replacement, and façade enhancements. The project would include the creation of the "Lombard and Scott Street Affordable Group Housing Special Use District" (SUD) to increase the allowable group housing density, from 16 units to 25 units, and grant exemptions from the exposure requirement pursuant to Planning Code Section 140, the open space requirement pursuant to Planning Code Section 135, and the rear yard requirement pursuant to Planning Code Section 134, and Conditional Use authorization for SUD implementation (proposed Planning Code Section 249.55).

#### BACKGROUND:

Below is a summary of the key events related to the project's environmental review and entitlement process:

June 2010 – Sponsor Filed Environmental Evaluation Application with the Planning Department

June 2010 – Sponsor Filed Zoning Map and Planning Code Text Amendment Application

October 2010 – Sponsor Filed Environmental Evaluation Application with the Planning Department

March 2011 – Sponsor Filed Conditional Use Authorization Application for Special Use District with the Planning Department

May 2011 – Preliminary Mitigated Negative Declaration Issued

May 25, 2011- June 14, 2011 – Public Review Period of 20-days as required in CEQA Guidelines 15105(b) and San Francisco Administrative Code Section 31.11(c)

June 2011 – Preliminary Mitigated Negative Declaration Appealed to the Planning Commission by Steven L. Hammond, on behalf of Cow Hollow Association, Marina Community Association, Marina Merchants Association, Marina Cow Hollow Neighbors and Merchants, and Union Street Merchants Association

July 2011 – Planning Commission Upheld Preliminary Mitigated Negative Declaration and Approved Conditional Use Authorization

August 2011 – Conditional Use Authorization Appealed to the Board of Supervisors

October 2011 – Final Mitigated Negative Declaration Appealed to Board of Supervisors

#### APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES:

The concerns raised in the September 8, 2011 Appeal Letter are summarized below, followed by the Department's responses. The majority of these were raised by the Appellant during his appeal of the PMND to the Planning Commission and were responded to in the Department's memorandum and attached documents sent to the Planning Commission ("PMND Appeal Packet"). The PMND Appeal Packet is included as Attachment B to this FMND Appeal Packet. Exhibit A of the PMND Appeal Packet includes the Department's responses to the issues raised in the PMND appeal. Those responses are incorporated herein by reference. The Appellant raises three new issues in the FMND appeal: economic and social effect of the project size and density (see Issue 2, below); extent of alterations to the subject building (see Issue 3); and treatment of hazardous materials as described in the FMND (see Issue 5).

#### PMND Distribution and Review Period

Issue 1: The Appellant states that the Department should have distributed the PMND to the State Clearinghouse of the Governor's Office of Planning and Research ("SCH") for distribution to the State Office of Historic Preservation ("OHP"), the Department of Toxic and Substances

Control ("DTSC"), Caltrans, and the Department of Occupational Safety and Health ("Cal-OSHA"), for a review period of 30 days.

Response 1: The PMND Was Circulated in Accordance with CEQA Requirements. The Appellant raised this concern in his appeal of the PMND (see Department response in Attachment B, Exhibit A, Response 1, page 2). In short, because the project is not of "statewide, regional, or areawide significance" as defined by the CEQA Guidelines Section 15206(b), noticing to the SCH, OHP, DTSC, Caltrans, and Cal-OSHA was not required. For this same reason, the Department was not required to circulate the PMND for 30 days. Therefore, the Planning Department properly noticed the Intent to Adopt a Mitigated Negative Declaration to all appropriate parties for the required period of not less than 20 days.

CEQA Guidelines Section 15206(b) defines projects which are considered of statewide, regional, or areawide significance and require a 30-day review period. The criteria relevant to an urban area such as San Francisco include:

- A proposed local general plan, element, or amendment thereof for which an EIR was prepared;
- A project that has the potential for causing significant effects on the environment extending beyond the city or county in which the project would be located. For residential projects, a proposed development of more than 500 units would be in this category. Examples of the effects include generating significant amounts of traffic or interfering with the attainment or maintenance of state or national air quality standards;
- A project for which an EIR and not a Negative Declaration was prepared that would be located in and would substantially impact the areas of critical environmental sensitivity. This would include projects in the jurisdiction of the San Francisco Bay Conservation and Development Commission as defined in Government Code Section 66610;
- A project that would substantially affect sensitive wildlife habitats including but not limited to riparian lands, wetlands, bays, estuaries, marshes, and habitats for endangered, rare and threatened species as defined by CEQA Guidelines Section 15380; or
- A project that would interfere with attainment of regional water quality standards as stated in the approved areawide waste treatment management plan.

The reconfiguration of an existing 29-room tourist hotel in a fully developed urban area to house 25 residents, with the required SUD, does not constitute a project of statewide, regional, or areawide significance within the meaning of CEQA.

CEQA Guidelines Section 15072(e) states that for projects of statewide, regional, or areawide significance, the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration should be circulated to public agencies with transportation facilities within their jurisdictions that could be affected by the project. While Lombard Street serves as U.S. 101 within San Francisco, and is therefore under Caltrans jurisdiction, the project is not of statewide, regional, or areawide environmental significance, the project site has no direct vehicular access to

Lombard Street, and the project will not affect Lombard Street. Therefore, distribution of the PMND to Caltrans was not required.

There are no responsible or trustee agencies as defined by CEQA that would be required to receive notice of the PMND. Given the fact that OHP, DTSC, Caltrans, and Cal-OSHA cannot be defined as responsible or trustee agencies, the lead agency has the responsibility of determining if any regional, state, or federal agencies should receive the PMND, for the purpose of soliciting agency feedback and coordination regarding the environmental determination for a project. The Department determined that none of these agencies had a compelling interest in receiving or commenting on a CEQA document with such a localized content area. Moreover, the PMND determined that no state resources, threatened or endangered species, highways, recreational areas, or other resources would be impacted by the proposed project.

In sum, since the project is not of statewide, regional, or areawide significance and noticing to the SCH, OHP, DTSC, Caltrans, and Cal-OSHA was not required, the Planning Department properly noticed the Intent to Adopt a Mitigated Negative Declaration to all appropriate parties and for the required period of not less than 20 days.

#### Economic and Social Effects of Project Size and Density

**Issue 2:** The Appellant states that the size and density of the project would result in physical changes causing adverse economic and social effects. Specifically, the Appellant claims that the size and density of the project constitutes overcrowding that would harm project residents and the neighboring community.

**Response 2:** The Department Analyzed the Project's Size and Proposed Density Increase and Found the Environmental Effects to be Less Than Significant. The CEQA Determination adequately addressed the effects of project's size and density in the context of CEQA. Project site conditions would change from a 29-room hotel with two or more persons per room (for approximately 58 guests on site, excluding an unknown number of commuting hotel staff) to a 24-unit group housing use with one person per room and one on-site manager (for approximately 25 people on site, excluding seven commuting staff), which would be a net decrease in density. However, the CEQA Determination conservatively assumed that the project would result in a net *increase* of 24 residents, which would be higher density than the surrounding uses. Even with this conservative analysis, the CEQA Determination found that the project's effects would be less than significant under CEQA. This is because as described on page 27 of the FMND, under CEQA Land Use thresholds of significance the project would not divide an established community, would not conflict with land use policies adopted for the purposes of environmental mitigation, and would not conflict with a conservation plan. Thus, preparation of an EIR is not required.

