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December 8, 2023

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President Aaron Peskin and
San Francisco Board of Supervisors
Attn: Angela Calvillo, Clerk of the Board
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
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Email: bos.legislation@sfgov.org

RE: Notice of Appeal and Appeal of San Francisco Planning Commission's CEQA Action for 2395 Sacramento Street, Case No. 2022-004172CUA (Block/Lot:0637/015 & 016)

Dear President Peskin, Honorable Members of the Board of Supervisors, and Clerk Calvillo:

PLEASE TAKE NOTICE THAT, on behalf of San Francisco resident Jonathan Clark ("Appellant"), this letter appeals the San Francisco Planning Department's determination[1] that the proposed project at 2395 Sacramento Street ("Project") qualifies for streamlined environmental review (or partial CEQA exemption) under California Environmental Quality Act ("CEQA") Section 21083.3 and CEQA Guideline Section 15183.[2] Specifically, this appeal arises from the Planning Department's October 23, 2023 "general plan evaluation," (GPE), where the Planning Department asserted that certain mitigation measures found in the environmental impact report for the City's General Plan 2022 Housing Element Update EIR (Housing Element EIR) would mitigate the Project's potentially significant impacts and that no CEQA review would be conducted for the Project.

PLEASE TAKE FURTHER NOTICE THAT the factual and legal analysis contained in this appeal is **PRELIMINARY**. Mr. Clark[3] will supplement this letter prior to the date of the hearing. Mr. Clark's preliminary findings below show that the GPE's proposal to adopt mitigation measures from the Housing Element EIR to lessen the Project's impacts is not lawful, nor would the measures mitigate potentially significant Project-specific effects. Likewise, the GPE failed to analyze impacts related to the Project's height. The City may not approve the Project absent a CEQA analysis as described in section III below.

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[1] The Planning Commission's CEQA determination is attached hereto as Exhibit A-1. The Planning Commission's Resolution is attached as Exhibit A-2.
[2] This appeal is filed pursuant to San Francisco Administrative Code section 31.16.
[3] Mr. Clark's letter authorizing this firm to represent his interests is attached hereto as Exhibit B.

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This appeal is timely under Code Section 31.16 as it was filed with the Clerk of the Board within 30 days of the Planning Commission's approval of conditional use authorization and its adoption of findings that feasible mitigation measures from the Housing Element EIR "will be undertaken as part of the project." [4]

Mr. Clark supports redevelopment at the site, including multifamily housing; however, he has serious concerns about historic preservation of Landmark 115 for both the exterior and interior of the Lane Medical Library and impacts concerning Project height and wildlife. Mr. Clark respectfully requests that the Board grant this appeal and direct the Planning Department to conduct a CEQA analysis for the Project.

I. Introduction

With this Project, the Environmental Review Officer (ERO) has embarked upon a dangerous, far-reaching, and blatantly unlawful interpretation of CEQA. The proposed Project will jeopardize the historically significant Lane Medical Library, which is listed as City Landmark 115, by placing an 87-foot tall building on one-side of the historic landmark and a 72-foot building on another side -- all in a zone with a 40-foot height limit.

Normally, such a Project would be subject to CEQA review to analyze impacts to the historic resource, and to propose feasible measure and alternatives to reduce those impacts. However, the ERO has proposed to exempt the project entirely from all CEQA review. The ERO contends that the Project was adequately analyzed in the Housing Element EIR, and that no further CEQA review is required under CEQA section 21083.3 and CEQA Guidelines section 15183.

What the ERO fails to mention is that the Housing Element EIR did not analyze this Project at all. It analyzed the Housing Element that applies to the entire City of San Francisco. The analysis was at a very general programmatic level, analyzing the impacts of adding 50,000 new residents to the City. The Housing Element EIR specifically stated that it was not conducting any project-level CEQA analysis and that further CEQA analysis would be required for specific projects when they are proposed. Yet the ERO now proposes to dispense with that project-level CEQA analysis entirely.

If the ERO's approach is condoned, then arguably, CEQA review will never be required for any residential project in the City ever again. The same argument could be made for every single project – namely that every project was already analyzed when the general plan was adopted. Under this reasoning, the City would only need to conduct CEQA review once – when the general plan is adopted, and then no CEQA review would be required ever again. This is clearly a perversion of the letter and intent of the law.

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[4] https://citypln-m-extnl.sfgov.org/Commissions/CPC/11_9_2023/Commission%20Packet/2022-004172CUA.pdf at p. 15.

Furthermore, the Project is not even consistent with the Housing Element EIR. The Housing Element EIR assumed that building heights in the Project area would not exceed 40-feet. Yet the Project will soar to 87-feet – more than double what was assumed in the Housing Element EIR. Since the Project is not consistent with the Housing Element EIR, the City may not rely on that EIR's analysis for the Project.

Finally, the Project has numerous project-specific impacts that were not analyzed in the Housing Element EIR and which are peculiar to the Project. Most obvious is that the Project will adversely impact the adjacent and historic Lane Medical Library. The Project will also have project-specific impacts related to wind, vibration, air pollution, biological impacts and others – none of which were adequately analyzed or mitigated in the Housing Element EIR. Even under CEQA section 15183, such impacts that are peculiar to the Project must be analyzed in a streamlined EIR.

The California Court of Appeal has recently rejected a very similar practice in San Diego where the City attempted to avoid project-specific CEQA review by relying on a specific plan EIR. The court reversed San Diego's action because the proposed project was taller than analyzed in the program-EIR and it would have project-specific impacts that were not analyzed in the program-EIR. Therefore, a project-level EIR was required.[5] San Francisco should not follow the same misguided course of CEQA-circumvention.

We respectfully request that the Board of Supervisors reject the proposed CEQA exemption, decline to approve the Project and remand the matter back to the Planning Department unless and until a proper CEQA document is prepared to analyze and mitigate the Project's impacts.

II. Project Description

The proposed Project at 2395 Sacramento Street would gut and modernize a City landmark building (No. 115), the Lane Medical Library, and incorporate a neighboring lot for construction on Webster Street. The 1912 Beaux-Arts former medical library was designed by renowned architect of merit Albert Pissis.[6] The Lane Medical Library (Library) was designated as San Francisco Landmark No.115 on September 2, 1980 under the City of San Francisco Planning Code Article 10, Landmark Preservation Ordinance. The 1980 Landmark Designation Report for the building noted that at the time it was "probably eligible" for the National Register of Historic Places and that the building was "virtually unchanged since it was built." Those two statements from the Landmark Report remain true today. As such, a National Register of Historic Places nomination form, completed by a historic preservation professional, Bridget Maley, who meets *the Secretary of the Interior's Professional Qualification Standards in Architectural*

[5] *Save Our Access v. City of San Diego* (2023) 92 Cal.App.5th 819.
[6] Landmarks Preservation Advisory Board, "Landmark No. 115: Health Science Library, 2395 Sacramento Street" (January 6, 1979). https://sfplanninggis.org/docs/landmarks_and_districts/LM115.pdf (Accessed October 2022)

History and History, was submitted to Julianne Polanco, the California State Historic Preservation Officer, for review by staff and action by the State Historical Resources Commission.

The Project would include construction of a seven-story over basement addition at the east elevation of the subject building and a six-story addition accessible through a four-story glass connector to the south of the building. The Library would be gutted to accommodate for 24 dwelling units, 26 off-street parking spaces, 38 class 1 bicycle parking spaces, and 4 class 2 bicycle parking spaces. The Project would include a dwelling-unit mix consisting of 1 one-bedroom unit, 10 two-bedroom units, 9 three-bedroom units, and 4 four-bedroom units.

The Webster Street addition would be constructed within the vacant lot; the Sacramento Street addition would be constructed within the area east of the existing building. The Sacramento addition would be approximately 77.5 feet in height (**87.5 feet to the top of the penthouse**) and include seven levels of residential use over below-grade parking (eight stories total). The proposed Webster addition would be 68 feet in height (**72 feet to the top of the penthouse**) and provide five levels of residential use above a garage, along with a rooftop deck (six stories total). The building's existing use as an events venue would change. Instead, the project would create 24 dwelling units, consisting of 4 four-bedroom units, 9 three-bedroom units, 10 two-bedroom units, and 1 one-bedroom unit.

The project is seeking approval and concessions under the California Density Bonus Law, proposing to provide 14.5% (3 units) of the base 19-unit project as affordable at Low Income (80% AMI) in order to qualify for a 26.0% density bonus (5 units). The Project seeks waivers from local height limit of 40 feet to nearly double the Project's height, reduction of rear yard requirement; and reduction of dwelling unit exposure (light) requirement.[7]

III. Legal Standard

A. CEQA

CEQA and its implementing regulations embody California's strong public policy of protecting the environment.[8] 'The basic purposes of CEQA are to: (1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities. (2) Identify ways that environmental damage can be avoided or significantly reduced. (3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible. (4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved. [9]

[7] GPE at p.3.
[8] Cal. Code Regs., tit.14, § 15000 et seq. ("CEQA Guidelines").
[9] *Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281, 285–286; CEQA Guidelines § 15002.

To achieve these goals, CEQA provides a three-step process. In the first step, the public agency must determine whether the proposed development is a 'project,' that is, 'an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment' undertaken, supported, or approved by a public agency.[10] If the proposed activity is a "project," the second step requires the public agency to decide whether it is exempt from compliance with CEQA **under narrow circumstances**.[11] If a project does not fall within a CEQA exemption, the lead agency conducts an initial study to determine whether the project may have a significant impact on the environment.[12] If the administrative record before the agency contains substantial evidence that the project may have a significant effect on the environment it must go to on the third stage of the CEQA process: preparation certification of an EIR.[13]

The basic purpose of an EIR is to 'provide public agencies and the public in general with ***detailed*** information about the effect a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project."[14] The Supreme Court has described the EIR as "an "environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return."[15] The EIR is also intended to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." [16] Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. The EIR process protects not only the environment but also informed self-government."[17] The EIR 'must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.[18]

The CEQA Guidelines describe several types of EIR's, which may be tailored to different situations. The most common is the project EIR, which examines the environmental impacts of a specific development project.[19] A quite different type is the program EIR, which the City has

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[10] *Tomlinson*, 54 Cal.4th at p. 286 citing Public Resources Code § 21065.
[11] *Id. citing* §§ 21080, 21084(a); Guidelines, § 15300 (emphasis added).
[12] *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 380; CEQA Guidelines §§ 15063(a); 15002(k)(2).
[13] CEQA § 21100, 21151; Guidelines, § 15002(k)(3), 15063(b)(1), 15064(a)(1), (g)(1), 15362.); *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359.
[14] *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511-512.
[15] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.
[16] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.
[17] Id. at pp. 392, 405.
[18] *Ocean Street Extension Neighborhood Assn. v. City of Santa Cruz* (2021) 73 Cal.App.5th 985, 1003.
[19] CEQA Guidelines § 15161; *Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency* (2005) 134 Cal.App.4th 598.

invoked here relying on the Housing Element EIR. Program EIRs "may be prepared on a series of actions that can be characterized as one large project and are related either: (1) Geographically, (2) As logical parts in the chain of contemplated actions, (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."[20]

"Later activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared."[21] "**If a later activity would have effects that were not examined in the program EIR, a new initial study would need to be prepared leading to either an EIR or a negative declaration**; the later analysis may tier from the program EIR as provided in Guideline § 15152."[22] If the agency finds that pursuant to Section 15162, no subsequent EIR would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required. Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR."[23]

The Planning Department is relying on the Housing Element programmatic EIR to exempt the Project from CEQA review. The level of detail or lack thereof found in the Housing Element EIR is central to this appeal.

Finally, CEQA identifies certain classes of projects which are exempt from the provisions of the statute ("categorical exemptions").[24] "Exemptions to CEQA are narrowly construed and exemption categories are not to be expanded beyond the reasonable scope of their statutory language."[25] Here, the City contends that no CEQA review is necessary because under the CEQA Guidelines § 15183, projects that are found consistent with the development density established by existing zoning, community plan, or general plan policies for which an environmental impact report was certified is not subject to additional environmental review, except as might be necessary to examine whether there are project-specific significant effects that are peculiar to the project or the site. Thus, this type of CEQA review is limited to impacts that:

1. Are peculiar to the project or parcel on which the project would be located;

[20] Guidelines, § 15168(a).
[21] Guidelines, § 15168(c).
[22] Id. (emphasis added)
[23] Id. see also *Save Our Access v. City of San Diego* (2023) 92 Cal.App.5th 819.
[24] 14 CCR §§ 15300, 15354.
[25] *Mountain Lion Foundation v. Fish & Game Com*. (1997) 16 Cal.4th 105, 125.

2. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent;
3. Are potentially significant offsite and cumulative impacts that were not discussed in the underlying EIR; or
4. Are previously identified in the EIR but which, as a result of substantial new information that was not known at the time that the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR.[26]

The intention of this Guideline is to "streamline" CEQA review for projects and avoid the preparation of repetitive documents when unnecessary. This section is referred to as an exemption from CEQA, but environmental review is still required for various types of impacts, including, relevant here, those "**peculiar to the project** or parcel on which the project would be located," and those which "**were not analyzed as significant effects in a prior EIR,**" or were identified in the earlier EIR but **substantial new information** shows a project's impacts would be more severe than previously discussed.

Importantly, both the Housing EIR and the GPE admit that the respective CEQA projects described in each document would cause significant unavoidable impacts on historic resources, and both enumerated measures found in the Housing EIR's mitigation monitoring and reporting program (MMRP) to mitigate project effects.[27] According to the GPE, the Housing Element EIR's mitigation measures "were modified to reflect the specific characteristics of the project.[28] Indisputably, the Planning Department is relying on mitigation to justify its exemption.

As shown below in Section III(A), there is substantial evidence demonstrating that the Project will have significant impacts which were not addressed in the Housing Element EIR. The Section 15183 Exemption therefore does not apply, and the City must prepare appropriate CEQA documents for this Project.

B. The State's Density Bonus Law

The developer seeks to invoke the State Density Bonus Law to bypass San Francisco land use requirements.[29] However, the Court of Appeals has held that CEQA must be "harmonized" with the Density Bonus Law, and that agencies must comply with both statutes.[30] Therefore, the Project is subject to all of the same CEQA requirements as any other residential development. The applicant requests waivers from San Francisco height limits of 40-feet, elimination of the rear-yard requirement, the residential usable open space requirement, and the dwelling-unit exposure requirements. The Project cannot evade CEQA review if any of the waivers result in the potential for significant effects on the Project.

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[26] CEQA Guidelines §15183.
[27] GPE at p. 10.
[28] Id. at p. 8.
[29] CA Govt. Code § 65915 *et. seq.*
[30] *Wollmer v City of Berkeley* (2011) 193 Cal.App.4th 1329, 1349.

IV. Analysis

A. The Housing Element EIR was a Programmatic-Level EIR, not a Project-Level EIR. It Did not Analyze this Project at All. Project-Level CEQA Review is Required for this Project.

The Housing Element EIR is, and clearly stated that it was, a program-level EIR, and that later project-level CEQA review would be required. Program EIRs analyze impacts of high-level agency actions, such as general plans, at a very broad, generalized level. Program EIRs do not, and cannot, analyze project-specific impacts since there is usually no specific project proposed. Program EIRs are followed by streamlined project EIRs, which can rely on the program EIR to the extent appropriate. Here, the City is improperly attempting to use the programmatic Housing Element EIR to avoid project-level CEQA analysis. This is clearly improper.

The Housing Element EIR itself called for later, project-specific CEQA review which is proof the Project is ineligible for an exemption. The Housing Element EIR did not analyze potentially significant impacts on historic resources from individual development projects like this one. The Housing Element EIR states:

> This EIR analyzes the proposed action at a ***programmatic level***, in accordance with CEQA Guidelines section 15168. A programmatic analysis is appropriate for a project that will involve a series of actions that are (1) related geographically, (2) logical parts in a chain of contemplated actions, (3) connected as part of a continuing program, and (4) carried out under the same authorizing statute or regulatory authority and have similar environmental impacts that can be mitigated in similar ways. ***To the extent that any future changes to land use controls could result in significant adverse effects on the physical environment that were not anticipated in the housing element update EIR, those changes would require further environmental review.*** CEQA Guidelines section 15168 notes that the use of a programmatic EIR "ensure[s] consideration of cumulative impacts that might be slighted in a case-by-case analysis; avoid[s] duplicative reconsideration of basic policy considerations; allow[s] the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time, when the agency has greater flexibility to deal with basic problems or cumulative impacts; and allow[s] a reduction in paperwork." (Housing Element DEIR, p. 1-3).

Under CEQA Section 15168, a programmatic EIR is prepared to analyze broad, program-level impacts. Then, project-level EIRs are prepared when specific projects are proposed. The project-level EIRs can rely on the program-EIR as appropriate, but must analyze project-specific impacts. The CEQA Guidelines set forth the use of a Program EIR with later activities. "Later activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared." (CEQA Guidelines § 15168(c).) Section 15168(c) provides:

(1) If a later activity would have effects that were not examined in the program EIR, a new initial study would need to be prepared leading to either an EIR or a negative declaration. That later analysis may tier from the program EIR as provided in Section 15152.
(2) **If the agency finds that pursuant to Section 15162, no subsequent EIR would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.** Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, **consistency of the later activity with the type of allowable land use, overall planned density and building intensity**, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.
(3) An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into later activities in the program.
(4) Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR.
(5) A program EIR will be most helpful in dealing with later activities if it provides a description of planned activities that would implement the program and deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed project description and analysis of the program, many later activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.

(CEQA Guidelines § 15168(c)(1)-(5) [emph. added].)

After informing the public that the Housing Element EIR was a program-level EIR, and that project-level CEQA review would be required under CEQA section 15168, the City now ignores that promise, and seeks to avoid project-level CEQA review entirely under CEQA section 15183. The Housing Element EIR could not have looked at Project specific impacts like Landmark 115, because that EIR only analyzed "the impacts attributable to the proposed action based on a comparison of the 2050 projected growth under the existing 2014 housing element and the proposed action; specifically, under the proposed action the department predicts that approximately 50,000 more housing units would be constructed by 2050 if the housing element update is adopted…"[31] With that objective, it is obvious the Housing Element EIR did not address this specific Project and its impacts to historic resources and other impacts.

[31] Housing Element EIR at p. 1-10.

B. The Project is Outside the Scope of the Housing Element EIR Because it is Inconsistent with the Housing Element EIR.

The City cannot rely on the Housing Element EIR to analyze this Project because the Project is inconsistent with the Housing Element EIR. Most obviously, the Housing Element EIR assumed that development in the Project area would be limited to no more than 40-feet. However, the proposed Project will be more than double that height – 87.5 feet. The Court of Appeal has recently held that a city may not rely on a programmatic EIR when the proposed project exceeds the heights assumed in the programmatic EIR.[32]

A subsequent project is not within the scope of a previous program EIR if it is inconsistent with the plan addressed in the program EIR.[33] "**If the subsequent project is not consistent with the program or plan, it is treated as a new project and must be fully analyzed in a project—or another tiered EIR if it may have a significant effect on the environment.**"[34] Generally, the standard set forth for this analysis is substantial evidence. However, where a later proposal is not either the same as or within the scope of the project described in the Program EIR, then review of the proposal is not governed by CEQA's deferential substantial evidence standard.[35]

The proposed Project seeks to nearly double the Planning Code's residential height limits of 40 feet for the Pacific Heights neighborhood. The Project's Sacramento Street addition would be 87.5 feet high at the top of the penthouse, and the proposed Webster Street addition would be 72 feet high at the top of the penthouse.[36] Because the parcels are located in a 40-X height and bulk district, the Project must obtain conditional use authorization for construction in excess of the 50 feet limit within the RM-1 zoning district.[37]

The Housing Element EIR assumed that projects would be consistent with existing height limits. Its states:

> Future actions consistent with the housing element update would be required to adhere to all applicable environmental regulations and therefore would not conflict with plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. As such, this impact would be less than significant, and no mitigation measures are necessary. (Housing Element DEIR, p. 4.1-23)

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[32] *Save Our Access v. City of San Diego* (2023) 92 Cal.App.5th 819.
[33] CEQA Guidelines § 15168(c)(2); *see* Pub. Res. Code § 21094(b).
[34] *Friends of Coll. of San Mateo Garden*, 1 Cal.5th at 960.
[35] *Save Our Access v. City of San Diego* (2023) 92 Cal.App.5th 819.
[36] GPE at p. 2.
[37] MPE at p. 4.

The map in the Housing Element EIR shows that the area of the Project is subject to a 40-foot height limit. (Housing Element DEIR p. 2-25, Figure 2-7). Since the Housing Element EIR assumed that heights in the Project area would not exceed 40-feet, the City may not rely on that EIR for this 87-foot tall Project. The Project will have greater shadow, wind, historical resources and biological impacts as a result of its much greater height. None of these impacts were analyzed in the Housing Element EIR.

An expert wind analysis shows that due to its extreme height, the Project will cause wind velocities increases of 25% per hour on Webster Street. (Exhibit C). This will result in vastly exceeding the City's significance threshold of 26 miles per hour. (Planning Code sect. 148). This impact was not analyzed in the Housing Element EIR because it assumed heights in the area would not exceed 40-feet.

Expert wildlife biologist, Dr. Shawn Smallwood, Ph.D., surveyed the site on November 21, 2023. He identified 13 species of vertebrate wildlife on the Project site, including at least one bird of conservation concern, the Western Gull. (Exhibit D). Dr. Smallwood projects that there are 5 special status species of vertebrate wildlife that use the Project site. (Ex. B, p. 8). Dr. Smallwood concludes that the tall building would create a heightened risk of bird-window collisions. (Ex. D, p. 13, 17). He also predicts that the Project will cause habitat loss of five bird nesting sites. (Id.). None of these impacts were analyzed in the Housing Element EIR because it assumed heights not exceeding 40-feet.

The GPE did not analyze potentially significant impacts related to the Project's non-conforming and excess height, which would nearly double the allowable limits. The San Francisco Planning Code §§ 253 and 303 require the zoning administrator to engage in a public process to review a request to deviate from height limits. However, the conditional use authorization process was truncated because the applicant is seeking a waiver of height limits under the Density Bonus Law.[38] Nevertheless, CEQA review is still required even for projects seeking waivers under the DBL.[39]

The GPE did not identify the Project's height as a potentially significant impact despite the Project's failing to conform to the Planning Code. More significantly, the Project is inconsistent with the General Plan and Housing Element EIR. The City is relying on CEQA streamlining, claiming that no further CEQA analysis is required because the Project is "consistent with the development density established by existing zoning, community plan, or general plan policies for which an environmental impact report (EIR) was certified."[40] That is simply not the case here.

A review of the General Plan and the 2022 Housing Element Update shows the City never considered the environmental impacts of removing the height limits in the Pacific Heights

[38] GPE at p. 3.
[39] *Wollmer v City of Berkeley* (2011) 193 Cal.App.4th 1329, 1349.
[40] GPE, at p.5; *citing* CEQA § 21083.3 and CEQA Guidelines § 15183.

40-X height and bulk district. Those documents presumed this limit would not change for subsequent development projects. Therefore, the Project is not eligible for CEQA streamlining under Guidelines § 15183 because the Project is not consistent with all of the identified prior planning documents.

The Court of Appeals recently ordered the City of San Diego to go back and prepare an EIR for a project the City tried to exempt from CEQA on grounds the project was within the scope of an earlier community plan. [41] The City ran into trouble because the Project exceeded height limits approved in earlier planning documents.[42] The court held that there was no evidence that the community plan and its EIR considered the potential impacts of raising coastal zone height limits; therefore, it needed to prepare an EIR on any impacts associated with raising such height limits.[43] Just so here. The City must prepare a CEQA analysis to evaluate whether nearly doubling the height limitations will present potentially significant impacts on wind and shadow.

C. CEQA Review is Required to Analyze Potentially Significant Impacts on an Historic Resource.

A CEQA exemption is not allowed because there is a fair argument that the Project may have adverse impacts to an historic resource. CEQA section 21084(e) provides, "A project that may cause a substantial adverse change in the significance of a historical resource, as specified in Section 21084.1, shall not be exempted from this division pursuant to subdivision (a)." In CEQA section 21084.1, the California legislature prohibits the use of a CEQA exemption for projects that **may** cause a substantial adverse change in the significance of a historical resource.[44] Under CEQA sections 21084(e), and 21084.1, and CEQA guidelines sections 15064.5, and 15300.2, a categorical exemption from CEQA may not be issued for any project that may cause a substantial adverse change in the significance of an historical resource. This includes changes to the "immediate surroundings such that the significance of an historic resource would be materially impaired." CEQA Guidelines section 15064.5(b)(1).

The City proposes to exempt the Project from CEQA review pursuant to CEQA Guidelines section 15183. However, expert evidence will show that the Project will have adverse impacts to the historic resources of City landmark building (No. 115), the Lane Medical Library. The Project will dwarf the historic library on two sides with an 87 and 72-foot tall building. The Project will destroy historic murals found in public areas inside the building. As such, the CEQA exemption is not allowed.

The proposed additions to the library at the east and south facades would result in a significant unavoidable impact to an historic resource that cannot be mitigated to a less than

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[41] Id.
[42] *Save Our Access v. City of San Diego* (2023) 92 Cal.App.5th 819.
[43] Id. at p. 855.
[44] CEQA § 21084.1, CEQA Guidelines 15300.2(f).

significant level. The proposed additions would not meet the Secretary of the Interior's Standards for the Treatment of Historic Properties, specifically Standard 9 which states:

> New additions, exterior alterations, or related new construction will not destroy historic materials and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the historic integrity of the property and its environment.

The proposed project would destroy the spatial relationship of the Lane Medical Library to the two other historic resources on the block: the residential building at 2018 Webster Street, and the garden that has long separated the two buildings, and Temple Sherith Israel. The proposed project would be out of scale and proportion and its massing would loom over both the library and Temple Sherith Israel, blocking the visual and spatial connection between these two Albert Pissis-designed buildings. As currently designed the project does not meet the Secretary of the Interior's Standards for the Treatment of Historic Properties and is therefore not mitigated to a less than significant level. The CEQA analysis failed to study feasible alternatives to the proposed project and is thus out of compliance with CEQA.

Further, removal of the Mathews murals found in publicly accessible areas inside the Library would result is a significant unavoidable impact to an historic resource that cannot be mitigated to a less than significant level. Separating the murals from their historic location in the library was again not fully evaluated as an impact in the CEQA documents. The project sponsor has specifically stated the project would remove the Mathews murals from the library's reading room; however, no plan for where the works would be deposited or if they would remain in the public realm has been put forward in the project description.

Since the Project will adversely affect the historic Lane Medical Library, it cannot be exempted from CEQA review. CEQA review is required to analyze the historic resource impacts and to propose feasible mitigation measures and alternatives to reduce the impacts.

D. The CEQA Exemption is Not Allowed Because Mitigation Measures are Required.

The Planning Department found that the Project would result in a significant impact on the Lane Medical Library building, an historic resource, and adjacent/offsite historical resources.[45] Rather than prepare a CEQA analysis looking at Project alternatives or specific measures to mitigate impacts on the Library, the Planning Commission adopted measures from the Housing Element EIR's MMRP as a condition of its project approval: "Where applicable, mitigation measures from the Housing Element EIR are identified under each environmental

[45] GPE, at p. 10.

topic. Some mitigation measures from the Housing Element EIR were modified to reflect the specific characteristics of the project."[46]

However, the Housing Element EIR mitigation measures are very general, programmatic-level measures, not specific measures tailored for this Project. A CEQA document is required to analyze this Project and to propose appropriate measures to mitigate the impacts of this Project.

