



File 070.720

# SAN FRANCISCO PLANNING DEPARTMENT

sent in Bd. for  
Planning  
6/19/07

## MEMORANDUM

**From:** Aksel Olsen, Citywide Policy Planning  
**To:** Paul Maltzer, Major Environmental Analysis  
**CC:** Amit Ghosh, John Billovits, Kearstin Dischinger, AnMarie Rodgers  
**Date:** June 11, 2007

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**Re: Changes to plan since release of Comments & Responses (9/26/2007)**

Prior to the Initiation Hearing at the Planning Commission held on September 28, 2006, the Department published the *Materials for Market & Octavia Initiation Hearing* on September 21, 2006. This document was developed from numerous community meetings and represented the culmination of the planning process to that point. As such, it consolidated all revisions, and was thoroughly analyzed in the *EIR Comments & Responses*, chapter 6, *Impact Analysis for Proposed Plan Revisions*.

The Planning Commission held a series of nine adoption hearings in the time between the initiation hearing on September 28, 2007, and the final adoption hearing on April 5, 2007. During the course of the hearings the Commission requested revisions that were then introduced by staff as the hearing series progressed. The revisions were described in separate documents prepared for particular Commission hearings, as summarized in below in Table 1. Changes were made for the following Commission Hearings:

The adoption materials were transmitted to the Commission for the following Commission Hearings:

- **Hearing 5:** December 14, 2006 (Adjusted Executive Summary with information on hearing process. Provided Adoption Resolutions)
- **Hearing 7:** February 8, 2007 (Case Report Addenda for: Planning Code, Zoning Map, General Plan, Interim Procedures)
- **Hearing 9:** April 5, 2007 (Final Adoption Materials)

The revisions in each cycle are further described in the attached Table 1. Revisions have in each case been classified, as per your direction, in one of three categories. The categories are: 1) revisions that are physical in nature but do not create additional environmental impacts; 2) revisions that are non-physical, or would qualify for exemption from environmental review; and 3) revisions that are proposed as studies and would require further environmental analysis. Changes under 1) and 2) per definition do not create environmental impacts beyond what was analyzed in the DEIR for the plan. N/A is reserved for clarifications, which are not actual changes, but rather consistency revisions.

When considering changes throughout the course of the hearings, long range planning staff has been in dialogue with the city attorney and/or major environmental analysis staff to ascertain that there be no conflict with CEQA or treatment within the framework of the Environmental Impact Report.

Sincerely,

*Aksel Olsen*

Aksel Olsen  
Planner

**Reference Documents:**

*These documents were released prior to the hearings listed below:*

**For Hearing February 8<sup>1</sup>**

- Document 1: Executive Summary Addendum
- Document 2: Case Report Addendum Zoning Map
- Document 3: Case Report Addendum Area Plan
- Document 4: Case Report Addendum Planning Code
- Document 5: Case Report Interim Procedures

**For Hearing April 5**

- Document 6: Transmittal Memo w/enclosures

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<sup>1</sup> When materials were submitted for the February 8 commission hearing, February 15 was calendared as a potential adoption date, for which reason attachments 1 through 5 bear this date.

Table 1 Revision Detail

**Hearing 5, 12/14/06**

Plan Component	Section/Policy	Change	Environmental Impact Category
Executive Summary; Adoption Resolutions		Dates changed on resolutions and in executive summary to reflect initiation	N/A

**Hearing 7, 2/08/2007, Refer to Documents 1-5**

Plan Component	Section/Policy	Change	Environmental Impact Category
Area Plan		<ol style="list-style-type: none"> <li>1. Updated zoning and height maps</li> <li>2. Enlarged increased scrutiny area map</li> <li>3. Updated planning code summary</li> <li>4. Policy 5.2.8 changed to allow alternatives to future TDM studies</li> <li>5. Language has been added to clarify that redevelopment of the Safeway site is voluntary</li> <li>6. Language supporting future efforts of Western SoMa Citizens Planning Task Force</li> </ol>	<ol style="list-style-type: none"> <li>1. Category 1</li> <li>2. Category 2</li> <li>3. Category 1</li> <li>4. Category 2</li> <li>5. Category 2</li> <li>6. Category 2</li> </ol>
Area Plan Resolution		<ol style="list-style-type: none"> <li>1. Language supporting future efforts of Western SoMa Citizens Planning Task Force</li> </ol>	<ol style="list-style-type: none"> <li>1. Category 2</li> </ol>
Zoning Map		<ol style="list-style-type: none"> <li>1. Reduced heights to 50 feet instead of 65 feet west of Church St on Market St</li> <li>2. Eastern 70' portion of block 0794 has been corrected to be included in HAYES NCT; this was accidentally omitted</li> <li>3. Assessor's Block/Lots 0837/067; 0833/003, and 0833/015 have been changed from "Public" (P) to "Hayes NCT" as they are currently zoned Hayes NC, not as initially stated, PUBLIC.</li> <li>4. More consistent alignment of height districts relative to street frontages</li> <li>5. Planning code consistency change (55' and 45' districts have been renamed to 50' and 40' respectively)</li> <li>6. 250 Valencia entirely in 50-X height district</li> <li>7. 55 Page St entirely in 85-X height district consistent with CU predating plan (Motion No. 14975 from 1/27/2000)</li> <li>8. Brady Block APN 3505/029 was not included in the "Open Space" height district and "Public" zoning district</li> </ol>	<ol style="list-style-type: none"> <li>1. Category 1</li> <li>2. Category 1</li> <li>3. Category 1</li> <li>4. Category 1</li> <li>5. N/A</li> <li>6. Category 1</li> <li>7. Category 1</li> <li>8. N/A</li> </ol>

Plan Component	Section/Policy	Change	Environmental Impact Category
Zoning Map Resolution		<p>although it was called for in the plan.</p> <p>9. The 400-R-2 district boundaries have been shifted about 30 feet west along APN 0836/005 to better allow for a tower at the NW side of the intersection.</p> <p>10. The northwest corner of Hayes St and Laguna St (APN 0807/010) was changed to 55-X from 50-X to allow a full-lot 5' ground floor bonus</p> <p>1. Language supporting future efforts of Western SoMa Citizens Planning Task Force</p> <p>2. Language added supporting concept of future supermarket at 555 Laguna but without introducing changes to code [this language was removed in finalized resolution as supermarket SUD was added to the Code]</p>	<p>9. Category 1</p> <p>10. Category 1</p> <p>1. Category 2</p> <p>2. Category 2</p>
Planning Code	<p>§134(a)(1)(C)</p> <p>§145.1(d)(4)</p> <p>§156(e)</p> <p>§207.4(c)</p> <p>§304(d)(9)</p> <p>§155(r)</p> <p>§145(1)(b)</p> <p>§121.5</p> <p>§121.6</p> <p>§249.33(b)(3)</p> <p>§341</p>	<p>1. The clarification of the absence of rear yard requirements for properties on the Eastern Central Freeway parcels of odd size;</p> <p>2. The clarification of consistent requirements for retail frontage in NCT-3 districts;</p> <p>3. The requirement of screened parking lots in NCT district consistent with other NC districts;</p> <p>4. The addition of clarifying language on density regulation;</p> <p>5. The modification of PUD criteria for breaking up the scale of a project using streets and alleys;</p> <p>6. A consistency in parking controls;</p> <p>7. Addition of "major alteration trigger" for controls to remove curb cuts etc.</p> <p>8. The increase of threshold size for development of lots subject to a conditional use due to size alone, to 10,000, making it consistent with the existing controls for Hayes-Gough NCT, Upper Market NCT, and NCT-3 districts;</p> <p>9. The addition of a new section to address the merger of lots, now to be restricted in residential districts and on pedestrian-oriented streets;</p> <p>10. The establishing of a Residential Affordable Housing Program for the Van Ness/Market Residential Special Use District consistent with the recently passed affordable housing legislation for all new development in the Plan Area;</p> <p>11. The mandating of a new Citizen's</p>	<p>1. N/A</p> <p>2. N/A</p> <p>3. Category 1</p> <p>4. N/A</p> <p>5. Category 1</p> <p>6. N/A</p> <p>7. Category 1</p> <p>8. Category 1</p> <p>9. Category 1</p> <p>10. Category 2</p> <p>11. Category 2</p>



Plan Component	Section/Policy	Change	Environmental Impact Category
Planning Code Resolution	§326	Advisory Committee to oversee the Plan Monitoring Program; 12. A clarification of the section on the Market & Octavia Community Improvements Fund, including, but not limited to updated costs, clarified fee administration and the revision of in-kind procedures.	12. N/A
	§249.33(f)	13. Van Ness & Market Downtown Residential Special Use District: refines administrative structure of infrastructure fund.	13. Category 2
		1. Language supporting future efforts of Western SoMa Citizens Planning Task Force	1. Category 2
Interim Procedures		A new resolution calling for the department to: 1. Adhere to stringent permit review procedures comparable to those currently in place for already identified historic structures, 2. Commit to a procedure and timeline for the integration of the Survey findings into the Plan and related planning instruments.	1. Category 2 2. Category 2

### Hearing 9, 4/05/2007, Refer to Document 6

Plan Component	Section/Policy	Change	Environmental Impact Category
Area Plan Area Plan Resolution	Policy 2.2.7	1. Updated zoning and height maps 2. Rear yard at all levels in Upper Market NCT 3. Added new policy calling for increased affordable housing for select parcels 4. Added language calling for increased affordable housing provision where feasible due to rezoning	1. Category 1 2. Category 1 3. Category 2 4. Category 2
Zoning Map Zoning Map Resolution		1. 555 Fulton changed to a possible 50 feet to allow for a supermarket 2. Added language calling for increased affordable housing provision where feasible due to rezoning	1. Category 1 2. Category 2
Planning Code	§209.1 §134(a)(1)(D); §732.21 §249.34 §263.20	1. Density cap for RTO at 1 unit/600 sf lot area (excluding affordable units), Conditional Use above 2. Rear yard at all levels in Upper Market NCT 3. Special use district allowing for future supermarket at 555 Fulton 4. Height exception for the supermarket special use district	1. Category 1 2. Category 1 3. Category 1 4. Category 1

Plan Component	Section/Policy	Change	Environmental Impact Category
Planning Code Resolution	§4	5. Proposed added planning code language on affordable housing, calling for affordable housing study and setting effective date of this ordinance and Accompanying Ordinances	5. Category 1
	§606(c)	6. Clarification of which sign regulations pertain to commercial uses in RTO districts	6. Category 1
	§326(D)	7. Clarified process of refinement of the community improvements program.	7. Category 2
	§341.5	8. Specifying composition of the CAC	8. Category 2
		1. Added language calling for increased affordable housing provision where feasible due to rezoning	1. Category 2
Interim Procedures		1. Specific timelines set for survey integration into plan	1. Category 2

### Changes per Commission Direction, Hearing 9, 4/05/2007

Plan Component	Section/Policy	Change	Environmental Impact Category
Area Plan		1. Updated zoning summary Table 1 per planning code revisions	1. Category 1
		2. Updated zoning maps per zoning map revisions	2. Category 1
Zoning Map		1. Non-substantive semantic changes to bulk designation	1. N/A
		2. Parcel I zoned for 50 feet on Grove St frontage instead of 40 feet	2. Category 1
Planning Code	§341	1. Procedures have been specified for the Citizens Advisory Committee ("CAC") and specific projects in the Community Improvements Program have been added.	1. Category 2
	§326	2. Refinement of the community improvements program	2. Category 2
	§341	3. Key groups of stakeholders that should be represented by the CAC have been identified.	3. Category 2
	§151.1(g)	4. Upper Market NCD: 1:1 parking with a CU	4. Category 1
	§263.20	5. Modification of 5' height bonus allowing application for whole development lot of future potential supermarket.	5. Category 1
	§249.33(b)(3)(B)	6. Specification that no more than 50% of the inclusionary requirement can be fulfilled through the in-lieu fee	6. Category 2
Interim Procedures Interim Procedures Motion		1. Timelines for survey incorporation revised	1. Category 2
		2. Clarified language on process and timeline	2. Category 2

*File 070560*

*C. Bos  
Presented in Bd. 6/12/07*

FROM: Mary Miles (#230395)  
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TO: The Honorable Aaron Peskin, President, and  
Members of the San Francisco Board of Supervisors

**BY HAND DELIVERY**

DATE: June 12, 2007

**RE: Appeal of Final EIR Certification by San Francisco Planning Commission  
Hearing Date: June 12, 2007--Special Order--4:00 p.m.  
Items 25-28 on Board's Agenda**

**PUBLIC COMMENT ON ENVIRONMENTAL IMPACT REPORT ("EIR") ON  
MARKET AND OCTAVIA BETTER NEIGHBORHOODS PLAN, AND  
PROPOSED LEGISLATION ON MARKET AND OCTAVIA PLAN  
Planning Department Case No. 2003.0347**

This is public comment on the "Market and Octavia Better Neighborhoods Plan" (hereinafter "Project" or "Plan"), the environmental impact report ("EIR") on the Project, and proposed legislation on the Project, and our Appeal of the Planning Commission's actions on the Project. The Coalition for Adequate Review is an unincorporated association dedicated to assuring complete and accurate review, informed decision-making and public participation in the review of major projects proposed in the Project Area, other areas, and citywide in San Francisco, assuring that environmental and other impacts are properly analyzed and mitigated, and that alternatives are analyzed and offered. This Comment is submitted in the public interest.

If approved, this Project will have significant adverse impacts on the environment of the Project Area, the entire City, its residents, visitors and future generations. The Project will rezone 3,255 to 4,773 parcels in the center of San Francisco, removing all existing regulation of bulk, density, open space, setback, height, and parking in the Project area, and introducing 40-story high-rises into the City's center where they have never before existed. The Project will radically alter the physical landscape of the Project Area and the heart of the City by introducing high-rise, high density, unregulated development that will dwarf and cast shadows on the graceful, historic Civic Center and surrounding areas, cause immitigable adverse impacts on traffic, public transit, parking, open space, growth, air quality, historic, visual and aesthetic resources, and other adverse impacts.

In spite of its size and voluminous addenda, the EIR fails to comply with CEQA's requirements to identify and analyze the significant adverse impacts this Project will cause. There is no coherent analysis of the Project's significant adverse impacts on parking, traffic, transit, growth, views, and aesthetic and historic resources.

The Project will destroy the character of the entire area, swallowing up the older, smaller residential neighborhoods that give San Francisco its unique character with large, bulky, ugly, incompatible box structures, "street walls," residential high-rises built without setback to the property lines, and "infill" box structures. The Project creates new zoning designations and legislation changing the Planning Code, General Plan and Zoning Maps removing all density limitations in the Project area, and introducing 400-foot high-rises where they have never existed before. There is no serious evaluation of alternatives or mitigation proposed. The Project is also inconsistent with the General Plan, the Planning Code, Zoning Maps, and the threshold requirements of Planning Code §101.1 (Proposition M).

The Project invites and foreseeably portends demolition of older smaller structures by its financial incentive to fill lots now occupied by smaller, older and even historic structures with larger structures under no restrictions on density, bulk, height, setback, and parking. No analysis of these obvious adverse impacts appears in the EIR.

The Project's high-rise incursion into the City's central core will permanently obstruct, dwarf and degrade views of the historic Civic Center and surrounding areas from every public and private vantage point in the immediate area and for miles around. The EIR unlawfully defers analysis of significant impacts on historic resources throughout the Project Area, and fails to propose effective measures to protect the character of historic neighborhoods.

While touting "transportation options," the EIR's true objective is to remove the transportation option already chosen by the vast majority of residents and visitors, the automobile. The Project's anti-car ideology and its fiction that the Project Area and San Francisco are "transit rich" are contradicted by its own source data that disclose the dismal performance and overcrowded conditions on Muni buses throughout the Project area. Muni cannot efficiently meet present demand, much less accommodate the travel needs of the proposed "healthy infusion" of 10,000 new residents under this Plan. The existing severe lack of parking and open space in the Project Area will be vastly worsened by the Project. No mitigations are proposed in the Plan.

The claim that "affordable" housing will result from the Plan is fiction, like the notion that the residents of the 5,960 new market-rate housing units and other residents of the area will abandon automobiles for public transit. The Project requires *no* inclusionary affordable housing *in the Project area*, in conflict with the General Plan and Planning Code §101.1. In fact, the Project's elimination of existing density, height, bulk, setback, rear yard, parking, and open space requirements invites the demolition of existing older, smaller structures and neighborhood character (DEIR, p. 4-71) in violation of CEQA, the General Plan and the Planning Code's requirements at §101.1. Hence, the Plan will

promote *less* housing affordability while degrading and ultimately destroying the character of existing neighborhoods. Similarly, by requiring that housing and rental costs not include parking, costs for most residents will increase because they will have to purchase or rent parking *in addition to market-rate housing costs*. Nothing in the Project directs developers to establish any particular figure for housing *or* parking costs.

Since the “objectives” of “affordability” claimed by the Project are unrelated to the Project’s actual provisions that require *no* inclusive affordable housing, the claimed reason for the Project to meet needs of “moderate income households” (*e.g.* 254-page Ordinance at §326.1(B)) is neither the Project’s true goal nor will it be achieved by the Project, rendering it of no benefit to the general public. Instead the Project will degrade the entire center of San Francisco to give a windfall to unregulated private market-rate development interests, a loss of public input into the environment of this area, and an inevitable increase in the cost of infrastructure to accommodate the 9,875 new residents of the Project’s market-rate housing. The Project includes *no* provision for funding for public transit, traffic, parking, parks, schools, post offices, libraries, or other facilities for existing residents, visitors and commuters in the center of the city, whose environment will be adversely affected by the Project’s infusion of 9,875 new residents.

The Project couches its development mandate in Orwellian language: In this Plan, density development is “livability.” Demolition is “reweaving neighborhood fabric.” High-rises result in “vibrant neighborhood places.” Eliminating parking provides “transportation options.” Parks and open space are in reality minuscule “hardscape plazas” in the middle of 400-foot high-rise clusters (“Brady Park”), freeway touchdowns (“McCoppin Plaza”), and widened sidewalks (“pedestrian realm improvements”). This verbiage does not mitigate the significant impacts from this Project, and the failure to properly analyze and mitigate this Project’s significant impacts violates CEQA.

Therefore, any approval of the Project, its EIR, and the proposed legislation would be an abuse of discretion and a failure to proceed in a manner required by law.

## **I. THE “FEIR” IS INCOMPREHENSIBLE.**

### **A. The Many Substantial Changes Require a Supplemental DEIR and Recirculation.**

The Project sponsor, the San Francisco Planning Department (“Planning”) released a Draft Environmental Impact Report (“DEIR”) on June 25, 2005, followed by a period of public comment.

The Project began in 2000 as a proposal for residential development on 22 parcels transferred to the City by the State (Caltrans) when it removed the elevated Central

Freeway.<sup>1</sup> At some point not defined in any Project documents, those 22 “freeway parcels” metastasized into the huge present Plan to rezone up to 4,773 parcels in the heart of San Francisco for unrestricted density and high-rise development and parking elimination. (DEIR, Fig. 3-2) The Project area was fictitiously coined the “Market and Octavia Neighborhood,” though no such “neighborhood” exists. In fact, the Project now encompasses a large part of central San Francisco, including all or parts of the Hayes Valley, Civic Center, Van Ness, Mid-Market, South of Market, Inner Mission, Castro, Upper Market, Mission Dolores, Mint Hill, Western Addition, Duboce Triangle, Eureka Valley, and parts of other neighborhoods.

On September 28, 2006, Planning released a document called “Market and Octavia Neighborhood Plan Comments and Responses” (“C&R”). The C&R document substantially revised the Project and added a body of new data. Hundreds of pages of addenda, attachments, exhibits, and revisions of the proposed legislation were released in September, November, and December, 2006, and January, February, and March, 2007. The revisions substantially changed the Project, Planning’s evaluation of impacts on the environment and underlying data, and proposed “mitigations” and alternatives.

In the C & R, Planning introduced entirely new policies that significantly revised the Plan, including, among others, the correction of the Project’s claim of promoting affordable housing, conceding that the Plan in fact contains *no* provision requiring inclusionary affordable housing anywhere in the Project area. The C & R also included new information on significant impacts, including but not limited to impacts on transportation, traffic, parking, historic, visual and aesthetic resources, open space, and others. Some of the new information is inconsistent with information in the DEIR, and some of the new information is incomplete and/or contains substantial errors.

The EIR changed data from that contained in the DEIR. For example, the data on growth caused by the Project was significantly increased on September 18, 2006, from 4,400 to 5,960 new market-rate housing units. (Ex. P-1 at p. 11, revised February 8, 2007; Ex. P-1-B, again revised March 20, 2007 at p. 10). No impacts from this increase were evaluated, such as on parking, traffic, transit, open space, historic, visual and aesthetic resources, and others. The Ordinances, which are referred to as “Exhibits” in the Planning Commission’s legislation, were never labeled as such, making it impossible to ascertain what the Exhibits are. All of the Exhibits referred to in the legislation and the

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<sup>1</sup> Of the 22 freeway parcels, only half are projected to include affordable housing. The City has now transferred several freeway parcels to private ownership for market-rate residential development. Coherent information about the disposition of these parcels has not been provided, in spite of plans already approved or under construction, and with at least one market-rate condominium development already constructed with no public review. The descriptions of developments in the EIR (DEIR 4-55 - 4-60) are inconsistent with proposed and ongoing developments already implemented on these parcels. (See attachments to this Comment.)

Project contain the actual text of ordinances, proposed mitigations, and “improvements.” Each was substantively changed at every hearing and thereafter with no public notice.

The Project’s “Exhibit Z-3-A,” dated February 1, 2007, contained a listing of the thousands of parcels to be rezoned, a total of 4,773 parcels, consuming a Proposed Ordinance (unlabeled) that was 49 pages long. On April 17, 2007-- *after* adoption of Resolution No. 17410 referring to it-- that Exhibit was changed to “Exhibit Z-3-B” with parcels added for rezoning, and a new total of 119 pages with 3,255 parcels listed for rezoning. Neither was placed before the public before the close of public comment in 2005, making it impossible to ascertain which parcels were affected and how. “Exhibit Z-3-B” did not exist on April 5, 2007 when the Planning Commission voted. It remains impossible to determine how many *thousands* of parcels this Project will rezone for unrestricted density, high-rise development and parking removal in the heart of San Francisco. When Project boundaries are changed, the EIR must be recirculated.

Among many other substantial revisions of the Project, Planning now admits that the Project contains no requirement of inclusionary affordable housing, though the Project claims its primary objective is to “provide additional housing, especially affordable housing.” (Exhibit M-1 at p. 7; and “Executive Summary Addendum for Hearing February 8, 2007 at p. 12.) In fact, as the revisions show, the Project requires *no* inclusionary affordable housing. (*Ibid.*) Of 5,960 projected new housing units,<sup>2</sup> only 400 of the 800 on the “freeway” parcels given to the Redevelopment Agency by the City are projected to be affordable, and those are reserved for special groups and not the general public. (*E.g.*, C&R, pp. 5-31 - 5-32)

Other substantial changes include but are not limited to a five-foot height “bonus” throughout the Plan area, new high-rise development (up to 400 feet) in areas not described in the DEIR, substantial height increases on “freeway parcels” given to the Redevelopment Agency, new provisions on bulk, parking, transportation, historic preservation, boundaries, “land use controls,” and proposed new mitigations. (C & R, pp. 5-1 - 6-16.) Several newly proposed mitigations are enjoined by court order in other litigation. All of these changes are significant and require recirculation and a new public comment period.

No environmental review has been conducted on any of the added material, and no further public input has been allowed. Since September 28, 2006, Planning has stated

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<sup>2</sup> The baseless 5,950 figure is itself a dubious understatement that only appeared after the close of public comment. (*See* FN. 1, *supra.*) Given the huge number of parcels listed for rezoning (3,000 to 5,000 or more) and the Project’s removal of density, height, setback, yard, open space, parking, and other requirements, the number of new housing units encouraged by the Project is likely to be much higher. Regardless of how many existing structures will be demolished to make way for more profitable density and high-rise development, there is *no* requirement in this Project for affordable housing on-site anywhere in the Project area.

on its web site that the public cannot submit comment on the Project's many amendments and changes, itself a violation of CEQA.

As late as February 8, 2007, more than 1,000 pages of new revisions were released on Planning's web site, with the hard copy dated February 1, 2007. The revisions significantly changed the Project, including several other documents, such as a revised "Community Improvement Program." The addenda included hundreds of pages of revised proposed Ordinances and Resolution(s). All of these documents were changed with no public notice *again* on or *after* the Planning Commission's April 5, 2007 vote. Some are dated as late as April 17, 2007, giving neither the decision-makers nor the public any opportunity to comprehend their content before they were approved. That legislation proposes radical changes to the City's Planning Code, Zoning Maps and General Plan. This huge volume of material, by its bulk alone, renders the EIR incomprehensible, incoherent, inconsistent and impossible for the public to assimilate, much less to give informed public input, defeating CEQA's primary purpose of informed decision-making and informed public participation.

With no public notice or mailed announcement, even to those, like the Appellants, who requested it, Planning first released its proposed legislation after September 26, 2006, by placing the huge legislative documents referring to attachments that were not attached on its website in PDF format, making it impossible for the public without advanced downloading and reproduction capabilities to get copies. The Planning Commission began a series of eight hearings, announcing before each that public comment was closed and that it would not accept any further comment. (*See* Agendas of San Francisco Planning Commission, October 26, 2006, November 2, 2006, November 9, 2006, December 7, 2006, January 11, 2007, February 8, 2007, February 15, 2007, and March 22, 2007.) At each hearing, substantive changes to the Project and legislation were announced with no opportunity for public comment since it remained closed.

Planning has never publicly released any coherent Final Environmental Impact Report ("FEIR"), claiming instead that the FEIR consisted of the DEIR, the C&R, and proposed legislation. In its Motion No. 17406, the Planning Commission claimed that the FEIR now consists of "the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law." (San Francisco Planning Commission Motion No. 17406 at ¶4). Those materials were never made available to the public in a coherent form. Instead, thousands of pages were changed from week to week, with the changes announced after the fact.

After hearings began on October 26, 2006, Planning made major changes to the legislation, adding more documents to the FEIR at every hearing and between hearings, with no public notice or announcement. Planning added Exhibits to the FEIR consisting of hundreds of pages of additional material and then changed the content of these documents, the addenda, its Community Improvement Plan, the Plan itself, and proposed mitigations at least nine times, requiring reproduction of revised lengthy documents of more than 1,000 pages with each change.



Planning made a major revision of the entire package in December, 2006, then another major revision on February 8, 2007, with no advance public notice or announcement.

The proposed legislation, including hundreds of pages of ordinances, resolutions, motions, addenda, and exhibits, was also changed at least nine times between the release of the C&R and the Planning Commission's actions of April 5, 2007.

On April 5, 2007, all of the documents contained in the FEIR were again substantively changed. Copies of the Planning Commission's actions were not made publicly available until April 19, 2007, even though Planning demanded that appeals of the Commission's actions must be submitted by April 25, 2007, less than one week later.

Revisions of the Project and FEIR were substantive, including revisions to proposed rezoning, height, density, bulk, parking, and even the borders of the Project area. The most recent revised legislation was not available to the public until May 15, 2007, one week before the Planning Commission hearing, with some of it dated *after* the Planning Commission's vote. Thus the material voted on could not have been before the Commission when it voted on April 5, 2007.

The Legislation as of this Comment consists of hundreds of pages of material, including:

1) MOTION NO. 17406 ("Adopting Findings Related to the Certification of a Final Environmental Impact Report for the Proposed Market and Octavia Plan, Amendments to the San Francisco Planning Code and Zoning Maps, Amendments to the San Francisco General Plan, Adoption of Urban Design Guidelines, and Amendments to the Western Addition A-2 Redevelopment Plan. The Plan Area Is Generally Located to the West of the City's Downtown Area and Includes Portions of Civic Center, Hayes Valley, Western Addition, South of Market, Inner Mission, the Castro, Duboce Triangle, Eureka Valley, and Upper Market Neighborhoods of San Francisco");

2) "ATTACHMENT A" to Motion 17406, consisting of CEQA "Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations;

3) MOTION 17407 ("Adopting Environmental Findings (and a Statement of Overriding Considerations) Under the California environmental Quality Act and Site Guidelines in Connection with the Adoption of the Market and Octavia Area Plan and Related Actions Necessary to Implement Such Plan.");

4) RESOLUTION NO. 17408 (recommending that the Board of Supervisors adopt amendments to the General Plan attached in an Ordinance as "Exhibit M-3-B") (No Exhibit was attached in the copy provided the Appellants.)

5) Unnumbered ORDINANCE amending the San Francisco General Plan related to Market & Octavia Area Plan, dated April 17, 2007;

6) RESOLUTION NO. 17409 (recommending that the Board of Supervisors amend the San Francisco Planning Code by an ordinance attached as "Exhibit T-3-B") (No "Exhibit" was attached in the copy provide the Appellants.);

7) Unnumbered ORDINANCE amending the San Francisco Planning Code (hereinafter "254-page Ordinance"), dated April 17, 2007;

8) RESOLUTION NO. 17410 (recommending that the Board amend the San Francisco Zoning Maps via an ordinance [referred to as "Exhibit Z-3-B"]) (No "Exhibit" was attached in the copy provided the Appellants.);

9) Unnumbered ORDINANCE amending the San Francisco Zoning Maps 2, 2H, 2SU, 7, 7H, and 7SU in the City Zoning Maps, dated April 17, 2007 (hereinafter "119-page Ordinance");

10) MOTION NO. 17411 enacting "interim procedures" due to Planning's failure to conduct a historic resources survey in compliance with CEQA, and referring to "Exhibits U-3-B" and "U-4-B." (No "Exhibit" was attached in the copy provided the Appellants);

11) "Exhibit U-3-B";

12) "Exhibit U-4-B";

13) "Exhibit P-1-B," "Draft Community Improvements Document," March 20, 2007 (113 pages);

14) "Mitigation Monitoring and Reporting Program" ("MMRP"), April 5, 2007 (28 pages, of which 17 pages are devoted to archaeological and human remains);

15) Other "Exhibits," proposed Ordinances and addenda which remain undefined, as well as the DEIR and C & R documents.

At the final Planning Commission meeting on April 5, 2007, Planning staff referred to new documents that were not publicly announced or provided, yet were included in the substance of the Commission's votes. Some documents approved by the Commission on April 5, 2007, were created *after* the Commission's vote. Planning did not make publicly available its motions, resolutions and attached documents reflecting the actions of the Planning Commission on April 5th until after the deadline for filing an Appeal of the Planning Commission's actions (April 25th). Planning did not provide signed copies of the Commission's legislation until May 14, 2007, and documents referred to in those actions still have not been provided to the Appellants and the public.

At public hearings since October 26, 2006, and in non-public sessions with private interests, including selected private organizations calling themselves “neighborhood groups,” the Planning Department has changed the Plan as it goes along, making exceptions to its purported physical “controls” on behalf of various projects that will have significant impacts. (E.g., Planning Commission Resolution No. 17408.) The resulting deals exempt developers from Plan height and bulk requirements, including but not limited to, freeway parcels and properties at 555 Fulton, while dismissing the concerns of those affected by the new height-bulk-setback-no yard requirements. Neither the exceptions nor the public concerns have been included in the additional documents or in Planning’s feel-good selective “summary” of the public comments since release of the DEIR. For example, while supporting exceptions to the Project’s “restrictions” on behalf of developers, Planning summarily dismissed the large amount of negative public comment on a proposed nine-story box of condominiums on Market Street that will destroy the character of the Mint Hill neighborhood and obscure the view of the historic Mint.

Where a “new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented,” the EIR must be recirculated. (Guidelines §15088.5(a)(1).) Significant impacts will result from the changes to the Project proposed after release of the DEIR. Where a “substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance,” the EIR must be recirculated. (Guidelines §15088.5(a)(2).) The new additions and information require revision and recirculation of the EIR for public comment. Planning’s new “Community Improvements Program” document of February 8, 2007, containing proposals that have been enjoined by the Court, will have significant adverse impacts, some of which are preempted under the State Constitution. Planning revised that document, back-dating the revision to April 5, 2007, when it changed its mind about mitigating significant adverse impacts on traffic, transit and parking caused by eliminating westbound traffic lanes on Hayes Street between Van Ness and Gough, changing Hayes to a two-way street, after demands from the San Francisco Bicycle Coalition. Yet even the latest version of that document still contains misinformation, such as its claim that Hayes will remain one-way. (MMRP, April 5, 2007, Item D). The Commission took action claiming such mitigation would be “infeasible.” (Planning Commission Motion No. 17406, Attachment A (CEQA Findings), April 5, 2007, at ¶F, pp. 20-21.) Thus, many documents are deceptive and incorrect, even after numerous revisions, making it impossible to ascertain the actual contents of the ever-changing FEIR and legislation.

The large number of revisions in many documents render the EIR incomprehensible, defeating CEQA’s central purpose of informed decision-making and informed public participation. The public has had NO opportunity to formally comment on the substantive changes Planning has made to the Project’s EIR.

On March 2, 2007, March 22, 2007, and April 3, 2007, the Appellants requested recirculation of the EIR to allow public input and informed decision-making, but that request was denied without a response. This Comment renews our Request for

Recirculation and incorporates those Requests by reference. Planning should have created and circulated a Supplemental DEIR (“SDEIR”) encompassing its substantial revisions to the EIR and the Project, new information and data, and revised legislation. (Pub. Res. Code §21092.1; 14 Cal. Code Regs. (“Guidelines”) §15088.5)

**B. Planning Has Misled the Public and Decisionmakers by Claiming There Will Be Future Review of Developments in the Project Area.**

Planning has misled the public and decisionmakers by claiming that many of the Project’s impacts would occur without the Project. In fact, if this Project and EIR are approved, the public will *no longer have any redress under CEQA to Planning’s approval of any proposed project in this Project Area.* (See, e.g., Pub. Res. Code § 21083.3; Guidelines §15183.) Public participation in the decision-making process under CEQA will no longer exist for any development under this Plan. (*Ibid.*)

Planning’s claims that, for example, the incursion of high-rise construction into the city’s central core and removal of parking would occur *without* this Project are misleading. The Project’s primary aim is to eliminate CEQA and public review of every development proposal in this large area in the center of San Francisco. *Without* the Project, proposals for developments are individually reviewed with opportunity for public input. *With* the Project, there will be NO individual review or opportunity for public input on development proposals, but instead only an internal approval by the Planning Department stating that they conform with the “Market and Octavia Neighborhood Plan.”

Nothing in the proposed legislation, the EIR or other Project documents provides for any future review or input by the public. Misleading the public and the decision-makers about the nature of future “discretionary” review of proposals in the Project Area itself violates CEQA. If this Project is approved, the public will be permanently excluded from any say about what takes place in the Project Area. Thus, the Project is not only a giveaway of San Francisco’s central core area to unrestricted development, but it will also shut the door on public input and permanently exempt any project within its boundaries from public review under CEQA.

The Project states that it will “function as a model for reweaving the urban fabric in other neighborhoods that are interested in amplifying the benefits of a vibrant transit-oriented settlement pattern for such neighborhoods.” (DEIR at p.3-1) Thus it is not just a giveaway to unrestricted development in the Project Area but will also serve as a blueprint for development throughout the city, creating a model for exemption from CEQA by simply creating fictitious new “neighborhoods.” (DEIR at p. 3-1)

**II. THE EIR FAILS TO ANALYZE SIGNIFICANT ADVERSE IMPACTS, MITIGATIONS, AND ALTERNATIVES TO THE PROJECT IN VIOLATION OF CEQA.**

The purpose of an EIR is to “inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made.” *Napa Citizens for*

*Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 355.) Thus, CEQA “protects not only the environment but also informed self-government.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392; Guidelines §15003.) An EIR is required, among other things, to identify the significant effects of the Project on the environment. (Pub. Res. Code §21100(b)(1); Guidelines, §15126(a).) A “significant effect” is a “substantial or potentially substantial adverse change in the environment.” (Pub.Res.Code §21068). Once a significant effect has been identified, the EIR must propose and describe mitigation measures that will minimize the significant environmental effects. (Pub.Res.Code §21100(b)(3), Guidelines §15126(e). “The failure to provide enough information to permit informed decisionmaking is fatal,” and approval of any EIR that does not fulfill the informational requirements of CEQA is a failure to proceed in a manner required by law. (*Napa Citizens for Honest Government, supra*, 91 Cal. App.4th at 361.)

The following are some examples of the EIR’s deficiencies. This list is not inclusive, and this commenter reserves the right to augment and amend the comment in further proceedings.

#### **A. PARKING: THE EIR FAILS TO ANALYZE AND MITIGATE THE PROJECT’S SIGNIFICANT IMPACTS ON PARKING.**

The Plan and the Ordinance eliminate parking requirements for new and existing developments, prohibit the construction of parking facilities and the ingress/egress of cars, and prohibit or set nearly impossible conditions on the construction of public parking facilities in the Plan Area. The Plan aggressively eliminates parking in new and existing buildings and garages and access to parking, claiming with no supporting evidence that “parking facilities...have an overall negative effect on the neighborhood.” (DEIR at p. 3-27) The facts indicate the contrary, since most city residents and visitors own, drive, and need a place to park cars. The EIR fails to note that the Project Area serves not only area residents but employees, jurors and visitors to the courts, cultural and educational institutions in the Civic Center area, and visitors viewing the City’s historic landmarks and amenities, all of whom need parking.

The Plan proposes “several parking policy changes...to bring about a change in the transportation conditions in the Project Area.” (DEIR at p. 3-27) With no supporting evidence, the Plan “recognizes that parking availability influences mode choices and therefore proposes to limit the amount of required on-site parking, and discourages new parking facilities.” (DEIR at p. 1-5) The Project eliminates minimum parking requirements in newly constructed buildings, and instead requires maximum caps on the amount of parking permitted in new developments. (DEIR at 3-18; Proposed 254-page Ordinance entitled “Planning Code Amendments to Implement the Market and Octavia Area Plan,” April 17, 2007, [hereinafter “254-page Ordinance”] at, e.g., §151.1)

For projects with 50 units or more, the Project requires that all parking spaces “in excess of 0.5 spaces per unit shall be stored and accessed by mechanical stackers or lifts,

valet, or other space-efficient means...” (254-page Ordinance at §151.1(f) (2)(A).) The Ordinance requires NO off-street parking for freight loading, assuring that large delivery vehicles will double and triple park in city streets. (254-page Ordinance at §152). The Ordinance imposes a lengthy list of criteria for parking garages in new or existing buildings. If expanding an existing facility, that facility must prove it has “already maximized capacity through use of all feasible space efficient techniques, including valet operation or mechanical stackers” and must produce “a survey of the supply and utilization of all existing publicly-accessible parking facilities, both publicly and privately owned, within one-half mile of the subject site, and has demonstrated that such facilities do not contain excess capacity, including via more efficient space management or extended operations.” (*Id.* at §158.1(a)(3-5).) The ordinance allows convenience stores in the Project area only if *no* off-street parking is permitted. (*Id.* at §230.)

The Ordinance **exempts parking for City and other government employees** vehicles from all its requirements. (254-page Ordinance at §158.1(d).) This privileged class of drivers will not be subject to the punitive parking measures inflicted on the general public by this Project.

The Plan announces that it will not analyze the Project’s drastic impacts on parking in direct violation of CEQA. (DEIR 3-29)

The Project claims that it gives the “option” to residents to not own a car, but that option *already exists* throughout San Francisco and the densely-populated and heavily trafficked Project Area. What the Project really does is remove the option that most city residents have already chosen: owning and driving a car. The Project’s “transit-rich corridor” mantra is repeated hundreds of times throughout the EIR and other documents, along with the unproven assertion that if the city makes parking more expensive and difficult people will abandon their cars and instead board the city’s already crowded Muni buses.

The Plan also eliminates minimum required parking for commercial uses, replacing those requirements with maximum parking caps of less than half the current minimum. (DEIR at pp. 3-18, and 3-27 through 3-28). Neighborhood-serving ground-floor retail is urged throughout the Plan area, but parking and loading for corner stores and other “neighborhood-serving retail” is prohibited or severely curtailed. (254-page Ordinance at, *e.g.*, §151.1, 152-155.)

The Plan further proposes *citywide* (not just in the Project Area) parking policy changes, such as “revising the Residential Parking Permit program.” (DEIR at p. 3-27).

Among other measures to punish car users, the Project prohibits curb-cuts (driveways), requires a 25-foot setback for parking, both from the fully built-out bulk structures *and* from smaller structures, and proposes that existing residential garages be converted to living quarters. The Project also mandates that parking costs must be “unbundled” from housing costs, enabling developers and landlords to charge additional

fees for parking, above and beyond the market-rate housing proposed by the Project. (E.g., 254-page Ordinance at §167)<sup>3</sup>

NO parking facilities would be permitted to be built, or existing ones expanded, in the entire Project area without first proving that such measures as lifts and valet parking had been tried in *every* existing facility in the Project Area. (254-page Ordinance at, e.g., §158.1(b)(3)), among other mandatory conditions. (*Id.* at §158.1)

The Project not only endorses the severe existing parking shortage, but will eliminate existing parking throughout the Project area. The Project calls for the construction of dense, bulky structures containing 5,960 new residences and commercial businesses with no parking requirement and a maximum parking cap that is severely inadequate. Incredibly, the Project claims that turning this anti-car political ideology into reality for residents who need to park does not require analysis under CEQA.

The Project claims that, in spite of its “healthy infusion” of 5,960 new housing units and 9,875 new residents in the area, it will only generate a “range of new parking spaces from 0 to 3,160, depending on the individual development proposals.” (DEIR 3-4) However, the Project requires *no* parking in any development and imposes maximum caps on parking, radically changing the Planning Code’s existing one-to-one parking requirements, and guaranteeing impacts on parking. It provides *no* mitigation for its impacts, incorrectly denying that parking is an impact under CEQA. Even though the EIR further states that development under the Project will eliminate 980 more parking spaces, it does not recommend their replacement or the development of other parking in the Project Area. (C&R, p. 3-60). Nor does it propose any mitigation for the parking shortage created by 9,875 new residents, which adds to the existing severe parking shortage, as does the Project’s elimination of 980 existing spaces.

### **1. The EIR’s Conclusions on Parking Impacts Are Legally Incorrect.**

The EIR misstates that parking is not an impact in San Francisco. (C&R, p. 3-54) We are told that “San Francisco does not consider parking supply as part of the permanent physical environment,” and that “Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA.” (C & R, p. 3-54) These conclusions are incorrect as a matter of law.

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<sup>3</sup> The lucky recipients of non-existent affordable housing in the Project Area would be unaffected, since they would receive discounts on the “unbundled” parking as well as on the housing they received through the Mayor’s Office of Housing. (254-page Ordinance at §167). The vehicle ownership rate in affordable owned units in San Francisco in 2000 exceeded that in market-rate owned units, but in 2000 it was slightly less in affordable-rented units than in market-rate rented units. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department, Better Neighborhoods 2002 Technical Memorandum Vehicle Ownership in San Francisco*, November, 2001, at “Figure 24.”)

Impacts on parking have long been recognized as a significant under CEQA, and must be analyzed and mitigated. (*E.g.*, *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1003 (Loss of on-street parking "indicated that a finding of significant environmental effect was mandatory."); *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028 ("[T]raffic and parking have the potential...of causing serious environmental problems."); *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 696-98, Fn.24 (Parking deficits were significant impact requiring mitigation). Here, the proposed Project not only worsens an already severe parking shortage, but it physically changes the environment by further eliminating parking, parking facilities, and access to parking. The Project also eliminates existing parking requirements in new construction, substituting mandatory caps on parking that will necessarily create an even worse parking shortfall under its extreme-density-development imperative. These are direct, physical changes that must be analyzed under CEQA, along with indirect significant impacts.

CEQA also requires that the EIR analyze and mitigate indirect and cumulative impacts on parking from existing shortages, the removal of existing parking, and the creation of future shortages by limiting and eliminating parking in new development. (*See, e.g.*, Guidelines §15065(a)(2)-(3), and Appendix G, §§XV (f) and XVII(b) and (c).)

The Project's aggressive removal of existing and future parking will also have significant effects on the business environment, which are economic and social changes that may determine that a physical change is a significant effect (Guidelines §§15064(e); 15382). Such changes may themselves cause a physical change and a significant effect. (Guidelines §15065(e).)

Lack of parking is also recognized as a "Physical and economic condition...that cause[s] blight." (Cal. Health & Safety Code §33031(a)(2); *Evans v. City of San Jose* (2005) 128 Cal.App.4th 1123, 1149-50.) CEQA recognizes that, as here, the potential to indirectly cause urban blight is a significant impact on the environment. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1204-05.)

The Public Resources Code section 21083(b)(3) requires finding that a project may have a significant effect on the environment if it will cause substantial adverse effects on human beings, either directly or indirectly. Eliminating parking affects people adversely, particularly those who have chosen to drive a car, as well as those subjected to increased traffic, congestion, air pollution, and a degraded quality of life by forcing them to spend more time, resources, and money to park.

Thus, the EIR's conclusion that parking is not "considered" an impact in San Francisco is both arrogant--the City is still part of California--and against the law. The Project will clearly have significant impacts on parking that must be evaluated and mitigated. To approve this EIR under these circumstances is an abuse of discretion.



## **2. The EIR's Conclusions on Parking Are Not Supported by Substantial Evidence.**

### **a. The EIR's Baseline Is Incorrect.**

While admitting the Project will cause a severe parking shortage, the Project makes no effort to evaluate these significant impacts on existing residents of the Project Area *or* on the new residents, who it hopes, without supporting evidence, will not have cars.

The EIR misstates both the existing parking shortage in the Project Area and the additional impacts of the Project's removal of hundreds of parking spaces, as well as the impacts of the Project's removing the minimum parking requirements in the Planning Code for new housing units. (*See, e.g., San Francisco Planning Code §§150 et seq.*) Instead, the Project places caps on parking that cut that requirement in half, along with other punitive measures removing access to parking and regulations that make construction of new parking facilities nearly impossible.

The following are some, but not all, of the incorrect, unsupported and misleading statements in the EIR on existing parking in the area

(1) The EIR continues to mislead the decision-makers and the public by including the Civic Center parking garage in its "existing supply" figures. The Civic Center Garage is *not* in the Project Area. It is often also closed to the public on weekdays when those working in and/or visiting courts, government offices, cultural and educational facilities in the Civic Center area fill the garage beyond capacity, even with valets. The Civic Center Garage currently has a *two-year* waiting period for monthly parking permits and is 106% occupied on most days. (EIP Associates: Hastings Parking Garage Project Supplemental Environmental Impact Report, April 22, 2006, p. III.B-8.) It serves a large commuting population of workers in the courts, government offices, cultural venues, Main Library, and educational institutions, as well as tourists and visitors. Including the Civic Center garage in the Project area inflates the EIR's data on existing supply by 843 to 1010 (with "valet"). (C&R, p. 3-28, Table C-5, Revised). By including the Civic Center Garage, the EIR falsely gauges the parking shortfall caused by the Project, which will be 3,930 to 7,090 or more parking spaces in the Project Area if an accurate baseline is used.

(2) The EIR includes a number facilities that *no longer exist or are closed to the public*, though City and Planning employees park their cars in reserved spaces in them, even as they create Projects that remove parking for the general public.<sup>4</sup>

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<sup>4</sup> According to the C&R at pp. 3-27 through 3-28, "Table C-5 Revised," the public *cannot* park in the following spaces:

401 Grove: 67 spaces reserved for City employees only;  
475 Hayes: 84 spaces reserved for City employees only;  
399 Fell: 29 spaces eliminated by development in 2005;

The EIR claims that there were 3,804 existing spaces in the “Off-Street Parking Supply in the Market Octavia Project Area” in December, 2005. (C&R at p. 3-27 - 3-28, Table C-5, Revised). That is plainly false, since the C&R points out that at least 2626 to 2793 of these parking spaces are *not* available to the public, including the Civic Center Garage. (*Ibid.*) Likewise, the C&R’s “Figure 4-22” at p. 4-199, claiming to depict “Existing Year Off-Street Parking,” is false and misleading. Nearly all of the lots described are either closed to the public, no longer in existence, and/or not in the Project Area, according to data appearing elsewhere in the C&R document. Without this incorrect data, the existing supply in the Project Area would be 1973 parking spaces, *including* the Performing Arts Garage, containing 600 parking spaces (630 with valet parking).

(3) The C&R incorrectly claims that only 340 off-street parking spaces have been eliminated within the Project Area since 2002. (C&R at p. 3-50). The MTA’s Director of Parking, Ron Szeto, has set that figure at more than 1,000 spaces lost due to the Central Freeway removal and development. (Letter from Ron Szeto to Dean Macris,

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1355 Market: 200 spaces privately reserved;  
298 Oak: 28 spaces eliminated in 2005;  
50 Ninth Street: 160 spaces eliminated by development;  
299 Oak Street: 28 spaces eliminated in 2005;  
15 Oak Street: reserved for private use;  
1 Franklin: 40 spaces, reserved for private use;  
170 Octavia: Eliminated in 2005;  
70 Gough: 32 spaces, eliminated in 2005;  
1525 Market: 68 spaces, reserved for private use;  
98 Haight: 27 spaces, fenced and closed;  
Brady: 105 spaces reserved for City employees only;  
1500 Mission: 40 spaces privately reserved;  
1537 Mission: 20 spaces privately reserved;  
490 Fulton: 90 spaces reserved for Opera, Ballet and Symphony employees;  
495 Fulton: 63 spaces reserved for Opera, Ballet and Symphony employees;  
700 McAllister: 70 spaces reserved for SFUSD, Opera, Ballet, and Symphony employees;  
398 Franklin: 52 spaces privately reserved;  
450 Hayes: 36 spaces reserved for Opera, Ballet and Symphony employees;  
325 Grove: 12 spaces privately reserved;  
51 Hayes: 411 spaces closed at 8 p.m.;  
302 Oak St.: 56 privately reserved.  
101 Fell: 48 spaces removed by development.  
TOTAL *NOT* AVAILABLE TO PUBLIC: 1831.  
TOTAL *NOT* AVAILABLE TO PUBLIC IN PROJECT AREA, INCLUDING MISSTATED CIVIC CENTER: 1831 + 843 [WITHOUT VALET] = 2674; [with valet = 2801 to 2841.]

June 1, 2006.) Accurate revision would conservatively reduce the “existing supply” to 973.

(4) NOT included in the EIR are data on the elimination in the past three years of hundreds of spaces of public street and metered parking on major streets throughout the area, including but not limited to, Market, Gough, Octavia, Hayes, Haight, Page, Fell, Oak, and others due to development, the Bicycle Plan, and other projects.

(5) Planning further claims that “approximately 980” more spaces would be “eliminated as part of the Plan or other private development projects within the Project Area,” *not* including the freeway parcels. (C&R, p. 3-50.) Yet Planning does not subtract this number from its existing supply, which it instead claims *increased* to 3,805 in 2005. (C&R, p.3-51)

(6) Also unmentioned in the EIR are 626 spaces guaranteed by union contracts to employees of the opera, ballet and symphony that will be eliminated by the Project.

(7) The Mid-Market Redevelopment Project EIR in 2004 found a parking deficit of 2000 spaces in the greater Civic Center area. (at p. 3-85, 3-87)

According to the EIR’s own data and source material, the overall parking space reduction between 2002 and the Plan’s completion date is “ approximately 1,320 spaces” (C&R, p.3-50). Under the MTA’s data, that reduction would be 1,980 spaces. City erroneously states that the “existing supply” is 3,804 or 3,805 existing spaces in the “Off-Street Parking Supply in the Market Octavia Project Area” in December, 2005. (C&R at p. 3-27 - 3-28, Table C-5, Revised, or C&R, p. 3-50). However, according to the EIR’s own data, that existing supply has *already* been reduced by 2,811 spaces, which would decrease that figure to 993.

Without the EIR’s erroneous inclusion of the Civic Center Garage, the existing supply of public parking is between 150 to *minus*-17. Adding MTA’s estimate of lost parking due to the freeway removal, the existing parking supply becomes *minus*-850 to *minus*-1,017 spaces. This does *not* include the aforementioned elimination of hundreds of public (white curb) and metered parking spaces throughout the area. Therefore, the EIR’s claim that there are 3,805 existing spaces is not supported by any reliable evidence. Rather, according to the City’s own source data, there is an existing shortage of more than 1,000 parking spaces throughout the Project Area that already presents serious hardship and difficulty for residents, workers and commuters.

The Project will also remove 980 or more parking spaces for its proposed developments, while increasing the population of the area by 9,875 new residents in 5,980 new market-rate dwellings (or 1.65 persons per unit).

- If 9,875 new residents each have one car<sup>5</sup> and no parking is provided, the shortfall *created by* the Project will be 10,855 (9,875 + 980 spaces removed by the Project), in addition to the existing shortfall of more than 1,000 spaces.
- If only half the new residents have cars, the shortfall *created by the project* will be 5,918 (4938 + 980 removed by the Project) in addition to the existing shortfall of more than 1,000 spaces.
- If developers choose to build .50 spaces for each unit as mandated by the Project, and each new resident has a car, the shortfall *created by the Project* will be 7,865 in addition to the existing shortfall of more than 1,000 spaces. (9,875 residents - 2990 spaces = 6,885 + 980.)
- If developers choose to build .50 spaces for each unit, and only half the new resident own cars, the shortfall *created by the Project* will be 2,928 in addition to the existing shortfall of more than 1,000 spaces. (4,938 residents - 2,990 spaces = 1,948 + 980.)
- If developers choose to build .75 spaces for each unit and each new resident has a car, the shortfall *created by the Project* will be 6,370 in addition to the existing shortfall of more than 1,000 spaces. (9,875 new residents - 4485 spaces = 5,390 + 980.)
- If developers choose to build .75 spaces for each unit and only *half* the new residents have cars, the shortfall created by the Project will be 1,433 in addition to the existing shortfall of more than 1,000 spaces. (4,938 new residents - 4,485 spaces = 453 + 980.)

Hence, the actual shortfall directly caused by this Project will be from 1,433 to 10,855 parking spaces, in addition to the existing shortfall of more than 1,000 spaces in the Project area, or 2,433 to 11,855.

An accurate baseline is required under CEQA as the beginning point for the evaluation of impacts from the Project. The severe *existing* shortfall of parking must be accurately stated to evaluate and *mitigate* the significant, adverse impacts on parking from this Project, which will physically remove parking throughout the area, a direct impact that will aggravate the severe existing parking shortage, causing cumulative, direct and indirect impacts. The EIR fails to analyze, mitigate and propose alternatives to these significant adverse impacts.

**b. The EIR Misstates and Ignores Existing and Future Parking Demand in the Project Area.**

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<sup>5</sup> According to the Project's source data, vehicle ownership in the Project area is 1.12 vehicles per household for owners and .75 vehicles per household for renters. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Technical Memorandum Vehicle Ownership in San Francisco*, November 2001, at p. 13.) By 2010, vehicle ownership is projected to increase to 1.17 per household for owners and .84 per household for renters. (*Id.*)

According to source material cited in the EIR, vehicle ownership in San Francisco is 1.15 per household. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Technical Memorandum Vehicle Ownership in San Francisco*, November 2001 at p. 1) Vehicle ownership rose significantly since 1990, particularly among renters. (*Id.* at p. 12) In the Project Area, vehicle ownership is 1.12 per household for owners and .75 per household for renters. (*Id.* at p. 13) By 2010, motor vehicle ownership in the Project Area is projected to increase to 1.17 per household for owners, and .84 per household for renters. The higher the housing prices, the greater the vehicle ownership. (*Id.* at pp. 18-19) As income levels needed for home ownership are reached, income has little effect on vehicle ownership. (*Id.* at p. 19)

Increasing transit service levels by 25% in the Project Area is estimated to reduce vehicle ownership by only 6%, from .93 vehicles per household to .87 vehicles per household. Affordability of home ownership *increases* vehicle ownership. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Technical Memorandum Vehicle Ownership in San Francisco*, November 2001, at p. 30, Figure 24)

There is no evidence supporting Planning's claim that including parking costs in housing costs increases the cost of a home by \$30,000 to \$60,000. The theory is flawed because it does not include the San Francisco residents who choose to own cars, instead speculating that future residents will be motivated by lack of parking to not own a car. The EIR's source material is an outdated thesis from 1998, which claims that in 1996 parking added 11.8 to 13% to the cost of 232 housing units studied in San Francisco. (Jia, Wenyu and Wachs, Martin (1998), "*Parking requirements and housing affordability: a case study of San Francisco.*") (hereinafter "Jia/Wachs," cited at Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Technical Memorandum Vehicle Ownership in San Francisco*, November 2001, at p. 32.)<sup>6</sup> Such speculation is not substantial evidence under CEQA.

**c. No Evidence Supports the Theory that Removing Parking Requirements from Residences Increases Affordability in San Francisco.**

There is no evidence for the theory that by separating the cost of parking from the cost of housing the market rate for housing will be reduced. For those who wish to park their cars anywhere near their homes, the cost will be *added* to the market-rate they paid for housing. But no evidence indicates that the market rate price will go down. Further,

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<sup>6</sup> The EIR's theory that including parking in the cost of housing increases the cost of housing excludes all residents who own cars and park them where they live. It only includes individuals who do not want parking included with their housing. The EIR relies on the theory promulgated by Jia/Wachs, *supra*, dated 1996; on another student thesis produced for the anti-car group "Transportation for a Livable City" (C&R at Fn.27) (not provided after requests by Appellants); and on a study for the "Victoria Transport Policy Institute" (C&R at Fn.26) (the latter two studies were not provided after requests by Appellants). The EIR cites no other data for its theory.

the Jia/Wachs study took place when housing was less than half its present cost. (*Id.*)<sup>7</sup>

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<sup>7</sup> The Planning Department finally produced the Jia/Wachs study on May 15, 2007. That study is useless because it outdated, unsupported and speculative. Jia/Wachs considered only 232 “dwelling units listed for sale in 1996.” (Jia/Wachs study at p. 7.) The Jia/Wachs study was made when the median value of a house (not condominium) in San Francisco was \$394,779 with parking, and \$348,388 without parking, and a condominium was \$303,856 with parking and \$265,053 without parking. (*Id.* at p. 8.) Jia/Wachs’ flawed conclusion, which forms the central basis for the Market-Octavia Project, is that people earning \$67,000 per year could afford a house in San Francisco if it did not include parking, and those earning only \$51,000 per year could afford to buy a condominium in San Francisco without parking.

However, according to the United States Census, in 2005, the median price of housing (including condominiums) in San Francisco was \$726,700. (U.S. Census, <http://factfinder.census.gov>) On May 17, 2007, the *San Francisco Chronicle* reported that the median cost of a house in San Francisco was \$850,000 (Carolyn Said, “Bay Area’s housing prices buck national trend,” *San Francisco Chronicle*, May 17, 2007).

However, the median income in San Francisco did not rise with the rise in cost of housing. The census places the median income of San Francisco households at \$57,496 -- less than the amount required for a condominium with *no* parking even in the outdated Jia/Wachs study *ten years* earlier. (U.S. Census, <http://factfinder.census.gov>) Quoting Ken Rosen, chairman of the Fisher Center for Real Estate and Urban Economics at UC Berkeley, the *Chronicle* stated that the Bay Area’s rise in real estate prices has defied national trends of falling prices, because it is driven by “strong activity at the upper end,” while losing the “bottom 20 to 30 percent of the market that can’t qualify for mortgages,” as realtors claim that housing in the “over-\$2 million range is absolutely on fire.” (Carolyn Said, “Bay Area’s housing prices buck national trend,” *San Francisco Chronicle*, May 17, 2007).

At prevailing prices, even if the Project’s unsupported claim that a parking space costs \$30,000 to \$60,000, that amount would be only 3 to 7 percent of the median price of a home in San Francisco, not the 13% claimed by Jia/Wachs. Thus, the Project’s more recent source data, Nelson\Nygaard, concludes that parking cost is irrelevant to both need and demand and has *no* influence on the affluent demographic that can afford to buy housing in San Francisco. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Technical Memorandum Vehicle Ownership in San Francisco*, November 2001, at pp. 18-19.)

Although Jia/Wachs notes that 70.4% of residents in their study area were *renters*, the study did not bother assessing renters’ parking needs at all. (*Id.* at p. 5)

The Jia/Wachs study does not support the EIR’s conclusions, but instead asks only unsupported rhetorical questions, *e.g.*, “If parking and housing were marketed separately in inner-city urban neighborhoods, wouldn’t *everyone* choose not to pay for parking and instead park free on local streets?” (*Id.* at p.10, italics in original.) Jia/Wachs then makes the entirely speculative claim that “owners with sufficient income would probably choose to purchase or lease parking spaces,” while “[o]thers, wishing to save money, would give up cars they rarely use...and pay less for housing.” (*Id.*) Jia/Wachs furnishes *no* evidence in support of its speculation, while the city’s own data, as well as that of noted

Income has not risen correspondingly, and therefore, as Nelson\Nygaard found, where anyone can afford to buy or rent a market-rate dwelling in San Francisco, they will own at least one vehicle. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Technical Memorandum Vehicle Ownership in San Francisco*, November 2001, at pp. 18-19.)

**d. The Project Claims that People Own Cars Only to Park Them.**

While admitting that its conclusion “is very difficult to establish directly from data,” the Nelson\Nygaard study concludes that “parking supply is a key cause of vehicle ownership.” (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Technical Memorandum Vehicle Ownership in San Francisco*, November 2001, at p. 34.) This deeply flawed and self-contradictory conclusion claims that people do *not* own vehicles because they need them for travel or commuting, but because parking is supplied. The EIR therefore concludes that if parking is *not* supplied, residents will not own vehicles. The Project will make this unfounded assumption the law of San Francisco.

**e. Residents Near “Transit Corridors” Own Cars and Need Parking.**

There is no evidence supporting the EIR’s theory of a decrease in vehicle ownership due to proximity to “transit corridors.” In fact, the experts who formulated the “transit corridor” theory have renounced the Planning Department’s notion that those using transit to commute will not also own a vehicle. Michael Bernick, co-author with Robert Cervero, of *Transit Villages in the 21st Century* (McGraw-Hill, 1996), a renowned expert on transportation issues, states:

Recently, San Francisco’s Board of Supervisors approved a change to the city’s General Plan, with potentially far-reaching impacts on the city’s neighborhoods. Proponents...claim that it better connects transit and land use by densifying housing and reducing parking requirements near transit corridors. In fact, the policy completely misunderstands the research and theory of transit-based housing as well as the process of community building. These studies...focus on rail transit, particularly heavy-rail transit, such as BART. The data on ridership for light rail and bus, the main transit service in San Francisco, show far less significant tie between transit ridership and station proximity.

[M]ost San Francisco neighborhoods already qualify as transit villages...The Housing Element...ignores neighborhood character. It

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FN. 7 (continued)

experts, contradict Jia/Wachs’ unsupported conclusions. Nevertheless, that speculation is repeated as fact throughout the Project documents.

seeks to squeeze persons into these neighborhoods, often in odd configurations and against neighborhood opposition. **It assumes that many new residents will not own cars--even though our research showed that transit village residents, while using transit for many trips, do own autos and need parking...**all of these neighborhoods are fragile and can easily be undermined. City planning needs to support neighborhood-based planning and high-quality Muni service in the built communities and encourage new transit-based communities in the city's emerging central waterfront and Southern areas.

(Bernick, Michael: "San Francisco's Housing Element--Built on Misunderstanding," *San Francisco Chronicle*, November 23, 2004.) (emphasis added.)

**f. The EIR Omits Commuting Workers, Tourists, and Visitors from Its Conclusions.**

The EIR concludes that the total parking shortfall with the Project will be between 2,250 to 5,410 parking spaces. (C&R at p. 3-181, Table B)<sup>8</sup> But the EIR excludes commuting workers, tourists, visitors, *and* existing residents from its conclusions. In fact, the shortfall will be between 5,485 to 11,855 spaces, *not* counting parking for the 4,290 new jobs, retail and visitor destinations that will be created in the Project area. (DEIR at p. 4-67, Table 4-2; and 4-69.)

According to the San Francisco County Transportation Authority's *Countywide Transportation Plan*, July 2004, the commute mode of San Francisco residents is as follows: Drive Alone: 40.5%; Carpool: 10.8%; Transit: 31.1%; Walk: 9.4% Other: 3.6%; Work at Home: 4.6%. (*Id.* at p. 40) The most pronounced demographic in the past 35 years is the number of people commuting into and out of the city to work (as opposed to living and working in San Francisco). (*Id.*) 22.5% of San Francisco residents commute to other counties to work. 27% of workers in San Francisco commute into the city from other counties. Additionally, the city attracts more than 14 million visitors per year (*Id.* at p. 41).

Thus, if this commute mode continues as the SFCTA predicts, **78.3%** of persons working at those 4,290 *new* jobs in the Project area will commute by car. That will create an additional parking demand for 3,359 parking spaces. If *new* commuters by vehicle are added, the total parking shortage in the Project Area will then be: **8,844 to 15,214**

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<sup>8</sup> The DEIR admits it has no data on existing parking demand, but instead bases its claims on "the number and size of the units." (DEIR, p. 4-209). The outdated figures were derived by counting the number of studio, one-bedroom, two-bedroom, etc., units existing in 2000 in the Project Area and deducting parking spaces for "affordable" units. (DEIR, p. 4-211). From these figures are extrapolated "Midday Parking Demand Rate" per unit size, and "Evening Parking Demand Rate" per unit size. NO data is given on how many of each unit size now exists in the Project area or will exist under the Project.



spaces, assuming that the Project's objectives of building no new parking facilities are achieved.