Regarding the Appellant's assertion that the project would be overcrowded, the Department of Building Inspection (DBI) has occupancy limits which would prevent overcrowding or unsafe

conditions for building inhabitants. It is presumed that a project that is within DBI's requirements would not result in overcrowding and that the project at 3151-3155 Scott Street would be required to comply with DBI's occupancy limits. Therefore, the project would not result in overcrowding.

CEQA Statutes Section 21082.2 requires the lead agency to determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record. The statute provides that substantial evidence shall include "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." The statute further provides that "[a]rgument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence."

The Appellant has failed to provide substantial evidence of any physical impacts resulting from economic or social effects of the proposed project. Specifically, the Appellant has not identified any significant density or population increase impacts to which this project may contribute. The mere increase in number of group housing units over the current allowable limit does not constitute substantial evidence of a potential physical impact under CEQA. Thus, preparation of an EIR is not warranted and would not change the significance finding by the Department that is already stated in the CEQA Determination. In the absence of any specific concerns from the Appellant regarding potential environmental impacts of the project as proposed, it is not possible to respond further on this issue.

#### Historic Architectural Resource Status of Subject Building

Issue 3: The Appellant claims that the PMND should have been provided to OHP for their comment. In addition, the Appellant maintains that the Historic Resource Evaluation (HRE) is not adequate because the existing building on the project site was never altered as represented in the report, that the building is a historical resource under CEQA, and that the project would result in a significant impact on the historical resource.

Response 3: The Department Found the Subject Building Is Not a Historical Resource and That Circulation to OHP Was Not Required. Response 1 further addresses the issue of the Department's responsibilities in providing the document to OHP for comment. The Department objectively reviewed the consultant-prepared HRE and determined that the project site is not eligible to be a historical resource under CEQA.

As described below, the Department determined that the building at 3151-3155 Scott Street is not designated as a historical resource and is not eligible for listing on the California Register of Historical Resources. As also described in the Department's Response 2 to the PMND appeal (see Attachment B, Exhibit A, Response 2, page 4), the PMND found that the building is not a strong representation of Charles J. Rousseau's work due to the extensive alterations that have taken place over the years. The Department concurred with the HRE report prepared by the

Architectural Resources Group (ARG) that the subject building retains integrity of location, association, workmanship and feeling. However the Department did not find the building to retain sufficient integrity of design, setting or materials to convey historical significance under Criterion 3 primarily due to the demolition of approximately one-fifth of the building's original volume, the alteration of the building's storefronts, and the widening of Lombard Street.

The Appellant raises a new assertion that project site was never altered as represented in the HRE, but has not provided substantial evidence to support this claim. The Historic Resource Evaluation provides strong evidence that the building was significantly altered in 1940, which caused the building to lose the integrity of its design, setting, and materials. First, a photograph dated 1935 shows clearly that the portion of the building facing Lombard Street was truncated. Second, a comparison of the pre-1940 and the current Sanborn maps show that the building's footprint was shortened. Third, ARG cites the L. Saloman, General Contractor, "Alteration Plans for Hotel Edward" plans in their records that show the alteration. All of the evidence supports the fact that the northern 31 feet 3 inches of the building were demolished in 1940.

The Appellant states that the building is one of the few remaining buildings from the Panama-Pacific International Exposition of 1915 held nearby the project site. In fact, the building was not part of the exposition. The FMND explains that the building was constructed for lodging purposes around the time of the exposition; this provides an indirect connection with the exposition, but the building was not constructed to be part of the exposition, and never had a relationship linkage with this event.

In sum, the Appellant has provided no information to support the contention that the property is a historical resource under CEQA. Thus, preparation of an EIR is not warranted and would not change the significance finding by the Department that is already stated in the FMND.

#### Effects of Project Construction on Surrounding Traffic

**Issue 4:** The Appellant asserts that the project's construction and cumulative traffic impacts were not properly addressed in the CEQA Determination.

**Response 4:** The Department Found Construction-Related Traffic to Have a Temporary and Less-Than-Significant Effect on Surrounding Traffic. The Project Would Not Make a Considerable Contribution to Traffic Related to Doyle Drive Reconstruction or the 34<sup>th</sup> America's Cup. The Appellant raises no new transportation issues in the FMND Appeal Letter. All issues have been addressed in the FMND on page 39 and the Department's Response 3 to the PMND appeal, (see Attachment B, Exhibit A, Response 3, page 6). The existing building is located at the corner of Scott Street and Lombard Street and the project would involve exterior façade renovations and improvements to the roof, as well as installation of an elevator. As stated in the FMND, this work would involve the possibility of temporary and intermittent traffic and transit impacts resulting from truck movements to and from the site. These impacts would be minor since no heavy earthmovers or grading vehicles are necessary for project construction. If a boom

lift or crane is required, it would likely be staged from the Scott Street side of the building since the majority of building frontage is located along this street. Any construction vehicle staging along the Lombard Street frontage would temporarily utilize on-street parking areas, which would require that Caltrans staff review the project's construction management plan and issue an encroachment permit for temporary use. However, the project sponsor has confirmed that the use of Lombard Street for construction staging is unlikely since Scott Street is adjacent to the project site and would be available for staging. Given the maximum building height of 40 feet, it is unlikely that any boom or crane would need a clearance beyond that provided by the existing on-street parking area. Although not expected due to the lack of heavy construction equipment needed for the project and the availability of Scott Street for staging, if a temporary lane closure were to be required on Lombard Street, the closure would be coordinated with the City's Transportation Advisory Staff Committee, which would include notification and coordination with Caltrans. Caltrans would review the project's construction management plan, which is a different review from that of a PMND during a public review period. Any temporary use of a lane on Lombard Street would not constitute a permanent change to the capacity of a Caltrans facility, and thus circulation of the PMND would not be required. No mitigation would be required as these construction impacts are temporary and intermittent and do not constitute a permanent change to the physical environment resulting in a significant impact.