The Housing Element EIR makes clear that its analysis of historic impacts is very general, and that project-level review will be required when specific projects are proposed with historic resources impacts. According to the Housing Element EIR, "future development could cause a substantial adverse change in the significance of a historical resource. Mitigation measures M-CR-1a through M-CR-1l would reduce this significant impact. However, demolition of built-environment historic resources or alteration in an adverse manner could still occur because the ***design of future development is uncertain and it is unknown whether mitigation measures can be implemented***."[47]

There can be no question the Planning Department is relying on mitigation measures in an attempt to protect the Library. However, California outlawed mitigated categorical exemptions 38 years ago on grounds that agencies "cannot escape the law by taking a minor step in mitigation and then find themselves exempt."[48] The courts have been clear: "proposed mitigation measures cannot be used to support a categorical exemption."[49] For the Planning Department to include these mitigation measures in the GPE involved "an evaluative process of assessing those mitigation measures and weighing them against potential environmental impacts, and that process must be conducted under established CEQA standards and procedures for EIRs or negative declarations"[50] Since the Project admittedly requires mitigation measures to address historic resource impacts, a CEQA exemption is not allowed.

Even if "mitigated" CEQA exemptions were allowed, the GPE's modified mitigation measures are woefully inadequate. After finding the current Project "would result in a significant impact on 2395 Sacramento Street," the GPE provided four mitigation measures:

1. Best practices and construction monitoring for the protection of both on and offsite historic resources (2395 Sacramento Street, 2266 California Street, and 2018-2020 Webster Street);[51]
2. Document historic features;[52]
3. Salvage, re-use, and interpret distinctive features;[53] and

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[46] GPE, at p. 8.
[47] Housing Element EIR at pp. 4.2-78.
[48] *Lewis v. Seventeenth Distr. Ag. Assn*. (1985) 165 Cal.App.3d 823, 830.
[49] *Azusa Land Rec. Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1199.
[50] *Salmon Protection and Watershed Network v. Marin County* (2005) 125 Cal.App.4th 1098, 1108.
[51] MMRP M-CR- 1b (The GPE did not include the "best practices" for public review.
[52] EIR MMRP M-CR-1d.
[53] EIR MMRP M-CR-1f.

4. Implement a public interpretive program.[54]

The GPE claims these vague and insufficient measures "would reduce the impact to less than significant.[55] But these "measures" were never intended to be the City's complete effort to protect an individual historic resource like the Library; nor will they protect the Library's unique internal and external features. There is no way to determine if these measures will reduce impacts to less than significant. A public agency may not rely on mitigation measures of uncertain efficacy or feasibility.[56] "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (14 CCR § 15364.) Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments. (14 CCR § 15126.4(a)(2).) The City's mitigation measures meet none of these requirements.

The proposed mitigation measures are so vague that there can be no certainty that they will be adequate. At best, they are unlawful deferred mitigation, which is prohibited under CEQA. There is no elaboration as to what the "best practices" will be. "[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment."[57]

E. CEQA Review is Required to Analyze Environmental Impacts that are Peculiar to the Project.

Section 15183 requires analysis in a CEQA document of "**project-specific significant effects which are peculiar to the project or its site**." (CEQA Guidelines § 15183(a) [emph. added]). There are numerous environmental impacts that are peculiar to the Project and that were not analyzed or mitigated in the Housing Element EIR. According to the General Plan Evaluation, "the proposed project could significantly affect the environmental resource topics of air quality, cultural resources, and noise," but went on to claim "the proposed project would not result in any new or substantially more severe impacts than those identified in the Housing Element EIR."[58] But, the Planning Department prepared project-specific studies and proposed mitigation measures for various impacts including on historic resources.[59]

1. Historic Resource Impacts are Peculiar to the Project.

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[54] EIR MMRP M-CR-1g.
[55] GPE at p. 10.
[56] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation measure because no record evidence existed that replacement water was available).
[57] *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92.
[58] GPE, at p. 5.
[59] Id. at pp. 6-21.

The Project's impacts to the historic Lane Medical Library are certainly peculiar to the Project and were not analyzed in the Housing Element EIR. Indeed, the Lane Medical Library is not even mentioned in the Housing Element EIR. The Lane Medical Library is a City Landmark and has been nominated for the National Registry of Historic Places. The Library has outstanding interior and exterior historical features. This historically significant Library was not analyzed for significant effects in the Housing Element EIR. If fact, the Planning Department's staff report findings in its "Historic Resource Evaluation Response (HRER)" for the Historic Preservation Commission meeting of November 1, 2023 found that the Library and its associated interior murals meet Criterion 1, 2 and 3 of the California Register of Historical Resources and would therefore be an historical resource under CEQA. These are peculiar impacts because the City admits the Library's interior is subject to CEQA review and few development project's risk adversely effecting interior Landmarks in need of preservation. As discussed above, the Project would adversely affect the historic Library.

For CEQA purposes a historic resource is "listed in, or determined to be eligible for listing in, the California Register of Historical Resources." However, the omission of such a listing does not preclude a lead agency from finding the resource qualifies as a historical resource under CEQA.[60] Once a property has been established an historical resource under CEQA,[61] as is the case here, then the evaluation moves to whether the proposed project would cause a "substantial adverse change" to the historical resource.[62] CEQA defines a ″substantial adverse change″ as the physical demolition, destruction, relocation or alteration of the historical resource or its immediate surroundings such that the significance of the historical resource would be materially impaired.[63] CEQA goes on to define ″materially impaired″ as work that materially alters, in an adverse manner, those physical characteristics that convey the resource's historical significance.[64]

Historic preservation professional, Bridget Maley, has nominated the Library for the National Register of Historic Places, submitting a nomination report to California's State Historic Preservation Officer for review by its staff and action by the State Historical Resource Commission. This is substantial new information showing Project impacts on an historic resource would be more severe that previously discussed. At the very least, the Board of Supervisors should continue this matter until the determination is made as to whether to list the Library on the National Register of Historic Places.

2. Vibration Impacts are Peculiar to the Project.

The City's own CEQA analysis admits that the Project will have significant vibration impact, and proposes mitigation. (GPE, p. 15). The GPE states that the construction vibration level would be approximately 1.0 inch/second at the nearest existing historic building, 2018

[60] CEQA § 21084.1.
[61] CEQA Guidelines Section 15064.5(a)(3).
[62] San Francisco Preservation Bulletin No. 16, at p. 2.
[63] Id.
[64] CEQA Guidelines 15064.5(b), Bulletin 16, p. 9.

Webster Street, which would be 5 feet south of project construction activities. The construction vibration level would be 0.07 inch/second at the historic building at 2266 California Street (Congregation Sherith Israel), which would be approximately 30 feet south of project construction activities. At 2329 Sacramento Street, there is an older residential structure that would be approximately 5 feet east of project construction activities; the construction vibration level would also be 1.0 inch/second at this building. In general, older/historic buildings (2018 Webster Street and 2266 California Street) have a damage threshold of 0.25 inch/second for continuous or frequent vibration sources, and older residential structures (2329 Sacramento Street) have a damage threshold of 0.30 inch/second for continuous or frequent vibration sources. **Consequently, the project's construction vibration level of 1.0 inch/second at 2018 Webster Street and 2329 Sacramento Street could exceed the damage thresholds of 0.25 and 0.30 inch/second, respectively.**

The vibration impacts are admitted to be significant, are peculiar to the Project and require mitigation. The GPE proposes mitigation (EIR mitigation measure M-NO-3a), but mitigation measures must be analyzed in a CEQA document to ensure their adequacy and enforceability. The City cannot simply ignore this legal requirement. Even if an EIR is not required, a revised negative declaration must be circulated for full public review if it adds new mitigation measures or identifies new impacts. [65] In *Perley v. Board of Supervisors* (1982) 137 Cal.App.3d 424, the court held that the public has a right to review a project described in a negative declaration in its final form and suggested that a negative declaration must be recirculated if mitigation measures are added. By refusing to prepare any CEQA document for the Project, the City has deprived the public of its right to review the project in its final form and to review the adequacy of mitigation measures proposed.

3. Diesel Particulate Matter Health Risk is Peculiar to the Project.

The GPE admits that the Project would create a significant airborne cancer risk from Diesel Particulate Matter ("DPM") from Project construction equipment. (GPE, p. 18). The proposed project would emit PM2.5 and other toxic air contaminants that result in health risks from the proposed project's construction activities and vehicular traffic. The EIR analyzed construction and operational health risks that would result from a range of representative building types. The planning department screened the proposed project's characteristics and compared them to the characteristics of these representative building types and considered the proximity of sensitive receptors and existing health risks modeled in the citywide health risk assessment. The screening level analysis found that the proposed project could potentially result in a significant health risk impact.

The GPE proposes a mitigation measure to reduce this impact. (EIR mitigation measure M-AQ-3). However, there is no analysis on whether this mitigation measure would be adequate to reduce the impact to less than significant. If not, additional mitigation, alternatives, or at least a statement of overriding considerations would be required for this impact.

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[65] *Gentry v. Murrieta*, 36 Cal.App.4th 1359, 1392, 1411, 1417.

4. Wind Impacts are Peculiar to the Project.

As discussed above, expert analysis shows that the Project will have significant wind impacts due to its height vastly exceeding zoning limits, and exceeding the heights assumed in the Housing Element EIR. The Project will increase wind speeds by 25% on Webster Street. (Exhibit C). This results in vastly exceeding the City's significance threshold of 26 miles per hour. (Planning Code sect. 148). This impact is peculiar to the Project and was not analyzed in the Housing Element EIR because it assumed heights in the area would not exceed 40-feet.

Indeed, the Housing Element EIR stated that wind impacts would need to be evaluated and mitigated on a project-specific basis – which is precisely what the City is avoiding. The Housing Element EIR stated:

> Wind [EIR Impact WI-1, pp. 4.7-9 to 4.7-13] Future development would create wind hazards in publicly accessible areas of substantial pedestrian use. Mitigation measures M-WI-1a and M-WI-1b would reduce impacts. **However, due to the uncertainty about the design of future development and whether wind baffling measures can be approved and implemented, the ability of mitigation measures to fully reduce impacts is uncertain**. (Significant and Unavoidable with Mitigation) (Housing Element EIR, p. 19).

Thus, the Housing Element EIR pointed out the need to analyze wind impacts at the project-level. The City blithely ignores that mandate. In the case of *Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 122-125, the court of appeal held that when a "first tier" EIR admits a significant, unavoidable environmental impact, then the agency must prepare second tier EIRs for later phases of the project to ensure that those unmitigated impacts are "mitigated or avoided." The court reasoned that the unmitigated impacts were not "adequately addressed" in the first tier EIR since they were not "mitigated or avoided." Thus, significant effects disclosed in first tier EIRs will trigger second tier EIRs unless such effects have been "adequately addressed," in a way that ensures the effects will be "mitigated or avoided." Such a second tier EIR is required, even if the impact still cannot be fully mitigated and a statement of overriding considerations will be required. The court explained, "The requirement of a statement of overriding considerations is central to CEQA's role as a public accountability statute; it requires public officials, in approving environmental detrimental projects, to justify their decisions based on counterbalancing social, economic or other benefits, and to point to substantial evidence in support." (*Id*. at 124-125).

CBE v. CRA's reasoning applies readily to the Project. The Housing Element EIR admitted that wind impacts were significant and unavoidable, and that Project-level review would be required. The City cannot now avoid that review.

5. Biological Impacts are Peculiar to the Project.

As discussed above, Dr. Shawn Smallwood has determined that the Project will have significant adverse impacts to special status species, particularly from bird-window collisions

and loss of habitat. (Exhibit D). This impact is peculiar to the Project. Also, it was neither analyzed nor mitigated in the Housing Element EIR, which did not even contain a biological impact analysis section. The City cannot contend an impact was analyzed in the Housing Element EIR when it did not even discuss the subject.

6. Shadow Impacts are Peculiar to the Project.

The 87-foot tall Project will cast much greater shadows than analyzed in the Housing Element EIR, which assumed heights of 40-feet. These impacts are peculiar to the Project, and were not analyzed in the Housing Element EIR. The Project will cast shadows on the adjacent historic resources, including the Lane Medical Library and Congregation Sherith Israel, both of which are historic landmarks. The shadow impacts on these buildings will impact important historic attributes, such as lighting on stained-glass windows and public common areas. This impact must be analyzed in a project-specific EIR.

7. Pedestrian Safety Impacts are Peculiar to the Project.

The Project will create significant pedestrian safety impacts peculiar to the Project. The 24-car garage entrance will be established on a high pedestrian walk-way with entrance/exit onto a narrow road with low visibility. This impact is peculiar to the Project and was not analyzed in the Housing Element EIR.

F. The City May not Rely on the Housing Element EIR Because the Project is Inconsistent with the Housing Element.

The Project is ***not*** consistent with the Housing Element. Therefore, the City may not rely on the Housing Element EIR. The Housing Element EIR made clear the City's "commitment to historic preservation:"

- Priority Policy 7 addresses the city's desire to preserve landmarks and historic buildings.
- Policy 2.4: Preserve notable landmarks and areas of historic, architectural, or aesthetic value and promote the preservation of other buildings and features that provide continuity with past development.
- Policy 2.5: Use care in remodeling older buildings in order to enhance rather than weaken the original character of such buildings.
- Policy 2.6: Respect the character of older development nearby in the design of new buildings.

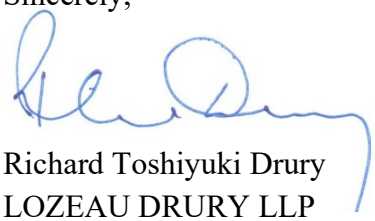
The above general plan policies "emphasize preserving notable landmarks and historic features, sensitively remodeling older buildings, and respecting the character of older buildings

adjacent to new development."[66] The Project makes no attempt to comply with the General Plan.[67]

V. Conclusion

There is no question the proposed Project violates CEQA in addition to the San Francisco's Historic Resource Preservation Ordinance, the Housing Element EIR and the General Plan. Accordingly, for all of the factual and legal reasons described above, the San Francisco Board of Supervisors should grant Mr. Clark's CEQA appeal and send the Project back to the Planning Department and Historic Preservation Commission for full review under CEQA and all other applicable laws and ordinances. Thank you for considering our concerns.

Sincerely,



Richard Toshiyuki Drury
LOZEAU DRURY LLP

CC: Lisa Gibson, Environmental Review Officer, lisa.gibson@sfgov.org

[66] Housing Element EIR at 4.2-9.
[67] Id. Also, the EIR noted that the City is in the process of preparing a Heritage Conservation Element of the general plan to identify policies for recognizing and protecting the city's tangible (i.e., built-environment) and intangible heritage.

EXHIBIT AπM

San Francisco Planning

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San Francisco, CA 94103
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GENERAL PLAN EVALUATION

FOR PROJECT CONSISTENT WITH 2022 HOUSING ELEMENT DEVELOPMENT DENSITY

Case No.:	2022-004172ENV, 2395 Sacramento Street
Zoning:	Residential Mixed-Low Density (RM-1) Use District 40-X Height & Bulk District
Neighborhood:	Pacific Heights
Cultural District:	Not applicable
Block/Lot:	0637/016 and 015
Lot Size:	15,105 square feet
Project Sponsor:	Eduardo Sagues, Gokovacandir, LLC, (203) 500-3766
Property Owner:	Gokovacandir, LLC
Staff Contact:	Kei Zushi – (628) 652-7495; kei.zushi@sfgov.org

A. Project Description

The 2395 Sacramento Street Project (project) would:

- Merge two existing lots into one lot;
- Adaptively reuse a 68-foot-tall, 24,850-gross-square-foot (gsf) city landmark building at 2395 Sacramento Street; and
- Construct two horizontal additions to the existing building: a six-story, approximately 68-foot-tall addition along Webster Street (Webster addition) and an approximately 78-foot-tall addition along Sacramento Street (Sacramento addition).

The project would increase the building area to 66,311 gsf and create 24 dwelling units.

The project site is in the Pacific Heights neighborhood at the southeast corner of Webster and Sacramento streets. The site consists of two adjacent lots, 015 and 016, on block 0637, which is bounded by Sacramento Street to the north, Buchanan Street to the east, California Street to the south, and Webster Street to the west. Lot 015 is a vacant 3,497-square-foot (sf) lot. Lot 016 covers 11,608 sf and is occupied by the existing building and a gated paved surface area. A children's playground structure is east of the building. The paved surface area can be accessed from a curb cut adjacent to the project site to the east. The project site frontage along Sacramento Street slopes at an average grade of 13.3 percent, with the eastern corner of the building at grade and a full floor higher than the westernmost elevation at the corner of Webster Street.

The existing building is three stories over a basement and an attic. It is currently used as an events venue. The existing building, San Francisco Landmark No. 115, was constructed in 1912 as the Cooper Medical College Health and Sciences Library.

The project would retain the majority of the north and west façades of the existing building. The Webster addition would be constructed within the vacant lot; the Sacramento addition would be constructed within the area east of the existing building. The Sacramento addition would be approximately 77.5 feet in height (87.5 feet to the top of the stair penthouse) and include seven levels of residential use over below-grade[1] parking (eight stories total). The proposed Webster addition would be 68 feet in height (72 feet to the top of the stair penthouse) and provide five levels of residential use above a garage, along with a rooftop deck (six stories total).[2] The building's existing use as an events venue would change. Instead, the project would create 24 dwelling units, consisting of 4 four-bedroom units, 9 three-bedroom units, 10 two-bedroom units, and 1 one-bedroom unit.

The new garage would include 26 vehicle parking spaces and 38 class 1 bicycle spaces and be accessed from a 10-foot-wide curb cut along Webster Street. The project would include two 20-foot-long on-street passenger loading spaces in the public right-of-way along Webster Street, a new sidewalk bulb-out/extension at the corner of Webster and Sacramento streets, new street trees, and four class 2 bicycle parking spaces.

The proposed building would be supported on a mat foundation, requiring excavation to a maximum of approximately 27 feet below the ground surface and the removal of approximately 5,830 cubic yards of soil. The project does not propose pile driving or nighttime construction. Construction is anticipated to begin in summer 2027 and take approximately 21 months. Please see Table 1 for more details. Attachment A of this General Plan Evaluation shows the location of the project site, site and floor plans, elevations, and conceptual views of the proposed project.

Table 1: Project Description

	EXISTING	PROPOSED	NET CHANGE
GENERAL			
Number of Building(s)	1	1	0
Building Stories	3 stories	6 stories (Webster addition); 8 stories (Sacramento addition)	+3 additional floors (Webster addition); +5 additional floors (Sacramento addition)
Building Height (feet, inches)	67 feet, 10 inches	68 feet (Webster addition); 77 feet, 6 inches (Sacramento addition)	+10 feet at highest point
LAND USE			
Residential (gsf)	0	66,690	+66,690
Dwelling Units (total number)	0	24	+24
Cultural, Institutional, or Educational (gsf)	24,850 (events venue)	0	-24,850

[1] The parking would be partially below-grade. The garage entrance along Webster Street would be at grade, however since the parking would be located on the eastern portion of the site, due to the slope the parking would be below-grade.

[2] All building heights herein are as measured under Planning Code sections 260(a) and 260(b).

	EXISTING	PROPOSED	NET CHANGE
OTHER			
Sidewalk Width (feet)	15 feet on Webster Street; 15 feet on Sacramento Street	15 feet on Webster Street; 15 feet on Sacramento Street	None
Vehicular Parking Spaces	No onsite spaces; 1 short-term space along Sacramento Street	26 onsite spaces; no spaces along Sacramento Street	+26 additional onsite spaces; -1 on-street space along Sacramento Street
Freight & Passenger Loading Spaces	2 spaces (20 feet in length each) along Sacramento Street	2 spaces (20 feet in length each) along Webster Street	-2 spaces along Sacramento Street; +2 spaces along Webster Street
Driveway(s) Location(s)	0	1 on Webster Street	+1

gsf = gross square feet

State Density Bonus

Under Government Code section 65915, the state density bonus law, cities are required to grant density bonuses, waivers,[3] concessions, and incentives[4] when a developer of a housing project with five or more units makes at least 5 percent of those units affordable to very low-, low-, or moderate-income households (i.e., income between 50 and 120 percent of the area median income). The amount of the density bonus and the number of concessions and incentives varies, depending on the percentage of affordable units proposed and the level of affordability, and is based on a sliding scale; generally, however, state law requires cities to grant a density bonus of 5 to 50 percent, and up to four concessions and incentives, if a developer designates between 5 and 44 percent of the units as affordable units. In addition, project sponsors can request waivers from development standards if the standards physically preclude a project with the additional density or the concessions and incentives.

The proposed project would use the state density bonus law and request a waiver from the local height limit of 40 feet as well as reductions in the rear-yard requirement, the residential usable-open-space requirement, and the dwelling-unit exposure requirement. Local jurisdictions are required to adopt an ordinance to implement the state density bonus law. The City and County of San Francisco's (City's) State Density Bonus Law is the Individually Requested State Density Bonus Program in San Francisco Planning Code section 206.6 and Planning Director's Bulletin Number 6. The project's proposed bulk and density are consistent with that permitted for the project site in combination with use of the individually requested state density bonus.

[3] The planning code currently regulates the physical dimensions of residential development through requirements that limit height and bulk or impose open space, rear yard, dwelling unit exposure, and other requirements that can preclude the ability to construct the project with the bonus density and the requested incentives. In accordance with state law, the City may not apply any development standards that preclude the construction of the project with the bonus density or incentives within the permitted building envelope, unless the City finds that the requested waiver 1) would have a specific adverse impact on health or safety, 2) would have an adverse impact on any property listed in the California Register of Historical Resources that cannot be mitigated, or 3) would be contrary to state or federal law.

[4] Concessions and incentives mean (1) a reduction in site development standards or a modification of zoning requirements or architectural design requirements that exceeds the minimum building standards approved by the California Building Standards Commission, as provided in part 2.5 (commencing with section 18901) of division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions; (2) approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located; or (3) other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions (see Government Code section 65915).

Project Approvals

The approval action for the proposed project is the planning commission's approval of the Conditional Use Authorization pursuant to the planning code sections 253 and 303 to allow construction of a building that exceeds 50 feet of height within the RM-1 Zoning District. The approval action date establishes the start of the 30-day appeal period for a California Environmental Quality Act (CEQA) determination pursuant to section 31.04(h) of the San Francisco Administrative Code.

The proposed project would also require the following approvals:

Actions by the Historic Preservation Commission

- Approval of a certificate of appropriateness under the planning code article 10 for an individually designated landmark building (San Francisco City Landmark No. 115).

Actions by Other City Departments

- Public Works: Approval of a lot merger map, construction within the public right-of-way (e.g., curb cuts, bulb-outs, sidewalk extensions, new crosswalks, transformer vaults), an encroachment permit or a street improvement permit for streetscape improvements, and tree removal and installation permits.
- Department of Building Inspection: Approval of demolition permits for grading/excavation and site/building permits for new construction.
- Public Utilities Commission: Approval of stormwater management requirements for projects that disturb 5,000 sf of the ground area.
- Municipal Transportation Agency: Approval of street closure permits for construction in compliance with blue book requirements, if applicable; special traffic permits for temporary occupancy of streets and sidewalks during construction; and on-street passenger loading zones.
- Department of Public Health: Approval of soil analysis and mitigation and enhanced ventilation.

B. General Plan Evaluation Overview and Summary of Project's Environmental Effects

CEQA section 21083.3 and CEQA Guidelines section 15183 mandate that projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an environmental impact report (EIR) was certified ***shall not*** be subject to additional environmental review, except as might be necessary to examine whether there are project-specific significant effects that are peculiar to the project or its site. CEQA Guidelines section 15183 specifies that examination of environmental effects shall be limited to those effects that:

a) Are peculiar to the project or parcel on which the project would be located;

b) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent;

c) Are potentially significant offsite and cumulative impacts that were not discussed in the underlying EIR; or

d) Are previously identified in the EIR but which, as a result of substantial new information that was not known at the time that the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR.

Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for the project solely on the basis of that impact.

The proposed project is consistent with the development density established by the housing element. This general plan evaluation assesses this project's potential environmental effects and incorporates by reference information contained in the programmatic EIR for the San Francisco Housing Element 2022 Update EIR (Housing Element EIR or EIR).[5]

Summary of Project's Environmental Effects

The proposed project could significantly affect the environmental resource topic(s) checked below. However, the proposed project would not result in any new or substantially more severe impacts than those identified in the Housing Element EIR. The following pages present a more detailed checklist and discussion of the resource topics listed below.[6]

☒	Air Quality	☐	Paleontological Resources	☐	Tribal Cultural Resources
☒	Cultural Resources	☐	Shadow	☐	Utilities and Service Systems
☒	Noise	☐	Transportation	☐	Wind

[5] Planning department case no. 2019-016230ENV and State Clearinghouse no. 2021060358. Available at https://sfplanning.org/environmental-review-documents?title=Housing+Element&field_environmental_review_categ_target_id=212&items_per_page=10.

[6] The resource topics listed here reflect those topics evaluated further in this general plan evaluation. Refer to Section D, Evaluation of Environmental Effects, for more details.

Project-Specific Studies

Planning department staff members or consultants directed by planning department staff members prepared the following project-specific studies:[7]

☐ Air Quality	☐ Noise	☐ Water Supply Assessment
☒ Archeology	☒ Shadow	☒ Wind
☒ Historic Resources	☐ Transportation	

[7] Project-specific studies prepared for the 2395 Sacramento Street project are available for review on the San Francisco Property Information Map, which can be accessed at https://sfplanninggis.org/PIM/. Individual files can be viewed by clicking on the Planning Applications link, clicking the "More Details" link under the project's environmental case number 2022-004172ENV and then clicking on the "Related Documents" link.

C. Project Setting

Existing Site Vicinity

The project site is within the Pacific Heights neighborhood of San Francisco, near the Japantown and Upper Fillmore areas, and currently occupied by San Francisco Landmark No.115, which is a three-story building with a basement and an attic. A children's playground structure and parking area are east of the project site. The project site is directly across from Sutter Health's California Pacific Medical Center Pacific Heights Outpatient Center and two blocks west of Lafayette Park. East of the project site, on the same block, are multi-story residential uses; to the south is a three-unit residential building, followed by the historic Congregation Sherith Israel building, constructed in 1905. To the north is the aforementioned Sutter Health medical center, followed by dental and medical offices. To the west are residential buildings.

San Francisco Municipal Railway (Muni) Line 1, California, runs east–west along Sacramento Street, adjacent to the project site, with stops every 10 minutes. Muni Line 22, Fillmore, runs north–south along Fillmore Street, 500 feet (one block) west of the project site. California Street and Geary Boulevard are major roadways in the Pacific Heights neighborhood and approximately 200 feet (one block) and ⅓ mile south of the project site, respectively.

Cumulative Setting

CEQA Guidelines section 15130(b)(1) provides two methods for cumulative impact analysis: the "projections-based approach" and "list-based approach." This general plan evaluation employs both approaches, depending on which approach best suits the resource topic being analyzed. In accordance with CEQA Guidelines section 15183(j), if a significant cumulative impact was adequately discussed in the Housing Element EIR, further analysis of that cumulative impact is not required.

Projections-Based Approach

In general, a projections-based approach uses projections contained in a general plan or related planning document to evaluate the potential for cumulative impacts. This general plan evaluation uses projections in the Housing Element EIR for certain resource topics (e.g., transit delay, regional air pollution) to evaluate the potential for cumulative impacts.

List-Based Approach

In general, the list-based approach uses a list of projects producing closely related impacts that could combine with those of a proposed project to evaluate whether the project would have a potential significant cumulative impact. There are no reasonably foreseeable projects within the project vicinity (approximately 0.25 mile).[8] Thus, this general plan evaluation does not uses a list-based approach, and the potential for cumulative impacts for certain resource topics (e.g., shadow and wind) is not applicable, as described below.

[8] This is an approximate distance to assess cumulative impacts using the list-based approach. Some resource topics may not require assessing cumulative impacts at this distance.

