

PROVENCHER & FLATT, LLP  
823 Sonoma Ave. Santa Rosa, CA 95404  
Phone: 707-284.2380 Fax: 707-284.2387

ATTORNEYS AT LAW  
Douglas B. Provencher  
Gail F. Flatt

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OF COUNSEL  
Janis H. Grattan  
Rachel Mansfield-Howlett  
Roz Bateman Smith

City of San Francisco  
Board of Supervisors  
#1 Dr. Carlton B. Goodlett Place  
Room #244  
San Francisco, CA 94102

July 21, 2016

*Via Electronic Delivery*

**RE: Appeal of the certification of the EIR for the 901 16th Street and  
1200 17th Street Mixed Use Project**

Dear President Breed and Supervisors,

This letter is in response to the Planning Department's claim that Appellants', Grow Potrero Responsibly and Save the Hill, were required to appeal the Large Project Approval in order to preserve their right to appeal the Commission's CEQA determination regarding the adequacy of the Environmental Impact Report prepared for the above named project. State law and the City's own code provisions under SF Administrative Code section 31.16 regarding the Appeal of Certain CEQA Decisions do not support this assertion.

It is well settled that discretionary project approvals subject to CEQA, as here, must first be premised on adequate environmental review under Public Resources Code Sections 21100(a) and 21151(a). If the Board rejects the environmental determination or findings made by the Commission, the Large Project Approval will be deemed void. Therefore, Appellant's action appealing the Commission's CEQA determination effectively puts the Commission's Project approval on hold until the Board's determination is made, as confirmed by the City's Administrative Code. "The Board shall reverse the Planning Commission's certification of the EIR if the Board finds that the EIR does not comply with CEQA, including that it is *not adequate, accurate and objective, is not sufficient as an informational document, that its conclusions are incorrect or it does not reflect the independent judgment and analysis of the City, or that the Planning Commission certification findings are incorrect.*" "Any actions approving the project in reliance on the reversed CEQA decision, shall be deemed void." (Emphasis added.) The relevant sections are quoted in full below.

Section 31.16 (b), relevant to “Appeal Procedures” states:

(10) If the Board reverses the CEQA decision, the prior CEQA decision and any actions approving the project in reliance on the reversed CEQA decision, shall be deemed void.

Section 31.16 subdivision (c), relevant to “Appeal of Environmental Impact Reports” states:

(5) The Board shall reverse the Planning Commission's certification of the EIR if the Board finds that the EIR does not comply with CEQA, including that it is not adequate, accurate and objective, is not sufficient as an informational document, that its conclusions are incorrect or it does not reflect the independent judgment and analysis of the City, or that the Planning Commission certification findings are incorrect. If the Board reverses the Planning Commission's certification of the final EIR, it shall remand the final EIR to the Planning Commission for further action consistent with the Board's findings. Any further appeals of the EIR shall be limited only to the portions of the EIR that the Planning Commission has revised and any appellant shall have commented on the revised EIR at or before a public hearing held on the revised EIR or the project, if any, The Board's subsequent review, if any, also shall be limited to the portions of the EIR that the Planning Commission has revised including, without limitation, new issues that have been addressed. Any additional appeals to the Board shall comply with the procedures set forth in this Section 31.16.

Moreover, Appellants abided by all of the necessary steps outlined in the City's CEQA appeal procedure for submission of the appeal; the City determined the appeal to be complete and the appeal was calendared for hearing next week.

Sincerely,



Rachel Mansfield-Howlett