(1) The EIR Omits Demand from Surrounding Institutions and Cultural Venues, including but not limited to the parking demand created by:

- School of Arts at 135 Van Ness, which will have 1000 students and faculty, with a 1200-seat auditorium used several days and nights per week;
- Conservatory of Music at 50 Oak Street, with 260 students, 30 staff and a 400-capacity recital hall (Nelson\Nygaard: *Civic Center Parking Analysis*, p. 6-8, June, 2001);
- Conservatory Theater at 25 Van Ness;
- National Center for International Schools including the French and Chinese American Schools at 150 Oak Street (230 staff, 300 high-school age students Nelson\Nygaard, P.6-8);
- San Francisco Girls Chorus and School at 44 Page Street (300 students); and the Progress Foundation at 368 Fell Street,
- Commuters who work or visit government, court, cultural, or institutional centers in and immediately around the Project Area, including the Civic Center. The EIR incorrectly claims it does not need to evaluate the additional demand from these institutions because that increased demand would occur regardless of the residential and commercial development proposed by the Project. (C&R at p.3-33)

2) 626 existing parking spaces guaranteed by union contracts to employees of the Opera, Ballet and Symphony will be eliminated by developments proposed by the Project. (C&R, pp. 3-59 - 3-60).

3) The EIR does not include the hundreds of existing parking spaces exclusively reserved for City employees.

4) The EIR does not include the parking spaces needed for thousands of employees and visitors to the large new Federal Building at 7th and Mission.

5) The EIR does not include the estimated 6,000 visitors per week to the Asian Art Museum. (C&R at p.3-85)

6) The EIR does not evaluate the cumulative impacts of the existing shortfall of parking, the removal of 980 spaces for development, the demands of commuters and visitors to the area, and the needs of the nearly 10,000 new residents of the market-rate housing units it proposes.

The cumulative impacts of the Project's *additional* demands, as well as its imperative to remove 980 *existing* parking spaces for development, must be *added* to existing and projected demands, regardless of whether they are part of the Project.

(Guidelines §§15130; 15064; 15065; 15355; and, e.g., *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 75-79; *Communities for a better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 117.)

Basing its predictions on its false baseline and demand data, the EIR claims that expansion of the Performing Arts Garage could “replace about 35% of the parking spaces that are expected to be eliminated in the Project Area.” (C&R, p.3-34) Under its own erroneous data, such a replacement would require more than doubling the size of that garage.<sup>9</sup> Yet the Project requires that any expansion of existing parking facilities must, as a condition, first demonstrate that *every* parking facility in the Project area has tried car “stacking” and “valets,” and many other requirements. (254-page Ordinance at, e.g., §158.1(b)(3).)

7) The EIR says that of the 9,875 new residents under the Project, 7,870 would be employed, but that only 60 new jobs would be in the Project Area. (DEIR, pp. 4-67) The EIR says that without the Project, the Project Area will see an increase of “about 4,230 jobs by 2025” (DEIR, p. 4-69). The EIR says that those jobs will only “generate demand for about 1,495 new housing units that would represent 98 percent of new housing development (about 1,520 units) that would be built without the proposed Plan. The proposed Plan would increase housing supply that could accommodate projected job growth in the Project Area and provide surplus housing to serve the rest of the city.” (DEIR, p. 4-70) *No* data supports the EIR’s conclusion that new employees in the area would also buy new market-rate units in the area, or that the huge number of government and City employees already in the area would live in the new units and not have cars, especially since many City employees already receive reserved free parking throughout the Project area. Nor is there any support for the theory that a surplus of market-rate units in the Project area would serve “the rest of the city.” Analysis and mitigation of parking, transit and traffic impacts of the 7,870 new employed residents are absent from the EIR.

8) The Plan hypocritically exempts the hundreds of spaces devoted to *free parking for thousands of City* and other government employees from all of the Project’s punitive parking requirements. (E.g., C&R, pp. 3-27 - 28; and 254-page Ordinance at §158.1(d).)

9) The EIR contains *no* analysis of the parking, transportation, or traffic impacts from the large number of new residents who will commute to work *outside* of Project Area from their new market-rate residences in the Project Area. There is no substantial

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<sup>9</sup> The EIR erroneously claims the shortfall would only be from 2,250 to 5,410 parking spaces. (C&R at p. 3-181, Table B.) However, even using data from the EIR, 35% would require more than doubling the size of the garage to create an additional 788 to 1,893 parking spaces, while eliminating reserved parking for City and other employees now occupying most available lots in the area, plus the performing arts employees who also receive reserved parking.

evidence supporting any presumption that the new residents will work anywhere near their residences. Although the Project claims that 4,290 new (mostly government) jobs are projected in the Project area by 2025, there is no data supporting the speculation that they will be the same people who can afford the market-rate residences in the Project area. Analysis and mitigation of parking, traffic and transit impacts from the Project's 7,870 new employed residents (DEIR 4-67) are missing from the EIR.

10) The data cited in the EIR and in the San Francisco Transportation Authority's *Countywide Transportation Plan*, July 2004, p. 40, indicate that most residents in San Francisco, including those living in the Project Area, have already made their transportation choices and have chosen the automobile. The Project thus disserves the vast majority of existing residents who drive.

11) No data supports the EIR's theory that commuters will choose a different mode of transportation if parking is made more difficult and expensive. The Project's source data proves that even if parking costs increase and availability decreases, few, if any, (perhaps 6%) of car commuters will take public transit. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Civic Center Parking Analysis Existing Conditions Report*, June, 2001, at p. 4-17)

**g. The Project Will Have Significant Adverse Impacts on Housing Affordability, Neighborhood "Livability," and Retail Uses.**

The DEIR at p. 4-53 claims, with no supporting evidence, that "Reduction of parking space requirements would decrease the amount of auto traffic in the Project Area, suggesting that, over time, the pedestrian land use environment would be enhanced by fewer curb-cuts and widened sidewalks, retail uses would be improved by more vibrant continuous street frontages, and auto-related noise and air pollution impacts on neighborhood livability would be reduced. Overall, the reduction in land and building space devoted to parking could increase the potential for housing development and reduce housing unit costs."

No substantial evidence supports actual reduction in housing costs anywhere in San Francisco due to lack of parking or not requiring parking with housing. More likely, residents will face added costs for parking where it once was included with housing. And, as the DEIR admits, its maximum caps resulting in inadequate parking throughout the area, "could create a disincentive to developers to construct housing by lowering the sale value of housing units." (DEIR, p. 4-230, Fn.5)

"Neighborhood livability" is not improved by removing parking. Rather it results in degrading the quality of life for every resident who has to endure the miserable experience of searching for parking, moving cars, double parking, parking on sidewalks, and other desperate measures, not to mention getting expensive citations. Lack of parking disproportionately affects the elderly, families with young children, and the disabled, as well as those who have to commute to jobs.

Requiring residents to pay more for parking will cause economic hardship for those least able to afford it. (C&R at Letter AA-4) The EIR dismisses these important indirect impacts of the Project. (C&R at p.3-303) Nor does any evidence support the notion that eliminating parking “would decrease the amount of auto traffic.” More likely, the Project’s removal of parking will increase traffic, since visitors, shoppers, commuters, and residents will have to circle and search for parking, an indirect impact on, *e.g.*, traffic and air quality that the EIR does not analyze.

### **3. The EIR Admits the Project Will Cause Significant Adverse Impacts on Parking but Proposes NO Mitigation.**

Throughout administrative proceedings Planning has dismissed the large amount of negative public comment on the Project’s significant adverse impacts on parking. (C&R at, *e.g.*, Letters A, B, C, D, U, V, X, AA, pp. 4-2, 4-6, 4-13, and in Planning Commission Hearings.)

CEQA requires that where there will be a significant impact, either direct or indirect, on the environment, that those impacts must be mitigated. As noted above, CEQA recognizes that impacts on parking are significant impacts, and they must be mitigated to achieve compliance with the law. The EIR does not analyze or mitigate parking impacts from this Project and cannot survive a court challenge to its plain violations of CEQA on this issue. Further, because the EIR contains no substantial evidence to support its conclusions, any approval of the EIR is an abuse of discretion and a failure to proceed in a manner required by law.

## **B. SIGNIFICANT TRAFFIC IMPACTS ARE NOT ANALYZED OR MITIGATED.**

The EIR fails to accurately analyze existing traffic, effects of the freeway removal and installation of the Octavia Boulevard freeway ingress-egress, effects of large-scale parking removal on traffic, effects of 9,875 new residents in the market-rate dwellings proposed by the Project, effects of more buses, effects of slower signalization on congestion, and effects of 4,290 new jobs in the Project area, among other things. (DEIR, 4-67) The EIR includes no Level of Service (“LOS”) data on most streets in the Project area, and proposes *no* effective mitigation for increased traffic on any streets. Indeed the Project admits that its proposed mitigations for several streets would increase impacts on traffic and congestion. (DEIR at pp. 5-14 - 5-18.) Proposed mitigation measures are unfunded, ineffective, and some have even been enjoined by the Superior Court because of the Bicycle Plan litigation.

The Project “cannot state a policy of reducing traffic congestion, recognize that an increase in traffic will cause unacceptable congestion and at the same time approve a project that will increase traffic congestion without taking affirmative steps to handle that increase.” (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 380.) The County must make a “binding commitment” to alleviate the impacts the Project will have on traffic and housing. (*Id.*)

Mitigation measures must be funded and proportional to the impacts of a project. (Guidelines §15126.4(a)(4)(B); *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364.) Mitigation for cumulative impacts must also be funded. (*Id.* at 364-65.)

**1. There is NO Up-to-Date Baseline Accurately Showing Existing Traffic Conditions Since the New Octavia Boulevard Placed the Freeway Traffic on Neighborhood Streets.**

The Project is severely flawed in omitting traffic impact analyses at the appropriate baseline, as they exist today, since they will be adversely affected by the Project.

Incredibly, the EIR includes no analysis of the impacts of the new Octavia Boulevard that opened in September, 2005. The 6-lane surface freeway ingress-egress that cuts through the Project area replaced the Central Freeway. The former freeway touchdown ramps carried 93,100 vehicles per day. (San Francisco Department of Parking & Traffic [“DPT”], “*Octavia Boulevard Operation, Six Month Report March 2, 2006*, p. 2.)<sup>10</sup>

Only a few months after its opening, the DPT recognized major congestion at many intersections in the Project area, none of which appear anywhere in the EIR, either as a baseline of “existing” conditions, or in an analysis of significant impacts on traffic from the Project. (DPT, “*Octavia Boulevard Operation, Six Month Report March 2, 2006*, p. 2.) For example, the Fell-Laguna intersection experienced a 92% increase in a.m. traffic and a daily 24-hour increase in traffic of 78%. (*Id.* at p. 3) “Recurrent congestion” was noted on Oak St. at Octavia Blvd. on weekdays and weekends, “with traffic backed up several blocks.” (*Id.* at pp.3, 7 and 8.) Northbound congestion at Market Street caused by the no-right-turn lane onto the freeway often backs traffic onto Market for several blocks. (*Id.* at p. 4, 10) Increased congestion was also noted at the South Van Ness freeway on-ramp. (*Id.* at pp. 6, 8) Queuing backed up for several blocks is also present on Page (96% increase in a.m. traffic, and 41% increase in 24-hour traffic), Haight (270% increase in a.m. traffic and 112% increase in 24-hour traffic) (*Id.* at pp. 11-12). DPT noted nearly a year ago that the new Octavia Boulevard was “close to...capacity that we estimated when the new design was proposed” and represented only “about half the previous capacity of the elevated freeway structure. The current surface roadway can carry approximately 1,400 vehicles per direction per hour before congestion sets in.” (*Id.* at p. 2.)

None of this information appears in the EIR’s analysis of “existing conditions” or of impacts from the Project.

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<sup>10</sup> The EIR’s LOS analysis (DEIR, p. 4-185-186) was conducted before the opening of the new Octavia Boulevard, which has caused major increases in traffic congestion on that boulevard and surrounding streets.

No LOS analysis appears in the EIR for any of these and other streets in the Project Area and in the cumulative area affected by the Project. The SFCTA's *Congestion Management Program 2005/6 November 2005*, shows severe congestion, LOS "F" existing in the Project area on Fell from Gough to Market; Duboce from Market to Mission and Potrero to Mission, and Duboce/Division; Gough from Golden Gate to Market; Van Ness from Golden Gate to 13th; and Van Ness to I-80. (*Id.* at pp. 30-34.) However, the SFCTA document does not analyze other streets in the Project Area.<sup>11</sup>

The EIR makes no attempt to accurately establish the existing conditions in the Project Area, and therefore cannot accurately identify impacts from the Project.

## **2. There Is NO Accurate Analysis of the Project's Impacts on Traffic.**

Also omitted from the EIR is any coherent, up-to-date data on the impacts on transportation, transit, and traffic from the removal of the Central Freeway and the construction of a six-lane ingress-egress cutting through the Project Area on Octavia Boulevard, causing significant traffic impacts on that and many other streets. There is no coherent analysis or mitigation of traffic impacts caused by the Project. That information is crucial to informed decisionmaking, and its omission is unlawful under CEQA.

The EIR says that the Plan would generate "about 35,970 person-trips and 10,955 vehicle trips per day." (DEIR at p. 4-208) The EIR admits the Project will have significant adverse impacts on traffic at many major intersections. (DEIR at pp. 4-212-213). Yet, incredibly, the EIR concludes that the Project would not have adverse impacts on most streets but would only result in significant and unavoidable impacts at the Laguna/Market/Hermann/ Guerrero intersection. (DEIR at pp. 4-216).

The EIR admits that the Project will have cumulative impacts at the Hayes/Van Ness; Mission Otis/S. Van Ness; Market/Church/14th; and Market/Sanchez/15th intersections and would "add substantial numbers of vehicles to multiple movements which determine overall LOS performance at these four intersections," and would have a "significant impact on a total of 7 of the 12 intersections" considered. (DEIR at p. 4-222)

In view of the SFCTA's data, the EIR implausibly claims that the Project would not have significant cumulative impacts on the Market/Octavia/McCoppin; Market/Van Ness-S. Van Ness; Duboce/Mission/Otis/101 Off-Ramp; Oak/Octavia; and Duboce/S. Van Ness intersections. (DEIR at 4-222).

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<sup>11</sup> SFCTA's "Congestion Management Plan" oddly excludes most affected streets. SFCTA has also violated the Government Code by failing to come up with a "Deficiency Plan" for more than five years. (Gov. Code §§65089, 65089.4) If litigated, the city could lose billions in income from taxes on the drivers it punishes with this Plan.

A recent poll found that the biggest concern of San Francisco and Bay Area residents was transportation. "Transportation dominated the survey, as it has every year over the past decade...traffic congestion, the condition of roads and bridges, and public transit" was the most important Bay Area problem, exceeding housing. (Gordon, Rachel: "Biggest Concern in Poll," *San Francisco Chronicle*, March 1, 2007.)

Yet the EIR proposes nothing to mitigate this Project's direct, indirect, and cumulative impacts on traffic and transit.

The Project recently released a "Community Improvements Program" document (Ex. P-1-A, February 1, 2007; revised as Ex. P-1-B, March 20, 2007) that calls for measures that would further adversely affect both traffic and transit throughout the Project area, yet it does not analyze or mitigate their impacts. (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 380 [The Project "cannot state a policy of reducing traffic congestion, recognize that an increase in traffic will cause unacceptable congestion and at the same time approve a project that will increase traffic congestion without taking affirmative steps to handle that increase." The County must make a "binding commitment" to alleviate the impacts the Project will have on traffic and housing.])

For example, reducing the lanes on State Highway 101 (Van Ness Blvd.) to two traffic lanes to create a "BRT" project ("bus rapid transit") is proposed on that major interstate highway and thoroughfare, at an estimated cost of \$58,340,000. (Ex. P-1-A, February 1, 2007, at p. 15; Ex. P-1-B, March 20, 2007 at p. 13.) That proposal would certainly have severe, immitigable, adverse impacts on traffic and transit that are not analyzed in the EIR. Since Van Ness is a State Highway, the City has no authority to take any action on it. (*E.g.* Cal. Const., art. XI, §7)

As noted in the Project's source data, buses *do not* benefit from dedicated rights of way or other priority measures, such as transit-preferential signals. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Market/Octavia Study Area Existing Conditions Report*, August 2001, at "Transit," p. 1-3.) This data invalidates any proposed "mitigations" consisting of "BRT" or other dedicated lanes.

The "Community Improvements Program" also calls for lane reduction, removal of parking and/or or closing of other streets to vehicle traffic, a proposal certain to have severe impacts on traffic congestion on streets throughout the area. (Ex. P-1-A, February 1, 2007, at pp. 15 and 23, *e.g.*, Market Street Bicycle Lane; Page Street Bicycle Boulevard) These proposals for bicycle facilities are unlawful, having been enjoined by order of the San Francisco Superior Court. (*Coalition for Adequate Review v. City and County of San Francisco*, S.F.Sup.Ct. Case No. 505509, Order of November 7, 2006.)<sup>12</sup>

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<sup>12</sup> The Project calls for obstructing or totally closing Page Street to motor vehicles to create a "bicycle boulevard," though this would back up vehicles and Muni traffic, as well as other modes of transportation, affecting schools and the needs of a densely

Even if these proposals were lawful, their significant adverse impacts have not been identified or mitigated.

The Bay area is in non-attainment status for air quality. (DEIR on “55 Laguna Mixed Use Project” at III.D-5, III.D-9, etc.) This Project will plainly cause criteria air pollutant emissions from a variety of emissions sources, including stationary sources as well as traffic congestion directly and cumulatively resulting from the Project. Even a small part of the Project resulted in Planning’s finding that, “Project-related traffic could not only increase existing traffic volumes, but also cause existing non-project traffic to travel at slower, more polluting speeds,” with “hot spot” air pollution potential. (*Id.* at III.D-13 - 14.) The 39,970 person-trips per day and 10,955 vehicle trips per day by 9,875 new residents will obviously cause impacts on air quality which are not identified, analyzed or mitigated in this EIR.

The EIR’s failure to provide this and other information on traffic impacts and to propose meaningful mitigation severely flaw it as an informational document.

### **3. There Is No Commitment to Any Mitigations of Significant Impacts on Traffic.**

The Planning Commission claimed that its proposed “mitigation” of the Project’s traffic impacts on Hayes Street (Van Ness to Gough) by not eliminating a westbound traffic lane and parking on Hayes Street is “infeasible.” No substantial evidence supports the Commission’s last-minute “finding” of “infeasibility.” Rather, the Commission acted for improper, political reasons to satisfy political demands of anti-car factions such as the private corporation, the San Francisco Bicycle Coalition, to cause traffic snarling on Van Ness and Hayes, claiming that gridlocked traffic will create a “healthy pedestrian environment” on Hayes Street. (Motion No. 17406, Attachment A, CEQA Findings at pp. 23-27, 41.) No feasibility study has been conducted or provided to the public, and no evidence supports the idea that backing up traffic creates a healthier pedestrian environment.

The EIR proposes signal timing changes as mitigations, (DEIR at p. 5-16), admitting they would have to “ensure that the changes would not substantially affect Muni bus operations.” These proposed “mitigations” are not explained or analyzed. Will the lights slow traffic? Will the lights be red longer, delaying intersection traffic even more? The EIR’s mitigations are couched in disclaimers: “As the feasibility of the signal timing changes has not been fully assessed, the potential for a significant and unavoidable impact would still exist.” (DEIR, p. 5-16, 5-18).

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populated residential street. Previous attempts to install traffic circles on Page were overwhelmingly rejected by neighborhood residents, the Fire Department, and pedestrian groups, and had to be removed because they obstructed passage of emergency vehicles. Bicycle facilities and “bicycle boulevards” are also preempted under the State Constitution, art. XI § 7.



The EIR ultimately throws up its hands and says that significant impacts on traffic cannot be mitigated at all and are “unavoidable.” (DEIR at pp. 6-1 - 6-2) However, the EIR then admits that under the No Project Alternative, congestion, parking and transit impacts would be minimized because of the “lower amount of density development” and existing parking requirements in the Planning Code. (DEIR at p. 7-6)

Meanwhile, we are told, with *no* substantial evidence, that the Plan “proposes to mitigate these impacts by providing extensive pedestrian, transit, traffic-calming and other streetscape improvements that will encourage residents to make as many daily trips as possible on foot, by bicycle or on transit.” (254-page Ordinance at §326.1(C).) This unsubstantiated speculation proposed as city law is not mitigation and does not comply with CEQA. No transit improvements are proposed or funded. Wider sidewalks will not solve traffic problems, and bicycle and “traffic calming” “improvements” are enjoined by a court order, because the City previously failed to analyze and mitigate their significant impacts on traffic for the Bicycle Plan Project.

There is NO evidence that the thousands of new residents in market rate housing units in this Plan will be inspired by wider sidewalks to walk, ride a bicycle, or take a bus to jobs or other destinations, particularly those that are not located in the immediate area. Where proposed measures will not effectively mitigate traffic congestion and delays, the EIR is legally insufficient. (*E.g., Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 784.)

### **C. TRANSIT IMPACTS ARE NOT ANALYZED OR MITIGATED.**

Though the Project repeats the myth that the area is “well-served” by transit, there is no data or substantial evidence to back up this claim. In fact, both the Project’s data and public comment bear out the larger complaint of residents that San Francisco’s Muni is substandard, overcrowded, particularly during commute hours, rarely on time, and will need a huge outlay of cash to accommodate any increase in ridership. Since residential fees do not fund transit, the Project would provide *no* funding for the kind of improvements needed to accommodate the many new residents who are supposed to ride Muni. The Project shows *no* funding for additional buses, even in the long term. (SFCTA, *Congestion Management Program 2005/6 November 2005*, at p. 77; and *see, e.g., Rachel Gordon, “‘When It’s Bad, It’s Really Bad’ Unreliability Makes Muni Reviled; Agency’s Chief Admits ‘Status Quo Is Not Acceptable,’” San Francisco Chronicle*, June 10, 2007, p. 1, attached to this Comment.)

Even though the Project relies on the assumption that these new residents will abandon their cars and get on Muni, its conclusion of no impacts on transit is based on the opposite: that very few new residents will use transit. The Project’s principle fiction is that the area is “transit rich,” while its own data shows an unreliable, overcrowded transit system that cannot accommodate thousands of new riders. The Project’s theories do not jibe with its data or predictions, and its conclusion of “no impacts” is not valid without accurate information.

CEQA requires analysis and mitigation of direct, indirect and cumulative impacts on transit. (*E.g., San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 78-79.) There is no accurate information or coherent analysis or mitigation of the Project's significant impacts on transit in the EIR.

**1. The EIR Contains NO Analysis of the Impacts of Thousands of New Residents on the Already Severely Inadequate Public Transit in the Project Area and Elsewhere.**

The Project's source data notes that although the Project area is a "key transit node in San Francisco," that in the area, "on-time performance is extremely poor," with only four of 23 lines surveyed meeting the Proposition E standard that 65% of runs should be on time. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Market/Octavia Study Area Existing Conditions Report*, August 2001, at "Transit," p. 1-1.) The study further notes that both bus and streetcar lines serving Market/Octavia have extremely poor on-time performance, with only one line, the F-Market inbound, meeting the Proposition E standard. Virtually every line has gaps of 25 minutes between trips. Some lines have gaps of one to two hours. (*Id.* at "Transit," p. 1-2) Possibly due to poor on-time performance, with high loads following a gap in service, capacity on many lines exceeds Muni standards and there is no room for more passengers to board. (*Id.* at "Transit," p. 1-3)

According to the Project's source data, buses do *not* benefit from dedicated rights of way or other priority measures, such as transit-preferential signals. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Market/Octavia Study Area Existing Conditions Report*, August 2001, at "Transit," p. 1-3.) This data invalidates any proposed "mitigations" consisting of "BRT" or other dedicated lanes.

Virtually all transit riders in the area (96%) are traveling within San Francisco. (Nelson\Nygaard Consulting Associates, *San Francisco Planning Department Better Neighborhoods 2002 Market/Octavia Study Area Existing Conditions Report*, August 2001 at "Transit," p. 1-4.) In the Project area, "origins are highly concentrated around Church Street Station, and along the Church-Fillmore corridor. Destinations largely lie downtown, and along the Church-Fillmore Corridor." (*Id.*) Commuting is the dominant trip purpose, whether to work (64%) or school (16%). (*Id.*)

While claiming the Project will promote greater use of transit, the EIR claims the Project will only add only 225 Muni riders (DEIR at p. 4-225), and would "generate about 658 transit trips as a primary mode," concluding that the Project would have no impact on "peak hour capacity." (DEIR at p. 4-226). The EIR says that if "Project-generated transit riders chose to use the Muni bus lines that are at or near capacity (such as the Van Ness Avenue bus lines), they would contribute to already crowded conditions. As there would be an increase of one or two percent due to project-generated riders on all corridors, and because there are Muni bus lines within each corridor with available capacity, this would not be a cumulatively considerable impact." (*Id.*) This "analysis"

does not comply with CEQA. It is based on a presumption that Muni riders don't have to take a particular bus to get to a particular place at a particular time.

Most San Franciscans have already chosen cars as their mode of transportation. Of those traveling within San Francisco, even if parking were removed in the area, 56% of commuters said that taking Muni would be "out of the question." (Nelson\Nygaard, *San Francisco Planning Department Better Neighborhoods 2002 Civic Center Parking Analysis Existing Conditions Report*, June, 2001, at p. 4-18.)

However, a significant number of city residents do use public transit, and the EIR's figures do not jibe with those of the SFCTA, which found that in 2003 35% of San Franciscans commuted by transit. (San Francisco County Transportation Authority, *Countywide Transportation Plan*, July, 2004, at p. 41) If the same percentage of the Project's proposed 9,875 new residents in the Project area use public transit, that would mean 3,500 more people would be crowding the already packed Muni. The EIR says that the Project would generate "about 35,970 person-trips...per day." (DEIR at p. 4-208) Thus, the 35% of person-trips by public transit would be 12,590 transit trips per day by new residents, enough to fill 2,518 buses to capacity, a severe impact that is neither analyzed nor mitigated in the EIR.

## **2. The EIR Proposes NO Meaningful Mitigation of the Significant Impacts on Transit from Thousands of New Users and NO Provisions for Funding.**

No meaningful mitigations of the Project's significant impacts on transit are proposed. Instead, the EIR "proposes improvements to transit operations, by upgrading transit street car platforms on Church Street and Duboce Avenue; redesigning Muni Metro entrances to impart a sense of identity; and using design treatments such as colored asphalt overlay to distinguish transit lanes on Market Street" and "disallowing curb-cuts on transit preferential streets identified in the Plan" (DEIR, p. 3-27) None of these "improvements" will mitigate overcrowding. Only more buses will resolve that problem, but no funding for more buses is proposed. (SFCTA, *Congestion Management Program 2005/6 November 2005*, at p. 77.)

## **D. THE EIR FAILS TO ANALYZE AND MITIGATE SIGNIFICANT IMPACTS ON HISTORIC RESOURCES.**

Missing from the EIR is any analysis of existing conditions, impacts, or mitigation of historic resources in the Project area. Any alteration of historic resources or their significance is a mandatory finding of significant impacts, requiring an EIR under CEQA. (Pub. Res.Code §§ 21084.1; Guidelines §15064.5(b); 21065.5; 21001.) After identifying significant impacts on historic resources, the EIR must identify feasible measures to "mitigate significant adverse changes in the significance of historical resources," and must insure that such mitigations are "fully enforceable." (Guidelines §§15064.1(b)(4); 15026.4; *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 596-97, 54 Cal.Rptr.3d 366, 373-75.)

Planning urges approval of the EIR and the Project before completion of a “Historic Resources Survey,” which it claims it has commissioned. Approval of this EIR without identifying historic resources, allowing public participation in analyzing the Project’s impacts on them and mitigating impacts on them is an abuse of discretion and a failure to proceed in a manner required by law.

After February 1, 2007, Planning proposed that in lieu of a lawful analysis of historic resources in the EIR, “areas of increased scrutiny” would receive an undefined “discretionary review” for construction over 50 feet in height. The “areas of increased scrutiny” were established by a “windshield survey of Market Street.” (Ex. U-3, February 15, 2007, at p. 1.) The “areas of increased scrutiny” do *not* include major portions of the Project area. (*Id.* at p. 3.) In fact, the Project expressly permits demolition of existing dwelling units as a “conditional use” in all new “RTO” and “NCT” Districts. (254-page Ordinance at §207.7.)

**1. The EIR Violates CEQA by Failing to Identify Existing Historic Resources in the Project Area, and that Information May NOT Be Lawfully Deferred.**

The EIR must identify existing historic resources in every part of the Project area, not just “areas of increased scrutiny.” Historic resources are not limited to those listed in official registers or areas. This analysis may not be lawfully deferred.

Promising that environmental review of parts of this Project will take place later is unlawful and cannot excuse the City from complying with CEQA before adopting and implementing the Project and amending its General Plan. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307 (Deferring environmental assessment to a future date runs “counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process.”); *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 394-95; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 79, Fn.8 (“CEQA requires that an agency determine whether a project may have a significant environmental impact ... before it approves that project.”)(emphasis in original); *City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 408; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 154.)

**2. There is NO Analysis of Significant Impacts on Historic Resources in and Around the Project Area, Including the Civic Center.**

The EIR must analyze not only the direct impacts from demolishing old buildings to make way for unregulated density development. It must also analyze the impacts on the *significance* of those structures. The Project proposes full build-out of clusters of incompatible high-rise structures up to 400 feet high in the immediate area of the Civic Center on both sides of Market Street that will dwarf and dominate the historic beaux arts complex and obliterate the view of the City Hall’s graceful dome from many vantage points in the city. (Ex. Z-1-a-2, February 15, 2007) The Project admits that the high-

rises will cause “incremental shading” on the United Nations Plaza in the Civic Center complex, but it contains *no* shadow studies and *no* meaningful mitigation. (Planning Commission Resolution No. 17406, April 5, 2007, Attachment A, CEQA Findings at pp. 22-23)

To the north along Franklin, the Project envisions more high-rises of 120 feet (12 stories), with “street walls” 85+ feet high along the rest of Market Street and Franklin Street in the Project area, and in the large area currently zoned public at the UC Extension (“55 Laguna”) site. (Ex. Z-1-a-1, and Ex. Z-1-a-2, February 15, 2007). The Project’s “CEQA Findings,” released after the April 5, 2007 Planning Commission vote adopting them, admit that the Franklin developments will “cast mid-afternoon shadows year round on the War Memorial Open space,” but proposes no meaningful mitigation. (Resolution No. 17406, April 5, 2007, Attachment A, CEQA Findings at p. 22). The Project also approves, *e.g.*, a 90-foot condominium complex at 1960-1998 Market Street, and a huge development extending the length and breadth of the Safeway lot at Market and Church, completely obliterating public view of the historic Mint, destroying the character of historic surrounding neighborhood structures. (*E.g.*, DEIR, Figure 4-15; and *see* attachments to this Comment.)

There is no analysis in the EIR of the impacts of the Project on these historic resources and their significance, which are degraded and subsumed by the sheer size, bulk and height of proposed Project development.

### **3. There is NO Mitigation of Site-Specific and Cumulative Impacts from the Project. “Scrutiny” Is Not Mitigation.**

The EIR’s proposed “discretionary review” is unexplained and is not a mitigation. Without first identifying historic resources throughout the Project area, the EIR and the Project cannot lawfully proceed. The analysis must take place *before* -- not *after* -- Project approval. (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 79-80. An agency cannot “hide behind its own failure to gather relevant data.” (*City of Redlands v. County of San Bernardino* (2002) 96 Cal.app.4th 398, 408, quoting *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307.) Nor may review be lawfully deferred to a future date. (*Ibid.*) CEQA requires that unless an entire property, or as here Project area, is rendered useless, every historic building on the Project site must be preserved. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 602-603.)

The California Supreme Court has held:

A fundamental purpose of an EIR is to provide decision makers with information they can use in deciding *whether* to approve a proposed project, not to inform them of the environmental effects of projects that they have already approved. If post approval environmental review were allowed, EIR’s would likely become nothing more than *post hoc* rationalizations to support action already taken. We have expressly condemned this use of EIR’s. (*Laurel*

*Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 394.) (Emphasis in original.)

## **E. VISUAL AND AESTHETIC IMPACTS MUST BE ANALYZED AND MITIGATED.**

### **1. The EIR's Conclusions that High-Rise Incursion into the Civic Center Will Not Have Significant Impacts on the Area and the Entire City Are Incorrect.**

San Francisco's Civic Center is both a National and regional Historic District with a "group of primarily public buildings that makes up what is considered by many scholars as the nation's finest and most complete collection of buildings in the Beaux Arts inspired City beautiful movement." (DEIR at p. 4-77.) These buildings are approximately 80 feet tall, with surrounding cultural and other public buildings between 90 and 130 feet tall. (DEIR at pp. 4-79, 4-83) The pinnacle of the Civic Center's graceful complex is the City Hall dome, with the tip of its spire at 300 feet.

The Project would place a cluster of high-rise market-rate residential towers up to 400 feet high in the south part of the Civic Center area, north and south of Market Street from Gough to Larkin, and to the immediate northwest of the Civic Center up to 120 feet high on Franklin, between Golden Gate and McAllister. These huge towers of private residential units would be incompatible architecturally, in purpose, and in bulk and density with the graceful old Civic Center buildings. The Project's high-rises would create a wall of structures that would be three to five times the height of the Civic Center buildings, dwarfing them in height and scale, obliterating all public views of them from many vantage points in the city. Their grandeur would be diminished by comparative scale, and the significance of their unique, beautiful architecture would be degraded to antique curiosities by much larger, incompatible modern boxes.

In the March 22, 2007 Planning Commission meeting, the Planning Department's MEA spokesperson admitted that these skyscrapers would cast shadows over the UN Plaza in the middle of the Civic Center throughout the day. In spite of this, the Commission adopted unsupported findings that those impacts are unavoidable and the high-rises must be constructed. (Motion 17406, Attachment A, CEQA Findings at pp. 22-23. Significant wind impacts will magically disappear *after* construction of the high rises, *id.* at p.7. Wind effects on pedestrians from high-rise development are significant under CEQA) There is no shadow or wind study or any substantial evidence showing the impacts on the historic Civic Center and public space, and these significant impacts are not identified, analyzed or mitigated. Although Planning has received design proposals for several high-rises, it persists in disingenuously claiming that their impacts cannot be evaluated. (*See* attachments to this Comment.)

The EIR admits that Planning's past "visionary" forays resulted in high-rises that are "architecturally incompatible" with the "historic setting of the Civic Center." (DEIR at p. 4-173)

- the Fox Plaza residential tower (29 stories, 1964, now housing the City Attorney's offices);
- the white CSAA office building at 100 Van Ness (1976, 29 stories) now housing the San Francisco County Transportation Agency ("SFCTA") and others;
- and the windowless Bank of America building (21 stories), now housing the city's MTA and the Redevelopment Agency.

Yet the Project proposes many more "architecturally incompatible" high-rises in the immediate area of the Civic Center. The Project's high-rises will be much higher than existing ones (to 400 feet), though the EIR claims that this height limit increase "would be incremental." (*E.g.*, Ex. Z-1-a-2, February 15, 2007.) The EIR claims that its high-rises would be "tall, slender, widely-spaced buildings," but that they would be clustered "by concentrating height and bulk where core transit services converge" at Market Street and Van Ness Avenue. (DEIR at p. 4-98, DEIR Fig. 4-14 - 4-15) The myth of "slender, elegant" high-rises is already in our face: Fox Plaza and the CAAA building are both "slender." High-rises proposed in the area will receive no further review or public input under CEQA if this Project is approved.

The EIR ultimately announces that, "Although visual quality is subjective, it can reasonably be concluded that the proposed buildings themselves would not result in a substantial, demonstrable negative aesthetic effect on the existing visual character or quality of the area and its surroundings. The visual impacts would be less than significant. No mitigation measures would be required." (DEIR at p. 4-100) This statement is contradicted by projects in the "pipeline" before Planning right now. (*See* examples of renderings in attachments to this Comment.) Yet, in plain violation of CEQA, the EIR claims these plans are too "speculative" for analysis.

The EIR does not analyze the effect on views of the Civic Center area in violation of CEQA. It concludes, with no substantial evidence and contrary to its own admission, that the Project "could alter existing views from public viewpoints," (DEIR at p. 4-100), but "would not result in a demonstrable negative visual impact on views, would not obstruct publicly accessible scenic views," and that "impacts related to view would be considered less than significant." (DEIR at p. 4-105)

Elsewhere, the EIR says that its new high-rises "could combine with the previous incompatible development, alterations to the setting of the Civic Center Historic District would be relatively minor compared to the previous alterations discussed above." (DEIR 4-173) The EIR's astonishing conclusion is that "new development adjacent to the Civic Center Historic District resulting from the Plan would not be considered a cumulatively significant impact to historical resources. No mitigation would be required." (DEIR at p. 4-173)

These conclusions are illegal under CEQA. "An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR." (Guidelines §15130(a)(1).) The baseline for analyzing impacts is the existing uniquely beautiful

Civic Center Historic District itself, not the ugly high-rise structures that Planning has previously allowed in the area. The baseline is the scenic vista or object itself, not detractions and degradations of it.

Furthermore, past impacts are not mitigated by compounding them. (Guidelines §15355(a).) CEQA assumes that any impact that adds to an existing significant impact is significant. (*Id.*; and, *e.g.*, *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 117; *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 73) While existing high-rise structures are a visual degradation that is an enduring reminder of the importance of CEQA's mandate of careful analysis, informed decisionmaking and informed public participation and review, they are not the subject of this EIR, and do not justify more high-rises. CEQA requires more than the EIR's cursory conclusion that since three ugly structures are already there, impacts from constructing many more incompatible high-rise structures will not be significant.

Cumulative impacts refer to "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (Guidelines §15355(a).) A cumulative impact from "several projects" is "the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." (Guidelines §15355(b).) The EIR recognizes that three high-rise structures in the Civic Center have already caused adverse significant impacts on the historic and aesthetic enjoyment of the Civic Center. (DEIR at p. 4-173). However, the EIR erroneously concludes that no cumulative impact will occur by compounding the impacts from those structures by building many more that are higher, forming a barrier to the view of the Civic Center from the south and west. That conclusion clearly violates CEQA.

In fact, the incursion of more high-rise structures will further diminish the grandeur and scale of the Civic Center and City Hall. The highest point of the spire on the City Hall dome is 300 feet. (DEIR at p. 4-79) The dome will not be visible from the south since 400-foot high structures will block it. The beautiful civic structures in the famous beaux arts complex will be reduced in comparative scale to small curiosities by the sheer size, bulk, and height of much larger, much higher, architecturally incompatible, high-rise structures.

The grand public character of the area devoted to libraries, museums, cultural amenities, courts, educational institutions and government offices will be walled in and stand in the shadows of huge private structures with no public purpose.

The EIR must analyze these impacts and not just observe that three ugly buildings are already there. This Project's rezoning for high-rises is inappropriate for the Civic Center area and must not be approved.



## **2. Architecturally Incompatible and Scale, Bulk, and Density-Incompatible Structures Will Have Significant Impacts on Other Parts of the Project.**

The Project further proposes “street walls” of structures 90 to 120 feet tall, built out to the property lines along Market and Franklin Streets, filling every space in the Project area with density box housing that is architecturally incompatible, bigger and higher than the existing old, 2- and 3-story structures throughout the area. (*See, e.g.*, C&R at Figures 4-14, 4-15.) The 4,000-plus parcels that the Project will rezone will no longer be required to have setbacks or back yards. CEQA has long recognized that such street walls and linear massing are significant adverse impacts. (*E.g.*, *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 937 [“‘tunneling’ or ‘canyoning’ effect” and “overall degradation of existing visual character of the site from the excessive massing of housing with insufficient front, rear, and side yard setbacks” held significant adverse impact].) The Project does not analyze the visual and aesthetic impacts from the site-specific and cumulative changes it proposes in any part of the Project area.

The Project’s descriptions are misleading. For example, the diagrams of heights on freeway parcels that will be 55 to 130 feet high are shown as comparable to the heights of surrounding old dwellings that are only two or three stories high or lower than streetlamps that are less than 20 feet high. (*E.g.*, C&R at Figure 4-16.) This type of disinformation defeats the EIR’s purpose as an informational document.

CEQA requires careful analysis and real mitigation of visual impacts, including regional and cumulative visual impacts beyond the Project’s boundaries. (*E.g.*, Guidelines §15126.2(a) and Appendix G; and *e.g.*, *Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1604-06 (replacing one-story structures with two-story homes has adverse effect on public views; and mitigations are insufficient where views would remain partially obstructed.) In February, 2007, Planning announced it would give a 5-foot height “bonus” to most proposed developments. No analysis of impacts of either the height increases in any area or the bonus appears in any document in Planning’s EIR. (A four-foot height increase required mitigation in *Quail Botanical Gardens, supra.*) Here, NO analysis of the impacts of any height increase has been conducted. Mitigation of view impacts may not be deferred. (*Id.* at 1607-08; Guidelines §15070.) CEQA applies whether it is a one-story view obstruction or a 40-story blockage of every public view.

Planning makes much of its restrictions on heights in alleys, as if that were mitigation for the high-rises. But that tiny portion of this Project is largely meaningless since the alleys have already been built out. Further, by eliminating density restrictions, the old residential alleys themselves could become even more congested with in-law structures, converted garages and other sub-standard structures that the Project will allow as “residences.”

The Project’s “urban design guidelines” are unenforceable fictions. This Project will affect the city permanently. Past mistakes are not going away, and compounding these errors is illegal under CEQA.

### **3. The Rezoning Removes More than 3,000 Parcels from the Planning Code's and General Plan's Requirements of Conformity with Residential Design Guidelines.**

The Project re-zones more than 3,000 parcels to new zoning designations that remove them from the strictures of the Planning Code §311(c)(1), which provides that Residential Design Guidelines shall be used to review plans for all new construction and alterations. The Planning Department's Residential Design Guidelines, December 2003, apply to all past residential projects in RH (Residential House) and RM (Residential Mixed) zoning districts. By changing the zoning, these requirements that protect and preserve neighborhood character no longer apply to this large area in the heart of the city.

The Project substitutes meaningless "urban design guidelines" for concrete density, bulk, setback, height, and parking requirements in the existing Planning Code. Planning has already abandoned its subjective "guidelines" to approve incompatible box structures that conform to nothing. There will be no opportunity for public input or review of any development proposal if this Project is adopted.

### **4. The EIR Contains NO Meaningful Alternatives or Mitigations for Visual Degradation of the Area and City by the Project.**

Since it incorrectly finds no impacts, the EIR further violates CEQA by not identifying and evaluating alternatives and mitigations for the Project's significant adverse visual and aesthetic impacts. (Motion No. 17406, Attachment A, CEQA Findings at p.4.)

## **F. GROWTH, ECONOMIC SEGREGATION, AND URBAN BLIGHT IMPACTS.**

The Commission makes the plainly false claim that there will be no growth and other impacts from the Project. (Motion No. 17406, Attachment A, CEQA Findings at p.4) There is no coherent analysis of growth impacts in the EIR, and the public was thus deprived of its right to comment on such impacts. CEQA requires such analysis. (*E.g.*, Guidelines, §§15126; 15126.2(d).) The Project rezones more than 3,000 existing parcels in the Project area, removing all existing density requirements in the Planning Code for the new zoning designations.

The DEIR said the Project would cause an increase of 4,400 new housing units in the Project Area. (DEIR at p. 4-337) That figure was revised and substantially increased in September, 2006, to an estimated 5,960 new housing units and 9,875 new residents in the Plan Area. (Ex. P-1, at p. 19.) Even the new projection falls far short of foreseeable reality, excluding large projects known to be proposed, such as the "55 Laguna" (UC Extension), and the "1998 Market" (Mint Hill) projects, with those two proposals alone adding more than 600 *more* market-rate units.

The Project area is already densely populated with 26,650 residents. (DEIR at p. 4-67) The Project's addition of 9,875 new residents will cause a population increase of 37% in the Project area. Population increases impose new burdens on existing community service facilities and infrastructure, which are neither analyzed nor mitigated by the EIR.

The EIR says that, "New housing stock would be encouraged by eliminating housing density maximums...reducing residential parking requirements and establishing a maximum parking cap; encouraging new accessory units in existing residential uses through additions or garage conversions, without requirement for additional parking; and reducing discretionary review and conditional use requirements." (DEIR at p. 3-21) The Project also removes rear yard and setback requirements, raises heights throughout the area, and proposes high-rise residential development up to 400 feet. The Project does not explain how it reached the projected growth figures or whether it accounts for demolition and expansion of existing structures, add-ons and conversions, or whether its figures only include new "infill" development construction. Further, the EIR's figures do not anticipate that more people will have to inhabit each new housing unit to afford their market rate prices. Thus, the actual growth caused by the Project could be significantly greater than the new figures in the EIR addenda. There is no analysis of the human and urban blight impacts of overcrowding from the elimination of density limitations in the market-rate dwellings.

### **1. The Project Will Not Provide Affordable Housing in the Project Area.**

Although the Project and addenda claim there may be "inclusionary" affordable housing, the fact is that *the Project does not require any affordable housing in the Project area*. The EIR explains that, "As a policy document, the proposed Plan cannot require that affordable housing be developed under the Plan beyond existing city requirements." (DEIR at p. 4-69) The "city requirement" allows fudging of "inclusionary" housing by either paying a fee to the Mayor's Office of Housing that is a fraction of the cost of housing in San Francisco, or to build affordable housing somewhere else in the city at some undefined time. (San Francisco Planning Code, §§315 *et seq.*) While the Redevelopment Agency claims it will build a total of 400 affordable units (6.7% of the 5,980 projected units), those affordable units are reserved for designated groups, not the general public. (*E.g.*, DEIR at p. 4-69). All remaining units will be the equivalent of gated communities for the rich.

Planning's March 16, 2007 Memorandum claims that Planning is preparing a "study of the potential for an increased affordable housing requirement for parcels that are granted significant upzoning through the Market and Octavia Plan," but, like the rest of the Project, *does not propose that any new affordable units be constructed in the Project area*.

Indeed, while making radical changes to many parts of the city's Planning Code, the Project does *nothing* to change Section 315 or to include diverse economic classes in

the Project area. Instead, the Project promotes exclusionary, economically segregated housing in San Francisco.

Thus, the type of growth this Project induces is exclusively that of an affluent demographic that can afford the market-rate San Francisco housing, defeating the purported objective of the Project “to provide increased housing opportunities affordable to a mix of households at varying incomes.” (DEIR, at p. 4-69; Fn. 5, *supra*; and *see e.g.*, Barbara Tannenbaum, “San Francisco 2020,” *San Francisco Magazine*, February 2007, p. 20.) The Project’s market-rate housing is *exclusionary*, not inclusionary, and it conflicts with the Planning Code’s and General Plan’s threshold requirements, that “existing neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods,” and “That the City’s supply of affordable housing be preserved and enhanced.” (San Francisco Planning Code, §101.1(b)(2, 3 and 5); and *see* Fn. 6 and 7, *supra*.)

The EIR fails to conduct the proper analysis of comparing the income of the *existing* residents of the Project area with the income of the area after building 5,960 new market-rate dwellings in the area. There is no analysis of this impact, and how much displacement will occur because of it, or any mitigation proposed.

Nor does the EIR analyze the urban blight impacts of the Project’s economic segregation, either in the Project area or in other areas where the elusive affordable housing may be located.

## **2. The Project Promotes Demolition and Development by Market-Rate Incentives and Removal of Density, Bulk, Height, Setback and Parking Restrictions.**

The Project invites and foreseeably portends demolition of older, smaller structures with its financial incentive to fill lots now occupied by smaller, older and even historic structures, with larger structures with no restrictions on density, bulk, height, setback, and parking. In fact, the Project expressly permits demolition of existing dwelling units as a “conditional use” in all new “RTO” and “NCT” Districts. (254-page Ordinance at §207.7.) No analysis of these obvious adverse impacts appears in the EIR.

## **3. The EIR Fails to Analyze Impacts from the Project’s Displacement of Existing Dwellings and Residents**

The EIR admits that “some displacements of existing businesses or residences could occur as specific sites are developed due to market pressures for higher density residential development with proposed new zoning or to accommodate planned transportation and public open space improvements.” (DEIR at p. 4-71). The Project explicitly permits demolition. (254-page Ordinance at, *e.g.*, §207.6(b).) The EIR claims that the Project would mandate a “replacement requirement” of at least 3:1, thus further encouraging demolition of lower-density structures to build high-density structures “due to market pressures.” The EIR says that “Residential displacement would not be

considered a significant environmental impact, as implementation of the proposed Plan would not be expected to displace a substantial number of residential units or businesses,” claiming that “any major displacement” would “be subject to further environmental review.” Since there is NO environmental review here of the impacts of displacement, either on human beings who are displaced or on the physical character of areas affected by it, this glib conclusion is completely unsupported by substantial evidence and violates CEQA. There is no proposed mitigation for any displacement.

#### **4. The EIR Fails to Analyze the Project’s Impacts on Infrastructure, Sewers, and Other Resources.**

CEQA requires evaluation of irretrievable commitments of resources, such as nonrenewable energy use, water and sewage, and the need for highway improvements. (Guidelines §15126.2(c). The EIR contains no evaluation of these issues.

High-rise and high-density residential structures use huge amounts of nonrenewable energy -- far more than cars-- since they consume energy for ventilation, climate control, heat, and lighting. The EIR contains NO analysis of the huge increase in use of nonrenewable energy required for all of the proposed bulky and dense residential developments. The EIR fails to identify these impacts and mitigate them. (DEIR at p. 6-2)

#### **G. OPEN SPACE AND DENSITY**

In plain conflict with the city’s General Plan and Planning Code, the Project eliminates open space requirements within developments and in public areas. Nor is there any evaluation or mitigation of the Project’s significant impacts on existing public open space in violation of CEQA.

The Project redefines “open space” as widened sidewalks, “pedestrian amenities,” “an unenclosed plaza at street grade” of no particular size, and “a terrace or roof garden.” (254-page Ordinance at §249.33.)

Within its market-rate private developments, the Project eliminates all density limitations, yards and front and rear setbacks at the ground floor of any structure under the new zoning designations. (254-page Ordinance at, *e.g.*, §§102.5, 121.1, 121.2, 121.5, 124, 132, 134, 135, 206.4, 207.4, 207.6, 207.7, 208, 209, 209.1-209.6, 249.33, 270, 702.1, 720-720.1, 720.10, 720.91-720.92)

Heights are raised in every area except alleys, and applications exceeding the Project’s height limits in new “RTO” districts need *not* apply for conditional use permits. (254-page Ordinance at §253)

The Project urges full build-out to every property line with no density limits. (*E.g.*, 254-page Ordinance at §249.33) The full build-out may extend to 120 feet (12 stories) in height before being required to fractionally recede from property lines. (*Id.* at

§270) Driveways and access to extremely limited parking are restricted, assuring that streets will be filled with both parked vehicles and motorists searching for parking.

The EIR admits that the existing open space is already inadequate and over-used in the entire Project Area. (DEIR at p. 4-61) The Project area contains no parks of any size and describes children's playgrounds as "existing open space":

- The "Hayward Playground" between Turk and Golden Gate containing playgrounds and the City's 911 emergency operations center. (DEIR at p. 4-113)
- "Koshland Park": A tiny area occupying one-quarter of a block, containing a children's plastic play structure, basketball hoop and small garden area that will be entirely shadowed for several daytime hours by the Project's proposed 400-foot high-rises on Market Street (DEIR at p. 4-113 and 4-121);
- "Duboce Park": A small area containing a basketball court and dog-soiled turf area, bounded by Duboce Avenue and Hermann, Steiner and Scott Streets, described as "well trafficked by pedestrians and dog-walkers from surrounding neighborhoods." (DEIR at p. 4-115)
- "Patricia's Green": a small, open median strip terminating the freeway ingress-egress on Octavia Boulevard, diverting and obstructing through traffic on Octavia, containing a small area of dog-soiled turf, faux-deco benches, and a McDonald's style children's plastic play structure.

The EIR proposes the following as new "open space" for the Project's 9,875 new residents (with 36,525 people estimated in the area if the Plan is implemented):

- "Brady Park": A tiny hardscape plaza surrounded by high-rises on an "80-foot-square BART-owned parcel that provides access to its tunnel below, and through purchase, an additional 100 foot by 80 foot parcel, currently surface parking." (Id.) (Ex. P-1-A, February 8, 2007, at Appendix C-50; Ex. P-1-B, April 17, 2007, at Appendix C-51) The new "park" will purportedly be "a magnificent centerpiece for this intimate mini-neighborhood. The park will be surrounded by several housing opportunity sites." "The BART vent shaft rather than a hindrance, could be the site of a central wind driven, kinetic sculpture." (Ex. P-1-A, February 8, 2007, at Appendix C-50; Ex. P-1-B, April 17, 2007, at Appendix C-51))
- "McCoppin Plaza": A hardscape strip on the south side of Market Street at the freeway touchdown. (Ex. P-1-A, February 8, 2007, at Appendix C-52; Ex. P-1-B, April 17, 2007, at Appendix C-53.)
- "Under Freeway Park": Existing public parking would be removed to develop "a dog run and/or temporary structures housing cultural arts programs" under the freeway. (Ex. P-1-A, February 8, 2007, at Appendix C-56; Ex. P-1-B, April 17, 2007, at Appendix C-57.)
- Concrete "pedestrian refuges" and widened sidewalks, described as "a more sophisticated type" of "open space." (Ex. P-1, at p. 20)

The Project's proposed "open spaces" are a distortion of the concept of open space that plainly conflict with General Plan and Planning Code requirements. Because it will cause significant direct and cumulative adverse impacts on already overcrowded open space in the Project Area, the EIR violates CEQA's requirements to identify and mitigate significant impacts.

The EIR's failure to mitigate the cumulative significant impacts on existing open space from adding nearly 10,000 new residents violates CEQA. The EIR's failure to identify and mitigate the direct significant impacts of not creating sufficient open space for the new residents also violates CEQA. The EIR's failure to identify and mitigate other significant adverse impacts, such as overcrowding and urban blight also violates CEQA.

#### **H. IMPACTS ON AIR QUALITY, ENERGY, SEWAGE DISPOSAL, WATER, AND OTHER IMPACTS.**

The EIR contains *no* analysis, mitigation or findings on Air Quality impacts, in plain violation of CEQA. The Bay area is in non-attainment status for air quality. (DEIR on "55 Laguna Mixed Use Project" at III.D-5, III.D-9, etc.) This Project will plainly cause criteria air pollutant emissions from a variety of emissions sources, including stationary sources as well as traffic congestion directly and cumulatively resulting from the Project. Even a small part of the Project (the "55 Laguna" proposal) has resulted in Planning's finding that, "Project-related traffic could not only increase existing traffic volumes, but also cause existing non-project traffic to travel at slower, more polluting speeds," with "hot spot" air pollution potential. (*Id.* at III.D-13 - 14.) The 35,970 person-trips per day by 9,875 new residents (DEIR 4-208) will obviously cause impacts on air quality that are not identified, analyzed or mitigated in this EIR, violating CEQA and federal statutes.

The EIR concludes, with no substantial supporting evidence, that there will be no impacts on air quality from the Project. There is no substantial evidence to support the notion that thousands of new residents in the Project area will not have cumulative impacts on air quality and infrastructure in the city and Bay area.

#### **I. SEISMIC IMPACTS.**

The EIR does not propose meaningful mitigations for the potential impacts of placing high-rise density residential development in areas known to be subject to liquefaction and other severe damage from earthquakes. (DEIR at pp. 4-299 - 4-316) The EIR admits that "more intense development of residences and businesses in the Project Area would expose larger numbers of people to death and injury in the event of a major earthquake," but claims that developers' compliance with Building Codes would make these deaths a "less-than-significant" impact. (DEIR at p. 6-3)

#### **J. CUMULATIVE IMPACTS**

The EIR contains no meaningful analyses or mitigations of the Project's significant cumulative impacts. The cumulative impacts on traffic, transit and parking alone will affect every resident and visitor in the Project area and throughout the city and region. The aesthetic impacts will change the face of the central part of San Francisco forever, from historic smaller buildings of aesthetic and historic merit to the generic box-development model that can be viewed in any urban city in the U.S. The financial incentive for demolition of older structures is foreseeable and obvious, yet is unanalyzed and unmitigated in this EIR. Cumulative impacts analysis and mitigation are necessary because "the full environmental impact of a proposed project cannot be gauged in a vacuum...environmental damage often occurs incrementally from a variety of small sources." (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 118; CEQA Guideline §§15061(b)(3); 15065(a)(3); 15355; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 872 (abuse of discretion to omit cumulative impacts analysis.)

Furthermore, the Project admits that it is the model for unregulated development throughout other large areas of San Francisco. Foreseeable domino/cumulative impacts have already been announced. The draft "Eastern Neighborhoods Plan" incorporates the Project's rezoning, elimination of density, bulk, setback, yard, and parking restrictions, and other features to a huge area to the south, east and west of the Project area.

**K. THE EIR PROPOSES NO MEANINGFUL OR EFFECTIVE MITIGATIONS OR ALTERNATIVES TO THE PROJECT, AND DOES NOT ACCURATELY DESCRIBE THE "NO PROJECT" ALTERNATIVE.**

**1. The EIR Proposes NO Meaningful Mitigations for the Project's Significant Impacts.**

"Once a significant effect has been identified, the EIR must propose and describe mitigation measures that will minimize the significant environmental effects that the EIR has identified." (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 360; Pub. Res. Code §21100(b)(1); Guidelines, §15126(a).) CEQA requires that an agency take steps to ensure that any mitigation measures "will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded." (*Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261; *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 358-59, 380)

CEQA requires that the EIR describe feasible measures to minimize significant adverse impacts. (*E.g.*, Guidelines §15126.4.) The EIR's discussion of mitigation measures must distinguish between measures proposed by Project proponents and those proposed by others. (Guidelines §15126.4(a)(1)(A).) "Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time." (Guidelines §15126.4(a)(1)(B).) If proposed



mitigations will cause one or more significant effects in addition to those caused by the proposed Project, they must also be discussed in the EIR. (§15126.4(a)(1)(D).) Mitigation measures must be fully enforceable and legal.

The EIR fails to identify the Project's significant impacts, including those described above, thus denying its responsibility to mitigate them, in violation of CEQA. Of the few identified adverse impacts from the Project (DEIR at pp. 6-1 - 6-2), the EIR proposes no relevant or meaningful mitigation. For example, eliminating parking requirements does *not* mitigate traffic circulation impacts or open space impacts. Where proposed measures will not effectively mitigate traffic congestion and delays, the EIR is legally insufficient. (*E.g., Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 784.)

## **2. Newly Proposed “Community Improvements” Do Not Mitigate Impacts Caused by the Project, Will Have Significant Impacts, Have Been Enjoined under Other Litigation, and May Be Preempted.**

Plans for bicycle lanes, bicycle boulevards, and “traffic calming” impediments on City streets are enjoined by Order of the Superior Court. (Case No. 505509, *Coalition for Adequate Review v. City and County of San Francisco*, November 7, 2006). City's attempt to legislate these acts under a different project is an abuse of process in contempt of the Court's order. Far from being “mitigations,” these measures have already been found to have their own significant impacts, and any further attempt by City to enact or implement them, including the legislation before the Board of Supervisors, may subject the City to contempt charges. These proposed acts are also preempted under the California Constitution.

Even if they were not illegal, these proposals do not mitigate impacts of development and growth on transit, traffic, and parking, and will in fact aggravate those significant impacts, and, because they are enjoined, must be removed from this Plan.

## **3. The EIR Fails to Properly Identify and Analyze Alternatives to the Project.**

The EIR discusses only two alternatives to this massive Project: the No Project Alternative, and a “Reduced Height/Reduced Density Alternative,” which would be identical to the Project but would reduce high-rise heights from 400 feet to 320 feet. There is no proposal for alternatives that would, for example, retain the existing parking requirements in the Planning Code, though that alternative would reduce the Project's severe parking impacts. There is no alternative that would reduce heights of proposed residential towers from 400 feet to 85 or 120 feet, reducing the Project's impacts on views, wind, shadows, open space, and others. Instead, only an artificially limited set of options is offered.

The EIR's failure to describe more options is contrary to CEQA's requirement of a “range of reasonable alternatives to the proposed project, or to the location of the

project, that could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” (Guidelines §15126.6(a).) The EIR should also briefly “describe the rationale for selecting the alternatives to be discussed,” and should “identify any alternatives that were considered by the lead agency but were rejected as infeasible” and the reasons for that rejection. (Guidelines §15126.6(c).) CEQA requires that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects...” (Pub.Res.Code §21002; 21081; and, e.g., *Uphold Our Heritage v. Town of Woodside* (2007)147 Cal.App.4th 587, 596-97, 54 Cal.Rptr.3d 366, 374.) Substantial evidence must support any claim of infeasibility.

The EIR should propose and discuss a much larger range of alternatives for a Project of this size and importance.

#### **4. The Project Proponents Have Rejected a Feasible Project Alternative that Would Clearly Lessen the Significant Environmental Impacts of the Project, Requiring Recirculation.**

The Project fails to propose a full range of alternatives, reducing its analysis to a perfunctory exercise. A number of alternatives have been proposed in public comments that would clearly lessen the significant environmental impacts of the Project. For example, numerous public comments have proposed that the Plan dispense with its punitive parking restrictions, such as its proposed changes to the Planning Code’s 1:1 requirements of minimum parking in new housing construction, its imposition of maximum caps on parking, its limits on public parking facilities, demands of no curbs cuts (driveways) on city streets, no parking and loading provisions for commercial uses, etc. The Project Proponents have rejected all of these comments and suggestions. The same is true of the Project’s elimination of the rear yard requirement, full build-out requirements, high-rise development and other parts of the Project. Under these circumstances the EIR must be recirculated. (Guidelines, §15088.5(a)(3).) Even if a proper range of alternatives is proposed, the EIR must be recirculated to allow public consideration and comment. (E.g., *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1358.)<sup>13</sup>

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<sup>13</sup> As noted above, the public has not been given the opportunity for input on the Project’s voluminous addenda and changes since the DEIR comment period ended in June, 2005, which significantly change the EIR, the Project, and the proposed legislation to adopt it. The volume of material, its importance and significant impacts require a new period of public comment that will be accomplished only by revision and recirculation.

### **III. THE PROJECT AND THE PROPOSED LEGISLATION CONFLICT WITH THE GENERAL PLAN AND PLANNING CODE, AND DO NOT MEET REQUIREMENTS FOR A SPECIFIC PLAN.**

The city's General Plan is its "constitution for all future developments." (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 354.) General Plan consistency is required by both CEQA and the Government Code.

Any amendment to the General Plan is a project under CEQA. (*City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398, 409.) CEQA requires more than a recital of blanket statements that the Project conforms with the General Plan. (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 379-80.) "CEQA reaches beyond the mere changes in the language in the agency's policy to the ultimate consequences of such changes to the physical environment." (*City of Redlands, supra*, 96 Cal.App.4th at 409.) The agency may not defer analysis and mitigation of impacts from General Plan amendments to a future time. (*Id.*) Environmental review of the impacts of General Plan amendments and the Project must include all foreseeable actions related to the original Project. (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 396.)

Any General Plan must be internally consistent under the California law and the San Francisco Planning Code. (*E.g.*, Gov. Code §65454; SF Planning Code §§101, 101.1) A zoning ordinance that is inconsistent with the General Plan is invalid when passed. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 544; *Sierra Club v. Board of Supervisors* (1981) 126 Cal.App.3d 698, 704.) The General Plan may not be changed to conform to a zoning ordinance. (*Leshar Communications, supra*, 52 Cal.3d at 541 ["The tail does not wag the dog. The general plan is the charter to which the ordinance must conform."]) "The consistency doctrine has been described as 'the linchpin of California's land use and development laws; it is the principle which infuse[s] the concept of planned growth with the force of law.'" (*Napa Citizens for Honest Government, supra*, 91 Cal.App.4th at 355; quoting *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1336.) A specific plan like the Project is valid only to the extent that it is consistent with the General Plan's objectives, policies, general land uses and programs. (*Napa Citizens for Honest Government, supra*, 91 Cal.App.4th at 355; Gov. Code §65454.)

The following are examples (not inclusive) of the Project's inconsistencies with the Planning Code and General Plan.