D. Evaluation of Environmental Effects

This section has two parts. The first part is the Approach to Analysis, which describes the approach for evaluating this project's potential environmental effects, including reasons for excluding certain resource topics from further evaluation. The second part is the Resource Topics Evaluation, which provides an evaluation of this project's potential environmental effects for remaining resource topics.

Approach to Analysis

This general plan evaluation assesses the proposed project's individual and cumulative environmental effects to determine if such effects are adequately addressed in the Housing Element EIR or if additional environmental review is required in accordance with CEQA Guidelines section 15183. This general plan evaluation incorporates the Housing Element EIR by reference and, to assist the reader, also summarizes the physical environmental effects identified in that EIR. For each environmental topic, the corresponding EIR section is provided for reference; please refer to the Housing Element EIR for a detailed description of the methodology and analysis of each topic, including applicable regulations, screening criteria, significance criteria, and thresholds of significance.

In this general plan evaluation, a "development project" is a single future development project that would be consistent with the housing element; "future development" means multiple future development projects consistent with the housing element.

Each environmental resource topic discussion below is separated into two main analysis sections: Existing-Plus-Project Impacts and Cumulative Impacts. Each section is further divided into two columns:

- Housing Element EIR (left column), which summarizes the EIR findings for the environmental effects of future development; and
- Proposed Project (right column), which is this general plan evaluation's analysis of the project-specific environmental effects of the development project identified on page 1. Where applicable, the evaluation cites project-specific studies where the reader can find more information.

For each resource topic, the two sections and columns are further divided into subcategories that correspond with the CEQA checklist questions. In some sections, the lettering of the checklist questions is not sequential because some checklist questions associated with resource topics are not evaluated further for the reasons explained below.

Where applicable, mitigation measures from the Housing Element EIR are identified under each environmental topic. Some mitigation measures from the Housing Element EIR were modified to reflect the specific characteristics of the project. The full text of any applicable mitigation measures is provided in Attachment B, Mitigation Monitoring and Reporting Program (MMRP). The level of significance of the impact is identified in parentheses at the end of the analysis for each subcategory (e.g., "*Less than Significant with Mitigation*").

Resource Topics Not Evaluated Further

This general plan evaluation does not evaluate resource topics that the Housing Element EIR identified as not applicable or topics that would have no impact or a less-than-significant impact. This is because the EIR analysis determined that future development consistent with the housing element, such as the proposed project, would not have the potential to result in a significant physical environmental impact related to those

topics.[9] These topics are summarized in Table 2: Summary of Housing Element EIR Impact Determinations by Topic, below. In addition, this general plan evaluation does not evaluate recreation, public services, and utilities and service systems (except for water supply) for two primary reasons. First, this general plan evaluation considers as necessary the construction-related impacts of localized utility and infrastructure connections and upgrades required to support the proposed project in other resource topic analyses (e.g., archeology, noise and vibration, air quality). Second, the proposed project would not require the construction of new public facilities such as parks, police and fire stations, libraries, or wastewater treatment plants. The Housing Element EIR identified significant impacts from the construction of such public facilities and identified mitigation measures to reduce impacts. Public service agencies constructing public facilities, not future development, would be responsible for implementing these mitigation measures.

Given these reasons, the proposed project would not have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information on these resource topics, and they are not evaluated here.

Table 2: Summary of Housing Element EIR Impact Determinations by Topic

Significance Determination	Resource Topic
Not Applicable or No Impact	Noise and Vibration (operational ground-borne vibration; airport/airstrip-related items); Utilities and Service Systems (natural gas facilities and separate sewer systems); Biological Resources (conservation plans); Geology and Soils (septic tanks or alternative wastewater disposal systems; unique geological features; fault rupture); Hazards and Hazardous Materials (airports; wildland fire); Agriculture and Forestry Resources; Mineral Resources; and Wildfire.
Less than Significant	Land Use and Planning; Aesthetics; Population and Housing; Transportation (hazards, accessibility, vehicle miles traveled [VMT], parking); Air Quality (air quality plan, operational criteria pollutants); Noise and Vibration (cumulative construction vibration); Greenhouse Gas Emissions; Recreation (increased use); Utilities and Service Systems (compliance with laws); Biological Resources; Geology and Soils (all except paleontological resources); Hydrology and Water Quality; Hazards and Hazardous Materials; and Energy.
Less than Significant with Mitigation	Cultural Resources (archeological resources, including human remains); Tribal Cultural Resources; Noise and Vibration (construction vibration, except cumulative); Air Quality (construction criteria pollutants); Recreation (construction or expansion); Utilities and Service Systems (electric power or telecommunications); Public Services; and Geology and Soils (paleontological resources).
Significant and Unavoidable with Mitigation	Cultural Resources (built-environment historical resources); Transportation (public transit, loading); Noise and Vibration (construction noise, operational noise); Air Quality (operational criteria air pollutants, toxic air contaminants); Wind; Shadow; and Utilities and Service Systems (wastewater or stormwater, wastewater treatment capacity).
Significant and Unavoidable	Transportation (construction) and Utilities and Service Systems (water supply).

[9] For some of these resource topics, the Housing Element EIR determined that future development would result in less-than-significant impacts because of compliance with uniformly applied development policies or standards, such as federal, state, and local regulations. The proposed project would be subject to applicable regulations and would not result in in a significant impact for these topics.

Resource Topics Evaluation

Cultural Resources

Would the project:

a) Cause a substantial adverse change in the significance of a historical resource pursuant to section 15064.5, including those resources listed in article 10 or article 11 of the San Francisco Planning Code?

b) Cause a substantial adverse change in the significance of an archeological resource pursuant to section 15064.5?

c) Disturb any human remains, including those interred outside of formal cemeteries?

Existing-Plus-Project Impacts

Housing Element EIR	*Proposed Project*
Built-Environment Historic Resources [EIR Impact CR-1, pp. 4.2-78 to 4.2-100] Future development could cause a substantial adverse change in the significance of a historical resource. Mitigation measures M-CR-1a through M-CR-1l would reduce this significant impact. However, demolition of built-environment historic resources or alteration in an adverse manner could still occur because the design of future development is uncertain and it is unknown whether mitigation measures can be implemented. *(Significant and Unavoidable with Mitigation)*	As discussed in the project's Historic Resource Evaluation Response Part 2, the proposed project would result in a significant impact on 2395 Sacramento Street and adjacent/offsite historical resources.[10] EIR mitigation measure M-CR-1a: Avoid or Minimize Effects on Identified Built Environmental Resources was implemented during the review process to minimize impacts of prior versions of the project plans such as reducing overall massing, and reducing height of the connector, among other project modifications. Implementation of project mitigation measure 1 (EIR mitigation measure M-CR-1b) would implement best practices and construction monitoring for the protection of both on and offsite historic resources (2395 Sacramento Street, 2266 California Street, and 2018-2020 Webster Street). Implementation of project mitigation measure 2 (EIR mitigation measure M-CR-1d) would document historic features, project mitigation measure 3 (EIR mitigation measure M-CR-1f) would salvage, re-use, and interpret distinctive features, and project mitigation measure 4 (EIR mitigation measure M-CR-1g) would result in a public interpretive program. Combined, these measures would reduce the impact to less than significant. (Less than Significant with Mitigation)
Archeological Resources and Human Remains [EIR Impact CR-2, pp. 4.2-100 to 4.2-123] Future development could cause a significant impact on archeological resources and human remains if they are encountered during construction activities. Mitigation measures M-CR-2a through M-CR-2d and M-	Construction activities associated with the proposed project would not damage significant archeological resources or human remains because the site is not in an area that is considered sensitive for archeological resources or human remains.[11] (*Less than Significant)*

[10] San Francisco Planning Department, Historic Resource Evaluation Response, Part II: Project Evaluation, Record No. 2022-004172 ENV, 2395 Sacramento St., September 28, 2023.

[11] San Francisco Planning Department, Environmental Planning Preliminary Archeological Review (PAR) Memo, Record No. 2022-004172 ENV2395 Sacramento St., February 1, 2023.

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project***
TCR-1 would reduce these impacts. *(Less than Significant with Mitigation)*	
Cumulative Impacts	
Housing Element EIR	***Proposed Project***
Built-Environment Historic Resources [EIR Impact C-CR-1, pp. 4.2-124 to 4.2-125] Future development could combine to result in a significant cumulative impact related to historical resources. A development project could contribute considerably to those impacts. Mitigation measures M-CR-1a through M-CR-1l would reduce those significant impacts. However, demolition of built-environment historic resources or alteration in an adverse manner could still occur. *(Significant and Unavoidable with Mitigation)*	As discussed in the project's Historic Resource Evaluation Response, the project site is San Francisco City Landmark No. 115. The geographic scope, or cumulative study area, for cumulative historic architectural resource impacts includes the project site and two adjacent historic resources, 2018–2020 Webster Street and 2066 California. The project is not adjacent to an eligible historic district. There are no cumulative projects within the cumulative study area that could adversely affect the project or the two adjacent resources; therefore, no significant cumulative impact on the historic resources would occur. *(Less than Significant)*
Archeological Resources and Human Remains [EIR Impact C-CR-2, pp. 4.2-126 to 4.2-127] Future development could combine to result in a significant cumulative impact related to archeological resources and human remains. A development project could contribute considerably to those impacts. Mitigation measures M-CR-2a through M-CR-2d and M-TCR-1 would reduce these impacts. (*Less than Significant with Mitigation)*	There are no cumulative projects in the vicinity that could combine with the proposed project to result in a significant cumulative impact on archeological resources and human remains. *(Less than Significant)*
Conclusion – Cultural Resources	
The project would <u>not</u> have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.	

Tribal Cultural Resources

Would the project:

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe and:

   i) Listed or eligible for listing in the California Register of Historical Resources or in a local register of historical resources, as defined in Public Resources Code section 5020.1(k), or

   ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in this subdivision, the lead agency shall consider the significance of the resource to a California Native American tribe.

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project***[12]
Tribal Cultural Resources [EIR Impacts TCR-1 and TCR-2, pp. 4.3-20 to 4.2-25] Future development could result in substantial adverse changes to archeological tribal cultural resources and non-archeological tribal cultural resources. Mitigation measures M-CR-2a through M-CR-2d and M-TCR-1 would reduce those impacts. *(Less than Significant with Mitigation)*	Based on the preliminary archeological review,[13] the project site is not sensitive either for archeological tribal cultural resources or non-archeological tribal cultural resources as previously identified through Native American consultation. As such, the potential for project construction activities to encounter tribal cultural resources is low. *(Less than Significant)*
Cumulative Impacts	
Housing Element EIR	***Proposed Project***
Tribal Cultural Resources [EIR Impact C-TCR-1, pp. 4.3-26 to 4.3-27] Future development could combine to result in significant cumulative impact related to tribal cultural resources. A development project could contribute considerably to those impacts. Mitigation measures M-CR-2a through M-CR-2d and M-TCR-1 would reduce those impacts. *(Less than Significant with Mitigation)*	There are no cumulative projects in the vicinity that could combine with the proposed project to result in a significant cumulative impact on tribal cultural resources. *(Less than Significant Impact)*
Conclusion – Tribal and Cultural Resources	
The project would <u>not</u> have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.	

Transportation

Would the project:[14]

a) Involve construction that would require a substantially extended duration or intensive activity, the effects of which would create potentially hazardous conditions for people walking, bicycling, or driving or public transit operations or interfere with emergency access or accessibility for people walking or bicycling or substantially delay public transit?

b) Substantially delay public transit?

c) Result in a loading deficit, the secondary effects of which would create potentially hazardous conditions for people walking, bicycling, or driving or substantially delay public transit?

[12] San Francisco Planning Department, Environmental Planning Preliminary Archeological Review (PAR) Memo, Record No. 2022-004172 ENV2395 Sacramento St., February 1, 2023.

[13] San Francisco Planning Department, Environmental Planning Preliminary Archeological Review (PAR) Memo, Record No. 2022-004172 ENV2395 Sacramento St., February 1, 2023.

[14] The checklist questions retain the original lettering from the Housing Element EIR. This general plan evaluation does not evaluate resource topics that the Housing Element EIR identifies as not applicable or topics that would have no impact or a less-than-significant impact.

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project[15]***
Construction [EIR Impact TR-1, pp. 4.4-86 to 4.4-92] The potential magnitude of future development could require a substantially extended duration or intense activity due to construction, and the secondary effects of that construction could create potentially hazardous conditions for people walking, bicycling, or driving or public transit operations or interfere with emergency access or accessibility for people walking or bicycling or substantially delay public transit. City regulations would apply to the construction of future development (e.g., San Francisco Municipal Transportation Agency (SFMTA) blue book regulations and Public Works code and construction work requirements), and no other measures to reduce impacts are known. *(Significant and Unavoidable)*	Project construction would last approximately 21 months. During construction, temporary closures of the public right-of-way are not anticipated. Given the project site context and construction duration and magnitude, the project would not result in significant construction-related transportation effects. Further, the project would be subject to City regulations regarding construction activities. *(Less than Significant)*
Public Transit Delay [EIR Impact TR-4, pp. 4.4-99 to 4.4-119] Traffic generated by future development resulting from implementation of the housing element would substantially delay public transit. Some future development projects could contribute considerably to this significant impact. Mitigation measures M-TR-4a, M-TR-4b, and M-TR-4c would reduce the impact but not fully. Also, the feasibility of M-TR-4c is uncertain. *(Significant and Unavoidable with Mitigation)*	The proposed project would generate approximately 11 peak-hour vehicle trips.[16] This volume would be below 300 p.m. peak-hour vehicle trips and therefore would not result in significant transit delay. *(Less than Significant)*
Loading [EIR Impact TR-6, pp. 4.4-124 to 4.4-130] Future development could result in a loading deficit that could create potentially hazardous conditions for people walking, bicycling, or driving or potentially delay public transit. Mitigation measures M-TR-4b and M-TR-6 would reduce loading impacts. However, the feasibility and effectiveness of fully reducing the significant impact through mitigation measures M-TR-4b and M-TR-6 is uncertain. *(Significant and Unavoidable with Mitigation)*	During the average and peak period, the project's freight and delivery loading demand would represent one trip; passenger loading demand would also represent one trip.[17] The project would provide two 20-foot-long loading spaces along Webster Street for both freight and passenger loading. Therefore, the project would meet the freight and delivery and passenger loading demand. *(Less than Significant)*

[15] The project analysis was prepared in accordance with the San Francisco Planning Department's Transportation Impact Analysis Guidelines (February 2019). In addition, a transportation study determination request was prepared for the project, which includes more details. San Francisco Planning Department, Transportation Study Determination Request, Record No. 2022-004172ENV, 2395 Sacramento St., October 12, 2023.

[16] San Francisco Planning Department, Travel Demand Distribution Application, Record No. 2022-004172 ENV2395 Sacramento St.

[17] San Francisco Planning Department, Travel Demand Distribution Application, Record No. 2022-004172 ENV2395 Sacramento St.

Cumulative Impacts	
Housing Element EIR	***Proposed Project***
Construction [EIR Impact C-TR-1, pp. 4.4-132 to 4.4-133] Future development could combine to result in significant construction-related transportation impacts. A development project could contribute considerably to those impacts. City regulations would apply to the construction of future development (e.g., SFMTA blue book regulations and Public Works code and construction work requirements), and no other measures to reduce impacts are known. *(Significant and Unavoidable)*	There are no cumulative projects within the project block with construction schedules that have the potential to overlap with the project's construction activities. Therefore, no significant cumulative impact would occur. *(Less than Significant)*
Public Transit Delay [EIR Impact C-TR-3, pp. 4.4-134 to 4.4-135] Future development could combine to substantially delay public transit. A development project could contribute considerably to those impacts. Mitigation measures M-TR-4a, M-TR-4b, and M-TR-4c would reduce cumulative transit delay impacts. However, the feasibility and effectiveness of M-TR-4a, M-TR-4b, and M-TR-4b in fully reducing the significant impact is uncertain. *(Significant and Unavoidable with Mitigation)*	No public transit routes within the project vicinity are projected to result in significant cumulative transit delay impacts. *(Less than Significant)*
Loading [EIR Impact C-TR-4, p. 4.4-135] Future development could combine to result in significant cumulative loading impacts. A development project could contribute considerably to those impacts. Mitigation measures M-TR-4b and M-TR-6 would reduce loading impacts. However, the feasibility and effectiveness of fully reducing the significant impact through mitigation measures M-TR-4b and M-TR-6 is uncertain. *(Significant and Unavoidable with Mitigation)*	There are no cumulative projects in the vicinity that could combine with the proposed project to result in a significant cumulative impact on loading. *(Less than Significant)*
Conclusion – Transportation	
The project would not have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.	

Noise and Vibration

Would the project:

a) Generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies?

b) Generate excessive ground-borne vibration or ground-borne noise levels?

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project***
Construction Noise [EIR Impact NO-1, pp. 4.5-31 to 4.5-41] The EIR identified screening criteria for future development that would generally not result in significant construction noise impacts. The screening criteria are: • Use of standard construction equipment that would comply with section 2907 of the noise ordinance and would not include the use of impact equipment (e.g., hoe rams or pile drivers) that would affect one or more sensitive receptors for a period of 14 days or more within a 90-day period; • New construction would have a building height of less than 85 feet; • Demolition, site preparation, excavation, foundation work, and shoring would occur for less than 12 months; and • Night work would occur for no more than three consecutive nights or up to nine nights within a 90-day period. A development project that does not meet all the screening criteria could require construction activities that could generate a substantial temporary or permanent increase in ambient noise levels in excess of standards established by the general plan or noise ordinance or applicable standards of other agencies. Mitigation measure M-NO-1 would reduce this construction noise impact. *(Less than Significant with Mitigation)*	The proposed project would meet the screening criteria, and therefore, construction of the proposed project would not generate a substantial increase in noise. *(Less than Significant)*
Construction Vibration [EIR Impact NO-3, pp. 4.5-54 to 4.5-63] Construction of future development could generate excessive ground-borne vibration from the use of vibration-generating equipment in proximity to adjacent buildings and structures or vibration-sensitive equipment. Mitigation measures M-NO-3a and M-NO-3b would reduce construction vibration impacts. *(Less than Significant with Mitigation)*	Construction of the proposed project would require the use of the following vibration-generating construction equipment: caisson drilling and bore/drill rigs. The construction vibration level would be approximately 1.0 inch/second at the nearest existing historic building, 2018 Webster Street, which would be 5 feet south of project construction activities. The construction vibration level would be 0.07 inch/second at the historic building at 2266 California Street (Congregation Sherith Israel), which would be approximately 30 feet south of project construction activities. At 2329 Sacramento Street, there is an older residential structure that would be approximately 5 feet east of project construction activities; the construction vibration level would also be 1.0 inch/second at this building. In general, older/historic buildings (2018 Webster Street and 2266 California Street) have a damage threshold of 0.25 inch/second

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project***
	for continuous or frequent vibration sources, and older residential structures (2329 Sacramento Street) have a damage threshold of 0.30 inch/second for continuous or frequent vibration sources. Consequently, the project's construction vibration level of 1.0 inch/second at 2018 Webster Street and 2329 Sacramento Street could exceed the damage thresholds of 0.25 and 0.30 inch/second, respectively. Project mitigation measure 5 (EIR mitigation measure M-NO-3a) would reduce this impact on the surrounding buildings. *(Less than Significant with Mitigation)*
Operational Noise [EIR Impact NO-2, pp. 4.5-41 to 4.5-54] The EIR identified screening criteria for future development that would generally not result in significant operational noise impacts. Under the screening criteria, a development project would not: • Result in a doubling of the baseline number of vehicular trips per day • Have an occupied floor greater than 75 feet[18] • Include more than two backup generators A development project that does not meet all the screening criteria could generate a substantial temporary or permanent increase in ambient noise levels in excess of standards established by the general plan or noise ordinance or applicable standards of other agencies. Mitigation measures M-TR-4a and M-NO-2 would reduce operational noise impacts. However, the feasibility and effectiveness of fully reducing the significant impact through M-TR-4a is uncertain. (*Significant and Unavoidable with Mitigation)*	The proposed project would meet the screening criteria. Therefore, the project would not result in a significant operational noise impact. *(Less than Significant)*
Cumulative Impacts	
Housing Element EIR	***Proposed Project***
Construction Noise [EIR Impact C-NO-1, pp. 4.5-64 to 4.5-66] Future development could combine to result in significant construction noise impacts. A development project could contribute considerably to those impacts. Mitigation measure M-NO-1 would reduce construction noise impacts. However, it is possible that multiple projects could be constructed simultaneously or consecutively in proximity to one another, which could	There are no cumulative projects within 900 feet of the project site. Therefore, no significant cumulative impact would occur. *(Less than Significant)*

[18] New construction where the occupied floor level is 75 feet or greater generally requires larger heating, ventilation, and air-conditioning (HVAC) mechanical systems; therefore, such projects require a noise study to assess whether noise from these systems would increase the ambient noise environment.

Cumulative Impacts	
Housing Element EIR	***Proposed Project***
increase the frequency and duration of high noise levels resulting from construction activities than would otherwise occur with only one project under construction. *(Significant and Unavoidable with Mitigation)*	
Operational Noise [EIR Impact C-NO-2, pp. 4.5-66 to 4.5-67] Future development is required to comply with planning code section 141[19] regulations that require mechanical equipment to be screened from view; thus, multiple heating, ventilation, and air-conditioning (HVAC) systems operating in the same area would not result in a substantial increase in noise above an HVAC system from a single building. *(Less than Significant)* Therefore, the cumulative operational analysis focuses on traffic noise. Operation of future development could combine to generate a substantial increase in ambient noise levels in excess of standards established by the local general plan or noise ordinance or applicable standards of other agencies. A development project could contribute considerably to such impact. Mitigation measure M-TR-4a would reduce operational traffic noise impacts. However, the feasibility and effectiveness of fully reducing the significant impact through Mitigation measure M-TR-4a is uncertain. *(Significant and Unavoidable with Mitigation)*	There are no cumulative projects within the surrounding vicinity or on adjacent streets that would combine with traffic noise from the proposed project. Therefore, no significant cumulative impact would occur. *(Less than Significant)*
Conclusion – Noise and Vibration	
The project would <u>not</u> have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.	

Air Quality

Would the project:[20]

a) Result in a cumulatively considerable net increase in any criteria pollutant for which the project region is non-attainment under an applicable federal, state, or regional ambient air quality standard?

b) Expose sensitive receptors to substantial pollutant concentrations?

[19] Planning code section 141 states that rooftop mechanical equipment and appurtenances to be used in the operation or maintenance of a building shall be screened from view.

[20] The checklist questions retain the original lettering from the Housing Element EIR. This general plan evaluation does not evaluate resource topics that the Housing Element EIR identified as not applicable or topics that would have no impact or a less-than-significant impact.

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project***
Criteria Pollutants (Construction)[EIR Impact AQ-3, pp. 4.6-48 to 4.6-54] The EIR analyzed construction criteria pollutant emissions from a range of representative building types, finding that a development project approximately 240 feet tall with 495 dwelling units or less would not result in significant criteria pollutant emissions. However, construction of a larger development project could result in a cumulatively considerable net increase in non-attainment criteria pollutant emissions.[21] Mitigation measure M-AQ-3 would reduce construction criteria pollutant impacts. *(Less than Significant with Mitigation)*	The proposed project would construct a 78-foot-tall building and include 24 dwelling units and, therefore, would not result in significant construction-related criteria pollutant emissions. *(Less than Significant)*
Health Risk [EIR Impact AQ-5, pp. 4.6-56 to 4.6-71] Construction and operation of future development could expose sensitive receptors to substantial levels of fine particulate matter ($PM_{2.5}$) and toxic air contaminants (aka health risk). Mitigation measures M-AQ-3, M-TR-4a, and M-AQ-5 would reduce health risk impacts. However, feasibility and effectiveness of fully reducing the significant impact through M-TR-4a is uncertain. In addition, the precise air quality health risk impacts of future development at a plan level cannot be modeled. *(Significant and Unavoidable with Mitigation)*	The proposed project would emit $PM_{2.5}$ and other toxic air contaminants that result in health risks from the proposed project's construction activities and vehicular traffic. The EIR analyzed construction and operational health risks that would result from a range of representative building types. The planning department screened the proposed project's characteristics and compared them to the characteristics of these representative building types and considered the proximity of sensitive receptors and existing health risks modeled in the citywide health risk assessment.[22] The screening level analysis found that the proposed project could potentially result in a significant health risk impact. Project mitigation measure 6 (EIR mitigation measure M-AQ-3) would reduce this impact. [23] *(Less than Significant with Mitigation)*
Cumulative Impacts	
Housing Element EIR	***Proposed Project***
Health Risk [EIR Impact C-AQ-1, pp. 4.6-72 to 4.6-73] Emissions from future development could combine to expose sensitive receptors to substantial levels of fine particulate matter ($PM_{2.5}$) and toxic air contaminants. A development project could result in a considerable	There are no cumulative projects within approximately 1,000 feet of the project's maximally exposed sensitive receptor.[24] Therefore, cumulative health risks are identical to the project-level impact. As stated above, the project-level screening level analysis found that

[21] No separate cumulative construction criteria pollutant impact analysis is provided because this a cumulative analysis. The air district's project-level criteria pollutant thresholds are based on levels below which new sources would not result in a cumulatively considerable net increase in non-attainment criteria pollutants.

[22] San Francisco Department of Public Health and San Francisco Planning Department, San Francisco Citywide Health Risk Assessment: Technical Support Documentation, September 2020.

[23] San Francisco Planning Department, Air Quality Screening, Record No. 2022-004172 ENV2395 Sacramento St., June 27, 2023.

[24] Bay Area Air Quality Management District, 2022 California Environmental Quality Act Air Quality Guidelines, Appendix E: Recommended Methods for Screening and Modeling Local Risks and Hazards, available at: https://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa-guidelines-2022/appendix-e-recommended-methods-for-screening-and-modeling-local-risks-and-hazards_final-pdf.pdf?la=en, accessed September 7, 2023.

Cumulative Impacts	
Housing Element EIR	***Proposed Project***
contribution to those impacts. Mitigation measures M-AQ-3, M-TR-4a, and M-AQ-5 would reduce health risk impacts. However, the feasibility and effectiveness of fully reducing the significant impact through M-TR-4a is uncertain. In addition, the precise air quality health risk impacts of future development at a plan level cannot be modeled. *(Significant and Unavoidable with Mitigation)*	the proposed project could potentially result in a significant health risk impact. Project mitigation measure 6 (EIR mitigation measure M-AQ-3) would reduce this impact. *(Less than Significant with Mitigation)*

Conclusion – Air Quality

The project would not have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.

Wind

Would the project:

a) Create wind hazards in publicly accessible areas of substantial pedestrian use?

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project***
Wind [EIR Impact WI-1, pp. 4.7-9 to 4.7-13] Future development would create wind hazards in publicly accessible areas of substantial pedestrian use. Mitigation measures M-WI-1a and M-WI-1b would reduce impacts. However, due to the uncertainty about the design of future development and whether wind baffling measures can be approved and implemented, the ability of mitigation measures to fully reduce impacts is uncertain. *(Significant and Unavoidable with Mitigation)*	The proposed project's building height would be less than 85 feet in height and would not create a new wind hazard exceedance or aggravate an existing wind hazard exceedance.[25] *(Less than Significant)*

Cumulative Impacts	
Housing Element EIR	***Proposed Project***
Wind [EIR Impact C-WI-1, pp. 4.7-13 to 4.7-14] Future development could combine to result in significant cumulative wind impacts. A development project could contribute considerably to those impacts. Mitigation measures M-WI-1a and M-WI-1b would reduce these impacts. Due to the uncertainty about the design of future development and whether wind baffling measures can be approved and implemented, the ability of mitigation measures to	No applicable cumulative projects are within 1,500 feet of the project site. Therefore, no significant cumulative impact would occur. *(Less than Significant)*

[25] A qualitative wind assessment, prepared by CPP and dated December 22, 2022, and a supplemental report, prepared by CPP and dated October 12, 2023, conclude that the project would not result in any exceedances of the wind hazard criterion of 26 mph. Although these reports were not required for the project's wind impact analysis under CEQA, the reports conclusion supports the department's conclusion that the proposed project would not create a new wind hazard exceedance.