On page 49, the FMND considered the reconstruction of Doyle Drive in the discussion of cumulative impacts, and concluded that the construction and operation of the project would not present any potentially significant cumulative impacts due to the minor scale of the project at 3151-3155 Scott Street and lack of heavy construction equipment that would impede traffic on adjacent streets. The September 2008 South Access to the Golden Gate Bridge-Doyle Drive Final Environmental Impact Statement/Report (FEIS/R), page 3-82 to 3-90 describes the construction related impacts from the Doyle Drive project, including those resulting from road closures lasting four to 24 months. The FEIS/R states that the San Francisco Traffic Demand Model (SF-TDM) was used to assess the effects of such closures. The SF-TDM model indicated ramp and street closures necessary for construction would result in the dispersion of traffic to a variety of other local streets. The model showed no streets showing a change of more than 100 vehicles in any direction. This is a negligible difference in the section of Lombard Street at the project site that carries an average of 34,500 vehicles per day, according to Caltrans reference data. Traffic volumes along Lombard Street gradually increase on the westerly approach to Doyle Drive and the Golden Gate Bridge due to additional feeder traffic from Divisadero Street and other streets in the area. The FEIS/R prepared for the Doyle Drive project did not identify any significant traffic-related impacts along Lombard or Scott Streets.

The Appellant has provided no evidence to support his argument that construction of the relatively minor project at 3151-3155 Scott Street would contribute considerably to significant impacts resulting from the 34<sup>th</sup> America's Cup. The following text from page 49 of the FMND addresses the Appellant's concern regarding the project's cumulative impacts, under Impact TR-4, Cumulative Impacts:

The CEQA document for the 34th America's Cup has not been finalized; however, it is possible that the [34th America's Cup] project could have adverse transportation effects. The project at 3155 Scott Street would generate approximately 17 net new trips, which would not be considered a substantial contribution to cumulative impacts. While the 34th America's Cup may have adverse transportation effects, those effects would occur regardless of whether the project at 3155 Scott Street is implemented.

#### Hazardous Materials Notification and Disclosure

Issue 5: The Appellant claims that Cal-OSHA should have been notified of the project's asbestos removal. The Appellant also claims the FMND does not adequately address the potential impacts of hazardous building materials. The Appellant states that Department should have made a significance finding in this area simply because the National Environmental Policy Act (NEPA) document prepared for the project does so.

Response 5: The Department Accurately and Adequately Disclosed the Presence of Hazardous Building Materials and Described the Applicable Local, State and Federal Handling and Disposal Requirements. As discussed in Response 1 above and in the PMND Appeal Response, Attachment B, Exhibit A, Response 5, page 9, the Planning Department, as lead agency under CEQA, determines the level of significance of a project, and which agencies are distributed copies or notices of a CEQA document for review. Regional and state regulatory agencies, such as Cal-OSHA and DTSC, are typically not referred all CEQA documents prepared by lead agencies throughout the State of California, and the proposed project is not of statewide, regional, or areawide significance necessary to warrant such review. Existing state and local regulatory provisions are in place in the event of discovery of asbestos, lead-based paints, or other hazardous materials, and these are described in detail in the FMND and the PMND appeal response. Mitigation measures would not be necessary since hazardous materials effects would be less than significant as addressed within the existing regulatory framework.

The Appellant mischaracterizes the FMND's analysis of hazardous materials. On pages 92-96, the FMND adequately describes the presence of hazardous building materials on-site and cites the conclusions of the hazardous materials technical study (Phase 1 Environmental Site Assessment [ESA]); there are hazardous building materials on-site, but they are not an environmental concern in their present state. According to the Phase 1 ESA, hazardous materials at this site should be identified, handled and disposed of according to local, state and federal regulations.

The City and County of San Francisco Mayor's Office of Housing, the NEPA lead agency, prepared an Environmental Assessment (EA) under the provisions of the National Environmental Policy Act (NEPA) as a result of the project's federal funding.<sup>1,2</sup> The mitigation

<sup>1</sup> The City and County of San Francisco Mayor's Office of Housing has completed an Environmental Assessment (EA) under the provisions of the National Environmental Policy Act (NEPA) for the project at 3151-3155 Scott Street due to the project's intent to use federal funding apportioned between Community Development Block Grant



measures for hazardous materials handling cited by the Appellant in the EA are for workers to handle and dispose of hazardous building materials as required under local, state and federal regulations. Under CEQA, the adherence to regulatory laws is not considered mitigation. The Appellant has not provided any evidence to support the claim that a significant impact associated with hazardous materials would result given the project's requirement to adhere to local, state, and federal regulations. Thus, the FMND's accurately concludes that the project would not result in any significant hazardous material impacts because of the safe handling and disposal requirements established as part of the permit review process. Therefore, additional mitigation measures are not required and the preparation of an EIR is not warranted.

#### Analysis of Environmental Effects of Proposed Special Use District

Issue 6: The Appellant asserts that the PMND did not analyze the potential cumulative or growth-inducing impacts resulting from the creation of the SUD, as well as nonconformance with open space and rear-yard requirements. The Appellant claims an EIR should be prepared prior to any decision-makers' consideration of an SUD to change parking, density and open space requirements. The Appellant also cites an unpublished opinion to support his claim that the project would create a precedent for spot zoning or piecemeal planning of high-density residential uses which represents an amendment to the Housing Element.

Response 6: The Department Analyzed All Environmental Effects of the SUD Required Under CEQA, Including Cumulative and Growth-Inducing Effects, and Found None To Be Significant. The Appellant does not raise any new points in Issue 6 that have not already been addressed in the PMND Appeal Response, Attachment B, Exhibit A, Response 6, page 11, and considered by the Planning Commission. The FMND adequately analyzes the project's contribution, inclusive of the SUD's contribution, to cumulative impacts. Environmental effects related to increased residential density and non-conformance with open space and rear yard requirements were analyzed throughout the document in all appropriate topic areas. This is evident in the following sections of the FMND:

- The Land Use section on page 27 discusses the effects of the SUD's increased residential density;
- The Population and Housing section on page 33 discusses the potential population growth as a result of the project;
- The Transportation and Circulation section on page 39 discusses the projected traffic generated by the SUD and its effects on the transportation network;

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funds under Title I of the Housing and Community Development Act of 1974 and the Home Investment Partnership Program grants under Title II of the Cranston-Gonzales National Affordable Housing Act of 1990. The NEPA process consists of an evaluation of the environmental effects of a federal undertaking including its alternatives. The NEPA process is comparable to the CEQA process; there are three levels of environmental analysis depending on whether or not an undertaking could significantly affect the environment. These three levels include: Categorical Exclusion determination; preparation of an Environmental Assessment/Finding of No Significant Impact (EA/FONSI); and preparation of an Environmental Impact Statement (EIS).

<sup>2</sup> During the course of the project's review, federal funding was withdrawn and the NEPA process discontinued.

- The Air Quality and Greenhouse Gases sections on pages 54 and 66, respectively, discuss the project's effects on air quality;
- The Recreation section on page 74 discusses the effects of the SUD's non-conformance with open space on the surrounding recreational facilities; and
- The Public Services section on page 79 discusses the SUD's effects on public services including Police and Fire services.

All of these effects were found to be less-than-significant, with the exception of Air Quality, for which a mitigation measure was identified on page 61 of the FMND that would mitigate the impact to a less-than-significant level. The Appellant provides no evidence of a significant cumulative impact in any topic area. Thus, the analysis in the FMND is adequate and preparation of an EIR is not warranted.