#### **A. INCONSISTENCIES WITH THRESHOLD REQUIREMENTS OF PLANNING CODE §§101 and 101.1.**

The San Francisco Planning Code §101.1(e) (Proposition M) requires that any proposed legislation requiring an initial study under CEQA, or requiring a permit for

demolition, conversion or change of use, or a finding of consistency with the General Plan, first requires a finding of consistency with the eight Priority Policies set forth in the Planning Code §101.1(b).<sup>14</sup> Consistency with the Priority Policies must precede CEQA review. (Planning Code §101.1(e).) Examples of the Project's inconsistencies with the eight Priority Policies are:

- **§101.1(b) (1) “That existing neighborhood-serving retail uses be preserved and enhanced”**  
By eliminating parking, the Project adversely affects neighborhood-serving retail uses.
- **§101.1(b) (2) “That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.”**  
The Project proposes density infill and high-rise development, eliminates existing setback and yard requirements, eliminates parking requirements, allows and encourages demolition for density development, and contains no requirement of on-site affordable units.
- **§101.1(b) (3) “That the City’s supply of affordable housing be preserved and enhanced.”**  
The Project includes NO inclusionary “affordable” housing anywhere in the Project area.
- **§101.1(b) (4) “That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking.”**  
The Project worsens the existing severe parking shortage and causes significant direct adverse impacts on neighborhood parking by aggressively eliminating parking, access to parking, existing parking facilities, and by making construction of new parking facilities nearly impossible, and is therefore inconsistent with the Code’s requirement to not overburden streets or **neighborhood parking**. The Project will introduce 10,000 new residents with no proposed or funded mitigation of impacts on traffic or public transit. Muni transit service is already overburdened in the Project Area, and, although Muni can clearly *not* accommodate the Project’s 10,000 new residents or any part of them, the Project funds no Muni improvements, and would severely overburden public transit. Both the severe parking shortfall and the impacts of the Project on transit and traffic directly conflict with this Priority Policy.
- **§101.1(b) (6) “That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.”**  
The Project proposes to build dense high rise development on corridors known to be most vulnerable to the dangers of earthquakes.
- **§101.1(b) (7) “That landmarks and historic buildings be preserved.”**

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<sup>14</sup> The City may not adopt any legislation that conflicts with the Planning Code §101.1, because that provision was adopted with a voter-approved Ordinance, Proposition M, in 1986. (Cal. Elections Code §9217).

The Project contains no historic resources survey or plan, and does not include most of the Project Area in its proposed future “historic resources” survey. The Project provides no protection from impacts of incompatible density development on historic buildings, and only “discretionary review” of projects directly involving historic structures. The Project authorizes demolition as a conditional use, and encourages demolition by eliminating density, height, bulk, yard, setback, and parking requirements for market-rate development.

- **§101.1(b) (8) “That our parks and open space and their access to sunlight and vistas be protected from development.”**

The Project contains no protections for existing small park areas, and will allow a 400-foot high-rise to shade the tiny Koshland Park -- one of the few parks in the entire Project Area-- as well as high-rise shadowing of the Civic Center, War Memorial and UN Plaza, and does not conform with the General Plan’s requirements for open space. The Project would invite nearly 10,000 new residents to overcrowd already-inadequate open space in the Project Area, while proposing no meaningful mitigations.

## **B. INCONSISTENCIES WITH THE GENERAL PLAN.**

The following are examples (not inclusive) of the Project’s inconsistencies with the General Plan:

- ***Air Quality Element***

**Objective 1:** “Adhere to state and federal air quality standards and regional programs.”

**Objective 3:** “Decrease the air quality impacts of development by coordination of land use and transportation decisions.”

**Policy 3.1:** “Take advantage of the high density development in San Francisco to improve the transit infrastructure...”

The Project will cause further traffic congestion and increased emissions and degradation of air quality by inducing growth and not mitigating the Project’s traffic, transit and parking impacts.

- ***Commerce and Industry Element***

**Objective 6:** “Maintain and strengthen viable neighborhood commercial areas easily accessible to city residents.”

The Project directly conflicts with this objective by aggressively eliminating neighborhood parking, curtailing and prohibiting parking for retail uses, prohibiting loading areas, removing accessibility to parking facilities, and other anti-parking measures that will adversely affect neighborhood commercial areas and accessibility to them.

**Policy 6.9:** “Regulate uses so that traffic impacts and parking problems are minimized.”

The Project will cause severe parking impacts and traffic and transit impacts, and proposes no mitigations for its impacts.

- **Environmental Protection Element**

**Objectives 9 - 11.2:** *“Reduce transportation-related noise.”*

The Project’s Octavia Boulevard has already caused a severe increase in noise. The Project’s impacts on parking, traffic, and transit will increase transportation-related noise by causing more congestion and traffic. No noise measurement study has been conducted on the new Octavia Boulevard. No analysis of existing traffic noise has been conducted, and no mitigations are proposed. The Project will bring nearly 10,000 new residents into the area, causing impacts on traffic and transit noise.

- **Housing Element**

**Objective 1:** *“To provide new housing, especially permanently **affordable housing**...and take into account the demand for **affordable housing** created by employment demand.”*

**Objective 1:** *“Retain the existing housing supply.”*

**Policy 2.1:** *“Discourage the demolition of sound existing housing.”*

**Objective 4:** *“Support **affordable housing** production by increasing site availability and capacity.”*

**Policy 4.1:** *“Actively identify and pursue opportunity sites for permanently **affordable housing**.”*

**Policy 4.2:** *“Include **affordable units** in larger housing projects.”*

**Policy 4.4:** *“Consider granting density bonuses and parking requirement exemptions for construction of **affordable housing** and senior housing.”*

**Objective 6:** *“Protect the affordability of existing housing.”*

The Project directly conflicts with all affordability objectives, by requiring **no affordable housing on-site anywhere in the Project Area**. The Project encourages demolition by removing all regulation of density, bulk, setback, rear yard and parking in new developments. The Project does nothing to identify or support siting of affordable housing in the Project area. The Project effectively grants density bonuses and parking requirement exemptions NOT for affordable units, but rather to encourage *market-rate* units. The Project will reduce affordability of existing housing by encouraging market-rate density development throughout the Project area. The Project directly conflicts with these Policies.

**Policy 6.5:** *“Monitor and enforce the **affordability** of units provided as a condition of approval of housing projects.”*

**Objective 7:** *“Expand the financial resources available for permanently **affordable housing**.”*

**Policy 7.1:** *“Enhance existing revenue sources for permanently **affordable housing**.”*

**Objective 8:** *“Ensure equal access to housing opportunities.”*

**Policy 8.1:** *“Encourage sufficient and suitable rental housing opportunities and emphasize permanently **affordable rental units** wherever possible.”*

**Policy 8.2:** *“Employ uniform definitions of **affordability** that accurately reflect the demographics and housing needs of San Franciscans.”*

**Policy 8.3:** *“Ensure affirmative marketing of **affordable housing**.”*

**Policy 8.4:** “Encourage greater economic integration within housing projects and throughout San Francisco.”

**Policy 8.5:** “Prevent housing discrimination.”

**Policy 8.9:** “Encourage the provision of new home ownership opportunities through new construction so that increased owner occupancy does not diminish the supply of rental housing.”

**Objective 9:** “Avoid or mitigate hardships imposed by displacement.”

**Policy 9.2:** “Offer displaced households the right of first refusal to occupy replacement housing units that are comparable in size, **location**, cost and rent control protection.”

**Policy 10.2:** “Aggressively pursue other strategies to prevent homelessness and the risk of homelessness by addressing its contributory factors.”

**Policy 11.1:** “Use new housing development as a means to enhance neighborhood vitality and diversity.” (“the design of all housing sites and related amenities [will] make a positive contribution to surrounding public space and to overall neighborhood vitality.”

**Policy 11.2:** “Ensure housing is provided with adequate public improvements, services, and amenities.”

**Policy 11.3:** “Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing **affordable** housing displacement.”

**Policy 11.5:** “Promote the construction of well-designed housing that enhances existing neighborhood character.” (“provide adequate on-site usable open space and relate the type, amount and location of open space to the types of households expected to occupy the building. (See Figure 9 ‘Residential Open Space Guidelines’ in the Recreation and Open Space Element, for more specific guidelines.)”

**Policy 12.3:** “Encourage jurisdictions throughout the Bay Area to recognize their share in the responsibility to confront the regional **affordable** housing crisis.”

**The Project directly conflicts with all of the above Housing Policies, by promoting dense market-rate housing throughout the Project area with NO requirement of on-site affordable units, and NO requirement of affordable units anywhere in the Project area.**

- **Recreation and Open Space Element**

**Objective 2:** “Develop and maintain a diversified and balanced citywide system of high quality open space.”

**Policy 2.1:** “Provide an adequate total quantity and equitable distribution of public open spaces throughout the City.”

**Policy 2.2:** “Preserve existing public open space.”

**Policy 2.3:** “Preserve sunlight in public open spaces.”

**Objective 4:** “Provide opportunities for recreation and the enjoyment of open space in every San Francisco neighborhood.”

**Policy 4.4:** “Acquire and develop new public open space in existing residential neighborhoods, giving priority to areas which are most deficient in open space.”

The Project will cause significant adverse impacts on existing open space. The Project proposes NO high quality open space, and there is no high quality open space in the Project area. The Project will cast shadows on the tiny Koshland Park with a 400-foot high-rise. The Project will not add to total quantity of open space to the Project area or the city. The Project redefines “open space” as freeway touchdowns and sidewalks, a gross adulteration of the meaning of the term as described in the General Plan.

**Policy 5:** *“Require private usable outdoor open space in new residential development.”*

The Project directly conflicts with this requirement by eliminating the Planning Code’s requirement of rear yards and setbacks in new development.

**Policy 6:** *“Assure the provision of adequate public open space to serve new residential development.”*

**Figure 9:** *“Residential Open Space Guidelines”*

**Policy 7:** *“Provide open space to serve neighborhood commercial districts.”*

The Project conflicts with all of the above Policies.

- **Transportation Element**

**Objective 1:** *“Meet the needs of all residents and visitors for safe, convenient and inexpensive travel within San Francisco and between the city and other parts of the region while maintaining the high quality living environment of the Bay Area.”*

By causing significant impacts on parking and traffic, the Project fails to meet the needs of most residents and visitors who choose to drive automobiles and need a place to park.

**Policy 1.6:** *“Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.”*

The Project punishes the vast majority of residents and visitors who drive automobiles by eliminating parking.

**Policy 10.4:** *“Consider the transportation system performance measurements in all decisions for projects that affect the transportation system.”*

The EIR includes no coherent or up-to-date performance measurements for traffic or transit.

**Policy 17.2:** *“Encourage collaboration and cooperation between property owners and developers to allow for the most efficient use of existing and new parking facilities.”*

The Project does not encourage efficient use of existing and new parking facilities. Rather, it eliminates parking facilities and causes severe parking impacts and deficits.

**Objective 20:** *“Give first priority to improving transit service throughout the city, providing a convenient and efficient system as a preferable alternative to automobile use.”*

The Project proposes no improvements to transit and will cause severe impacts on already overcrowded transit in the Project area.

**Policy 30.1:** *“Assure that new or enlarged parking facilities meet need, locational and design criteria.”*



The Project directly conflicts with this Policy by assuring that parking needs of residents and visitors will NOT be met.

**Policy 30.6:** *“Make existing and new accessory parking available to nearby residents and the general public for use as short-term or evening parking when not being utilized by the business or institution to which it is accessory.”*

The Project seeks to remove and eliminate accessory parking throughout the Project area.

**Objective 33:** *“Contain and lessen the traffic and parking impact of institutions on surrounding residential areas.”*

The Project removes parking in and near the Civic Center and throughout the Project area, introduces density development without adequate parking, and worsens a severe existing parking deficit.

**Policy 33.2:** *“Protect residential neighborhoods from the parking impacts of nearby traffic generators.”*

The Project does nothing to protect residential neighborhoods from nearby traffic generators, makes no attempt to mitigate the loss of over 1,000 spaces caused by the new Octavia Boulevard, and will create severe parking impacts with density development throughout the area, while removing the Planning Code’s requirements to provide parking.

**Policy 34.1:** *“Regulate off-street parking in new housing so as to guarantee needed spaces...”*

The Project creates a severe parking shortfall by not guaranteeing needed spaces for new housing developments.

**Policy 34.2:** *“Use existing street space to increase residential parking where off-street facilities are inadequate.”*

The Project will remove hundreds of street parking spaces for development.

**Objective 35:** *“Meet short-term parking needs in neighborhood shopping districts consistent with preservation of a desirable environment for pedestrians and residents.”*

**Policy 35.1:** *“Provide convenient on-street parking specifically designed to meet the needs of shoppers dependent upon automobiles.”*

The Project eliminates on-street parking and prohibits accessory parking adequate for residential and shopping use.

- **Urban Design Element**

**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 1.1:** *“Recognize and protect major views in the city, with particular attention to those of open space and water.”*

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

**Policy 1.4:** *“Protect and promote large-scale landscaping and open space that define districts and topography.”*

**Policy 1.7:** *“Recognize the natural boundaries of districts, and promote connections between districts.”*

**Policy 1.8:** *“Increase the visibility of major destination areas and other points for orientation.”*

**Objective 2:** *“Conservation of resources which provide a sense of nature, continuity with the past, and freedom from overcrowding.”*

**Policy 2.1:** *“Preserve in their natural state the few remaining areas that have not been developed by man.”*

**Policy 2.2** *“Limit improvements in other open spaces having an established sense of nature to those that are necessary, and unlikely to detract from the primary values of the open space.”*

**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 2.6** *“Respect the character of older development nearby in the design of new buildings.”*

**Policy 2.7** *“Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco’s visual form and character.”*

**Objective 3:** *“Moderation of major new development to complement the city pattern, the resources to be conserved, and the neighborhood environment.”*

**Policy 3.1:** *“Promote harmony in the visual relationships and transitions between new and older buildings.”*

**Policy 3.2:** *“Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.”*

**Policy 3.3:** *“Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.”*

**Policy 3.4:** *“Promote building forms that will respect and improve the integrity of open spaces and other public areas.”*

**Policy 3.5:** *“Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.”*

**Policy 3.6:** *“Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.”*

**Policy 3.7:** *“Recognize the special urban design problems posed in development of large properties.”*

**Policy 3.8:** *“Discourage accumulation and development of large properties, unless such development is carefully designed with respect to its impact upon the surrounding area and upon the city.”*

**Policy 3.9:** *“Encourage a continuing awareness of the long-term effects of growth upon the physical form of the city.”*

**Objective 4:** *“Improvement of the neighborhood environment to increase personal safety, comfort, pride and opportunity”*

**Policy 4.1:** *“Protect residential areas from the noise, pollution and physical danger of excessive traffic.”*

**Policy 4.10:** *“Encourage or require the provision of recreation space in private development.”*

**Policy 4:15:** *“Protect the livability and character of residential properties from the intrusion of incompatible new buildings.”*

The Project conflicts with all of the above Policies.

- **Community Safety Element**

**Policy 2.9:** *“Consider information about geologic hazards whenever City decisions that will influence land use, building density, building configurations or infrastructure are made.”*

- **Civic Center Area Plan**

**Objective 1:** *“Maintain and reinforce the Civic Center as the symbolic and ceremonial focus of community government and culture.”*

**Policy 1:** *“Emphasize key public buildings, particularly City Hall, through visually prominent siting.”*

**Policy 2:** *“Maintain the formal architectural character of the Civic Center.”*

**Objective 2:** *“Develop the Civic Center as a cohesive area for the administrative functions of city, state and federal government, and as a focal point for cultural, ceremonial, and community activities.”*

The Project’s proposal for high-rise residential development in the Civic Center clashes with the formal architectural character and public purpose of the Civic Center, and will dwarf and diminish the grand public buildings, particularly City Hall, by sheer size, height, bulk, and incompatible architecture.

**Objective 3:** *“Provide convenient access to and circulation within the Civic Center, and support facilities and services.”*

**Policy 1:** *“Locate buildings employing large numbers of employees and/or attracting large numbers of visitors in convenient pedestrian proximity to...of street parking facilities.”*

**Policy 2:** *“Locate parking facilities beyond the western periphery of the Civic Center core, with direct vehicular access to major thoroughfares.”*

The Project removes parking and will cause severe adverse impacts on parking throughout the Civic Center and its western periphery. The Project will bring 10,000 more residents to the nearby areas with no mitigation of their impacts on parking, transportation and transit.

- **Van Ness Avenue Area Plan**

**Policy 8:** *“Require residential parking at a ratio of one parking space per dwelling unit.”*

**Policy 9:** *“Make accessory parking spaces available to the general public for use as short-term day or evening parking whenever possible.”*

**C. THE PROJECT SUBSTANTIALLY CONFLICTS WITH THE SAN FRANCISCO PLANNING CODE AND ZONING MAPS.**

The Project drastically changes the actual provisions and substance of the Planning Code, removing longstanding protections against unrestricted density development and harming the vast majority of residents who have cars and need parking.

**D. THE PROJECT DOES NOT INCLUDE DETAILED SPECIFICATIONS REQUIRED FOR A SPECIFIC PLAN. (Gov. Code §§ 65450, 65451).**

The Plan does not specify in detail “the proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.” (Gov. Code §65451(a)(2).) Missing from the Plan are the “extent and intensity of major components of public and private transportation.” We are told innumerable times that the area is “transit rich,” but there is no evaluation of the actual existing transit use, the projected actual transit use, the impacts on existing overcrowded transit, and what will be done to accommodate the thousands of new residents who are supposed to use transit in lieu of automobiles. Nor is there any analysis or mitigation or commitment to mitigate traffic, parking, and other impacts.

**E. THE PROJECT’S SIGNIFICANT IMPACTS OUTSIDE THE PROJECT AREA HAVE NOT BEEN ANALYZED.**

The EIR admits that the entire Project is an experiment imposing “an innovative set of land use controls...” Indeed, the City has not produced any substantial evidence supporting any of its theories. Planning proposes to use the heart of the City in this experiment and then ominously says it will inflict the experiment on other “neighborhoods” throughout the City: “The Plan will function as a model for reweaving the urban fabric in other neighborhoods that are interested in amplifying the benefits of a vibrant transit-oriented settlement pattern for such neighborhoods.” (DEIR, at 3-1)

The impacts of this Project on other parts of the city must be explained, including the impacts of new zoning designations and changes in the General Plan and Zoning Code, *and* the direct and cumulative impacts on transit, traffic and other resources caused by this Project. Because of its magnitude, its basis in unproven theory, and its location in the center of the city, the Project is of citywide, regional and statewide significance, and its impacts must be analyzed objectively and accordingly.

**F. UC BERKELEY EXTENSION SITE.**

The Project inappropriately considers the proposed development of 500 market-rate units on the UC Extension site (“55 Laguna”) a done deal, and has even changed its zoning map from “Public/Open Space” to 85-foot height limits on the site. (Ex. Z-1-a-2, February 15, 2007) That public site may not be lawfully rezoned within this Project or

any other, and the proposed development may not be lawfully approved within this Project or any other.

**IV. PROPER NOTICE HAS NOT BEEN GIVEN; PUBLIC COMMENT HAS NOT BEEN CONSIDERED; AND THE PUBLIC HAS BEEN DENIED INPUT AND COMMENT ON THE PROJECT, THE FEIR, SUBSTANTIAL CHANGES, ALTERNATIVES AND MITIGATIONS.**


Notice of proceedings before this Board of Supervisors has not been given to the Appellants, general public, and residents of the Plan area and other areas affected in violation of CEQA, the Government Code, and constitutional due process. While Planning has exempted developers from the Plan's requirements, it has dismissed public comments on specific development proposals. Planning has dismissed the large body of substantive public comment protesting the impacts of the Project on parking, transit, transportation, and historic resources and other impacts. The huge bulk of addenda and revisions added long after the public comment period on the DEIR require that a revised DEIR be recirculated for public input. That requirement still stands.

Planning did not make the subject of this Appeal, the Planning Commission's actions of April 5, 2007, publicly available until April 19, 2007, and properly signed copies were unavailable until May 15, 2007, cutting short the public's time to assimilate huge volumes of documents, many of which were changed on and *after* April 5, 2007. The public was denied adequate time and the opportunity to be heard on this major Project and Planning's voluminous changes to it after September, 2006. CEQA's primary goals of informed decision-making and public participation in that decision-making were squelched and obstructed by refusal to provide adequate time and the materials necessary for informed participation.

**CONCLUSION**

For all of the above-described and other reasons, the Board of Supervisors must not approve the EIR, the Project, and proposed legislation.

DATED: June 12, 2007

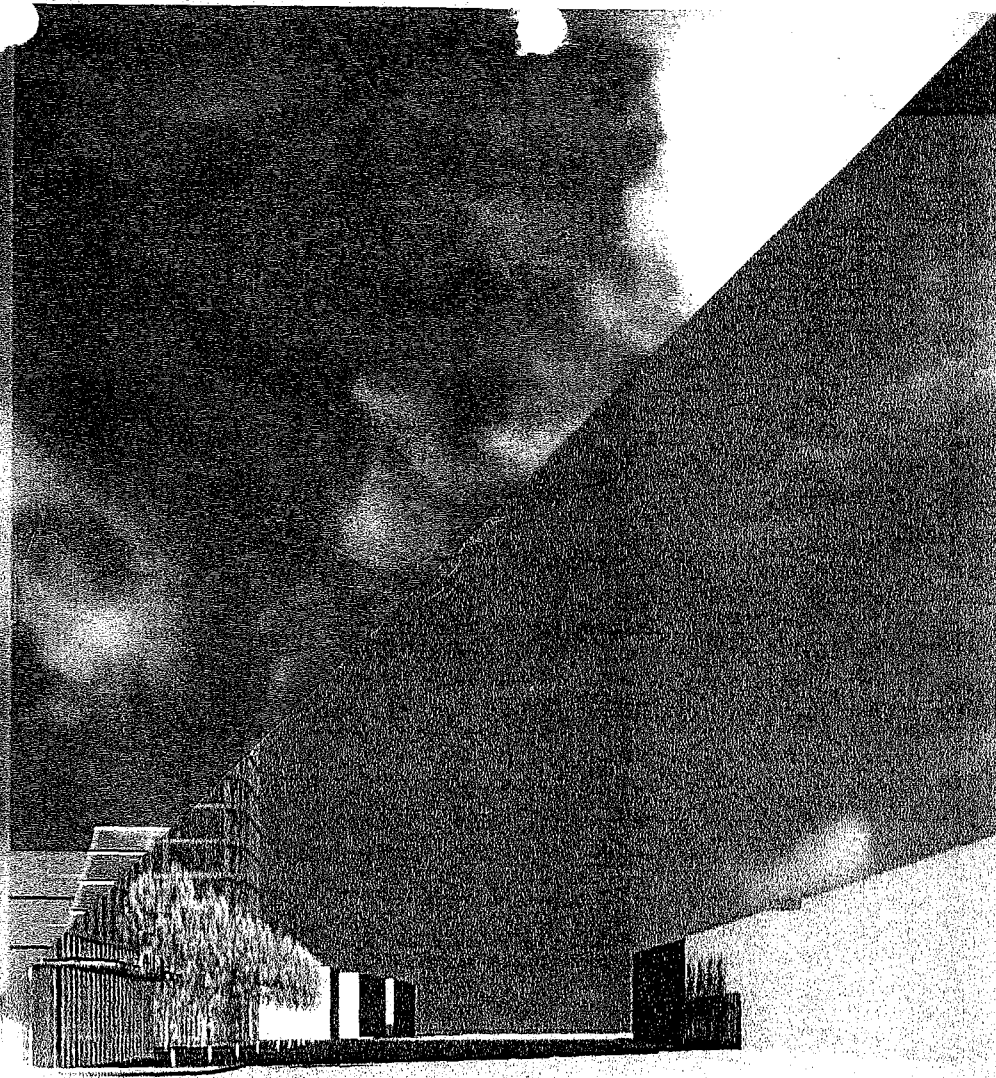
  
\_\_\_\_\_  
Mary Miles

ATTACHMENTS

[TO BE ADDED]

ATTACHMENT 1

# TURN SOUTH VAN KENNEL



601 CALIFORNIA STREET SUITE 1200 SAN FRANCISCO CA 94108 T: 415 441 0789 F: 415 441 1089 WWW.BRANDALLEN.COM





# PLANNING DEPARTMENT

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September 7, 2005

Mr. Roger Boas  
3329 Washington Street  
San Francisco, CA 94118

Dear Mr. Boas:

It was a pleasure to see you the other day and to hear about your ideas for development of your property at Market Street and Van Ness Avenue.

When we met, questions were raised about the height limits proposed in the Market and Octavia Better Neighborhood Plan, brought about by the constraints involved in building over and next to the BART box that passes under your property. This information was not available to us when the Plan was drafted. As a consequence, you asked that we consider extending the 450-foot height zone proposed for the Market Street frontage to the southern end of your property. Should this change be acceptable to the Department, you propose to build a tower at the southern end of the site with a shorter podium building along the Market Street frontage.

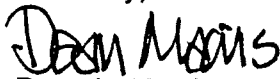
You also asked us to consider relaxing somewhat the maximum plan dimensions of the proposed bulk controls, since your site is unusual in the way it terminates at a single point on its southern edge. A modification of this sort would compensate for this constraint.

What would be helpful to us now is a conceptual design illustrating the proposed building's massing and level of a design quality that could result from certain changes to planned height and bulk controls. Stellar architecture and a strong site plan would do much to demonstrate the advisability of any revisions.

As you may be aware, the draft Market and Octavia Better Neighborhood Plan advances a number of key streetscape and public realm improvements immediately around your proposed building. You may also be aware that Mayor Newsom's newly established Better Streets Program, which thoroughly embraces the ideas of the draft plan, puts renewed emphasis on the creation of a well-designed public realm. Indeed, the Mayor's program singles out the streets around your site as among the first to be re-designed. Certainly, these improvements would benefit your project as much as they would benefit the city. This matter should be included in any subsequent discussions of your project.

In closing, we are delighted to continue to work with you on such a prominent and significant site. Everything should be done to ensure first-rate architecture and urban design, consistent with the intent of the Market Octavia Plan.

Sincerely,

  
Dean L. Macris  
Director of Planning



# PLANNING DEPARTMENT

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October 7, 2005

SAMPLE TEXT

Mr. Roger Boas  
3329 Washington Street  
San Francisco, CA 94118

Dear Mr. Boas:

We are writing with regard to your property at Market Street and South Van Ness Avenue. Our comments are intended as a follow-up to our previous discussions, as well as to a letter sent to you on September 7.

As we have noted in previous occasions, the Market-Octavia Better Neighborhood Plan, now undergoing environmental review, will ultimately establish permanent zoning regulations governing your site. So, please regard our comments as professional advice from staff on the optimum way to proceed with the project at this stage in the process.

Regarding the issue of height, the draft plan proposes substantially greater heights on your property, raising allowable heights from 120 feet and 150 feet to as much as 400 feet near Market Street. Given assurances that the project will demonstrate stellar architecture and site design, staff would support shifting allowable heights proposed in the draft plan to the south away from the constraints of the BART tube. Good design would enable us to consider heights of as much as 400 feet there, especially if the project attains substantial podium heights on the portions of the property fronting Market Street and the rest of South Van Ness Avenue. As you may know, the City's preference on Market Street to the east is for a street wall height of 120 feet; it will be best if development on your site could achieve this height, or close to it.

As to bulk controls, we expect that the maximum plan dimension now proposed in the draft plan will continue to be recommended by the staff. The constraints of the BART tube coupled with the way your site narrows to a gore point at the southern end enables an atypical building envelope that often creates an opportunity for a unique building design. It may also cause the need for some relaxation of the proposed maximum plan dimensions, a situation we will evaluate as the building design emerges.

As we did in our September letter, we want to reiterate that any subsequent discussions of the project should include state-of-the-art street and public realm improvements that would advance the Mayor's and the Department's interests in good public realm improvements.

Mr. Roger Boas  
October 7, 2005  
Page Two

We look forward to meeting with you to discuss conceptual designs that illustrate massing, level of design quality, site layout and public realm improvements.

Sincerely,

*Dean Macris*

Dean L. Macris  
Director of Planning

N:\documents\Roger Boas letter October 7 2005

*Bcc:*

*L. BADINER  
A. GHOSH  
D. ALUMBAUGH  
C. NIKITAS*

ROGER BOAS  
3329 WASHINGTON STREET  
SAN FRANCISCO, CALIFORNIA 94118  
TEL 415-441-2000  
FAX 415-567-4120

November 21, 2005

Mr. Dean Macris  
Planning Department  
1660 Mission St. # 500  
San Francisco, CA 94103-2414

Dear Mr. Macris,

Thank you for your letter of October 7, 2005 regarding our property at Market & Van Ness. The considerable thinking that you and your staff have given our current Honda location is greatly appreciated and has encouraged us to imagine what the neighborhood might become. Your letter requested that we:

1. Assure that the project will demonstrate stellar architecture and site design;
2. Make use of the site's unusual configuration to create a unique building design;
3. Include state-of-the-art streetscape and public realm improvements.

In an effort to render an interpretation of what the building and layout might be like as your letter suggested, we gave the assignment to Brand Allen Architects of San Francisco. Their attached renderings visualize a podium-and-tower configuration that:

1. Creates an attractive and welcoming gateway to the Market-Octavia neighborhood.
2. Creates a slender, tapered tower above a 12-story podium, taking care to orient the tower to maximize natural light to the street.
3. Creates a neighborhood-oriented 8,000 sq. ft. landscaped public plaza plus a 4,000 sq. ft. glass-enclosed winter garden – a total of 12,000 sq. ft. of landscaped public space. The public plaza has stone finishes and paving and is open and accessible to neighborhood passers-by as well as to the project's residents. The winter garden has temperature-controlled tropical landscaping and is envisioned as a quiet and serene space used by the neighbors and residents during daytime hours.
4. Creates carefully situated retail pods on the ground floor that would be well-suited to neighborhood and resident-friendly businesses such as a specialty food shop, coffee house, restaurant-café, or bakery, (among many different ideas).
5. Creates 605 housing units of various sizes. This is a somewhat modest interpretation of the residential density that the site can handle, but is in keeping with the key directive of an aesthetically pleasing project.


Mr. Dean Macris  
November 21, 2005  
Page Two

6. Creates a well-designed porte cochere that transects the property from west to east and provides easy access to two floors of underground parking and to the new Octavia neighborhood across 12<sup>th</sup> Street.

You mentioned that our site's configuration and the BART tube constraints may cause "the need for some relaxation of the of the proposed maximum plan dimensions." Because we are devoting 12,000 sq. ft. to landscaped open space (23.5 percent of our total ground area), we would like to expand the mandated 10,000 sq. ft. tower floor plate to 11,511 sq. ft. on floors 12 to 26 and to 10,918 sq. ft. on floors 27 to 33, and we request permission to do so. The renderings, prepared at the expanded dimensions, show that the tower's slenderness and aesthetic tapering will not be diminished.

In closing, you suggested that we meet to discuss the project massing, level of design quality, site layout and public realm improvements with you. We would like to do this and will call you for an appointment.

Very truly yours,

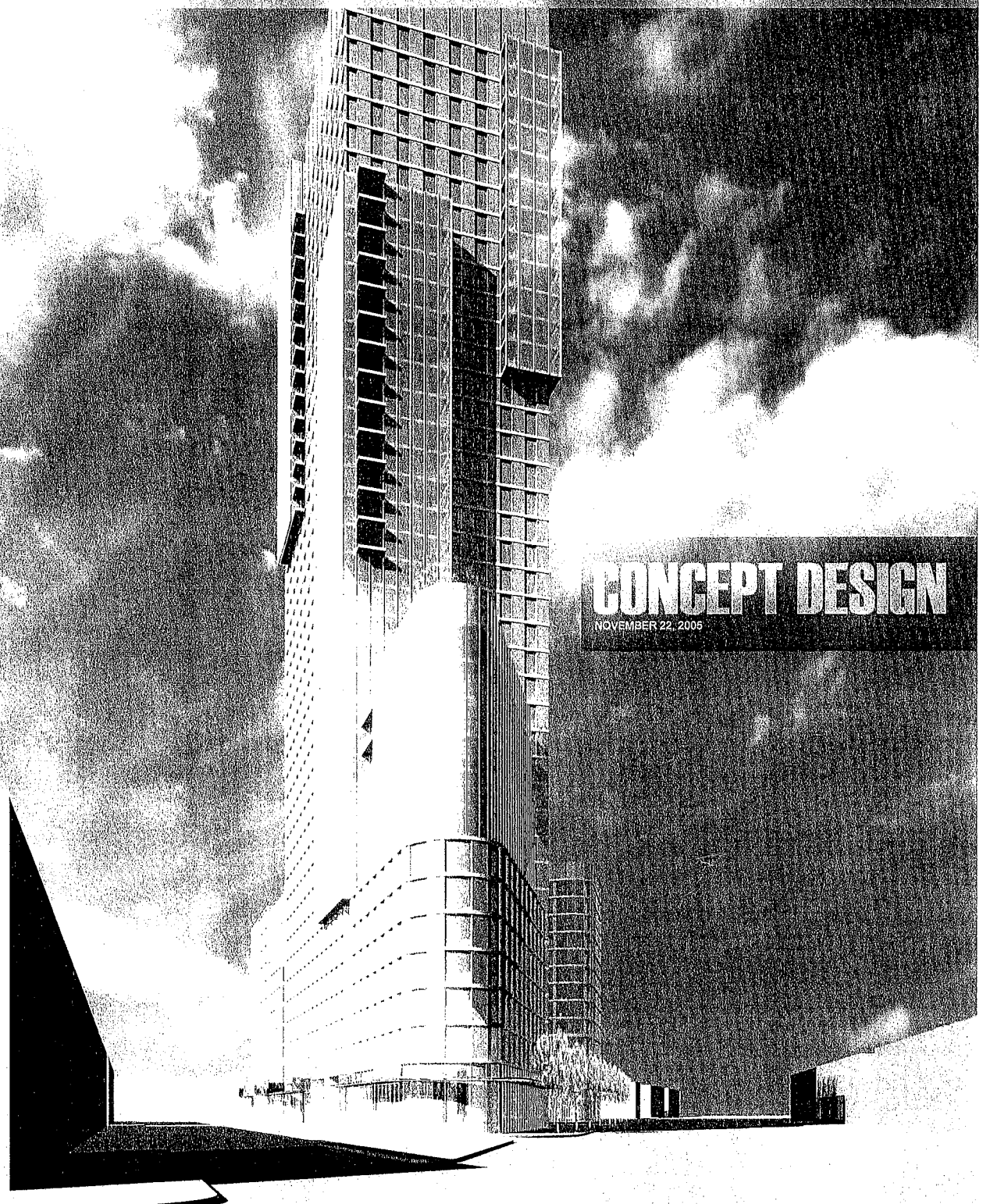


Roger Boas

cc:

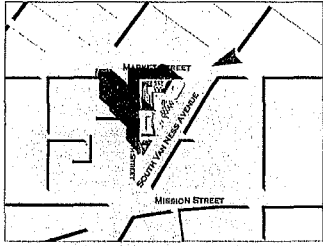
Amit Ghosh  
John Bilovits

# MARKET AND SOUTH VAN NASSAU AVENUE



**CONCEPT DESIGN**

NOVEMBER 22, 2006

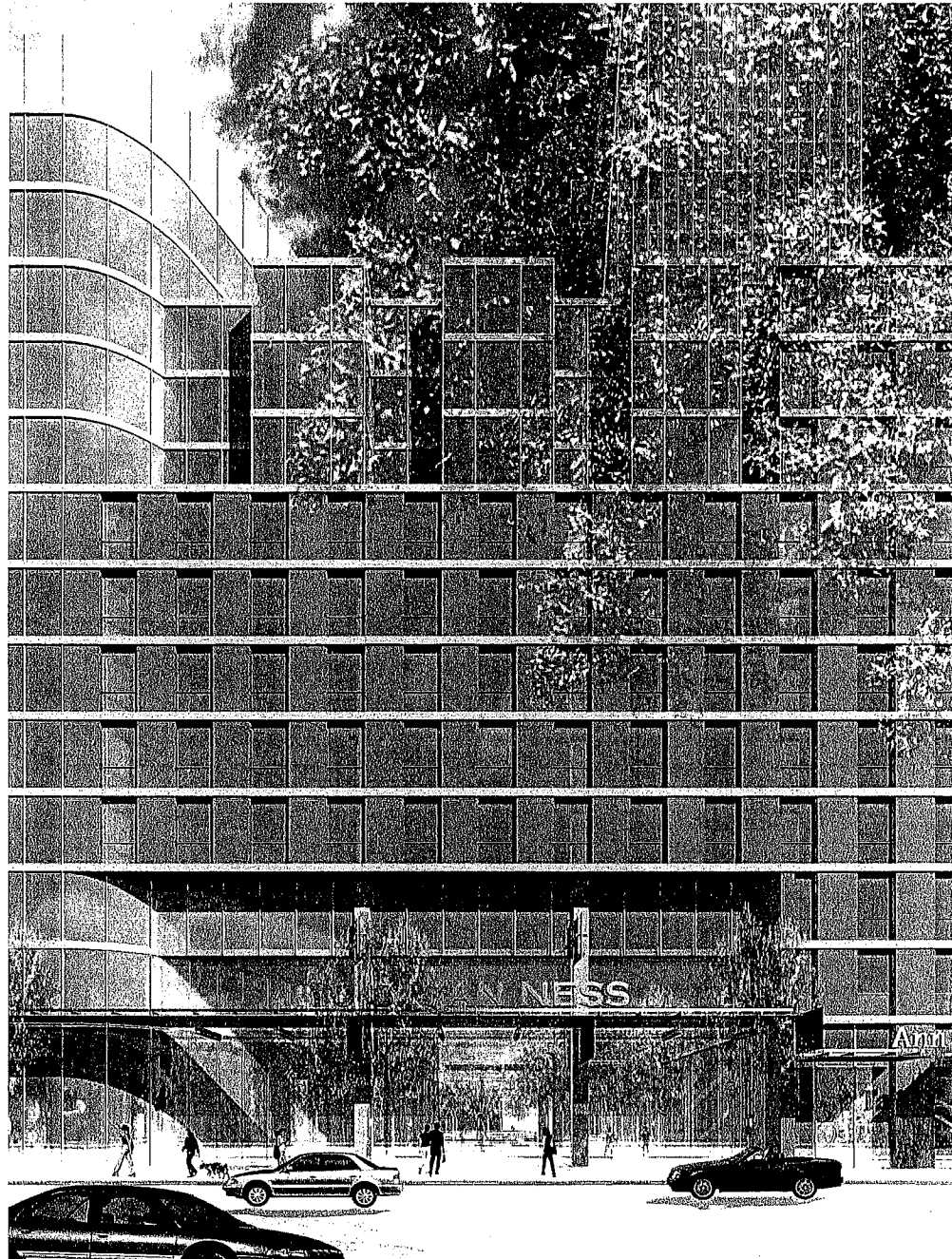
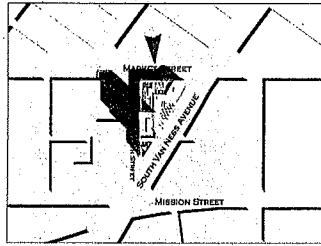


VIEW FROM MARKET STREET AND S. VAN NESS AVE



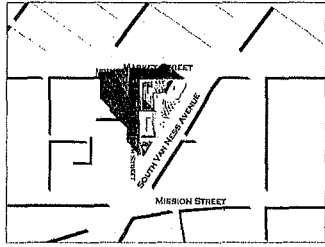


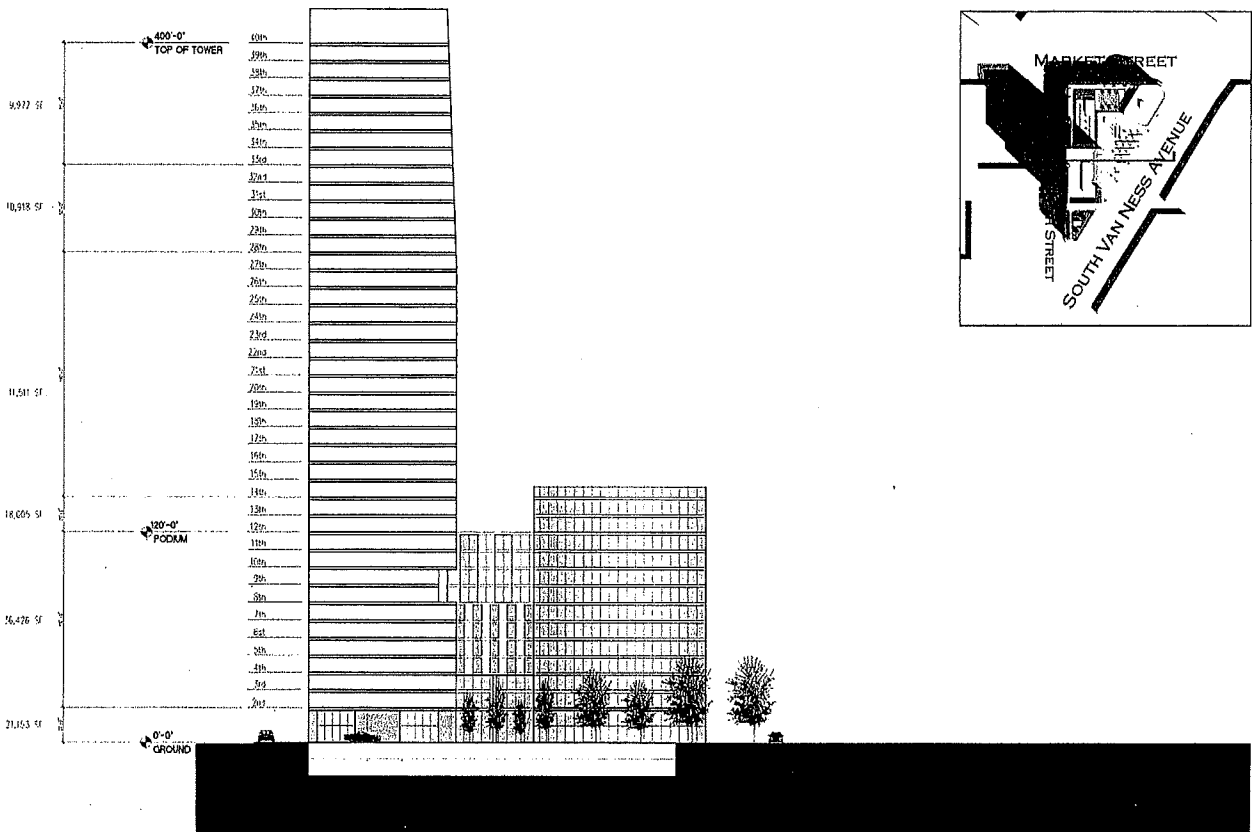
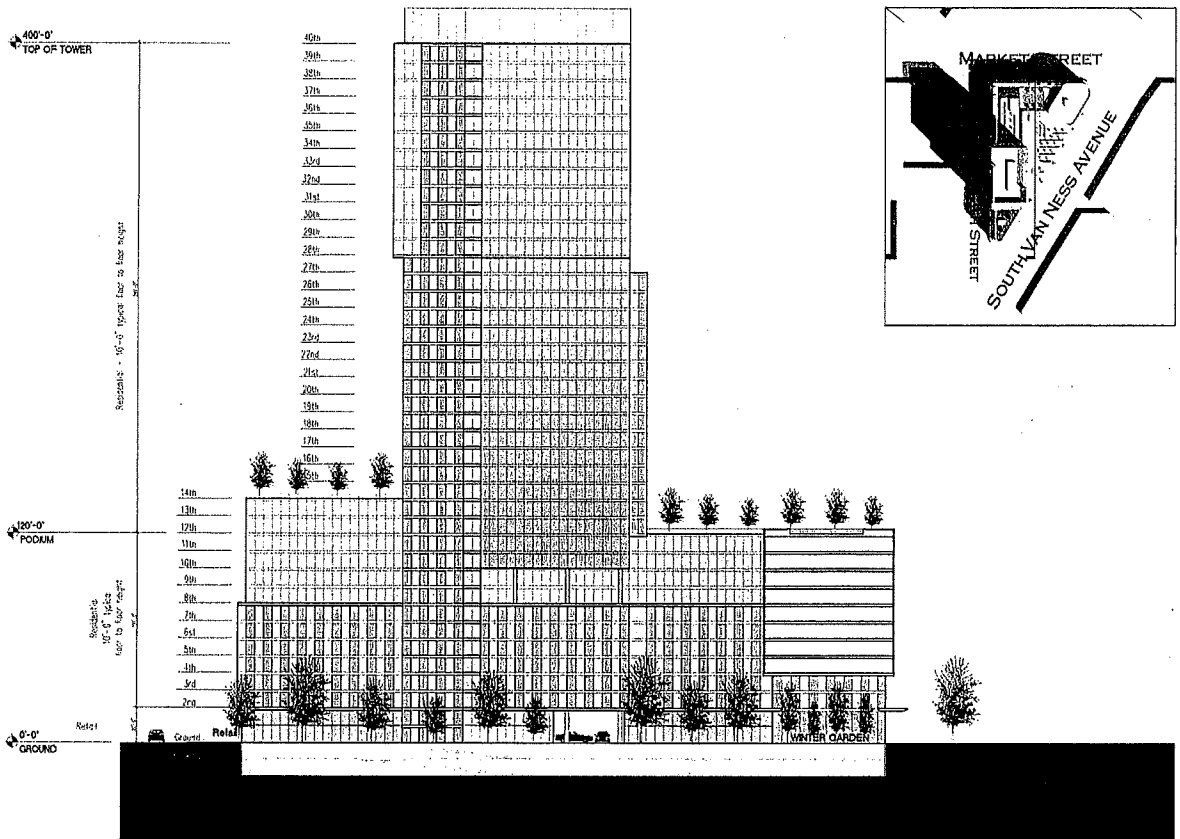
VIEW SOUTH ACROSS MARKET STREET



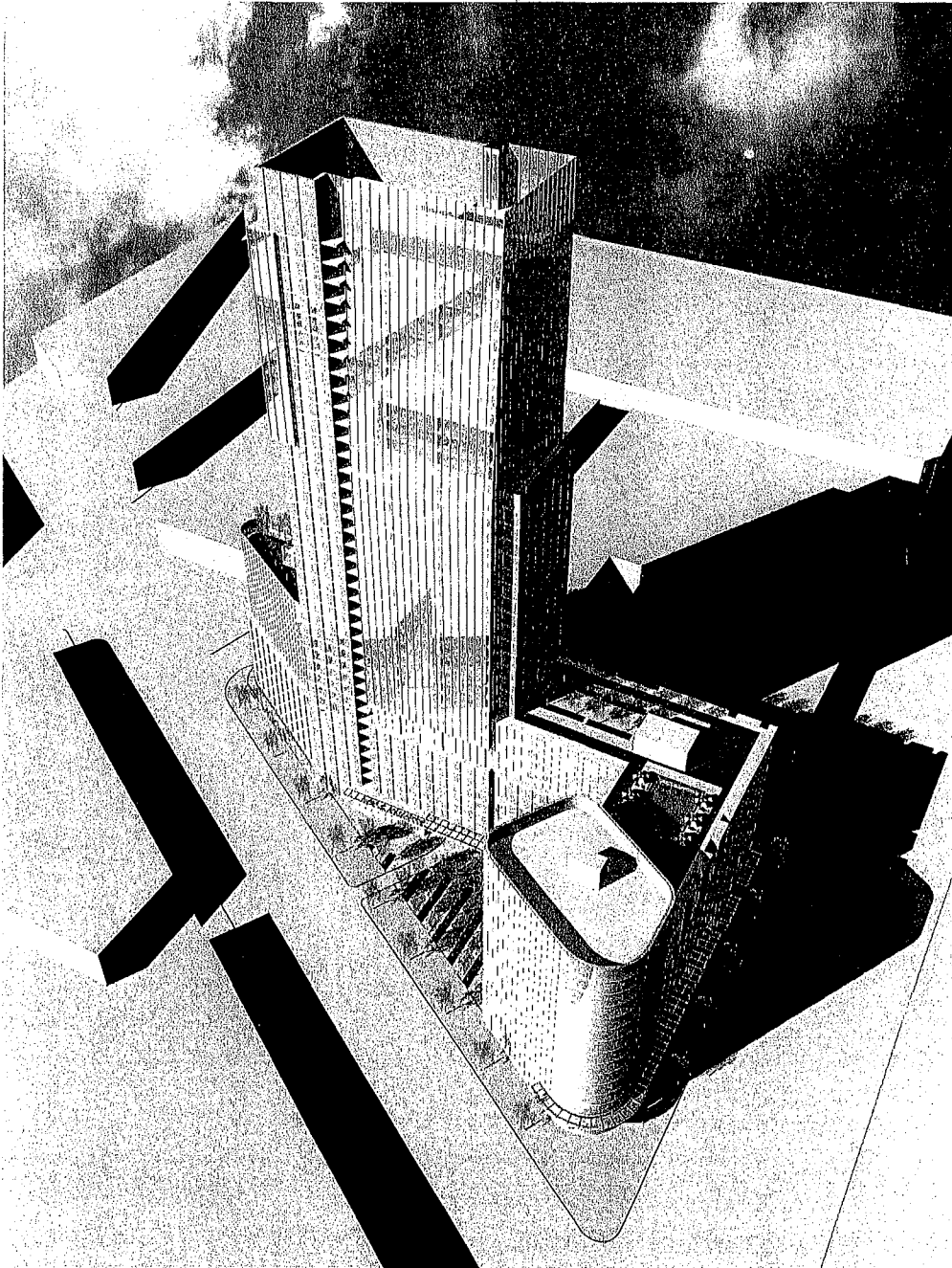
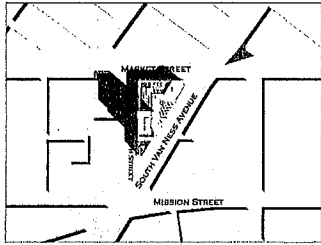


VIEW DOWN 12TH STREET FROM MARKET STREET

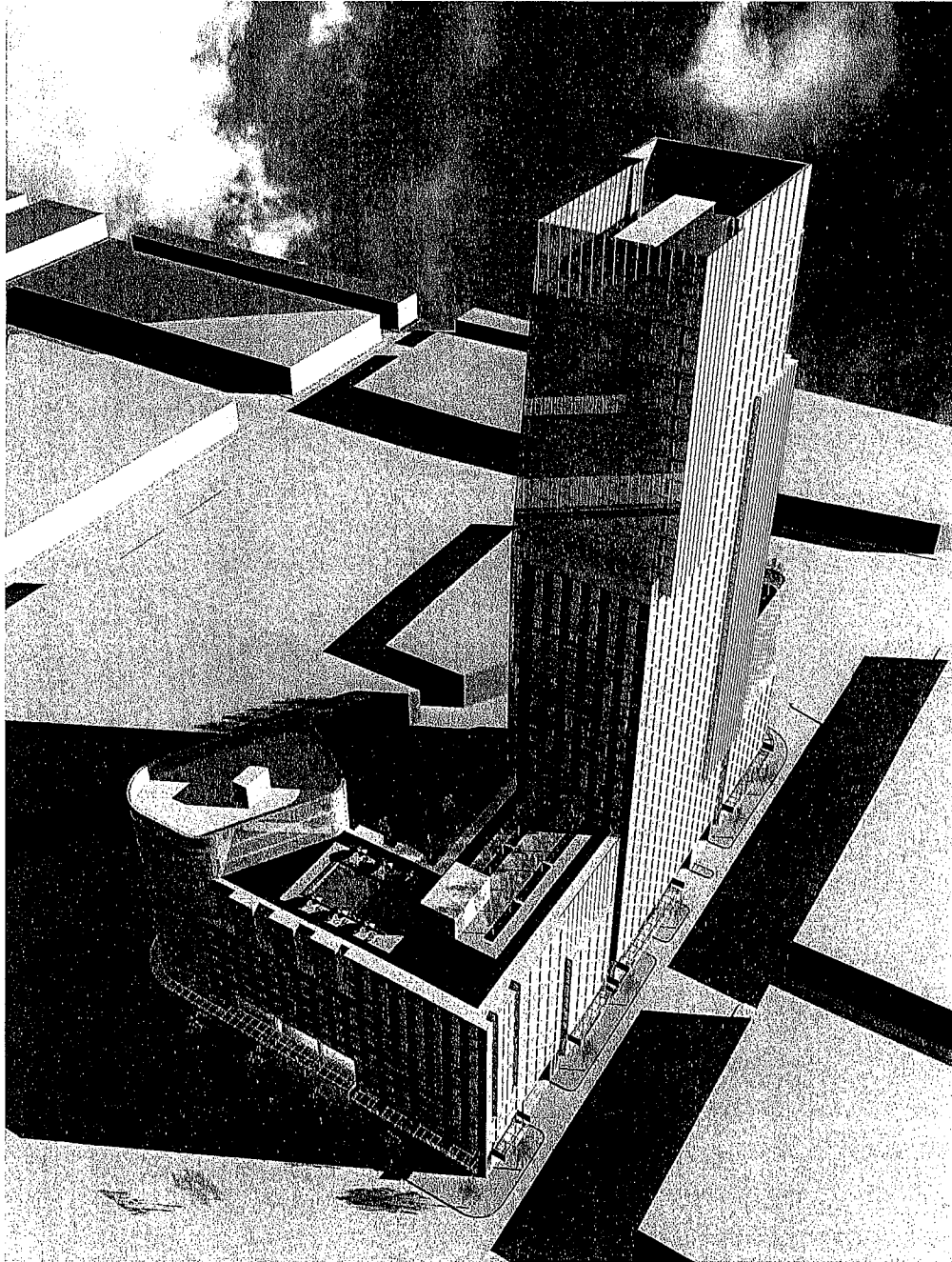
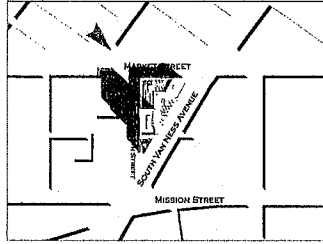




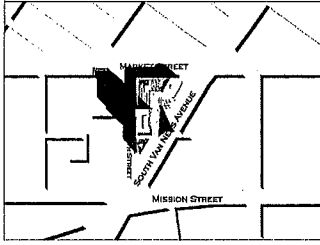
AERIAL VIEW FROM VAN NESS AND MARKET

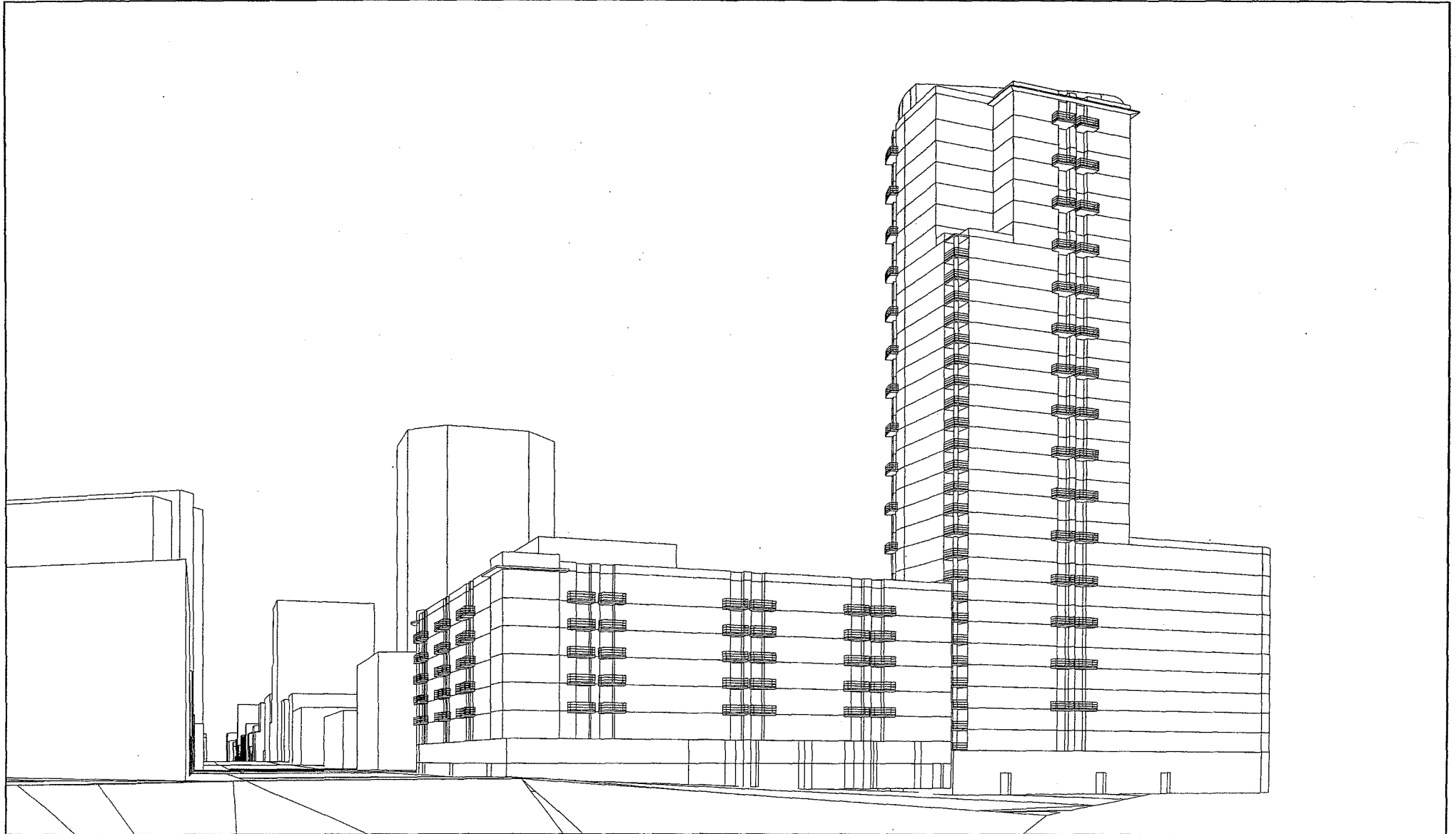


AERIAL VIEW FROM MARKET AND 12TH STREET



VIEW FROM VAN NESS PLAZA TO WINTER GARDEN





JULY 5, 2005

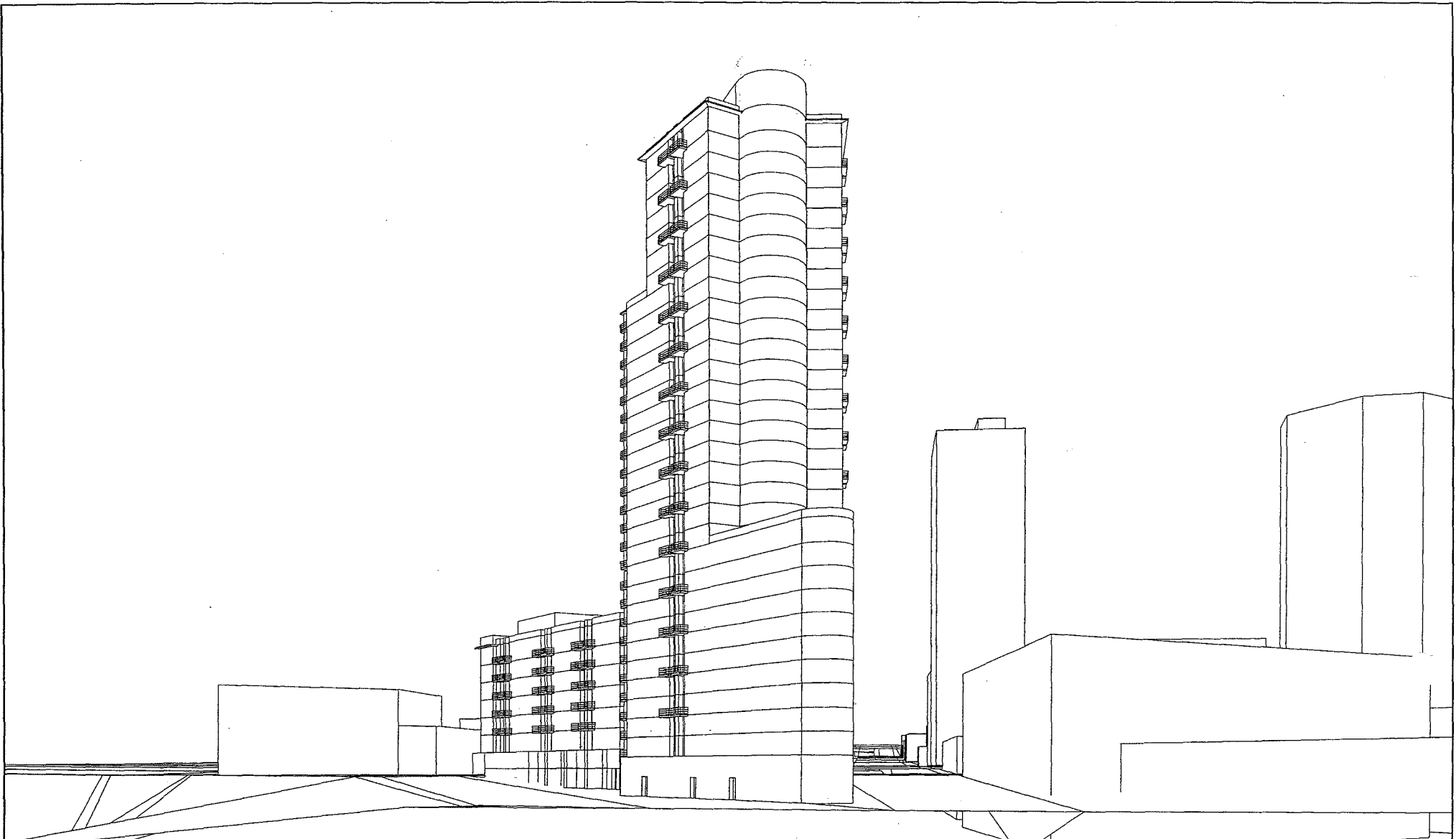
10 SOUTH VAN NESS AVENUE

OPTION 1 - PROPOSED ZONING  
VIEW 4

BOAS HONDA

SAN FRANCISCO, CA

HELLER • MANUS  
ARCHITECTS



JULY 5, 2005



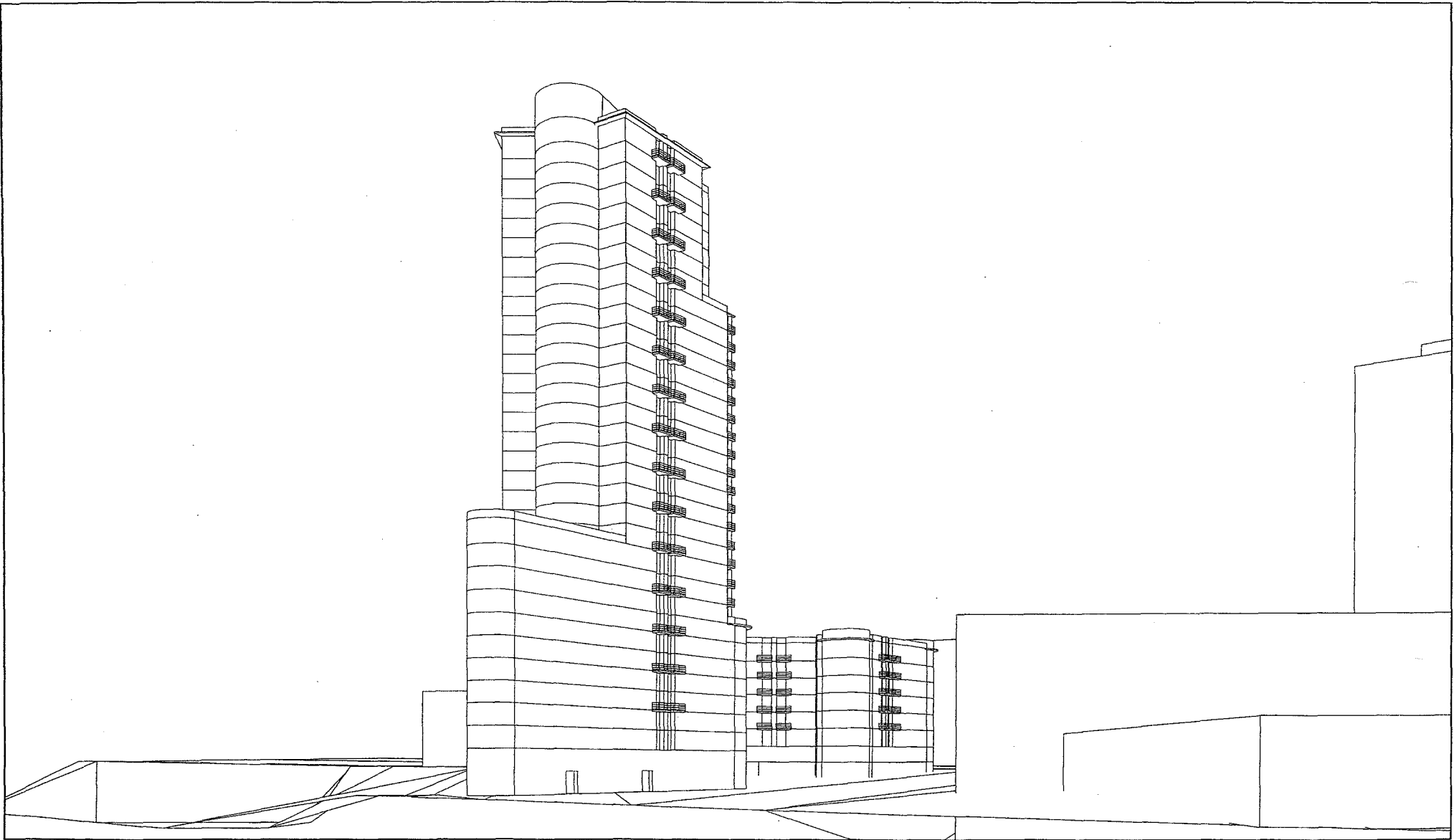
# 10 SOUTH VAN NESS AVENUE

OPTION 1 - PROPOSED ZONING  
VIEW 5

BOAS HONDA

SAN FRANCISCO, CA

HELLER • MANUS  
ARCHITECTS



JULY 5, 2005



10 SOUTH VAN NESS AVENUE

OPTION 1 - PROPOSED ZONING

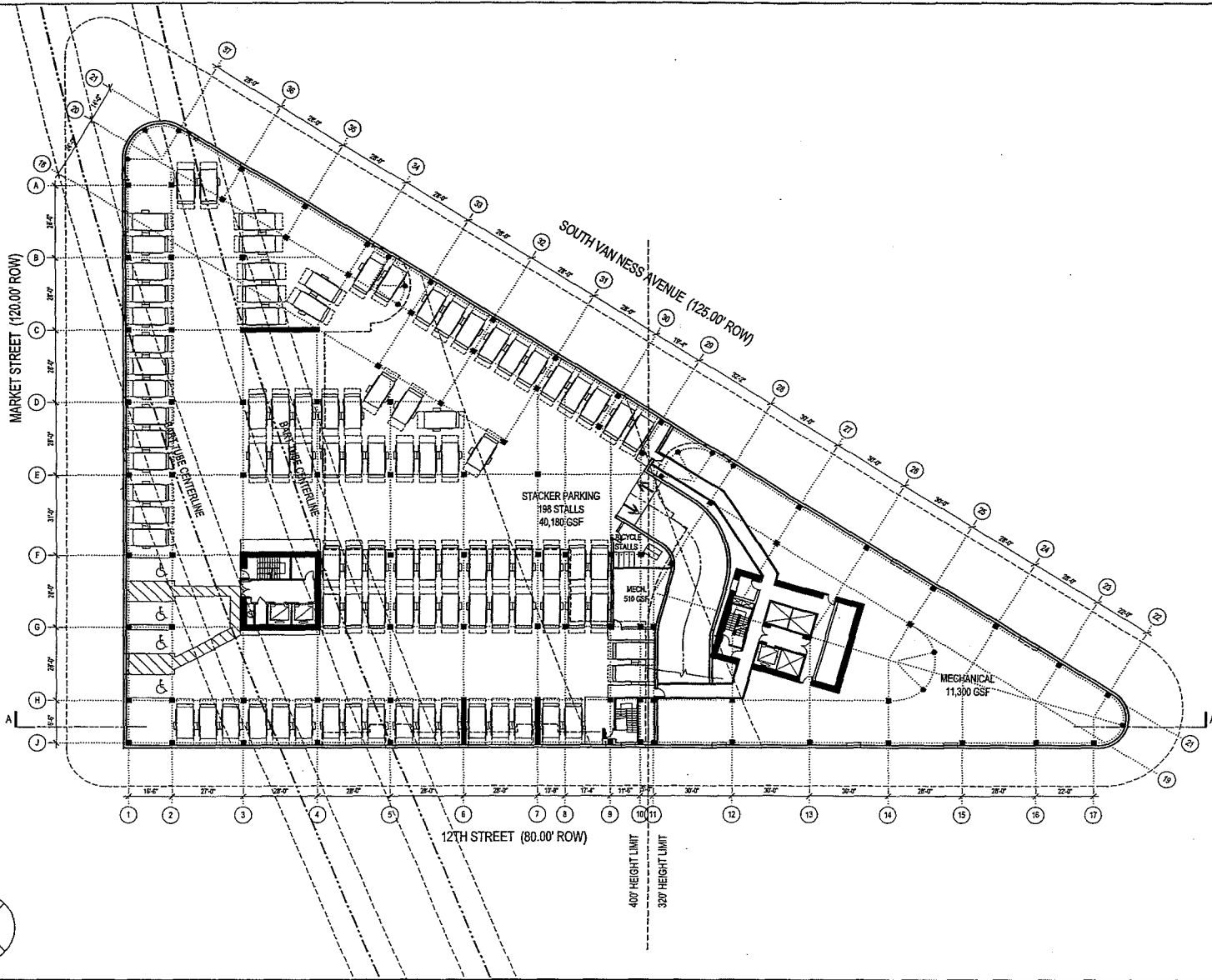
VIEW 6

BOAS HONDA

SAN FRANCISCO, CA

HELLER • MANUS  
ARCHITECTS





JULY 5, 2005  
 SCALE: 1"=40'-0"  
 40' 80'