Cumulative Impacts	
Housing Element EIR	***Proposed Project***
fully reduce impacts is uncertain. *(Significant and Unavoidable with Mitigation)*	

Conclusion – Wind

The project would not have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.

Shadow

Would the project:

a) Create new shadow that substantially and adversely affects the use and enjoyment of publicly accessible open spaces?

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project***
Shadow [EIR Impact SH-1, pp. 4.8-18 to 4.8-42] Future development would create new shadow that would substantially and adversely affect the use and enjoyment of publicly accessible open spaces. Mitigation measure M-SH-1 would reduce shadow impacts. Due to uncertainty about the design of future development and whether shadow minimization measures can be approved and implemented, the ability of this mitigation measure to fully reduce impacts is uncertain. *(Significant and Unavoidable with Mitigation)*	The proposed project's building would be 68 feet in height for the Webster addition and 77 feet, 6 inches in height for the Sacramento addition. As described in the preliminary shadow fan study,[26] the proposed project would not cast new shadow on publicly accessible open spaces. *(Less than Significant)*

Cumulative Impacts	
Housing Element EIR	***Proposed Project***
Shadow [EIR Impact C-SH-1, pp. 4.8-42 to 4.8-43] Future development could combine to result in significant cumulative shadow impacts. A development project could contribute considerably to those impacts. Mitigation measure M-SH-1 would reduce shadow impacts. Due to uncertainty about the design of future development and whether shadow minimization measures can be approved and implemented, the ability of this mitigation measure to fully reduce impacts is uncertain. *(Significant and Unavoidable with Mitigation)*	The proposed project would not cast new shadow on publicly accessible open spaces. Therefore, the proposed project would not combine with cumulative development to result in cumulative shadow impacts. *(No Impact)*

[26] San Francisco Planning Department, Preliminary Shadow Fan Study, 2395 Sacramento Street – 125 Feet in Height, Case No. 2022-004172ENV, 2022.

Conclusion – Shadow

The project would not have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.

Utilities and Service Systems

Would the project:

a) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years? Require or result in the relocation of new or expanded water facilities, the construction or relocation of which could cause significant environmental effects?

Existing-Plus-Project Impacts

Housing Element EIR	*Proposed Project*
No single development project alone in San Francisco would require the development of new or expanded utility or service systems. Therefore, a separate project-only analysis is not provided for this topic. The project's contribution to citywide demand on utility and service systems is discussed in the Cumulative Conditions section below.	

Cumulative Impacts

Housing Element EIR	*Proposed Project*
Water Supply [EIR Impact UT-1, pp. 4.9-14 to 4.9-28] Sufficient water supplies would be available to serve projected growth under the housing element in normal, dry, and multiple dry years without implementation of the Bay Delta Plan Amendment. If the Bay Delta Plan Amendment is implemented, the San Francisco Public Utilities Commission would require rationing and could develop new or expanded water supply facilities to address shortfalls in single and multiple dry years. Environmental impacts related to new or expanded water supply facilities and increased rationing would occur. No mitigation measures were identified. *(Significant and Unavoidable)*	The proposed project is consistent with the development density established by the housing element but would contribute to the significant cumulative water supply impact identified in the EIR. However, the proposed project would not contribute considerably to the significant cumulative water supply impact due to the size of the proposed project. *(Less than Significant)*

Conclusion – Utilities and Service Systems

The project would not have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.

Paleontological Resources

Would the project:[27]

a) Directly or indirectly destroy a unique paleontological resource or site?

Existing-Plus-Project Impacts	
Housing Element EIR	***Proposed Project***
Paleontological Resources [EIR Impact GE-5, pp. 4.10-11 to 4.10-13] Future development would have the potential to destroy unique paleontological resources or sites. Mitigation measure M-GE-5 would reduce this impact. *(Less than Significant with Mitigation)*	There are no known unique paleontological resources at the site. Construction activities are not anticipated to encounter any below-grade paleontological resources. Therefore, the project would have no impact on paleontological resources. *(Less than Significant)*
Cumulative Impacts	
Housing Element EIR	***Proposed Project***
Paleontological Resources [EIR Impact C-GE-2, p 4.10-14] Impacts associated with paleontological resources are generally site specific. In some circumstances, a development project could combine with adjacent projects to affect the same potential resource and result in a significant cumulative paleontological resource impact. Mitigation measure M-GE-5 would reduce these impacts. *(Less than Significant with Mitigation)*	There are no cumulative projects adjacent to the project site. Therefore, the project would not have the potential to combine with effects of cumulative projects to result in significant cumulative impacts on paleontological resources. *(Less than Significant)*
Conclusion – Paleontological Resources	
The project would not have a peculiar impact, a significant impact not previously identified in the Housing Element EIR, or a more severe adverse significant impact due to substantial new information. Therefore, no additional environmental review is required for this topic.	

[27] The checklist question retains the original lettering from the Housing Element EIR.

E. Public Notice and Comment

A "Notification of Project Receiving Environmental Review" was mailed on April 11, 2023, to adjacent occupants and owners of properties within 300 feet of the project site, in Pacific Heights, and on citywide neighborhood group lists. The same notice was sent to the historic resources preservation group list on April 11, 2023. Three comments were received; they expressed concerns regarding the following physical environmental impacts: shadow, wind, pedestrian and vehicular safety along Webster Street, tree removal, runoff, operational noise, and telecommunications. Overall, concerns and issues raised by the public in response to the notice were taken into consideration and incorporated in the environmental review as appropriate for CEQA analysis.

F. Determination

As discussed in this general plan evaluation:

1. The proposed project is consistent with the development density established by the housing element;

2. The proposed project would not result in effects on the environment that are peculiar to the project or the project site that were not identified as significant effects in the Housing Element EIR;

3. The proposed project would not result in potentially significant offsite or cumulative impacts that were not identified in the Housing Element EIR;

4. The proposed project would not result in significant effects, which, as a result of substantial new information that was not known at the time the Housing Element EIR was certified, would be more severe than those already analyzed and disclosed in the EIR; and

5. The project sponsor will undertake feasible mitigation measures specified in the Housing Element EIR to mitigate project-related significant impacts. See the attached MMRP (Attachment B) for the full text of required mitigation measures.

I do hereby certify that the project is eligible for streamlined environmental review per section 15183 of the CEQA Guidelines and CEQA section 21083.3.

Wade Wietgrefe for _____ October 23, 2023 _____

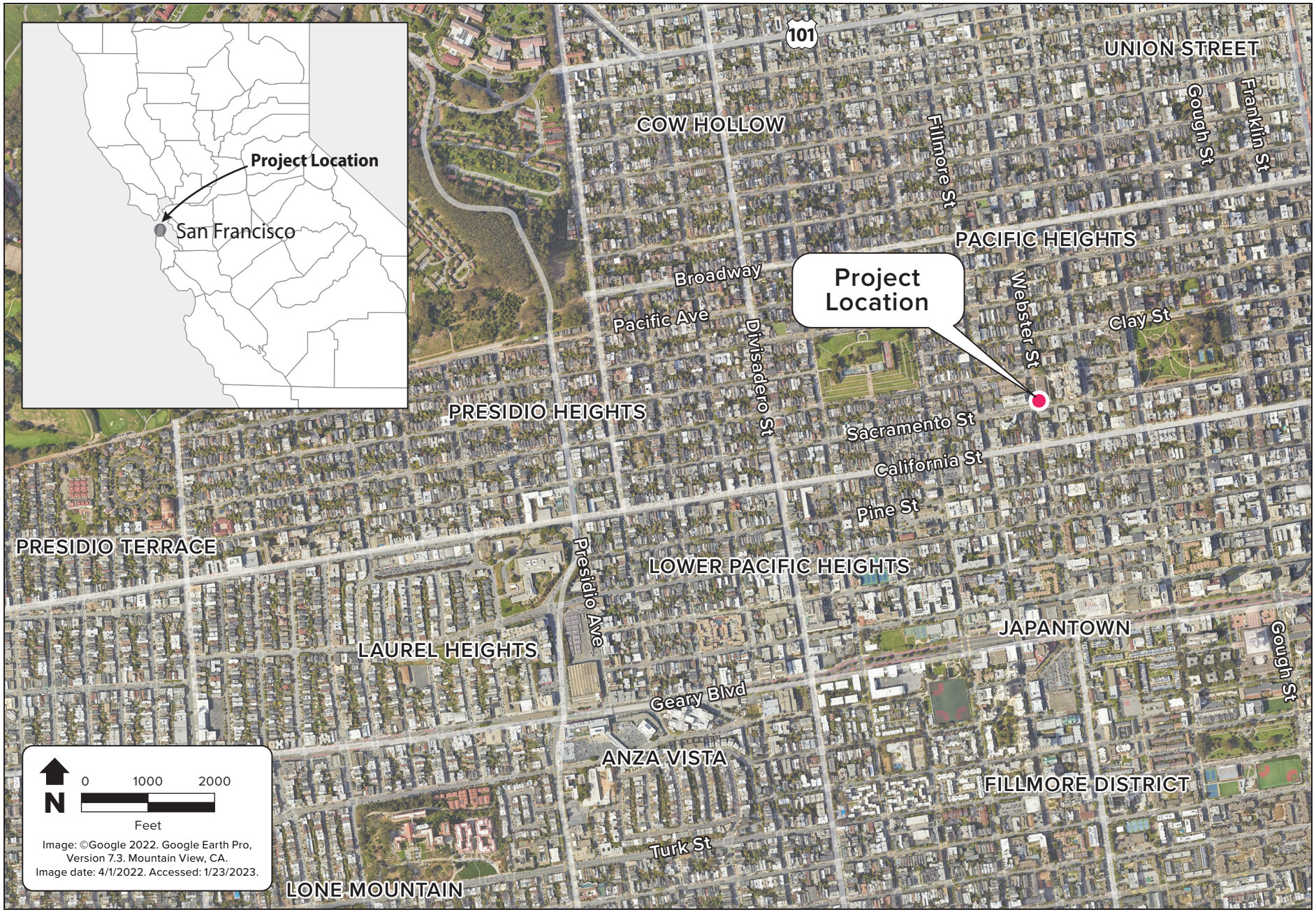
Lisa Gibson
Environmental Review Officer

Date

Attachments

A. Figures
B. Mitigation Monitoring and Reporting Program

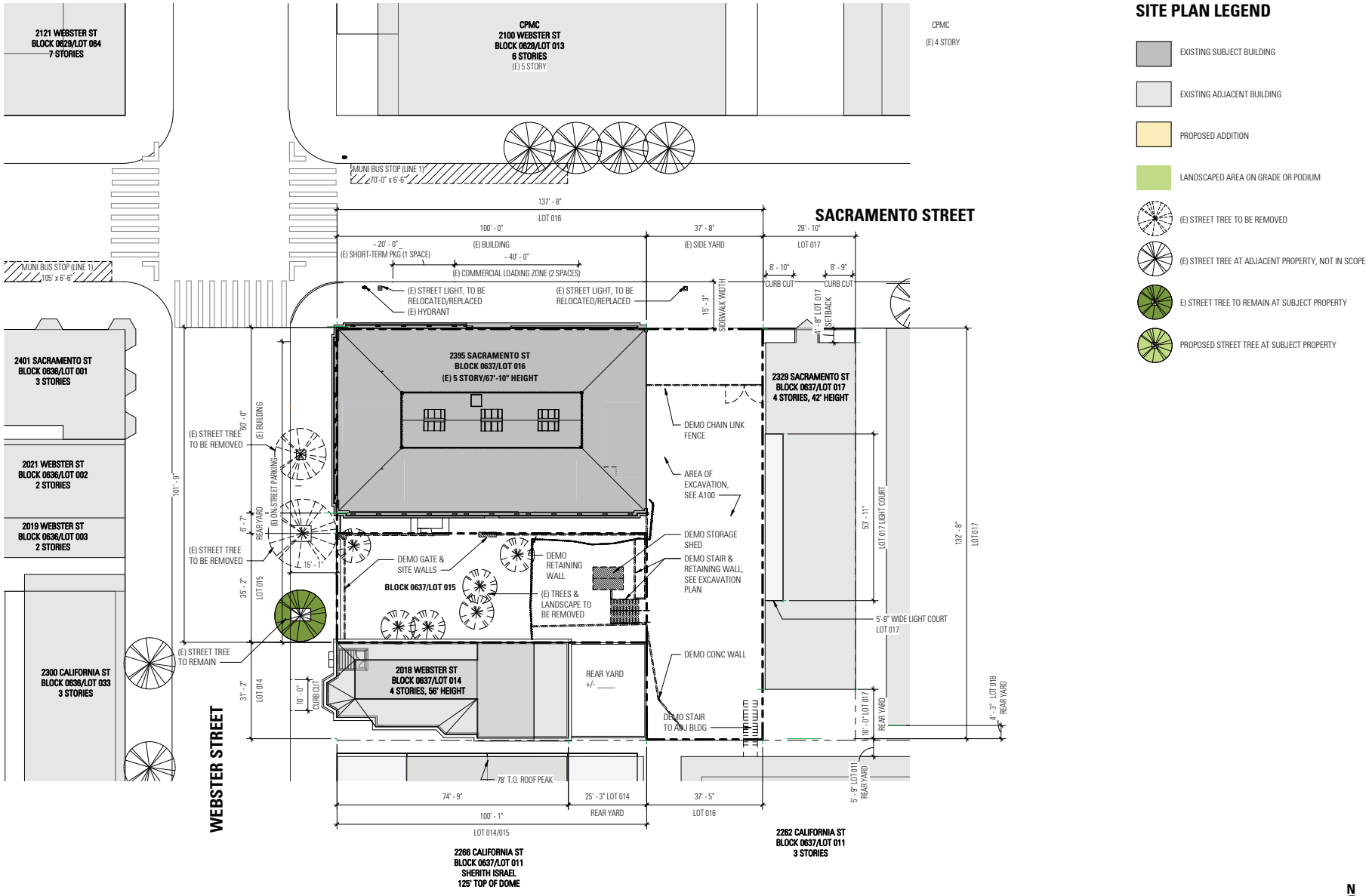
ATTACHMENT A: FIGURES



Graphics ... 104514 (06-20-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 1
Project Location

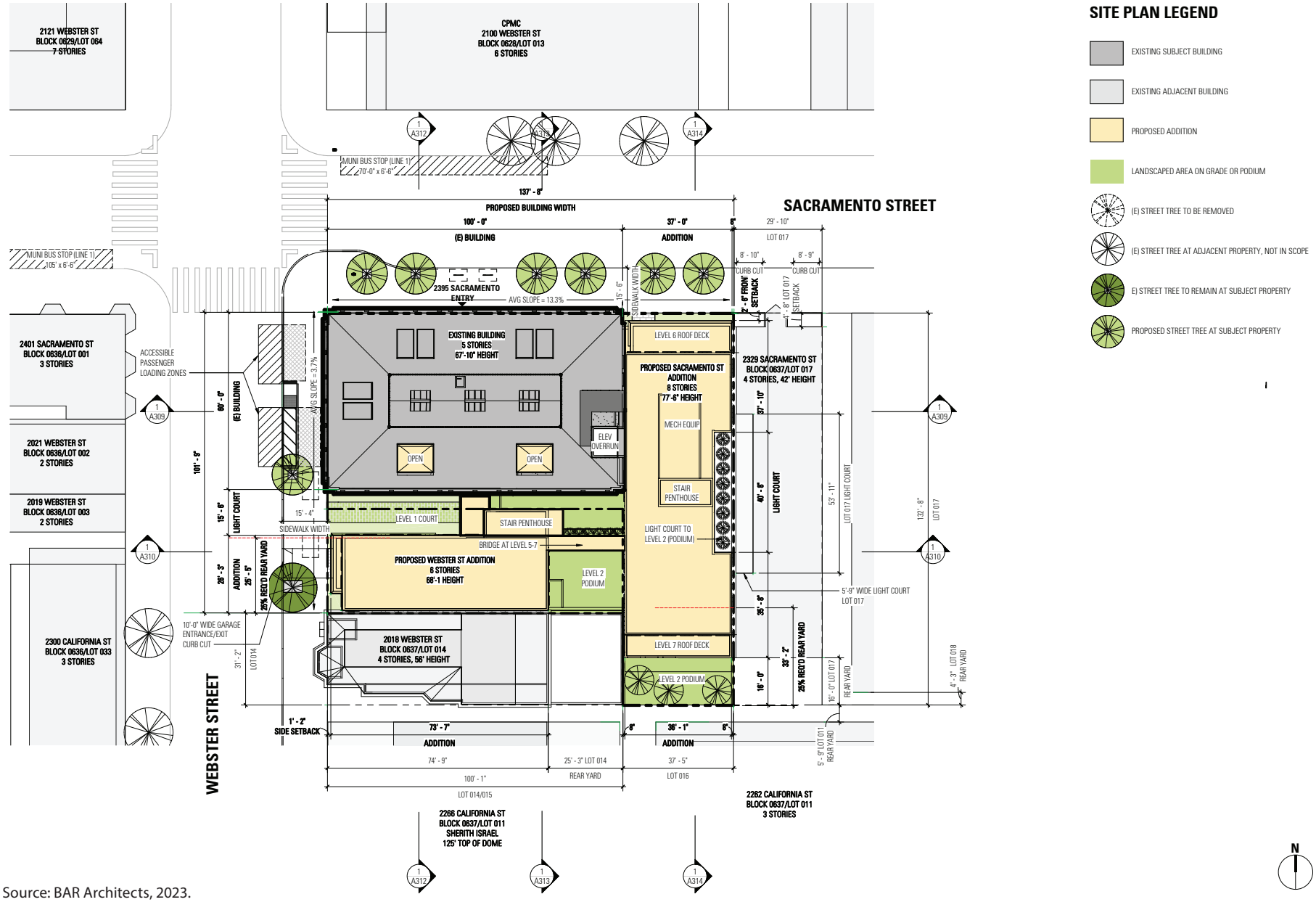


Source: BAR Architects, 2023.

Graphics ... 104514 (09-25-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 2
Existing Site Plan

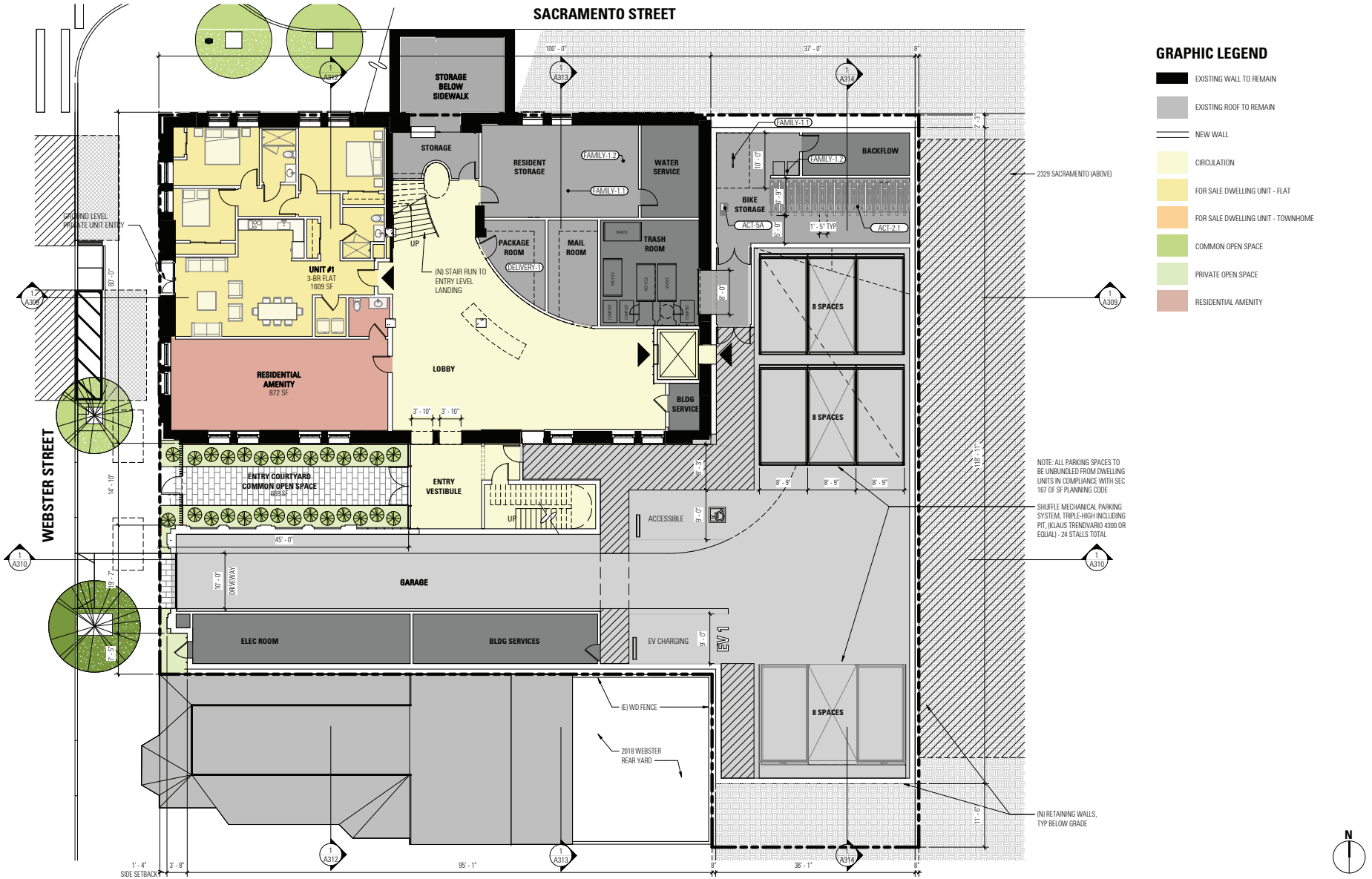


Source: BAR Architects, 2023.

Graphics ... 104514 (09-25-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 3
Proposed Site Plan



Source: BAR Architects, 2023.

Graphics ... 104514 (09-25-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

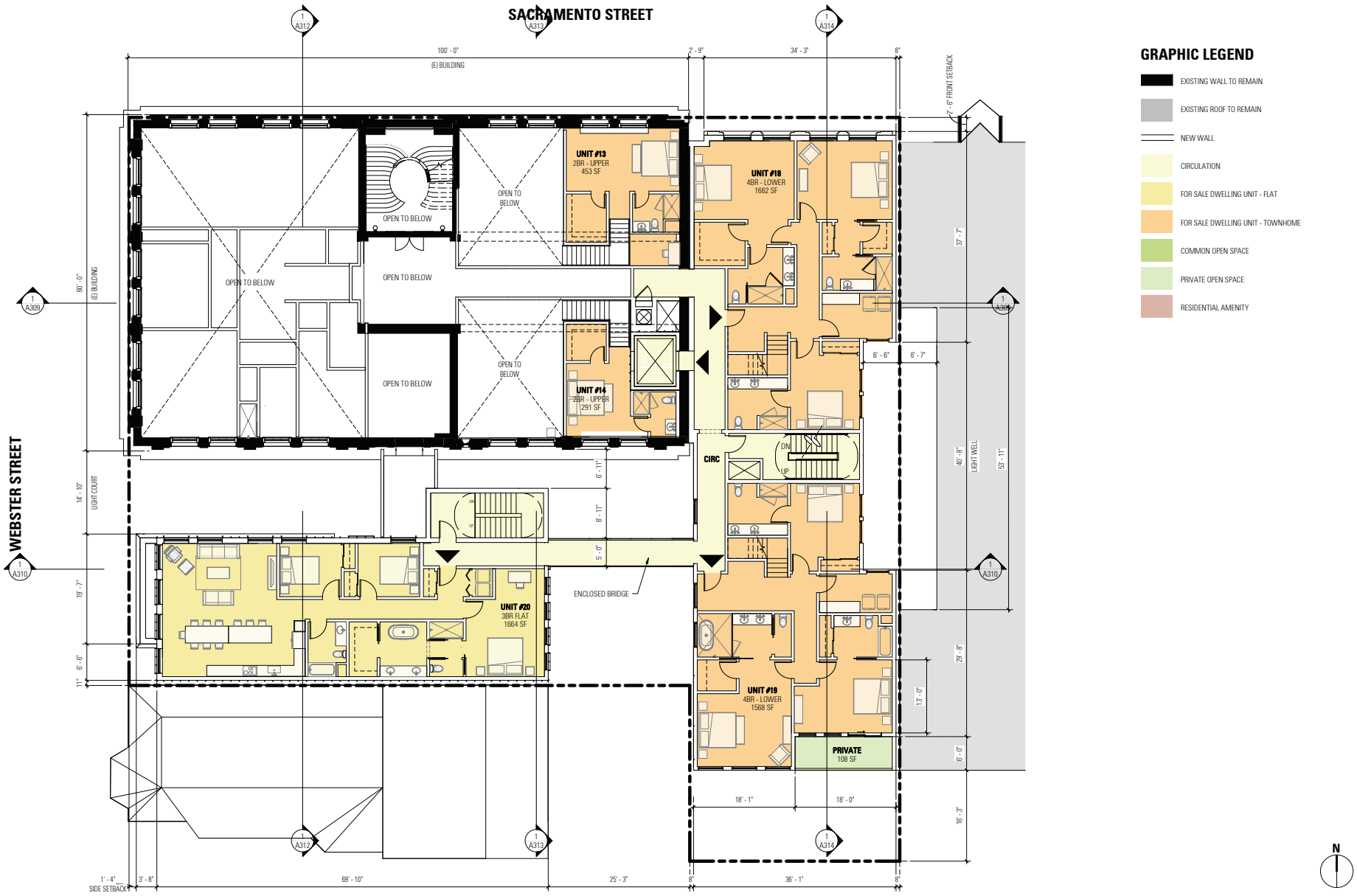
Figure 4
Proposed Ground Floor Plan

Source: BAR Architects, 2023.