The Appellant asserts that a proposed SUD requires preparation of an EIR prior to the project approval consideration. CEQA Guidelines Section 15064 states that an EIR shall only be prepared when there is substantial evidence that a project may have a significant effect on the environment. The environmental effects of the project are what determine the necessity of an EIR, not the project description itself. In this case, the Department reviewed the impacts of the project, solicited public comment, and determined that the project would not result in any potentially significant impacts on the physical environment. Thus, preparation of an EIR is not required. This determination is based on the factual analysis contained in the FMND, which indicated the project would not have a significant effect on the environment. In addition, while the Appellant claims that the SUD removes parking requirements that are an environmental protection, page 22 of the FMND shows that parking is in fact not required for group housing under the current zoning.

Creation of the SUD does not, in and of itself, constitute a precedent for the creation of other SUDs within the Marina District, the Cow Hollow neighborhood, or elsewhere in the City. Other SUDs are located within the City, and formation of each of these had been subject to CEQA requirements, including the analysis of cumulative impacts. Further, the creation of an SUD is subject to findings; these findings must address the merits of the proposal as well as the determination of environmental impacts.

Department staff have reviewed permit history and planning efforts in the project vicinity and have found no past, present, or reasonably foreseeable future SUDs that would combine with the effects of the proposed SUD and result in significant impacts. Planning staff found no records of environmental review or entitlement applications for SUDs in the Marina District or general vicinity of the project site. As such, the Appellant's assertion is speculative and does not constitute evidence of a reasonably foreseeable development that should be considered in a CEQA cumulative impact analysis.

The Appellant cites an unpublished opinion (*Livable Neighborhoods v. City and County of San Francisco* (2007) A112987 [First Appellate Dist., Div. Four]) to support his claim that the project

would create a precedent for spot zoning or piecemeal planning of high-density residential uses that represents an amendment to the Housing Element. The Appellant states that the project, inclusive of the SUD, results in "piecemeal" planning. Piecemeal planning or "piecemealing" is the effect of development activities where a single action is broken down into multiple stages to avoid any environmental review. Piecemealing questions the scope of the project being studied in a CEQA document. Future projects are not necessarily future components or phases of another project. In this case, development of the project at 3151-3155 Scott Street is entirely separate, distinct, and independent of the adoption of the 2009 Housing Element policies, or any other larger proposed projects. Thus, the proposed project is not piecemealing of a greater project and is not an amendment to the Housing Element.

## CONCLUSION

To conclude, the PMND was circulated in accordance with CEQA requirements. The Department adequately analyzed the environmental effects of the project's size and proposed increased density and found them to be less than significant. The Department conducted an objective and adequate historic resource analysis and found the subject building to lack eligibility as a historical resource. The project's construction would have temporary and less-than-significant effects on surrounding traffic. The project would not have a considerable contribution on traffic related to Doyle Drive reconstruction or the 34<sup>th</sup> America's Cup. The Department accurately and adequately disclosed the presence of hazardous building materials and described the existing local, state and federal handling and disposal requirements. The Department analyzed all environmental effects of the SUD required under CEQA, including cumulative effects, and found none to be significant. The project is not piecemealing of a greater project and is not an amendment to the housing element.

For the reasons stated above and in the July 14, 2011 FMND and PMND Appeal Packet, the CEQA Determination complies with the requirements of CEQA and the project would not result in a significant effect on the environment because mitigation measures have been agreed to by the project sponsor and a Mitigated Negative Declaration was appropriately prepared. The Department therefore recommends that the Board uphold the FMND and deny the appeal of the CEQA Determination.

## Attachment A – FMND Appeal Letter



# HammondLAW

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phone: 415.955.1915 fax: 415.955.1976

September 8, 2011

VIA HAND DELIVERY

San Francisco Board of Supervisors  
Attn: Clerk of the Board of Supervisors  
#1 Dr. Carlton B. Goodlet Place, #244  
San Francisco, California 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2011 SEP 8 AM 11:57  
BY: [Signature]

Re: 3151-3155 Scott Street – Case No. 2010.0420E (the “Project”)  
CHA Appeal of Final Mitigated Negative Declaration and Planning Commission  
Motion No. 18403 Affirming the Mitigated Negative Declaration on Appeal

Dear Supervisors and Clerk of the Board:

This office represents the Cow Hollow Association (“CHA”), a long standing non-profit neighborhood organization that represents the interests of approximately 1,800 residents in forty-eight blocks demarcated by Lyon, Pierce, Greenwich, and Pacific Streets. This letter serves as CHA’s Appeal of the Final Mitigated Negative Declaration (“FMND”) and San Francisco Planning Commission Motion No. 18403 affirming the Mitigated Negative Declaration after CHA’s appeal to that body (the “Motion”). Enclosed with this Appeal, please find a check in the amount of \$510.00 payable to the San Francisco Planning Department, CHA’s Neighborhood Organization Fee Waiver Request Form, and a copy of the Motion. The following neighborhood associations join this appeal:

- Marina Community Association (MCA)
- Marina Merchants Association (MMA)
- Marina Cow Hollow Neighbors and Merchants (MCHNM)
- Union Street Merchants Association (USMA)

A related appeal has been filed with the Board of Supervisors on the conditional use authorization for the Project (Case No. 2010.0420C).

Based on the following grounds for the appeal, CHA respectfully requests the Board of Supervisors 1) disapprove and rescind the FMND and Planning Commission Motion 18403, 2) direct the Planning Department to prepare a full Environmental Impact Report (“EIR”), and 3) provide adequate opportunity for public response to that EIR.

**1. Improper Notice of Availability of and Intent to Adopt a Mitigated Negative Declaration**

Pursuant to CEQA Guidelines Section 15073(d), a lead agency must send copies of the Preliminary Mitigated Negative Declaration ("PMND") to the State Clearinghouse and Planning Unit of the Governor's Office of Planning and Research ("SCH") for distribution to the applicable responsible agencies, and the public review period is required to be 30 days, unless a shorter time period is approved by SCH.

Here, however, the Planning Department only provided the public a 20-day review period and failed to submit or provide the PMND to SCH. This shortened public review period of 20 days fails to comply with CEQA regulations. By so doing, the Planning Department prevented the appropriate state agencies from reviewing the findings of the PMND as required by law and prevented meaningful participation and review by the public. By letter dated June 10, 2011, this office notified the Planning Department of this concern and requested an extension of time. The Department, however, orally denied this request without explanation.

The state agencies that should have been granted the opportunity to review the PMND here are 1) the State Office of Historic Preservation (OHP), 2) the Department of Toxic Substances and Control (DTSC), 3) Caltrans, and 4) the Department of Occupational Safety and Hazards (Cal-OSHA).