# 10 SOUTH VAN NESS AVENUE

OPTION 1 - PROPOSED ZONING  
 BASEMENT LEVEL PLAN (STACKERS)

BOAS HONDA

SAN FRANCISCO, CA

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 ARCHITECTS  
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# 10 SOUTH VAN NESS AVENUE

San Francisco, CA

Boas Honda  
Heller Manus Architects

July 5, 2005

## OPTION 1 - PROPOSED ZONING

AREA SUMMARY								PARKING			OPEN SPACE		UNIT MIX						
Level	Resid. Unit NSF	Resid. Unit GSF	Resid. Common GSF	Retail	Resid. Prog./Loading GSF	Mech. GSF	Total GSF	Self-Perm. Stalls	Stackers	Bicycle Stal	Res. Private	Res. Common	STUDIO	1 BR	2 BR	3 BR	# Units	Level	
MP						3,810	3,810												MP
32	5,720	8,100					8,100				180			2	4			6	32
31	5,720	8,100					8,100							2	4			6	31
30	5,720	8,100					8,100				180			2	4			6	30
29	5,720	8,100					8,100							2	4			6	29
28	5,720	8,100					8,100				180			2	4			6	28
27	5,720	8,100					8,100							2	4			6	27
26	5,720	8,100					8,100				216			2	4			6	26
25	6,430	9,000					9,000				72			1	3	3		7	25
24	6,430	9,000					9,000				252			1	3	3		7	24
23	6,430	9,000					9,000				72			1	3	3		7	23
22	6,430	9,000					9,000				252			1	3	3		7	22
21	6,430	9,000					9,000				72			1	3	3		7	21
20	6,430	9,000					9,000				252			1	3	3		7	20
19	6,430	9,000					9,000				72			1	3	3		7	19
18	6,430	9,000					9,000				252			1	3	3		7	18
17	6,430	9,000					9,000				72			1	3	3		7	17
16	6,430	9,000					9,000				252			1	3	3		7	16
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13	6,430	9,000					9,000				72			1	3	3		7	13
12	6,430	9,000					9,000				252			1	3	3		7	12
11	8,830	12,300					12,300				72			2	6	2		10	11
10	8,830	12,300					12,300				252			2	6	2		10	10
9	8,830	12,300					12,300				36			2	6	2		10	9
8	8,830	12,300				3,540	15,840				216			2	6	2		10	8
7	30,680	39,855					39,855				684			4	14	11	1	30	7
6	30,680	39,855					39,855				684			4	14	11	1	30	6
5	30,680	39,855					39,855				684			4	14	11	1	30	5
4	30,680	39,855					39,855				684			4	14	11	1	30	4
3	30,680	39,855					39,855				684			4	14	11	1	30	3
2	30,680	39,855					39,855				36			4	14	11	1	30	2
1	3,205	3,770	11,235	20,230	4,155		39,390					11,765			4			4	1
B						40,180	11,300	51,480	100	198	6								B1
<b>TOTAL</b>	<b>352,665</b>	<b>474,800</b>	<b>11,235</b>	<b>20,230</b>	<b>44,335</b>	<b>18,650</b>	<b>569,250</b>	<b>100</b>	<b>198</b>	<b>6</b>	<b>7,416</b>	<b>11,765</b>	<b>46</b>	<b>166</b>	<b>144</b>	<b>6</b>	<b>364</b>		

UNIT TYPES	STUDIO	1 BR	2 BR	3 BR	Total
UNIT RATIOS	12.6%	46.2%	39.6%	1.6%	100.0%

### NOTES:

Residential Off-Street Parking:

Permitted up to 0.25 spaces per unit (91 stalls)

Conditional use up to 0.5 spaces per unit (182 stalls)

### OPEN SPACE CALCULATIONS:

**Residential:**

Total Units = 364

Units with Private Balconies = 7,416 sf / 36 sf = 206 units

Common Open Space Required = 364 units - 206 units = 158 units x 48 sf = 7,584 sf

Common Open Space Provided = 7,584 sf (minimum)

**Retail:**

Retail Open Space Required = 20,230 sf / 50 sf = 405 sf

Retail Open Space Provided = 405 sf



JULY 5, 2005  
 SCALE: 1"=200'-0"  
 0 200' 400'

**10 SOUTH VAN NESS AVENUE**

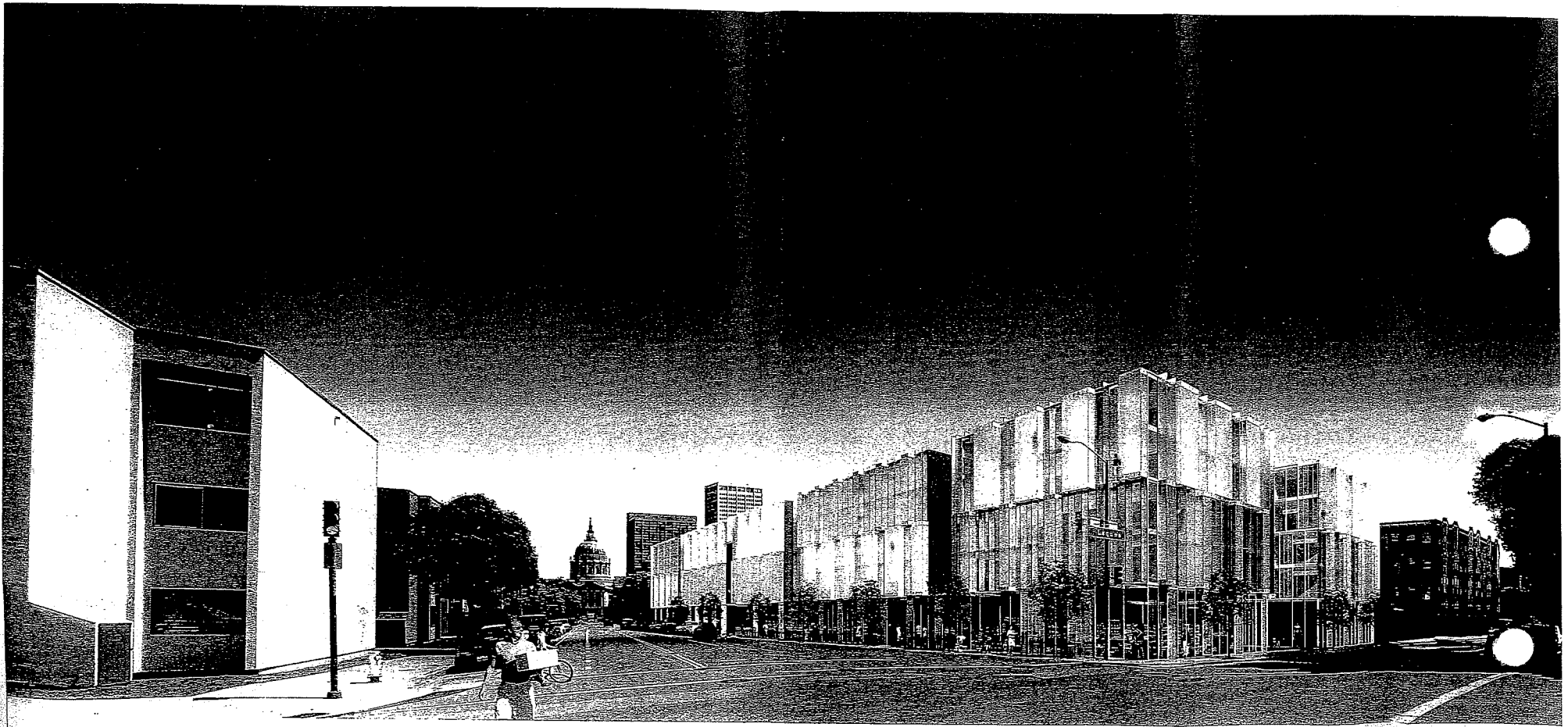
OPTION 1 - PROPOSED ZONING  
 VICINITY PLAN

ATTACHMENT 2



















# PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER  
(415) 558-6378

DIRECTOR'S OFFICE  
PHONE: 558-6411

4TH FLOOR  
FAX: 558-6426

ZONING ADMINISTRATOR  
PHONE: 558-6350

5TH FLOOR  
FAX: 558-6409

PLANNING INFORMATION  
PHONE: 558-6377

MAJOR ENVIRONMENTAL  
FAX: 558-5991

COMMISSION CALENDAR  
INFO: 558-6422

INTERNET WEB SITE  
[WWW.SFGOV.ORG/PLANNING](http://WWW.SFGOV.ORG/PLANNING)

December 8, 2006

## NOTIFICATION OF PROJECT RECEIVING ENVIRONMENTAL REVIEW

### PROJECT TITLE: 2005.1085E – 555 Fulton Street – Demolition/Construction of a Mixed-Use Building

**PROJECT DESCRIPTION:** The project site is located at 555 Fulton Street (Assessor's Block 0794, Lots 015 & 028) on the southern side of Fulton Street in the block bounded by Octavia, Laguna, and Birch Streets in the Hayes Valley neighborhood. The existing buildings on the 44,250 square-foot project site were constructed in 1977 (lot 015) and 1957 (lot 028). The project site contains an existing two-story 19,620 square-foot office and industrial building with 70 parking spaces. The proposed project would include the demolition of the existing two-story building and the construction of an approximately 227,460 square-foot, five-story mixed-use building, 50-feet in height with an underground parking garage. The proposed project would include 21,945 square-feet of ground floor commercial space, 143 residential units, and 165 parking spaces. The ground floor would contain 22 parking spaces and the remaining 143 parking spaces will be underground. The project site is located within the RM-3/NC-1 (Residential, Mixed, Medium Density/Neighborhood Commercial Cluster) zoning districts and within a 50-X height and bulk district. Under Planning Code section 710.11 the proposed project will need to obtain a Conditional Use permit to build residential and commercial uses on a lot exceeding 5,000 square-feet.

**Reviewer:** Brett Bollinger

**Phone:** (415) 558-5983

The project described above is being studied by the Planning Department's Major Environmental Analysis section to determine the potential environmental effects of the proposal. Public comments concerning the environmental effects of this project are welcomed. In order for your concerns to be fully considered throughout the environmental review process, we would appreciate receiving any comments you may have about issues to be addressed in the environmental review by December 22, 2006. Similarly, if you wish to receive any environmental review documents on this matter from our office, please contact the Reviewer identified above by December 22, 2006. *If we do not hear back from you, you may not receive further notice regarding the environmental review for this project.*

This notice is routinely sent to community organizations, tenants of the affected property and properties adjacent to the project site, and those persons who own property within 300 feet of the project site. In the case of projects that may have a more citywide effect, such as an ordinance amending the Planning Code, this notice is sent to potentially interested parties. Anyone receiving this notice is encouraged to pass on this information to other persons who may have an interest in the project.

**Environmental review provides information on physical environmental effects and does not provide recommendations on the project itself.** Other review or approval actions may be required for the project. These actions may involve further public notification and public hearings. If you have comments on the proposed project that pertain to matters other than physical environmental effects, please note the file number and contact the Planning Information Counter at (415) 558-6377 for information on other possible actions.



Pat8Chu@aol.com  
02/15/2007 01:01 PM

To: brett.bollinger@sfgov.org  
cc  
bcc  
Subject: 2005.1085E - 555 Fulton St.

Brett

Please include this **letter of protest** to the above development. The architect's bland and no character public housing project like design creates an environmental impact to the neighborhood that is already filled with real public housing projects. The monotonous shoe box design is merely a modern housing project design that will only further highlight the neighborhood's crime ridden image, and aggravate the neighbor's long battle to move away from being known as a saturated housing project neighborhood.

Secondly, we object to the project's garage entry/exit being on Octavia St. The garage will not only disrupt and obstruct into a soon to be pedestrian/bicycle passageway, but it will also affect the quality and character of buildings fronting this public thoroughfare under the Octavia St. Beautification Plan.

Thirdly, the blank wall at Birch/Octavia St. corner serves only as a dark and quiet corner for drug dealers and prostitutes that still roam the area. Relocate the PG&E room and make Birch/Octavia St. corner a commercial or retail outlet to improve the quality and safety in that area.

Thank you and please update me on this project.

Pat Chu  
1553 Dolores St.  
SF Ca 94110



Codare@aol.com  
02/15/2007 01:19 PM

To: brett.bollinger@sfgov.org  
cc  
bcc  
Subject: 555 Fulton St.

Brett

We are very concern about a mechanical room on the critical Octavia & Birch St. corner. It will harm the already crime plagued neighborhood by serving as a blank dark corner for drug dealers - and especially since its already scary walking the narrow Birch St. allyway day and night time. This needs to be a neighborhood serving corner with a retail or commercial outlet for public safety.

Also, relocate the garage along Octavia St.- It will aggravates and alter the neighborhood character in that Octavia St. is destined to be a public bicycle/pedestrian thoroughfare in the City's Octavia St. Plan. And there is currently a Citywide Design Competition for new building developments along Octavia St.

Thank you,

Cdare

RECEIVED

2/8/07

FEB 12 2007

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
OPERATIONS

Brett Bollinger  
Planning Dept  
1660 Mission Street  
Suite 500  
San Francisco, CA 94103

Dear Mr Bollinger.

I am very concerned about the proposed development of 555 Fulton Street.  
Here are the reasons why I am concerned.

- 1) Part of the redevelopment will be a massive retail space (22,000 square feet) on ground level – probably a food store. This will cause more garbage in our streets, additional traffic on our street and perhaps encourage illegal parking since there will be very few parking spots for store patrons at ground level. Please consider making this space 7500 square feet.
- 2) The height of the building which will take up the whole block will be 50 feet (our tallest roof on Birch is 40 feet). This would block our sun and cause Birch to be a cold narrow, windy tunnel during the day. Please consider 40 feet max. Children love to play on Birch.
- 3) 143 underground parking spots is an inadequate amount of underground parking that is being proposed. This would make it even harder for us to find street parking spots and cause more people to illegally park on the north side of Birch. Please increase to 200 spots and have 100% of parking underground.
- 4) A PG+E machine room is planned for the corner of Birch and Octavia. Please remove and replace with a friendly commercial space like a café. We need more consumers on this corner and less machines. Octavia Boulevard is supposed to be a tourist destination.

Can you please recommend a next step for me and my neighbors to take?  
I own 557 Birch street and live there as well.

Thanks



Mike Goos



"Temple Tse"  
<call2tt@gmail.com>  
12/10/2006 09:08 PM

To brett.bollinger@sfgov.org, jim.mccormick@sfgov.org  
cc  
bcc  
Subject re: BIG MONEY ATTEMPTING TO CRUSH MINORITIES,  
SENIORS & POOR! via 555 Fulton Street Project

Planning Department  
c/o: BOLLINGER, BRETT  
[brett.bollinger@sfgov.org](mailto:brett.bollinger@sfgov.org)  
558-5983  
1660 Mission Street  
San Francisco, Ca. 94103

Dear City & County of San Francisco Planning Department,

This letter is in response to Project title: 2005.1085E 555 Fulton Street -  
Demolition/Construction of Mixed-Use Building.

I live right across the street at 580 Fulton Street and am against this project as it is detrimental to the good and welfare of ALL residents of 580 & 590 Fulton Street. This project directly interferes with our living conditions interferes with our livelihoods. The project doesn't help the residents of this neighborhood in any manner, way or form.

I am not against any structure that grand-fathers the current and existing use. I am against a project that works toward the detriment of minorities, seniors, the poor... which this project is clearly does!

ENVIRONMENTAL Reasons to DENY this Mixed-Use Project:

#### TOTAL BLOCKAGE OF SUNLIGHT ON 580 - 590 FULTON STREETS

A 5- Story building will block ALL sunlight for the residents of 580 & 590 Fulton Street. I currently live on the first floor and the sunlight shines into my residence from the southeastern direction to the south western direction from 7am - 4:30 pm. Building such a structure will block ALL SUNLIGHT into my house and even block any view of the SKY. Thus, this will in turn immensely adversely affect my living environment & conditions not to mention privacy and safety concerns.

Our patio has many trees and plants that generations of robins, morning doves, sparrows, & humming birds have come to year after year, season after season for over the past three decades that we've lived there. The decrease in light will kill our plants thus destroying habitat that many generations of "Federally protected" birds have utilized.

#### Loss of Wildlife Vegetation

Despite the desperate attempt of the owners of 555 Fulton Street to rip out and destroy bird nests and habitat. The Wall of 555 Fulton Street is currently inhabited and utilized by various bird species. robins, sparrows, crows, sea gulls, owls, hawks, etc.

#### Increase Noise and Air Pollution due to Parking & Increased Traffic

This block surrounding Octavia, Fulton, Laguna, Birch is relatively peaceful. The current parking situation is immensely difficult enough because of the Hayes Valley renaissance and Opera/Symphony crowd! Adding an additional 143 residence, thus 143+ cars will make it impossible for residents of 580 & 590 Fulton to park in front of their own houses! The increase in cars and traffic will make the noise level unbearable for the residents of 580 & 590 Fulton Street! More cars also mean more exhaust and air pollution. This in turn affects the livelihood of those of us who commutes and needs a place to rest and park!

#### Higher Crime Activity

The current vagrancy/homeless people in the neighborhood is negligent except for certain situations of deliberate criminal intent. No one in the neighborhood helps any panhandlers and whenever any appear, they stick out like a sore thumb. As evidenced by the "Filmore Street construction, increase in crime due to more customers for drug pushers!

#### Neighborhood Destroyed

In a nutshell -- this project is TOO BIG for such a small space! What is currently a quiet neighborhood will be too loud, noisy, & busy.

#### Toxic Dump

The land used for this Mixed-Use is currently and was used for vehicle repairs where the occupants had dumped/polluted substances into the ground. Furthermore, the corner of Fulton and Laguna used to be the site of a



Gas Station. Per my recollection, the land was not treated nor the fill removed from the property. Building on this kind of polluted property or disturbing a toxic site can have detrimental impacts on the residents of the neighborhood. This I know on first hand basis was never addressed by City, State, nor Federal authorities.

#### LOST VIEW

Movie and Advertising companies currently utilize the unobstructed view from Alamo Square to City Hall.

Ugly structure that obstructs the view of CITY HALL - all the way from Alamo Square Building a structure that is HIGHER THAN THE WAR MEMORIAL, DAVIES SYMPHONY HALL, AND ALMOST THE height of City Hall just 3 blocks from SF City Hall will ruin a picturesque landscape.

-This is the same Million Dollar View that many Marketing Companies and Movie Studios use in advertising magazines & motion pictures.

I am asking that the Planning Department DENY Construction/Demolition of said 555 Fulton Street Project.

I AM ALSO REQUESTING THAT YOU SEND ME ANY AND ALL ENVIRONMENTAL REVIEW DOCUMENTS ON THIS MATTER (INCLUDING DATES & TIMES OF HEARINGS ON THIS ISSUE).

SINCERELY,

TEMPLE TSE  
580 FULTON STREET, APT. D  
SAN FRANCISCO, CA 94102



"Mike Goos"  
<mikegoos@sbcglobal.net>

12/09/2006 10:46 AM

Please respond to  
<mikegoos@sbcglobal.net>

To <brett.bollinger@sfgov.org>

cc

bcc

Subject from owner of 557 Birch Street, SF, CA

Hi Brett,

My name is Mike Goos and I left a voice mail for you today. I am owner and resident of 557 Birch Street. I am located directly behind 555 Fulton Street and am thrilled that the space will be demolished and reconstructed to accommodate the needs of the city and the landowner.

However, I have an environmental concern about the proposal.

50 feet tall is too high. Will block out the sun on birch. Trees are already starved and the alley is already a crime zone during the day. Need more light. Not less. Recommend 40 feet.

A 21,945 sf commercial space is too big. Will cause a tremendous amount of garbage in the streets. There is already a dumping problem on birch alley (please check the records of 28-clean). Having a massive commercial space will generate more traffic and people who dump in the streets. Also, if the space contains a market or food vendor, the commercial garbage will be too much for the residents to handle.

Lastly, parking. Underground is a great idea. However, 22 spaces above ground is a bad idea. Will enable after hours youth to mis-use the lot. As you know, there is section 8 housing adjacent to 555 Fulton. A 22 space lot will invite youth to abuse it. Drugs, loitering, etc.

Thanks for listening.

I am interested in learning more as this project progresses.

Thanks again.

-Mike

**Mike Goos**

home: (415) 553-8833

mobile: (650) 218-0241



Codare@aol.com  
02/01/2007 11:54 AM

To brett.bollinger@sfgov.org  
cc  
bcc  
Subject 2005.1085E - 555 Fulton St.

Brett

Per our earlier phone conversation, please include this **letter of protest** to the above development. The architect's proposed monotonous and sterile like public housing project design presents a grave environmental impact to the immediate neighbors and the neighborhood already filled with real public housing projects. The monotonous and boxy design is merely a modern take of a housing project design that will only further highlight the neighborhoods crime ridden image. It will aggravate the neighbor's long battle to change the dynamic and image of the neighborhood into a family friendly, exciting and safe place for walking and conduct businesses.

Secondly, we protest the garage major entry/exit being along Octavia St. Octavia St. is under SF's Octavia/Market Beautification Plan which calls for Octavia St. to become a major pedestrian and bicycle passageway from Market St. clear to Golden Gate Ave. The garage will not only disrupt and obstruct into this pedestrian/bicycle passageway, but it will also affect the quality and character of buildings fronting this soon to be public access thoroughfare.

Please be advised you should consult with the Market/Octavia St. neighborhood organization and the SF Bicycle Coalition regarding the projects boxy design affecting the neighborhood's image and obstructing into the Octavia St. public/bicycle thoroughfare.

Thank you and do continue to send me updates on this project.

Co Dare  
497 Loring Av.  
Mill Valley, Ca 94941

RECEIVED

FEB 26 2007

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
M E A

Dear Brett Bollinger,

We would really appreciate it if you would consider the residents of the "Hayes Addition" opinion on this new HUGE building in our 'hood. This new development is way too big for our down-low neighborhood. Since it is on the border of one area that is affluent and another that is underprivileged, this part of town does not need a building separating the divide any further. This new residence on 555 Fulton is out of proportion to the neighborhood and would stand out like a throbbing sore thumb. Besides that, it is too big, it is way too ugly...who made this design? The same person who redeveloped the California University campuses in the 1970s?? Seriously, ugly!

We think it would be nice to add more community to our neighborhood, not a 5 story building that brings no sense of tranquility and comfort to our 'hood. We need tranquility and comfort because two people were just killed a block away from here today. We need to build community, not add gentrification.

We hope you revise the design and scale it down.

Thank you,

*Ariel Clay*  
*Ingrid Steber*  
*Kayu Lam*

Ingrid Steber  
Ariel Clay  
Kayu Lam  
Resident of 547 Birch St., SF CA 94102



Bobdare@aol.com  
02/09/2007 12:29 PM

To: brett.bollinger@sfgov.org  
cc: Bobdare@aol.com  
bcc  
Subject: Letter Of Protest: 555 Fulton Street Project

To: Mr. Brett

From: Bob & Jane Dare

Re: Protest: 555 Fulton Development Project

Dear Brett,

The proposed development of the massive 5 story building at 555 Fulton Street & along Octavia Street is simply hideous and a monstrosity of cheap materials and design.

What is the thinking of the architect and project owners? The design is like a government building, public like in its facade and devoid of character. It basically reflects an already dull and characterless housing project just across the street all along Fulton Street.

If this is the best they can do then they should shred their drawings and ideas. Is the architect getting minimum wage or something or are the owners simply looking to build and sell? Give me a break!!

The Octavia Street side should conform to the Octavia Blvd plan that has been in the making since the freeway was torn down. It should be an open and interesting part of the neighborhood where a cafe might exist or a small shop for people to visit and not a garage or utility room for equipment to be placed.

A new building should be warm and welcoming, not a big wide blob of a 5 story mass like the one they designed.

The building's massive height and size will simply dwarf everything around it, standing like the big, bad, and fat bully on the block. The size of this building will block and take away the view and sunlight residents enjoy on a daily basis. That is one gigantic shadow created on the sidewalk and streets which is bad because this neighborhood or area can use all the light and openness it can get for the health, safety, and well being of residents and visitors to the City Hall area alike.

Yes, crime is a problem around here, and this building should help to alleviate that crime, not add to it.

Pay that architect a meaningful salary and start all over with a design that respects the Octavia Blvd plan and vision by reducing its size and improving its design to be more a part of the neighborhood, separate from the housing project which it resembles.

As native San Franciscans, we ask that you do better to be a part of the neighborhood.

Regards,

Bob & Jane Dare  
2001 Wawona Street  
SF, CA 94116

2/9/07

Brett Bollinger  
Planning Dept  
1660 Mission Street  
Suite 500  
San Francisco, CA 94103

RECEIVED

FEB 13 2007

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
OPERATIONS

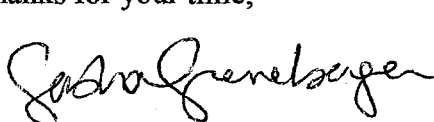
Dear Mr. Bollinger,

I am very excited about the new development at 555 Fulton Street, and look forward to seeing it completed. However, I have a few concerns about the project. Here are the reasons why I am concerned.

- 1) The proposed design of the new building looks too much like government housing or an office building, instead of a new lively, attractive commercial or residential building. Please consider putting larger windows in and revising this design, so people will want to live there and be attracted to use the commercial space. Image can create a positive and healthy environment.
- 2) The height of the building which will take up the whole block will be 50 feet (our tallest roof on Birch is 40 feet). This would block our sun and cause Birch to be a cold narrow, windy tunnel during the day. Please consider 40 feet max. Children love to play on Birch, and the light of the sun is important for the liveliness of the neighborhood.
- 3) 143 underground parking spots is an inadequate amount of underground parking that is being proposed. This would make it even harder for us to find street parking spots and cause more people to illegally park on the north side of Birch St., especially during Opera and Symphony events. If there is anyway to increase the amount of spots and have 100% of parking underground, it would be very helpful in the future.
- 4) A PG+E machine room is planned for the corner of Birch and Octavia. Please remove and replace with a friendly commercial space like a café or coffee shop. We need more consumers on this corner and less machines, or bleak spaces. Octavia Boulevard is supposed to be a tourist destination, and I think it is important to try to move the foot traffic out past Hayes Street to create a more welcoming and safer neighborhood.

Thanks for taking the time to hear my thoughts and concerns. Can you please recommend the next step for me and my neighbors to take? Also, is there anyway I can find out more information about the new development and when it will be started? My fiancé and I own and live at 555 Birch Street.

Thanks for your time,



Sasha Grueneberger and Adam Henderson



**ATTACHMENT 4**

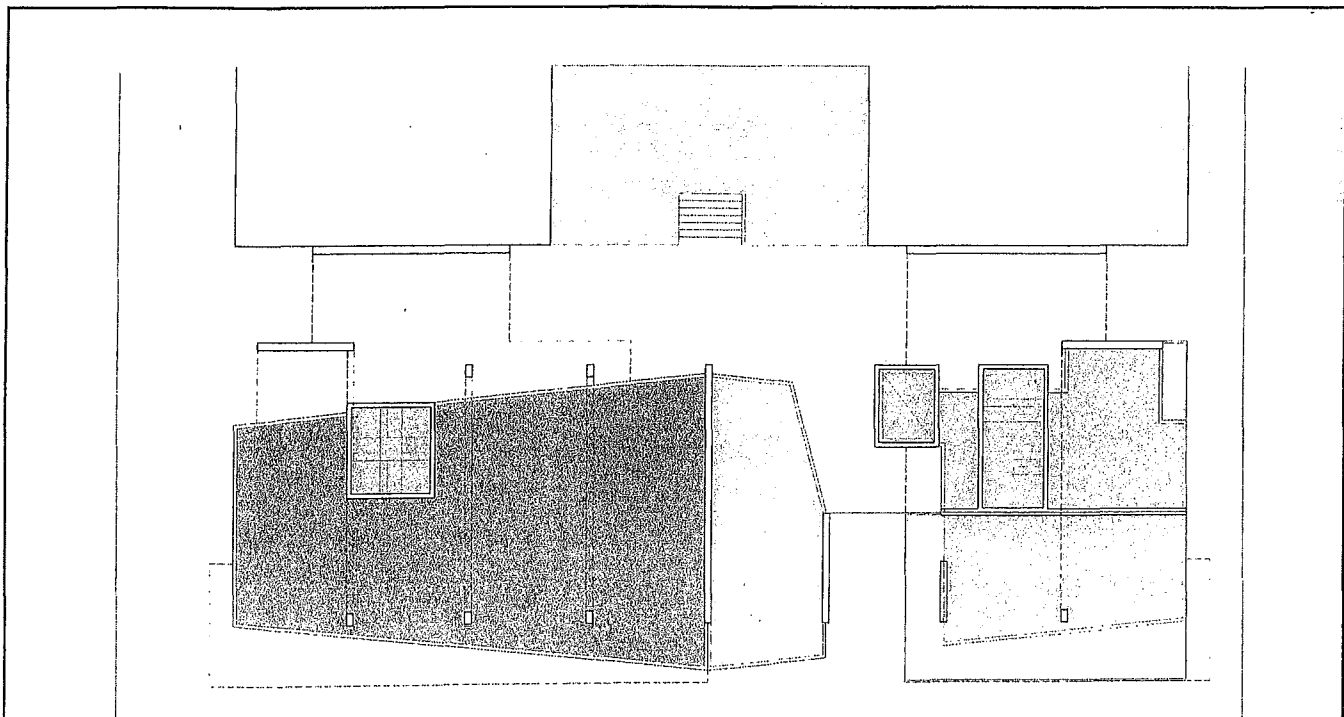


FLOOR PLANS

OCTAVIA BLVD. BUILDING

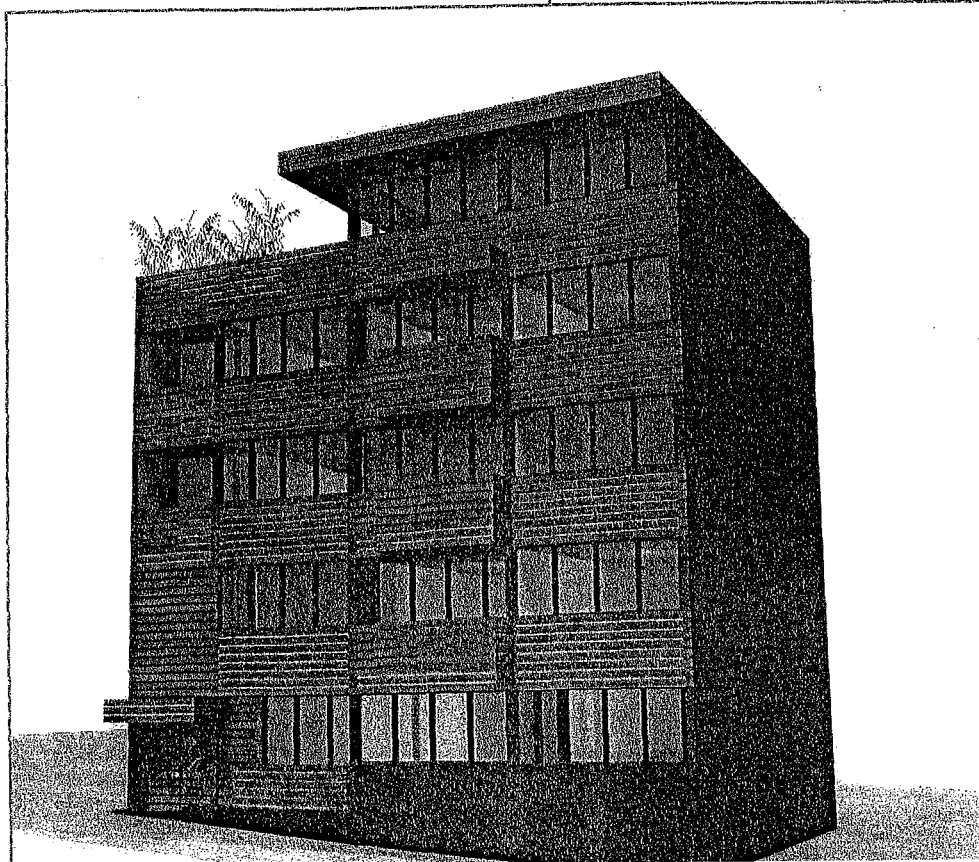
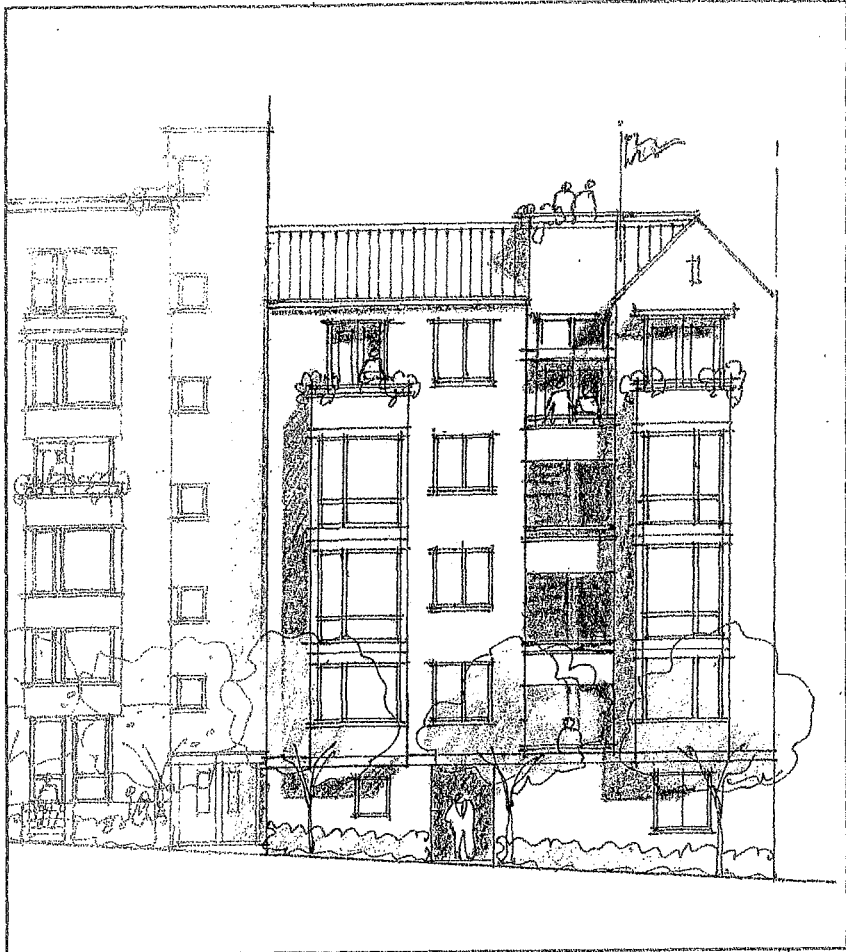


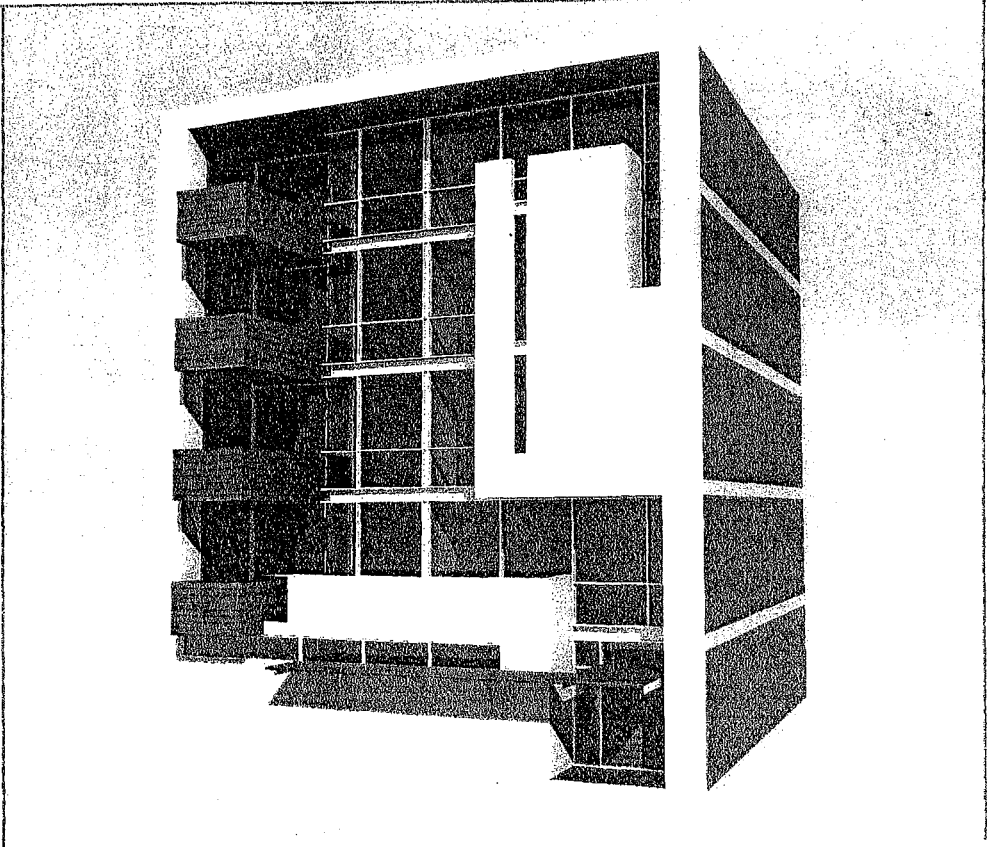
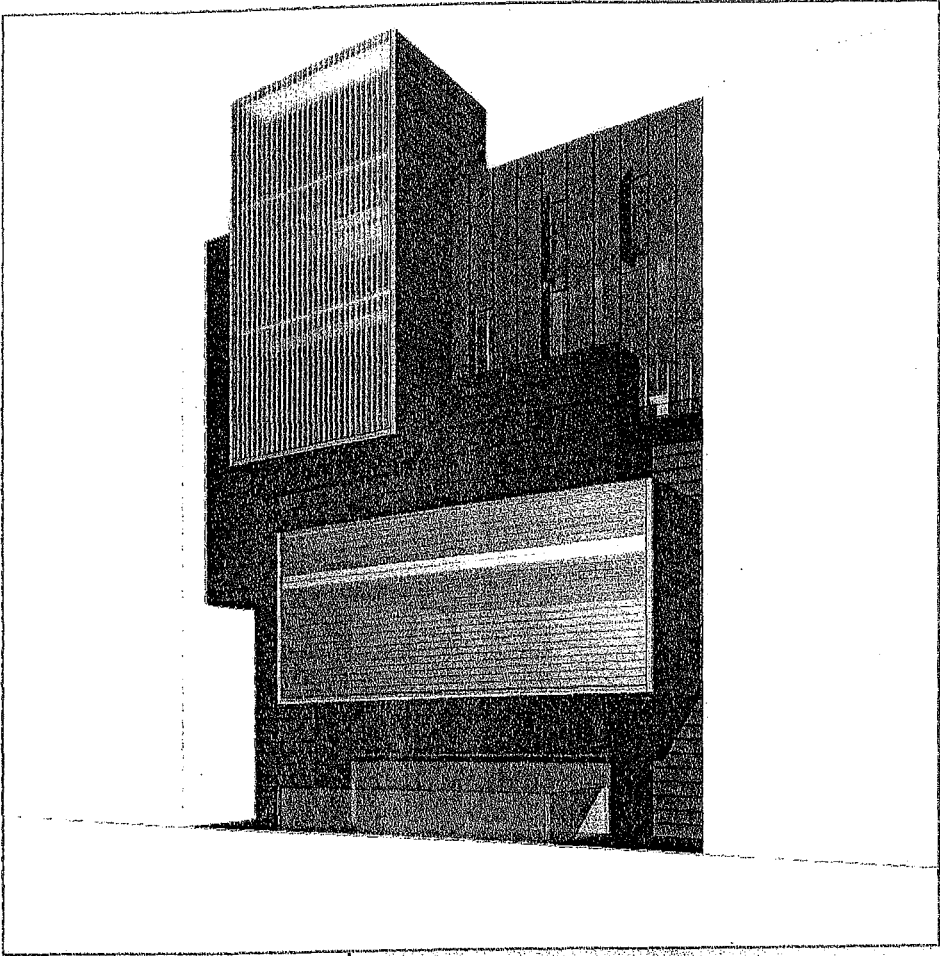
P - OCTAVIA STREET LEVEL PLAN



DRAWINGS

MID-BLOCK ROWHOUSES  
(OAK ST. AND HICKORY ST.)





## DESIGN CONCEPT

### PARCEL P NARRATIVE OUTLINE

When the freeway ramps were built between Oak and Fell, they destroyed an entire block of diverse buildings which had been constructed lot by lot and modified as needed for over a century. Ironically, the insertion of the ramps and the concentrated traffic they carried had the unintended consequence of preserving the surrounding blocks in a state of economic limbo. With the freeway ramps gone, the revitalization of the neighborhood has truly been remarkable and the result is all the more delightful because of the preservation of the organically grown historic building stock.

We now have the opportunity to build upon the site the freeway destroyed. This opportunity comes with both the promise and the burden of bigness. Central to our approach to the development of Parcel P is our desire to take advantage of its relatively large size while relating in a meaningful and respectful manner to our smaller and more diverse neighbors.

### BIGNESS

The primary advantages of a large parcel in this context are the possibility of a grand gesture, the ability to consolidate parking and the freedom to devise building types without the iron clad restrictions of the standard 25foot lot. The disadvantages of a large parcel are the tendency to create a project; a standardized solution that is both out of scale and out of character with its surroundings. Projects usually lack the specific relationship to context that characterizes an organically grown neighborhood and what is worse they have little ability to grow more specific over time. Architects and developers work hard to break up their projects into smaller components with changes in massing, detail and color, but they seldom succeed in disguising the fact that the floor plates are all the same level, the window are set to the same head height and that the buildings were all built at the same time.

### GENUINE DIVERSITY

In our collective discussions concerning Parcel P, we struggled to find a solution that was less cosmetic and more genuine in its diversity. At some point, it dawned on us that perhaps the most genuine approach to diversifying the site was to actually break it up into smaller parcels with each of the parcels having a different architect designing to the specifics of a particular program and place; a recreation in spirit, not form of the surrounding organically grown neighborhood.

### THE CENTRAL MEWS

The solution that evolved from these lively conversations was centered on a single grand gesture: a central mews that stretches from Laguna on the west and terraces downhill, through the center of the site, to Octavia on the east. The mews pierces both the Laguna and the Octavia buildings truly linking the site both visually and physically from end to end. It is intended to be both a common green and a pedestrian spine.

[REDACTED]

### THE PARKING RESERVOIR

The second resolution was to create a large parking reservoir for the entire site at the uphill end buried beneath grade under the Laguna building but accessible to all through the mews and the sidewalks along Oak and Hickory. This allows the mews to be a truly green space with real trees growing out of real dirt and minimizes the impact of the automobile on the remaining sites while providing a large area of permeable landscaping for storm water infiltration.

### TERRACED INFILL PARCELS

We then subdivided the remainder of the site into a series of stepped parcels; five along Hickory and five along Oak. The parcels are 45 feet wide and 40 feet deep and each has both street and mews frontage. Our intent is that the buildings on each of these parcels be unique in both program and character (perhaps even ownership) and that they have the ability to be developed and modified independently over time. We hope that they evolve an equally diverse range of sizes, colors, materials, textures, forms and functions as their older neighbors.

### LAGUNA BUILDING

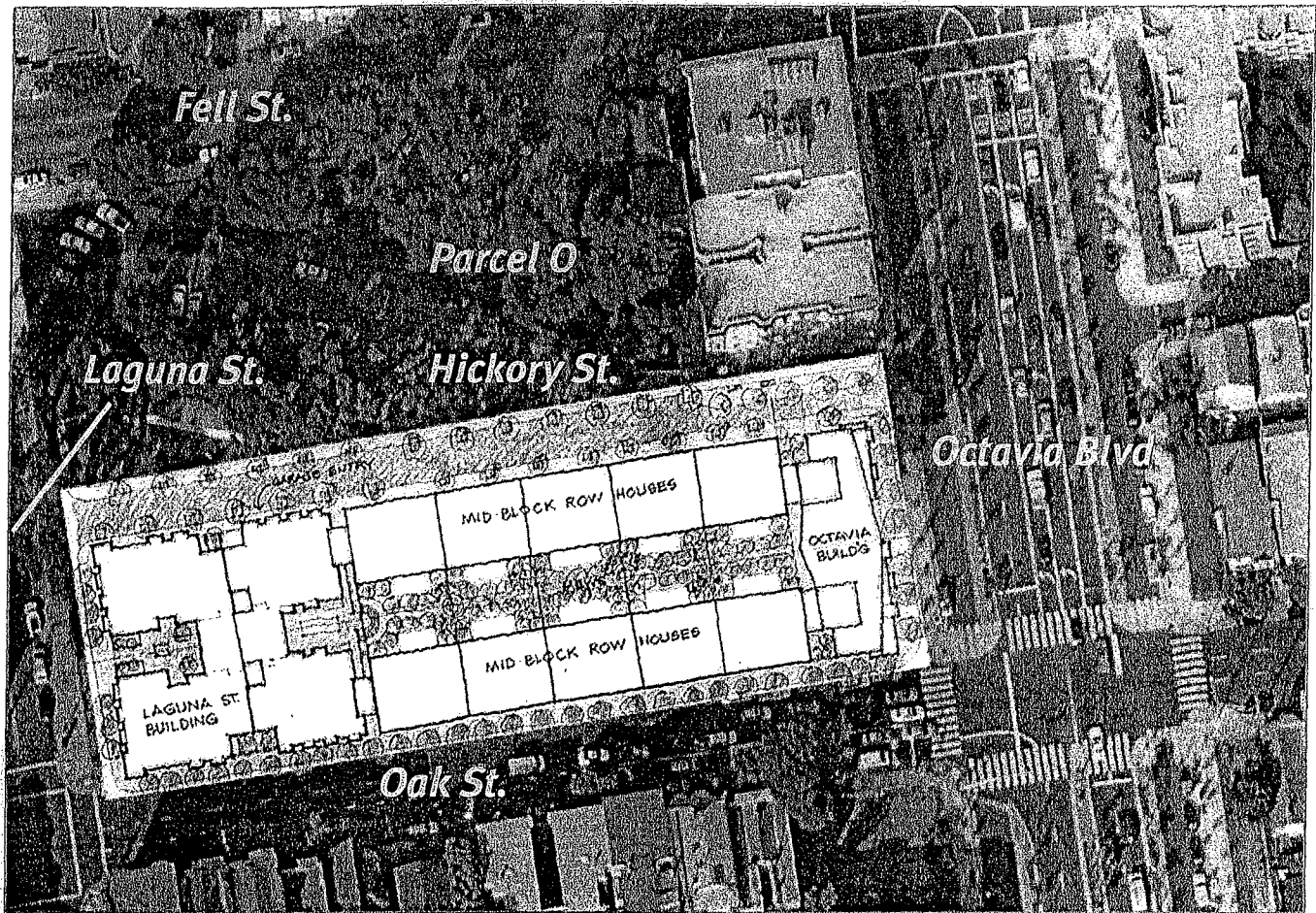
Bookending the terraced lots, we are proposing two distinctly different buildings by two different architects. At the uphill end, fronting Laguna is an "H" shaped courtyard building that sits atop the subterranean parking reservoir (that also steps downhill). This building houses 108 micro-units in a mix of one and two level plans / forty feet high along Hickory and fifty along Oak. It is a simple, shingle-clad building with a diverse range of bays balconies and stoops. Standing on Laguna and looking east through the entry court you will be able to see the length of the site over the treetops of the mews to the Octavia Building.

### THE OCTAVIA BUILDING

Concluding this mid-block procession of courts and gardens, the Octavia building presents the most public face of Parcel P to the new Boulevard. As such it is indeed a diplomat: one which mediates between the needs of the evolving neighborhood and the proposed development uphill. A mixed-use building that lifts 40 one & two bedroom dwellings above a retail frontage, the Octavia building is planned around a grand 3-story portal that visually links the Boulevard with the Central Mews beyond. The portal serves not only as the front door for the residences, but provides the efficient dwellings with the shared common amenities of recreational patios, and central laundry and work-out facilities in a glass pavilion at street level. In this way, the Octavia building promises to play an active role in the street theatre beyond.







### LIVING STREETS

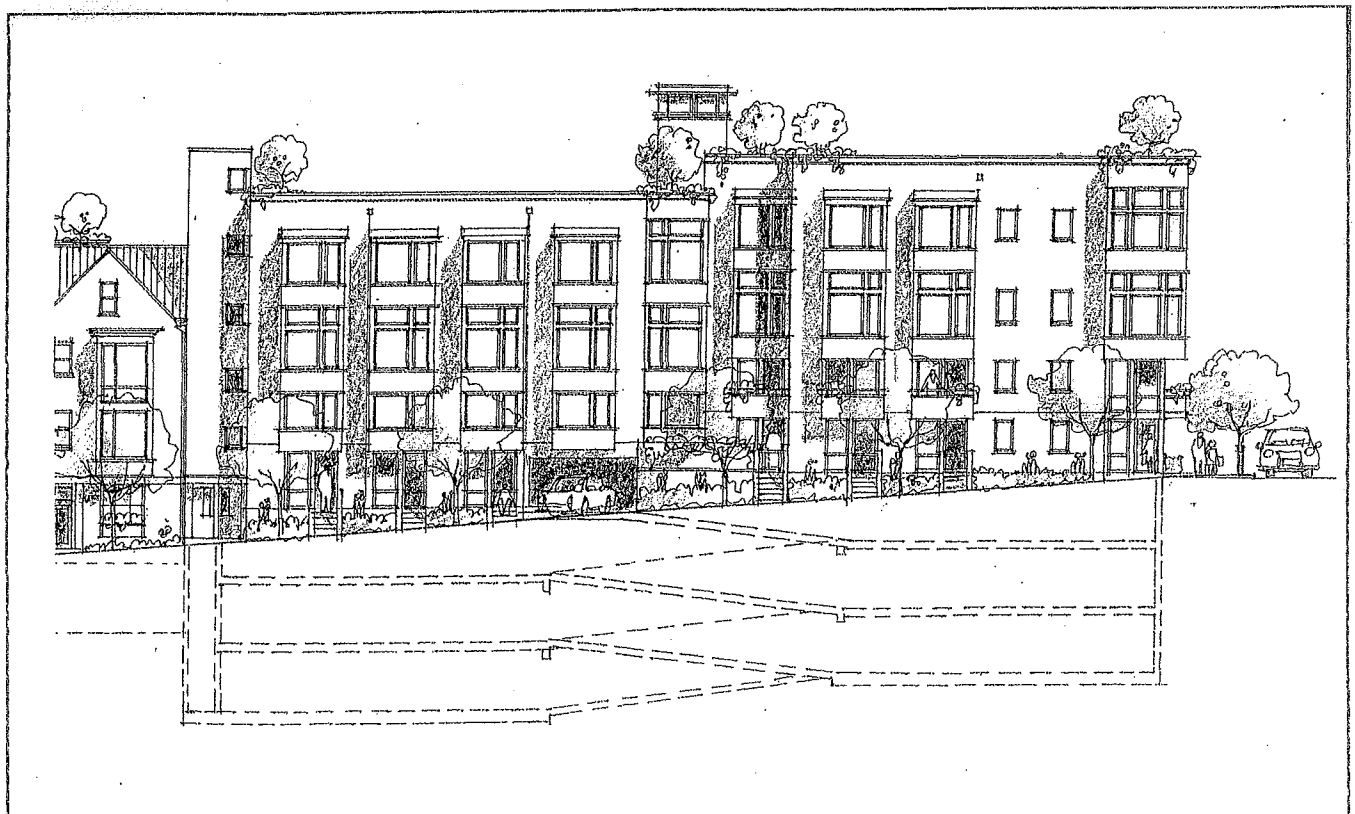
Parcel P is fortunate in having public street frontage on all four sides. Each of the four frontages calls for a different response. Octavia wants a grand and lively boulevard shaping façade that looks to the future of the City’s newest great street. Oak wants terraced diversity with many stoops, bays and entrances to carry on a lively conversation with passing cars and pedestrians and the older buildings across the street. Laguna wants a building that is part of the neighborhood, which fits in and is willing to listen to what’s being said by others. Hickory has not yet formed its character and there lies its promise. Our proposal includes reclaiming Hickory as a “Living Street” –a landscaped, slow paced street. The plan would involve increasing the usable width of the sidewalks and narrowing the roadbed, with a paved right of way at a uniform material level with the sidewalk. The effect would be to slow traffic and designate the space as one shared by both people and vehicles.. The design incorporates seating, street trees, planting areas, bike racks, and lighting. We envision using recycled granite curb stones for seating and road barriers. Street trees would be planted in the road bed and spaced to designate on-street parking along the length of the alley. The tree wells would provide permeable area for storm water infiltration.

ELEVATIONS

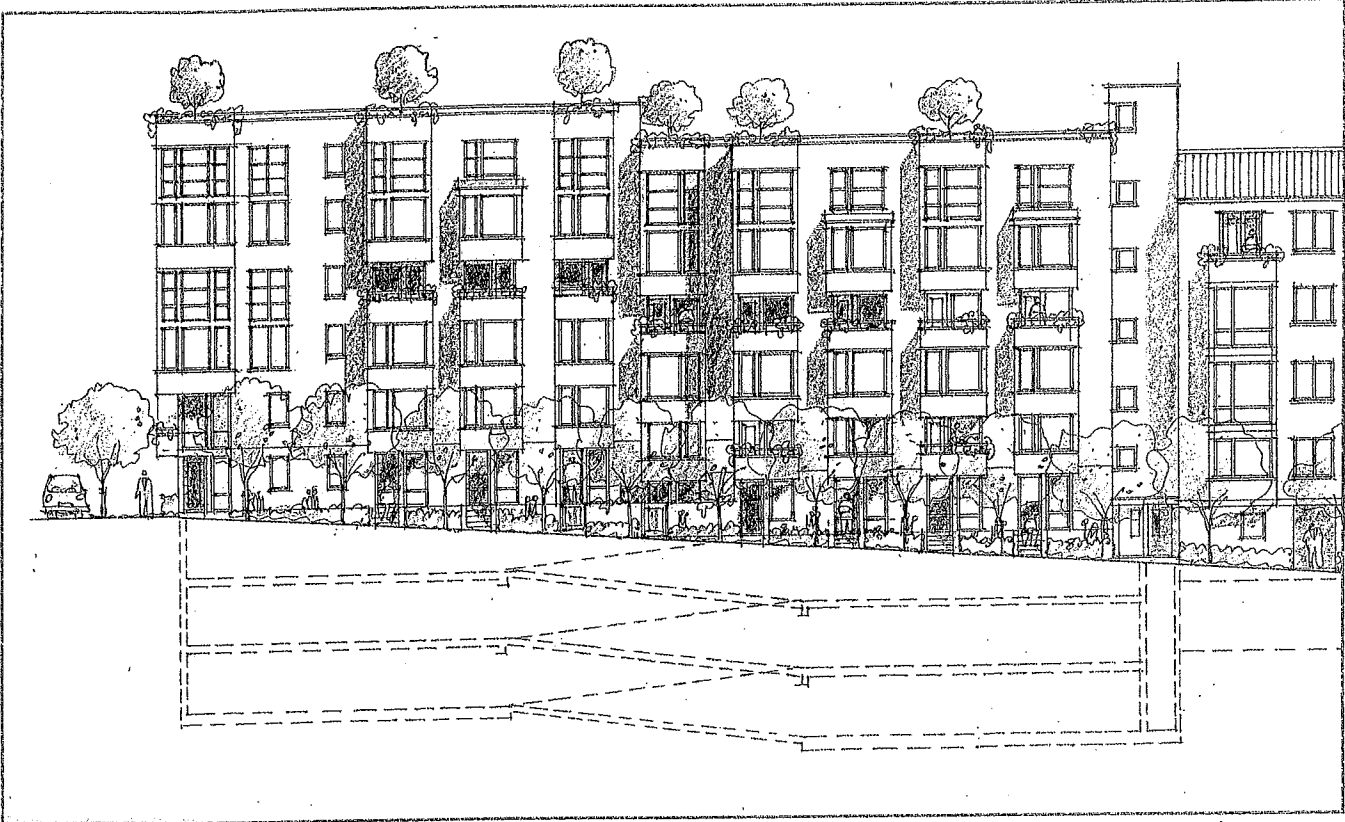
LAGUNA BUILDING ELEVATION



LAGUNA BUILDING HICKORY ST. ELEVATION



LAGUNA BUILDING OAK ELEVATIONS



LAGUNA BUILDING, VIEW FROM LAGUNA ST.