Graphics ... 104514 (09-25-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 5
Proposed Level 2 Plan

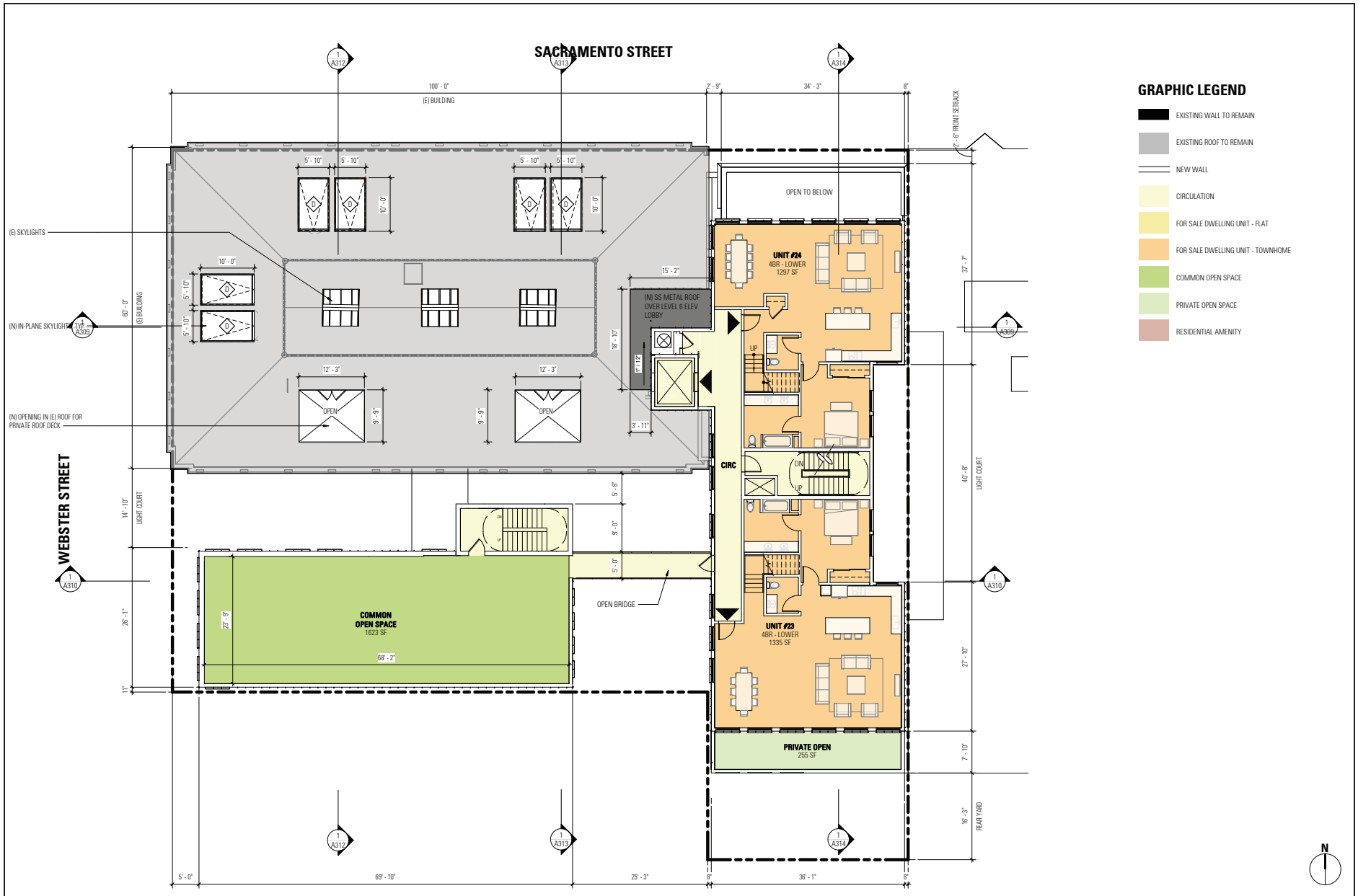


Source: BAR Architects, 2023.

Graphics ... 104514 (09-25-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 6
Proposed Level 5 Plan

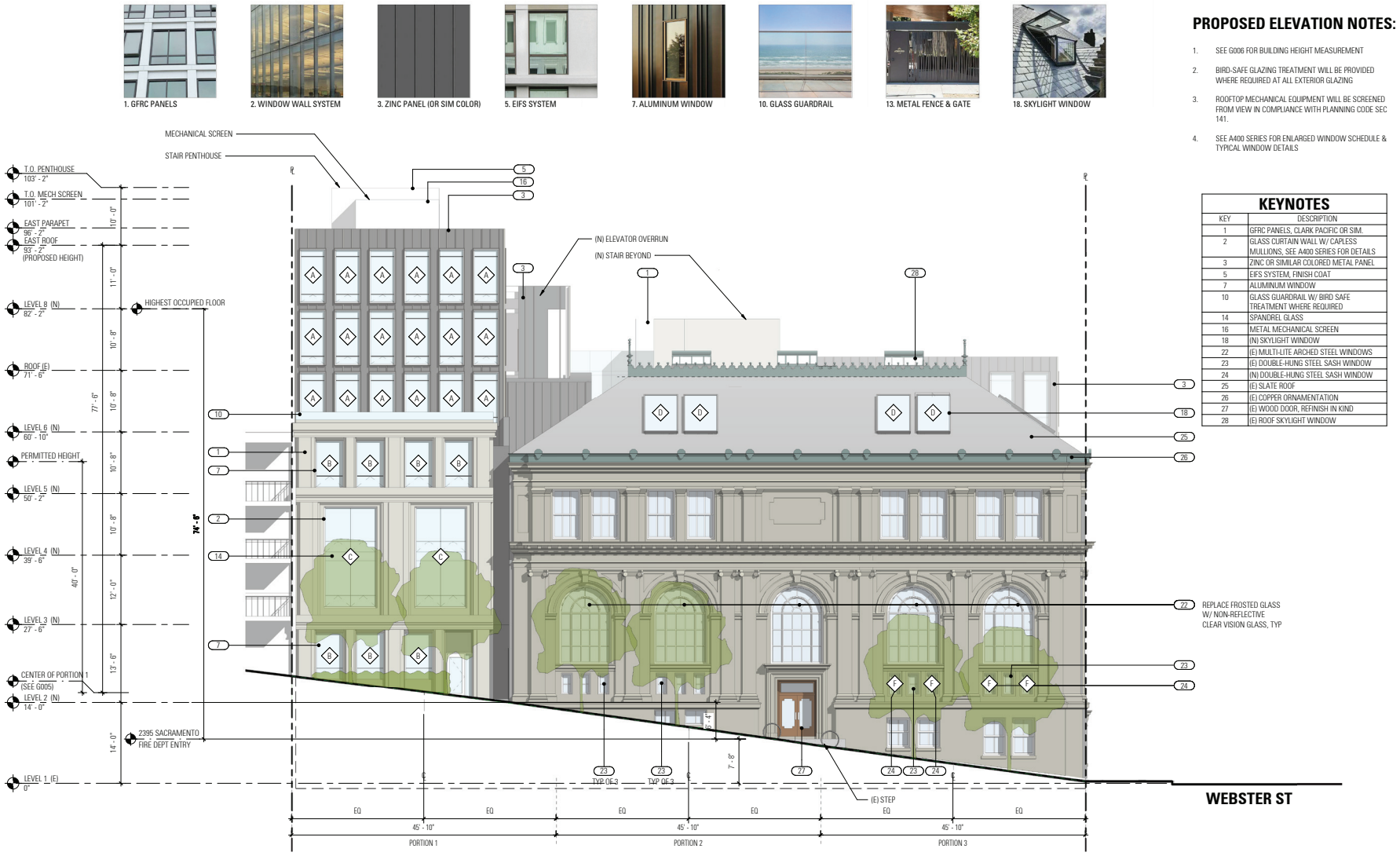


Source: BAR Architects, 2023.

Graphics ... 104514 (09-25-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 7
Proposed Level 7 Plan

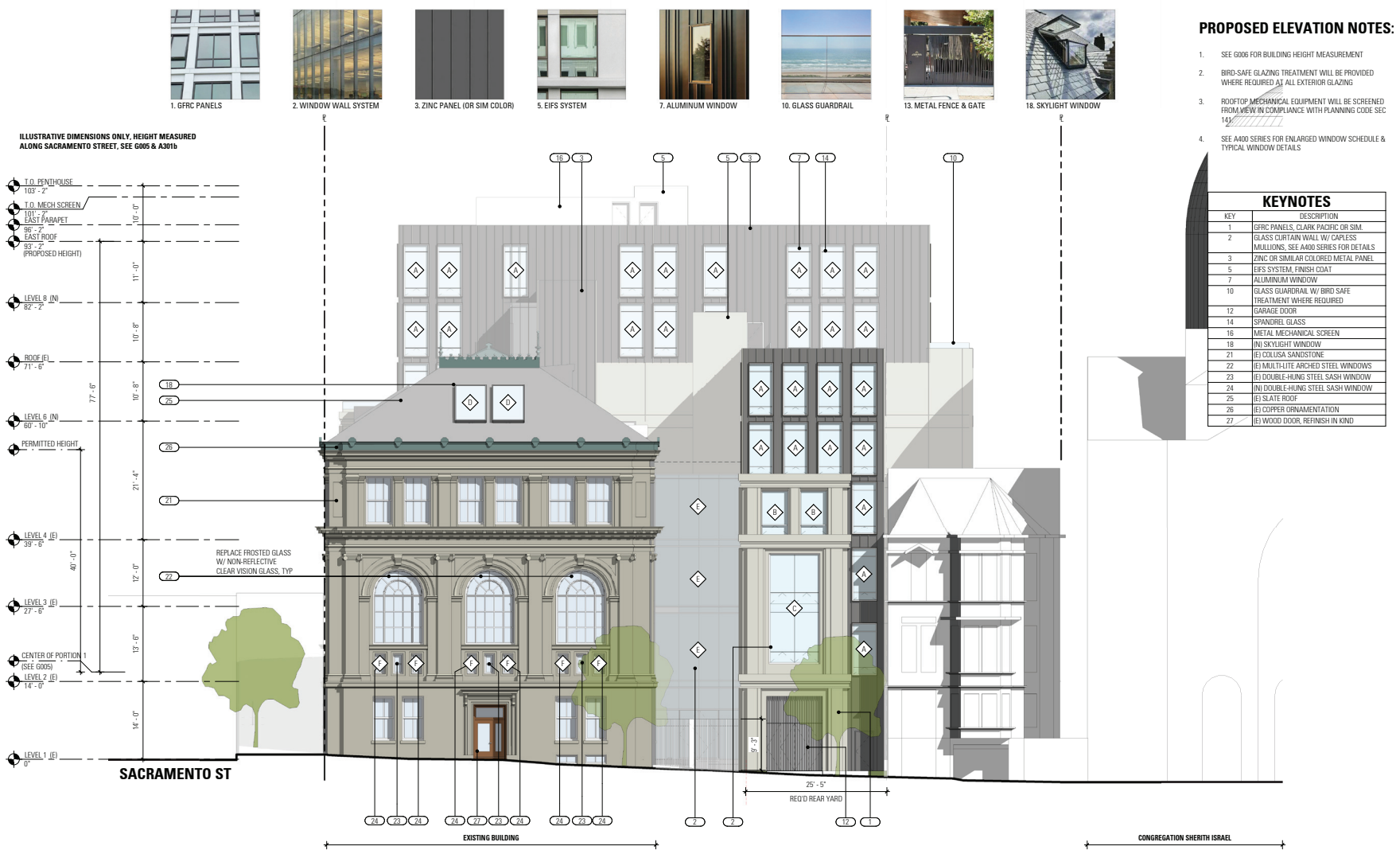


Source: BAR Architects, 2023.

Graphics ... 104514 (09-22-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 8
Proposed North Elevation – Sacramento Street



Source: BAR Architects, 2023.

Graphics ... 104514 (09-22-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 9
Proposed West Elevation – Webster Street

Source: BAR Architects, 2023.

Graphics ... 104514 (09-22-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 10
Conceptual View from Sacramento Street

Source: BAR Architects, 2023.

Graphics ... 104514 (09-22-2023) JC

2395 Sacramento Street
Case No. 2022-004172ENV

Figure 11
Conceptual View from Webster Street

EXHIBIT Aπh

San Francisco Planning

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EXECUTIVE SUMMARY
CONDITIONAL USE AUTHORIZATION & STATE DENSITY BONUS PROJECT

HEARING DATE: November 9, 2023

Record No.:	2022-004172CUA
Project Address:	2395 Sacramento Street
Zoning:	Residential, Mixed-Use (RM-1) Zoning District 40-X Height and Bulk District
Cultural District:	N/A
Block/Lot:	0637/015 & 016
Project Sponsor:	Gokovacandir, LLC 2040 Webster Street San Francisco, CA 94115
Property Owner:	Gokovacandir, LLC 2040 Webster Street San Francisco, CA 94115
Staff Contact:	Michelle A. Taylor - 628-652-7352 Michelle.Taylor@sfgov.org
Environmental Review:	Community Plan Evaluation

Recommendation: Approval with Conditions

Project Description

The proposed project involves rehabilitation of the Article 10 Landmark No. 115 at 2395 Sacramento Street (Block 0637, Lot 16) and development of an adjacent vacant lot fronting Webster Street (Block 0637, Lot 15). The proposal

includes construction of a seven-story over basement addition at the east elevation of the subject building and a six-story addition accessible through a four-story glass connector to the south of the building. The existing approximately 68-foot tall, 4.5 story building would be modified to accommodate the creation of 24 dwelling units, 26 off-street parking spaces, 38 Class 1 bicycle parking spaces, and 4 Class 2 bicycle parking spaces. The Project includes a dwelling-unit mix consisting of 1 one-bedroom unit, 10 two-bedroom units, 9 three-bedroom units, and 4 four-bedroom units.

The project would utilize the Individually Requested State Density Bonus Program, electing to provide 14.5% (3 units) of the base 19-unit project as affordable at Low Income (80% AMI) in order to qualify for a 26.0% density bonus (5 units). The project requires waivers from local height limit of 40'; reduction of rear yard requirement; and reduction of dwelling unit exposure requirement.

Required Commission Action

In order for the Project to proceed, the Commission must grant a Conditional Use Authorization, pursuant to Planning Code Sections 253 and 303 for a building height that exceeds 50 feet of height within the RM-1 zoning district to accommodate the construction of two additions to an existing building resulting in a 77'-6" tall building.

The commission must also make findings related to the requested waivers from development standards, including rear yard (section 134); dwelling unit exposure (section 140); and height (section 260), pursuant to State Density Bonus Law.

Issues and Other Considerations

- **Public Comment & Outreach.**
    - Support/Opposition: The Department has received inquiries for general information about the proposed project from one neighbor, letters of support from two organizations, a positive review of the project by one housing group, one petition of support signed by approximately 180 individuals, and letters of opposition from one neighbor.
        - The letters and documents of support generally praise the creation of new housing, including affordable housing, within a neighborhood with access to public transportation.
        - The Department has also received letters of opposition from one neighbor who has concerns about removal of trees on the property, wind, shadow, and historic resource concerns related to the vacant lot 015.
        - Regarding environmental concerns, three comments were received; they expressed concerns regarding the following physical environmental impacts: shadow, wind, pedestrian and vehicular safety along Webster Street, tree removal, runoff, operational noise, and telecommunications. Overall, concerns and issues raised by the public in response to the environmental notice were taken into consideration and incorporated in the environmental review as appropriate for CEQA analysis. In general, these comments were taken into consideration and incorporated in the environmental review as appropriate for CEQA analysis (see also Exhibit B).

- Outreach:
  - The Sponsor has hosted one meeting within the community, on May 4, 2022
  - The Planning Department issued Notification of Project Receiving Environmental Review, on April 11, 2023

- **Tenant History:** Not Applicable. 2395 Sacramento Street is a former medical library building currently used as a private event venue.
- **Design Review Comments:** The project has changed in the following significant ways since the original submittal to the Department:
  - Reduction of overall massing of new southern and eastern additions by reducing overall floor to ceiling heights of new residential units.
  - Reduction in height of the connector between 2395 Sacramento Street and new eastern addition, from six stories to four stories.
  - Removal of a two-story vertical addition on 2395 Sacramento Street.
  - Reduction in the overall exterior material demolished or removed at exterior walls and at roof of 2395 Sacramento Street.
  - Re-use and modest enlargement of existing elevator run on 2395 Sacramento Street, rather than construction of a new elevator run.
  - Regularize building form by eliminating angled front building walls at eastern and southern additions.
- **Article 10 Landmark No. 115:** 2395 Sacramento Street is local landmark No. 115, locally designated under Article 10 of the Planning Code. 2395 Sacramento Street is a former medical library constructed in 1912 and designed by Architect of Merit Albert Pissis in the Beaux-Arts style. Pursuant to Article 10 of the Planning Code, the proposed project was reviewed by the Historic Preservation Commission on November 1, 2023.
- **Inclusionary Affordable Housing:** The Environmental Evaluation Application was accepted on May 3, 2022, pursuant to Planning Code Section 415.3, the inclusionary Affordable Housing Program requirement for On-site Affordable Housing Alternative is to provide a minimum of 14.5% of the total proposed dwelling units affordable to qualifying households at a price of 80% Average Median Income (AMI). A Project sponsor may use their on-site inclusionary units to qualify for a density bonus under the State Density Bonus Law ("State Law"). As applied to the 19 units representing the base proportion of the project, the total on-site inclusionary requirement is three dwelling units.

- **State Density Bonus Law and Waivers:** The RM-1 Zoning District regulates density as a ratio of units to area. The base density includes the amount of residential development that could occur on the project site as of right without modifications to the physical aspects of the Planning Code (ex. Open space, dwelling unit exposure, etc.). Section 209.2 of the Planning Code permits a residential density of up to one dwelling unit for each 800 square feet of lot area. The subject property is 15,105 square feet in size, which allows for up to 19 principally permitted dwelling units. Because the Project is providing 14.5% (3 units) of the units to low-income households (80% AMI), the Project is entitled to a 26% density bonus or five (5) additional dwelling units. Including the density bonus, the Project proposes twenty-four (24) dwelling units.

  Under the State Density Bonus Law, the Project is requesting three waivers from development standards,

including: 1) Rear Yard (Section 134) – for a reduction from 25' 5" on lot 015 to 0'-8" and a reduction from 33'2" on lot 016 to 16'0"; 2) Dwelling Unit Exposure (Section 140) – seven units will not meet dwelling unit exposure requirements; and 3) Height (Section 260) – the project will exceed the required height limit of 40 feet.

Environmental Review

The proposed project is consistent with the development density established by the San Francisco Housing Element 2022 Update (Housing Element) and was encompassed within the analysis contained in the Housing Element EIR. On October 23, 2023, the Department determined that the Project qualified for streamlined environmental review under Public Resources Code Section 21083.3 and Section 15183 of the CEQA Guidelines. Accordingly, the Department issued a General Plan Evaluation (GPE) for the project. The GPE identified the mitigation measures from the EIR that are applicable to the Project. With the applicable mitigation measures incorporated, the Project would not result in a significant environmental effect. The mitigation measures are provided in a project-specific mitigation monitoring and reporting program (MMRP) that has been agreed to by the project sponsor. The GPE is attached as Exhibit F and MMRP is attached in Exhibit C.

Basis for Recommendation

The Department finds that the Project is, on balance, consistent with State Density Bonus Law and the Objectives and Policies of the General Plan, including the newly adopted Housing Element. The Project proposes a total of 24 dwelling units, most of which will be two-bedrooms or more, and will include 3 on-site below-market rate units. The Project redevelops a former library and a vacant lot in an area well served by transit. The Project Site will, on balance, preserve the historic character defining features of the building's ornamental exteriors and maintain the overall monumental form, massing, and siting of the building. The Department also finds the project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity.

Attachments:

Draft Motion – Conditional Use Authorization with Conditions of Approval
Exhibit B – Plans and Renderings
Exhibit C – Project MMRP
Exhibit D – Land Use Data
Exhibit E – Maps and Context Photos
Exhibit F – Environmental Determination
Exhibit G - Project Sponsor Brief
Exhibit H – Inclusionary Affordable Housing Affidavit
Exhibit I – Anti-Discriminatory Housing Affidavit
Exhibit J - First Source Hiring Affidavit

San Francisco Planning

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San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION DRAFT MOTION

HEARING DATE: November 9, 2023

Record No.:	2022-004172CUA
Project Address:	2395 Sacramento Street
Zoning:	Residential, Mixed-Use (RM-1) Zoning District 40-X Height and Bulk District
Cultural District:	N/A
Block/Lot:	0637/015 & 016
Project Sponsor:	Gokovacandir, LLC 2040 Webster Street San Francisco, CA 94115
Property Owner:	Gokovacandir, LLC 2040 Webster Street San Francisco, CA 94115
Staff Contact:	Michelle A. Taylor - 628-652-7352 Michelle.Taylor@sfgov.org

ADOPTING FINDINGS RELATING TO A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 253 AND 303, AND ADOPTING FINDINGS PURSUANT TO PLANNING CODE SECTION 206.6 AND CALIFORNIA GOVERNMENT CODE SECTION 65915 TO ALLOW THE REHABILITATION OF AN EXISTING 24,850 SQUARE-FOOT, 4 ½-STORY FORMER MEDICAL LIBRARY BUILDING AT 2395 SACRAMENTO STREET (BLOCK 0637, LOT 16) AND TO DEVELOP AN ADJACENT 3,497 SQUARE FOOT VACANT LOT AT BLOCK 0637 AND LOT 015, IN ORDER TO CONSTRUCT A 68,531 SQUARE-FOOT, 7-STORY OVER BASEMENT, 78 FOOT-10 INCH TALL, RESIDENTIAL BUILDING CONTAINING 24 RESIDENTIAL UNITS (1 ONE-BEDROOM, 10 TWO-BEDROOM, 9 THREE-BEDROOM, AND 4 FOUR BEDROOM), 26 BELOW-GRADE VEHICLE PARKING SPACES AND 38 CLASS 1 BICYCLE PARKING SPACES , SEEKING WAIVERS FROM DEVELOPMENT STANDARDS UNDER THE INDIVIDUALLY REQUESTED STATE DENSITY BONUS PROGRAM, INCLUDING REAR YARD (SECTION 134), EXPOSURE (SECTION 140), AND HEIGHT LIMIT (SECTION 260), , WITHIN THE RM-3 (RESIDENTIAL, MIXED USE) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On May 9, 2022, Eduardo Sagues of Gokovacandir, LLC (hereinafter "Project Sponsor") filed Application 2022-004172CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Conditional Use Authorization to rehabilitate 2395 Sacramento Street, a four-and-half story, 67'-10" tall, former library building and construct one new seven-story, 77'-6" tall, over basement eastern addition and one five-story over garage, 68'-1" tall, residential building with 24 dwelling units (1 one-bedroom, 10 two-bedroom, 9 three-bedroom, and 4 four-bedroom), 26 unbundled below-grade vehicle parking spaces, 38 Class 1 bicycle parking spaces, and 4 Class 2 bicycle parking spaces (hereinafter "Project") at 2395 Sacramento Street, Block 0637 Lots 015 and 016 (hereinafter "Project Site").

The Housing Element 2022 Update EIR is a program EIR (EIR) prepared for the city and certified by the Planning Commission on November 17, 2022 (Case No. 2019-016230ENV). The Commission adopted CEQA findings in Motion No. 21206 and hereby incorporates such Findings by reference herein. Since the EIR was finalized, there have been no substantial changes to the General Plan and no substantial changes in circumstances that would require major revisions to the EIR due to the identification of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the PEIR.

On October 23, 2023, the Department determined that the Project qualified for streamlined environmental review under CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3 and issued a General Plan Evaluation (GPE). Mitigation measures from the EIR that are applicable to the project are identified in the GPE and provided in a project-specific Mitigation Monitoring and Reporting Program (MMRP) attached as Exhibit C and are herein made conditions of project approval.

The file for this project, including the EIR (2019-016230ENV) and the GPE, is available for review at San Francisco Planning, 49 South Van Ness Avenue, Suite 1400, San Francisco, California, and on the Department's website under Environmental Review Documents.

The City and County of San Francisco, acting through the Department, fulfilled all procedural requirements of the California Environmental Quality Act, the State CEQA Guidelines, and Chapter 31 of the Administrative Code.

On November 9, 2023, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2022-004172CUA.

The Planning Department Commission Secretary is the Custodian of Records; the File for Record No. 2022-004172CUA is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use as requested in Application No. 2022-004172CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. **The above recitals are accurate and constitute findings of this Commission.**

2. **Project Description.** The proposed project involves rehabilitation of the Article 10 Landmark No. 115 at 2395 Sacramento Street (Block 0637, Lot 16) and development of an adjacent vacant lot fronting Webster Street (Block 0637, Lot 15). The proposal includes construction of a seven-story over basement addition at the east elevation of the subject building and a six-story addition accessible through a four-story glass connector to the south of the building. The existing approximately 68-foot tall, four-and a half-story building would be modified to accommodate the creation of 24 dwelling units, 26 off-street parking spaces, 38 Class 1 bicycle parking spaces, and 4 Class 2 bicycle parking spaces. The Project includes a dwelling-unit mix consisting of 1 one-bedroom unit, 10 two-bedroom units, 9 three-bedroom units, and 4 four-bedroom units.

3. **Site Description and Present Use.** The Project is located on two lots (with a lot area of approximately 15,105 square feet) at the southeast corner of Sacramento and Webster Streets. Both properties were previously associated with the historic medical campus now occupied by California Pacific Medical Center. The site has 137'-8" of frontage along Sacramento Street and approximately 101'-9" of frontage along Webster Street. The Project Site contains one existing four and a half-story, 24,850 square foot former library building currently used as a private event venue. The subject building, 2395 Sacramento Street, is local landmark No. 115, locally designated under Article 10 of the Planning Code. The subject building (Block 0637, Lot 016) is a detached corner building that is adjacent to a parking lot to the east and a vacant lot (Block 0637, Lot 015) to the south. As such, all elevations are visible from the street. The building features a Beaux-Arts style and is primarily clad with Colusa sandstone and features a hipped roof with copper cornice and capped with widows walk. The north, south, and west elevations feature similar ornamental features while the east elevation features a blank and utilitarian concrete wall.

4. **Surrounding Properties and Neighborhood.** The project site is in the RM-1 Residential-Mixed, Low Density Zoning District and in the 40-X Height & Bulk District. The subject parcel sits on the edge of the RM-2 Residential-Mixed, Moderate Density Zoning District and 160-F Height & Bulk district; therefore, the area presents a variety of building uses and building heights. The land uses in the area include residential, religious, and healthcare. The project is also located one block from the Upper Fillmore Neighborhood Commercial District. The building heights in the immediate vicinity vary from 2-to-9 stories, and the area has an irregular pattern of parcels. The proposed project combines 2 parcels of different sizes at the corner of Sacramento and Webster Streets. The main parcel (0637/016) at the corner has an L-shape configuration which projects into the rear yard mid-block open space. The adjacent project parcel (0637/015) is vacant and fronts Webster Street. The area presents a variety of building styles that range in their construction types and building eras. The building materials found in the surrounding neighborhood include wood siding, stone, concrete and metal panels, stucco, and plaster.

   On Sacramento Street, directly opposite 2395 Sacramento Street, are two five-to-six story medical buildings and further to the west, kitty corner to the subject property, is an eight-to nine-story multi-family

residential building. Buildings directly east of the subject buildings and facing Sacramento Street include three- to four-story residential buildings. The block face on Webster Street, opposite 2395 Sacramento Street, is comprised of smaller-scale three to four story residential and commercial office buildings. And south of 2395 Sacramento Street and directly adjacent to the subject property are two historic resource properties: 2018-2020 Webster Street and 2266 California Street. 2018-2020 Webster Street is a 3-story over garage residential building built circa 1885 in the Eastlake style and remodeled circa 2021. 2266 California Street, the Temple Sherith Israel, is located at the northeast corner of California Street. It is a monumental building constructed in 1905 and designed by Albert Pissis in the Beaux-Arts/Romanesque style. Temple Sherith Israel is individually listed on the National Register and features an impressive Byzantine-inspired dome and Romanesque architectural details.

5. **Public Outreach and Comments.** The Department has received inquiries for general information about the proposed project from one neighbor, letters of support from two organizations, a positive review of the project by one housing group, one petition of support signed by approximately 180 individuals. The letters and documents of support generally praise the creation of new housing, including affordable housing, within a neighborhood with access to public transportation. The Department has also received letters of opposition from one neighbor who has concerns about removal of trees on the property, wind, shadow, and historic resource concerns related to the vacant lot 015.
   A "Notification of Project Receiving Environmental Review" was mailed on April 11, 2023, to adjacent occupants and owners of properties within 300 feet of the project site, in Pacific Heights, and on citywide neighborhood group lists. The same notice was sent to the historic resources preservation group list on April 11, 2023. Regarding environmental concerns, three comments were received; they expressed concerns regarding the following physical environmental impacts: shadow, wind, pedestrian and vehicular safety along Webster Street, tree removal, runoff, operational noise, and telecommunications. Overall, concerns and issues raised by the public in response to the environmental notice were taken into consideration and incorporated in the environmental review as appropriate for CEQA analysis. In general, these comments were taken into consideration and incorporated in the environmental review as appropriate for CEQA analysis (see also Exhibit F).