Due to the Planning Department's failure to provide the required materials to SCH, DTSC and Cal-OSHA did not have an opportunity to review issues related to hazardous materials as analyzed in the PMND. Likewise, Caltrans was denied the opportunity to evaluate potential construction impacts on Lombard Street, a state highway over which it has discretionary powers. Finally, OHP had no opportunity to review the historic resource evaluation prepared for this project and comment on its adequacy.

For the above reasons, the Planning Department improperly noticed its Intent to Adopt a Mitigated Negative Declaration for the Project to the detriment of the public. Likewise, the Planning Department's failure to distribute the PMND to all appropriate and required state agencies constitutes a violation of CEQA Guidelines Section 15073(d). Consequently, it is incumbent on the Board of Supervisors to rescind the May 24, 2011 Notice of Intent to Adopt a Mitigated Negative Declaration and require the Planning Department to re-notice it with the required 30-day public review period and provide copies of the PMND to SCH for distribution to the required state agencies.

**2. Failure to Address the Adverse Social Effects on People Caused by the Project as a Factor in Determining the Significance of the Project's Physical Changes**

Economic and social changes caused by a project are not ordinarily treated as significant effects under CEQA. Cal. Code Regs. tit. xiv §15064(e). However,

[i]f the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect. (*Id.*)

Here, the size and density of the Project will harm its residents and the neighboring community.

For example, the Project will pack too many residents into inappropriately small units. If the Building were used for dwelling units, as opposed to group housing, current zoning would allow no more than 6 units. But the Project proposes to house at least 24 residents, their guests, and supervisors. Each resident unit will be only 143 square feet in size. Rather than create units of appropriate and reasonable size, the Project packs as many residents as possible into the Building in order to meet the Project's funding needs. This increased density will harm the Project's residents and will be a drastic change from the typical density in the neighborhood. The Planning Department, however, failed to consider whether adverse effect on the Project's residents and neighbors caused by its overcrowding (due to the physical changes to the Building) is a significant effect.

### 3. Historic Resources Analysis Flawed

As described above, despite OHP's statutory purview over historic resources, the PMND was not provided to SCH and thus OHP had no opportunity to comment on the PMND's determination that the building is not historic pursuant to CEQA. Rather, the FMND relies solely on a summary determination of the Project Sponsor's Historic Resources Evaluation Report ("HRER") and the concurrence of Planning Department staff that the Project site (the "Building") does not appear to be eligible for listing on the California Register.

The Building was designed by noted San Francisco architect Charles J. Rousseau in conjunction with the 1915 Panama Pacific International Exposition, which led to the development of the Marina district. It is one of the last remaining buildings from the Panama Pacific International Exposition. The Building retains the character and appearance of its original design and, contrary to the Project Sponsor's claims, it was never altered to the extent represented.<sup>1</sup> For these reasons, CHA believes the Building is historic per CEQA guidelines and the Project's planned significant alteration of its façade constitutes a significant impact on its historical character.

### 4. Transportation Analysis Flawed

Despite acknowledging the fact that the development and construction phase will impact congestion and traffic flow on Lombard Street (FMND, p. 46), no mitigation is included in the FMND to reduce this impact. Rather, mitigation is deferred to some future meeting between the project contractors and the City's Transportation Advisory staff "to develop feasible measures to

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<sup>1</sup> CHA has been unable to locate permits for any cutback to the Building.

reduce traffic congestion." (*Id.*) Likewise, no consultation or coordination with Caltrans is proposed, nor are any actual mitigation measures identified. This is an inappropriate deferral of mitigation to post-project approval.

Lombard Street traffic is unavoidably increasing due to the re-routing of Doyle Drive. (Doyle Drive is the southern approach road for the Golden Gate Bridge. During an average weekday it carries over 144,000 travelers.) Moreover, coinciding with construction, the 34<sup>th</sup> America's Cup will significantly impact traffic congestion in the Cow Hollow and Marina neighborhoods. The increase in congestion and/or traffic circulation of the Project in conjunction with the Doyle Drive re-routing plan and the America's Cup was improperly dismissed in the FMND.

In addition, CEQA documents for projects that would increase usage of a state highway (here, Highway 101) or potentially disrupt the roadway with construction activities should be provided to Caltrans for consultation. The FMND does not mention any consultation with Caltrans, nor was Caltrans included on the initial study distribution list. The Planning Department's failure to distribute the initial study or PMND to Caltrans for comment violates both the letter and spirit of CEQA Guidelines and is in stark contrast to the mitigations proposed in the HUD Environmental Assessment (EA) on file with the City.

#### 5. Hazards and Hazardous Materials Analysis Flawed

The FMND notes that the site may contain hazardous materials, which would have to be abated, such as lead-based paint, PCBs, mercury, and asbestos. The FMND notes that Cal-OSHA regulates such removal, but, as described earlier, neither Cal-OSHA nor DTSC were consulted or provided the PMND to comment on. Cal-OSHA is also required to be notified when asbestos abatement is to be performed, as it is here.

The EA HUD performed found that project construction could subject workers and residents to hazards from asbestos, PCBs, and lead-based paints. The EA considers this impact potentially significant, and therefore identifies mitigation measures to assure that they are reduced to a less-than-significant level. The FMND relies on sections of the California Health and Safety Code and the San Francisco Building Code to address asbestos and lead-based paint. Yet, unlike the EA, no specific commitments or procedures are discussed in the FMND. In addition, the FMND blithely concludes that because of the small size of the structure and limited potential for PCB-containing light fixtures, it is unlikely that the potential impact from PCBs would be significant. This is an inadequate analysis in several ways. First, PCBs can be hazardous in very low levels, undercutting the City's assessment. Second, the City's conclusions of non-significance are contradicted by the HUD EA, which concludes that byproducts of PCB combustion are known carcinogens and respiratory hazards and PCB-containing ballasts in conjunction with fluorescent light fixtures are present at the project site. The EA identified a number of specified specific mitigation measures to reduce the hazard. The need for these measures clearly indicates that there was possibility of a significant impact, especially in light of the young age of anticipated occupants.



## 6. Mandatory Findings of Significance/Cumulative Impact Analysis/Growth Inducing Impacts Analysis Flawed

The cumulative impact analysis found at the end of each FMND technical section and in the Mandatory Findings of Significance concluded that no cumulative significant impacts would result from the Project. However, both the initial study and FMND failed to analyze the potential cumulative impacts to the environment associated with allowing the Special Use District and increased densities, as well as the nonconformance with the open space and rear-yard requirements. The FMND should have reviewed the possibility of additional Special Use Districts in the area and the resulting cumulative environmental impacts to traffic, air quality, and potentially other issues. Likewise, the approval of the Project's Special Use District must be considered to be growth inducing and thus required at least a qualitative analysis of such an impact. However, the Planning Department failed to analyze the possible impact of further zoning changes made possible by the precedent setting action of creating new Special Use Districts in the area.