**ATTACHMENT 5**

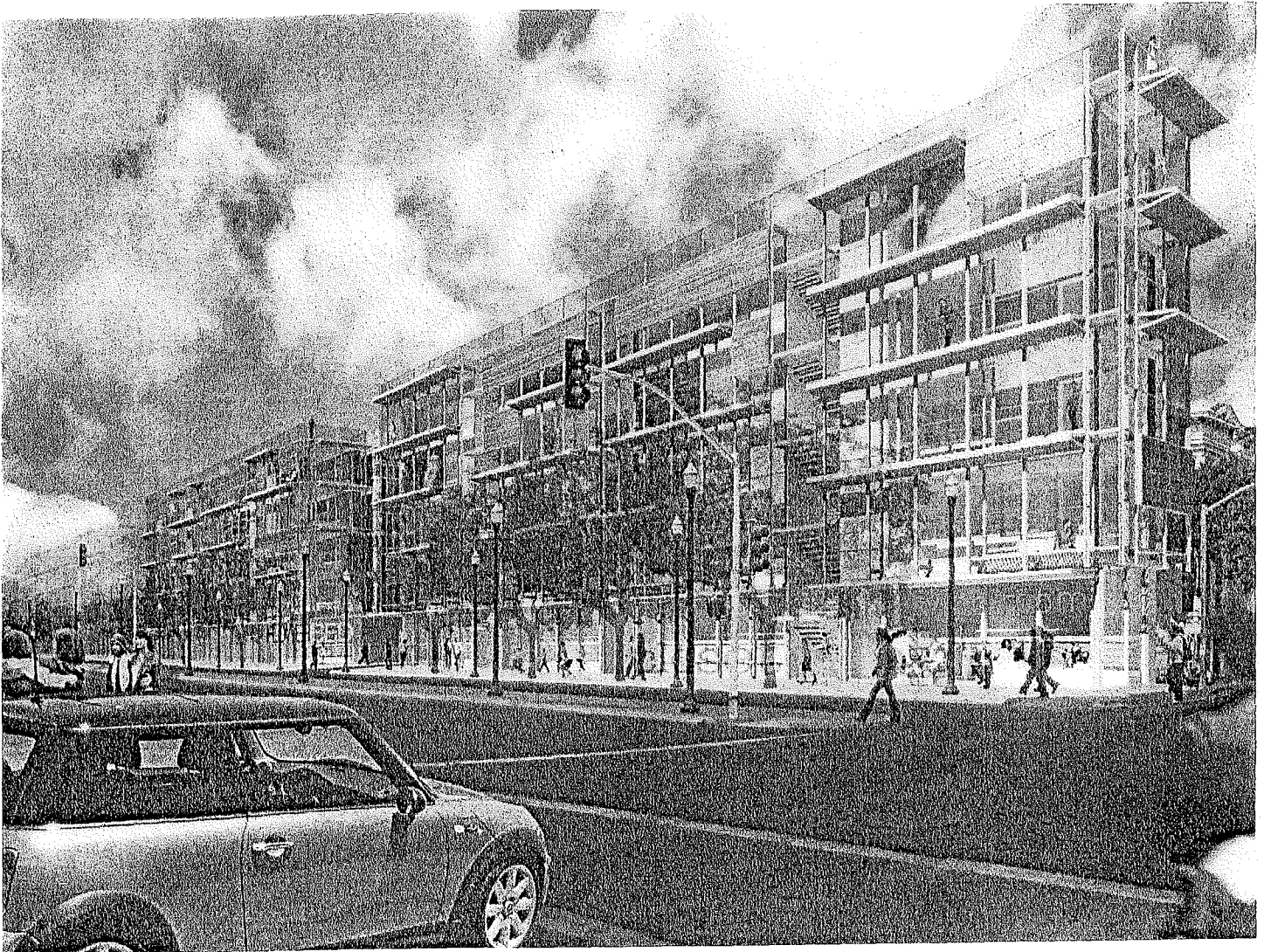
# Central Freeway Parcels M+N

## Housing Development Proposal

### D. Massing Drawings

#### 1. Renderings: Sidewalk Level

B. Street Level View @ Oak and Octavia



# Central Freeway Parcels M+N

## Housing Development Proposal

### D. Massing Drawings

#### 1. Renderings: Sidewalk Level

##### A. Sidewalk Level View @ Hickory Alley

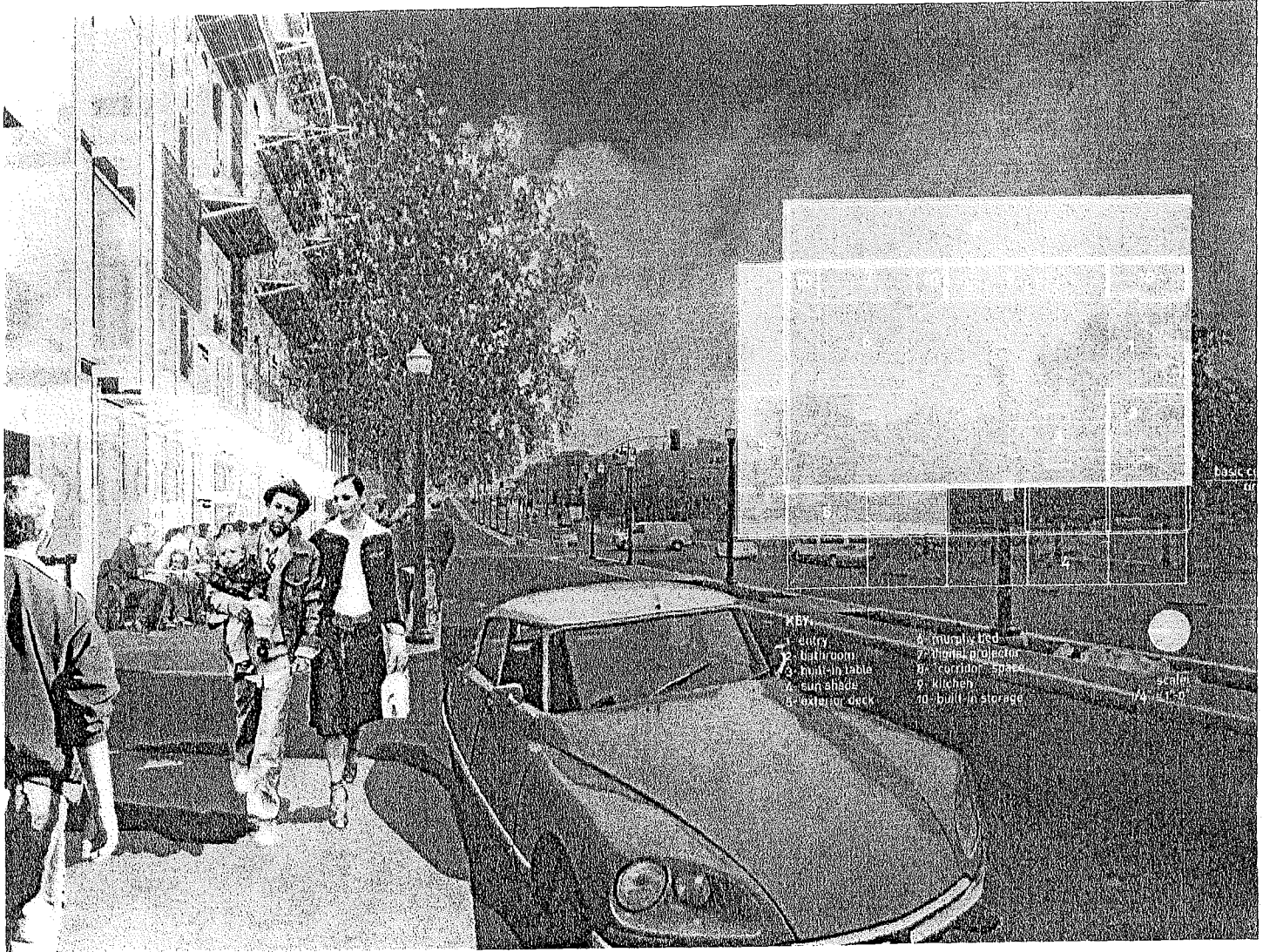


# Central Freeway Parcels M+N

## Housing Development Proposal

### D. Massing Drawings

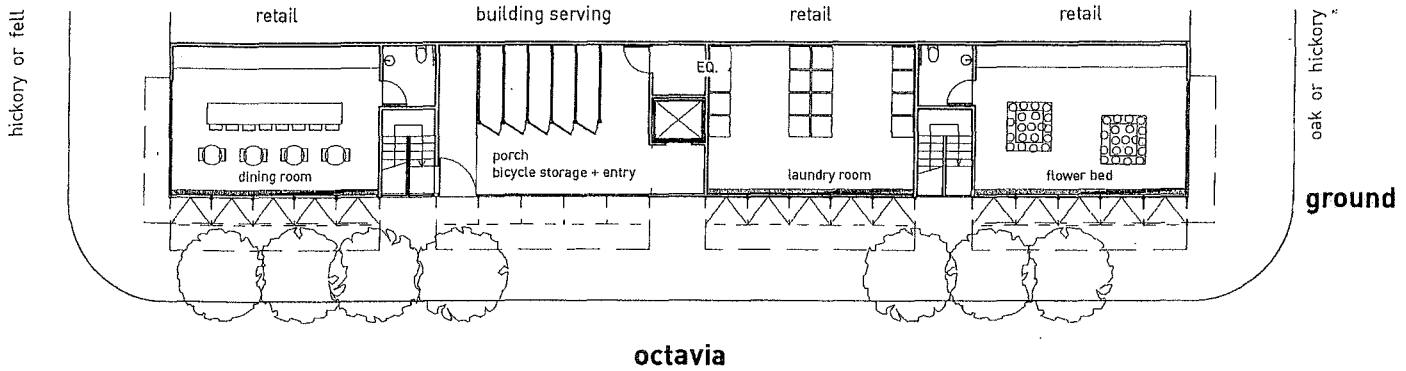
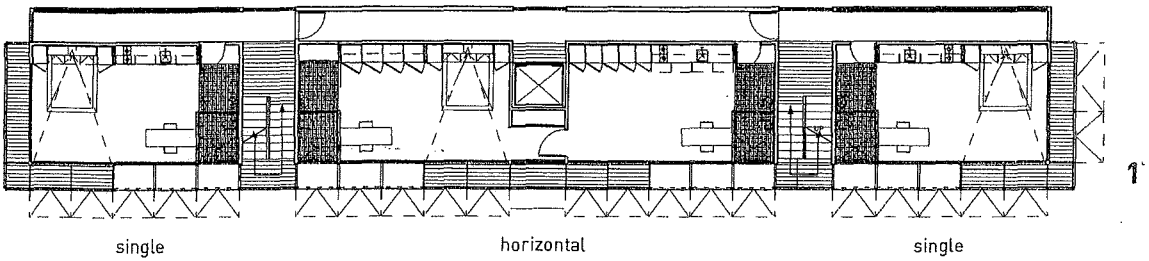
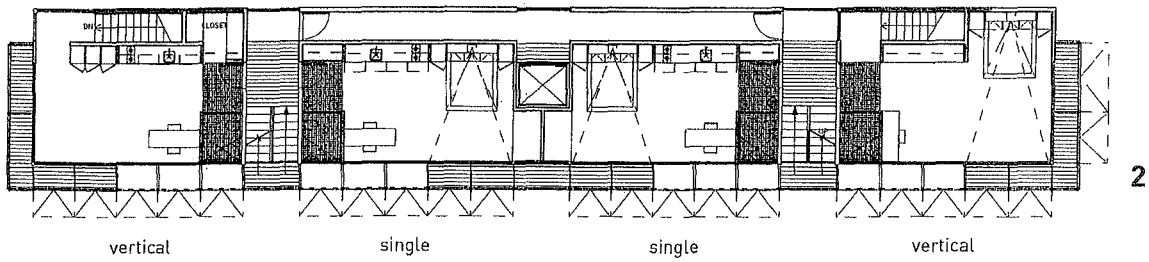
- 1. Renderings: Sidewalk Level
- C. Typical Unit Plan



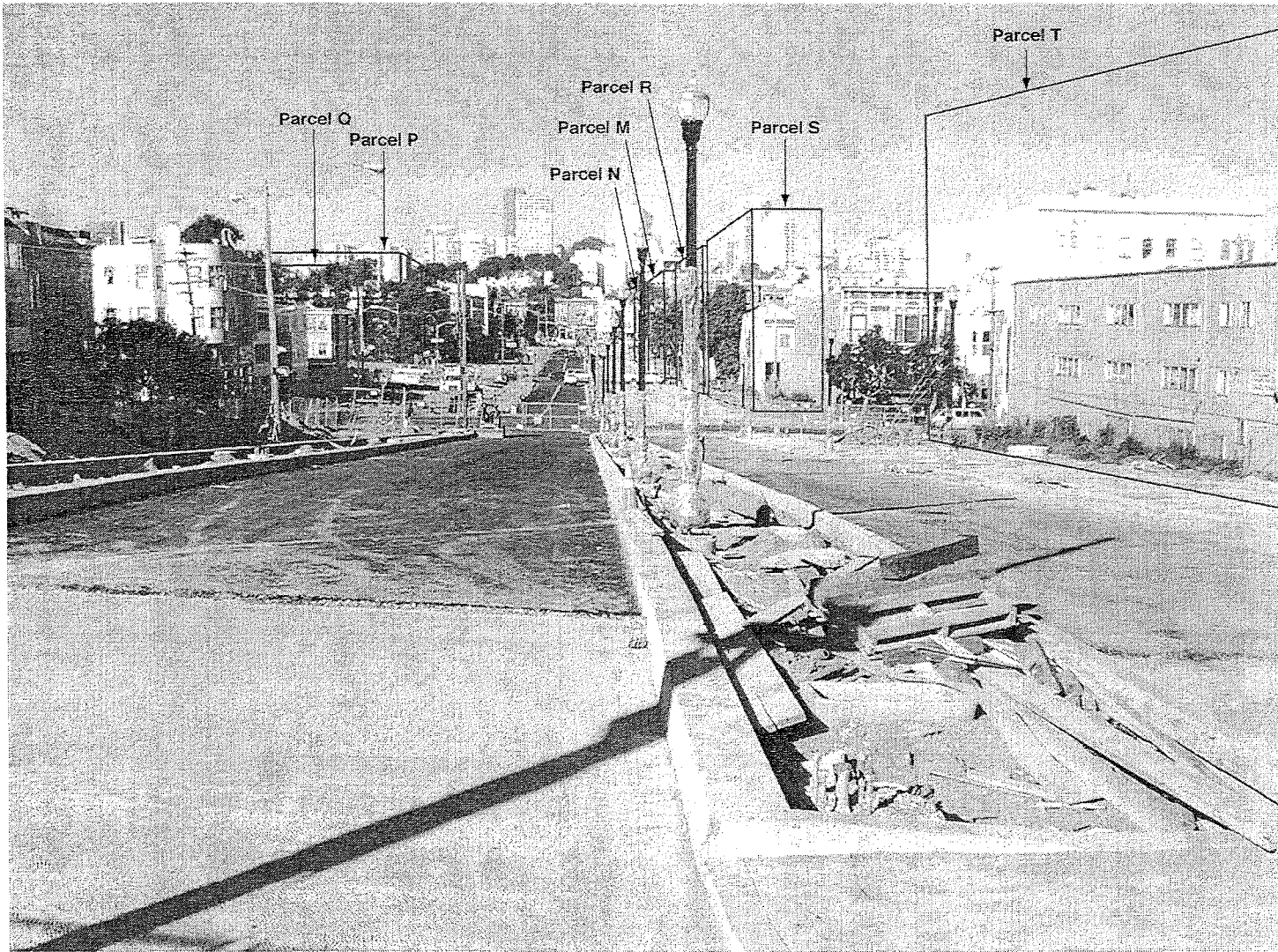


D. Massing Drawings

4. Typical Floor Plans: Housing



**ATTACHMENT 6**



SOURCE: Environmental Science Associates

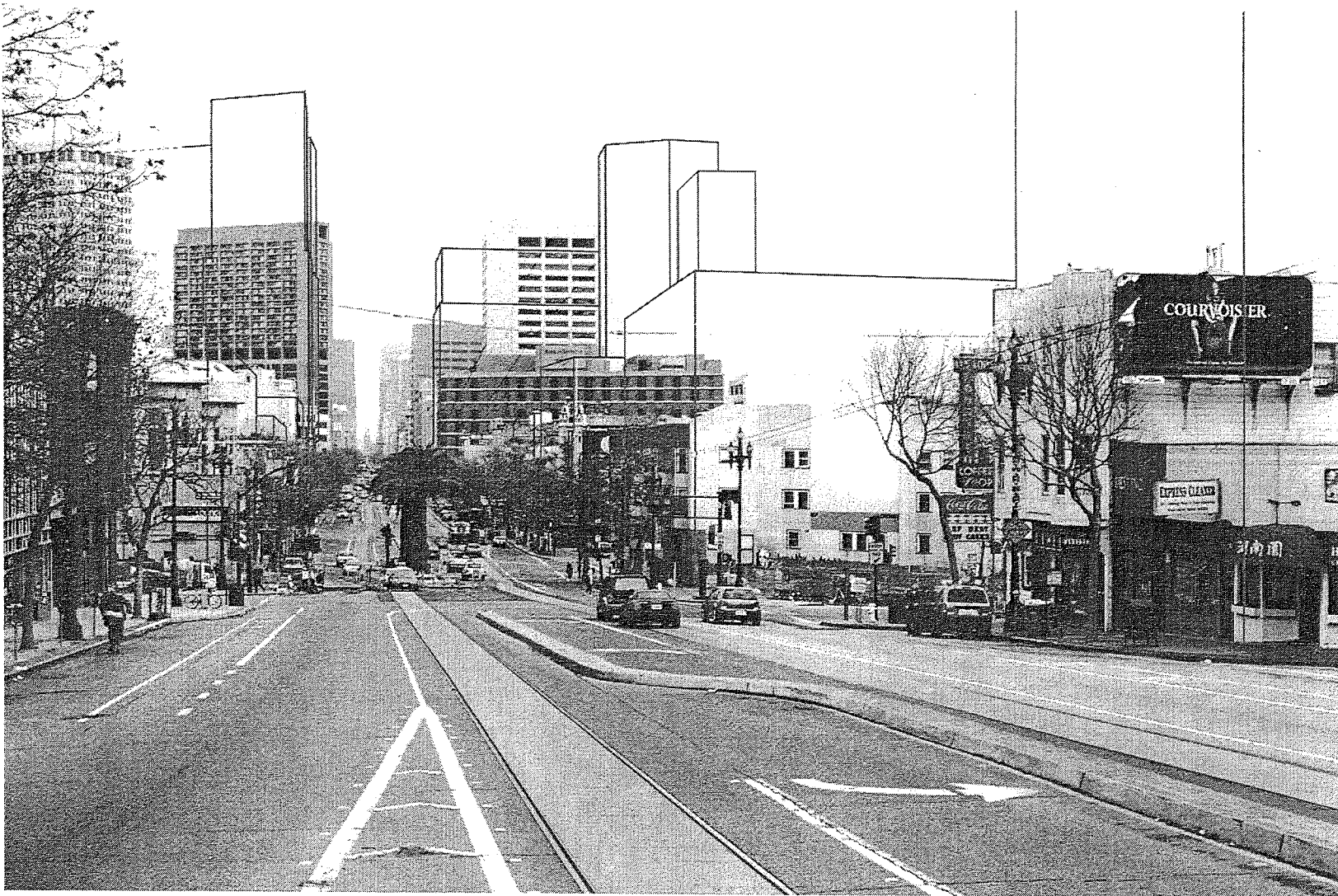
**Figure 4-16**  
**Viewpoint S3: Octavia Boulevard, Looking North**



SOURCE: Environmental Science Associates

**Figure 4-15**  
**Viewpoint S2: Market Street, Looking Southeast**

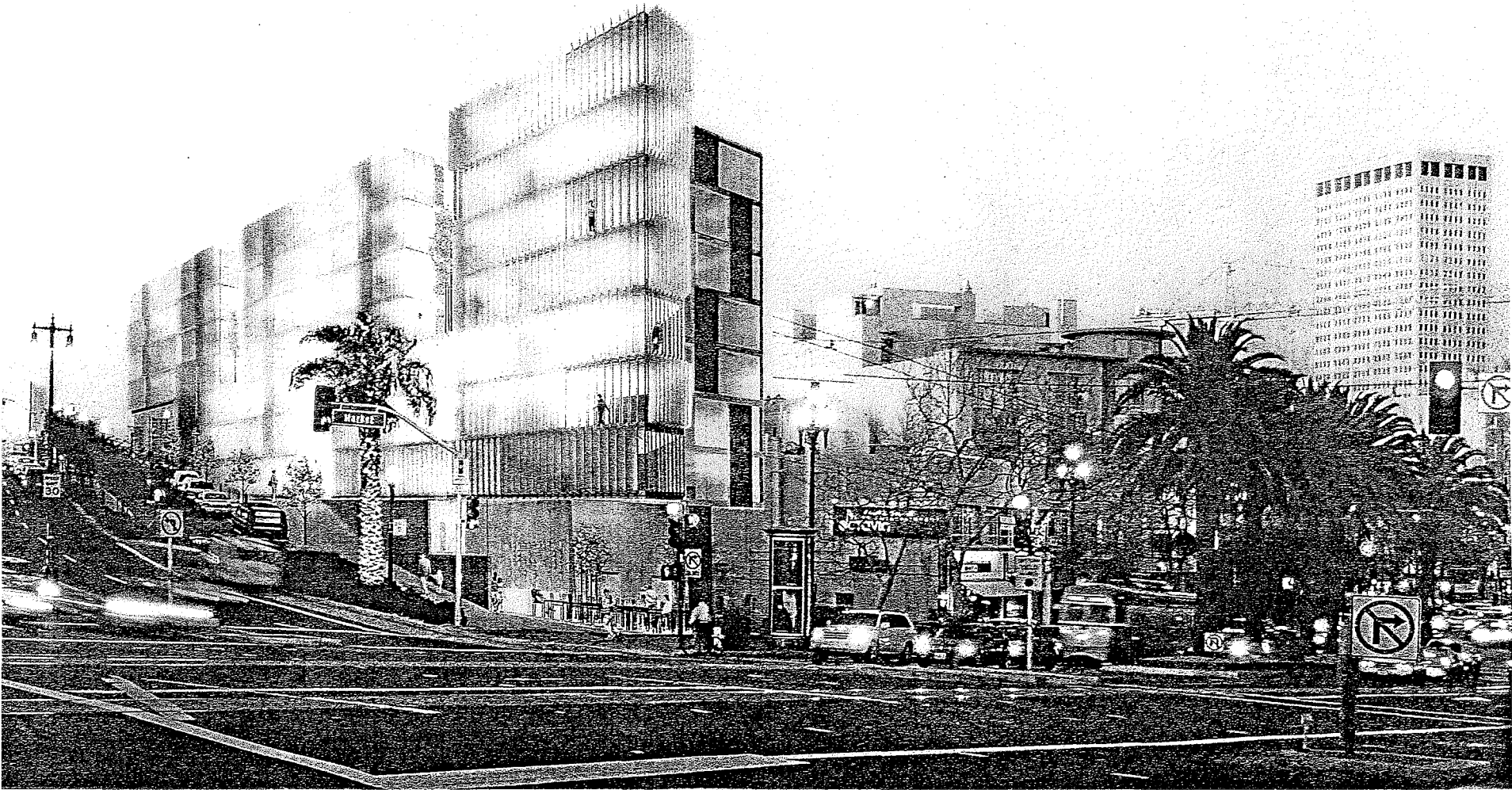


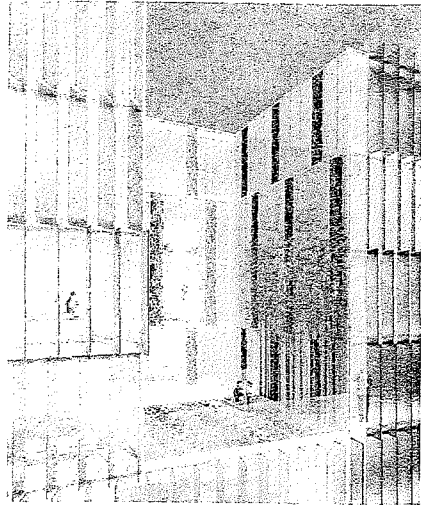


SOURCE: Environmental Science Associates

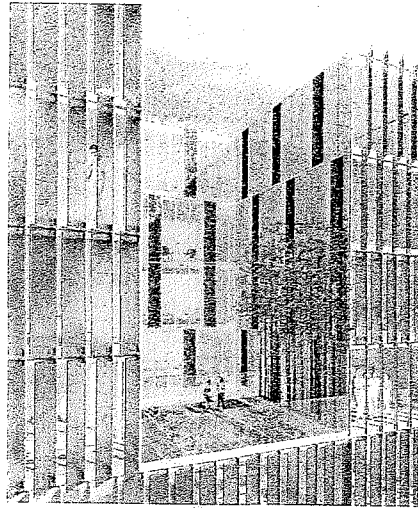
**Figure 4-14**  
**Viewpoint S1: Market Street, Looking East**

**ATTACHMENT 7**

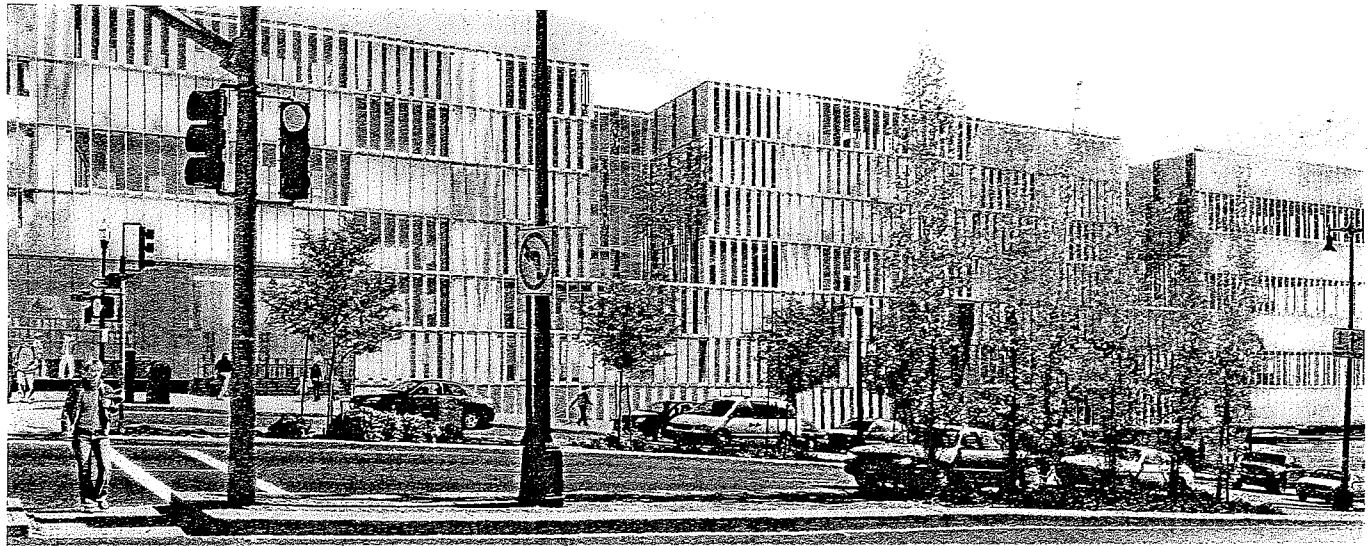




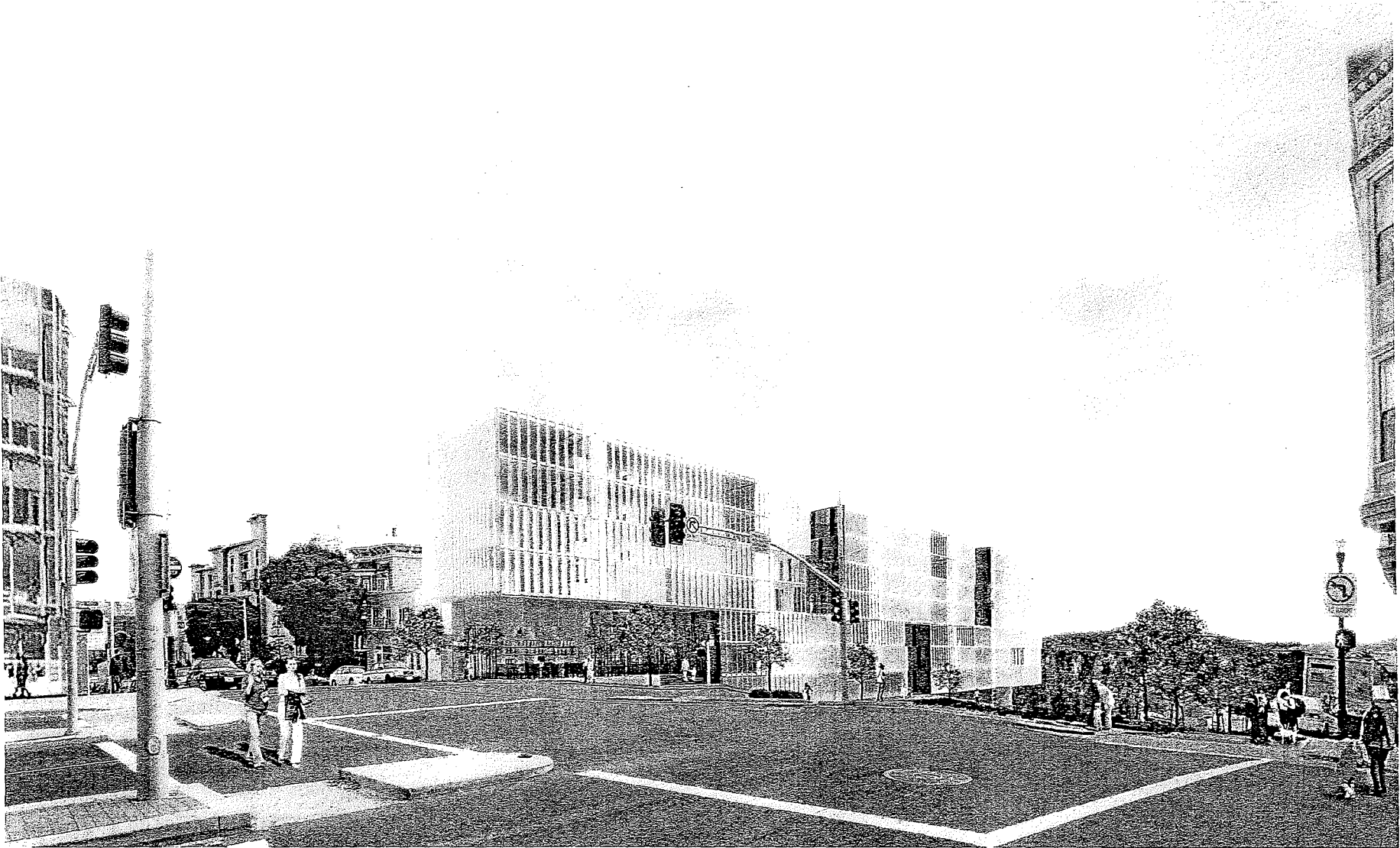
OPERABLE SUNSHADES - MORNING



OPERABLE SUNSHADES - EVENING



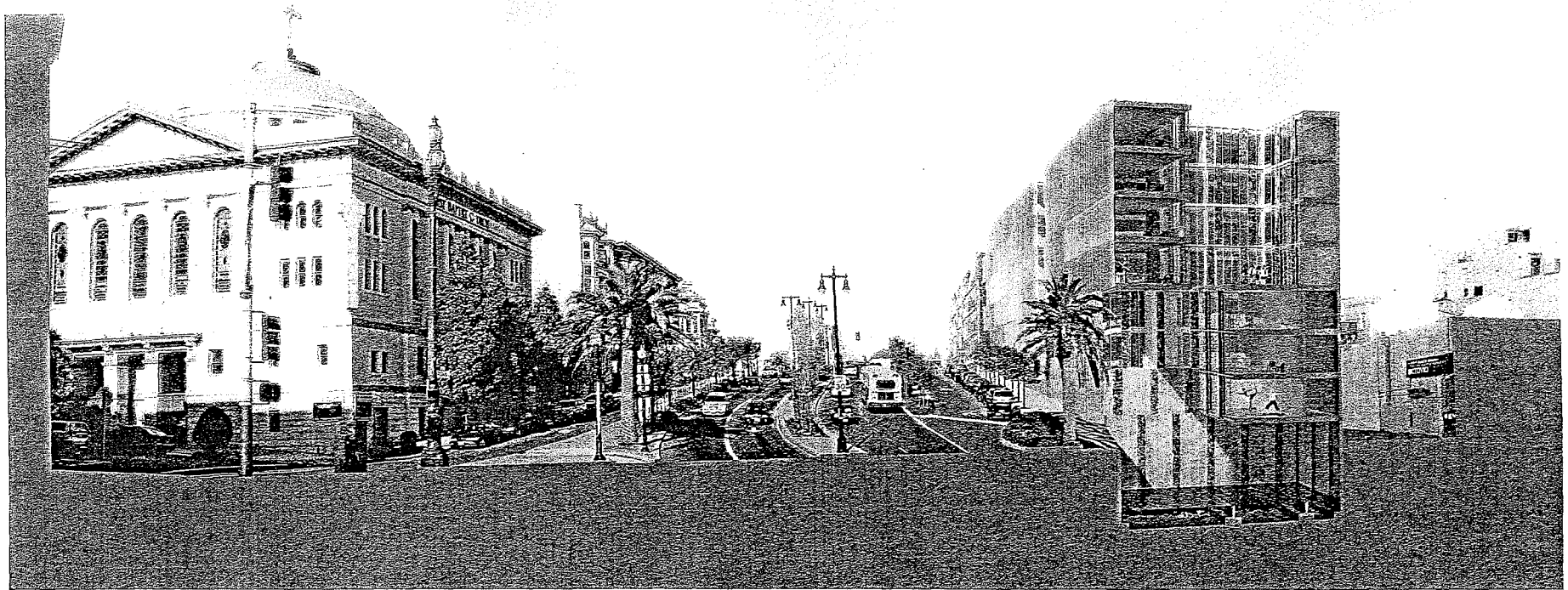
NEW GREEN SAN FRANCISCO STREETSCAPE

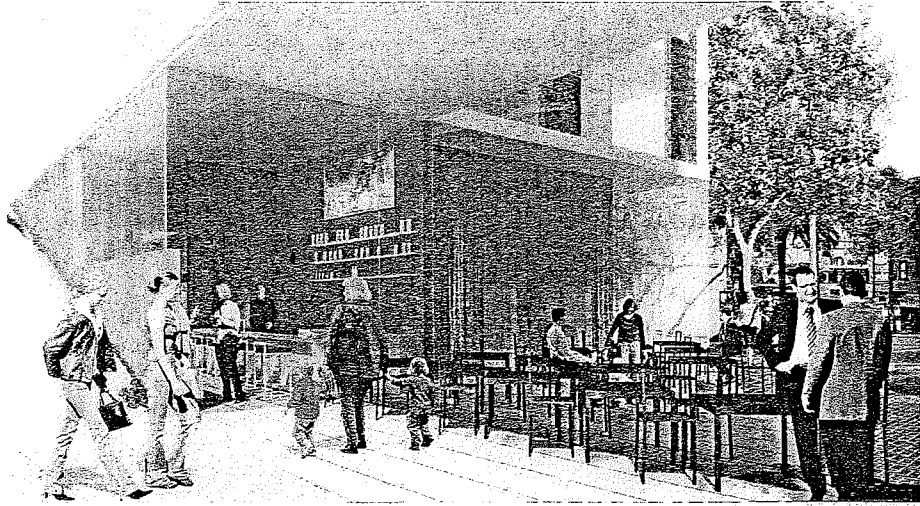


CORNER OF OCTAVIA AND HAIGHT

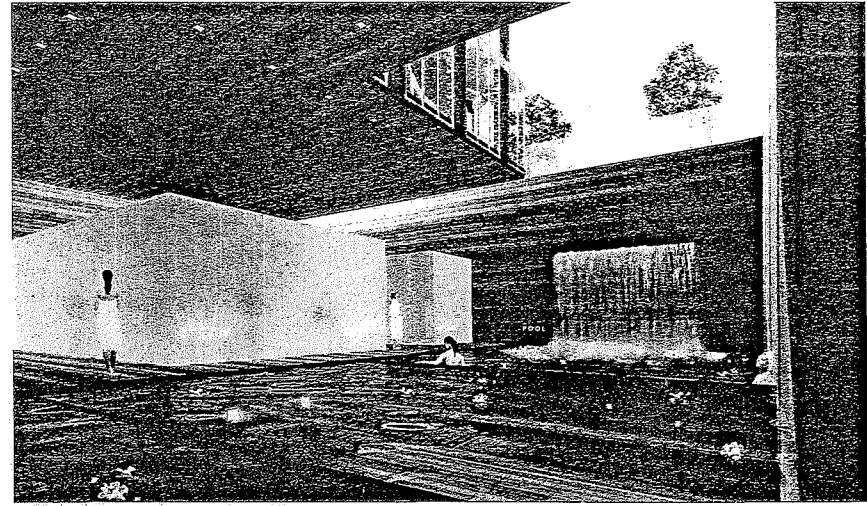




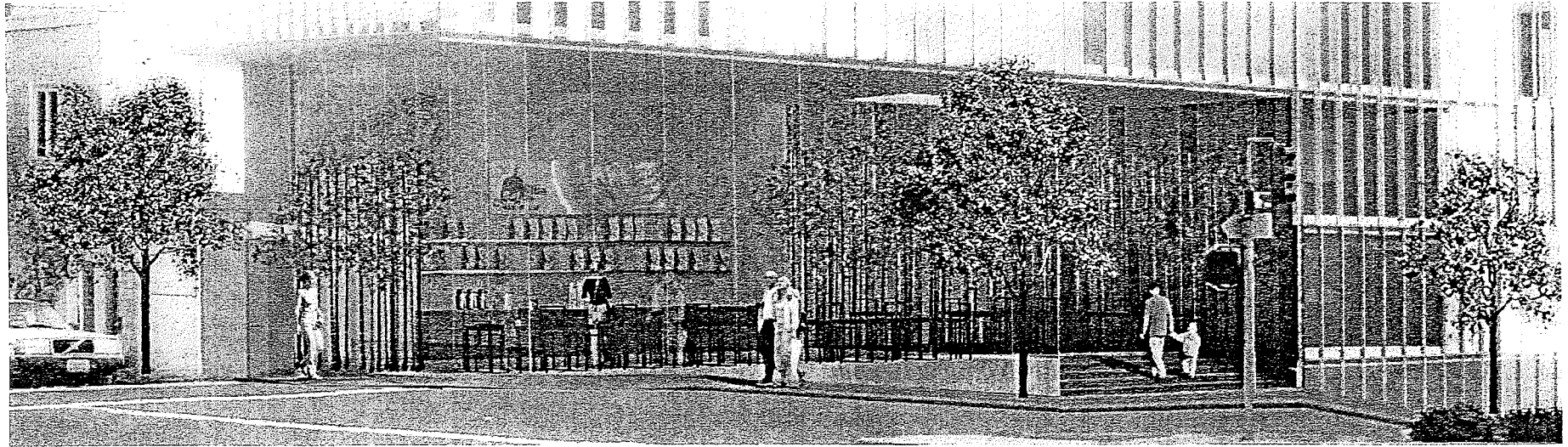




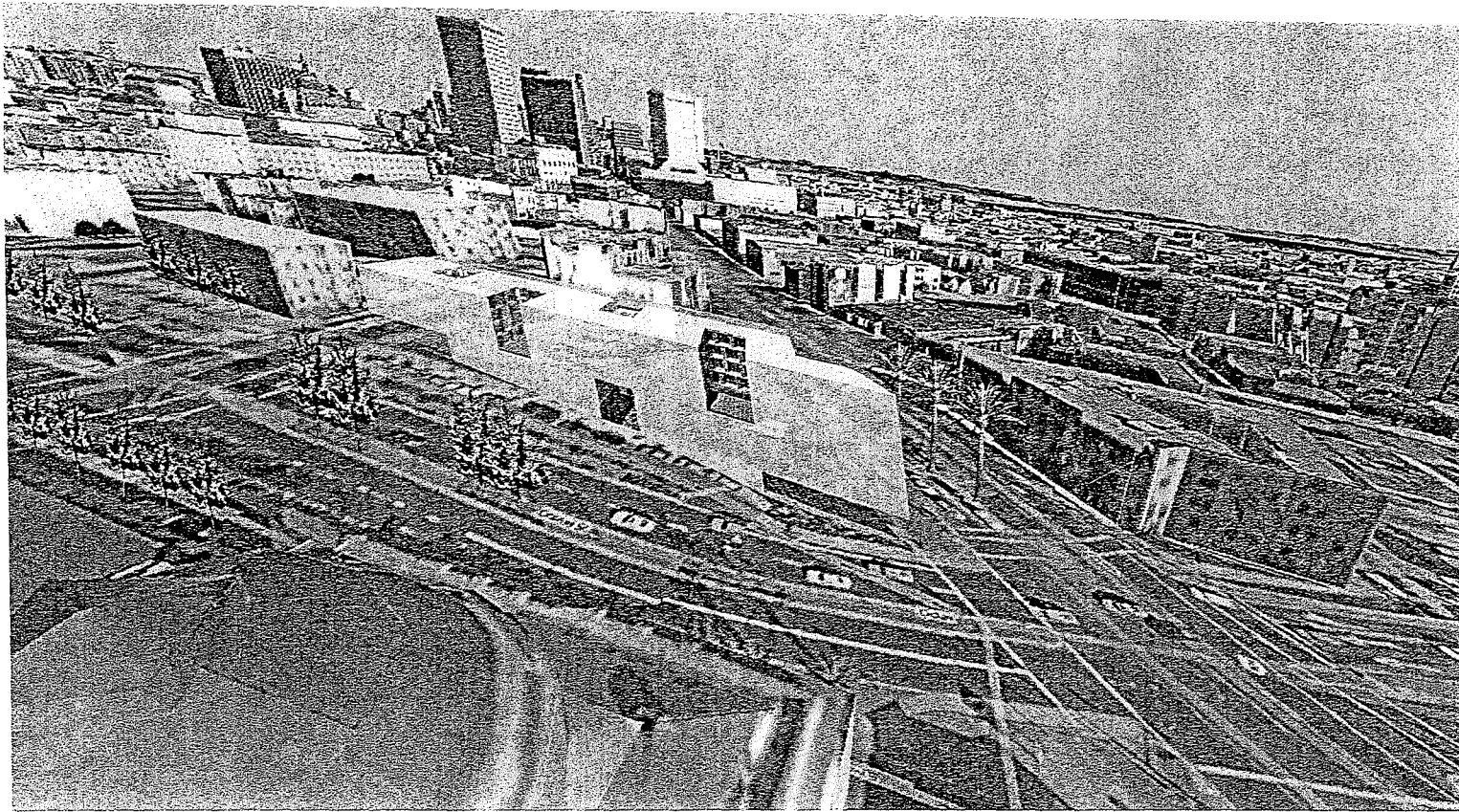
MARKET STREET HEALTH BAR



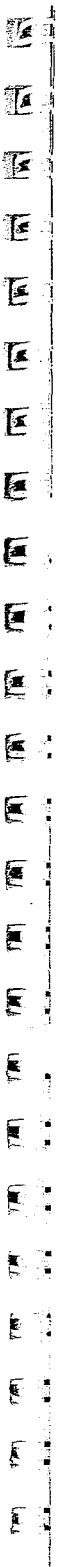
WELLNESS CENTER



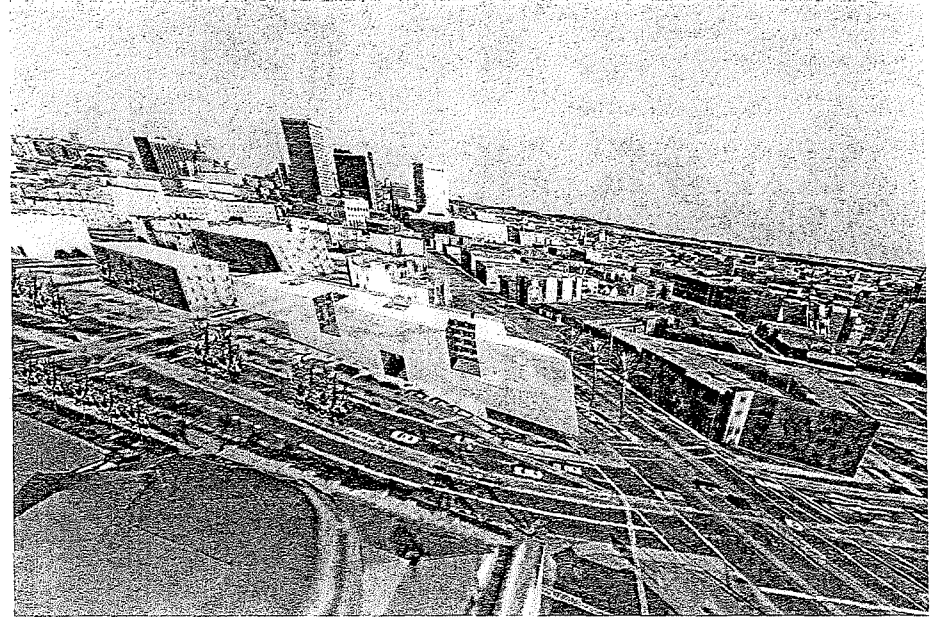
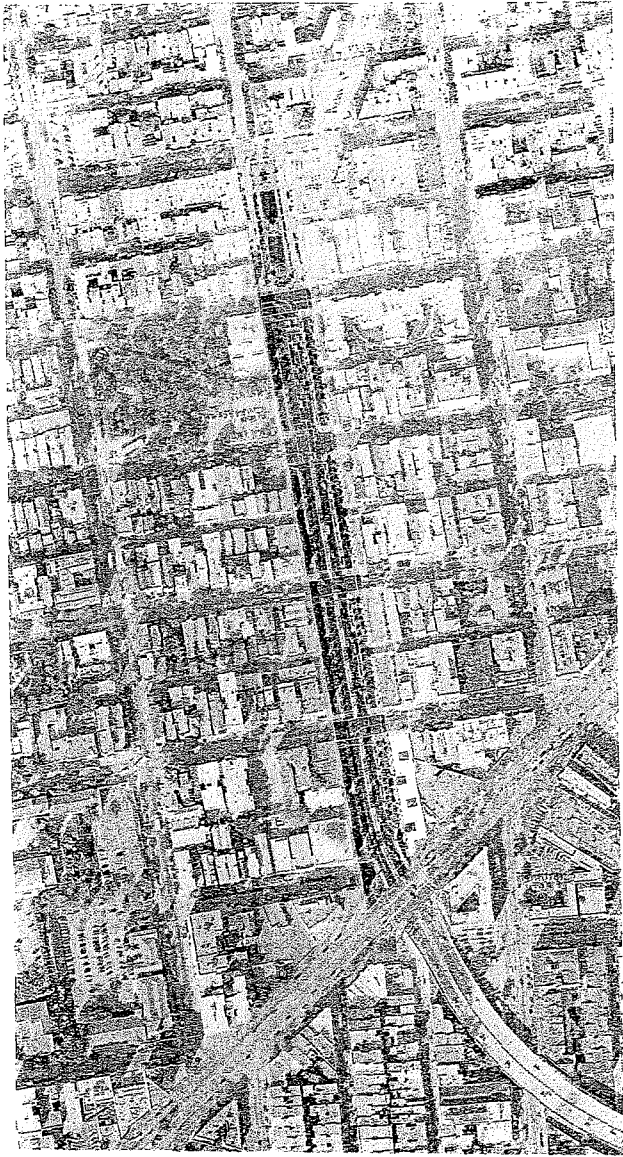
CAFE ON THE CORNER OF OCTAVIA AND MARKET



MASSING AND VERTICAL YARDS







MASSING AND VERTICAL YARDS



PHOTOVOLTAIC



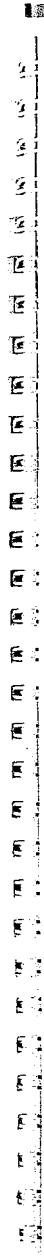
BIKE ROUTE



MUNI

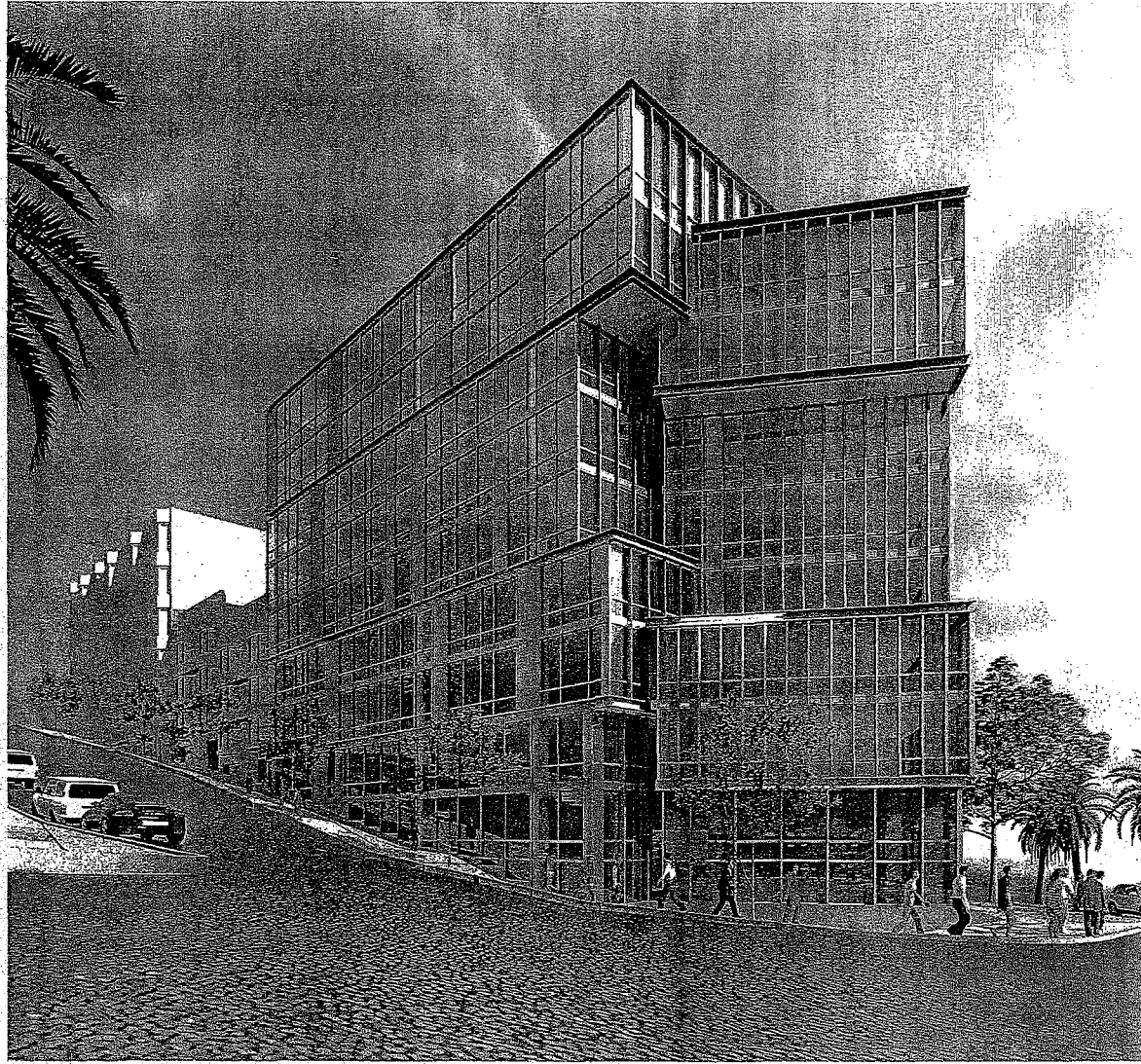


ZIP CAR



**ATTACHMENT 8**

**MARKET & BUCHANAN**  
SAN FRANCISCO, CALIFORNIA



**ARQUITECTONICA**

818 WEST SEVENTH STREET, SUITE 800  
LOS ANGELES, CA 90017  
TEL: 213.695.7800 FAX: 213.695.7808

BRIAN SPIERS CONSTRUCTION, INC.

**MARKET & BUCHANAN DAY VIEW PERSPECTIVE**

DECEMBER 14, 2006



**ARQUITECTONICA**

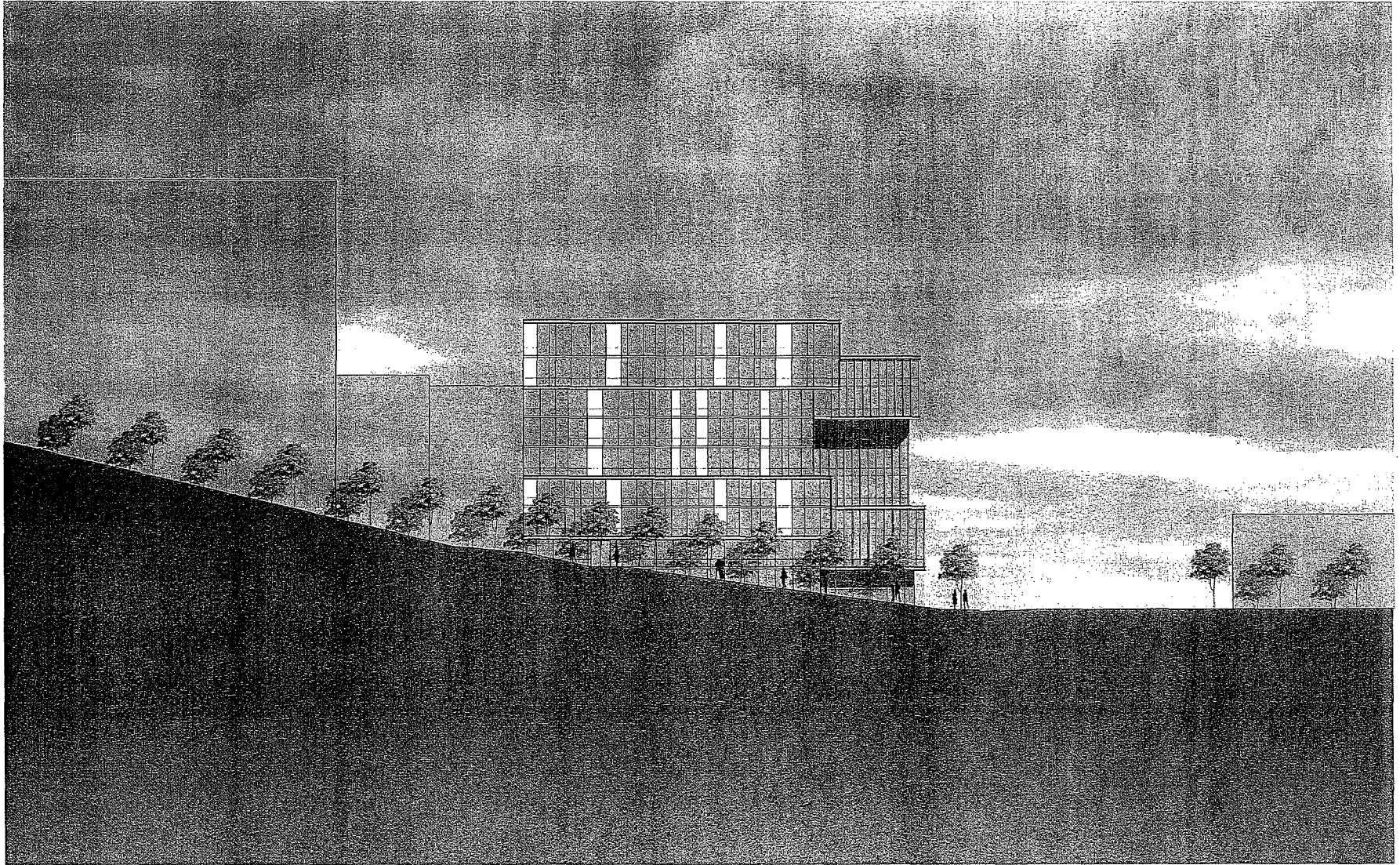
818 WEST SEVENTH STREET, SUITE 800  
LOS ANGELES, CA 90017  
TEL: 213.695.7800 FAX: 213.695.7208

BRIAN SPIERS CONSTRUCTION, INC.



MARKET & BUCHANAN NIGHT VIEW PERSPECTIVE  
DECEMBER 14, 2006





**ARQUITECTONICA**

818 WEST SEVENTH STREET, SUITE 800  
LOS ANGELES, CA 90017  
TEL: 213.895.7800 FAX: 213.895.7808

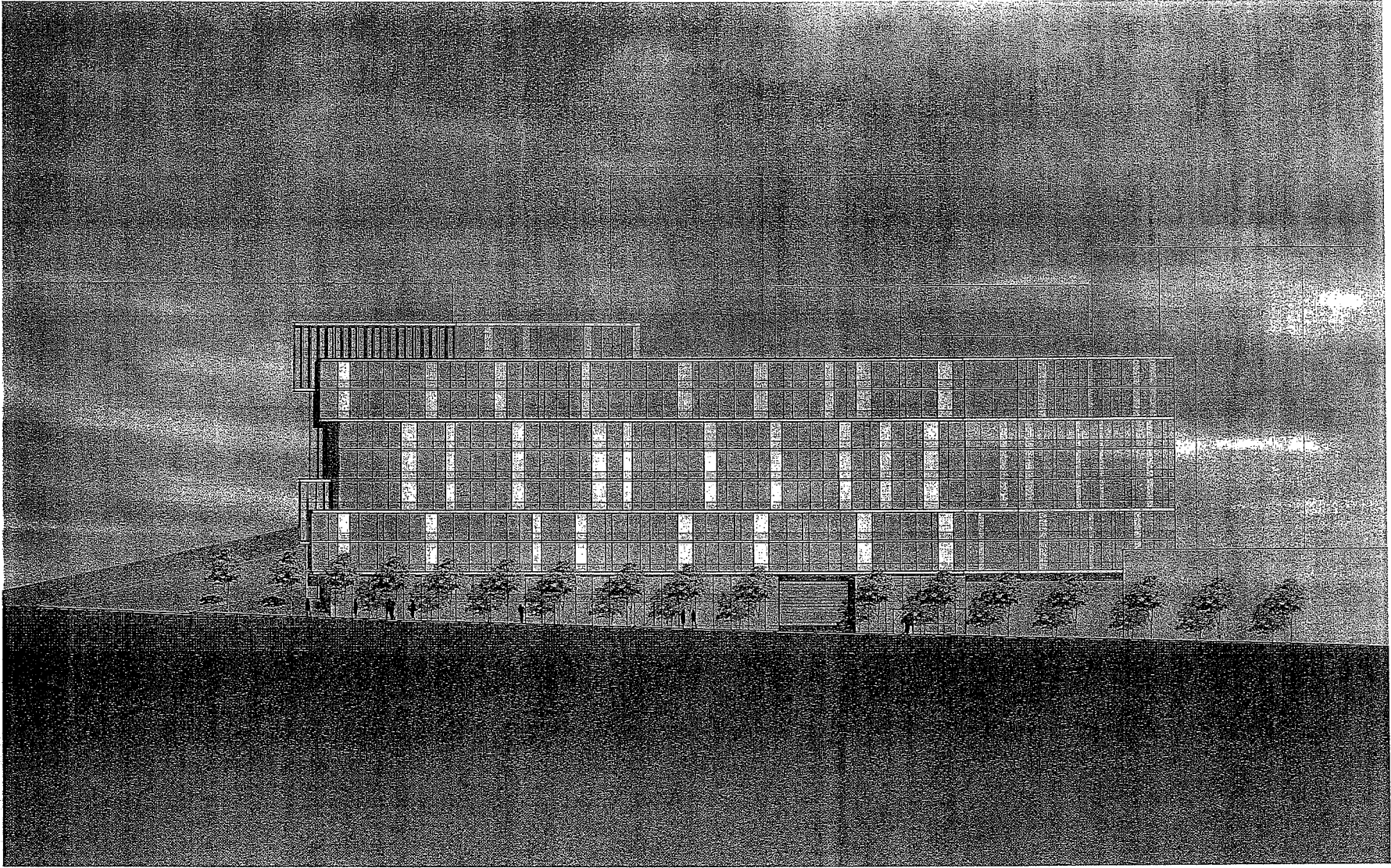
BRIAN SPIERS CONSTRUCTION, INC.



**WEST ELEVATION**

DECEMBER 14, 2006  
SCALE: 1" = 30'-0"

**MARKET & BUCHANAN**  
SAN FRANCISCO, CALIFORNIA



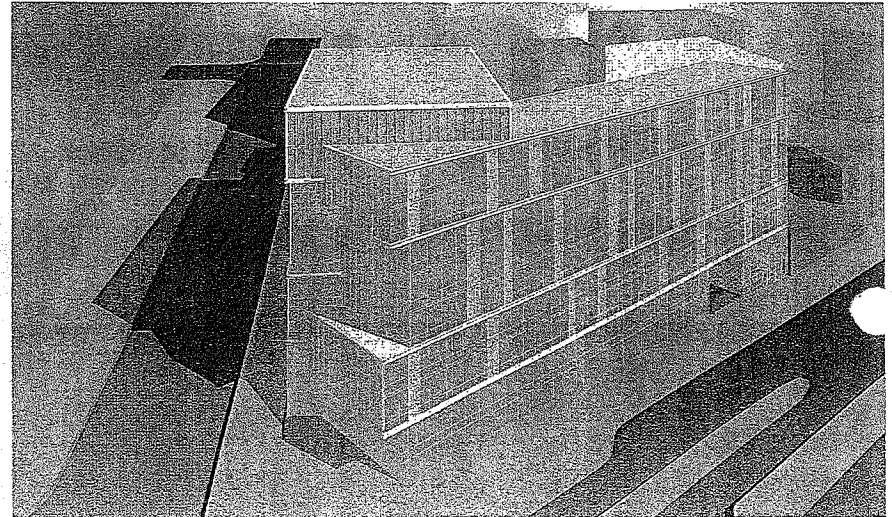
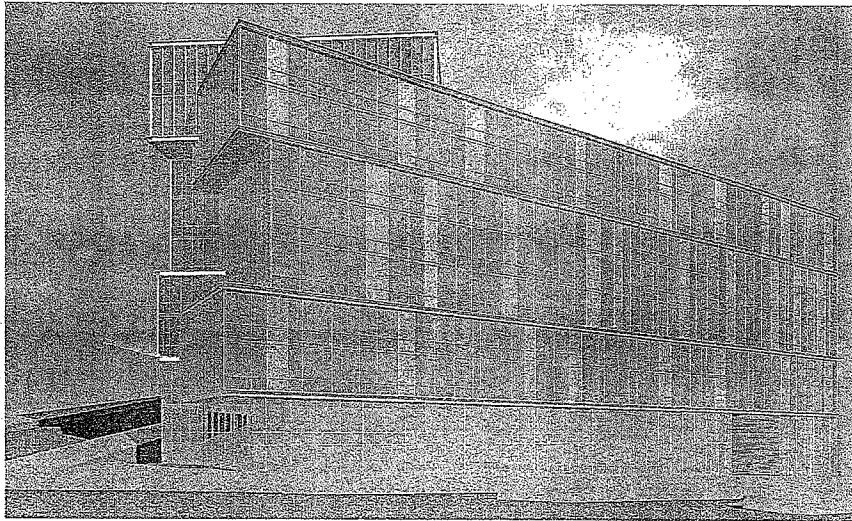
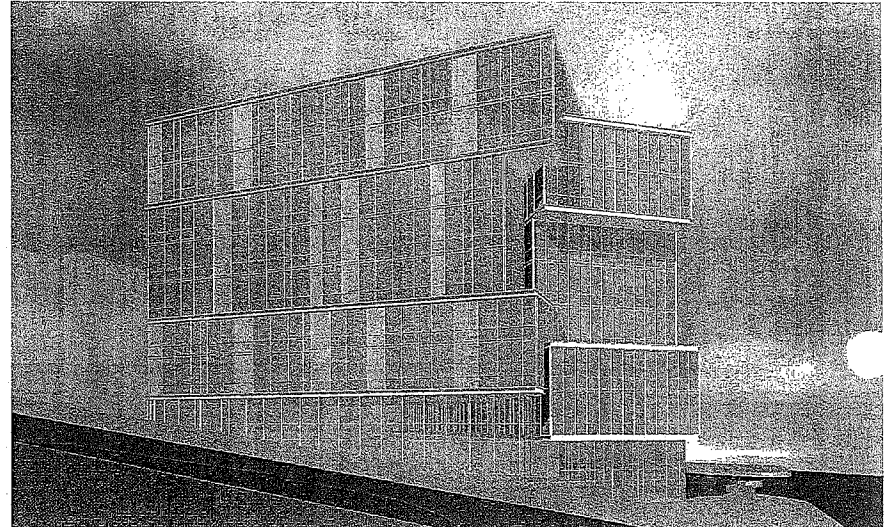
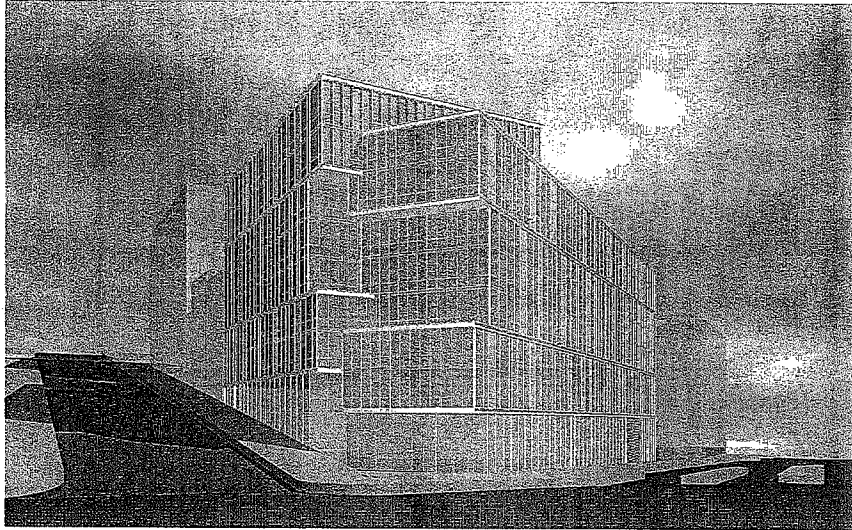
**ARQUITECTONICA**  
818 WEST SEVENTH STREET, SUITE 800  
LOS ANGELES, CA 90017  
TEL: 213.695.7800 FAX: 213.695.7808

BRIAN SPIERS CONSTRUCTION, INC.

**SOUTH ELEVATION**

DECEMBER 14, 2006  
SCALE: 1" = 30'-0"





**ARQUITECTONICA**

818 WEST SEVENTH STREET, SUITE 800  
LOS ANGELES, CA 90017  
TEL: 213.895.7900 FAX: 213.895.7908

BRIAN SPIERS CONSTRUCTION, INC.



**3D MASSING**

DECEMBER 14, 2006  
SCALE: N.T.S.