6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

   A. Use. Planning Code Section 209.2 permits up to one dwelling unit per 800 square feet of lot area in the RM-1 District.
   The subject property is approximately 15,105 square feet, which would allow for 19 principally permitted dwelling units. The project proposes a total of 24 dwelling units through the Individually Requested State Density Bonus Program. The additional findings specified in Section 206.6 of the Planning Code have been incorporated in Subsection 8 below.

   B. Front Setback. Planning Code Section 132 states that the minimum front setback depth shall be based on the average of adjacent properties or a Legislated Setback and not to be more than 15 feet.
   2395 Sacramento Street is a corner property and the adjacent property to the east has a front setback of 4' 8", which results in an average depth of 2'4". The new front building wall of the Project will have a front

setback of 2'6" and meets front setback requirements.

C. Landscaping and Permeability. Planning Code Section 132(g) requires that for projects involving the construction of a new building, the addition of a new dwelling unit, garage, or additional parking; at least 20% of the required front setback area be and remain unpaved and devoted to plant material, including the use of climate appropriate plant material. Section 132(h) requires that the front setback area be at least 50% permeable so as to increase stormwater infiltration. The permeable surface may be inclusive of the area counted towards the landscaping requirement; provided, however, that turf pavers or similar planted hardscapes shall be counted only toward the permeable surface requirement and not the landscape requirement.

The project proposes a front setback of 94 square feet and requires 19 square feet to be landscaped and 47 square feet to be permeable. The project proposes 75 square feet of landscaping and permeable pavers. Therefore, the Project complies with Planning Code Section 132(g).

D. Rear Yard. Planning Code Section 134 requires a minimum rear yard depth equal to 45% of the total depth of the lot on which the building is situated, except that rear yard requirements can be reduced to a line on the lot, parallel to the rear lot line, which is the average between the depths of the rear building walls of both adjacent properties.

The project site includes lot 015 and lot 016, and as a corner lot, the project sponsor has elected Sacramento Street as the front of the property. The subject property is irregularly shaped with the property depth of approximately 132'- 8" and 101'-9", which results in a required rear yard of 33'-2" and 25'-5", respectively. The project proposes a rear yard of 16'-0" and 0'-8" and is therefore requesting a waiver of this Planning Code requirement per State Density Bonus Law. The waiver of the rear yard requirements is necessary to enable the construction of the project with the increased density provided by Government Code Section 65915.

E. Useable Open Space. In the RM-1 Zoning District, Planning Code Section 135 requires 100 square feet of usable open space for each dwelling unit if all private open space or 133 square feet of common usable open space for each dwelling unit.

The Project contains a total of 24 dwelling units, and each has access to qualifying private or common usable open space. Units 7, 8, 10, 16, 18, 19, 22, and 23 have access to a combined 2,584 square feet of Code-complying private open space, while the remaining 16 units have access to 2,291 square feet of Code-complying common open space.

F. Dwelling Unit Exposure. Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street or public alley at least 30 feet in width, a side yard at least 25 feet in width, a rear yard meeting the requirements of the Code or other open area that meets minimum requirements for area and horizontal dimensions.

Within the project, Units 1, 2, 3, 4, 6, 8, 9, 11, 12, 13, 15, 17, 18, 20, 21, 22, and 24 have direct exposure onto Webster or Sacramento Streets and therefore meet exposure requirements. The remaining seven units do not meet minimum exposure requirements; therefore, the project is requesting a waiver of this Planning Code requirement per State Density Bonus Law. The waiver of the dwelling unit exposure

requirements is necessary to enable the construction of the project with the increased density provided by Government Code Section 65915.

G. Street Frontages. Section 144 of the Planning Code requires that no more than one-third of the width of the ground story along the front lot line, or along a street side lot line, or along a building wall that is setback from any such lot line, shall be devoted to entrances to off-street parking, except that in no event shall a lot be limited by this requirement to a single such entrance of less than ten feet in width.

The Project complies as the off-street parking entrance will not exceed 10 feet and the minimum 1/3 width visual relief at the ground story street frontage will be provided.

H. Off-Street Parking. Planning Code Section 151 does not require a minimum number of off-street parking spaces and permits a maximum of 1.5 parking spaces for each dwelling unit.

The Project would permit a maximum of 39 off-street parking spaces. The Project proposes 26 off-street unbundled parking spaces for 24 dwelling units within the proposed garage.

I. Bicycle Parking. Planning Code Section 155.2 requires at least one Class 1 bicycle parking space for each dwelling unit.

The Project proposes 38 Class 1 bicycle parking spaces within the proposed garage for 24 residential dwelling units.

J. Height. Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X Height and Bulk District, with a 40-foot height limit.

The existing building is 67'-10" tall. The proposed height of the southern addition has a height of 68' – 1" and the proposed height of the eastern addition has a height of 77'-6". Therefore, the project is requesting a waiver of this Planning Code requirement per State Density Bonus Law. The waiver of the height limit is necessary to enable the construction of the project with the increased density provided by Government Code Section 65915(f)(1).

K. Residential Child-Care Impact Fee. Planning Code Section 414A is applicable to any residential development that results in at least one new residential unit.

The Project includes approximately 66,311 gross square feet of newly constructed residential use. This use is subject to Residential Child-Care Impact Fee, as outlined in Planning Code Section 414A. This fee must be paid prior to the issuance of the building permit application.

L. Inclusionary Affordable Housing Program Impact Fee (Affordable Housing Fee"). Planning Code Section 415 is applicable to any project resulting in 10 or more dwelling units.

The Project includes new construction of 24 dwelling units and is therefore subject to the Inclusionary Affordable Housing Program Impact Fee, as outlined in Planning Code Section 415. This fee must be paid prior to the issuance of the building permit application.

M. Transportation Sustainability Fee. Planning Code Section 411A is applicable to new development that results in more than 20 dwelling units.

The Project includes new construction of 24 dwelling units and is therefore subject to the Transportation Sustainability Impact Fee, as outlined in Planning g Code Section 411A. This fee must be paid prior to the issuance of the building permit application.

N. Transportation Demand Management (TDM) Plan. Pursuant to Planning Code Section 169 and the TDM Program Standards, the Project shall finalize a TDM Plan prior Planning Department approval of the first Building Permit or Site Permit. As currently proposed, the Project must achieve a target of 14 points.

As currently proposed, the Project will achieve its required 14 points through the following TDM measures:

- Unbundled Parking
- Parking Supply
- Bicycle Parking (Option C)
- Bicycle Repair Station
- Delivery Supportive Amenities
- Family TDM Amenities
- On-Site Affordable Housing

7. Inclusionary Affordable Housing Program for State Density Bonus Projects. The Inclusionary Affordable Housing Program applies to projects with a base density of 10 or more dwelling units. Under the State Density Bonus Law, Government Code section 65915 et seq, a project is entitled to a density bonus, concessions and incentives, and waivers of development standards only if it provides on-site Affordable Units.

The Project Sponsor will provide three (3) Affordable Unit on-site to be sold to households earning 80% area medium income, which allows the sponsor to qualify for a 26% density bonus. Additional information is available in the table below. Because the base density of the site is nineteen (19) units, the project is subject to the Inclusionary Affordable Housing Program, including the Affordable Housing Fee. As further described in Planning Director Bulletin 6, the on-site affordable unis provided to qualify for a density bonus under the State Law shall be administered through the Mayor's Office of Housing and Community Development and subject to the Inclusionary Housing Procedures Manual.

PRJ/EEA Accepted Date	May 3, 2022
Project Tenure	Owner
Location	RM-1
Project Size	Small - 10-24 total units
On-Site Rate	14.5%
Fee Rate	20%

Total On-Site Affordable Units	3
AMI Levels	3 @ low income (80% AMI) Inclusionary Units that qualify for a state density bonus
Affordable Unit Mix	1 2BR, 1 3BR, 1 4BR
Total Residential Floor Area	66,311 sf
Base Residential Floor Area or Base Units	19 units
% Density Bonus	26%

8. **Individually Requested State Density Bonus Findings.** Pursuant to Planning Code Section 206.6(e), the Planning Commission shall make the following findings as applicable for any application for a Density Bonus, Incentive, Concession, or Waiver for any Individually Requested Density Bonus Project:

   A. The Housing Project is eligible for the Individually Requested Density Bonus Program.

   The Project consists of five or more dwelling units on a site in the Residential-Mixed, Low Density Zoning District that is currently developed as a 4 and a half- story former library building and event venue that is not subject to the San Francisco Rent Stabilization and Arbitration Ordinance and is, therefore, eligible for the Individually Requested Density Bonus Program.

   The base density study for the project includes 19 units. The Project provides at least 14.5% of the dwelling units in the base density study (3 units) as affordable to low-income households, defined as those earning 80% of area median income, and is therefore entitled to a 26% density bonus under California Government Code Sections 65915 et sec.

   B. The Housing Project has demonstrated that any Concessions or Incentives reduce actual housing costs, as defined in Section 50052.5 of the California Health and Safety Code, or for rents for the targeted units, based upon the financial analysis and documentation provided.

   The Project is not seeking any concessions or incentives under the Individually Requested Density Bonus Program.

   C. If a waiver or modification is requested, a finding that the Development Standards for which the waiver is requested would have the effect of physically precluding the construction of the Housing Project with the Density Bonus or Concessions and Incentives permitted.

   In order to achieve the proposed residential density, the Project is requesting a waiver from Rear Yard (Section 134), Exposure (Section 140) and Height (Section 260). Without the waivers, the Project will be physically precluded from constructing the additional 5 dwelling units as permitted under the Individually Requested Density Bonus Program, thus preventing the Project from achieving a 26% density bonus.

   D. If the Density Bonus is based all or in part on donation of land, a finding that all the requirements

included in Government Code Section 65915(g) have been met.

The Density Bonus for the Project is not based on any donation of land.

E. If the Density Bonus or Concession/Incentive is based all or in part on the inclusion of a Child Care Facility, a finding that all the requirements included in Government Code Section 65915(h) have been met.

The Project does not include a Child Care Facility.

F. If the Concession or Incentive includes mixed-use development, a finding that all the requirements included in Government Code Section 65915(k)(2) have been met.

The Project is not seeking any concessions or incentives under the Individually Requested Density Bonus Program.

9. **Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the project complies with said criteria in that:

A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The immediate vicinity of the project site is characterized by a mix of residential, medical, and religious uses. The surrounding buildings vary in height from two to nine-stories. The size of the Project and the units within the proposed seven-story building are in-keeping with other properties in the neighborhood. The Project is necessary and desirable because it will create 24 new residential dwelling units, most of which will be two-bedrooms or more. The property is compliant with the Planning Code and contributes to the mixed visual character of the neighborhood. The new building is compatible, resulting in a Project that is necessary, desirable, and compatible with the City at-large. The Project site is also well served by public transportation and located near a retail commercial street on Fillmore Street.

B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

(1) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The Project provides a code-complying front setback, and setbacks at the rear of the properties which match those of the adjacent properties, which provide relief to the rear yards of adjacent properties that have frontage on Webster Street and Sacramento Street. The building has a height of approximately 77', which although exceeds the 40-X height limit, is not out of scale with

nearby 8-to 9-story buildings. Therefore, the proposed size, shape, and arrangement of the Project will also match that of neighboring structures, and the Project overall will aesthetically enhance the neighborhood.

(2) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Project provides 26 unbundled off-street vehicle parking spaces, 38 Class 1 bicycle parking spaces, and 4 Class 2 bicycle parking spaces. The proposed off-street vehicle parking spaces are underground and accessed by a 10-foot-wide curb cut, meeting the Department's standard width, thereby lessening the number of on-street parking spaces removed to accommodate the Project.

The Project will increase housing density in a location where residents are afforded proximity to MUNI transit services and will provide unbundled off-street parking and bicycle parking for residents and their guests. It is assumed that the project will increase commuter traffic but should not impede MUNI transit service or overburden streets or neighborhood parking, as the Project will provide multiple transportation options. The proposed use is designed to meet the needs of the immediate neighborhood, should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.

(3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed use includes a residential use that is consistent with the surrounding properties and is not likely to add noxious or offensive emissions.

(4) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The Project will provide usable open space in various forms throughout the property. The proposed off-street vehicle parking spaces are underground and accessed by a 10- foot-wide curb cut, meeting the Department's standard width. Permeable materials, 2 Class 2 bicycle parking spaces, and street trees will be added within the public right of way in front of the site. The facade treatment and materials of the building have been appropriately selected to be compatible with the surrounding neighborhood which has a mixed architectural character.

C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

D. That use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Use District.

The proposed project is consistent with the stated purpose of RM-1 Districts in that the intended use is residential in an area well served by transit.

10. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1
Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Policy 1.10
Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 4
FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1
Develop new housing, and encourage the remodeling of existing housing, for families with children.

Policy 4.5
Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

OBJECTIVE 11
SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1
Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2
Ensure implementation of accepted design standards in project approvals.

Policy 11.3
Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.6
Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8
Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1
EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3
Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The Project is a medium-density residential development, providing 24 new dwelling units in a mixed-use area. The Project includes 3 on-site affordable housing units, which assist in meeting the City's affordable housing goals. The Project is also in proximity to ample public transportation. The Project is appropriate in size in comparison to nearby properties. It also introduces a contemporary architectural vocabulary and provides for a high-quality designed exterior, which features a variety of materials, colors and textures, including metal siding, aluminum storefront, and aluminum windows. The Project provides open space and also improves the public rights of way with new streetscape improvements, street trees and landscaping. On balance, the Project is consistent with the Objectives and Policies of the General Plan.

11. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project complies with said policies in that:

    A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

    The project site does not possess any neighborhood-serving retail uses. The Project provides 24 new dwelling units, which will enhance the nearby retail uses by providing new residents, who may patron and/or own these businesses.

    B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

    The Project would provide 24 new dwelling units, thus resulting in an overall increase in the neighborhood housing stock. The Project is expressive in design and relates well to the mixed scale

and form of the surrounding neighborhood. For these reasons, the Project would preserve the diversity of the neighborhood.

C. That the City's supply of affordable housing be preserved and enhanced,

The Project does not currently possess any existing affordable housing. The Project will comply with the City's Inclusionary Housing Program by providing three on-site affordable units for sale to low-income households. Therefore, the Project will increase the stock of affordable housing units in the City.

D. That commuter traffic does not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project Site is served by nearby public transportation options. The Project is located along a Muni bus line (1- California) and is within one block of Fillmore Street and the 22-Fillmore Street bus route. Future residents would be afforded proximity to a bus line. The Project also provides off-street parking at the principally permitted amounts and sufficient bicycle parking for residents and their guests.

E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project does not include commercial office development and will not affect industrial or service centers.

F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project will be designed and constructed to conform to the structural and seismic safety requirements of the Building Code. As such, this Project will improve the property's ability to withstand an earthquake.

G. That landmarks and historic buildings be preserved.

The Project Site will, on balance, preserve the historic character defining features of the building's ornamental exteriors and maintain the overall monumental form, massing, and siting of the building.

H. That our parks and open space and their access to sunlight and vistas be protected from development.

The proposed project's building would be approximately 68' in height for the Webster addition and 77'-6" in height for the Sacramento addition. As described in the preliminary shadow fan study prepared for the environmental review, the proposed project would not cast new shadows on publicly accessible open spaces.

12. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Administrative Code Section 83.11), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

    The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

13. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

14. The Commission hereby finds that approval of the Conditional Use Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Authorization Application No. 2015-000123CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 2, 2023, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The proposed project is consistent with the development density established by the San Francisco Housing Element 2022 Update and was encompassed within the analysis contained in the EIR. Applicable mitigation measures from the EIR were identified in the General Plan Evaluation prepared for the project and provided in the project-specific Mitigation Monitoring and Reporting Program (MMRP). The Planning Commission hereby finds that feasible mitigation measures from the PEIR will be undertaken as part of the project and adopts the MMRP as a condition of project approval included hereto as Exhibit C.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on November 9, 2023.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

RECUSED:

ADOPTED: November 9, 2023

EXHIBIT A

Authorization

This authorization is for a conditional use to allow a residential development located at 2395 Sacramento Street, Block 0637, and Lots 015 and 016 pursuant to Planning Code Section(s) 206.6, 253, and 303 within the Residential-Mixed, Low Density District and a 40-X Height and Bulk District; in general conformance with plans, dated October 2, 2023, and stamped "EXHIBIT B" included in the docket for Record No. 2022-004172CUA and subject to conditions of approval reviewed and approved by the Commission on November 9, 2023 under Motion No XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

Recordation of Conditions Of Approval

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on November 9, 2023 under Motion No XXXXXX.

Printing of Conditions of Approval on Plans

The conditions of approval under the 'Exhibit A' and the 'Exhibit C' of this Planning Commission Motion No. XXXXXX shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

Severability

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

Changes and Modifications

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

CONDITIONS OF APPROVAL, COMPLIANCE, MONITORING, AND REPORTING

Performance

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463,

www.sfplanning.org

6. **Mitigation Measures.** Feasible mitigation measures from the programmatic EIR for the Housing Element 2022 Update where the project site is located that are applicable to the project will be undertaken. These mitigation measures are necessary to avoid potential significant effects of the proposed project and are described in the project-specific MMRP attached as Exhibit C. The measures have been agreed to by the project sponsor. Their implementation are conditions of project approval.

   For information about compliance, contact Code Enforcement, Planning Department at 628-652-7463, www.sf-planning.org

Design – Compliance at Plan Stage

7. Final Materials. The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

   For information about compliance, contact the Case Planner, Planning Department at 628.652.7352, www.sfplanning.org

8. **Garbage, Composting and Recycling Storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

   For information about compliance, contact the Case Planner, Planning Department at 628.652.7352, www.sfplanning.org

9. **Laundry Facilities.** The Project Sponsor shall provide sufficient on-site laundering access for residential occupants through on-site communal laundry facilities, individual in-unit laundry hook-ups, or some combination thereof.

   For information about compliance, contact the Case Planner, Planning Department at 628.652.7352, www.sfplanning.org

10. Rooftop Mechanical Equipment. Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7352,

www.sfplanning.org

11. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the building / site permit application.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7352, www.sfplanning.org.

12. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

13. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7352, www.sfplanning.org

14. **Transformer Vault Location.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Any required transformer vault shall adhere to the Memorandum of Understanding regarding Electrical Transformer Locations for Private Development Projects between Public Works and the Planning Department dated January 2, 2019.

    For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 628.271.2000, www.sfpublicworks.org

Parking and Traffic

15. **Transportation Demand Management (TDM) Program.** Pursuant to Planning Code Section 169, the Project shall finalize a TDM Plan prior to the issuance of the first Building Permit or Site Permit to construct the project and/or commence the approved uses. The Property Owner, and all successors, shall ensure ongoing compliance with the TDM Program for the life of the Project, which may include providing a TDM Coordinator,

providing access to City staff for site inspections, submitting appropriate documentation, paying application fees associated with required monitoring and reporting, and other actions.

Prior to the issuance of the first Building Permit or Site Permit, the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property to document compliance with the TDM Program. This Notice shall provide the finalized TDM Plan for the Project, including the relevant details associated with each TDM measure included in the Plan, as well as associated monitoring, reporting, and compliance requirements.

For information about compliance, contact the TDM Performance Manager at tdm@sfgov.org or 628.652.7340, www.sfplanning.org

16. **Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

17. **Bicycle Parking.** The Project shall provide no fewer than 24 Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.2.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

18. **Parking Maximum.** Pursuant to Planning Code Section 151 or 151.1, the Project shall provide no more than thirty-six (36) off-street parking spaces.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

19. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

Provisions

20. **Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7352, www.sfplanning.org

21. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

    For information about compliance, contact the First Source Hiring Manager at 415.581.2335, www.onestopSF.org

22. **Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7352, www.sfplanning.org

23. **Residential Child Care Impact Fee.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7352, www.sfplanning.org

24. **Inclusionary Affordable Housing Program.**

The following Inclusionary Affordable Housing Requirements are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of the Site Permit.

For information about compliance on any of the Conditions noted below, contact the Planning Department at 628-652-7600 or at www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, or at www.sfmohcd.org.

1. State Density Bonus Regulatory Agreement. Recipients of development bonuses under Section 206.6 shall enter into a Regulatory Agreement with the City, as follows.
    A. The terms of the agreement shall be acceptable in form and content to the Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director shall have the authority to execute such agreements.

B. Following execution of the agreement by all parties, the completed Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and recorded on the Project.

C. The approval and recordation of the Regulatory Agreement shall take place prior to the issuance of the First Construction Document. The Regulatory Agreement shall be binding to all future owners and successors in interest.

D. The Regulatory Agreement shall be consistent with the guidelines of the City's Inclusionary Housing Program and shall include at a minimum the following:

i. The total number of dwelling units approved for the Project, including the number of restricted affordable units;

ii. A description of the household income group to be accommodated by the, and the standards for determining the corresponding Affordable Sales Price. If required by the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"), the project sponsor must commit to completing a market survey of the area before marketing restricted affordable units;

iii. The location, dwelling unit sizes (in square feet), and number of bedrooms of the /restricted affordable units;

iv. Term of use restrictions for the life of the project;

v. A schedule for completion and occupancy of restricted affordable units;

vi. A description of any Concession, Incentive, waiver, or modification, if any, being provided by the City;

vii. A description of remedies for breach of the agreement (the City may identify tenants or qualified purchasers as third party beneficiaries under the agreement); and

viii. Other provisions to ensure implementation and compliance with Section 206.6.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9087, www.sf-planning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

25. Number of Affordable Units in a State Density Bonus Project. The Project Sponsor has elected the Combination Alternative pursuant to Planning Code Section 415.5. The applicable on-site rate is 14.5% and the Affordable Housing Fee rate is 20%. The Sponsor has satisfied 75% of the Inclusionary Obligation by providing three (3) Affordable Units on-site, which represents 14.5% of the 19-unit base project. If the number of market-rate units change, the number of required Affordable Units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD"). The Sponsor will satisfy the remaining 25% of the Inclusionary Obligation through payment of the Affordable Housing Fee. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.

26. Unit Mix. The Project contains 1 one-bedroom, 10 two-bedroom, 9 three-bedroom units, and 4 four-bedrooms;

therefore, the required affordable unit mix is 1 two-bedroom, 1 three-bedroom, and 1 four-bedroom units. If the overall unit mix of the Project changes, the affordable unit mix will be modified accordingly with written approval from the Planning Department in consultation with MOHCD.

27. Unit Tenure. The project is an Ownership Housing Project as defined in Section 415.2. If the Project changes from an Ownership Housing Project to a Rental Housing Project shall require Planning Commission approval pursuant to Planning Code Section 415.5(g)(5). Conversion from an Owned Unit to a Rental Unit shall follow the procedures set forth in the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual").

28. Income Levels for Affordable Units. Pursuant to Planning Code Section 415.3, the Project is required to provide 14.5% of the proposed dwelling units as affordable to qualifying households at a price of 80% of Area Median Income ("AMI"), as published by MOHCD and that is adjusted for household size.

The Affordable Units that satisfy both the Density Bonus Law and the Inclusionary Affordable Housing Program shall be sold to lower-income households, as defined as households earning 80% of AMI in the California Health and Safety Code Section 50105 and/or California Government Code Sections 65915-65918, the State Density Bonus Law. The income table used to determine the price and income levels for the Density Bonus units shall be the table required by the State Density Bonus Law. If the resultant sales prices or income levels at 80% of AMI under the table required by the State Density Bonus Law are higher than the sales prices or income levels at 80% of AMI under the Inclusionary Affordable Housing Program, the sales prices and income levels shall default to the maximum allowable sales prices or income levels for Affordable Units under the Inclusionary Affordable Housing Program. After such Density Bonus Law units have been sold for a term of 55 years, the subsequent sales prices and income levels of such units may be adjusted to (80) percent of Area Median Income under the Inclusionary Affordable Housing Program, using income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco," and shall remain affordable for the remainder of the life of the Project. The initial and subsequent resale prices of such units shall be calculated according to the Procedures Manual. The remaining units being offered for sale shall be sold to qualifying first-time homebuyer households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed eighty (80) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco." The initial and subsequent resale prices of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.

29. Minimum Unit Sizes. Pursuant to Planning Code Section 415.6(f)(2), the Affordable Units shall meet the minimum unit sizes standards established by the California Tax Credit Allocation Committee (TCAC) as of May 16, 2017. One-bedroom units must be at least 450 square feet, two-bedroom units must be at least 700 square feet, and three-bedroom units must be at least 900 square feet. Studio units must be at least 300 square feet pursuant to Planning Code Section 415.6(f)(2). The total residential floor area devoted to the Affordable Units shall not be less than the applicable percentage applied to the total residential floor area of the overall project, provided that a 10% variation in floor area is permitted.

30. Notice of Special Restrictions. Prior to the issuance of the architectural addendum or twelve months prior to the first certificate of occupancy, whichever is earlier, the Project Sponsor shall record a Notice of Special Restrictions on the property that contains these conditions of approval and a reduced set of plans that identify the Affordable Units satisfying the requirements of this approval. The Project Sponsor shall comply with Zoning Administrator Bulletin No. 10 or any other affordable housing designation standards published by the Planning Department and updated periodically. The Project Sponsor shall provide a copy of the recorded Notice of Special Restrictions to the Planning Department and MOHCD or its successor prior to the issuance of the architectural addendum. If a Project does not anticipate an architectural addendum, then the Notice of Special Restrictions shall be recorded prior to the issuance of the Building Permit. Following the designation of Affordable Units, changes to the overall residential square footage or to any unit within the Project require written approval from the Planning Department in consultation with MOHCD who will determine if the changes are consistent with Zoning Administrator Bulletin No. 10.

31. Construction Timeline. Prior to the issuance of the Site Permit, the Project Sponsor shall submit an estimated construction timeline to the Department in accordance with Section 415.6(g).

32. Phasing. If any building permit is issued for partial phasing of the Project, the Project shall have designated not less than 14.5 percent (14.5%) of each phase's total number of dwelling units as on-site Affordable Units.

33. Duration. Under Planning Code Section 415.8, all units are constructed pursuant to Section 415.6, and therefore must remain Affordable to Qualifying Households for the life of the project.

34. Expiration of the Inclusionary Rate. Pursuant to Planning Code Section 415.6(a)(10), if the Project has not obtained a site or building permit within 30 months of Planning Commission Approval of this Motion No. XXXXX, then it is subject to the Inclusionary Affordable Housing Requirements in effect at the time of site or building permit issuance.

35. Modification of Elected Alternative. Pursuant to Planning Code Section 415.5(g)(3), any proposed change from the on-site alternative to another alternative, including the Affordable Housing Fee, requires public notice for hearing and approval from the Planning Commission to amend these Conditions of Approval.

1. 20% below market prices. Pursuant to Planning Code Section 415.6, the maximum affordable sales price shall be no higher than 20% below market prices for the neighborhood within which the project is located. MOHCD shall adjust the allowable sale prices, and the eligible households for such units, accordingly.

2. Procedures Manual. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Planning Code Section 415 et seq. and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"), as amended from time to time. The Procedures Manual is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or MOHCD websites, including on the internet at: https://sfmohcd.org/inclusionary-housing-program-manuals

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for initial sale and resale.

a) Comparability. The affordable unit(s) shall (1) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (2) be evenly distributed throughout the building floor plates; (3) be of comparable overall quality, construction, and exterior appearance as the market rate units in the project; and (4) be maintained in the same manner as the market units. The interior features in Affordable Units should be generally the same as those of the market units in the project, but need not be the same make, model, or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in Zoning Administrator Bulletin No. 10 and the Procedures Manual. Any material changes to an affordable unit following recordation of the Notice of Special Restrictions (referenced in Section 8) requires written approval from the Planning Department in consultation with MOHCD.

b) Tenure. The project is an Ownership Housing Project. Therefore, the affordable unit(s) shall be sold to low-income households, as defined in the Planning Code and Procedures Manual. The initial and subsequent sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.

c) Marketing. The Project Sponsor is responsible for following the marketing requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of Affordable Units. The Project Sponsor shall submit a request for pricing determination from MOHCD at least eight months prior to first certificate of occupancy.

d) Parking. The 26 total number of parking spaces offered to residential buyers in the Project shall be made available to buyers of Affordable Units according to the Procedures Manual.