Moreover, an EIR is required before the Planning Department and Board of Supervisors considers any request from any private developer or City Agency for a Special Use District to change the zoning to eliminate the environmentally protective requirements concerning housing density, open space, and parking that are required in NC-3 zoning district and a 40-X Height and Bulk District in which the Building is situated. The fact that the proposed uses and high density of occupancy will require new legislation by the Board of Supervisors to terminate and nullify existing environmental protections associated with parking and density requirements of the Planning and Zoning Ordinance indicates that there are numerous fair arguments that the Project may have significant impacts on the environment.

The City was required to prepare an EIR in the unpublished opinion, *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2007) A112987 (First Appellate Dist., Div. Four). The plaintiffs there showed "substantial evidence to support a fair argument that amendments to the housing element may have significant impact on the environment, thus requiring the preparation of an EIR." Here, the proposed Special Use District would create precedent for a policy to implement increased high-density housing through spot zoning or piecemeal planning. This represents a de facto amendment to the housing element, thus requiring preparation of an EIR.

Further, piecemeal planning and modifications to the housing element require an EIR. Instructive is the case *Pocket Protectors v. City of Sacramento* (2004) 124 Cal. App. 4th 903, 927. In *Pocket Protectors*, the appellate court noted that the purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect that a proposed project is likely to have on the environment. The actions of the City Departments allowing denser habitation with no off-street or on-site parking that would lead to increased traffic congestion, air pollution, and noise were factors that the court determined raised the fair argument in the *San Franciscans for Livable Neighborhoods* case. The same is true here.

**Conclusion**

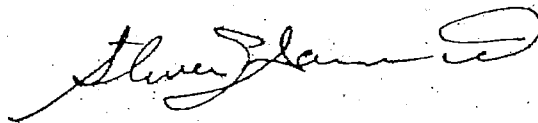
Based upon the foregoing reasons in support of its appeal, and because the Project will have significant individual and cumulative impacts on the environment, CHA respectfully requests the Board of Supervisors disapprove and rescind the FMND and Planning Commission Motion 18403, direct the Planning Department to prepare a full EIR, and provide adequate opportunity for public response to that EIR.

Very truly yours,



Appellant Lori Brooke  
President  
Cow Hollow Association

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cc: John Millar, President Marina Community Association  
Alex Feldman, President Marina Merchants Association  
Patricia Vaughney, President Marina Cow Hollow Neighbors and Merchants  
Lesley Leonhart, President Union Street Merchants Association



## SAN FRANCISCO PLANNING DEPARTMENT

### Planning Commission Motion 18403

HEARING DATE: July 14, 2011

*Hearing Date:* July 14, 2011  
*Case No.:* 2010.0420E  
*Project Address:* 3151-3155 Scott Street  
*Zoning:* NC-3 (Moderate-Scale Neighborhood Commercial District)  
40-X Height and Bulk District  
*Block/Lot:* 0937/001  
*Project Sponsor:* Hershey Hirschkop, Community Housing Partnership  
280 Turk Street  
San Francisco, CA 94102  
*Staff Contact:* Andrea Contreras – (415) 575-9044  
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**ADOPTING FINDINGS RELATED TO THE APPEAL OF THE PRELIMINARY MITIGATED NEGATIVE  
DECLARATION, FILE NUMBER 2010.0420E FOR THE PROPOSED DEVELOPMENT ("PROJECT") AT 3151-  
3155 Scott Street**

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby AFFIRMS the decision to issue a Mitigated Negative Declaration, based on the following findings:

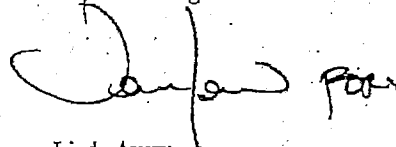
1. On October 6, 2010, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, the Planning Department ("Department") received an Environmental Evaluation Application form for the Project, in order that it might conduct an initial evaluation to determine whether the Project might have a significant impact on the environment.
2. On May 25, 2011, the Department determined that the Project, as proposed, could not have a significant effect on the environment.
3. On May 25, 2011, a notice of determination that a Mitigated Negative Declaration would be issued for the Project was duly published in a newspaper of general circulation in the City, and the Mitigated Negative Declaration posted in the Department offices, and distributed all in accordance with law.
4. On June 14, 2011, an appeal of the decision to issue a Mitigated Negative Declaration was timely filed by Steven L. Hammond of Hammond Law, representing the Marina Community Association, Marina Merchants Association, Marina Cow Hollow Neighbors and Merchants, Union Street Merchants Association, and Cow Hollow Association.

[www.sfplanning.org](http://www.sfplanning.org)

5. A staff memorandum, dated July 7, 2011, addresses and responds to all points raised by appellant in the appeal letter and by commenters in the comment letters. That memorandum is attached as Exhibit A and staff's findings as to those points are incorporated by reference herein as the Commission's own findings. Copies of that memorandum have been delivered to the City Planning Commission, and a copy of that memorandum is on file and available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400.
6. On July 6, 2011, amendments were made to the Preliminary Mitigated Negative Declaration, adding the following text to clarify the description of the proposed elevator, the garbage collection and storage plan, and cumulative transportation impacts accounting for the 34th America's Cup. Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the Preliminary Mitigated Negative Declaration. The changes do not require "substantial revision" of the Preliminary Mitigated Negative Declaration, and therefore recirculation of the Preliminary Mitigated Negative Declaration would not be required.
7. On July 14, 2011, the Commission held a duly noticed and advertised public hearing on the appeal of the Preliminary Mitigated Negative Declaration, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.
8. All points raised in the appeal of the Preliminary Mitigated Negative Declaration at the July 14, 2011 City Planning Commission hearing have been responded to either in the Memorandum or orally at the public hearing.
9. After consideration of the points raised by appellant, both in writing and at the July 14, 2011 hearing, the San Francisco Planning Department reaffirms its conclusion that the proposed project could not have a significant effect upon the environment.
10. In reviewing the Preliminary Mitigated Negative Declaration issued for the Project, the Planning Commission has had available for its review and consideration all information pertaining to the Project in the Planning Department's case file.
11. The Planning Commission finds that Planning Department's determination on the Mitigated Negative Declaration reflects the Department's independent judgment and analysis.

The City Planning Commission HEREBY DOES FIND that the proposed Project, could not have a significant effect on the environment, as shown in the analysis of the Mitigated Negative Declaration, and HEREBY DOES AFFIRM the decision to issue a Mitigated Negative Declaration, as prepared by the San Francisco Planning Department.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission on July 14, 2011.