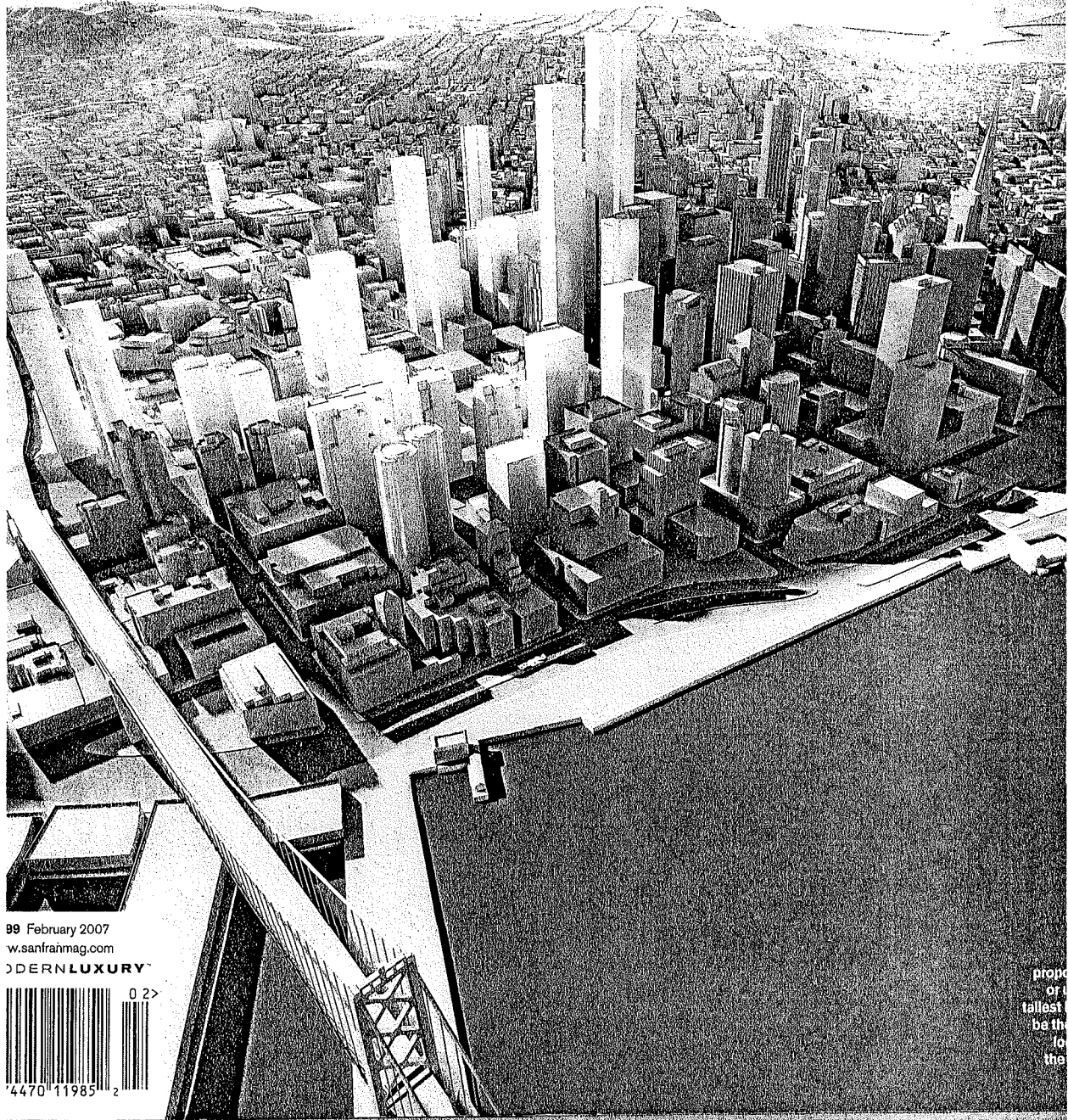




# Downtown: the Made

Giant towers! Grand boulevards! Great mass transit! No  
SPECIAL REPORT Will you love—or even like—the high-rising

# San Francisco



99 February 2007  
w.sanfrmag.com

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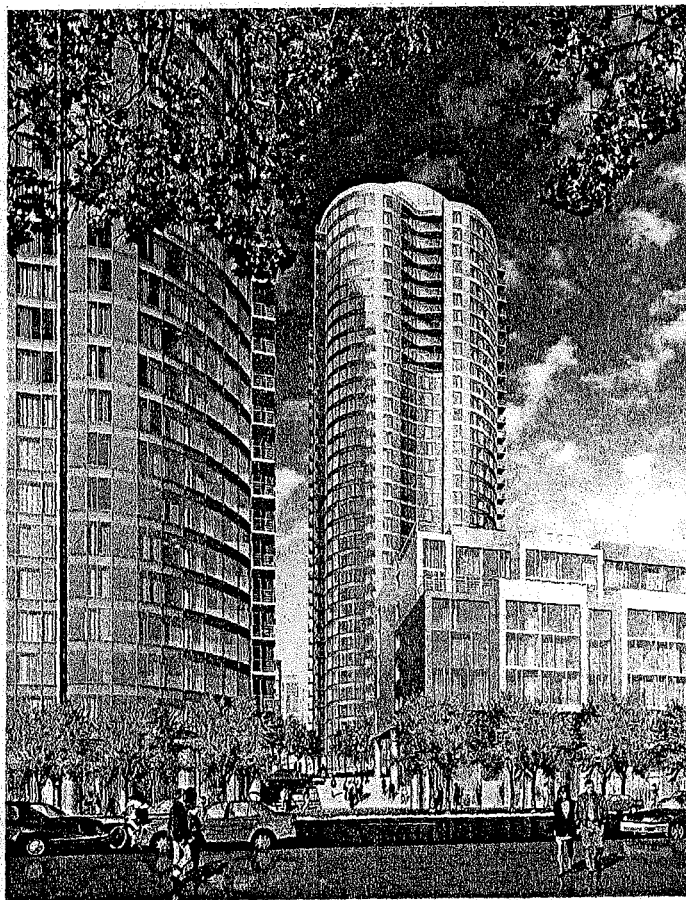
## The boom

The word that's appeared in this magazine during the time I've been editing it has got to be a surprise, was the dot-com boom. The wait for the next boom while home prices kept dropping, apologies for perpetuating now comes San Francisco.

In "San Francisco 2006" Tannenbaum charts the impact of the towers and how they are scheduled to rise over the city's eastern rim, from the bay to well south of the balance of century San Francisco. It's a middle-aged city, 100 years old and destined to slowly decline fully if we were lucky. In 1950, the population was 775,000; even during the dot-com boom, it fell to 776,000 before dropping again. Well, now we're looking at the coming neighborhood above that.

What's amazing to me is that its hell-bent predecessor was reographed, a three-city planners, developer. Occasionally, a political master builder Willie Brown into existence, and Aaron Peskin to the Hill developers. Yet in this city of political the same general direction "Kumbaya": let's all

The common ground compromise, as Chi profile of Peskin (" on page 102), is the empty. Even as the president will gladly landowner who circled to underdeveloped let private developer gamble billions of t

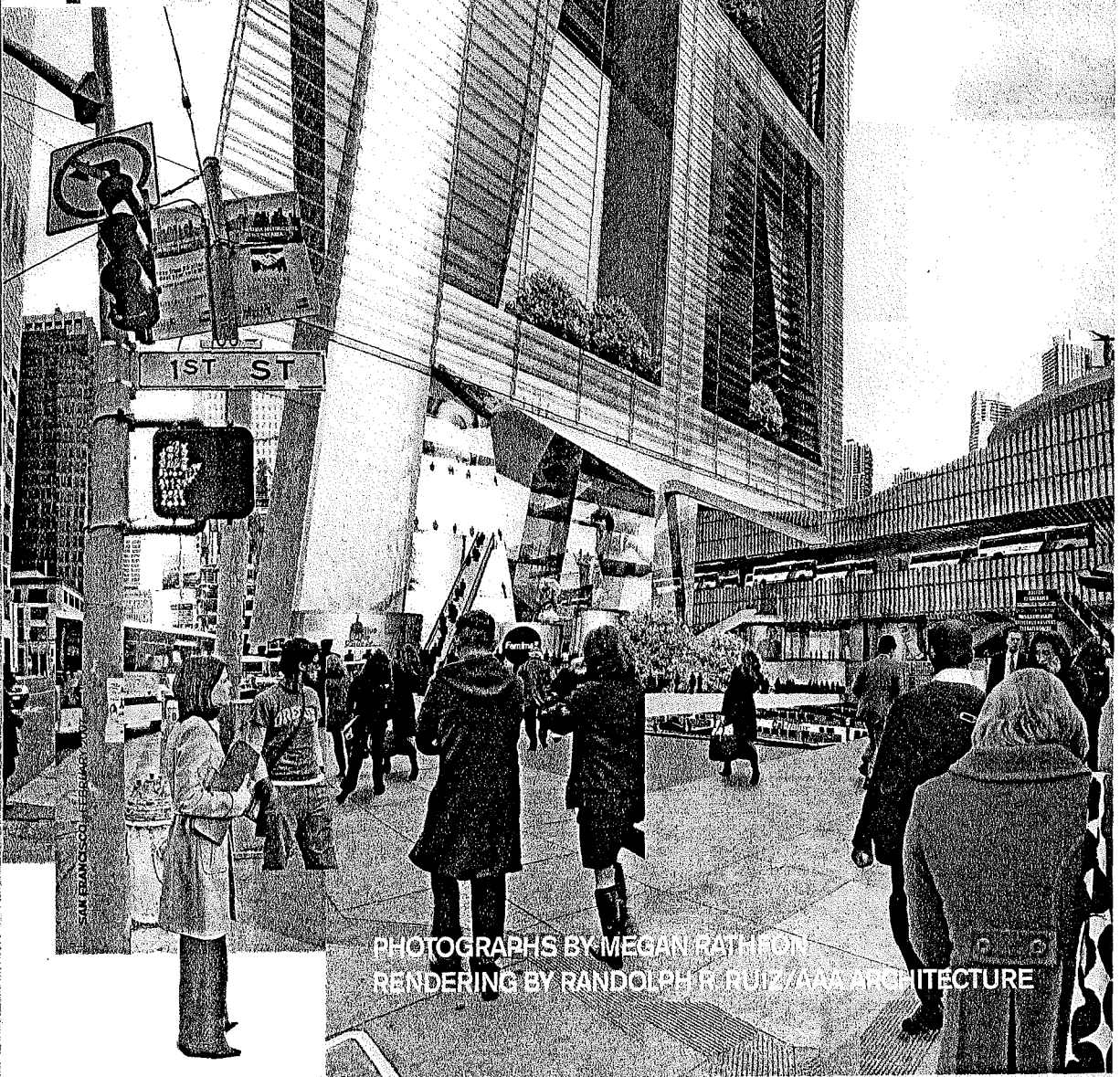


The Infinity is one of the early condominium towers rising near the bay. For a take on its design, go to the January 2006 issue in [www.sanfrancisco.com](http://www.sanfrancisco.com)'s archives and click on "The Project."



# NEWCITYRISING

Imagining Mission and First streets circa 2020: a mecca of mass transit beneath one of the country's tallest towers.

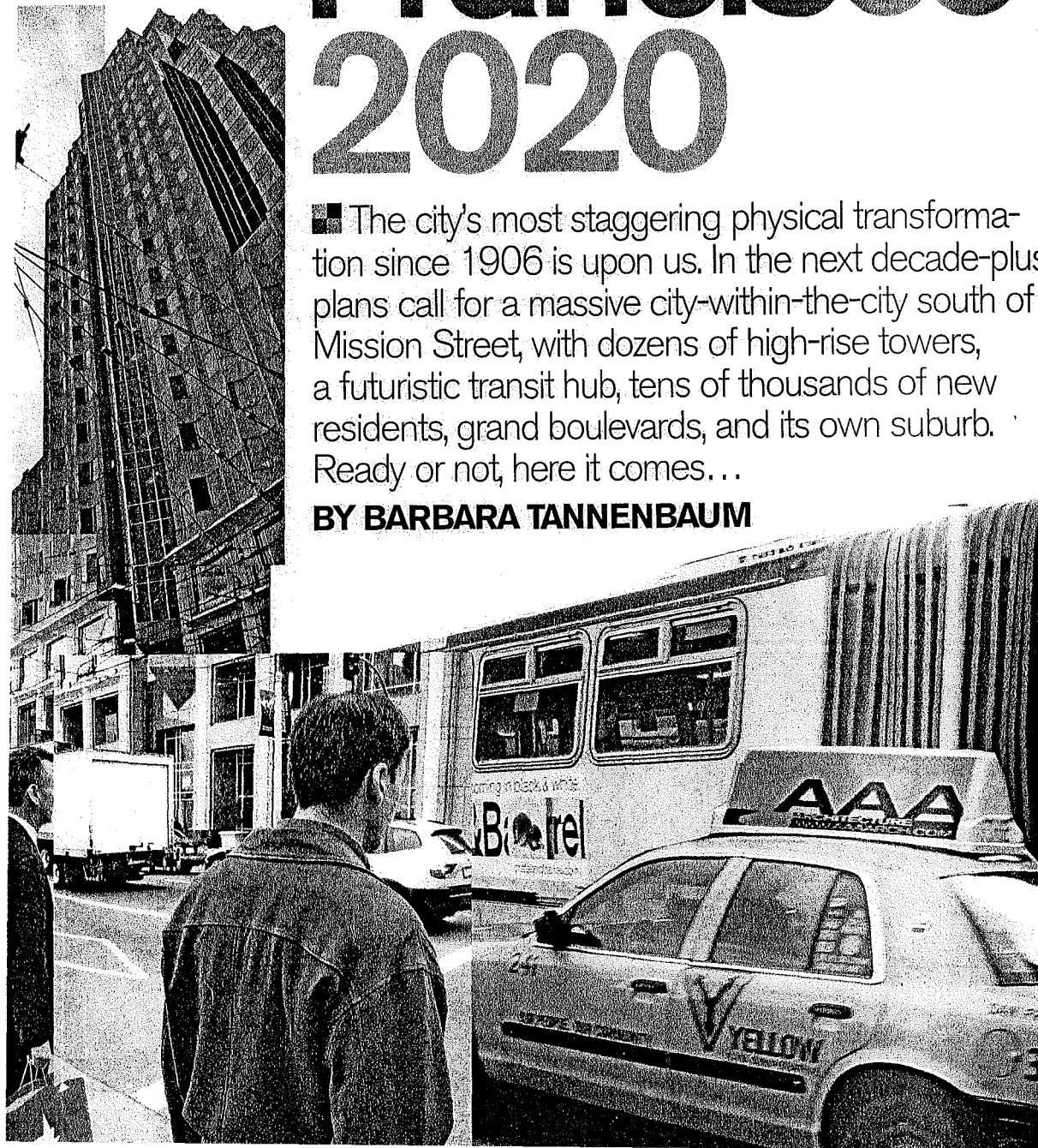


PHOTOGRAPHS BY MEGAN RATHFON  
RENDERING BY RANDOLPH R. RUIZ/AAA ARCHITECTURE

# San Francisco 2020

■ The city's most staggering physical transformation since 1906 is upon us. In the next decade-plus, plans call for a massive city-within-the-city south of Mission Street, with dozens of high-rise towers, a futuristic transit hub, tens of thousands of new residents, grand boulevards, and its own suburb. Ready or not, here it comes...

**BY BARBARA TANNENBAUM**







area

Rincon Hill

South Beach

Mission Bay

offices and stores on King Street

UCSF student housing

New Gap offices

community center and quad

16th Street

Third Street

**A** first inkling that the mental map I carry of San Francisco's eastern side was sorely outdated came one afternoon when I was driving into the city from a meeting on the Peninsula. I missed the freeway turnoff to Highway 101 and sighed as I headed down the 280 spur that lets out on King Street—the forsaken edge of the city, I thought. Except for AT&T Park, a whole lotta nothing. Maybe I'll drive up to Mariposa and Third and grab a bite to eat at the Ramp.

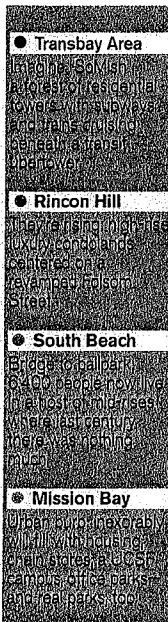
When you are expecting to drive past weedy lots and railroad tracks, with all the clamor and activity coming from seagulls flying over mothballed battleships, what appears near the end of 280 today is shocking. Buildings—lots of them!—frame the skyline. Mid-rise condos—lots of them!—line the neighborhood around King Street. Chain stores including Safeway, Starbucks, Quizno's, and Borders fill the ground-level retail space. There's a library next door to the Fourth Street Bridge; two more grocery stores on Townsend and Harrison streets; and a few blocks farther south, soon after you cross the Third Street Bridge, a UCSF campus with shuttle buses already dropping students off for class. On King Street, as well as the still-uncompleted Owens Street, a few firms specializing in biotech and scientific research, with impressive names such as the Gladstone Institute of Virology and Immunology and the California Institute for Regenerative Medicine (the stem-cell research center), have opened for business.

In fact, stand anywhere south of Mission Street from the Embarcadero all the way to the water's edge at Mission Bay, and you will hear the high-pitched clang of pile drivers. Look up as you walk the long blocks south of Market, and you'll see cranes lifting steel I-beams and half-finished high-rises poking through the skyline, especially on Rincon Hill. The noise, the cranes and bulldozers, and the large signs advertising condominiums for sale announce the metamorphosis in progress. Whole new neighborhoods are being created out of a two-mile-long swath of San Francisco that once held rail yards, freeway on-ramps, and port facilities.

This is the biggest physical change San Francisco has seen since the great 1906 earthquake and fire. Moving south from the new high-rise heaven around Rincon Hill, over Highway 101 through South Beach, down to the ballpark and into the enormous, almost-instant community of Mission Bay, this emerging submetropolis near the waterfront will eventually have the density of Manhattan, with 30,000 residents and a workday population of at least 36,000. Think of it as an Upper East Side neighborhood on the West Coast.

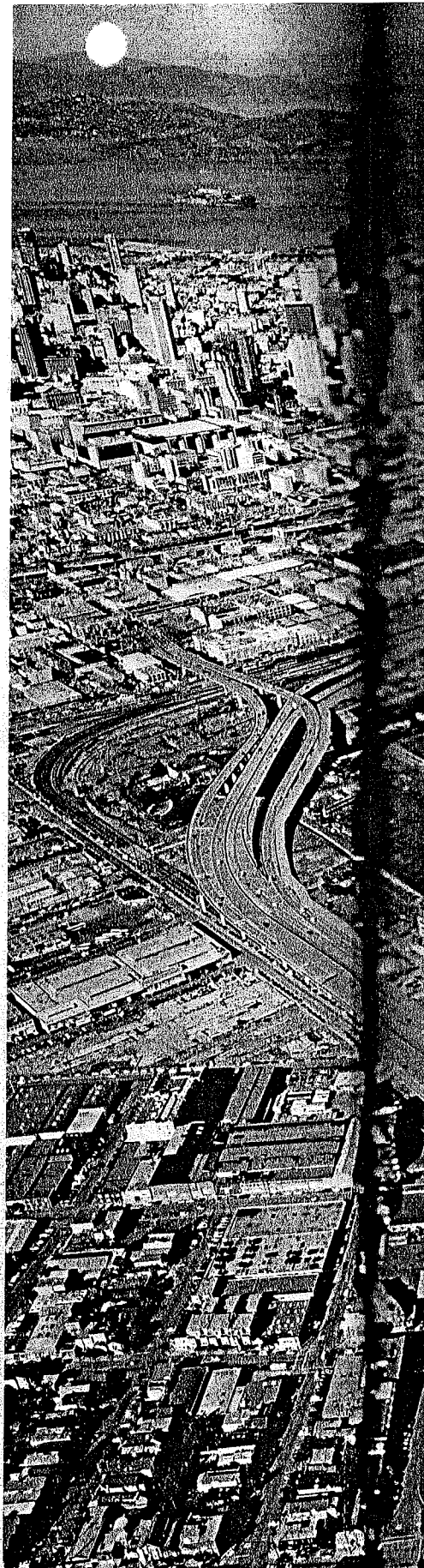
In some ways, this new city-within-the-city makes no sense. The redevelopment zones that make it up weren't

## Growth zones 2007

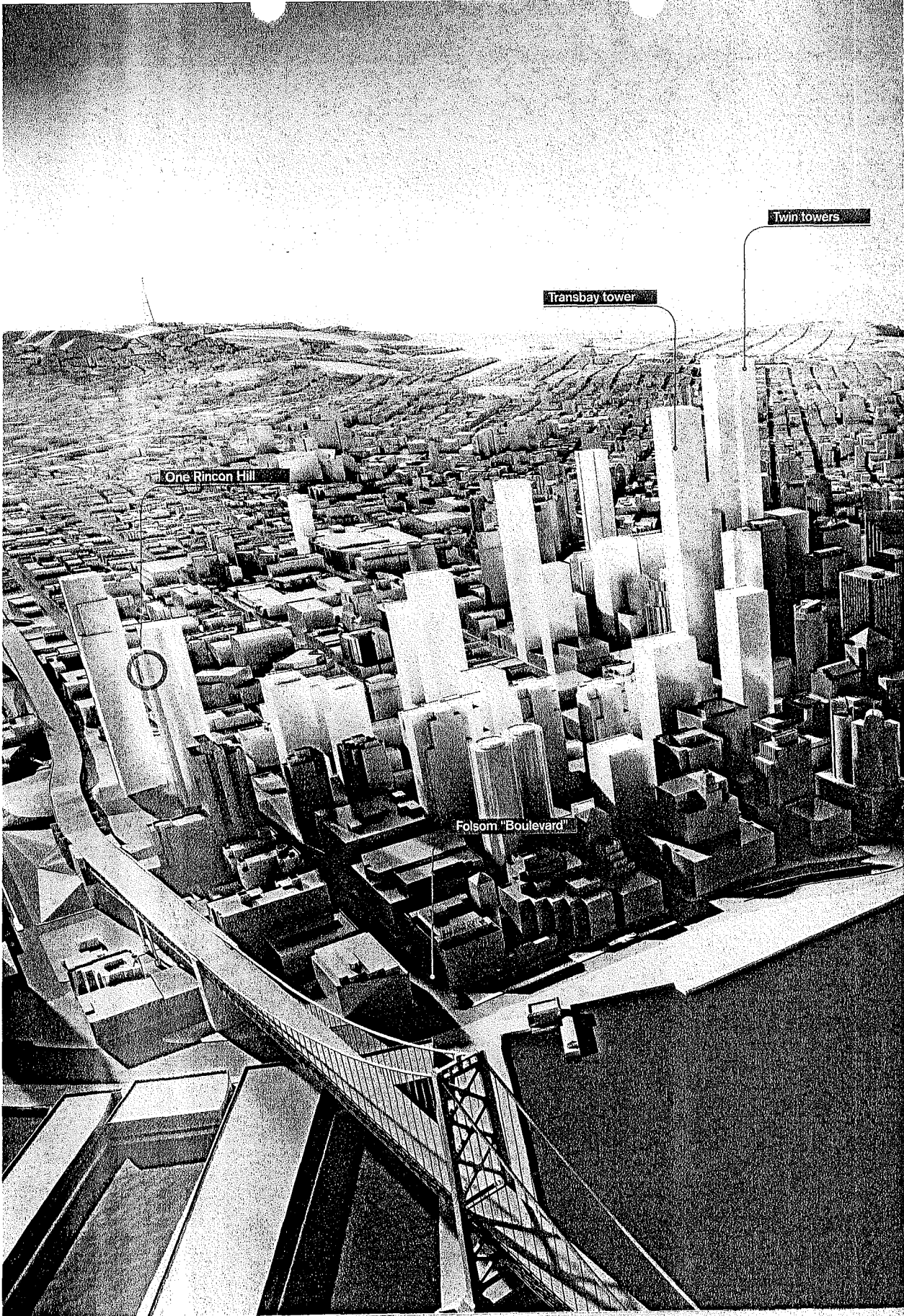


AT&T Park was the start of big changes on the city's long-dormant eastern side. A UCSF campus is welcoming students, mid-rise condos are rising north and south of Mission Creek, and massive downtown redevelopment is next.

MARK DEFFEO, HELIPHOTOS@MOSH.COM





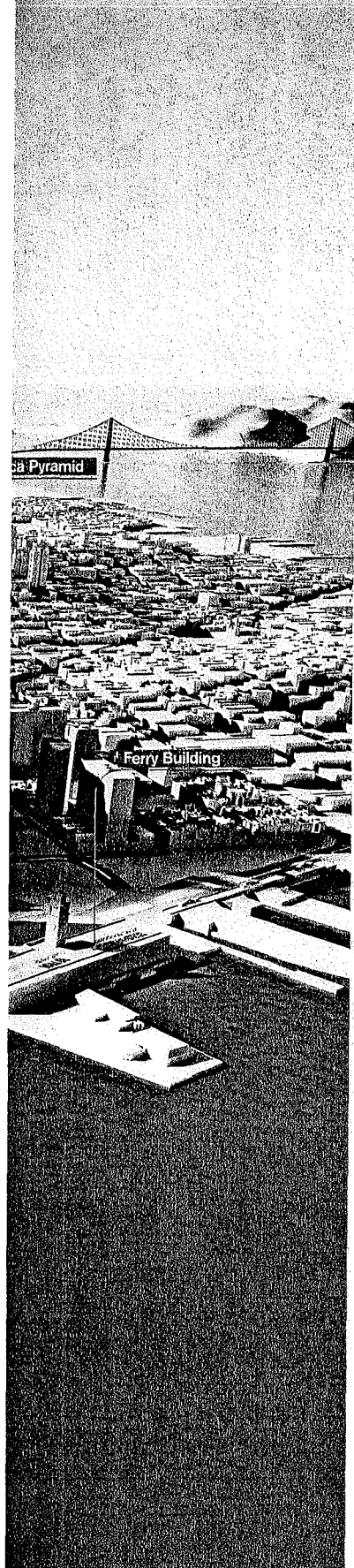


One Rincon Hill

Transbay tower

Twin towers

Folsom Boulevard



## Downtown 2020

**Iron Bay Tower**  
Expect headlines and drama all year about who will design this landmark, approved at 550 feet but possibly twice that tall.

**Win Tower III**  
In December, developers floated preliminary plans for office/housing towers by Renzo Piano; they'd be the United States' third- and fourth-tallest buildings.

**One Rincon Hill**  
The first luxury condo towers to break dirt on Rincon Hill, these two are rising as you read. On the top floor: three bedrooms for \$2.5 million.

**From Hollywood to Golden Gate**  
Could it be? Plans call for an ultrawide, Rambla-like pedestrian heaven from Second Street to the Embarcadero.

Our elegant future skyline. Most of these slender, glass-encased high-rises (and the monument at the Transbay center) have been proposed or approved; a few are going up now.

planned cohesively; the neighborhoods are disrupted by massive freeways and off-ramps; and the new buildings—glass-encased, devoid of history, mostly tall and slender—won't feel like the San Francisco the world fawns over. If you think the city is already going to hell in a handbasket because of the outrageous real estate market, the mallification of Market Street, and the loss of middle-class families and jobs, then you will view this as more of the same shiny blight.

If, on the other hand, you believe that the city is part of a churning commercial globe and has to make the best of it, be heartened or at least undespairing. San Francisco is creating out of long-ignored land and with heavy-handed tinkering a new downtown that employs more people, offers more services, provides more housing, and proudly extends the skyline even as it—dare we hope?—maintains its soul.

The neighborhood with the most visionary plans is around the Transbay Terminal at First and Mission. That grimy, seismically unsafe structure, built in 1939 for railroad traffic and then poorly modified to serve bus passengers, is at the heart of a \$4 billion, world-class makeover. The centerpiece will be what planners are calling a Grand Central Station of the West—a downtown hub for bus, train, and subway traffic. This month a nine-member group will narrow its choices for an inspired architect and conversation-starting design for the transit center and a landmark tower on what is now the front entrance and bus turnaround.

The area around the transit center will eventually contain up to 10,000 residents in 15 to 20 more high-rises, creating a neighborhood roughly the size of North Beach but twice as dense with people. Since many of the high-rises must be "multi-use," 190,000 square feet will be set aside for ground-floor retail space. In another city, that would be two Wal-Marts.

Where will the \$4 billion come from? Conveniently, Caltrans owns those elevated bus ramps leading onto and off the Bay Bridge. They're scheduled for demolition, and Caltrans is giving the newly exposed land to the city. The parcels will be available to developers, with more than 80 percent zoned exclusively for residential use. That's 12 acres of cleared streetscape that will generate the funds for construction.

**Why did all this get approved in one of the most growth-averse cities in the world?** Let's start with the obvious: the city's chronically undersupplied housing market. Just a fraction of the homes for sale in San Francisco are affordable to a family making less than \$100,000 a year. Add to that the fact that by 2020 another 1 million people are expected to move to the Bay Area. City planners know these numbers by heart. That's why they changed the rules governing building heights and zoning laws to encourage developers to build residential towers.

But not just anywhere. Remember Proposition M? Back in 1986, city residents voted to encourage building high-rises south of Market Street, thus avoiding



hoods such as North Beach, Nob Hill, Russian Hill and the Castro. Once former mayor Willie Brown was in pushing the development plans through in the high-rise terrain included Mission Bay. "Prop. line in the sand," says Gabriel Metcalf, executive director of the San Francisco Planning + Urban Design Association, or SPUR. "There was no other way to build."

The city's light-industrial district, SoMa has been going fast for two decades, and the pace is accelerating on Third Street, the Moscone Center, Yerba Buena Center for the Arts, SFMOMA, and even the World Trade Center. The St. Regis Hotel and Residences—part of a long Redevelopment Agency project—became examples of the rebirth of city centers as cultural and no longer sites of decay but attractive alternatives to commuter-oriented suburbs. During the dot-com era, remodeled warehouses, commercial loft spaces, and offices with free Wi-Fi transformed SoMa beyond the city's red-light zone. Meanwhile, the renewal edged toward the south. In South Beach, a mix of historic rehabilitated-income housing, and waterfront redevelopment created a neighborhood of 6,400 residents. Farther to downtown, the focus in the Transbay/Rincon Hill area was initially on office space: office rents were what everyone wanted to build and cash in on it. After the dot-com bust and 9/11, the commercial market cooled and the buildings never went up. But when the housing market took off, developers turned their attention to residential space.

Instead, building single-family dwellings farther from the city center was becoming less and less attractive to anyone worried about traffic, pollution, and noise. The developers' dreams coincided with the growing acceptance of "infill," or the New Urbanism, which advocates developing high- and mid-rise residential centers, with good public transportation to address the necessities for living nearby.

Just as in South Beach, the next generation of city residents will live in residential towers. "The fight over the development on San Francisco's east side is being won," says Richard Walker, a professor of geography at UC Berkeley and author of *The Country in the City: The Greening of San Francisco Bay Area*, says flatly. "You can't have a city as a whole, 25,000 to 30,000 condo units recently planned, proposed, or under way, and a declining number in a city whose population has changed in 50 years. The vast majority will be located south of Market. Rincon Hill/Transbay will have 100 units per acre—twice as many as on Nob or Russian Hill. Such high-density developments are embraced by groups such as the Sierra Club, Greenbelt Alliance, and others as "smart growth."

Under the New Urbanism, these new hoods will also include jobs. Estimates call for 36,000 new jobs, mostly in Mission Bay, in the commercial life-science labs and companies and at UCSF; the office towers and new stores and services will need workers, too.

San Francisco lost 60,000 jobs in the '90s when the high cost of living drove corporate headquarters to places like San Ramon. This boom could replace half of them.

The end point, when the new neighborhoods have taken on the shape and texture suggested in the blueprints, is roughly 2020. Until then, there will be much not to like: too much construction and traffic, too few locally owned stores, too few kids, too many sterile, empty streets to trudge down without finding a cab.

But if we nail the epic public-transit aspect of the plan—the linchpin that makes everything else fit into place—if we demand creativity from developers and responsibly spend the multimillion dollar fees they're paying, if we enable the quirks that make neighborhoods great, who knows? If every condo owner, worker, merchant, and restaurateur claims his or her ground with the passion of a native, the new downtown could become a shining example of 21st-century urban life.

## ■ the architecture

It's a big bet on high-rises—actually, one high-rise.

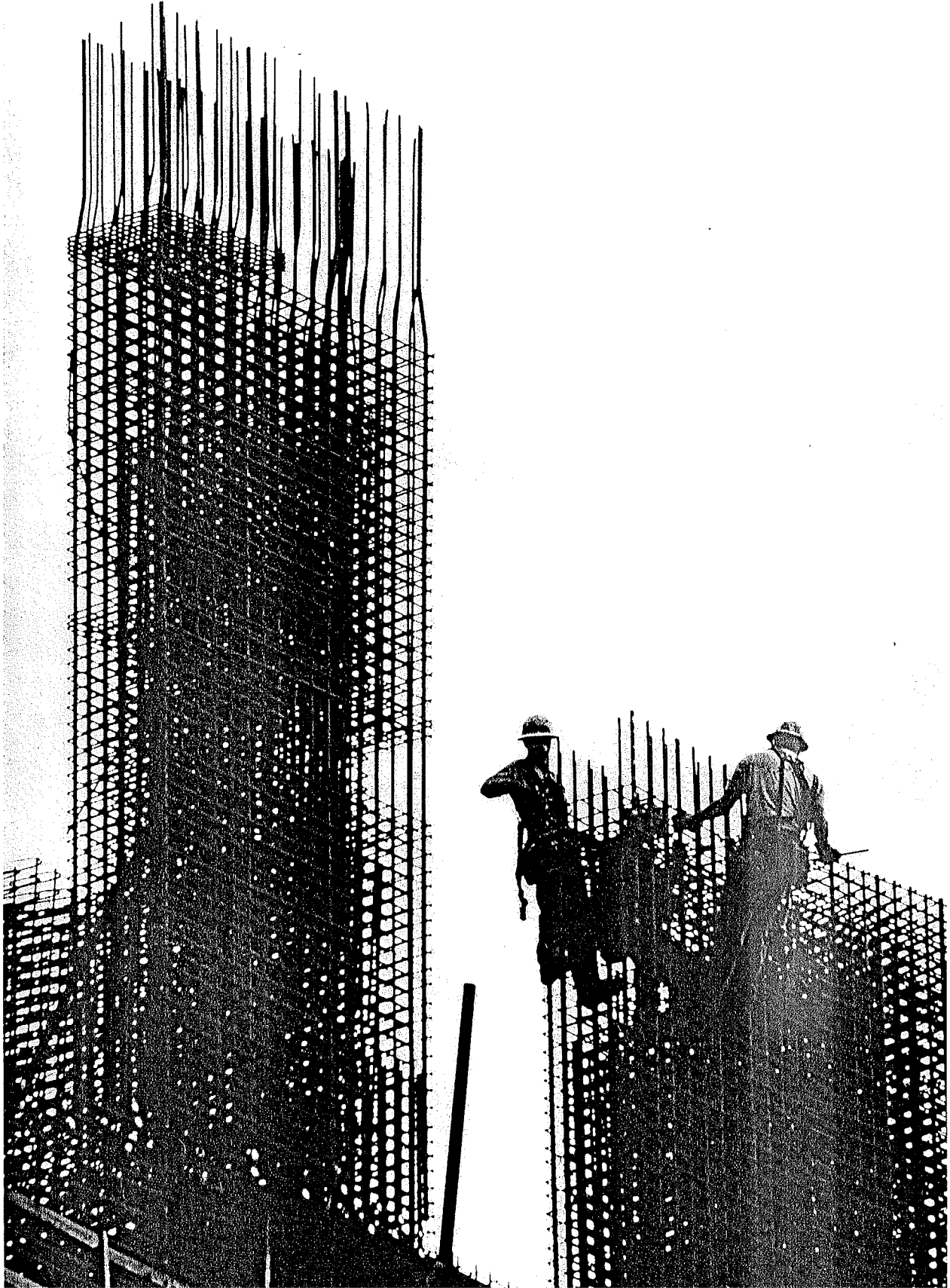
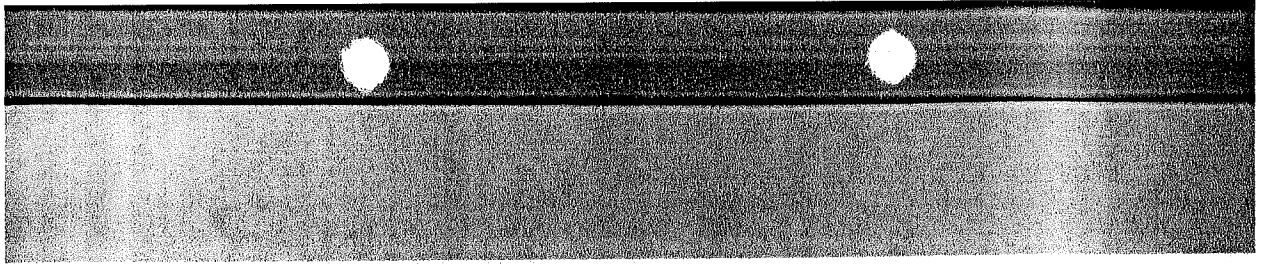
These transformed, postindustrial neighborhoods will have the power to certify the promise of infill development. Success shouldn't be measured by how original the buildings are. As Peter Calthorpe of Berkeley's Calthorpe Associates, an urban planner and architect and the influential author of *The Regional City* and *The Next American Metropolis*, says, "Cities are made out of a fabric of background buildings that are modest and straightforward and do a decent job of maintaining the activity of the street. Only certain structures should be monuments." As of now, the city has a chance of getting both the fabric and the monument right.

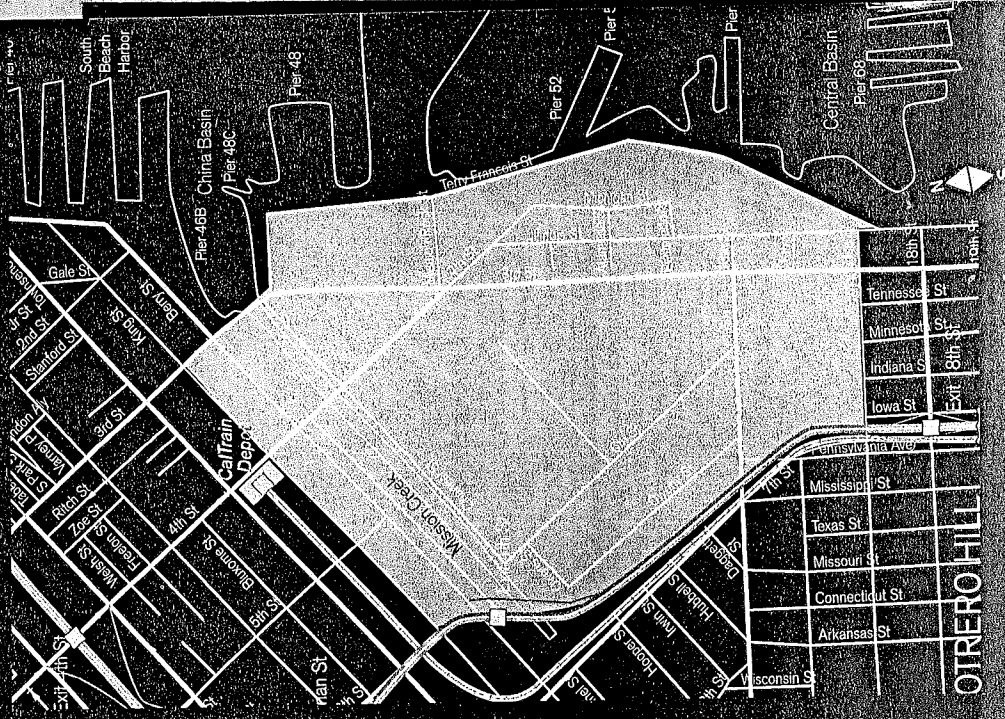
The common outline will be narrow, glass-encased, 30-plus-story buildings with adjoining four-story townhouses. That's just right, says architect Craig Hartman, a partner in the San Francisco firm Skidmore, Owings & Merrill who designed the St. Regis and the innovative, energy-efficient new international terminal at SFO. "A taller, more slender tower can be less harmful than a slightly lower but broader building that casts a broad shadow," Hartman says.

Adds Peter Cohen, a local community planner, "This new generation of urban designers is being diligent about scale, protecting views, and reducing shadows and wind tunnels so that we won't end up with a big, clumsy city in 10 or 15 years."

Similarly, the decisions to put high-rises on Rincon Hill and mid-rises in Mission Bay make design sense because Rincon Hill (unlike many parts of the city) is on bedrock and Mission Bay is on landfill. Mission Bay's parking garages—which fail the New Urbanist paradigm by being aboveground—are defensible, too, because the high water table left planners no choice, and the architects have mostly done a good job of hiding them. ►

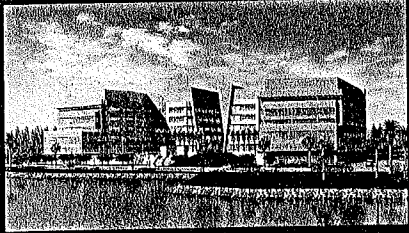
The area around the transit center will eventually see 15 to 20 more high-rises. On the ground floors will be 190,000 square feet of retail space, or the equivalent of two Wal-Marts.



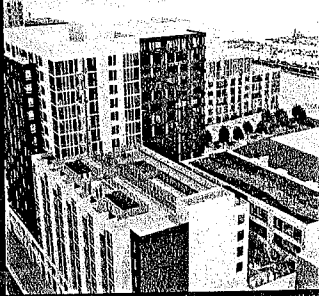


**Mission Bay**

**Where:** Area bounded by King and Mariposa streets, the Third Street Bridge, and the bay.  
**Acres:** 303–65 north of Mission Creek, 298 south of Mission Creek  
**Population in 2020:** 14,000  
**New housing units:** 6,000  
**Percentage set aside as affordable:** 28  
**Commercial space:** 6 million square feet, including offices, life-science buildings, and laboratories  
**Height limit:** 170 feet—same as the outdoor stadium lights at AT&T Park  
**Amenities:** Expanded Fourth Street retail corridor; 43 acres of open space and new parkland; Mission Bay branch library; 13 acres at Third and 16th streets set aside for a children's hospital; new fire and police stations; 13-mile Blue Greenway, a walking path linking AT&T Park and Candlestick Point



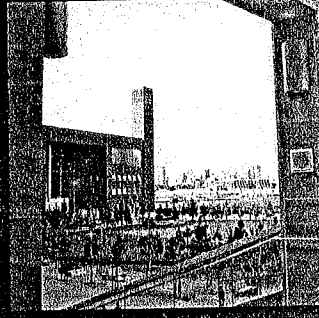
409 and 499 Illinois Old Navy's new headquarters are on a yet-to-be-completed boulevard named for former supervisor Terry Francois. The waterfront park will be part of the 13-mile Blue Greenway.



Close to work: Between Mission Creek and still-uncompleted Owens Street, next to UCSF, are the 268-unit Arterra (back) and the Gladstone Institute of Virology and Immunology, already open for business (front).



Radiance at Mission Bay The first units in this resort-style condominium just east of Third Street will open next year. The largest units are 2,175 square feet.



Mission Bay Community Center Mexico's leading architect, Ricardo Legorreta, employed his trademark use of color in UCSF's most distinctive building. UCSF quad Already open to students and strollers, the campus's rolling oval plaza features quirky artwork, a monumental Richard Serra sculpture, and plenty of places to sit and people watch.

PHOTO: COURTESY OF THE SAN FRANCISCO DEVELOPMENT DEPARTMENT; ARCHITECTURE: RICARDO LEGORRETA; PHOTOGRAPHY: JAMES HAMILTON

As for a monument, the designated showstopper is the Transbay Transit Center and adjoining tower. Already approved to be 550 feet high, the tower could rise to more than 1,000 feet, making it the tallest building on the West Coast (unless Renzo Piano's five controversial "bamboo shoot" towers for the corner of First and Mission, two of them even taller and thinner than anything envisioned yet, are approved). In the group selecting the architect, no adventuresome names jump out—a sustainable-space expert? An architecture critic from the *Boston Globe*?—which makes me wonder if they've been chosen for their caution. I hope not. To announce that this new downtown is worth caring about, the megabuilding must be special. Everyone recognizes that the transportation paradigm needs a dramatic shift; this one building could inspire boldness and sorely needed optimism.

No matter which award-laden architect wins the Transbay Transit Center commission, we are going to see two kinds of high-rises march toward each other and stand shoulder to shoulder at Mission Street. The elegant, slender residential towers will rise high above last century's bulkier skyscrapers.

The new hoods won't look like the rest of the city. But homes in the Richmond look different from those in Noe Valley, which aren't like those in the Mission or the Presidio. Great cities have a character and purpose that arise from different eras. These are the first neighborhoods of the smart-growth 21st century.

## ■ getting around

### Wouldn't a "transit-first" policy have put the transit first?

Environmental groups see green in high-density urban living because the more people in a city center, the less traffic and global-warming-causing exhaust in the region as a whole. Hence, the plan for a three-part, multibillion dollar public transportation program that would turn this part of the city into a car-free paradise.

Here is what's supposed to happen: Commuters to Silicon Valley will sell their cars once Caltrans extends the South Bay-San Francisco rail line from Fourth and King into the new transit center. Mission Bay residents will use the light rail running along Third Street between the financial district and Bayview-Hunters Point or the subway linking Mission Bay, SoMa, the financial district, and Chinatown. The high-speed train connecting the city to Los Angeles and Sacramento will allow those who fled to the Central Valley or beyond San Jose to come back to work or shop and leave their cars at home.

It's a remarkable plan, but it's also as futuristic as it sounds. The Third Street light rail is here now, with full weekday service due to start in April. But Caltrans won't bring passengers into the new downtown for almost a

decade, since it won't even break ground until 2012. If voters approve a new bond measure in two years, construction of the bullet train could begin in 2010. The Municipal Transit Agency, which runs Muni, predicts that the central subway will be complete by 2016, but I wouldn't take any bets on that.

Meanwhile, the city and the high-rise developers aren't about to let people spend \$2 million for a luxury condo without a parking space. While city regulations decree that the towers get only one space for every two dwellings, the city is granting exceptions provided the developer separates the sale of the condo and the parking space. Most buyers are accepting the additional fee (\$75,000 at the Infinity).

Still, the parking must be "non-independently accessible." That means you cannot jump in your car when the whim strikes. You will call a valet who will retrieve it from a space-saving mechanical stacking device. The theory is that this will prove so onerous, you'll say, Forget it; I'll take the bus (or walk, or take a cab). But for the first 10,000 or 20,000 new residents, the morning gridlock will start on the telephone to the garage attendant and continue out to the street.

Once there, where will anyone park? SoMa's once-plentiful lots are disappearing under the new towers. Peter Calthorpe says, "There should be no such thing as surface parking lots in San Francisco. There are very few absolutes in the world, and that's one of them. You don't give up rare and valuable urban space to cars." Nice point, unless you have to live in the gap between theory and reality.

"This is not Manhattan," says Ellen Ullman, computer programmer turned author (*Close to the Machine, The Bug*), who lives in South Beach's Clocktower. "I know. I broke my foot recently and had to hobble around on crutches. There were hardly any cabs, and those that came took forever. And if I have to go out at night, I don't want to walk to Market Street and get a streetcar. Women at night might need a car." So might seniors and the disabled, and all of us on a windy, rainy night.

It's great that San Francisco has a "transit-first" policy. Let's hope the city has the cash when it comes time to expand the system. In the meantime, city hall should direct the San Francisco Taxicab Commission to issue more medallions, thus putting more taxis on the street.

## ■ diversity

### Middle class squeezed again.

With costs ranging from \$450,000 for a studio to \$2 million for a four-bedroom condo with luxe amenities, the new neighborhoods will largely be home to people of means: wealthy out-of-towners in a second home, young couples and singles with high-paying jobs, fly-by executives. Most people will be moving in from out of town, not traveling up from another neighborhood.

Rincon/Transbay in particular could be a neighborhood for jet-setters. Young urban professionals are



buying some of the studios and one-bedroom units; after all, the price is the same as a house in Antioch, and there's no commute. But in a city where 65 percent of the residents rent their flats or apartments, and the median household income is \$57,500, how many families can or want to buy a two-bedroom condo in a district lacking schools and green space? Already, according to Foresight Analytics, an Oakland-based consulting firm, more than half of the current luxury-condo buyers in the city are empty nesters over 50, and most of the rest are investing in their second (or third) home. No surprise here. Across the country, the rich are coming back to live in city condos, middle-class families are leaving, and the poor are struggling where they stand. Demand is driven more by the strength of international stock markets than by local headlines about the need for affordable housing.

Still, the city and various agencies are demanding that affordable housing be built. Because the land will come from state-owned Caltrans parcels, Transbay's high-rises will offer "below market" rates on at least 35 percent of the new housing, though we'll see what that really means. (For more on the ins and outs of affordable housing, see our website, [www.sanfranmag.com](http://www.sanfranmag.com).) Mission Bay will have students, designated affordable units, a children's playground, a children's hospital, middle and elementary schools, and a library—the new downtown's only schools and library. From that, we can deduce a pretty diverse group of people will live in its mid-rise condos. But on Rincon Hill, all the developers so far have opted to pay big bucks—or "in lieu" fees—to the mayor's office of housing instead of building affordable housing on-site. That's why Calvin Welch, an activist with San Francisco's Council of Community Housing Organizations, calls the towers here "vertical gated communities."

The condos will appeal to superrich part-time residents who drop in from Hong Kong or the East Coast: studies show that San Francisco's newest real estate is a global bargain at \$1,000 to \$1,500 per square foot compared to \$2,000 in New York, \$2,300 in London, and \$2,500 in Hong Kong. And it's fair to worry that the luxury condo dwellers, with their pools, gyms, and concierges, will have every excuse to stay above city life. But as long as SFMOMA and other museums are a few blocks away and scores of fine restaurants eventually open nearby, the city streets below should just as easily become a magnet.

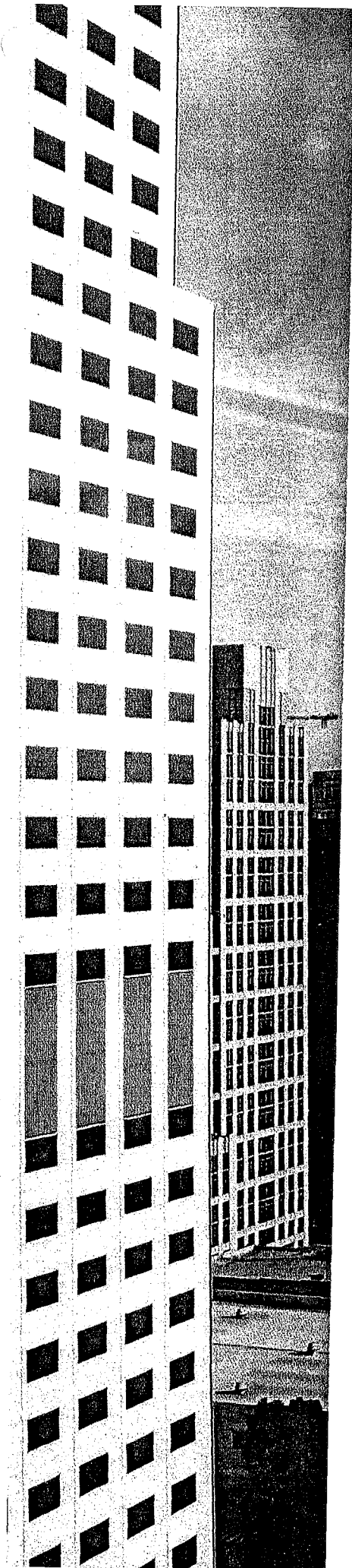
## ■ street life

Don't expect Paris, but take a walk anyway.

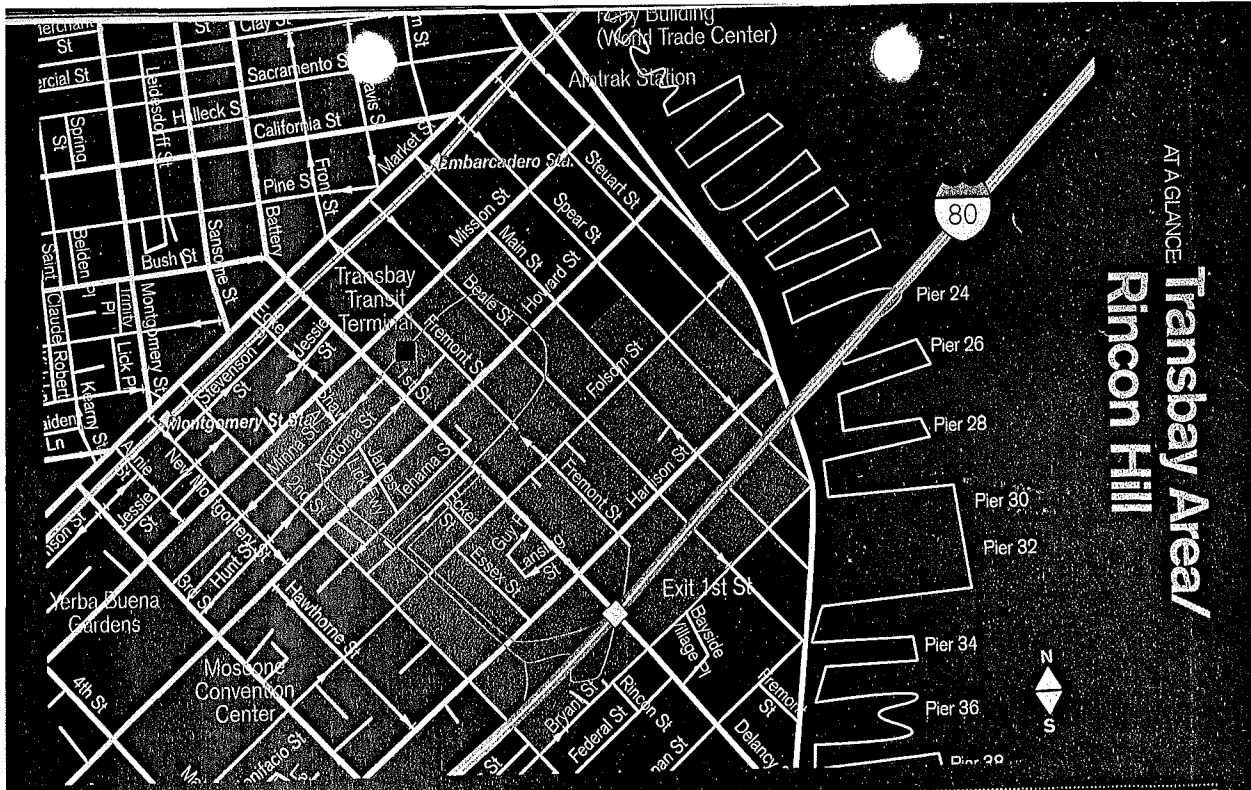
The great cities of the world have an electricity. You don't have to travel to London, Paris, or Tokyo in your mind's eye to recognize that truth; think of your favorite parts of San Francisco. We don't love North Beach for

More than half of the current luxury-condo buyers in the city are empty nesters over 50, and most of the rest are investing in their second (or third) home.

The low-slung 1939 Transbay Terminal (foreground) will be replaced by a grand downtown hub for bus, train, and subway traffic. It is already dwarfed by the high-rises surrounding it.



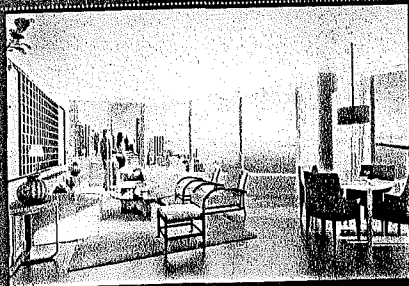




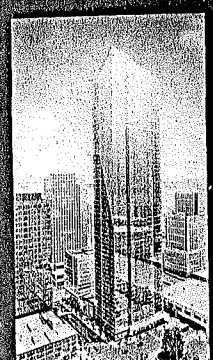
AT A GLANCE  
**Transbay Area/  
 Rincon Hill**

**Rincon Hill**

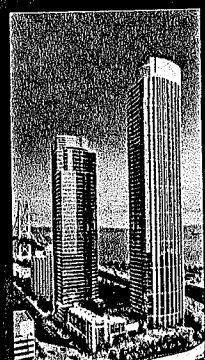
**Where:** Area bounded by Bryant, Folsom, and Second streets and the Embarcadero  
**Acres:** 55  
**Population in 2020:** 7,500  
**New housing units:** 4,000  
**Percentage set aside as affordable:** 12 percent of all units built on-site; 17 percent if units are built in a different neighborhood  
**Commercial space:** 60,000 square feet, primarily on Folsom Street  
**Amenities:** Two-acre Rincon Park at Fremont and Harrison (currently owned by Caltrans); pocket park on Lansing Way



The Infinity High-rise Rincon Hill condos such as the Infinity will offer now-expected five-star-hotel amenities, plus views of the bay.



Millennium Tower At the north end of the Transbay Terminal, at 301 Mission, the 60-story blue glass condo reflects the future of city living in the new downtown.



One and Two Rincon The 55-story One Rincon Tower (right), 10 stories higher than its partner tower, will anchor the southeastern edge of the new skyline.

**Transbay Area**

**Where:** Area bounded by Mission, Folsom, Main, and Second streets, plus one block of Spear Street  
**Acres:** 40  
**Population in 2020:** 9,200  
**New housing units:** 4,000  
**Percentage set aside as affordable:** 35  
**Commercial space:** 1.2 million square feet  
**Amenities:** A 1.5-acre park approved on Folsom Street; sidewalks along Folsom Street between Second and the Embarcadero expanded to 15 feet to create a pedestrian-friendly grand boulevard; sidewalks along Main and Beale streets between Mission and Harrison expanded and turned into 30-foot-wide linear parks



Transbay landscape The elevated bus ramps leading onto and off the Bay Bridge are scheduled for demolition. Once they're gone, Caltrans will give the cleared land to the city.



the food and coffee, Castro Street for the bars and movies, Clement Street or Stockton for the fresh-vegetable stands. It's the whole mix they present: the myriad shops, pocket parks, surprising views, eye-catching signs, strollable streets, and people of different classes, cultures, interests, and ages. "One way to evaluate a city," Peter Cohen says, "is as a social place, a place where people's attachment to it gives it that buzz."

Of course, it takes years for a Caffè Trieste or Castro Theatre, much less an entire neighborhood, to develop that draw. "It's hard to make something out of nothing," says David Baker of San Francisco's David Baker + Partners Architects, who designed several of the buildings with affordable housing units in Mission Bay. "It will take years before Mission Bay, Rincon, and Transbay become real places. Character takes time."

We can assume the new hoods won't have the range of ages and classes you see in the rest of the city. Nor will they be as walker-friendly as a great neighborhood should be. Who can enjoy an evening stroll when traffic clogs the streets, commuters lean on their horns, and car exhaust perfumes the air? Take Mission Bay: King Street, which serves as both boundary and entrance, has six lanes of traffic, the 280 on-ramp, and the new light-rail Muni line running down the center. Then there's SoMa's daunting street grid, a legacy of its industrial past as a rail yard. Each block, at 550 feet, is longer than any other in the city. And everyone knows big residential towers can easily crowd and shadow sidewalk strollers. For instance, some of the towers that were approved before the latest guidelines went into effect don't meet the sidewalk in an inviting way.

Even so, I'm cautiously optimistic. The brick warehouses and metalwork factories given landmark status and rehabilitated for use by restaurants, galleries, and offices should draw the dense population onto the streets here. Already it's lovely to walk around First and Second streets and see a mixture of building ages, styles, and construction materials.

People will get out of their cars if they have someplace to go on foot. "Even public transit should be understood as a way to extend the pedestrian's world rather than as an end in itself," says Peter Calthorpe. "You don't use public transit unless you can walk at the beginning of the trip and walk again at the end." And that will be possible, unless the city fails to pressure developers or find the funds to make every possible improvement to the new downtown, from getting the transit built to putting up public art.

City planners and high-rise architects know these New Urbanist mantras. To increase neighborhood intimacy, the latest regulations require high-rises to have multiple entrances and old-fashioned stoops. The city will take away a lane of traffic on strategic streets such as Beale and Main and widen the sidewalks to make leafy, green linear parks. In the old industrial SoMa, short alleyways were punched out because it took too long for

delivery trucks to drive around the block, and architects have recognized the design potential of these shortcuts, incorporating them as grassy pedestrian mews through the block-long high- and mid-rise developments adjoining Townsend and Brannan streets.

Already, alleyways such as Stillman Street and Guy Place in Rincon Hill feature beautiful touches such as wrought-iron balcony railings, artful metal sculpture, sundecks, and potted plants. These details soften a city's edge. They are invisible to drivers but add to a walker's sense of discovery. And they do arrive with time.

## ■ stores & retail

### Give it up for your mom and pop.

People need small but essential services: hair salons and barbers, dry cleaners, florists, delis, shipping and copy shops. And in this city of immigrants and new arrivals, another set of people need small, affordable commercial spaces they can rent or lease to gain an economic toehold in the city. To create the diverse, lively neighborhoods everyone wants, the city should find ways to encourage affordable retail just as vigorously as it pursues affordable housing.

New stores and places to eat have opened in Mission Bay along Berry, King, and Townsend streets, and with the single exception of Philz Coffee, around the corner from the Mission Bay branch library, each is a chain. Safeway, Borders, Amici's pizza, Quizno's—not exactly the cosmopolitan finds you'll walk out of your way for.

"It's a chicken-and-egg sort of thing," says David Baker. "A developer creating a new neighborhood can go to the bank with a signed lease from Borders or Starbucks; the finance people call that a 'bankable lease.' A local firm needs to wait until the market arrives. I predict that once the new condo owners move in, they'll start demanding things to make their neighborhood more amenable."

But the city needs to weigh in, too. "Look at San Francisco airport," says Baker. "I don't know who, but someone made certain that a large number of locally owned restaurants (Ebisu, Deli Up, Yankee Pier, Emporio Rulli) were given space in the refurbished SFO."

Yes, the airport is publicly owned, not a private development, and yet this policy has made it one of the most inviting places to wait for a plane in the country. The San Francisco Redevelopment Agency, which oversaw the changes at SFO and now oversees Mission Bay, should find a way to make this happen in the new downtown, even though its mandate is to build infrastructure, not to prod small retailers. Amy Neches, the agency's project manager for Mission Bay, is so happy to see Philz Coffee there—"it is putting us on the map"—that I suspect she'd like to encourage more local business to move into the new hoods. ▶

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## ■ open space

Let the pocket parks flourish, because we'll need them.

With new parks from the channel to the waterfront, Mission Bay could conceivably become a Crissy Field for the SoMa set; that's how ambitious the plans are. Blueprints call for 49 acres for tennis, basketball, volleyball, dog runs, playgrounds, and even a kayak launch at the bay's edge. Already near Mission Creek there's an undulating gravel path, ornamental pear trees, and expanses of lawn on two parks with views of Twin Peaks and the East Bay hills. UCSF plans at least eight acres of landscaped public space and has unveiled the rolling oval common area behind the Ricardo Legorreta-designed community center. There are already plenty of nooks and crannies to explore. If the city can pull off the proposed 13-mile Blue Greenway from the ballpark to Candlestick Point, that will be the feather in its cap.

Unfortunately, Transbay/Rincon Hill severely lacks green space and will require serious attention. Aside from block-long South Park, a remnant of pre-1906 Rincon Hill's mansions and wealthy residents, every inch is crammed with buildings and warehouses. The antidote cooked up by planners is the transformation (starting in 2009) of Folsom Street between the Embarcadero and Second Street into a grand boulevard. It's hard to imagine this forlorn speedway with one of its lanes turned into a 30-foot-wide linear park, hundreds of newly planted trees, and elegant shops, restaurants, and outdoor cafés. Whether that fantasy comes true, everyone—developers, residents, and agencies—must hunt for additional ways to create open space. Expect to see the tiny parking lot on Guy Place, tucked behind First Street between Folsom and Harrison, become the neighborhood's first pocket park. And keep your fingers crossed that Caltrans turns its staging area next door to One Rincon Hill into a pocket park as well. As anyone who's caught a quick lunch in the Tom Galli-designed Redwood Grove Park at the base of the Transamerica Pyramid can tell you, such a small achievement reaps skyscraper-size rewards.

## ■ the spillover effect

SoMa and the Bayview will never be the same.

Every one of SoMa's 2,333 acres will be affected by the changes taking place between Mission Street and Mission Bay. Many building owners are getting unsolicited offers to buy their property, and you can assume that wherever you see a parking lot or two-story building, there could well be a high- or mid-rise tower in the next several years. There are people working on plans to upgrade a neighborhood they call SoMa East (the area between Fifth and Seventh streets, currently skid row). There are plans under review for SoMa West (that is,

west of Yerba Buena Center for the Arts) and for the area around Showplace Square, below Division Street.

A critical issue over the short term is the status of the city's many business services. Planners call it PDR: production, distribution, and repair. Today the long blocks of SoMa are filled with big asphalt lots housing Muni buses, Sunset Scavenger trucks, and fleets of taxis. Here you'll find the heating and electrical and ventilation services, the elevator supply and repair shops. It's where UPS and FedEx bring their packages from the airport and move them into delivery trucks. This is where the companies that service our thriving tourist economy operate, and it's getting increasingly hard for them to find the space they need.

"These people can't compete with the suede shoes who can sink \$200 million into a high-rise," says Calvin Welch. "If developers move in and buy up every low-rise garage, parking lot, and factory south of Market, there are going to be serious economic consequences." Many of the people I talked to, including Peter Cohen and Ellen Ullman, consider this the next big problem. Once the parking lots disappear, will the blue-collar companies in low-slung buildings be next?

The city realized it couldn't afford to lose a world-renowned teaching hospital like UCSF or fumble the plans for a new ballpark for the Giants. The PDR companies do not have as high a profile. But they need a protector. If we want them to stay—and we do—city officials are going to have to make their needs a priority, too. In its South Bayshore Survey Area, which encompasses Bayview-Hunters Point, the Redevelopment Agency promotes "new commercial/light industrial enterprises," adding to what's there, not getting rid of it.