3. Compliance. If the Project fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of the Project's compliance. The Planning Department, MOHCD and City Attorney's Office may also enforce against violations of the Inclusionary Affordable Housing program. A Project's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the Project and to pursue any and all available remedies at law, including penalties and interest, if applicable.

36. Affordable Housing Fee Requirement. Pursuant to Planning Code Section 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is twenty percent (20%). The Project Sponsor shall pay the applicable Affordable Housing Fee at the time such Fee is required to be paid.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600,

www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

37. Other Conditions. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing and Community Development ("MOHCD") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing and Community Development's websites, including on the internet at: http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.

For information about compliance, contact the Case Planner, Planning Department at (628) 652-7600, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.

b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

c. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law, including interest and penalties, if applicable.

Monitoring - After Entitlement

38. Enforcement. Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463,

www.sfplanning.org

39. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 350 and work with the Planning Department for information about compliance.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

Revocation due to Violation of Conditions. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

Operation

40. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator and registered neighborhood groups shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

EXHIBIT B

December 4, 2023

San Francisco Board of Supervisors
Angela Calvillo, Clerk of the Board
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
bos.legislation@sfgov.org

Dear Board of Supervisors:

I, Jonathan Clark, 548 Market Street #40123, San Francisco, CA 94104, hereby grant written authorization to the law firm of Lozeau Drury LLP, to file an appeal of the San Francisco Planning Commission's approval of the Planning Department's exemption from the California Environmental Quality Act ("CEQA"), and Conditional Use Authorization for a proposed project at 2395 Sacramento Street ("Project"), which was considered by the Planning Commission on November 9, 2023 (Record No.: 2022-004172CUA; Block 0637, Lot 16; and Block 0637, Lot 15).

Thank you,

Jonathan Clark

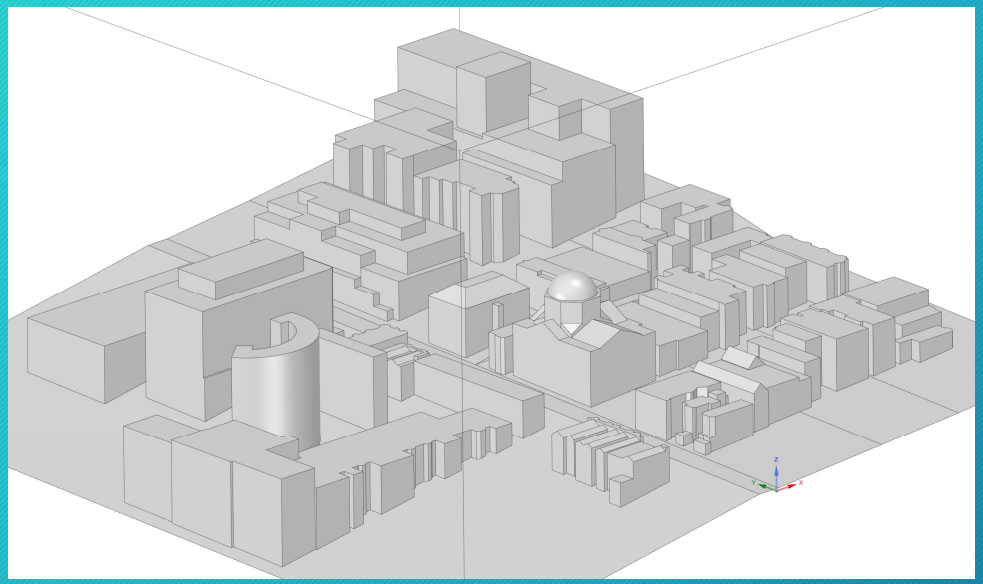
EXHIBIT C

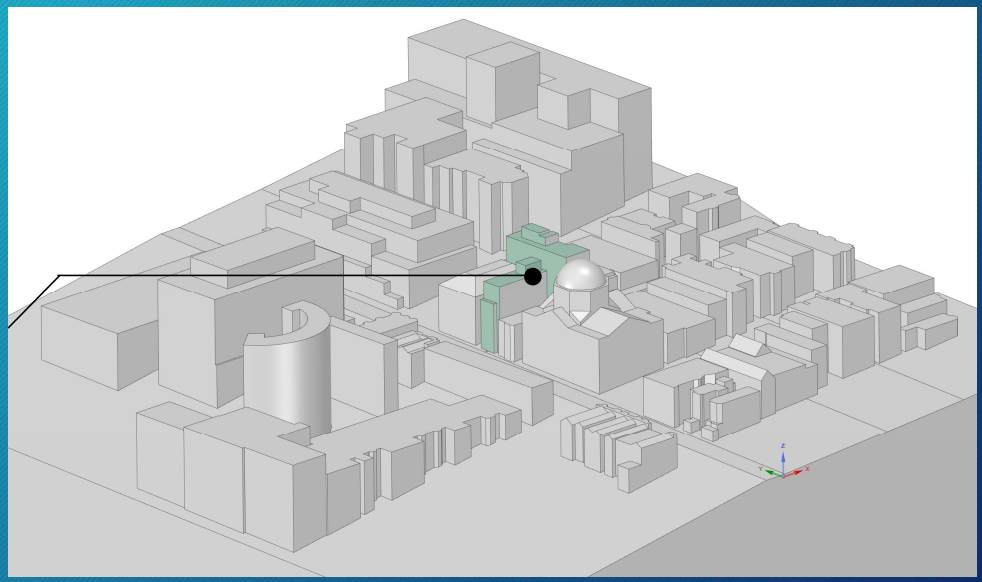
CFD Analysis - Wind condition comparison

Assesment on environmental impact on wind currents of a new building in the surroundings of 2020 Webster St

Geometry

The following geometry, recreating the surrounding buildings of the area of study is modelled





Base geometries for the CFD Analysis. Left: Base scenario.
Right: After new building construction

Boundary conditions

The boundary conditions of the problem are presented below, based on the maximum wind speed data on the San Francisco International Airport wind speeds at 5-25-2022:

1. '*Velocity-inlet*'. A logarithmic wind profile from 0mph at z=0m to 24.3mph at 2.5m height.
    - Wind directions:
        a. S->N along Webster St.
        b. N->S along Webster St.
        c. E->W along Sacramento St.
        d. W->E along Sacramento St.

2. '*Pressure-outlet*'. Applied to the other end of the domain to let the air escape the simulation.

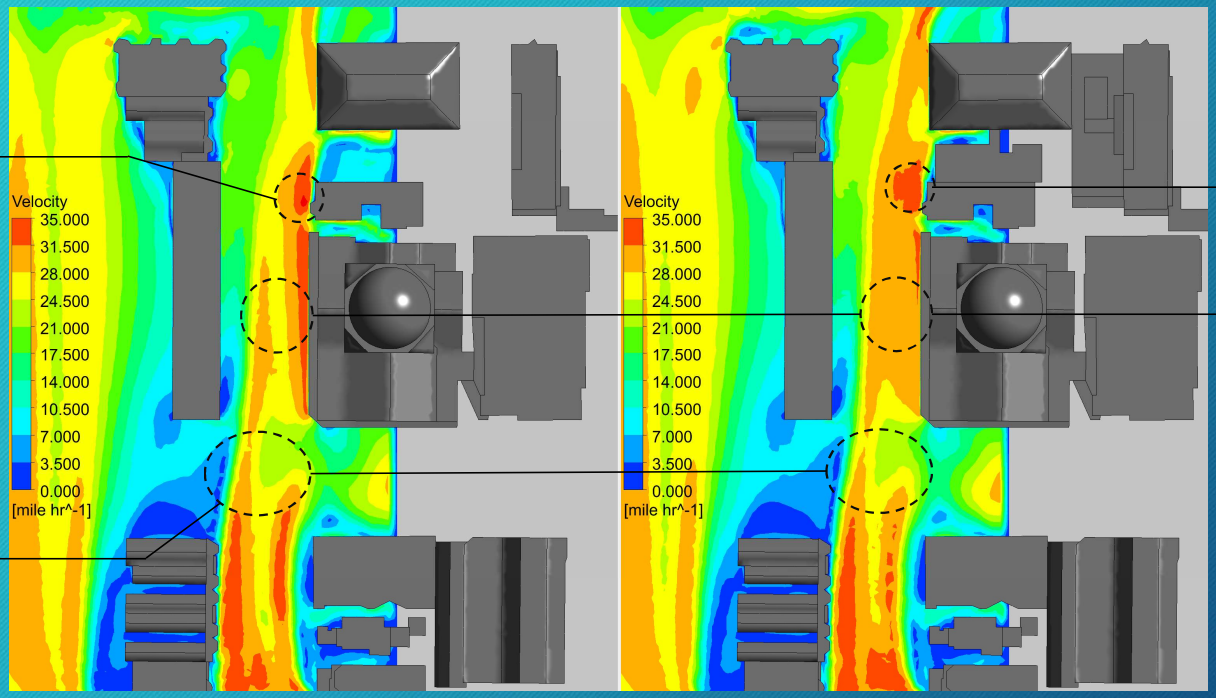
3. 'Wall'. The wall boundary condition is applied to both terrain and buildings, assuming a terrain roughness of z=0.01m.

Result comparison - Wind velocity S->N

The wind velocity is extracted at 2.5m height from the terrain, where the measurements from the installed anemometer were taken.

Peak velocity of 34.65mph on Webster Street is measured where the anemometer was installed, validating the results of this simulation.

Wind velocity is reduced at the intersection of the streets in both results.



Velocity results comparison. Wind direction S->N - Left: Base scenario. Right: After new building construction

Wind velocity peak is reduced locally to 34.15mph with after the construction of the new building, which was expected, as it 'blocks' the wind from entering through the narrow passage between the library and the 2018 building.

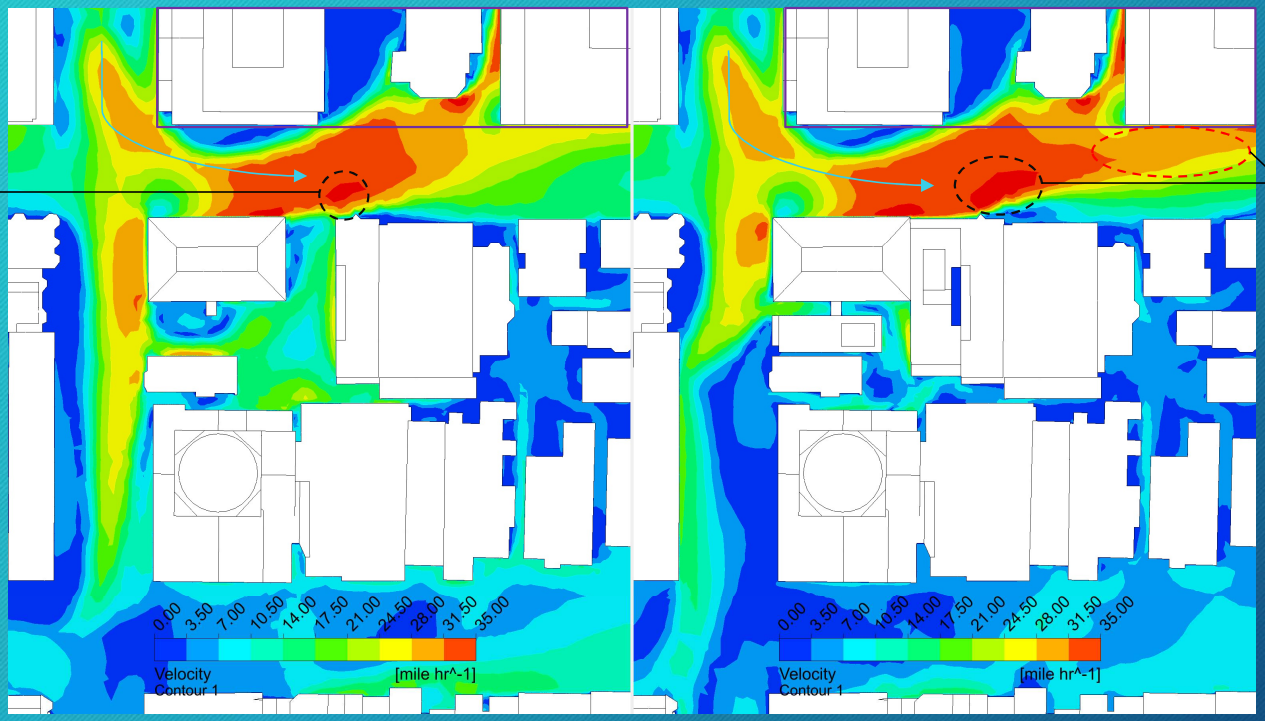
However, the effect of the taller building blocks part of the wind which was escaping upwards, increasing the mean velocity of the wind though Webster Street at its center up to 6.5% (29.09mph vs 27.35mph), which increases drastically the wind suffered and felt by pedestrians.

Wind direction

Result comparison - Wind velocity N->S

The wind velocity is extracted at 2.5m height from the terrain.

Peak velocity of 35mph on Sacramento St. This flow reorientation is visible on both simulations, where the flow follows the marked blue arrow due to the shadowing effect of the buildings situated north.



Velocity results comparison. Wind direction N->S - Left: Base scenario. Right: After new building construction

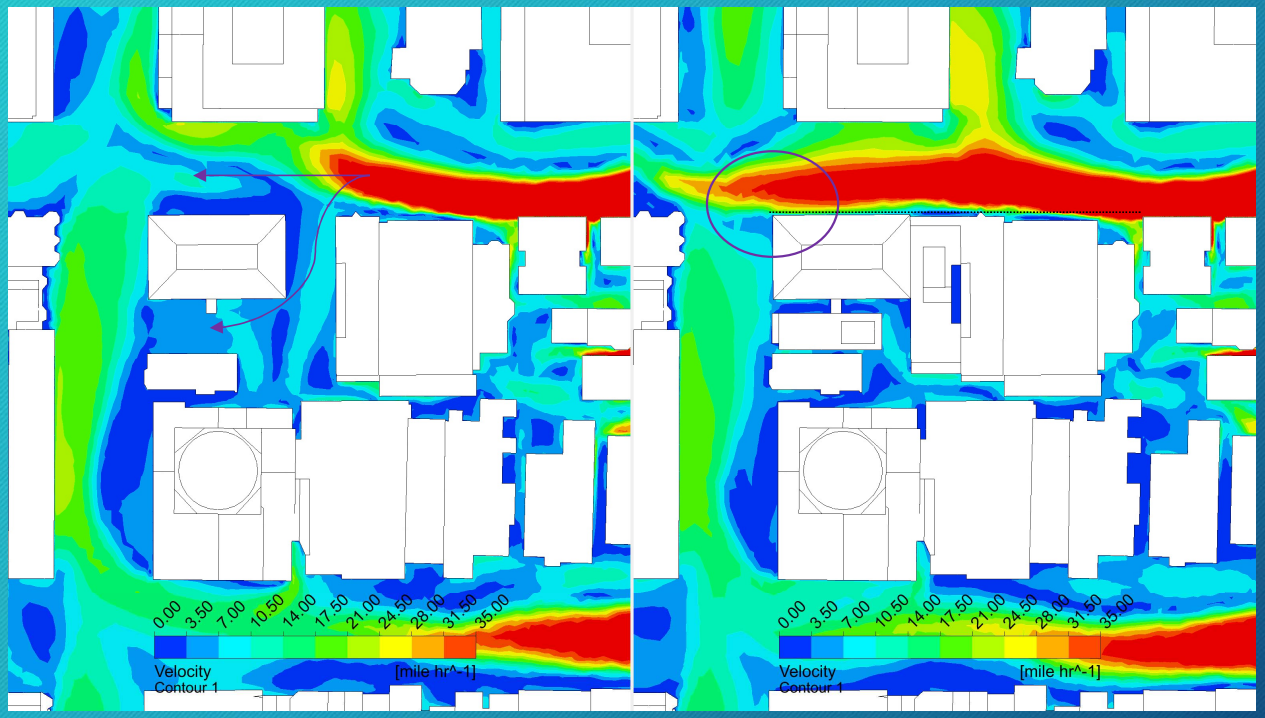
The maximum velocity area is slightly wider after the new building construction, so is the affection of moderate-high wind speeds (28-31.5mph) along Sacramento St, marked with the red dashed circle.

Wind direction

Result comparison - Wind velocity E->W

The wind velocity is extracted at 2.5m height from the terrain.

Sacramento St, with greater slopes than California St, suffer the higher wind speeds on both simulations. The isolated library in the base scenario redistributes the flow around it, dissipating the flow velocities, shown with the purple arrows



Velocity results comparison. Wind direction E->W - Left: Base scenario. Right: After new building construction

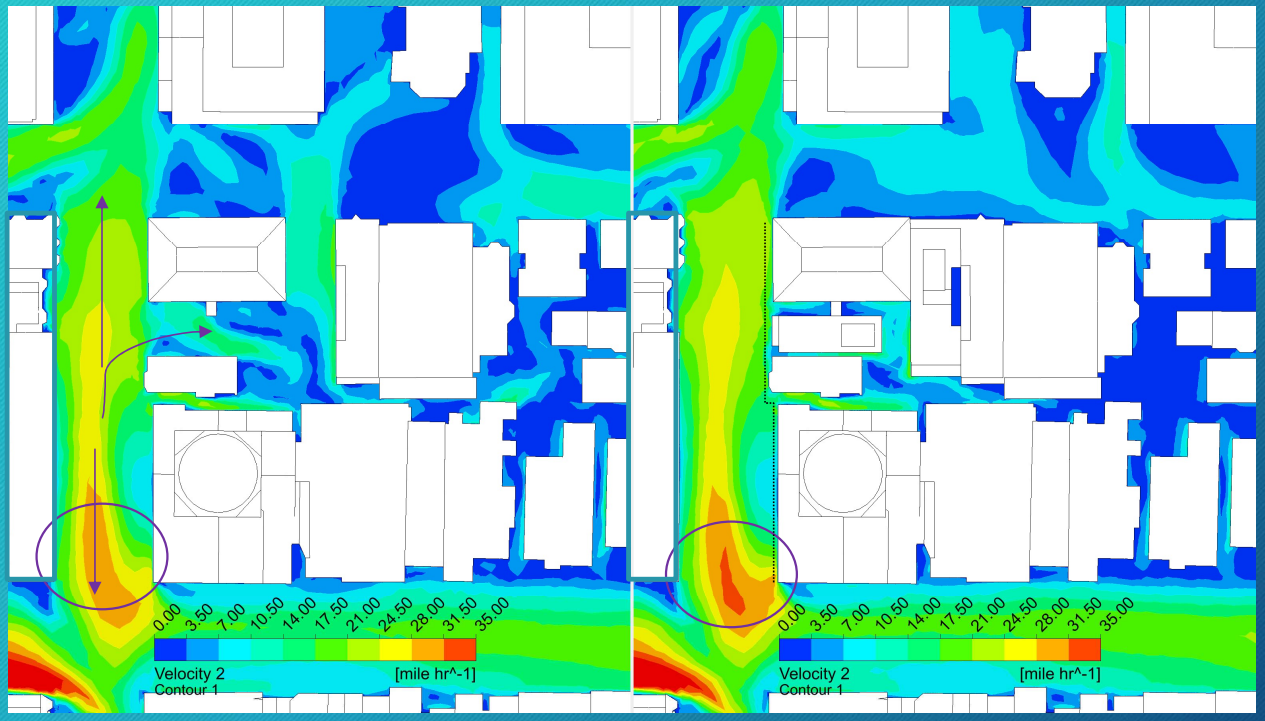
On the contrary, when the new building is constructed, due to the height and positioning, the library is no longer an isolated element, not allowing the flow to dissipate energy. This increases drastically the wind speed at the intersection of Webster St-Sacramento St.

Wind direction

Result comparison - Wind velocity W->E

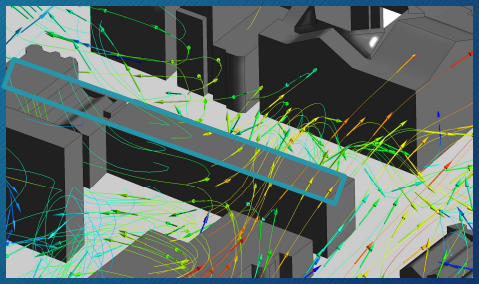
The wind velocity is extracted at 2.5m height from the terrain.

The air flow in the W->E direction simulation show similar behavior on both scenarios. The higher velocities come from California St. The west flow surpasses the building situated west (blue rectangle), generating a turbulence vortex (see image to the right) and distributing the flow north and south along Webster St. As the low altitude flow continues through Webster St, the north flow converges with the Sacramento St flow at the intersection, and the south flow converges with California St, generating a velocity peak.



Velocity results comparison. Wind direction W->E - Left: Base scenario. Right: After new building construction

Similarly to the E->W case, the flow in the base simulation allows redistribution around the library (purple arrows), on the contrary, when the new building is constructed it does not allow the flow to dissipate energy. This increases from 10% up to 25% the wind speed at California St - Webster St at low altitude.



3D vortex generated from the flow passing over the west building on Webster St.

Wind direction

Conclusions

From the results extracted from the simulation, the following conclusions can be deduced:

South to North wind direction:

1. The measurements at 2.5m height at the installed anemometer do reflect the reality of the pedestrian height wind condition, with the simulation starting at 24.3mph, there are peaks of velocities at this exact location of 34.65mph (real velocity measured of 34.33mph), validating the results of the CFD simulation conducted and the conclusions hereafter.

2. The maximum peak velocity obtained near the new building is reduced locally to 34.15mph with after the construction of the new building, which was expected, as it 'blocks' the wind from entering through the narrow passage between the library and the 2018 building. However, the effect of the taller building blocks part of the wind which was escaping upwards, increasing the mean velocity of the wind though Webster Street at its center up to 6.5% (29.09mph vs 27.35mph), which increases drastically the wind suffered by pedestrians.

3. The flow streamlines have been generated from the same points for both simulations. The previously mentioned increase in height of the new building in Webster Street is inducing a channeling effect. The air, previously escaping through the passage and the rooftop of the library, now encounters the new building façade, not allowing the same energy loss as before, present in the increase in mean velocity at the center of the street.

Conclusions

North to South wind direction:

1. Peak velocities of 35mph are found on Sacramento St. This flow reorientation is visible on both simulations, where the flow follows the marked blue arrow due to the shadowing effect of the buildings situated North.

2. The maximum velocity zone (>31.5mph) is slightly wider after the new building construction, so is the affection of moderate-high wind speeds (28-31.5mph) along Sacramento St, marked with the red dashed circle.

East to West wind direction:

1. Sacramento St, with greater slopes than California St, suffer the higher wind speeds on both simulations. The isolated library in the base scenario redistributes the flow around it, dissipating the flow velocities.

2. On the contrary, when the new building is constructed, due to the height and positioning, the library is no longer an isolated element, not allowing the flow to dissipate energy. This increases drastically the wind speed at the intersection of Webster St-Sacramento St.

West to East wind direction:

1. The air flow in the W->E direction simulation show similar behavior on both scenarios. The higher velocities come from California St. The west flow surpasses the building situated west, generating a turbulence vortex and distributing the flow north and south along Webster St. As the low altitude flow continues through Webster St, the north flow converges with the Sacramento St flow at the intersection, and the south flow converges with California St, generating a velocity peak.

2. Similarly to the E->W case, the flow in the base simulation allows redistribution around the library, on the contrary, when the new building is constructed, the library is no longer an isolated element, not allowing the flow to dissipate energy. This increases from 10% up to 25% the wind speed at California St - Webster St at low altitude.

EXHIBIT D

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Kei Zushi
San Francisco Planning
City of San Francisco
49 South Van Ness Ave., Suite 1400
San Francisco, CA 94103

7 December 2023

RE: 2395 Sacramento Street

Dear Mr. Zushi,

I write to comment on potential impacts to biological resources that would result from the proposed CEQA Exemption to the proposed 78- and 88-foot-tall building additions on 0.35 acres, and which is addressed in the General Plan Evaluation for Case Number 2022-004172ENV, 2395 Sacramento Street ("exemption analysis"). The project site provides wildlife habitat and migration stopover, and is part of a travel route for birds. I am concerned that the project would cause unmitigated, significant impacts to wildlife through habitat loss and bird-window collision mortality.

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and Raptor Research Foundation, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

SITE VISIT

I visited the site of the proposed project for 2.53 hours from 14:10 to 16:42 hours on 21 November 2023. I surveyed the site from the rooftop of an adjacent building with use of binoculars. I recorded all species of vertebrate wildlife I detected, including those whose members flew over the site or were seen nearby, off the site. Animals of uncertain species identity were recorded to the Genus or higher taxonomic level. Conditions were clear to partly cloudy with no wind and mild temperature. The site was covered by shrubs and ornamental trees on one lot and paved on the other lot (Photo 1).

I detected 13 species of vertebrate wildlife at or adjacent to the project site, including 1 species with special status (Table 1). I saw western gulls (Photo 2), Townsend's warbler

(Photo 3), Say's phoebe and common ravens (Photos 4 and 5) and hermit thrushes (Photo 6), among other species. Most of the species I saw also flew through the airspace that would be taken by the building additions.

Photo 1. *Partial view of one of the lots of the project viewed from an adjacent rooftop, 21 November 2023.*

Table 1. *Species of wildlife I observed during 2.53 hours of survey on 21 November 2023.*

Common name	***Species name***	**Status**[1]	**Notes**
Rock pigeon	*Columba livia*	Non-native	
Anna's hummingbird	*Calypte anna*		Territory defense
Western gull	*Larus occidentalis*	BCC	Overflights
Red-masked parakeet	*Psittacara erythrogenys*	Non-native	Flock
Black phoebe	*Sayornis nigricans*		Foraging
Say's phoebe	*Sayornis saya*		Likely stopover
American crow	*Corvus brachyrhynchos*		
Common raven	*Corvus corax*		
Hermit thrush	*Catharus guttatus*		Two
American robin	*Turdus migratorius*		
House finch	*Haemorphous mexicanus*		Four
White-crowned sparrow	*Zonotrichia leucophrys*		Several
Townsend's warbler	*Setophaga townsendi*		Foraging

[1] Listed as BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern.

Photo 2. *One of numerous western gulls that flew right through the airspace that would be taken by the building additions of the project site, 21 November 2023. Western gull is a US Fish and Wildlife Service Bird of Conservation Concern. The gulls generally flew across the site from the east-southeast toward the west-northwest, usually as singles or small groups.*

Photo 3. *Townsend's warbler on the project site, 21 November 2023.*

Photos 4 and 5. *Say's phoebe (L) and common raven (R) on or next to the project site, 21 November 2023.*

Photo 6. *Hermit thrush on the project site, 21 November 2023.*

I fit a nonlinear regression model to the cumulative number of vertebrate species I detected with time into my survey to predict the number of species that I would have detected with a longer survey or perhaps with additional biologists available to assist me. The model is a logistic growth model which reaches an asymptote that corresponds with the maximum number of vertebrate wildlife species that likely would have been detected during a longer survey. In this case, the model predicts 16 species of vertebrate wildlife were available to be detected (Figure 1). Given that I detected 13 species, the model prediction suggests that I failed to detect three species that were likely available to be detected. Likely due to the constrained survey area, the rate of species detections dropped below the lower bound of a 95% confidence interval estimated from other

surveys I have completed at sites in the San Francisco Bay Area (Figure 1). Nevertheless, the site clearly supported more species than those I detected, even during my survey.

