

Law Offices of
THOMAS N. LIPPE, APC

201 Mission Street
12th Floor
San Francisco, California 94105

Telephone: 415-777-5604
Facsimile: 415-777-5606
Email: Lippelaw@sonic.net

April 30, 2014

Board President David Chiu and Board of Supervisors
c/o Ms. Angela Calvillo
Clerk of the Board of Supervisors
City of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Notice of Appeal of Department of Public Works approval of Subdivision Map for Project 7970 relating to Block 3706, Lots 275, 277, 093 and 706 Mission Street - Residential Tower and Mexican Museum Project.

Dear President Chiu and Supervisors:

This office represents the 765 Market Street Residential Owners Association (“ROA”), the Friends of Yerba Buena (“FYB”), Paul Sedway, Ron Wornick, Matthew Schoenberg, Joe Fang, and Margaret Collins (collectively “Appellants”) in their appeal of the Department of Public Works’ approval of a subdivision map for Project 7970 relating to Block 3706, Lots 275, 277, 093 and 706 Mission Street - Residential Tower and Mexican Museum Project (“the Project”). A copy of the County Surveyor’s Notice of Decision is attached hereto.

The grounds for this appeal are that the City cannot approve this tentative subdivision map because it is a project subject to the California Environmental Quality Act (“CEQA”) and the City has not yet complied with CEQA for the reasons described in my clients’ prior appeal of the EIR for this Project, which is Board of Supervisors File No. 130308; and because there is new, “post-certification” information requiring preparation of a subsequent or supplemental EIR under Public Resources Code section 21166 and CEQA Guideline 15162, including subdivision (a)(3)(c) of section 15162 [“Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative”]. For example:

- Information presented by the Project Sponsor after certification of the EIR (i.e., the May 8, 2013 “EPS Report”) shows there are feasible alternative tower heights higher than 351 feet but lower than 520 feet. Therefore, the City cannot lawfully make the finding that there are no feasible mitigation measures that would “substantially lessen” the significant cumulative show impact on Union Square.
- Information presented by Appellant’s after certification of the EIR (i.e., the June 28, 2013 “Sussman Report”) shows that a tower height of 351 feet is financially feasible and the EPS Report’s analysis and conclusion that the Reduced Shadow Alternative is not financially

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feasible does not constitute substantial evidence supporting the City's finding because it is "clearly inadequate or unsupported." *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 409.

To the extent the County Surveyor is relying on the Project EIR previously certified by the Planning Commission on March 21, 2013, and the Board of Supervisors on May 7, 2013, that reliance is misplaced because the EIR is defective. . . and because the tentative subdivision map is for a project that violates a number of provisions of the State Planning and Zoning Law and the San Francisco Planning Code and is inconsistent with the San Francisco Master Plan. (See Government Code sections 66473.5, 66474; San Francisco Planning Code section 101.1.)

In addition, the subdivision project does not comply with zoning, in particular Planning Code, Article 11, § III.6(c)(6) because the Project will increase the height of the Aronson Building by more than one story; Planning Code, Article II, § III.6(c)(6) because the Project tower is not compatible in scale with the Aronson Building; Planning Code, Article II, § III.3(a) because the Project tower is not compatible in scale and design with the New Montgomery-Mission-Second ("NMMS") Conservation District, as described in Article 11, Appendix F, Sections 6 and 7; and Planning Code §§ 295 and 309.

Thank you for your attention to this matter.

Very Truly Yours,



Thomas N. Lippe



Edwin M. Lee, Mayor
Mohammed Nuru, Director
Fuad S. Sweiss, PE, PLS,
City Engineer & Deputy Director of Engineering

Department of Public Works
Office of the City and County Surveyor
1155 Market Street, 3rd Floor
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

Date: April 28, 2014

THIS IS NOT A BILL

The City and County Surveyor has approved a tentative map for a proposed subdivision located at:

Address	Block	Lots
86 Third Street	3706	093
700 Mission Street	3706	275
706 Mission Street	3706	275
738 Mission Street	3706	277

This subdivision will result in:

190 Unit Mixed-Use Condominium Project

This notification letter is to inform you of your right to appeal this tentative approval.

IF YOU WOULD LIKE TO FILE AN APPEAL OF THE TENTATIVE APPROVAL:

You must do so in writing with the Clerk of the Board of Supervisors **within ten (10) days of the date of this letter** along with a check in the amount of **\$290.00**, payable to the Department of Public Works.

The Clerk of the Board is located at: City Hall of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-5184

If you have any questions on this matter, please call us at (415) 554 – 5827 or email:
Subdivision.Mapping@sfdpw.org

Sincerely,

Bruce R. Storrs, P.L.S.
City and County Surveyor
City and County of San Francisco

THE LAW OFFICES OF THOMAS N LIPPE, APC
201 MISSION ST. 12TH FLOOR
SAN FRANCISCO, CA 94105

WELLS FARGO BANK, N.A.
www.wellsfargo.com
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4/30/2014

PAY TO THE ORDER OF Department of Public Works

\$ **290.00

Two Hundred Ninety and 00/100***** DOLLARS

MEMO

Department of Public Works
c/o Clerk of the Board of Supervisors
City of San Francisco; City Hall, Rm 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689
706; Notice of Appeal Subd Map Project 7970


AUTHORIZED SIGNATURE

THE LAW OFFICES OF THOMAS N LIPPE, APC

3249

Department of Public Works

4/30/2014

706 Notice of Appeal Subd
Map for Project 7970, Block 3706
Lots 275,277,093 & 706 Mission

290.00

LOTNL OA 4327 706; Notice of Appeal Subd Map Project 79

290.00