Linda Avery  
Commission Secretary

Motion No. 18403  
Hearing Date: July 14, 2011

Case No. 2010.0420E  
3151-3155 Scott Street

AYES: Commissioners Olague, Miguel, Moore, Sugaya and Fong

NOES: Commissioner Antonini

ABSENT: Commissioner Borden

ADOPTED: July 14, 2011

Attachment B – PMND Appeal Response to  
Planning Commission



# SAN FRANCISCO PLANNING DEPARTMENT

**MEMO**

**DATE:** July 7, 2011  
**TO:** San Francisco Planning Commission  
**FROM:** Andrea Contreras, Planning Department, EP  
**RE:** Appeal of Preliminary Mitigated Negative Declaration for  
3151-3155 Scott Street, Assessor's Block 0937, Lot 1,  
Planning Department Case No. 2010.0420E

**HEARING DATE:** July 14, 2011

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

An appeal has been received concerning a preliminary mitigated negative declaration for the following project:

Case No. 2010.0420E – 3151-3155 Scott Street: The proposed project would convert the existing three-story-over-basement, 29-room hotel (“Edward II Inn & Suites”) to 25 units of group housing with approximately 1,856 sf of supportive services/community space and associated building alterations. The project would include interior reconfiguration of the building for the proposed use, and minor exterior work including repainting, window replacement, and façade enhancements. The site is in a NC-3 (Moderate-Scale Neighborhood Commercial District) Use District and a 40-X Height and Bulk District. The project would include the creation of the “Lombard and Scott Street Affordable Group Housing Special Use District” to increase the allowable group housing density, from 16 units to 25 units, and grant exemptions from the exposure requirement pursuant to Planning Code Section 140, the open space requirement pursuant to Planning Code Section 135, and the rear yard requirement pursuant to Planning Code Section 134, and Conditional Use authorization for SUD implementation (proposed Planning Code Section 249.55).

This matter is calendared for public hearing on July 14, 2011. Enclosed are the appeal letter and comment letters, the staff response, the amended mitigated negative declaration, and the draft motion.

If you have any questions related to this project’s environmental evaluation, please feel free to contact me at (415) 575-9044 or [andrea.contreras@sfgov.org](mailto:andrea.contreras@sfgov.org).

Thank you.



# SAN FRANCISCO PLANNING DEPARTMENT

## Appeal of Preliminary Mitigated Negative Declaration Executive Summary

HEARING DATE: July 14, 2011

*Date:* July 7, 2011  
*Case No.:* 2010.0420E  
*Project Address:* 3151-3155 Scott Street  
*Zoning:* NC-3 (Moderate-Scale Neighborhood Commercial District)  
40-X Height and Bulk District  
*Block/Lot:* 0937/001  
*Project Sponsor:* Hershey Hirschkop, Community Housing Partnership  
*Staff Contact:* Andrea Contreras – (415) 575-9044  
andrea.contreras@sfgov.org

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### PROPOSED COMMISSION ACTION:

Consider whether to uphold staff's decision to prepare a Mitigated Negative Declaration (MND) under the California Environmental Quality Act (CEQA), or whether to overturn that decision and require the preparation of an Environmental Impact Report due to specified potential significant environmental effects of the proposed project.

### PROJECT DESCRIPTION:

The proposed project would convert the existing three-story-over-basement, 29-room hotel ("Edward II Inn & Suites") to 25 units of group housing with approximately 1,856 sf of supportive services/community space and associated building alterations. The project would include interior reconfiguration of the building for the proposed use, and minor exterior work including repainting, window replacement, and façade enhancements. The site is in a NC-3 (Moderate-Scale Neighborhood Commercial District) Use District and a 40-X Height and Bulk District. The project would include the creation of the "Lombard and Scott Street Affordable Group Housing Special Use District" to increase the allowable group housing density, from 16 units to 25 units, and grant exemptions from the exposure requirement pursuant to Planning Code Section 140, the open space requirement pursuant to Planning Code Section 135, and the rear yard requirement pursuant to Planning Code Section 134, and Conditional Use authorization for SUD implementation (proposed Planning Code Section 249.55).

### ISSUES:

The Planning Department published a Preliminary Mitigated Negative Declaration (PMND) on May 25, 2011, and received an appeal letter from Steven L. Hammond of Hammond Law representing the Marina Community Association, Marina Merchants Association, Mariana Cow Hollow Neighbors and Merchants, Union Street Merchants Association, and Cow Hollow



Association ("Appellants") on June 14, 2011, appealing the determination to issue a MND. The appeal letter states that the PMND fails to adequately address the following issues:

1. The Planning Department's noticing procedures violated CEQA Guidelines and did not provide for sufficient opportunity for agency review of the PMND;
2. The project site is a historic resource;
3. The project would result in transportation impacts that are not mitigated and cumulative traffic impacts have not been adequately addressed;
4. The PMND identifies air quality impacts without consultation from the Bay Area Air Quality Management District;
5. The PMND did not receive adequate review from the Department of Toxic Substances Control or the Division of Occupational Safety and Health although the document identifies hazardous materials on the project site;
6. The PMND did not analyze potential cumulative or growth inducing impacts of the Special Use District and the Department should prepare an Environmental Impact Report (EIR);
7. The project would result in significant changes to the neighborhood with regard to density, urban decay, use of public services, and parking, and the PMND did not analyze or disclose these changes;
8. The PMND understates project-generated noise levels and impacts; and
9. The PMND's geological analysis is inadequate.

The Appellants also raised the issue that the analyses and mitigation measures in the PMND are not consistent with the document prepared by the Mayor's Office of Housing under the National Environmental Policy Act (NEPA), for this project. However, CEQA significance criteria are separate and distinct from NEPA. The Planning Department has evaluated the project as required by CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code, California Environmental Quality Act Procedures and Fees, which describes the local administration of CEQA.

In addition to the appeal letter summarized above, the Planning Department received four additional comment letters on June 14, 2011 from the following parties: John Millar, President of the Marina Community Association; Howard and Pamela Squires, Cow Hollow property and business owners; Patricia Vaughey, interested party, and Frank Hung, interested party. The comment letters repeat some issues raised in the appeal letter, including concerns related to

public notification, historic architectural resources, transportation, planning/zoning issues, and seismicity. In addition, the comment letters raised the following issues:

10. The project description is deficient;
11. The PMND's land use analysis is inadequate;
12. The PMND's traffic analysis is inadequate and did not identify transportation impacts related to traffic and circulation, transit, loading, pedestrian and bicycle safety, and parking;
13. The PMND does not adequately analyze and disclose noise impacts of the project on adjacent neighbors;
14. The PMND did not adequately address and disclose indoor air quality requirements;
15. The PMND does not adequately disclose the project's impacts on neighborhood parks and recreational facilities;
16. The PMND does not adequately address the project's impacts on wastewater and stormwater systems;
17. Information submitted by a Commenter is evidence that the project will result in increased crime and the need for increased police service in the project area; additionally, the project will result in added strain on fire service; and
18. Additional study is needed to evaluate the building's foundation material and seismic safety; in addition, publically-funded projects should have the same requirements and privately developed projects.