Gentrification of the central waterfront just beyond Mission Bay—India Basin, Bayview, and Hunters Point—seems as certain as Britney Spears in the headlines. Starting around Mariposa and 16th streets, there are still acres of working ports, trucking centers, warehouses, and, in Hunters Point, inexpensive homes and buildings. As I drove these streets, stopping to explore Islais Creek and the tidy if somewhat frayed bars and homes of Dogpatch and Butchertown, I could imagine the developers eyeing them for future projects just as soon as Mission Bay gets built out. More business will be competing for less and less affordable real estate. This will be the next chapter in San Francisco's transformation. Stay tuned. ■

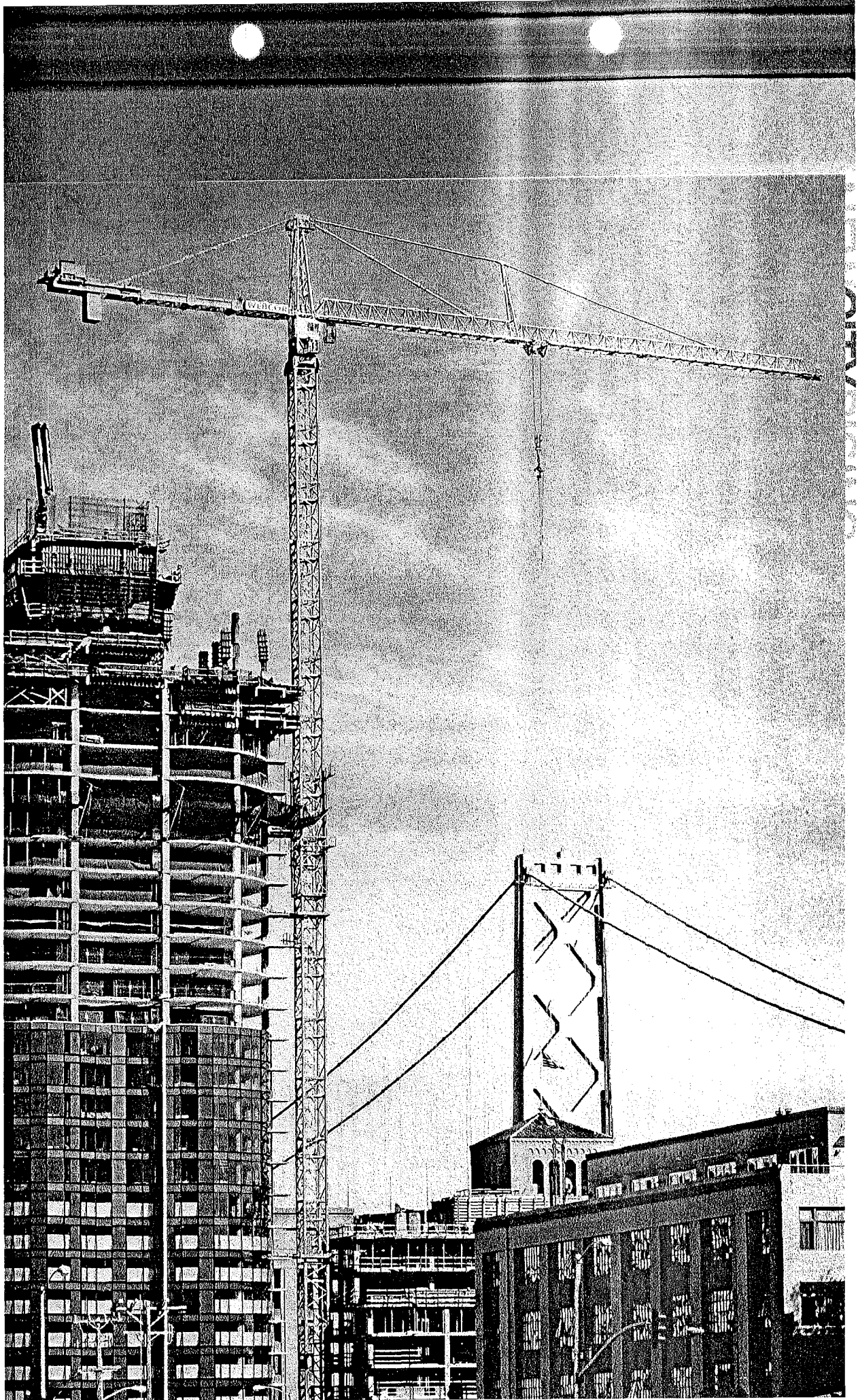
**BARBARA TANNENBAUM** IS A FREELANCE WRITER WHO LIVED IN THE CITY FOR 10 YEARS BEFORE BUYING A HOUSE IN SAN RAFAEL.

The city intends to limit high-rises to one parking space for every two dwellings. For now, you can pay your way around that. You can own a parking space at the Infinity for \$75,000.

As I drove around Dogpatch and Butchertown, I could imagine the developers eyeing them for future projects just as soon as Mission Bay gets built out.

### "AFFORDABLE" HOUSING?

What does it mean? Is it true that people making \$90,000 a year can qualify? For author Barbara Tannenbaum's hard-earned answers, go to [www.sanfrancmag.com](http://www.sanfrancmag.com).







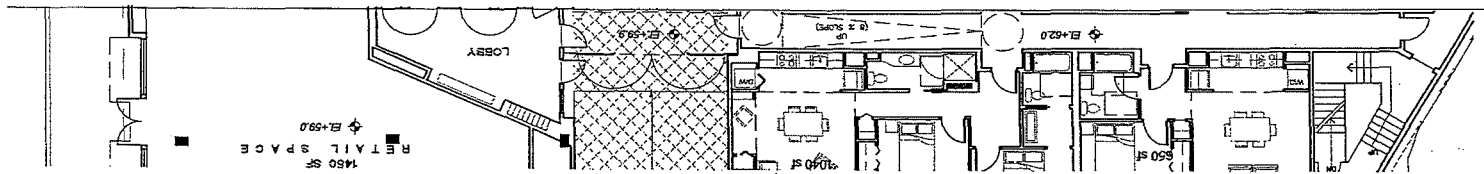
HAYES VALLEY COURT

© 1978 \* E.T.C.

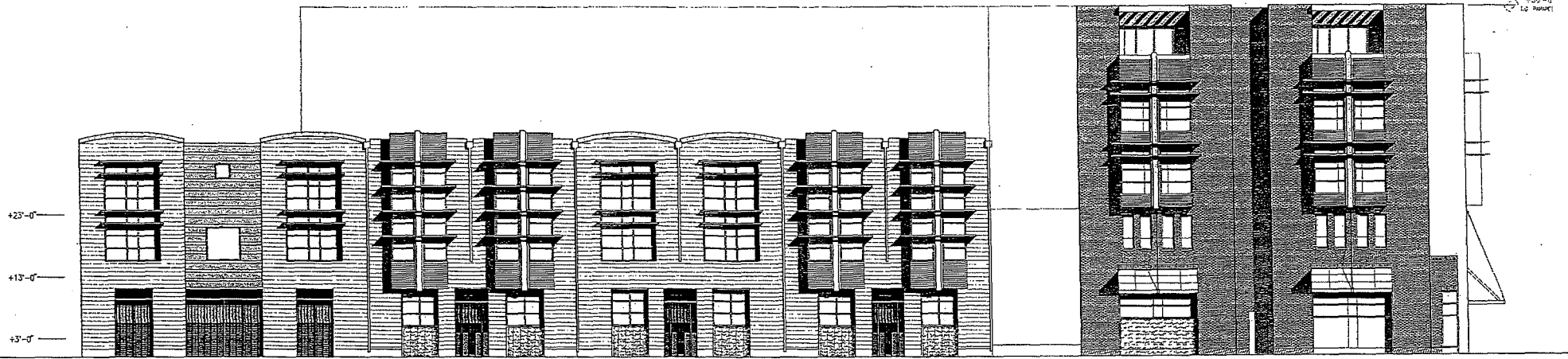


Design Changes Made to the Grove Elevation Per Planning Dept. Comments:

- Grove elevation has been articulated in 25' increments.
- Private entries have been added at ground floor residential units on Grove.

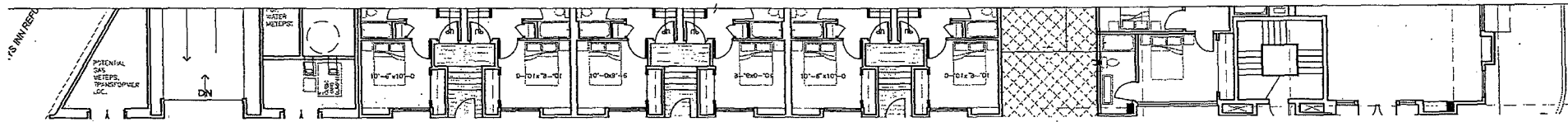




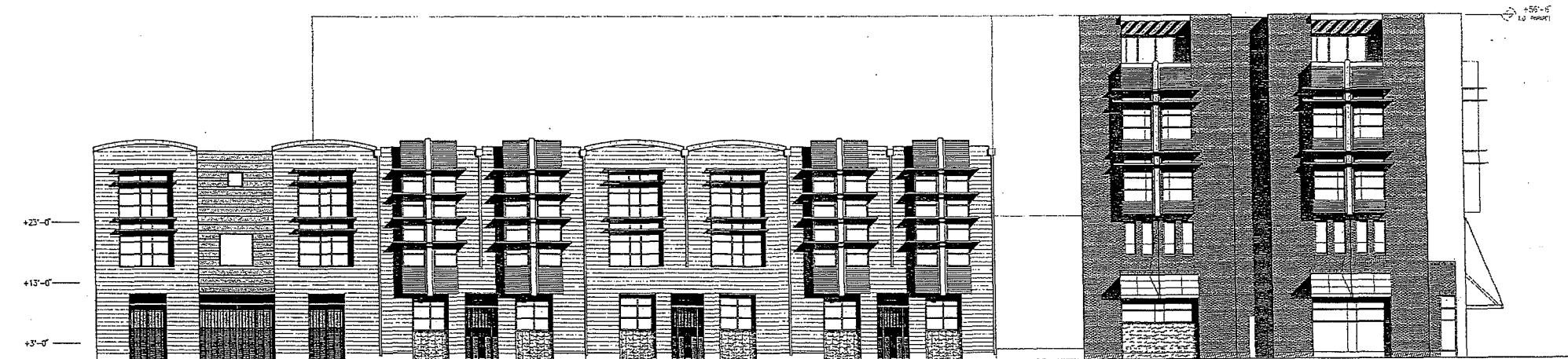


Design Changes Made to the Ivy Elevation Per Planning Dept. Comments:

- Parking access has been moved from Grove to Ivy Street.
- Additional pedestrian entrances have been added to the town houses along Ivy.
- The courtyard's south entrance has been narrowed to allow for greater street wall continuity.

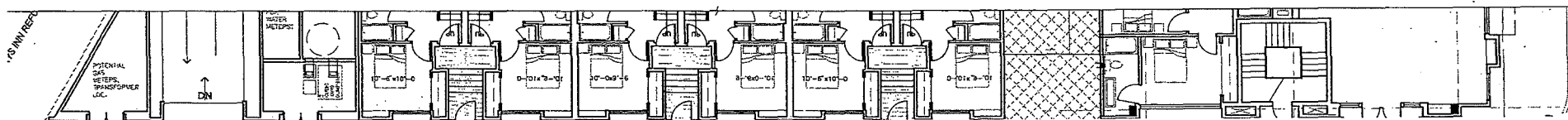


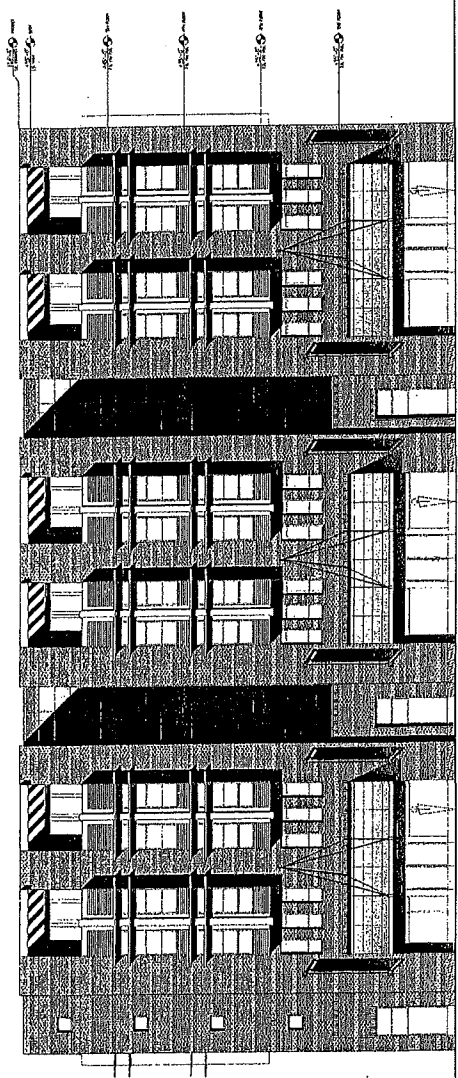




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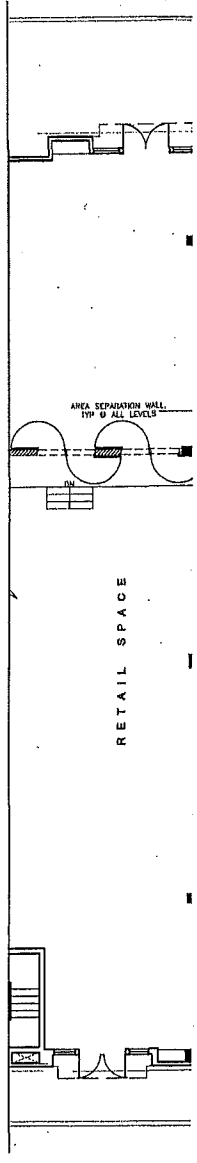
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300' 0" GROVE

No Design Changes Made to the Gough Elevation



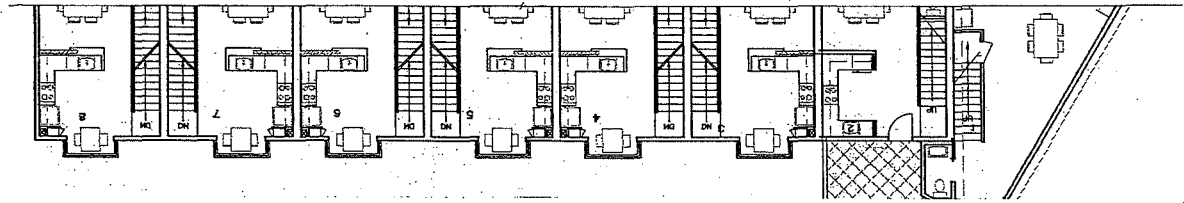
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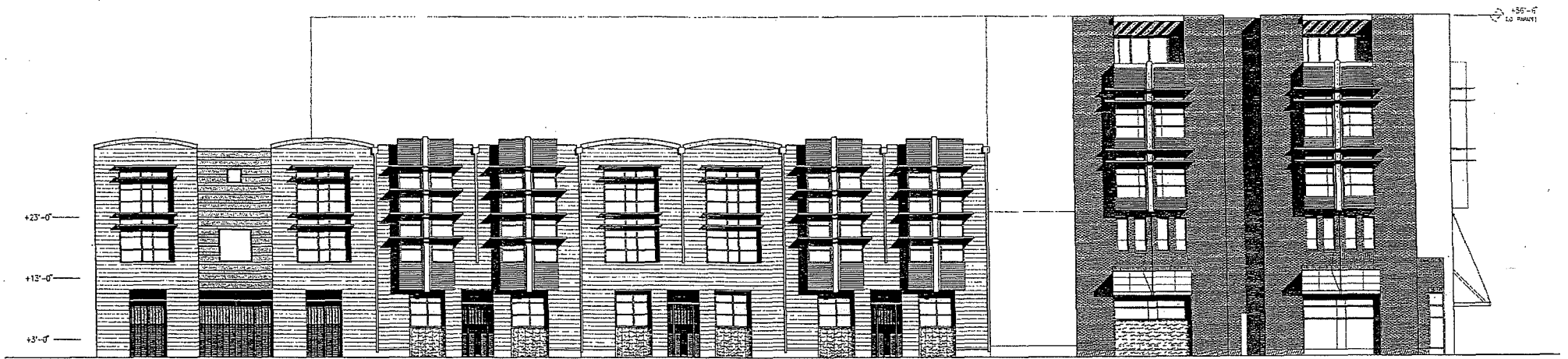




Design Changes Made to the South Courtyard Elevation Per Planning Dept. Comments:

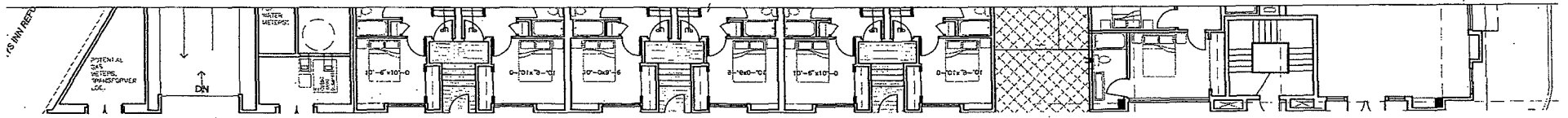
- Entry niches have been removed. Except for the two town houses at the west end, all the town houses are entered from the street.





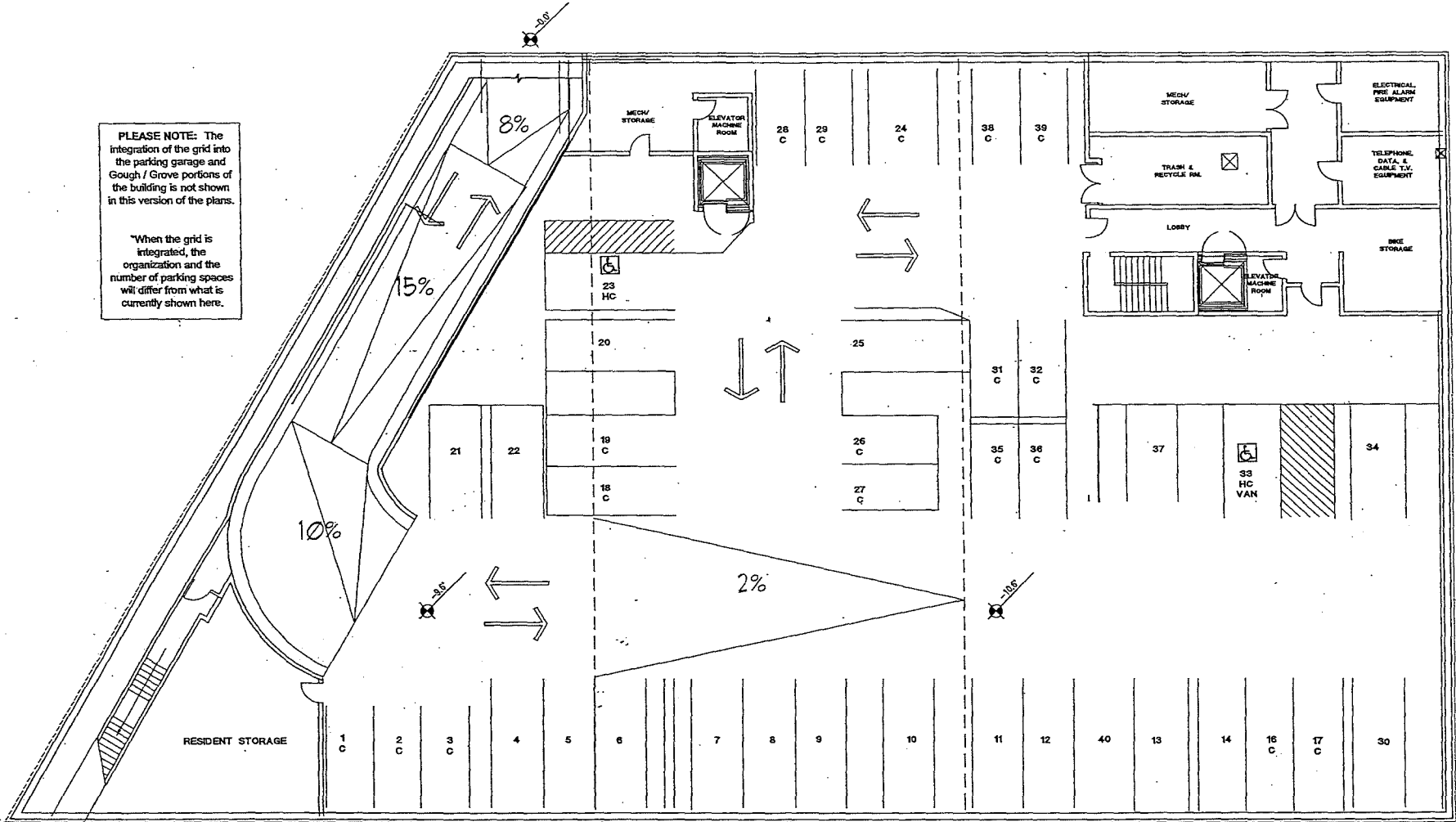
Design Changes Made to the Ivy Elevation Per Planning Dept. Comments:

- Parking access has been moved from Grove to Ivy Street.
- Additional pedestrian entrances have been added to the town houses along Ivy.
- The courtyard's south entrance has been narrowed to allow for greater street wall continuity.



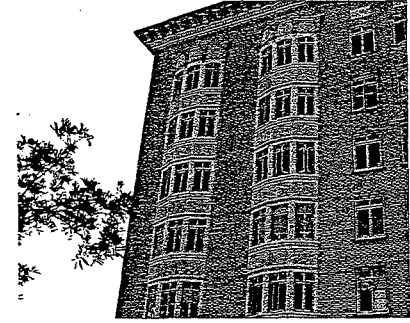
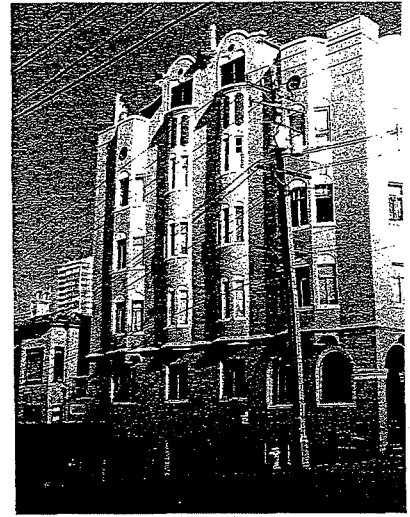
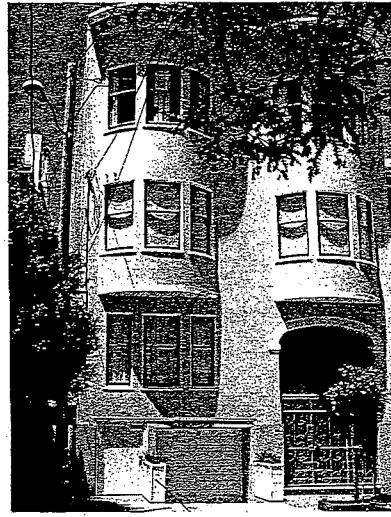
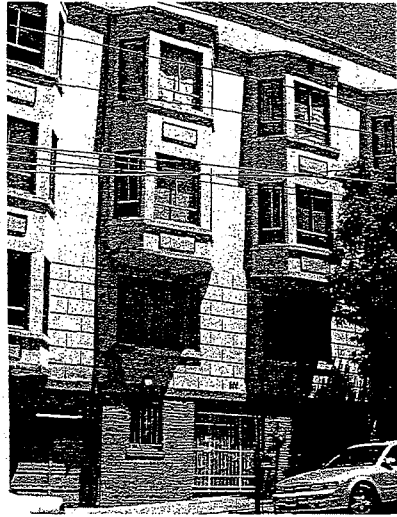
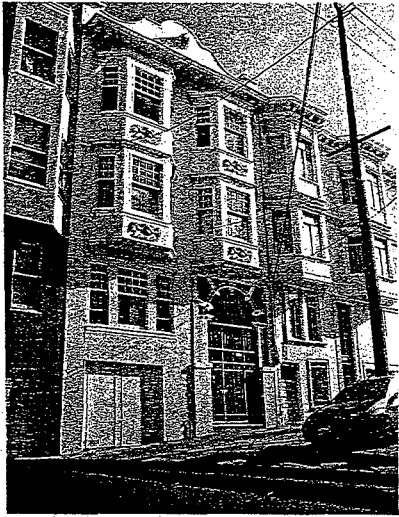
PLEASE NOTE: The integration of the grid into the parking garage and Gough / Grove portions of the building is not shown in this version of the plans.

\*When the grid is integrated, the organization and the number of parking spaces will differ from what is currently shown here.



Garage Level

HAYES VALLEY COURT







San Francisco Business Times - December 18, 2006  
<http://sanfrancisco.bizjournals.com/sanfrancisco/stories/2006/12/18/story13.html>

# SAN FRANCISCO Business Times

BUSINESS PULSE SURVEY: Free parking for city officials

## Group quietly assembles site for second highrise

San Francisco Business Times - December 15, 2006 by J.K. Dineen

A group backed by California Mortgage and Realty is assembling a development site on a key corner at Van Ness Avenue and Market Street, a parcel that the pending Market-Octavia plan has designated for a 400-foot residential tower.

The group, 1540 Market St. NV LLC, recently shelled out \$7.8 million on 1510-1520 Market St., a wedge-shaped parking lot running along the intersection of Market and Oak streets.

In June, the same group purchased the abutting 1540 Market St. for \$6.5 million. CMR President David Choo and Vice President Henry Park signed a \$9 million loan with the First East National Bank on the parking lot purchase, according to Old Republic Title Co. and public documents.

With the deal, CMR and David Choo become key players in two of the city's most important redevelopment areas.

In addition to the purchases in the Market-Octavia area, CMR has also been quietly assembling parcels for a proposed tower across from the Transbay Terminal that may be designed by star architect Renzo Piano.

Headed by Choo, 42, CMR bought 62 First St. in 2004 for \$10 million, and this year the company has shelled out another \$50 million for three other buildings on the block: 76-80 First St., 88 First St., and 50 First St., an acquisition which closed in late May.

Ron Heckman, a spokesman for CMR, declined to comment.

John Billovits, a city planner who is working on the Market-Octavia rezoning, which is expected to be approved by the Planning Commission in January, said the plan calls for four thin towers "punctuating" the vast and chaotic intersection where Market, Van Ness, and South Van Ness converge.

Billovits said the idea is to create a vibrant mixed-use 24-hour district at what will eventually be the terminus of the rapid bus transit planned for Van Ness. A variety of street improvements are also planned to allow better pedestrian access at one of the most dangerous pedestrian intersections in the city.

"It's an area we recognize needs a lot of help," he said.

He said increasing density and providing groundfloor retail on the four corners, would be "a way of closing the intersection up and creating a place that becomes more livable and desirable."

[jkdineen@bizjournals.com](mailto:jkdineen@bizjournals.com) / (415) 288-4971



San Francisco Business Times - April 24, 2006

<http://sanfrancisco.bizjournals.com/sanfrancisco/stories/2006/04/24/newscolumn7.html>

# SAN FRANCISCO Business Times

BUSINESS PULSE SURVEY: Free parking for city officials

Real estate

## Developers eye Van Ness auto showroom for condo tower

San Francisco Business Times - April 21, 2006 by [J.K. Dineen](#)

Developers will be flocking to the San Francisco Honda at 10 South Van Ness Ave. in the coming weeks, but they won't be car shopping.

The property is about to go on the block and is expected to fetch north of \$50 million, according to brokers. Colliers International's Tony Crossley has the listing.

The Boas family has hired Brand + Allen architects to study the parcel, which has an interesting place in San Francisco history. It was the site of the old Fillmore West where The Band's last concert was played and captured by director Martin Scorsese in the classic film "The Last Waltz."

The site could accommodate a 400-foot tower and up to 600 housing units, according to architect Koonshing Wong.

Federal building delay continues

Any hope that workers will be moving into the new federal building in 2006 seem to be fading. A year behind schedule, the building is expected to be finished by the end of November, and most tenants will move in the beginning of 2007, GSA spokeswoman Mary Filippini said. The government is accepting proposals for the soon-to-be-empty 50 United Nations Plaza, which currently houses health and human services workers.

San Francisco Police Chief Heather Fong has discussed the possibility of moving police administrative offices there, and residential developers have also expressed interest, Filippini said.

Rotating owners

The Charles Schwab building at 215 Fremont St. has changed hands yet again.

New York-based Resnick Development Corp. bought the South of Market building as part of a six property portfolio from American Financial Realty Trust. The buyer paid \$301 million for the portfolio, approximately \$260 a square foot.

In addition to 215 Fremont, the portfolio includes a commercial condo in Philadelphia and office buildings in Meridian, Idaho; Louisville, Ky. and McLeansville, N.C. The proceeds from the sale of these properties are approximately \$65.8 million after closing and the debt prepayment costs.

The transaction marks the second time 215 Fremont has been on the block in two years. In 2004, American Financial paid Charles Schwab \$135.7 million for the 373,000-square-foot building. Schwab continues to lease the entire building for \$26 a square foot.

The 2004 sale came at a time Schwab was downsizing its real estate portfolio, subleasing space and selling off buildings it owned.

"What these buildings have in common is that they are all 100 percent leased and occupied by

financial institutions," said Anthony DeFazio, a spokesman for American Financial. "The buyer wants high credit quality and a steady income stream from the leases."

Deals, etc.

There seems to be no stopping Barclays these days.

With its Foundry Square building under construction, Barclays Global Investors is looking for another 40,000 square feet of space to tide the company over until the new building is complete in 2008, according to sources.

Barclays spokesman Lance Berg said the company was "undecided" at this point about additional space.

- UCSF has expanded its research and development facilities at San Francisco General Hospital, taking 27,500 square feet of space in Building 3, which was formerly occupied by the Gladstone Institute. The space, comprising of the fifth and sixth floors, will be used for HIV research. The university has also leased 7,700 square feet in Building 9, which will be used for cardiological research and teaching.
- Skadden, Arps, Slate, Meagher & Flom is staying put at Four Embarcadero Center. Jones Lang LaSalle represented the firm in a 36,067-square-foot lease renewal for floors 37 and 38. Jones Lang LaSalle Managing Director Erich Sengelmann and Executive Vice President James Miller represented Skadden Arps, while the owner, Boston Properties, represented itself.

"As market dynamics continue to improve in San Francisco, the availability of premier Class A space is tougher to come by," said Sengelmann. "Jones Lang LaSalle was able to leverage Skadden's strong credit and lower-cost relocation alternatives to allow the firm to remain in one of the city's premier office buildings at below-market rates."

*J.K. Dineen can be reached at (415) 288-4971 or [jkdineen@bizjournals.com](mailto:jkdineen@bizjournals.com).*

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**From:** Mary  
**To:** Mary  
**Date:** 5/18/2007 5:29:58 AM  
**Subject:** SFGate: Bay Area's housing prices buck national trend/Median cost is up 6.6%, driven by strong upscale market, but number of homes sold is down 20%

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The original article can be found on SFGate.com here:  
<http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2007/05/17/MNGM6PS7LE88.DTL>

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Thursday, May 17, 2007 (SF Chronicle)  
Bay Area's housing prices buck national trend/Median cost is up 6.6%, driven by strong upscale market, but number of homes sold is down 20%  
Carolyn Said, Chronicle Staff Writer

The Bay Area appears to be shaking off the nation's housing doldrums. Local home prices are still going through the roof, even though far fewer properties are changing hands. That contradicts the national real estate trend of slumps in both price and sales volume.

Why does the region's housing seem to defy gravity?  
It's the wealth effect.

"The Bay Area is one of the strongest economies in the country today," said Ken Rosen, chairman of the Fisher Center for Real Estate and Urban Economics at UC Berkeley. "The upper end of the market in the inner areas (San Francisco and the counties closest to it) is doing extremely well.

This is a completely different trend than the rest of the country."

The median price for an existing single-family dwelling in the Bay Area hit a record \$720,000 in April, up 6.6 percent from last April, according to a report released Wednesday by DataQuick Information Services.

That happened even though the number of existing homes sold in April fell 19.9 percent to 5,015, compared with 6,263 a year ago. The month was the 27th in a row in which sales volume declined, and April's sales count was the lowest in 12 years. The April average is 9,614.

At the same time, Marin County established its own record with a median home price of \$1,010,000 -- the first county in California to pass the million-dollar mark, DataQuick said.

The median price for a single-family home nationally was \$215,300 in March, a 0.9 percent drop from the previous year, according to the National Association of Realtors.

The Bay Area numbers come with some caveats, however. The median price is skewed by strong activity at the upper end. Real estate in the region is composed of numerous micro-markets, which vary tremendously. In fact, affluent Bay Area housing markets are getting stronger, while poorer areas are softening.

"The volume (of sales) being low tells you that we've lost the bottom 20

to 30 percent of the market that can't qualify for mortgages," Rosen said. Banks have tightened lending standards in recent months since numerous homeowners started defaulting on subprime loans. Subprimes are higher-cost mortgages sold to people with poor credit.

Both Rosen and DataQuick analyst Andrew LePage said the Bay Area market is a dichotomy.

"There are dual realities emerging here," LePage said. "There is one reality for mid- to upper-priced homes up through the luxury market. In a lot of areas, there are tentative signs of those markets stabilizing and maybe even inching up both in sales (volume) and price." For the Bay Area, he defines mid-priced as \$800,000.

DataQuick's county breakdowns show that existing-home prices rose in April in the six innermost Bay Area counties -- Alameda, Contra Costa, Marin, Santa Clara, San Francisco and San Mateo -- but declined in the area's furthest-out counties: Napa, Solano and Sonoma.

"It's safe to say that the more expensive the neighborhood, the more likely it appears to at least temporarily be stabilizing now," LePage said. "At the opposite end of the price spectrum, in starter neighborhoods, you're more likely to see big sales drop-offs from last year and more significant price declines."

Bearing out that thesis, Leif Jenssen, a Realtor with Red Oak Realty, recently cut \$20,000 off the price of a 2-bedroom, 1-bathroom home he's selling in Oakland's Maxwell Park, which he considers a starter neighborhood, with home prices from \$400,000 to \$550,000.

"If you search six blocks in either direction from the house, there are 80 houses for sale," he said. "The one right next door, which is a bit smaller, came on the market at \$449,000. We were at \$495,000 so (we reduced the price) to \$475,000."

Maxwell Park exemplifies the kind of area likely to suffer from the subprime problems.

"It will probably have a fair amount of foreclosures because a lot of people buying in that neighborhood were low-income and didn't have money to put down," Jenssen said. "I see properties out there that say they're bank-owned (which means they have been foreclosed)."

Paul Rozewski, a Realtor with Windermere Properties of the East Bay, said he is seeing properties sit on the market longer in places like Hayward and Newark.

"The buyer is more in the driver's seat," he said. "It's not something where the buyer can ask for the world and expect to get it, but it's a much more even playing field."

But in sought-after, affluent neighborhoods, real estate agents say they are fielding multiple offers, just as they did during the housing boom. "I've got two deals I'm holding in my hand" that received multiple offers and sold for over listing price, said D.J. Grubb, principal of the Grubb Co. in Oakland and Berkeley. "I'm living in the best of all worlds; I'm in a great microclimate -- Berkeley, Oakland, Piedmont, Kensington. My over-\$2 million range is absolutely on fire."

Nowhere is the market pricier than in Marin County.

Payton Stiewe, a Realtor with Sotheby's International Real Estate, is selling what he calls "a great little house" in Mill Valley for close to Marin's new million-dollar median. The two bedroom, 1,300-square-foot



house is listed for \$1,069,000. Stiewe said that is a bargain price for its location on Lovell Avenue, where larger homes typically sell for several million dollars, and even an empty lot went for \$2.6 million last year.

San Francisco families moving to Marin for its schools have helped drive up prices, Stiewe said.

"I feel our market is immune to decreases in value," he said. "We might slow down a little and just hover, but then it picks up again."

The number of homes on the market obviously has a huge impact on prices.

In the Bay Area, inventory is up compared to last year but is much less than the inventory levels for California and the nation.

Inventory stood at 3.3 months of unsold houses in March, up from 2.3 months last March, according to the California Association of Realtors.

The number shows how long it would take to sell the homes on the market at the current sales pace. The group tracks in seven Bay Area counties -- Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, Solano.

By contrast, California's unsold inventory was 8.7 months in March, almost double the 4.7 months last year. The national index was 7.2 months of inventory in March versus 5.4 months last March, according to the National Association of Realtors.

"Any place where there's a lot of new construction, the inventory of unsold new homes weighs down on the existing-home market," Rosen said. That also explains why counties like San Francisco and Marin, where there is little new-home construction, continue to have strong price appreciation.

Rosen pointed out that the "extraordinarily high" median price of \$720,000 presents a real problem for the Bay Area. "That is more than triple the national average," he said. "Prices this high make it difficult to attract the labor force that we need. We need affordable housing, higher density, in inner locations."

#### CHART (1):

E-mail Carolyn Said at [csaid@sfchronicle.com](mailto:csaid@sfchronicle.com). Bay Area home sales in April

Figures for sales of existing single-family houses in April (percent change from April 2006):

County	Number sold	Percent change	Median price	Percent change
Alameda	1,010	-18.4%	\$ 618,000	1.0%
Contra Costa	859	-25.6	575,000	6.1
Marin	254	1.6	1,010,000	3.8
Napa	89	-15.2	575,000	-6.8
San Francisco	295	-11.1	850,000	4.9
San Mateo	511	-15.3	880,000	7.3
Santa Clara	1,270	-19.3	803,000	10.8
Solano	340	-38.0	425,000	-8.7
Sonoma	387	-16.1	554,500	-4.4
Bay Area	5,015	-19.9	720,000	6.5

<BR><HR>

#### CHART (2):

Bay Area median prices compared to nationwide  
Bay Area

April 2005: \$630,000

April 2006: \$675,500

April 2007: \$720,000

Nationwide

April 2005: \$213,500

March 2007\*: \$215,300

\* Latest available nationwide figure

Sources: DataQuick; National Association of Realtors

Todd Trumbull / The Chronicle

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**ATTACHMENT 14**

San Francisco Chronicle

# BAY AREA

AND CALIFORNIA



Thursday,  
March 1, 2007

**BAY AREA**

## Biggest concern in poll: clogged highways

Survey finds counties vary on top problem, but traffic once again drives regional gripes

By Rachel Gordon  
CHRONICLE STAFF WRITER

Auto-choked roads across the region once again took top billing in a new poll looking at the concerns of Bay Area residents, but the problems were more localized when it comes to the rest of the gripe list.

Contra Costa County residents, for example, said pollution was of great concern — not necessarily a surprise since they live near four of the Bay Area's five oil refineries. In Alameda County, where Oakland murders have spiked recently, crime was a major worry.

And in San Francisco, homelessness and panhandling were seen as troubling. That issue barely registered as a problem in the

rest of the Bay Area.

"Different issues move the needle in different parts of the region," said Jim Wunderman, president of the Bay Area Council, a business-supported policy think tank that commissioned the poll.

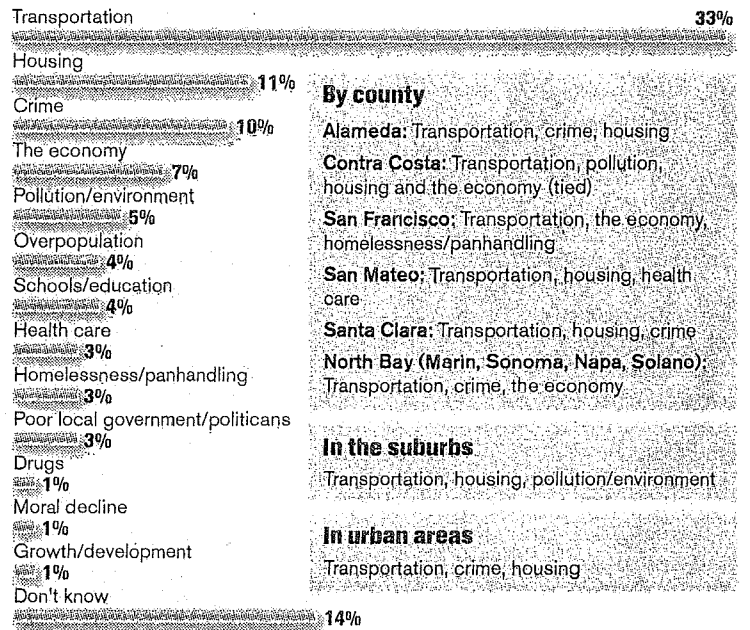
The survey, released today, was conducted in English and Spanish by Field Research Corp. From Jan. 8-14, pollsters interviewed 600 randomly selected Bay Area residents who reflect the region's population. The poll, conducted annually for the Bay Area Council, has a margin of error of plus or minus four percentage points.

Transportation dominated the survey, as it has every year over the past decade.

One-third of the poll's respon-

► **POLL:** Page B2

### Bay Area's top concerns



#### By county

- Alameda:** Transportation, crime, housing
- Contra Costa:** Transportation, pollution, housing and the economy (tied)
- San Francisco:** Transportation, the economy, homelessness/panhandling
- San Mateo:** Transportation, housing, health care
- Santa Clara:** Transportation, housing, crime
- North Bay (Marin, Sonoma, Napa, Solano):** Transportation, crime, the economy

#### In the suburbs

- Transportation, housing, pollution/environment

#### In urban areas

- Transportation, crime, housing

Source: Bay Area Council

The Chronicle

# Biggest concern in Bay Area poll: clogged highways

► **POLL**  
From Page B1

dents said transportation — traffic congestion, the condition of roads and bridges, and public transit — was the most important Bay Area problem. The issue was of particular concern in the North Bay, where 41 percent said transportation was their No. 1 concern. In San Francisco, 25 percent put transportation at the top.

San Rafael resident Barbara Sebring, 62, who spends a lot of time in her car as a manufacturer's representative for retail stores, said she isn't surprised.

"It doesn't matter if it's morning, noon or night, the freeway is

## Poll results

Results of the poll can be found online at [www.bayareacouncil.org/pol](http://www.bayareacouncil.org/pol)

always backed up," Sebring said of Highway 101, the main roadway running through the North Bay. "And it seems to be getting worse every year."

Natalia Udaltsova, who lives in Walnut Creek and works in Oakland, has the same frustration.

"It's hard to get through town without getting stuck in a traffic jam," said the 49-year-old programmer.

Udaltsova usually commutes

on BART and occasionally rides her bike, but during the rainy season she often drives to the station and to pick up and drop off her son at school — two excursions that can keep her stuck behind a steering wheel for an hour or more a day.

Wunderman said aggravation over traffic congestion in the Bay Area has been building for years, and getting stuck in gridlock has become a way of life. He said residents are fighting back with their wallets, voting for state bonds and local sales tax increases to fund public transit and roadway improvement projects.

Wednesday's vote by the California Transportation Commis-

sion is a sign that government officials are listening, he said. Money was promised for widening Highway 101 near Novato and adding carpool lanes in San Mateo, Santa Clara, Solano and Alameda counties, among other projects.

In addition to focusing on specific issues, the survey attempted to capture the mood of people who live in the Bay Area. It found that despite the problems, 78 percent of the respondents said they thought that things were going "very well" or "somewhat well," when it comes to the Bay Area's quality of life. The optimism has been inching up in recent years, a review of past surveys shows.

The survey also showed that

Gov. Arnold Schwarzenegger's rebound in the Democratic stronghold of the Bay Area has held beyond the November gubernatorial election, with 54 percent of the people polled saying they approved of his job performance; 30 percent disapproved.

Alameda County gave Schwarzenegger the lowest approval rating in the region, at 40 percent; San Mateo County gave him the highest, at 65 percent. In San Francisco, which almost elected a Green Party candidate to be mayor four years ago, the Republican governor had a 53 percent approval rating.

E-mail Rachel Gordon at [rgordon@sfchronicle.com](mailto:rgordon@sfchronicle.com).

**ATTACHMENT 15**

# San Francisco Chronicle

★★★★★

Printed on recycled paper | SUNDAY, JUNE 10, 2007 | sfgate.com

415-777-1111 \$1.50

## MUNI AT A GLANCE

Daily ridership  
**686,000**

Annual budget  
**\$670  
MILLION**

Employees  
**4,800**

Transit stops  
**4,100**

Fleet size  
**1,074**



LIZ HAFALLA / The Chr

## 'WHEN IT'S BAD, IT'S REALLY BAD'

Unreliability makes Muni reviled; agency's chief admits 'status quo is not acceptable'

By Rachel Gordon  
CHRONICLE STAFF WRITER

The opening of the new T-Third streetcar line in San Francisco was supposed to be a crowning accomplishment for the Municipal Railway, an ambitious project that promised to accelerate economic revitalization and community pride in the city's struggling southeastern neighborhoods.

Instead, the 5.1-mile rail service expansion revealed profound flaws in the city's heavily used public transit system, unleashing a torrent of pent-up public scorn.

The problems run deep and have been years in the making. Severe staffing and funding shortages, inad-

**Muni was already struggling to find enough working streetcars and drivers before the introduction of the new T-Third line in April.**

quate and outdated communications equipment and maintenance facilities, and political inertia have created an operation damned by unreliability.

For riders, that means service delays — the bane of any mass transit system. The Muni-was-late excuse wears thin for riders who regularly show up tardy to work, school, jury duty and child care.

So while Muni is the busiest transit operation in the Bay Area, arguably making it the region's most successful, it also is one of the most reviled.

► MUNI: Page A12



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San Francisco Chronicle

## 'WHEN IT'S BAD, IT'S REALLY BAD'

### Unreliability makes Muni reviled; agency's chief admits 'status quo is not acceptable'

Rachel Gordon, Chronicle Staff Writer

Sunday, June 10, 2007

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The opening of the new T-Third streetcar line in San Francisco was supposed to be a crowning accomplishment for the Municipal Railway, an ambitious project that promised to accelerate economic revitalization and community pride in the city's struggling southeastern neighborhoods.

Instead, the 5.1-mile rail service expansion revealed profound flaws in the city's heavily used public transit system, unleashing a torrent of pent-up public scorn.

The problems run deep and have been years in the making. Severe staffing and funding shortages, inadequate and outdated communications equipment and maintenance facilities, and political inertia have created an operation damned by unreliability.

For riders, that means service delays -- the bane of any mass transit system. The Muni-was-late excuse wears thin for riders who regularly show up tardy to work, school, jury duty and child care.

So while Muni is the busiest transit operation in the Bay Area, arguably making it the region's most successful, it also is one of the most reviled.

"Our customers feel that on any given day, they don't know what kind of Muni they're going to see. The status quo is not acceptable. We have to do better, and we will," said Nathaniel Ford, who assumed the top job at the San Francisco Municipal Transportation Agency last year.



More...

View Text Chart

#### The Question

What's your impression of Muni?

No worse than any transit system. Problems are overrated

11%

Sometimes great, sometimes a nightmare

31%

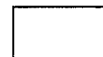
It's so unreliable, I want to lie down on the tracks

47%

It's fine. I never ride it

11%

Total Votes: 995



Disclaimer

Muni's success is essential not just for riders but for the city as a whole. The better the transit system, the more likely people will get out of their cars, and that means less traffic congestion and air pollution.

Muni provides nearly 700,000 trips a day -- almost double the number of BART -- and operates 80 routes, covering every neighborhood in San Francisco, from the Sunset to the Mission, from the Bayview to Pacific Heights.

The system is designed so no one should live more than a quarter-mile from a transit stop. Except for the \$5 cost to ride a cable car, which caters primarily to tourists, the most pricey Muni trip is \$1.50 -- cheaper than a bus or subway ride in most U.S. cities.

"When Muni's great, it's great. It gets me anywhere I need to go in the city," said Susan Goldman, a 34-year-old produce manager who lives in the Castro. "But when it's bad, it's really bad. A trip that should take a half-hour can take more than an hour. You just never know. And that's what's so frustrating."

Nothing demonstrates that problem more clearly than the \$648 million T-Third project.

The new route came in more than \$120 million over budget and more than a year behind schedule.

Even before the line's official April start, Muni had been scrambling to find enough working streetcars and drivers to serve the rest of the city. Then the bare-bones agency had to make do with existing staffing and equipment on the T-Third, which runs from Visitacion Valley at the Daly City border to the Market Street subway tunnel downtown.

Not only has the line been hampered by delays, many of them caused by technical glitches, but the problems also reverberated throughout the entire Muni Metro rail system, causing backups and overcrowding that affected commutes from one side of the city to the other. Related changes to bus service, including the elimination of the popular 15-Third line, also angered riders.

In response to those concerns and after conducting its own assessment, Ford announced Tuesday that route adjustments would be made at month's end with the goal of resolving some of the problems.

The addition of the T-Third "showed us just how precarious the situation is," said Daniel Murphy, a longtime riders advocate involved in the group Rescue Muni and the chairman of a citizens committee that advises the Municipal Transportation Agency. "There just aren't enough operators or maintenance staff to do the job."

Chronic money problems

So how can an agency with nearly 5,000 employees and a budget of more than two-thirds of

a billion dollars teeter on the verge of meltdown?

The answer can be found in a combination of factors, key among them financial.

"Want to know what's wrong with the agency? The resources don't match the expectations," Murphy said.

Muni's proposed \$670 million budget for the fiscal year that starts July 1 is skeletal. The proposal includes money to step up hiring of drivers, maintenance workers and street supervisors. But any other upgrades are minimal.

"There is no question that Muni needs more money. We will not fix Muni without it," said Gabriel Metcalf, executive director of the San Francisco Planning and Urban Research Association, or SPUR, a civic think tank that has called for a much bigger investment in the transit system.

SPUR estimates that Muni is chronically underfunded and would need as much as \$1 billion more through 2015 to make the needed improvements and meet the public's demand for a reliable system. That squares with an assessment by city officials, who found that Muni is short between \$100 million and \$150 million a year.

To put that in perspective, the city now spends \$78 million annually to run the entire public library system, around \$100 million to operate the whole recreation and park department and \$107 million to operate the jails, which house more than 2,000 inmates a day.

Muni's budget has followed San Francisco's roller-coaster economy.

In the early 1990s, during Frank Jordan's tenure as mayor, City Hall grappled with year after year of \$100 million-plus budget deficits.

"The economy just tanked," City Controller Ed Harrington said. Deep cuts were made throughout city government, including Muni.

That led to a revolt at the ballot box, with voters stripping away much control of the budget from the mayor and the Board of Supervisors. Voters mandated dedicated funding for police staffing, libraries, open space projects and children's services.

Muni's turn came in 1999, a year after the infamous "Muni Meltdown," when the subway system neared collapse due to the malfunction of a new train-control system, human error and poor management decisions. At one point, during the summer of 1998, a train full of passengers traveled for four stops without a driver. Other times, passengers scrambled on foot from the tunnels when their trains got stuck for extended periods and no one from Muni could tell them when they might start up again.

Proposition E -- which passed with a City Hall-better-pay-attention 61 percent -- stabilized the amount of funding Muni gets directly from the city.

But the fiscal problems were not solved.

Now Mayor Gavin Newsom has a task force looking at everything from fare hikes and tax increases to plastering more advertising on Muni property to pumping extra money into the system. Board of Supervisors President Aaron Peskin, meanwhile, wants to place a measure on the November ballot that would funnel Muni more revenue from parking meters, parking fines and city-owned parking garages.

But it won't be easy to convince voters that the agency is managing its money well and deserves more of it.

An audit earlier this year by the City Controller's Office found Muni failed to collect 4 in 10 cable car fares. Muni officials later acknowledged a problem with people also sneaking on buses and streetcars or boarding with bogus passes and promised to crack down on fare cheats.

And Newsom responded by suggesting that the city consider eliminating fares altogether, possibly saving on collection costs. Fares account for 22 percent of the annual Municipal Railway budget -- below the national average of 34.2 percent. The controller is analyzing the idea of free Muni. No major transit agency in the nation has a systemwide fare-free policy.

Demand for better service

Prop. E didn't just stop the money drain at Muni. It also imposed service standards and deadlines to improve problems with crowding, timeliness, customer satisfaction, and fleet and operator availability.

Buses, streetcars and cable cars are supposed to be on schedule at least 85 percent of the time. The goal has yet to be reached, although it has improved from a decade ago when the fleet showed up as promised about half the time.

On-time performance has hovered around 70 percent during the past few years. It started to climb higher earlier this year, but the launch of the T-Third erased what progress had been made.

The link between improved reliability and money can be found in the results of a three-month pilot project Muni recently completed on the 1-California bus line. The project boosted on-time performance to 88 percent, up from 81 percent.

The added cost for that brief period to improve just one line was \$168,000. The money paid for more street supervisors to keep the buses on schedule, overtime pay to make sure no runs were missed if a driver didn't show up to work and a crew of parking control officers assigned to the route to keep traffic lanes clear of double-parkers to move buses through more quickly.

The 1-California is a component of the Transit Effectiveness Project, a top-to-bottom assessment of Muni operations set to be completed around the end of the year.

The project is an in-depth analysis of Muni's schedules, routes and ridership patterns. It is supposed to provide the data needed to overhaul the system and make it run more efficiently and build ridership. The challenge will be implementation. Redundant lines may be eliminated, bus stops taken away and routes changed -- any and all of which can generate opposition even if the end result creates a better Muni.

The last major restructuring was 25 years ago, when San Francisco was a different city in terms of traffic congestion, job centers and travel patterns.

Not only are about 65,000 more people now living in the city, but more of the people who are living here commute to other cities for work. The past two decades also have seen a surge of new development in the South of Market and the southeast sector, and new neighborhoods have taken root in the Presidio, in Mission Bay and on Treasure Island.

#### Staffing shortages

In addition to the financial demands, the 1-California pilot project revealed that adequate staffing is crucial.

Muni needs 2,178 drivers to make sure all runs are covered, said Ken McDonald, the agency's chief operating officer. But there are roughly 150 vacancies, and training is barely keeping pace with attrition. On top of that, about 240 drivers are out on long-term leave.

On any given day, an average of 16.5 percent of the remaining force is absent for illness, vacation or other reasons. While that's better than six months ago, it's still worse than the industry average, McDonald said. The shortage of drivers means that runs are missed.

In the most recent report issued by Muni, 3 percent of the bus runs and 3.5 percent of the train runs were missed during the first three months of this year. That's a 50 percent improvement from six months ago, but every missed run means that riders have to wait longer at their stops.

"And when someone's bus is late, that's all that matters," Newsom said.

Muni also is down street supervisors -- the people directing the fleet. They keep buses from bunching and prevent bottlenecks from forming in the subway stations.

At one time there were 100; now there are 48.

There also are more than 200 vacancies in the maintenance division.

Budget cuts over the years also targeted analysts, schedulers, planners and other back-office support staff -- the people who make sure that the resources Muni does have are being put

to the best use.

In 2005, the city, pressed for money, imposed a hiring freeze at Muni for more than a year. The system has yet to recover.

"We didn't get ourselves in this situation overnight, and we're not going to fix the problems overnight," said Ford, a seasoned transit administrator who last worked in Atlanta. "We are digging out, and once we get there we want to make sure we never end up in this situation again."

Newsom, who is running for re-election this year, said his proposed budget for the new fiscal year includes money for Muni to help replenish the ranks. But it still won't be enough.

Harrington, the city controller, cautioned against an overnight miracle: "It takes a long time to dig yourself out."

Labor and politics

How Muni workers do their jobs is just as important as how many are on the payroll.

In San Francisco, a strong labor town, Muni workers and management have fought for years over pay, work rules, discipline, absenteeism and scheduling.

The ballot measure proposed by Peskin, the Board of Supervisors president, would give Muni management new leverage at the bargaining table. Now, salaries for Muni drivers are set by formula, making them the second-best paid in the nation, behind the Valley Transportation Authority in Santa Clara County. Muni operators make \$27.08 an hour.

Under the Peskin plan, if the drivers want a pay hike they may have to give a little somewhere else, such as rules governing absences and termination. It also would give management more flexibility to hire and fire more mid-level managers.

The unions oppose the plan.

"We see (the proposed ballot measure) as making the operators the scapegoat for Muni's problems," said Irwin Lum, president of Transport Workers Union Local 250-A, which represents the drivers. "The problem is that we don't have enough resources."

The proposal, now pending before the Board of Supervisors, is politically tricky. Muni needs employee cooperation to improve the system. If the workers feel they're under attack, they could easily cause a service slowdown.

Muni workers don't cop to having used that tactic, but in 2003, when then-Muni boss Michael Burns was trying to reduce the use of overtime and apply other cost-cutting measures, drivers in large numbers called in sick over a three-day period. That resulted in dozens of missed runs.

Today, with Ford and Lum at the helm, both sides credit the other for working in partnership to make improvements.

Peskin's proposal has strong political underpinnings. In a joint editorial Peskin penned with Supervisor Chris Daly in the left-leaning weekly Bay Guardian, the pair hammered Newsom for allowing Muni service to deteriorate.

The "system has broken down on his watch," said the two supervisors, who oppose Newsom's re-election. "Apologies are not enough. It's clear that significant additional Muni reform is necessary."

Newsom said this past week that he does not support the current version of Peskin's proposal but may sign on to an amended version. The mayor did not specify what changes he would like to see.

#### Mayoral albatross

When Newsom was running for re-election on the Board of Supervisors nine years ago, around the time of the Muni Meltdown, a handwritten sign in his office said, "It's the Muni stupid." He took the lead at City Hall to work with Rescue Muni and SPUR on winning voter approval of the Proposition E ballot measure.

One of the underlying principles of the ballot measure was to reduce political meddling by elected officials at City Hall by putting Muni under control of a semi-autonomous agency.

But Newsom knew then, as he knows now as he's running for a second mayoral term, that Muni is a bread-and-butter issue for a San Francisco politician and that his performance will be judged, in part, on Muni's.

Willie Brown, Newsom's predecessor in the mayor's office, learned the hard way.

"When I sought the office of mayor, I said in 100 days I would fix Muni. Well, unfortunately, someone recorded me," Brown said in 1998 near the end of his first term. "I meant it when I said it, because I believed Muni needed some tinkering here and there. I had no clue that for more than 25 years, Muni had been virtually starved."

Fast-forward to 2007, and this is what Newsom says: "When it comes to fixing Muni, who wants to do that more than me? Perhaps, literally, no human being more than me. I'd love to be able to go, 'Snap. Twinkle, twinkle. Everything's perfect.' But that's not going to happen. It will take time, but we're headed in the right direction."

He points to two things in particular: The new administration team now running Muni, which includes not just Ford but new managers in charge of finances, construction, information technology, operations and public relations, and the Transit Effectiveness Project, which one day may lead to a major overhaul of schedules and routes.



All Meredith Serra can do is hope.

She has experienced Muni's ups and downs over the past 30 years as a rider. She gets a ride to the Glen Park BART station in the morning, where she takes a train to her insurance company job near Civic Center. At night, she relies on Muni to get her home in the city's West of Twin Peaks area.

She's suffered through packed trains and breakdowns that extend her commute time when all she wants to do is get home.

"It's aggravating. Not always, but enough of the time," said Serra, 50. She said she doesn't doubt that Newsom and Ford and other city officials want to make Muni better, "but I have yet to see the evidence and my patience is running out."

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#### Online resources

[www.sfmta.com](http://www.sfmta.com)

[www.sftep.com](http://www.sftep.com)

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

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

[www.511.org](http://www.511.org)

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

[www.sftransit.net/unions.htm](http://www.sftransit.net/unions.htm)

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#### Who runs Muni?

The Municipal Transportation Agency, which includes the city's public transit system and the parking and traffic operations, is governed by a 7-member board appointed by the mayor. The Board of Supervisors has the power to reject the appointments.

Source: San Francisco City Charter

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#### Proposition E

A Muni reform measure, Proposition E, approved by San Francisco voters in 1999, stipulated: Reliable, safe, timely, frequent and convenient service to all neighborhoods;

-- A reduction in breakdowns, delays, over-crowding, preventable accidents;

-- Clean and comfortable vehicles and stations, operated by competent, courteous and well-

trained employees;

- Support and accommodation of the special transportation needs of the elderly and the disabled;
- Protection from crime and inappropriate passenger behavior on the Municipal Railway; and
- Responsive, efficient and accountable management.

Source: San Francisco City Charter

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Muni service standards

- The longest wait for a bus should be no more than 20 minutes.
  - All homes in San Francisco should be located within a quarter mile of a Muni route that operates at least 19 hours a day.
  - At least 85 percent of the vehicles must run on time, defined as no more than one minute early or four minutes late.
- 

"I am not saying that the Muni system, after years of neglect, will be fixed in a few weeks. I maintain that our riders should be able to notice a marked improvement in the service that we provide in the near future. I want the Muni to be the preferred way for people to get around the city and make connections to the greater Bay Area. The challenges for (the agency) are many and long-standing. However, we are striving to overcome these obstacles. I am taking the necessary steps to implement best business practices that will keep the agency moving forward."

Nathaniel Ford, 45

Executive director, San Francisco Municipal Transportation Agency

"I missed the original Muni Meltdown, as I moved to the area shortly thereafter, but it's really hard for me to imagine that it could have been worse than it is now. I've walked home on two occasions (since May), having grown weary and frustrated waiting for N-Judahs. My commute used to take 35 to 50 minutes; it's consistently over an hour now with several two- and three-hour commutes."

Ray Birmingham, 35

Data analyst

Lives in the Outer Sunset, works near South Beach

"I'm motivated to be on time. At the end of my run, if there's available time in the schedule, I want to eat, I want to go to the bathroom, I want to call my wife, my kid, maybe read a book

or take a walk. As a driver, I'm on schedule probably 90 percent of the time. The problem with Muni isn't the drivers. It's the lack of resources. This is a major transit system and it needs hundreds of millions of dollars more. The money should come from a downtown transit assessment district."

David Reardon, 60

Muni driver for five years

Routes: 1-California, 5-Fulton, 45-Union/Stockton

"This morning, at 7:35 a.m., I boarded the M-Balboa Park streetcar at 19th and Holloway, hoping to ride to the Balboa Park BART Station. When we arrived at San Jose and Broad streets, a strange sequence of events occurred: After allowing a large number of adults and children to board, the driver announced that this was the end of the line, and everyone had to get off. I noticed, as I disembarked, that the outside signs were changing from 'M-Balboa Park' to 'M-San Jose & Broad.' I would not have gotten on in the first place without having been misled by the original destination sign. Fortunately, another streetcar arrived in a few minutes, which did take us to Balboa Park. Although I lost my seat, and barely got on the second (overcrowded) streetcar, at least I wasn't late to work today; but I was late to work when this scenario took place in late April, except that another streetcar never showed up."

Larry Oppenheim, 57

Librarian

Lives in Ingleside Terrace, works South of Market

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CHART (1):

*E-mail Rachel Gordon at [rgordon@sfgchronicle.com](mailto:rgordon@sfgchronicle.com).*

*This article appeared on page **A - 1** of the San Francisco Chronicle*

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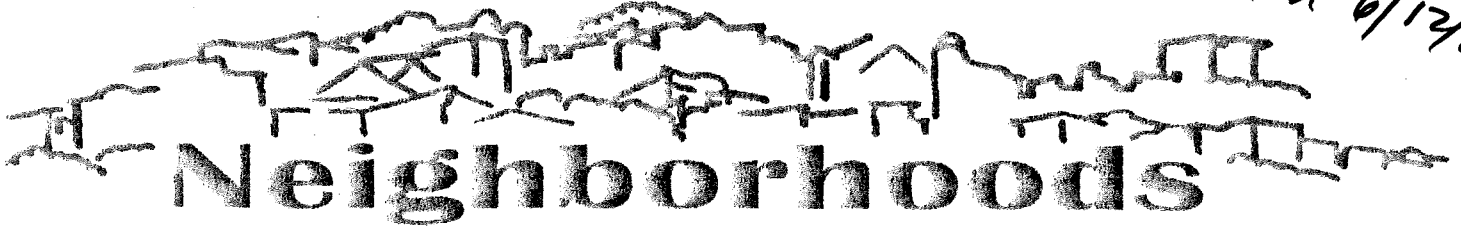
LIZ HAFALIA / The Chronicle

Michael Sullivan (standing), 16, and Joseph Mujorada (to right of Sullivan), 17, of Pittsburg ride a Muni streetcar to the Civic Center to work on a school project.

File 070560

Coalition for San Francisco

Presented in Bd 6/12/07



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June 12, 2007

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Honorable Members, San Francisco Board of Supervisors  
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McGoldrick, Mirkarimi, and Sandoval

**Subject: Public Hearing - Appeal of Final Environmental Impact Report  
for Market and Octavia Neighborhood Plan - Items 25 thru 28  
on Board of Supervisors June 12, 2007 Meeting Agenda**

**BOS Files 070560 through 070563; Planning Case No. 2003.0347EMTZU**

Dear President Peskin and Supervisors:

The Coalition For San Francisco Neighborhoods ("CSFN") **strongly supports subject appeals** of Planning Commission certification of the Final Environmental Impact Report for the Market and Octavia Area Plan ("FEIR").

The following Resolution was passed by CSFN member organizations at CSFN's April 17, 2007 General Assembly meeting:

**RESOLVED**, The Coalition For San Francisco Neighborhoods **strongly urges the Board of Supervisors to vote to support the appeals** of the decision of the Planning Commission to recommend the Board of Supervisors adopt the Final Environmental Impact Report ("FEIR") prepared for the Market & Octavia Neighborhood Plan **and to return said FEIR to the Planning Commission -- on the grounds that said FEIR is insufficient, inadequate, inaccurate, and misleading --** for correction and revision so it complies completely with the provisions of the California Environmental Quality Act ("CEQA").

Subject FEIR contains **no analysis of "reasonably foreseeable" city-wide cumulative impacts** resulting from proposed creation of three (3) new zoning classifications: "RTO (Residential Transit-Oriented Neighborhood) District"; "NCT (Neighborhood Commercial Transit) District"; and NCT-3 (Moderate-Scale Neighborhood Commercial Transit) District" -- proposed new Planning Code Sections 206.4, 702.1(b), and 731.1, respectively.

