

Carroll, John (BOS)

From: Oerth, Sally (CII)
Sent: Thursday, December 03, 2015 12:02 PM
To: BOS Legislation, (BOS)
Cc: Malamut, John (CAT); Morales, James (CII); Bohee, Tiffany (CII)
Subject: Tentative Map Appeal - Golden State Warriors Event Center Project - OCII Letter
Attachments: GSW_Appeal of Subdiv Map_OCII Ltr 12.3.15.pdf

Categories: 151204

Attached please find a letter from OCII regarding the above-mentioned matter being considered by the Board of Supervisors on December 8, 2015.



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103-0412015-146

December 02, 2015

President London Breed and
Members of the Board of Supervisors
c/o Clerk of the Board of Supervisors
#1 Dr. Carlton B. Goodlett Place
City Hall, room #244
San Francisco, CA 94102-4689

Re: Response to the Appeal of Department of Public Works approval of Subdivision Map for the proposed Golden State Warriors Event Center and Mixed-Use Development Project at Mission Bay South Blocks 29-32; DPW Order No: 184253, Director's Conditional Approval of Tentative Final Map No. 8593, Assessor's Block 8722, Lot Nos. 1 and 8, (Clerk of the Board File No. 151204)

Dear President Breed and Members of the Board:

The Office of Community Investment and Infrastructure ("OCII"), acting in its capacity as the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, urges the Board of Supervisors ("Board") to reject the above-referenced appeal. On November 4, 2015, OCII determined that the Mission Bay South Blocks 29-32 Tentative Final Map, Street and Easement Vacation and other related actions are consistent with the Mission Bay South Redevelopment Plan and Plan Documents and are in substantial conformance with the approved Blocks 29-32 Major Phase. Letter, T. Bohee to B. Moy re: Mission Bay Blocks 29-32 Consistency Determination (Nov. 4, 2015).

In a letter dated November 19, 2015, the Mission Bay Alliance ("Appellant") appealed the Department of Public Works' ("DPW") approval of subdivision map applications related to the proposed Golden State Warriors Event Center Project ("GSW Project"). DPW Order No: 184253, Director's Conditional Approval of Tentative Final Map No. 8593. Appellant challenges the map applications on the following grounds: the Final Subsequent Environmental Impact Report ("FSEIR") for the GSW Project does not comply with the California Environmental Quality Act ("CEQA"), and the GSW Project itself does not comply with the Mission Bay South Redevelopment Plan ("Redevelopment Plan"), and the San Francisco General Plan, Planning Code Sections 320-325, and Planning Commission Motion 17709.

Appellant has previously raised all of these arguments against the GSW Project when OCII certified the FSEIR and approved the GSW Project or when various City Departments approved actions related to the GSW Project approval. In each instance, the reviewing agency considered and rejected the Appellant's arguments. Appellant has also raised these very same arguments in the context of its appeal of the FSEIR certification to this Board. Notably, by the time the Board considers this appeal of subdivision map applications, it will have affirmed OCII's certification of

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the FSEIR and thus most, if not all, of Appellant's arguments will have again been rejected by a public agency reviewing the GSW Project.¹

Given that OCII has already addressed all of the Appellant's arguments in its lengthy submission entitled "Appeal of Certification of Final Subsequent Environmental Impact Report: Golden State Warriors Event Center and Mixed-Use Development at Mission Bay Blocks 29-32" (November 30, 2015) ("Appeal Response"), OCII will summarize the basis for its determination of Redevelopment Plan consistency in this letter and refer Board members to the extensive analysis in the Appeal Response for a more detailed discussion about this issue and the others raised by Appellant.

The GSW Project is consistent with the Redevelopment Plan.