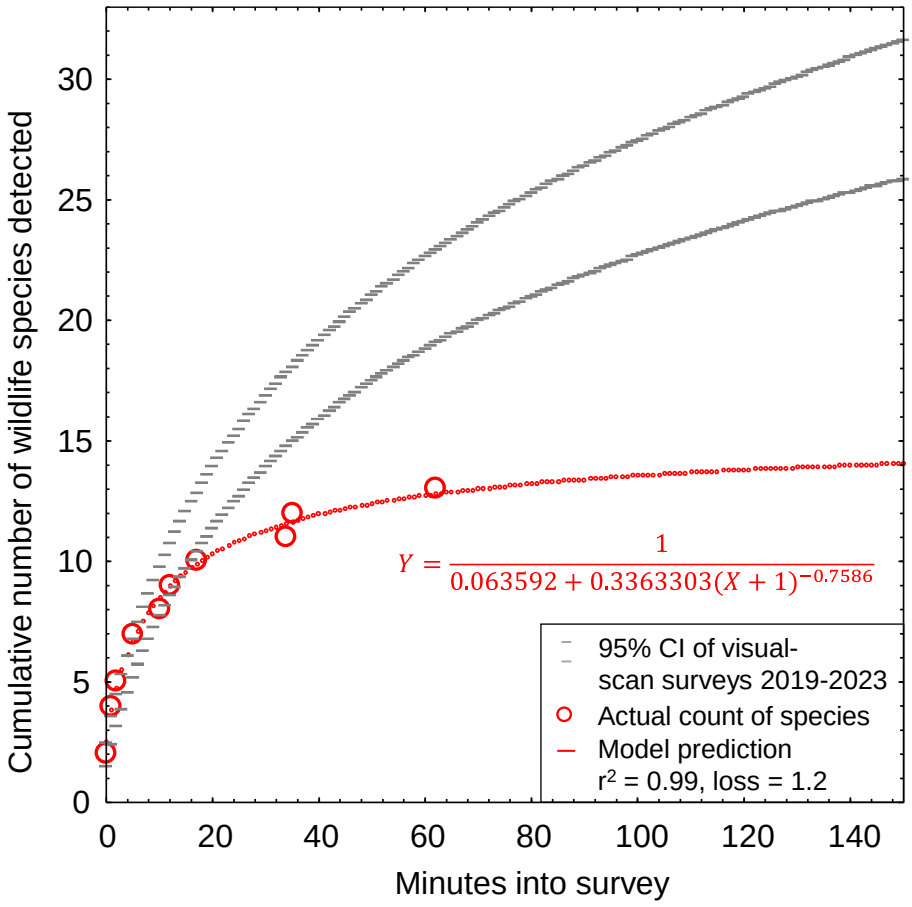


Figure 1. *Actual and predicted relationships between the number of vertebrate wildlife species detected and the elapsed survey time based on my visual-scan survey on 21 November 2023. Note that the relationship would differ if the survey was based on another method or during another season.*

I do not know the identities of the three species that the model indicates I missed at the project site. Importantly, however, the species I did and did not detect on 21 November composed only a fraction of the species that would occur at the project site over a year or longer. This is because many species are seasonal in their occurrence. The occurrence of the Say's phoebe, which is a species adapted to expansive grasslands and savannahs, is indicative of the site's importance to species in need of stopover opportunities during migration. At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have data from my one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1

hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/a+b\times(Hours)^c}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2, of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I detected 11.3 species over the first 2.53 hours of surveys at my research site in the Altamont Pass (2.53 hours to match the 2.53 hours surveyed at the project site), which composed 20% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 13 species I detected after 2.53 hours of survey at the project site likely represented 20% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, I would likely detect $13/0.2 = 65$ species of vertebrate wildlife at the site. Assuming my ratio of special-status to non-special-status species was to hold through the detections of all 65 predicted species, then continued surveys would eventually detect 5 special-status species of vertebrate wildlife.

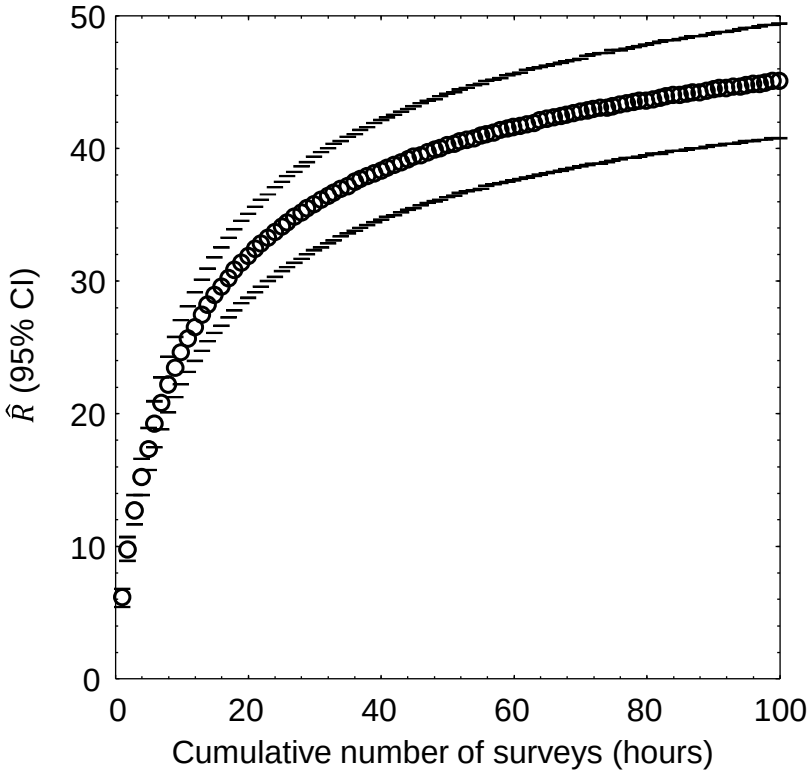


Figure 2. *Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.*

Because my prediction of 65 species of vertebrate wildlife, including 5 special-status species of vertebrate wildlife, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. My reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than my one survey to inventory use of the project site by wildlife. Nevertheless, the large number of species I predict at the project site is indicative of a species-rich wildlife community that warrants a serious survey effort; I suggest that that majority of this wildlife community consists of birds, and these birds would be vulnerable habitat loss and bird-window collision mortality should the project go forward as planned.

Considering the number of species of wildlife I detected during a brief reconnaissance survey, and considering the number remaining to be detected by a more rigorous survey effort, as inferred from the pattern in my data, and considering the presence of special-status species of wildlife on and adjacent to the project site, it is my opinion that the site provides considerable habitat value to wildlife, and that the City has failed to complete the surveys that would be needed to characterize this value. At least a fair argument can be made for the need to prepare an EIR to appropriately characterize the existing environmental setting based on a suitable survey effort and more careful interpretation of survey results.

EXISTING ENVIRNMENTAL SETTING

The first step in analysis of potential project impacts to biological resources is to accurately characterize the existing environmental setting, including the biological species that use the site, their relative abundances, how they use the site, key ecological relationships, and known and ongoing threats to those species with special status. A reasonably accurate characterization of the environmental setting can provide the basis for determining whether the site holds habitat value to wildlife, as well as a baseline against which to analyze potential project impacts. For these reasons, characterization of the environmental setting, including the project site's regional setting, is one of CEQA's essential analytical steps. Methods to achieve this first step typically include (1) surveys of the site for biological resources, and (2) reviews of literature, databases and local experts for documented occurrences of special-status species. In the case of the proposed project, these needed steps were inadequate.

Environmental Setting informed by Field Surveys

To CEQA's primary objective to disclose potential environmental impacts of a proposed project, the analysis should be informed of which biological species are known to occur at the proposed project site, which special-status species are likely to occur, as well as the limitations of the survey effort directed to the site. Analysts need this information to characterize the environmental setting as a basis for opining on, or predicting, potential project impacts to biological resources.

No surveys for wildlife were completed on the project site in support of the proposed exemption to CEQA review. Without having completed any surveys for wildlife on the project site, the City cannot possibly know whether or to what degree the project site provides wildlife habitat.

Environmental Setting informed by Desktop Review

The purpose of literature and database review and of consulting with local experts is to inform the reconnaissance survey, to augment interpretation of its outcome, and to help determine which protocol-level detection surveys should be implemented. Analysts need this information to identify which species are known to have occurred at or near the project site, and to identify which other special-status species could conceivably occur at the site due to geographic range overlap and site conditions. This step is important because a reconnaissance survey is not going to detect all of the species of wildlife that make use of the site over a period of a year or longer. This step can identity those species yet to be detected at the site but which have been documented to occur nearby or whose available habitat associations are consistent with site conditions. Some special-status species can be ruled out of further analysis, but only if compelling evidence is available in support of such determinations.

No desktop review was completed in support of the proposed exemption to CEQA review. Without having completed any sort of desktop review in support of an analysis of occurrence likelihoods of special-status species of wildlife on the project site, the City cannot possibly know whether or to what degree the project site might be important to special-status species of wildlife. The City appears to have assumed that wildlife do not occur on the project site. This assumption was incorrect.

In my assessment based on database reviews and a site visit, 110 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Of these 110 species, 1 was recorded on site, and another 64 (58%) species have been documented within 1.5 miles of the site ('Very close'), another 27 (25%) within 1.5 and 4 miles ('Nearby'), and another 12 (11%) within 4 to 30 miles ('In region'). The majority (84%) of the species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports at least one special-status species of wildlife and carries the potential for supporting many more special-status species of wildlife based on proximity of recorded occurrences. Furthermore, all of the 110 species listed in Table 2 are volant, meaning they rely on flight for mobility and could be vulnerable to interference with their movement should the tall building additions be constructed.

Considering the number of wildlife species that I detected on the project site (Table 1), which continues to support mature trees and shrubs, and considering the number of special-status species documented in the project area (Table 2) despite the approaching culmination of the process of habitat fragmentation in San Francisco, the proposed project represents an unusual circumstance site and is unique. There are no alternative patches of habitat for the site's wildlife to use for breeding, foraging or migration stop-over opportunities. The proposed CEQA exemption is inappropriate.

Table 2. *Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird/iNaturalist records (https://eBird.org, https://www.inaturalist.org) and on-site survey findings, where 'Very close' indicates within 1.5 miles of the site, "nearby" indicates within 1.5 and 4 miles, and "in region" indicates within 4 and 30 miles, and 'in range' means the species' geographic range overlaps the site.*

Common name	***Species name***	**Status[1]**	**Data base records, Site visit**
San Bruno elfin butterfly	*Callophrys mossii bayensis*	FE	Nearby
Monarch	*Danaus plexippus*	FC	Very close
Bay checkerspot butterfly	*Euphydryas editha bayensis*	FT	In region
Mission blue butterfly	*Icaricia icarioides missionensis*	FE	Nearby
Callippe silverspot butterfly	*Speyeria callippe callippe*	FE	Nearby
Crotch's bumble bee	*Bombus crotchii*	CCE	In region
Western bumble bee	*Bombus occidentalis*	CCE	In region
Brant	*Branta bernicla*	SSC2	Very close
Cackling goose (Aleutian)	*Branta hutchinsii leucopareia*	WL	Very close
Redhead	*Aythya americana*	SSC2	Very close
Harlequin duck	*Histrionicus histrionicus*	SSC2	Nearby
Barrow's goldeneye	*Bucephala islandica*	SSC	Nearby
Western grebe	*Aechmophorus occidentalis*	BCC	Very close
Clark's grebe	*Aechmophorus clarkii*	BCC	Very close
Black swift	*Cypseloides niger*	SSC3, BCC	Nearby
Vaux's swift	*Chaetura vauxi*	SSC2, BCC	Very close
Costa's hummingbird	*Calypte costae*	BCC	Very close
Rufous hummingbird	*Selasphorus rufus*	BCC	Very close
Allen's hummingbird	*Selasphorus sasin*	BCC	Very close
American avocet[2]	*Recurvirostra americana*	BCC	Very close
Snowy plover	*Charadrius nivosus*	BCC	Very close
Western snowy plover	*Charadrius nivosus nivosus*	FT, SSC, BCC	In region
Whimbrel[2]	*Numenius phaeopus*	BCC	Very close
Long-billed curlew	*Numenius americanus*	WL	Very close
Marbled godwit	*Limosa fedoa*	BCC	Very close
Red knot (Pacific)	*Calidris canutus*	BCC	Nearby
Short-billed dowitcher	*Limnodromus griseus*	BCC	Very close
Willet	*Tringa semipalmata*	BCC	Very close
Laughing gull	*Leucophaeus atricilla*	WL	Very close
Heermann's gull	*Larus heermanni*	BCC	Very close
Western gull	*Larus occidentalis*	BCC	On site
California gull	*Larus californicus*	BCC, WL	Very close
California least tern	*Sternula antillarum browni*	FE, CE, FP	Nearby
Black tern	*Chlidonias niger*	SSC2, BCC	Very close
Elegant tern	*Thalasseus elegans*	BCC, WL	Very close
Black skimmer	*Rynchops niger*	BCC, SSC3	Very close
Common loon	*Gavia immer*	SSC	Very close

Common name	***Species name***	**Status[1]**	**Data base records, Site visit**
Brandt's cormorant	*Urile penicillatus*	BCC	Very close
Double-crested cormorant	*Phalacrocorax auritus*	WL	Very close
American white pelican	*Pelacanus erythrorhynchos*	SSC1, BCC	Very close
California brown pelican	*Pelecanus occidentalis californicus*	FP	Very close
Least bittern	*Ixobrychus exilis*	SSC2	In region
White-faced ibis	*Plegadis chihi*	WL	Nearby
Turkey vulture	*Cathartes aura*	BOP	Very close
Osprey	*Pandion haliaetus*	WL, BOP	Very close
White-tailed kite	*Elanus luecurus*	CFP, BOP	Very close
Golden eagle	*Aquila chrysaetos*	BGEPA, CFP, BOP, WL	Very close
Northern harrier	*Circus cyaneus*	BCC, SSC3, BOP	Very close
Sharp-shinned hawk	*Accipiter striatus*	WL, BOP	Very close
Cooper's hawk	*Accipiter cooperii*	WL, BOP	Very close
Bald eagle	*Haliaeetus leucocephalus*	CE, BGEPA	Very close
Red-shouldered hawk	*Buteo lineatus*	BOP	Very close
Swainson's hawk	*Buteo swainsoni*	CT, BOP	Very close
Red-tailed hawk	*Buteo jamaicensis*	BOP	Very close
Ferruginous hawk	*Buteo regalis*	WL, BOP	Very close
Rough-legged hawk	*Buteo lagopus*	BOP	Nearby
Barn owl	*Tyto alba*	BOP	Very close
Western screech-owl	*Megascops kennicotti*	BOP	Nearby
Great horned owl	*Bubo virginianus*	BOP	Very close
Burrowing owl	*Athene cunicularia*	BCC, SSC2, BOP	Nearby
Long-eared owl	*Asio otus*	BCC, SSC3, BOP	In region
Short-eared owl	*Asia flammeus*	BCC, SSC3, BOP	Nearby
Lewis's woodpecker	*Melanerpes lewis*	BCC	Very close
Nuttall's woodpecker	*Picoides nuttallii*	BCC	Very close
American kestrel	*Falco sparverius*	BOP	Very close
Merlin	*Falco columbarius*	WL, BOP	Very close
Peregrine falcon	*Falco peregrinus*	BOP	Very close
Prairie falcon	*Falco mexicanus*	WL, BOP	Very close
Olive-sided flycatcher	*Contopus cooperi*	BCC, SSC2	Very close
Willow flycatcher	*Empidonax trailii*	CE	Very close
Vermilion flycatcher	*Pyrocephalus rubinus*	SSC2	Nearby
Loggerhead shrike	*Lanius ludovicianus*	SSC2	Nearby
Yellow-billed magpie	*Pica nuttalli*	BCC	Nearby
Oak titmouse	*Baeolophus inornatus*	BCC	Very close
California horned lark	*Eremophila alpestris actia*	WL	Very close
Bank swallow	*Riparia riparia*	CT	Nearby
Purple martin	*Progne subis*	SSC2	Very close

Common name	***Species name***	**Status[1]**	**Data base records, Site visit**
Wrentit	*Chamaea fasciata*	BCC	Very close
California thrasher	*Toxostoma redivivum*	BCC	Nearby
Cassin's finch	*Haemorhous cassinii*	BCC	Very close
Lawrence's goldfinch	*Spinus lawrencei*	BCC	Very close
Grasshopper sparrow	*Ammodramus savannarum*	SSC2	Very close
Black-chinned sparrow	*Spizella atrogularis*	BCC	In region
Gray-headed junco	*Junco hyemalis caniceps*	WL	In region
Bell's sparrow	*Amphispiza b. belli*	WL	Nearby
Yellow-breasted chat	*Icteria virens*	SSC3	Very close
Yellow-headed blackbird	*Xanthocephalus xanthocephalus*	SSC3	Very close
Bullock's oriole	*Icterus bullockii*	BCC	Very close
Tricolored blackbird	*Agelaius tricolor*	CT, BCC, SSC1	Very close
Lucy's warbler	*Leiothlypis luciae*	SSC3, BCC	Nearby
Virginia's warbler	*Leiothlypis virginiae*	WL, BCC	Very close
San Francisco common yellowthroat	*Geothlypis trichas sinuosa*	SSC3, BCC	In range
Yellow warbler	*Setophaga petechia*	SSC2	Very close
Summer tanager	*Piranga rubra*	SSC1	Very close
Pallid bat	*Antrozous pallidus*	SSC, WBWG:H	In region
Townsend's big-eared bat	*Corynorhinus townsendii*	SSC, WBWG:H	In region
Canyon bat	*Parastrellus hesperus*	WBWG:L	In region
Big brown bat	*Episticus fuscus*	WBWG:L	Nearby
Silver-haired bat	*Lasionycteris noctivagans*	WBWG:M	Nearby
Western red bat	*Lasiurus blossevillii*	SSC, WBWG:H	Nearby
Hoary bat	*Lasiurus cinereus*	WBWG:M	Nearby
Western small-footed myotis	*Myotis cililabrum*	WBWG:M	In range
Miller's myotis	*Myotis evotis*	WBWG:M	In range
Little brown myotis	*Myotis lucifugus*	WBWG:M	In region
Fringed myotis	*Myotis thysanodes*	WBWG:H	In range
Long-legged myotis	*Myotis volans*	WBWG:H	In range
Yuma myotis	*Myotis yumanensis*	WBWG:LM	Nearby
California myotis	*Myotis californicus*	WBWG:L	Nearby
Western mastiff bat	*Eumops perotis*	SSC, WBWG:H	In range
Mexican free-tailed bat	*Tadarida brasiliensis*	WBWG:L	Nearby

[1] Listed as FT or FE = federal threatened or endangered, FC = federal candidate for listing, BCC = U.S. Fish and Wildlife Service Bird of Conservation Concern, CT or CE = California threatened or endangered, CCT or CCE = Candidate California threatened or endangered, CFP = California Fully Protected (California Fish and Game Code 3511), SSC = California Species of Special Concern, SSC1, SSC2 and SSC3 = California Bird Species of Special Concern priorities 1, 2 and 3, respectively (Shuford and Gardali 2008), WL = Taxa to Watch List (Shuford and Gardali 2008), and BOP = Birds of Prey (CFG Code 3503.5), and WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H).

POTENTIAL BIOLOGICAL IMPACTS

An impacts analysis should consider whether and how a proposed project would affect members of a species, larger demographic units of the species, the whole of a species, and ecological communities. The accuracy of this analysis depends on an accurate characterization of the existing environmental setting. In the case of the proposed project, the existing environmental setting has not been accurately characterized, and several important types of potential project impacts have been entirely neglected. These types of impacts include habitat loss, interference with wildlife movement, and bird-window collision mortality.

HABITAT LOSS

Habitat loss results in a reduced productive capacity of affected wildlife species, but the exemption analysis makes no attempt to estimate this lost capacity for any of the wildlife species potentially affected. In the case of birds, there exist two ideal methods exist for estimating the loss of productive capacity that would be caused by the project. One method would involve surveys to count the number of bird nests and chicks produced. The alternative method would be to infer productive capacity from estimates of total nest density elsewhere.

Several studies have estimated total avian nest density at locations that had been highly fragmented, although these other sites were not urban sites. The two study sites had total bird nesting densities of 32.8 and 35.8 nests per acre (Young 1948, Yahner 1982) for an average 34.3 nests per acre. Applied to the 0.08 acres of habitat on the project site, one can predict 3 nests. Considering that there are few nest opportunities in the area, and that the Anna's hummingbirds and black phoebe on site exhibited strong territoriality, I suggest that 5 nests would be a more accurate prediction.

The loss of 5 nest sites of birds should qualify as a potentially significant project impact. But the impact would not end with the immediate loss of nest sites as nest substrate is removed. The reproductive capacity of the site would be lost. The average number of fledglings per nest in Young's (1948) study was 2.9. Assuming Young's (1948) study site typifies bird productivity, the project would prevent the production of 14.5 fledglings per year. Assuming an average bird generation time of 5 years, the lost capacity of both breeders and annual fledgling production can be estimated from an equation in Smallwood (2022): {(nests/year × chicks/nest × number of years) + (2 adults/nest × nests/year) × (number of years ÷ years/generation)} ÷ (number of years) = 16.5 birds per year denied to California. This level of loss would continue year after year.

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region (CEQA Guidelines Appendix G, § IV.d). Unfortunately, the exemption analysis fails to analyze whether and to what degree the project would interfere with wildlife movement in the region.

The project, due to its elimination of at least 0.08 acres of vegetation cover and due to its insertion of buildings up to 87.5 feet into the aerospace used by birds, bats and butterflies. would cut wildlife off from one of the last remaining stopover and staging opportunities in the project area, forcing volant wildlife to travel even farther between remaining stopover sites. The Say's phoebe I observed would lose its stopover opportunity at the site, and the many western gulls I saw flying over the site would lose their existing travel route. This impact would be significant, and as the project is currently proposed, the impact would be unmitigated.

BIRD-WINDOW COLLISIONS

Considering the project would add expansive windows on building additions up to 87.5 feet in height, and would include balconies with glass railings and other feature-related hazards, the exemption analysis neglects the portion of habitat that is essential to many species, and that is the aerosphere. The EIR that was prepared for the San Francisco Housing Element 2022 Update adopts the San Francisco Planning Commission's standards for bird-safe building guidelines (San Francisco Planning Department 2011). However, the exemption analysis is inconsistent with these standards, as the exemption analysis makes no mention of the standards. The project is inconsistent with the bird-safe building standards, as indicated by the renderings of the building additions (https://sfyimby.com/2022/05/renderings-revealed-for-library-to-housing-conversion-in-pacific-heights-san-francisco.html). Furthermore, the San Francisco Housing Element 2022 Update did not analyze the potential impacts to birds that would result from this project. The potential impacts of bird-window collision mortality caused by the project have not been analyzed in any CEQA document.

Many special-status species of birds have been recorded at or near the aerosphere of the project site. My database review and site visit indicate there are 87 special-status species of birds with potential to use the site's aerosphere (Table 2). Of these, 1 has been recorded over the project site, 63 within 1.5 miles of the site ('Very close'), 17 within 1.5 and 4 miles ('Nearby'), and another 5 within 4 to 30 miles ('In region'). The birds reported within all these distance domains from the project site can quickly fly those distances, so they would all be within short flights of the proposed project's windows. In addition to all these special-status species that would be put at risk of collision with the project's building, hundreds more species that migrate through the project area and are protected by the federal Migratory Bird Treaty Act and California's Migratory Bird Protection Act would be put at risk.

Window collisions are often characterized as either the second or third largest source or human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988 million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but these façades are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found, the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feathers or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source, their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience

with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager at al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed project would result in many collision fatalities of birds.

Project Impact Prediction

By the time of these comments, I had reviewed and processed results of bird collision searches at 213 buildings and façades for which bird collisions per m^2 of glass per year could be calculated and averaged (Johnson and Hudson 1976, O'Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per

m^2 of glass per year (95% CI: 0.042–0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

The exemption analysis does not disclose the extent of glass windows on the proposed new buildings. However, I found renderings of the building additions online (https://sfyimby.com/2022/05/renderings-revealed-for-library-to-housing-conversion-in-pacific-heights-san-francisco.html). I measured the rendering of the windows to estimate about 500 m2 of glass on the buildings' façades.

Applying the mean fatality rate (above) to my estimate of 500 m^2 of glass in the project, I predict annual bird deaths of 37 (95% CI: 22–51). The vast majority of these deaths would be of birds protected under the Migratory Bird Treaty Act and under the recently revised California Fish and Game Code 3513, thus causing significant unmitigated impacts. Given the predicted level of bird-window collision mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts.

The bird-window collision impacts measured at the California Academy of Sciences (Kahle et al. 2016), located only 2.3 miles from the project site, were very large. It is likely that San Francisco's cumulative impacts of bird-window collision mortality are likewise very large. A wildlife rehabilitator in Sonoma County informed me that many of the birds they treat for window collisions are delivered by people from San Francisco, indicating a long-term, ongoing problem. That the cumulative impacts are large is also indicated by the San Francisco Planning Department's recommendation to the Planning Commission to adopt the 2011 Guidelines that the Planning Department prepared.

The exemption analysis makes no mention of the San Francisco Planning Department's (2011) guidelines nor of the potential for bird-window collision mortality. No mitigation is proposed to minimize bird-window collision mortality, which in my assessment of the renderings of the buildings could be relatively high. The windows depicted in the online renderings are expansive and are both transparent and reflective. All three of these attributes represent the three factors that are thought to contribute most to bird-window collision mortality. Additional risk can be found in the project's use of clear glass railings of cornering of large windows, which give birds the false sense of unimpeded flight paths, and of windows set on façades that meet at 90-degree angles, which gives birds the false sense of cavity access and which can act as traps.

Given the predicted level of bird-window collision mortality, and considering that the building design and the exemption analysis do nothing to minimize potential bird-window collision mortality, and considering the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse impacts to birds. A fair argument can be made for the need to prepare an EIR to analyze the project's potential impacts to wildlife caused by bird-window collisions. An EIR is also needed to formulate effective mitigation measures, such as drawing measures from the San Francisco Planning Department's (2011) bird-safe building standards.

MITIGATION

The exemption analysis proposes no mitigation to avoid, minimize, reduce, rectify or offset project impacts to wildlife. An EIR is needed, and it needs to include mitigation measures to minimize and offset project-caused impacts to wildlife.

RECOMMENDED MEASURES

Guidelines on Building Design to Minimize Bird-Window Collisions: If the project goes forward, it should at a minimum adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples. The San Francisco Planning Department's (2011) building design guidelines are more comprehensive than those of New York City, but they could have gone further. For example, the San Francisco guidelines probably should have also covered scientific monitoring of impacts as well as compensatory mitigation for impacts that could not be avoided, minimized or reduced.

New research results inform of the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window film to existing glass panels of Portland's Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015).

Van Doren et al. (2021) found that nocturnal migrants contributed most of the collision fatalities in their study, and the largest predictors of fatalities were peak migration and lit windows. Van Doren et al. (2021) predicted that a light-out mitigation measure could reduce bird-window collision mortality by 60%.

Monitoring and the use of compensatory mitigation should be incorporated at any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision fatalities to zero. The only way to assess mitigation efficacy and to quantify post-construction mortality is to monitor the project for fatalities.

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation ought also to include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured by collisions with windows if the project goes forward as proposed.

Thank you for your consideration,

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Shawn Smallwood, Ph.D.

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Photo 7. *Townsend's warbler on the project site, 21 November 2023.*

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