All of the issues raised in the appeal letter and comment letters have been addressed in the attached materials, which include:

1. A draft Motion upholding the decision to issue a Mitigated Negative Declaration;
2. Exhibit A: Planning Department Response to the Appeal of Preliminary Mitigated Negative Declaration, which includes Department responses to comment letters;
3. Exhibit B: Appeal Letter from Steven L. Hammond of Hammond Law representing the Marina Community Association, Marina Merchants Association, Mariana Cow Hollow Neighbors and Merchants, Union Street Merchants Association, and Cow Hollow Association; and Comment Letters from John Millar, Howard and Pamela Squires, Patricia Vaughey, and Frank Hung;
4. Exhibit C: MND and Initial Study, as amended, with deletions shown in ~~striketrough~~ and additions shown in double-underlined text. The amendments in the PMND do not change the overall conclusions of the PMND.

**RECOMMENDATION:**

Staff recommends that the Planning Commission adopt the motion to uphold the PMND. No substantial evidence supporting a fair argument that a significant environmental effect may occur as a result of the project has been presented that would warrant preparation of an Environmental Impact Report. By upholding the PMND (as recommended), the Planning Commission would not prejudice or restrict its ability to consider whether the proposed project's uses or design is appropriate for the neighborhood.



# SAN FRANCISCO PLANNING DEPARTMENT

## Draft Planning Commission Motion [XXXX]

HEARING DATE: July 14, 2011

*Hearing Date:* July 14, 2011  
*Case No.:* 2010.0420E  
*Project Address:* 3151-3155 Scott Street  
*Zoning:* NC-3 (Moderate-Scale Neighborhood Commercial District)  
40-X Height and Bulk District  
*Block/Lot:* 0937/001  
*Project Sponsor:* Hershey Hirschkop, Community Housing Partnership  
280 Turk Street  
San Francisco, CA 94102  
*Staff Contact:* Andrea Contreras – (415) 575-9044  
andrea.contreras@sfgov.org

1650 Mission St.  
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### ADOPTING FINDINGS RELATED TO THE APPEAL OF THE PRELIMINARY MITIGATED NEGATIVE DECLARATION, FILE NUMBER 2010.0420E FOR THE PROPOSED DEVELOPMENT ("PROJECT") AT 3151-3155 Scott Street

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby AFFIRMS the decision to issue a Mitigated Negative Declaration, based on the following findings:

1. On October 6, 2010, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, the Planning Department ("Department") received an Environmental Evaluation Application form for the Project, in order that it might conduct an initial evaluation to determine whether the Project might have a significant impact on the environment.
2. On May 25, 2011, the Department determined that the Project, as proposed, could not have a significant effect on the environment.
3. On May 25, 2011, a notice of determination that a Mitigated Negative Declaration would be issued for the Project was duly published in a newspaper of general circulation in the City, and the Mitigated Negative Declaration posted in the Department offices, and distributed all in accordance with law.
4. On June 14, 2011, an appeal of the decision to issue a Mitigated Negative Declaration was timely filed by Steven L. Hammond of Hammond Law, representing the Marina Community Association, Marina Merchants Association, Marina Cow Hollow Neighbors and Merchants, Union Street Merchants Association, and Cow Hollow Association.
5. A staff memorandum, dated July 7, 2011, addresses and responds to all points raised by appellant in the appeal letter and by commenters in the comment letters. That memorandum is attached as Exhibit

A and staff's findings as to those points are incorporated by reference herein as the Commission's own findings. Copies of that memorandum have been delivered to the City Planning Commission, and a copy of that memorandum is on file and available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400.

6. On July 6, 2011, amendments were made to the Preliminary Mitigated Negative Declaration, adding the following text to clarify the description of the proposed elevator, the garbage collection and storage plan, and cumulative transportation impacts accounting for the 34th America's Cup. Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the Preliminary Mitigated Negative Declaration. The changes do not require "substantial revision" of the Preliminary Mitigated Negative Declaration, and therefore recirculation of the Preliminary Mitigated Negative Declaration would not be required.
7. On July 14, 2011, the Commission held a duly noticed and advertised public hearing on the appeal of the Preliminary Mitigated Negative Declaration, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.
8. All points raised in the appeal of the Preliminary Mitigated Negative Declaration at the July 14, 2011 City Planning Commission hearing have been responded to either in the Memorandum or orally at the public hearing.
9. After consideration of the points raised by appellant, both in writing and at the July 14, 2011 hearing, the San Francisco Planning Department reaffirms its conclusion that the proposed project could not have a significant effect upon the environment.
10. In reviewing the Preliminary Mitigated Negative Declaration issued for the Project, the Planning Commission has had available for its review and consideration all information pertaining to the Project in the Planning Department's case file.
11. The Planning Commission finds that Planning Department's determination on the Mitigated Negative Declaration reflects the Department's independent judgment and analysis.

The City Planning Commission HEREBY DOES FIND that the proposed Project, could not have a significant effect on the environment, as shown in the analysis of the Mitigated Negative Declaration, and HEREBY DOES AFFIRM the decision to issue a Mitigated Negative Declaration, as prepared by the San Francisco Planning Department.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission on July 14, 2011.

Linda Avery  
Commission Secretary

Motion No. XXXXXX  
Hearing Date: July 14, 2011

Case No. 2010.0420E  
3151-3155 Scott Street

AYES:

NOES:

ABSENT:

ADOPTED: [Date]



# Exhibit A

\*\* Complete copy of document is  
located in

File No. 110977



## Exhibit B

\*\* Complete copy of document is  
located in

File No. 110977



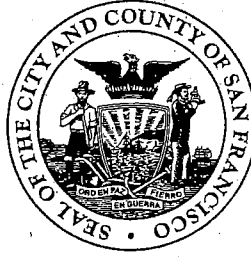


## Exhibit C

\*\* Complete copy of document is  
located in

File No. 110977

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:

**Date:** Tuesday, October 4, 2011

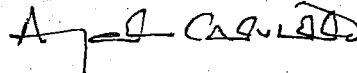
**Time:** 4:00 p.m.

**Location:** Hearing Room 416, 4<sup>th</sup> Floor located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

**Subject:** File No. 110977. Hearing of persons interested in or objecting to the decision of the Planning Department's issuance and the Planning Commission's affirmation of a Mitigated Negative Declaration (Case No. 2010.0420E) adopted and issued on July 14, 2011, under the California Environmental Quality Act, for a project located at 3151-3155 Scott Street. The proposed work involves the conversion of a building formerly used as a 29-room tourist hotel (d.b.a. King Edward II) to a group housing use with up to 24 affordable group housing units (for transitional age youth (i.e., youth transitioning out of foster care because they have turned 18 years old) between the ages of 18 and 24), one manager's unit, and rooms for programmatic needs. The subject property is located in the NC-3 (Moderate-Scale Neighborhood Commercial District) and a 40-X Height and Bulk District, Assessor's Block No. 0937, Lot No. 001. (District 2) (Appellants: Lori Brooke and Steven L. Hammond on behalf of the Cow Hollow Association, joined by Various Associations.)

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 29, 2011.



Angela Calvillo  
Clerk of the Board

DATED/POSTED/MAILED: September 23, 2011