The Redevelopment Plan establishes the "basic land use controls within which specific redevelopment activities in the Plan Area will be pursued." Redevelopment Plan, Section 101. OCII has final authority over determinations about proposed projects' consistency with these land use controls by virtue of the following laws and enforceable obligations: the Redevelopment Dissolution Law, Cal. Health & Safety Code § 34173 (empowering successor agencies to exercise state authority to complete certain redevelopment projects); SF Ordinance No. 215-12 (Oct 4, 2015) (delegating this state authority to OCII, as the Successor Agency to the Redevelopment Agency); the Redevelopment Plan (establishing OCII's land use jurisdiction over projects in the Mission Bay South Redevelopment Project Area and superseding the applicability of the SF Planning Code); and the Mission Bay South Owner Participation Agreement (1998) (contractually obligating OCII to review proposed projects under the Redevelopment Plan). The California Department of Finance has finally and conclusively determined that OCII's completion of the Mission Bay South Owner Participation Agreement is an enforceable obligation that continues under the Redevelopment Dissolution Law. Letter, J. Howard to T. Bohee, Re: Request for Final and Conclusive Determination (Jan. 24, 2014), available at http://www.dof.ca.gov/redevelopment/final_and_conclusive/Final_and_Conclusive_Letters/documents/San_Francisco_F&C_EO_Items_84-88_220_&_226.pdf.

OCII has determined that the GSW Project complies with all of the maximum development standards established under the Redevelopment Plan, including Section 300 (in particular, Sections 302.4 and 304) of the Redevelopment Plan, the Land Use Map (Attachment 3 to the Redevelopment Plan), and the Zone Map (Attachment 3a to the Redevelopment Plan). See OCII, Secondary Use Determination for Blocks 29-32, Mission Bay South Redevelopment Project Area (Nov. 3, 2015); OCII Resolution No. 72-2015 (Nov. 3, 2015) (approving major phase and design applications for GSW Project). These Redevelopment Plan controls establish permitted uses, a maximum height limitation of 160 feet, the amount of leasable square footage that can be developed in each land use district, and floor area ratio. The GSW Project, however, did require modification to the Mission Bay South Design for Development ("D for D"), which provides ancillary design standards and guidelines that are subject to amendment by OCII in its sole discretion. OCII determined that the D for D amendments related to the GSW Project are consistent with the Redevelopment Plan. OCII Resolution No. 71-2015 (Nov. 3, 2015). The GSW Project also proposes land uses that qualify as either "principal" or "secondary" uses authorized in the Redevelopment Plan. Principal uses include office use, retail sales and services, restaurants, art activities, art spaces, and outdoor activity areas. As described in the OCII Secondary Use Determination, the secondary uses include four separate uses authorized

¹ If the Board has reversed OCII's FSEIR certification, this appeal of the subdivision map application will not be heard, pending OCII's consideration of additional findings, FSEIR revisions, or changes to the GSW Project approval

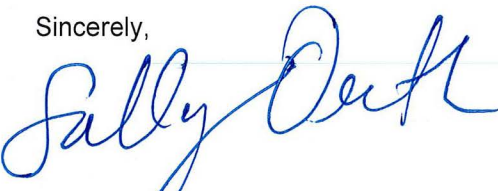
within the Mission Bay South "Commercial Industrial/Retail" land district: nighttime entertainment, recreation building, public structure, and a use of a nonindustrial character.

OCII's determination that the GSW Project is consistent with the Redevelopment Plan is based on its thorough review of the proposed land uses and physical improvements for the GSW Project. At a public hearing on November 3, 2015, the OCII Commission and its Executive Director considered written staff recommendations, public testimony, and other information in the record before applying the Redevelopment Plan standards and approving the GSW Project. The OCII Secondary Use Determination concluded that the GSW Project included secondary uses that generally conform with redevelopment objectives and planning and design controls, make a positive contribution to the Project Area, and provide necessary, desirable, and compatible development for the neighborhood and community. For a more detailed explanation of the legal and factual basis for OCII's determination of consistency with the Redevelopment Plan, please refer to the following exhibits of the Appeal Response: Exhibit A at pp. A-70 to A-72; Exhibit D at pp. D-121 to D-127.

OCII has previously provided an explanation of the GSW Project's compliance with certain Planning Code provisions incorporated into the Redevelopment Plan and with Planning Commission Motion 17709. See Appeal Response, Exhibit D at pp. D-127 to D-132. For an explanation of the consistency of the GSW Project with the General Plan, please refer to the Appeal Response, Exhibit D at p. D-133.

For the reasons stated above, OCII urges the Board to deny this appeal, which is based on the same arguments that have been raised and rejected at several previous hearings.

Sincerely,


for Tiffany Bonee
Executive Director