Said **imminently critical legislation** -- crafted to create said

1. Find subject 254-page draft legislation -- proposing Planning Code text amendments to create said RTO, NCT, and NCT-3 zoning classifications -- encapsulated in Planning Department's 3/29/07-published document, Materials for Market & Octavia Plan Adoption Planning Case No. 2003.0347EMTZU, at pages 178, 165, & 236, respectively.

- Barbary Coast Neighborhood Assn
- Bayview/Hunters Point Coordinating Council
- Buena Vista Neighborhood Assn
- Cathedral Hill Neighbors Assn
- Cayuga Improvement Assn
- Cole Valley Improvement Assn
- Cow Hollow Assn
- Diamond Heights Community Assn
- Dolores Heights Improvement Club
- East Mission Improvement Assn
- Ewing Terrace Neighborhood Assn
- Excelsior District Improvement Assn
- Fair Oaks Community Coalition
- Forest Knolls Neighborhood Assn
- Francisco Heights Civic Assn
- Glen Park Assn
- Golden Gate Heights Nghbrd Assn
- Greater West Portal Nghbrd Assn
- Haight Ashbury Improvement Assn
- Inner Sunset Action Committee
- Jordan Park Improvement Assn
- Laurel Heights Improvement Assn
- Lincoln Park Homeowners Assn
- Manna Civic Improvement & Property Owners Assn
- Miraflores Park Improvement Club
- Mission Creek Harbor Assn
- New Mission Terrace Improvement Assn
- North Beach Neighbors
- North Park Neighbors
- Oceanview, Merced Heights, Ingleside -- Neighbors in Action
- Outer Mission Residents Assn
- Pacific Heights Residents Assn
- Panhandle Residents Organization/ Stanyan-Fulton
- Potrero Boosters Neighborhood Assn
- Richmond Community Assn
- Rincon Point Neighborhood Assn
- Russian Hill Improvement Assn
- Russian Hill Neighbors
- Stop 55: Preserve Our Waterfront
- Sunset Heights Assn of Responsible People
- Sunset-Parkside Education & Action Committee
- Telegraph Hill Dwellers
- Twin Peaks Council & Open Space Conservancy
- Twin Peaks Improvement Assn
- West Presidio Neighborhood Assn

higher-density "transit-oriented" RTO, NCT, and NCT-3 zoning classifications and **to enable** implementation of same <sup>2</sup> in those areas and neighborhoods of San Francisco as are proximal to such "Primary Transit Streets" and/or "Transit Corridors" as are already designated and/or mapped citywide <sup>3</sup> -- will have **significant cumulative impacts citywide**. CEQA standards **require** proper analysis of same. **N.B.**- Subject legislation is proposed for application **not only** <sup>4</sup> in the Market and Octavia Neighborhood Plan area **but in the Mission area as well**. Additionally, application of such higher-density "transit-oriented" RTO, NCT, and NCT-3 zoning classifications is described in other published neighborhood area plans as well -- e.g., the 2002-published Balboa Park Station Area Plan.

Higher density in the aforementioned "Transit Corridors" will adversely impact those RH-1 Single-Family-Dwelling land use districts, or portions thereof, as are proximal to said "Transit Corridors" and/or "Primary Transit Streets". Planning Code Section 207.2 contains **codified findings which set forth those adverse effects on public health, safety, and welfare** <sup>5</sup> **of both increased density in San Francisco and of loss of single-family dwellings** due to "infill" development enabled, as-of-right, by subject RTO legislation. Such "reasonably foreseeable" heightening of <sup>that</sup> **impact**, declared and codified, is **not** dealt with and/or analyzed by subject FEIR in compliance with CEQA requirements and, furthermore, **not reviewed** in light of voter-mandated Planning Code Section 101.1(b) Priority Policies <sup>Policies</sup> which **require** that the City's supply of affordable housing be preserved and enhanced and that existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

Muni ridership will be severely impacted by the increased density and population resulting from the implementation of subject three (3) new RTO, NCT, and NCT-3 zoning classifications. Metro-Muni's underground lines -- the K, L, M, N, T, J, etc. -- are **already over-capacity at prime hours**. Planning Department materials state that "At the confluence of San Francisco's three main grids, a significant share of all Muni lines converge on Market Street." <sup>6</sup> **Absent in subject FEIR** is an adequate, objective analysis of the "reasonably foreseeable" impact on Muni capacity due to that increased density/population as will result from implementation of said higher-density "transit-oriented" RTO, NCT, and NCT-3 zoning classifications.

Other "reasonably foreseeable" **citywide impacts**--resulting from the creation and implementation of said three (3) new higher-density "transit-oriented" zoning classifications-- **require, but have not received, careful analysis** to comply with CEQA standards. Such other **citywide impacts include** but are not limited to the following:

2. Subject legislation proposes revision of over fifty (50) current sections and subsections, of the Planning Code to change established citywide land use standards and controls -- including height & bulk, density, parking, demolition, etc. -- in order to enable implementation of said higher-density "transit-oriented" RTO, NCT, & NCT-3 land use districts.
3. See, attached hereto as **Exhibit A**, Planning Department maps of subject "Primary Transit Streets" and "Transit Corridors".
4. See, attached hereto as **Exhibit B**, pages 4 & 10 of Planning's 3/13/07-published Draft Mission Area Plan, evidencing same.
5. See Planning Code § 207.2 attached hereto as **Exhibit C**. **N.B.**--emphasis (arrows, underline) added.
6. Find said statement in 2002-published Draft Market and Octavia Neighborhood Plan, at the last paragraph on page 104, thereof.

- \* lack of adequate land-fill to receive construction/alteration/demolition debris
- \* lack of adequate infrastructure and resources to provide and process clean and waste water
- \* potential loss of historically significant structures
- \* increased traffic congestion due to increased density/population
- \* increased burden on fire and safety facilities/services
- \* increased evacuation difficulty in potential disaster

Any and all "reasonably foreseeable" significant citywide impacts need, but have not received, adequate objective and reasoned analysis in compliance with CEQA standards.

Notice provided regarding the seminally significant <sup>aspect</sup> of subject project = the legislation to create said three (3) new higher-density "transit-oriented" RTO, NCT, and NCT-3 zoning classifications and to revise over fifty (50) current citywide land use standards and controls for potential application throughout San Francisco -- has not been legally adequate pursuant to that threshold established by The San Francisco Sunshine Ordinance, Chapter 67 of the S. F. Administrative Code, Section 67.7 standard and criteria. Published notice describes said legislation -- to add to and to amend Planning Code text -- as being **specific to that land area** contained within the boundaries set forth by the Market and Octavia Area Plan and limited thereto.

Said legislation was not available to the public for review and response until September 28, 2007, well after the Draft Environmental Impact Report ("DEIR") was published and after the "comments and responses" period was closed.

CSFN requests that the Board of Supervisors take action on June 12, 2007 at subject hearing to approve both Item 27, File 070562 [Motion disapproving the certification by the Planning Commission of the Final Environmental Impact Report for Market and Octavia Area Plan] and Item 28, File 070563 [Preparation of findings to disapprove certification of the Market and Octavia Area Plan FEIR] for but not limited to those reasons set forth above.

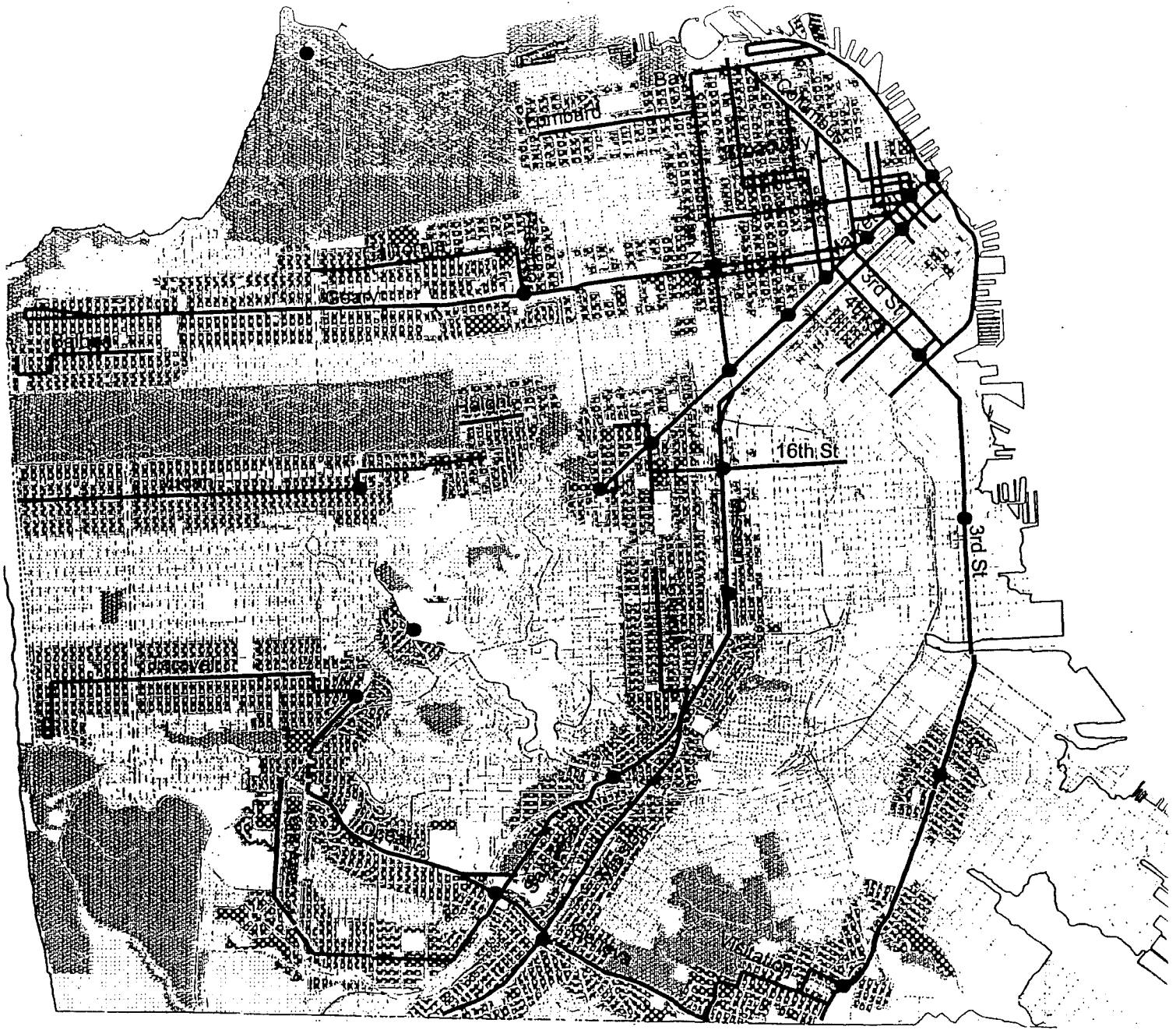
Thank you for your careful consideration in this matter.

7. Refer to Footnote 2, above
8. See, attached hereto as **Exhibit D**, pages 10 & 11 from Planning Commission 3/22/07 Notice of Meeting and Calendar, whereon pg. 11, at item c. project description, for 2003.0347EMT ZU, note the words, "Adoption of amendments to the Planning Code...", followed by the words in bold type "**for the area described in item 23 above...**".
9. See **Exhibit E** hereto, CSFN 6/7/07 9-page Filing Statement requesting Board of Appeals jurisdiction and hearing concerning deficient notice regarding legislation crafted to create three (3) new citywide zoning classifications --with Exhibits A thru E thereto.

*Judith Berkowitz*

Judith Berkowitz  
CSFN President





- Transit Nodes
- ▧ Primary Transit Street
- ▨ Residential Lots within 1,250 ft. of transit and commercial  
Residential Lots
- ▩ Parks

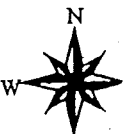
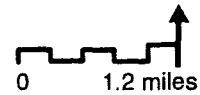


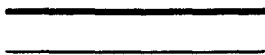
EXHIBIT A

BOS File 070560, CSFN-6/12/07



**TRANSIT PREFERENTIAL STREETS**

**Primary Transit Streets**



Transit Oriented  
Transit Important

**Others**



Secondary Transit Street  
Transit Center

Map 9

- Preserve the character of the Mission
- Encourage compatible housing, particularly family affordable housing
- Enhance the character of neighborhood commercial areas
- Establish new mixed use areas
- Protect important production, distribution, and repair activities

The following land use districts are proposed (*see page 10*):

**Neighborhood Commercial Transit (NC-T)**

This district encourages active ground floor uses by requiring minimum ceiling heights for retail uses, prohibiting new curb cuts on some of the blocks and limiting blank walls. Housing is encouraged on the upper stories with an increased amount of below market rate (BMR) inclusionary housing where up-zoning has occurred. This district would apply to Mission, Valencia and 24th Street.

**Residential Transit Oriented (RTO)**

This district encourages residential infill development compatible with the surrounding neighborhood. Small-scale, neighborhood oriented corner stores are permitted in order to provide goods and services to nearby residents and to create a more pleasant urban environment.

**Mixed Use – PDR (MU-PDR)** (formerly Urban Mixed Use)

The intent of this district is to create mixed-use places that also serve as transitional areas between established residential neighborhoods and areas intended for PDR and other business activities. It allows housing, office, and other uses and requires some PDR space in new development.

**PDR**

The intent of this district is to encourage new business formation, support existing businesses, and to

conserve space for Production, Distribution, and Repair (PDR) businesses, including arts activities. In order to protect PDR, certain uses such as housing and downtown office are prohibited in this district.

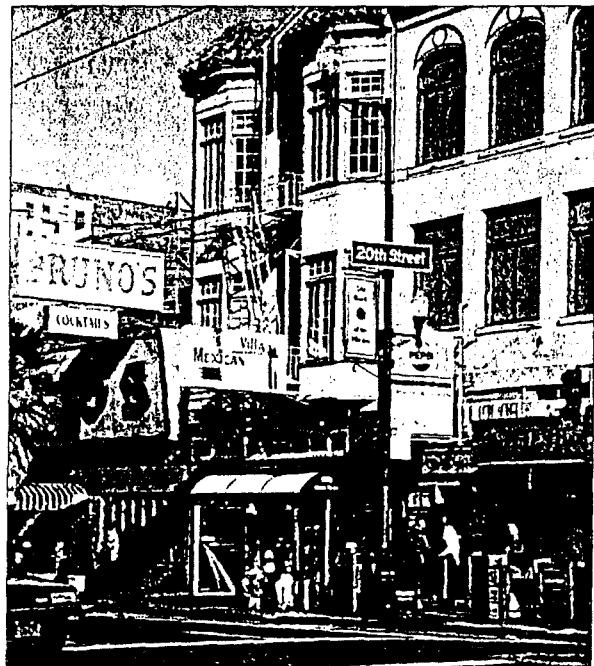
**Affordable Housing Overlay**

Operating in conjunction with the proposed underlying zoning, the intent of the affordable housing overlay is to encourage affordable housing development that is well served by transit, while protecting existing neighborhood serving uses including PDR activities such as auto repair businesses and arts activities.

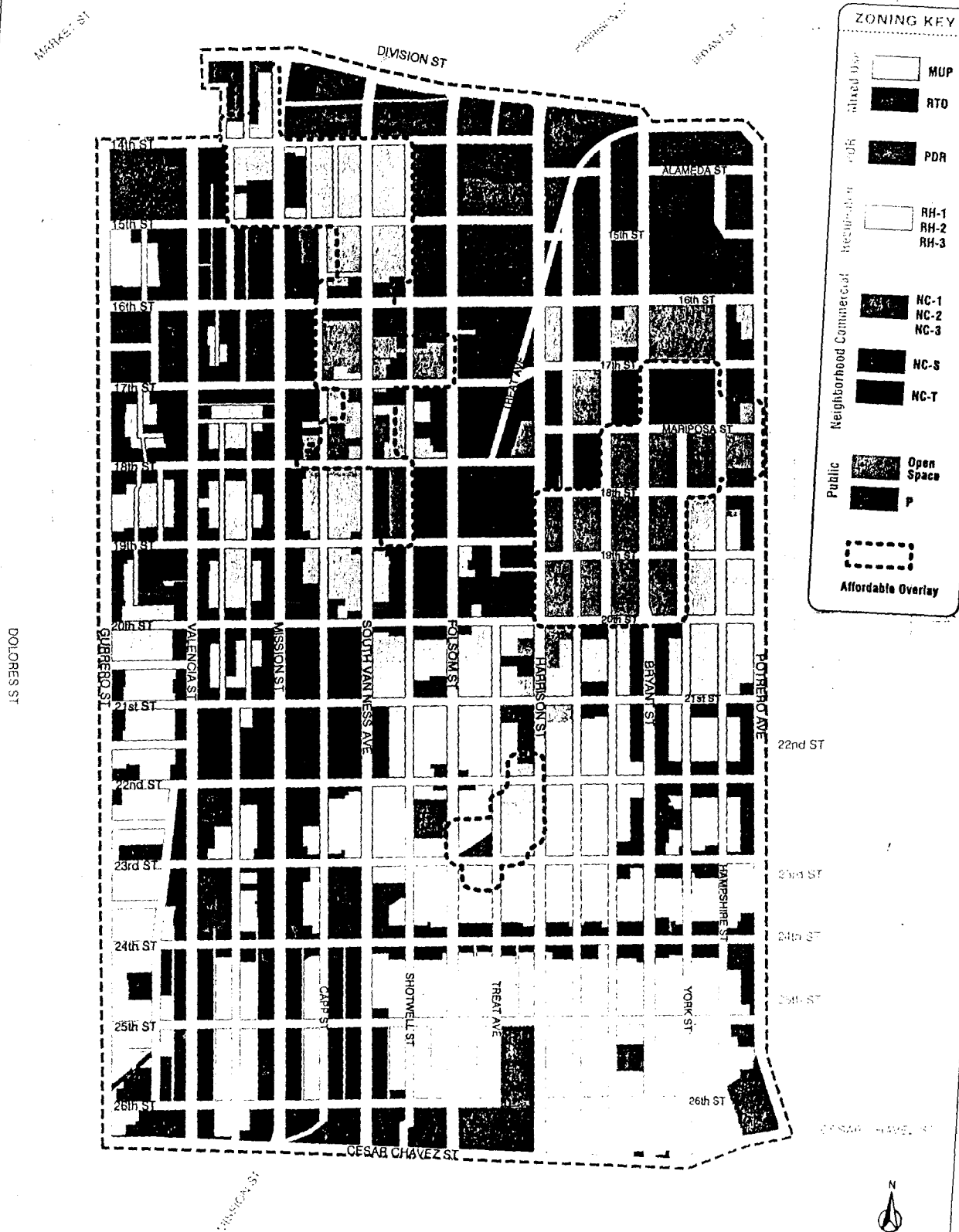
**Policy 1.1.2**

*Generally retain existing heights while allowing for some change where appropriate.*

Heights should generally remain the same along Mission Street, and refined to better reflect the presence of the BART stations at 16th and 24th Streets as well as the adjacent north/south alleys. For the north/south alleys adjacent to Mission and Valencia Streets, heights have been slightly decreased to 40’ to ensure greater levels of sunlight and air. The existing heights of 40’ in the residential area south of 20th Street and east of South Van Ness are retained, while an increase to 55’ north of 20th Street is proposed to allow for taller, more flexible ground floor spaces for businesses.



# Proposed Zoning



**ZONING KEY**

- MUP
- RTO
- PDR
- RH-1  
RH-2  
RH-3
- NC-1  
NC-2  
NC-3
- NC-S
- NC-T
- Open Space
- P
- Affordable Overlay

supporting commercial uses. The commercial uses are those permitted in C-2 Districts, located in or below the ground story in most instances, and excluding automobile-oriented establishments. Open spaces are required for dwellings in the same manner as in RM-2 Districts, except that rear yards are somewhat smaller and need not be at ground level, and front setback areas are not required.

**RC-3 Districts: Medium Density.** These districts provide for a mixture of medium-density dwellings similar to those in RM-3 Districts, with supporting commercial uses. The commercial uses are those permitted in C-2 Districts, located in or below the ground story in most instances, and excluding automobile-oriented establishments. Open spaces are required for dwellings in the same manner as in RM-3 Districts, except that rear yards need not be at ground level and front setback areas are not required.

**RC-4 Districts: High Density.** These districts provide for a mixture of high-density dwellings similar to those in RM-4 Districts with supporting commercial uses. The commercial uses are those permitted in C-2 Districts, located in or below the ground story in most instances, and excluding automobile-oriented establishments. Open spaces are required for dwellings in the same manner as in RM-4 Districts, except that rear yards need not be at ground level and front setback areas are not required. The high-density and mixed-use nature of these districts is recognized by certain reductions in off-street parking requirements. (Added by Ord. 443-78, App. 10/6/78)

## **SEC. 207. DENSITY OF DWELLING UNITS IN R DISTRICTS.**

The density of dwelling units permitted in the various R Districts shall be as set forth in Sections 207.1, 207.2, 207.5 and 209.1 of this Code. The term "dwelling unit" is defined in Section 102.7 of this Code. (Amended by Ord. 155-84, App. 4/11/84; Ord. 115-90, App. 4/6/90)

### **SEC. 207.1. RULES FOR CALCULATION OF DWELLING UNIT DENSITIES.**

The following rules shall apply in the calculation of dwelling unit densities under this Code:

(a) The entire amount of lot area per dwelling unit specified in Sections 207.5 or 209.1 of this Code shall be required for each dwelling unit on the lot.

Fractional numbers shall be adjusted downward to the next lower whole number of dwelling units.

(b) Where permitted by the provisions of Sections 207.5, 209.1 and 209.2 of this Code, two or more of the dwelling and other housing uses specified in said sections may be located on a single lot, either in one structure or in separate structures; provided that the specified density limits are not exceeded by the total of such combined uses. Where dwelling units and group housing are combined, the maximum permitted density for dwelling units and for group housing shall be prorated to the total lot area according to the quantities of these two uses that are combined on the lot.

(c) Where any portion of a lot is narrower than five feet, such a portion shall not be counted as part of the lot area for purposes of calculating the permitted dwelling density.

(d) No private right-of-way used as the principal vehicular access to two or more lots shall be counted as part of the lot area of any such lot for purposes of calculating the permitted dwelling unit density.

(e) Where a lot is divided by a use district boundary line, the dwelling unit density limit for each district shall be applied to the portion of the lot in that district, and none of the dwelling units attributable to the district permitting the greater density shall be located in the district permitting the lesser density. (Added by Ord. 443-78, App. 10/6/78; amended by Ord. 115-90, App. 4/6/90)

## **SEC. 207.2. SECOND UNITS.**

(a) Second units, as defined and referred to in Government Code Section 65852.2, are precluded in RH-1(D) and RH-1 zoned areas, except where second units are currently permitted under Section 209.1(m) for units designed for and occupied by senior citizens or physically handicapped persons and except as may hereafter be permitted by later amendments to this Code governing second units.

(b) Government Code Section 65852.2 requires a City to adopt either an ordinance permitting or precluding second units within single-family and multifamily zoned areas or, in the alternative, to be subject to certain restrictions set forth in Government Code Section 65852.2(b). The provisions of this ordinance, in light of other provisions of the City Planning Code governing second units, do not result

in the total preclusion of second units within single-family and multifamily zoned areas and therefore San Francisco has a legislative scheme which complies with Government Code Section 65852.2(a). In the event that it is determined, however, that San Francisco's legislative scheme does not comply with Government Code Section 65852.2(a), the following findings are made with the intent of complying with Government Code Section 65852.2(c).

(1) San Francisco's total land area is approximately 49 square miles and much of this land is not open to development because of topography or public ownership. San Francisco does not have the option open to many other cities of annexing undeveloped land currently outside its borders.

(2) San Francisco already has higher density development than other cities in California, both in terms of units per square feet of lot area and in terms of units per linear feet of street frontage. The density for housing development in San Francisco ranges from 4,000 square feet of lot area per unit in RH-1(D) (House, One-Family Detached Dwellings) Districts to 200 square feet per unit in RM-4 (Mixed Residential, High Density) Districts. Except for districts which require a lot width of 33 feet and an area of 4,000 square feet, the minimum lot size for housing development is 2,500 square feet in area, following the standard lot size in San Francisco (25 × 100 square feet), or 1,750 square feet for lots within 125 feet of a corner. This density and lot size requirement allows greater density than other jurisdictions in California where the typical density and lot size is about 5,000 square feet per unit for single-family dwellings and 1,500 square feet per unit for multifamily development.

(3) San Francisco is the most densely populated city in California. It is the fourth most densely populated city in the nation following only New York City and two cities in New Jersey (Jersey City and Patterson).

(4) The limited land area and the limited developable land area of San Francisco make it difficult to provide sites to replace single-family houses lost through conversion to a higher density. Once single-family homes are converted into multiple dwelling structures by the addition of a second unit, single-family housing stock is eliminated from the

existing supply of single-family homes. The irrevocable loss of the limited supply of single-family housing stock throughout the City will adversely affect the health, safety and welfare of San Francisco residents.

(5) Single-family residences have in recent years been demolished at a faster rate than any other residential structures in the City primarily because new multiple-unit residential development in the City often occurs as the result of the demolition of single-family homes in multiple-unit districts. Single-family homes were 37 percent of the residential units demolished in 1984, and 61 percent of the residential units demolished in 1983. Single-family homes represented an even larger percentage of the residential structures demolished. Single-family homes were 86 percent of the residential structures demolished in 1984, and 74.4 percent of the residential structures demolished in 1983.

(6) Single-family structures represent only 1/3 of all residential structures in San Francisco compared to 60 percent of the residential structures in the State of California. Single-family homes accounted for 18 percent of the new housing units in San Francisco in 1984, and 7 percent of the new units in 1983. Other jurisdictions in California had single-family structures representing approximately 50 percent of their new residential building permits for the same period.

(7) The number of families in San Francisco declined in the years from 1970 to 1980, as evidenced by the school enrollment for the population group under 15 years old. The decline in enrollment was from 106,900 to 83,790. The zoning policy of the City and County of San Francisco should encourage families to live in the City rather than encouraging them to leave the City. A further decline in the number of families living in the City is detrimental to the public health, safety and welfare.

(8) The addition of second units to single-family dwellings usually results in an increase in the cost of those dwellings, and, in addition, to the cost of the remaining smaller supply of single-family homes without second units. An increase in the cost of these types of dwellings will discourage families from living in the City because the cost of dwellings most suitable for families will be beyond the means of many who would otherwise live in the City.

(9) San Francisco will probably face a need for more large units in the future than it did in the past, as the population ages and the new baby boom continues. Many women born between 1945 and 1952 who delayed child-bearing during the 1970's are now having babies at the same rate as women born after 1952.

(10) The addition of second units in single-family houses throughout the City will irrevocably deplete its limited supply of single-family homes and discourage families from living in the City by removing the type and size of dwelling units most suitable for families. Many of the residential parcels in the City are less than 2,500 square feet in size or 1,750 square feet for corner lots and do not meet minimum lot size standards. Many of these parcels were developed without required garages or with minimal garage space, and do not comply with existing off-street parking requirements. The addition of second residential units in these areas could only worsen existing congestion.

(11) Parking problems are severe in a number of areas of the City because of its dense population. The addition of second units in such areas will exacerbate the parking problem. Imposing off-street parking requirements on secondary units would only partially alleviate that problem in that additional units cause increased traffic other than that engaged in by the occupants of the units (such as persons visiting the occupants for social or business purposes) as well as by the occupants of the units.

(12) Increased parking problems in areas of the City already burdened with traffic congestion adversely affects the health, safety and welfare of the residents of such areas by interfering with access to off-street parking spaces, requiring additional police services to control traffic problems and unlawful parking, requiring occupants and visitors to park further from their homes (thereby also exposing themselves to greater inconvenience and, in some instances, threat to safety), and interfering with access by emergency vehicles during an emergency (a problem which is further complicated in areas with narrow streets, winding roads, and other topographical features which make access by vehicles difficult).

(13) A need exists in San Francisco for additional affordable housing. Allowing second units in RH-1(D) and RH-1 Districts is one means of providing such

housing. However, to allow second units without restriction in all areas currently zoned RH-1(D) and RH-1 would adversely affect the health, safety and welfare of the public by permitting the conversion of an undue number of single-family houses to multi-family units; by eliminating low-density residential areas in the City and thereby depriving those who desire to live in the City without the stress of living in higher-density areas of their opportunity to do so; and by permitting second units to be added in areas where undue traffic congestion and the attendant difficulties described above, will occur.

(14) A further period of time is needed in order to determine those areas of the City where the traffic congestion problems described above would be least likely to occur and where second units may therefore be permitted without adverse impact to the public.

(15) There are no large districts suitable for the provision of second units, but instead there are small subareas which must be reviewed on a case-by-case basis with community participation in the review process. A case-by-case review is needed in order to determine those areas of the City where the traffic congestion problems described above would be least likely to occur and where second units may therefore be permitted without adverse impact to the public. Furthermore:

(A) The City Planning Code presently permits a secondary unit in all single-family homes in RH-1(S) (House, One-Family with Minor Second Unit), RH-2 (House, Two-Family) and RH-3 (House, Three-Family) Districts no matter what the lot size. Second units in single-family homes are permitted in all other multifamily residential districts (all RM and RC Districts), depending on the size of the lot.

(B) The City Planning Code Section 209.1(c) permits the mapping of the RH-1(S) (House, One-Family with Minor Second Unit) District. These RH-1(S) Zoning Districts provide for a two-family dwelling with the second dwelling limited to 600 square feet of net floor area. The second unit remains subordinate to the owner's unit and the structures retain the appearance of single-family dwellings. The RH-1(S) Zoning District has been mapped in four areas of the City. Additional mapping of the RH-1(S) Zoning District may be used to legalize existing secondary units in single-family homes and to increase the number of secondary units.



(C) Dwellings specifically designed for and occupied by senior citizens and handicapped persons are presently permitted at a density ratio or number of dwelling units not exceeding twice the number of dwelling units otherwise permitted as a principal use in the district by the City Planning Code (Section 209.1(m)).

(16) Restricting second units in single-family homes in San Francisco's RH-1(D) and RH-1 Zoning Districts may limit the housing opportunities of the region. However, over time, applications for RH-1(S) zoning designation may be reviewed on a case-by-case basis by the City Planning Commission and its staff, the Board of Supervisors and the Mayor and where second units would be appropriate and would not adversely affect the public health, safety and welfare of residents of the City and County of San Francisco, such rezoning applications would be approved. Neither the provisions of this Section nor those of Government Code Section 65852.2 preclude the City from hereafter amending this Code in order to permit second units in additional situations designed to address specific housing needs and circumstances unique to San Francisco.

(17) San Francisco has been and will continue to be a major provider of affordable housing opportunities in the region.

(A) Currently (1986) San Francisco administers 6,766 units of public housing and 2,574 Section 8 certificates.

(B) Article 34, Section 1 of the California Constitution requires the approval of the electorate as a condition to the development or acquisition of a low-rent housing project by the local jurisdiction. San Francisco has met the requirement with the City's voters approving the development of a maximum of 3,000 low-income housing units by a vote on Proposition Q on November 2, 1976. Together with the units previously approved, approximately 4,000 low-income housing units may be developed, constructed or acquired.

(C) Between 1981 and 1985, San Francisco's housing production efforts included, but were not limited to the following:

1. San Francisco undertook a major rezoning of underutilized land which will allow the development of 14,000 housing units. Another 1,700 units are underway on vacant publicly owned sites in the City.

2. San Francisco set aside \$10,000,000 in general-fund monies for an Affordable Housing Fund. \$6,100,000 of this amount is committed to create 443 housing units including the renovation of 82 vacant public housing units into privately managed two- and three-bedroom apartments.

3. San Francisco combined \$1,000,000 in federal Community Development Funds with the proceeds of an \$8,000,000 bond issue to finance home improvement loans for low- and moderate-income homeowners.

4. The Office Housing Production Program (OHPP), under which high-rise office developers are required to build or contribute to housing on a formula based on the size of their projects was instituted in 1981. The program has resulted in \$25,000,000 and over 3,700 housing units to date.

5. The City of San Francisco has sold \$84,000,000 in two bond issues since 1982 to provide 30-year, 10¾ percent mortgages to some 900 low-to middle-income first-time homebuyers. In addition a \$42,000,000 bond issue was sold to finance up to 400 homes with 9.8 percent mortgages. In June, 1985 the City sold \$44,000,000 in mortgage revenue bonds to finance the construction of 563 units of rental housing on five sites.

(D) Between 1980 and mid-1985 community-based nonprofit organizations which receive Community Development Block Grant funding built 1,166 new housing units for low- and moderate-income households. At the time of the 1985 report on their activities they had 200 units under construction, and 426 units planned. During this same time the organizations rehabilitated 1,780 units for lower-income households, had 426 units undergoing rehabilitation, and had plans to rehabilitate 1,285 units. (Added by Ord. 155-84, App. 4/11/84; amended by Ord. 526-85, App. 11/27/85; Ord. 324-86, App. 8/8/86)

#### **SEC. 207.4. DENSITY OF DWELLING UNITS IN NEIGHBORHOOD COMMERCIAL DISTRICTS.**

The density of dwelling units in Neighborhood Commercial Districts shall be as stated in the following subsections:

(a) The rules for calculation of dwelling unit densities set forth in Section 207.1 of this Code shall apply in Neighborhood Commercial Districts, except

Transit, Moderate-Scale Mixed Use Districts (NCT-3). The project would also increase height limits in certain areas and reduce height limits in other areas, and establish new fees. The proposed zoning and height reclassifications would increase the potential for residential development in the area.

Preliminary Recommendation: Adopt CEQA Findings.  
(Continued from Regular Meeting of March 8, 2007)

23. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395)

**MARKET AND OCTAVIA PLAN AMENDMENTS** - The Planning Commission will hold a **public hearing to consider additional information related to the Market and Octavia Plan and may consider adopting General Plan, Planning Code, Zoning Map amendments and adopting other actions related to the Market and Octavia Plan.**

The Plan encompasses an irregularly shaped area in northeast San Francisco. It extends two to three blocks in width along Market Street for ten blocks and extends north along the former Central Freeway alignment at Octavia Boulevard for ten blocks. Along Market Street, the Plan Area boundaries extend from 11th and Larkin Streets in the east to Noe and Scott Streets in the west. The boundary jogs north along Noe Street, Duboce Avenue, Scott Street, Waller Street, Webster Street, Oak Street, Buchanan Street, and Grove Street; continues north along the former Central Freeway alignment to include the area up to Turk Street between Laguna and Franklin Streets; and east of Franklin Street jogs south to Grove and Larkin Streets. The Project Area boundary extends south of Market Street between 10th and 11th Street to Howard Street. Extending west along Howard Street, the Project Area boundaries jog along Division, Clinton, Stevenson, Fourteenth, Guerrero, and Sixteenth Streets. The Project Area is comprised of 89 Assessor's Blocks in entirety or in part, including the whole of Blocks 759, 761, 768, 770, 783, 785, 792 to 794, 806 to 809, 813 to 819, 830 to 841, 850 to 858, 863 to 876, 3501 to 3506, 3512 to 3514, 3533 to 3538, 3541 to 3545, 3556 to 3560; and portions of 3507 (lot 40), 3510 (lots 49, 57), 3511 (lots 1, 23, 25, 31, 33, 74, 75, 80, 82, and 93), and 3532 (lots 14, 19B, 35, 36, 88, 89, 90 and 91).

Hearing # 8 – March 22, 2007 - Schedule for Planning Commission Hearing

- Respond to Commissioner comments on Affordable Housing, Height Controls and other topics (item a)
- Finalize Plan for Adoption (item a)
- Consider taking action to approve resolutions adopting amendments to the General Plan, Planning Code, Zoning Map and approving interim procedures within the project area (items b, c, d, e)

The Planning Commission has held a number of public hearings to consider Case No. 2003.0347MTZU. Hearings were held on October 26, 2006, Nov. 2, 2006, Nov. 9, 2006, Nov. 16, 2006, January 11, 2007, Feb. 8, 2007, and Feb. 15, 2007. At the hearings, the Planning Commission considered various aspects of the Project, including adopting General Plan, Planning Code and Zoning Map amendments and adopting interim procedures for review of projects within the plan area to realize the vision articulated by the community through the Market and Octavia community planning process. For more information on this six-year planning process, please visit our website at <http://marketoctavia.betterneighborhoods.org>. The Commission has considered staff presentations and public comment on specific aspects of the Plan and proposed amendments at each hearing. The Planning Commission will consider the following items and may take action on or after March 15, 2007. Be advised that due to the nature of the public hearings, the Commission may continue any particular hearing item and/or may not hear all items at the hearing. To confirm the final Commission Hearing schedule, on the week of the hearing please visit:

EXHIBIT D

BOS File C70560, CSFN-6/12/07

[http://www.sfgov.org/site/planning\\_meeting.asp?id=15840](http://www.sfgov.org/site/planning_meeting.asp?id=15840) or call Aksei Uisen at 415-6616. For more information on this six-year planning process, please visit our website at <http://marketoctavia.betterneighborhoods.org>. In addition to providing information about the proposed General Plan, Planning Code and Zoning Map amendments, staff will also provide follow-up information on issues discussed at earlier hearings.

Together, the Commission actions are intended to implement the Market and Octavia Plan. In addition, an historic survey is currently being done of the project area; property owners considering constructing or altering a building in this area should consult with Planning Department staff to determine the historic resource status of their property. Property owners and interested parties are advised that height limits and other controls do not provide unqualified rights to development, but rather, proscribe the maximum potential building envelope that may be permitted; proposed buildings may not reach the maximum permitted building height/envelope. The Commission may also consider establishing interim procedures to guide the review of plans to construct new structures and alter existing structures to protect potentially eligible historic resources in the Plan Area prior to conclusion of an historic resources survey.

Members of the public may review a copy of the proposed amendments at the San Francisco Planning Department office at 1660 Mission Street 5th Floor, San Francisco, CA 94103, at the Public Library (the Main Library 100 Larkin St., and Harvey Milk branch library, 1 Jose Sarria Ct. (near 16th & Market Sts.)). An electronic copy of the proposed amendments and actions is available at <http://marketoctavia.betterneighborhoods.org>. At this hearing, the Planning Commission will consider the following aspects of the Plan:

- a. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395) **MARKET AND OCTAVIA PLAN AMENDMENTS** - **Informational hearing on components of the Market and Octavia Plan.** Described in item 23 above. Staff will respond to Commissioner comments and questions on affordable housing, height controls and other topics raised at earlier public hearings. The Planning Commission may also finalize the Plan for adoption of amendments to the General Plan, Planning Code, Zoning Map and adoption of interim procedures for review of projects within the Plan area.

Preliminary Recommendation: Informational Item, no action requested.

- b. 2003.0347MTZU J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395) **MARKET AND OCTAVIA PLAN AMENDMENTS** **Adoption of amendments to the General Plan** for the area described in item 23 above. The proposed General Plan amendment would add a new area plan, the Market and Octavia Area Plan, and make related amendments to the Commerce and Industry, Housing, Recreation and Open Space and Transportation Elements, the Civic Center Area Plan, Downtown Area Plan.

Preliminary Recommendation: Adopt a Draft Resolution amending the General Plan.

- c. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395) **MARKET AND OCTAVIA PLAN AMENDMENTS** **Adoption of amendments to the Planning Code for the area described in item 23 above. The proposed Planning Code amendment would revise Planning Code controls, including controls for land use, height and bulk, building design, loading, parking and establish new fees.**

In order to fund the community improvements identified in the Plan, the Program document proposes to establish a Development Impact Fee, requiring the growth that generates the demand for additional infrastructure and services to provide some of the revenue required to fund the improvements. The proposal establishes a development impact fee on new residential and commercial development in the Plan Area. The fee

# Coalition for San Francisco

BOARD OF APPEALS

JUN 6 8 2007

# Neighborhoods

APPEAL #

EXHIBIT E  
BOS File 070560  
CSFN - 6/12/07

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June 7, 2007

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Golden Gate Heights Nghbrd Assn

Greater West Portal Nghbrd Assn

Haight Ashbury Improvement Assn

Inner Sunset Action Committee

Jordan Park Improvement Assn

Laurel Heights Improvement Assn

Lincoln Park Homeowners Assn

Marina Civic Improvement &

Property Owners Assn

Miraloma Park Improvement Club

Mission Creek Harbor Assn

ew Mission Terrace Improvement Assn

North Beach Neighbors

North Park Neighbors

Oceanview, Merced Heights,

Ingleside --- Neighbors in Action

Outer Mission Residents Assn

Pacific Heights Residents Assn

Panhandle Residents Organization/

Stanyan-Fulton

Potrero Boosters Neighborhood Assn

Richmond Community Assn

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Russian Hill Improvement Assn

Russian Hill Neighbors

Stop 55/Preserve Our Waterfront

Sunset Heights Assn of

Responsible People

Sunset-Parkside Education &

Action Committee

Telegraph Hill Dwellers

Twin Peaks Council & Open

Space Conservancy

Twin Peaks Improvement Assn

West Presidio Neighborhood Assn

Honorable Members, San Francisco Board of Appeals:  
President Randall Knox; Vice-President Michael Garcia;  
Commissioners Katherine Albright, Frank Fung, Robert Haaland

**RE: FILING-REQUEST** Board take jurisdiction and hear appeal re Zoning Administrator use of February 27, 2007 Letter of Determination to justify the lack of provision of such legally adequate notice as is required by The San Francisco Sunshine Ordinance to inform the public re legislation to create three (3) new RTO, NCT, and NCT-3 zoning classifications to establish higher-density "transit-oriented" land use districts in those areas and neighborhoods of San Francisco as are proximal to such "Primary Transit Streets" and/or "Transit Corridors" as are already mapped and/or designated citywide.

Dear President Knox and Commissioners:

The Coalition For San Francisco Neighborhoods ("CSFN") requests that the Board of Appeals act to take jurisdiction and grant hearing on a matter of critical import to the whole of San Francisco. The basic issue at hand is essentially as follows:

## QUESTION

Can any San Francisco government policy and/or legislative body act to adopt or to recommend adoption of legislation proposing amendment to the San Francisco Planning Code to create three (3) new "transit-oriented" zoning classifications, allowing as-of-right higher-density/reduced parking development, for potential implementation in such areas and neighborhoods of San Francisco as are proximal to those "Primary Transit Streets" and/or "Transit Corridors" as are already designated and/or mapped citywide **without** providing such legally adequate notice as is required by The San Francisco Sunshine Ordinance, Chapter 67 of The San Francisco Administrative Code?

## ANSWER

No.

The San Francisco Sunshine Ordinance, Section 67.7, AGENDA REQUIREMENTS: regular meetings. states, at (a) and (b) thereof:

"At least 72 hours before a regular meeting, a policy body

shall post an agenda containing a **meaningful description of each item of business** to be transacted or discussed at the meeting. ... **A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item."**

Such legally adequate notice is required before **any item of business can be legally considered** by a policy and/or legislative body.

San Francisco's Sunshine Ordinance **cannot be violated**. Section 67.36 of said Sunshine Ordinance states:

"The provisions of this Sunshine Ordinance **supercede other local laws**. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information shall apply. (Added by Proposition G, 11/2/99) "

**No such legally adequate notice** -- in compliance with said Sunshine Ordinance Section 67.7 standard and criteria-established threshold whereby the adequacy, or lack thereof, of published notice **shall be assessed -- has been provided** regarding subject legislation crafted to create three (3) new "transit-oriented" zoning classifications:

- "RTO (Residential Transit-Oriented Neighborhood) District",
- "NCT (Neighborhood Commercial Transit) District", and
- "NCT-3 (Moderate-Scale Neighborhood Commercial Transit) District",

which three (3) new zoning classifications are proposed by new Planning Code Sections 206.4, 702.1(b), and 731.1, respectively, for citywide application.

**No such legally adequate notice** has been published in **any** Planning Commission Notice of Meeting and Calendar ("agenda") to comply with Sunshine Ordinance Section 67.7 requirements that a **"meaningful description"** be published concerning subject legislation **prior to** any meeting whereat consideration of said new

- 
1. See, attached hereto as **Exhibit A**, the foreshet to the SUNSHINE ORDINANCE TASK FORCE PRESENTATION OF THE SAN FRANCISCO SUNSHINE ORDINANCE 2002, which foreshet emphasizes **both** the importance of **and** the intent of law to ensure public participation in the government decision-making process.
  2. Find subject legislation proposing Planning Code text amendments to create said new RTO, NCT, and NCT-3 citywide zoning classifications encapsulated in Planning's 3/29/07-published document, Materials For Market & Octavia Plan Adoption Planning Case No. 2003.0347EMTZU, and in the 254-page Exhibit T-3-B thereof, entitled "Draft Board of Supervisors Ordinance [Planning Code amendments to implement The Market and Octavia Area Plan]", wherein said RTO, NCT, and NCT-3 proposed text amendments are found at pages 178, 165, and 236, respectively.
- \* **N.B.** - **Not only** does subject legislation create three (3) new zoning classifications, **but, in addition**, in the bulk of its 254 pages are **revisions to over fifty (50)** current sections, and/or subsections, of the San Francisco Planning Code to **change currently-established citywide land use standards and controls** — including height and bulk, density, parking, demolition, etc. — in order to enable the **creation of**, and the subsequent implementation of, said higher-density/reduced parking "transit-oriented" RTO, NCT, and NCT-3 **citywide** zoning classifications in such areas and neighborhoods of San Francisco as are proximal to those "Primary Transit Streets" and/or "Transit Corridors" as are already mapped citywide.
- \*\* See, at Exhibits B.1 & B.2 hereto, **said mapped "Transit Corridors"** along designated **"Primary Transit Streets"**.

RTO, NCT, and NCT-3 legislation was scheduled for discussion and/or action by the Planning Commission. Subject Planning Code text amendment legislation was not published for public review until September 28, 2006, on which day the Planning Commission acted to adopt a Resolution of Intention to initiate such amendments to the Planning Code as were contained in said 250-page-plus draft Ordinance before the Commission.

All notice published in Planning Commission meeting agendas, and in materials provided by the Department of City Planning ("Planning") for public information purposes, **is deficient** in that said notice **describes subject legislation** -- creating said new higher-density "transit-oriented" RTO, NCT, and NCT-3 zoning classifications -- as **impacting specifically and only** those areas of San Francisco as are located **within** those boundaries, set forth by The Market and Octavia Area Plan, Planning Case No. 2003.0347EMTZU.<sup>3</sup>

No notice has informed the public that **subject legislation** -- creating said three (3) new higher-density "transit-oriented" RTO, NCT, and NCT-3 zoning classifications -- **will, if adopted, provide the required "ready tool" to enable implementation** of such higher-density land use districts in other like-character, similarly-situated, "transit-oriented" districts and/or areas and neighborhoods throughout San Francisco as are proximal to those "Transit Corridors"<sup>4</sup> and/or "Primary Transit Streets" as are already mapped and/or designated citywide.

**Creation of said three (3) new citywide zoning classifications is the seminally significant aspect of that Planning Code text amendment legislation encapsulated within "The Market and Octavia Area Plan". [See again Footnote 2, hereto.]**

Publication of such notice as would contain that "**meaningful description**" of subject legislation **as is required** by San Francisco's Sunshine Ordinance Section 67.7 **would alert** San Francisco residents regarding pending proposals to amend Planning Code text to create said three (3) new "transit-oriented" RTO, NCT, and NCT-3 zoning classifications, which classifications **can and will** be applied to other areas of San Francisco to effect reorganization of San Francisco's current land use districts. Provision of said "**meaningful description**" -

"sufficiently clear and specific to alert a person of average intelligence and education...that he or she may have reason to attend the meeting or seek more information on the item" -

**would enable** interested members of the public to review and respond to subject proposals -- crafted to foster higher-density development, with reduced and/or

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3. See, attached hereto as **Exhibits C.1 through C.9**, pages from March 22, 2007 and April 5, 2007 Planning Commission Meeting Agendas, **which** 3/22/07 four (4) attached pages [Exhibits C.1 to C.4] and 4/5/07 five (5) attached pages [Exhibits C.5 to C.9] **evidence said deficient notice which describes subject legislation** to amend Planning Code text, to create said three (3) new **citywide zoning classifications, as being specific to, and limited in potential application only to**, the Market/Octavia Plan area. Note especially the 3/22/07 Agenda page 11 [Exhibit C.2] whereon, at item "c." project description for 2003.0347EMTZU, see the words "Adoption of amendments to the Planning Code" followed by the words **in bold type "for the area described at item 23 above"** And at said item 23 description [Exhibit C.1, page 10 of said 3/22/07 Agenda], **see specific boundaries set forth to describe the potential applicability of such** three (3) new RTO, NCT, and NCT-3 zoning classifications **as being limited to said Plan area only**.

4. Refer again to **Exhibits B.1 & B.2**, hereto, to see mapping of said "Transit Corridors".

eliminated parking requirements, along "Transit Corridors" throughout the City -- **and would promote** that informed public participation in the government decision-making process as is engendered by, and guaranteed by, the law.

The San Francisco Charter, Section 4.106(c) states:

"The Board of Appeals **shall** hear and determine appeals where it is alleged that there is error or abuse of discretion in **any** order, requirement, decision, or determination made by the Zoning Administrator **in the enforcement of the provisions of any ordinance** adopted by the Board of Supervisors creating zoning districts or regulating the use of property in the City and County."

CSFN requests that the Board of Appeals act to take jurisdiction and grant hearing in subject matter on but not limited to the following bases:

- I. The Zoning Administrator, **in error and abuse of discretion**, neglected to provide that quality of published notice as is required by the above-cited Section 67.7 of The San Francisco Sunshine Ordinance in **violation of said Ordinance**; and
- II. The Zoning Administrator **further compounded, heightened, and aggravated error and abuse of discretion** by choosing to **use subject February 27, 2007 Letter of Determination as a vehicle to excuse and justify** said lack of provision of such legally adequate notice as is required by the San Francisco Sunshine Ordinance, in **violation** thereof, while, at the same time, acknowledging in said Letter of Determination that subject legislation--creating said new "transit-oriented" RTO, NCT, and NCT-3<sup>5</sup> zoning classifications--**can, and will, impact other areas** of the City.

N.B.- In his 2/27/07 Letter of Determination the Zoning Administrator alludes to **only one** of said three (3) new zoning classifications, thereby "keeping silent" on the proposed new **RTO (Residential Transit-Oriented) District**, creation of which will potentially **adversely affect** those San

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5. See said 2/27/07 Letter of Determination attached hereto as **Exhibit D**, whereon note the following statements:
    - page 2/paragraph 2, "The physical effect on the environment **will occur when the zoning classification is applied to a particular area of the City. At that time...putting that new zoning classification into effect in a specified location...**" and "...the physical effects of **applying the zoning classification in a specified area...**"
    - page 1/last paragraph, "...the Department might **propose** in the future, and the Commission...**adopt...**(such)...District **elsewhere in the City...**"..."When, and if.."
    - page 1/paragraph 2, "**There are draft proposals under consideration for NCT Districts in the Eastern Neighborhoods.**" N.B.- Said "draft proposals" to implement NCT Districts in the Eastern Neighborhoods **and RTO Districts there, as well, are already published in** Planning's 3/13/07-published Draft Mission Area Plan. See copy of said 3/13/07-published proposals
      - \* attached hereto as **Exhibits E.1 and E.2**. Compare Zoning Administrator 2/27/07 **denial** of any "official~~ly~~" **proposal** for application of said Districts in "any other portions of the City **at this time.**" [Exhibit D, page 1/paragraph 2]
      - \*\* Implementation of subject new "transit-oriented" zoning classifications **is described** in already-published draft area plans for other sections of the City, as well.



San Francisco RH-1 Single-Family-Dwelling land use districts -- or portions thereof -- as are proximal to the aforementioned "Transit Corridors" and/or "Primary Transit Streets". Planning Code Section 207.2 contains **codified findings setting forth those adverse effects on public health, safety, and welfare of increased density** in San Francisco **and of loss of single-family dwellings.** N.B.- Potential "infill" development, enabled as-of-right by subject RTO legislation, will **intensify such impact and adverse effect and will potentially thwart** those voter-mandated Priority Policies codified in Planning Code Section 101.1(b), **as well.** <sup>6</sup> <sup>7</sup>

In his 2/27/07 Letter of Determination the Zoning Administrator **denies** that he is required to provide the public such legally adequate notice as contains such "**meaningful description**" of subject legislation as is required by Sunshine Ordinance Section 67.7, thereby aborting and/or circumventing disclosure of that material information required to **ensure** that interested members of the public are afforded opportunity to review and respond to pending legislation proposing **the creation of said three (3) new higher-density "transit-oriented" RTO, NCT, and NCT-3 zoning classifications, which classifications, once implemented, will impact all areas of the City.**

The Zoning Administrator **further asserts** that it is not necessary to provide such Sunshine Ordinance Section 67.7 - required "**meaningful description**". He states, "**The mere creation of a new type of zoning district does not require notice...**" <sup>8</sup>, **ignoring** Sunshine Ordinance Section 67.7's requirement that notice **shall** be published regarding **any and all** items of business **and shall contain such "meaningfull description"** -- consistent with those established standards and criteria as are set forth in said Section 67.7 -- **for each item to be transacted or discussed at the at the meeting.**

Throughout subject 2/27/07 Letter of Determination, the Zoning Administrator **asserts** that he is required to inform citizens about subject proposed three (3) new higher-density "transit-oriented" RTO, NCT, and NCT-3 zoning classifications **only when -- through the process of serial application of same --** said already-created classifications are slated for implementation in a particular segment of San Francisco, **thereby presuming that he has the right, and/or authority, to deny citizens that required notice** which would protect and ensure their **due process right to comment at the time legislation to create a new zoning classification** is before the Planning Commission for consideration and action.

III. By his choice to **use a Letter of Determination to respond to Planning Commission inquiry** -- regarding the adequacy of such notice as has been provided concerning creation of said three (3) new "transit-oriented" RTO, NCT, and NCT-3 citywide zoning classifications -- the Zoning Administrator **further heightens and aggravates error and abuse of discretion, since use of said "Letter of Determination" - mechanism/process, will potentially -- if unchallenged -- set, and codify, precedence to violate both** voter-mandated San Francisco Sunshine Ordinance standards and requirements for published notice **and**

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6. See copy of said Planning Code Sec. 207.2 attached hereto as **Exhibit F**. [Emphasis = arrows/underline - added.]
  7. Said Priority Policies **require that** the City's supply of affordable housing be preserved and enhanced **and that** existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.
  8. Find said statement in last paragraph, page 1 of said Letter, **Exhibit D** hereto.

**the intent of State and City Open Government laws, as well <sup>9</sup>, thereby barring citizens from process due them** by the willful denial of such legally adequate notice as would inform the public of legislation pending action before the Planning Commission -- in this case, legislation proposing **the creation of** subject three (3) new higher-density "transit-oriented" zoning classifications and potential reorganization of existing land use districts in San Francisco, if adopted.

CSFN requests that the **Board of Appeals disregard** that **March 14, 2007 deadline for appeal**, alluded to in the last paragraph of subject February 27, 2007 Letter of Determination, **on the grounds** that the Zoning Administrator has **inappropriately used said Letter of Determination as a device to excuse and justify the lack of provision of such legally adequate notice as is required by the San Francisco Sunshine Ordinance, in violation thereof, and, in so doing, has abused the power and authority granted him.**

Regarding dates set forth as material to CSFN Request for Jurisdiction:

Subject Zoning Administrator Letter of Determination, dated **February 27, 2007**, was presented to Planning Commissioners on **March 1, 2007**. Neither the Zoning Administrator nor the Planning Commission Executive Secretary distributed said 2/27/07 Letter of Determination to interested neighborhood organizations <sup>10</sup> **and have not, to date, distributed** same to said organizations for their review and response.

**On March 8, 2007**, the Planning Commission **requested a written opinion** from the City Attorney regarding the question of

- adequacy of the notice published to alert San Francisco residents regarding subject legislation creating three (3) new "transit-oriented" RTO, NCT, and NCT-3 zoning classifications;
- potential for applicability of said RTO, NCT, and NCT-3 zoning classifications to other already-mapped "transit-oriented" areas of the City; and
- quality and scope of environmental review necessary in light of CEQA's standard requiring evaluation of that "reasonably foreseeable" cumulative impact citywide second to the creation of such three (3) new "transit-oriented" zoning classifications.

**On March 15, 2007, a written response** to said Planning Commission request **was provided** by Deputy City Attorney ("DCA") Susan Cleveland-Knowles -- author of subject legislation creating said new zoning classifications -- and DCA Kate H. Stacy, in which said DCAs concur with subject February 27, 2007 Letter of Determination and acknowledge their role in advising the Zoning Administrator "in making his original determination". <sup>11</sup> Concurring with statements found in subject Zoning Administrator 2/27/07 Letter of Determination, DCAs Cleveland-Knowles and Stacy acknowledge potential application of subject new zoning classifications in other areas of San Francisco to implement higher-density

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9. Refer to Footnote 1, hereon, and to **Exhibit A**, re the stated intent and purpose of Open Government Laws.
10. See letters from the West of Twin Peaks Council and from CSFN attached hereto as **Exhibits G & H**, respectively.
11. See subject 3/15/07 DCA written response, attached hereto as **Exhibit I**, and find said acknowledgement on page 2, in the first sentence under "II", thereof.

"transit-oriented" land use districts therein. <sup>12</sup>

Other aspects of subject DCA written response **require careful scrutiny:**

- DCAs Cleveland-Knowles and Stacy **erroneously** state, "...the **only action** presently before the Commission is to apply these zoning districts to the Market and Octavia Plan Area", <sup>13</sup> **whereas the critically significant action**, pending before the Commission, was **action to create** said three (3) new RTO, NCT, and NCT-3 citywide zoning classifications. <sup>14</sup> Pending before the Commission was **action to approve or to disapprove Planning Code text amendments to create new citywide zoning classifications** for potential application.
- DCA Cleveland-Knowles' and Stacy's use of the phrase "additional notice", in their statement, "...additional notice would be required to **apply these** <sup>15</sup> **newly created zoning districts to another geographic area of the City...**" demonstrates recognition that the provision of "**initial**" notice is required **at the time subject legislation, creating said new RTO, NCT, and NCT-3 zoning classifications, is before the Commission for consideration and action.**
- Citing Planning Code Section 307(a) in their written response, DCAs Cleveland-Knowles and Stacy point to Zoning Administrator duty "...to administer and enforce the provisions of this Code. ... The Zoning Administrator **must** act to pursue the **intent and objectives** of the Code."<sup>16</sup>

\* Said Section 307 requires that Zoning Administrator action "**shall**" be consistent with the expressed **standards, purposes and intent** of this Code..."  
**N.B.- An "interested property owner"** is defined by Planning Code Section 302. PLANNING CODE AMENDMENTS.(b) "as an owner of real property, a resident or a commercial lessee...**upon a showing that such property is influenced by development...**". **Such showing of influence --** as will be exerted citywide by implementation of said three (3) new higher-density "transit-oriented" zoning classifications in the Market and Octavia Plan area **and in other areas of the City -- has been entered into public record** at Planning Commission hearings on the matter.

\*\* In light of that definition of "**interested**" parties, as is **established by** said Planning Code Section 302(b) **and by** the above-cited Sunshine Ordinance Section 67.7, the Zoning Administrator is **required by law** to meet and satisfy such established and codified **standard, purpose and intent** by providing such sufficient, clear, and "**meaningful description**", as is required, **in all notice published** regarding subject proposed Planning Code text amendments to create said three (3) new citywide zoning classifications. **Such standard must control** in the meeting, and/or satisfying, of those noticing requirements as are set forth in Planning Code Section 306.3.

Such full concurrence of said DCA 3/15/07 written response with subject February 27, 2007 Letter of Determination, as is evidenced above, **points to lack of an adequate "due process wall"** to protect and ensure citizens' constitutionally-

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12. See said DCAs' statements in **Exhibit I**, on page 2/ paragraph 2 under "II":  
"...any possible area where the zoning district **may one day be applied.**"  
..."Thus, even though a **new zoning district created...**-such as the Neighborhood Commercial Transit (NCT) District or the Residential Transit Oriented (RTO) District- **may one day be applied to another geographic area of the City...**"
  13. Find said assertion on page 2 of **Exhibit I**, in the last 3 lines of paragraph 2 under "II", thereof.
  14. See again Footnote 2, hereon, re same.
  15. Find said phrase on page 2/paragraph 3 under "II", of **Exhibit I**.
  16. Find said reference in **Exhibit I** on page 1, in the first paragraph under "I".

guaranteed due process rights. This seminally-critical issue requires very careful consideration by Board of Appeals Commissioners. N.B.- The San Francisco Charter, Section 4.102.7, invests the Board of Appeals with power to retain temporary independent counsel, when/if necessary, for purposes of ensuring adequate, fair, objective and proper review and findings.

At CSFN's **March 20, 2007** meeting, the General Assembly voted to appeal subject Zoning Administrator 2/27/07 Letter of Determination by the filing of a request for Board of Appeals jurisdiction and hearing in this matter. Subsequently, at an **April 9, 2007** regularly-scheduled CSFN Land Use Committee meeting and at a **May 25, 2007** specially-called CSFN Land Use Committee meeting aspects of this filing were discussed.

CSFN, herewith, formally requests that the Board of Appeals act to take jurisdiction in this critically important matter for, but not limited to, the reasons set forth above. CSFN notes that **there exists no established deadline for filing such** jurisdiction request whereby CSFN would be barred from obtaining hearing in this matter. To reiterate that request set forth on page 6 hereof, CSFN requests that the Board of Appeals **disregard that March 14, 2007 appeal deadline alluded to** in the Zoning Administrator's 2/27/07 Letter of Determination **on the grounds that** the Zoning Administrator inappropriately used said Letter as a device to excuse and justify the lack of provision of such legally adequate notice as is required.

CSFN requests that hearing on this matter be scheduled for a time when **the full complement** of Board of Appeals Commissioners are present for consideration, deliberation, and action on same.

Regarding focus at upcoming hearing re filing:

CSFN **focus** -- in presentation of subject matter at the scheduled Jurisdiction Request hearing -- **will be on the Zoning Administrator's faulty and inappropriate use of said Letter of Determination as a mechanism to not only** excuse and justify the lack of provision of such legally adequate notice as is required **but** as a mechanism to codify such error and abuse of discretion, **as well**. The **right to focus on same** at subject Jurisdiction Request hearing **is guaranteed** by The San Francisco Sunshine Ordinance Section 67.15. PUBLIC TESTIMONY. (d), which states,

"A policy body **shall not abridge...**(public comment)...**on any basis other than** reasonable time constraints..."

Regarding hearing procedure:

CSFN requests, herewith, that those members of the public present wishing to comment on subject matter **be guaranteed the full three (3) minutes for public comment**, the provision of which full three (3) minutes is **required** by said Section 67.15, Subsection (c) which states,

"Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting **shall be permitted to be heard once for up to three minutes.**" <sup>17</sup>

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17. The words "up to", included therein, indicate that a person is not obliged to speak the full three (3) minutes if he/she does not wish to.

Regarding findings in this matter:

CSFN herewith requests that the Board of Appeals, upon hearing and consideration of this filing, acts to take jurisdiction and grant appeal in this matter based on, but not limited to, findings that

- (1) the nature and gravity of those facts set forth, in subject filing, additional submissions and at hearing in subject matter, warrants hearing of an appeal in the matter regardless of that appeal deadline set forth in subject February 27, 2007 Zoning Administrator Letter of Determination;
- (2) given the critical import of the issue at hand to the whole of San Francisco, the Board of Appeals is bound by obligation and duty, pursuant to the San Francisco Charter, to hear and determine an appeal concerning allegations that
  - the Zoning Administrator, in error and abuse of discretion, used subject February 27, 2007 Letter of Determination **both** to excuse and justify the lack of provision of such legally adequate notice -- regarding proposed creation of subject three (3) RTO, NCT, and NCT-3 citywide zoning classifications -- as is required by law, **and** to avoid provision of same; and
  - said February 27, 2007 Letter of Determination -- if upheld and/or left unchallenged -- would set, and/or codify precedence to withhold such legally adequate notice as is required, thereby causing great harm to San Franciscans by setting, and/or giving credence to, illegal precedence and procedures.

Thank you for your careful consideration of this filing.

*Judith Berkowitz JK*

Judith Berkowitz  
President

## State and City Open Government Laws

### The San Francisco Sunshine Ordinance Task Force

Easy access to government by members of the public is essential to having an effective democratic society. We in California and in San Francisco have the necessary access to government if we know what the laws are, both state and in the city, and how to use them.

There are three laws that make it easier to participate in the government decision-making process. These laws are: The Brown Act, the Public Records Act; and the San Francisco Sunshine Ordinance.

California's Brown Act requires that the Board of Supervisors and any board or commission established by the City Charter, ordinance or resolution and advisory commissions and committees of the City created by a board or commission and any standing committee of a board or commission conduct their business at open and public meetings. In short, no government business may be conducted behind closed doors. All business must be conducted in the open where it may be scrutinized.

California also recognizes that information is essential to participatory government and enacted the Public Records Act that requires local governments to make most public records available within ten days. There may be a reasonable charge for copying.

The City's Sunshine Ordinance broadened the Brown Act and the Public Records Act. The Sunshine Ordinance was designed to assure that not only would government be open, but that the public would be able to participate intelligently in the decision-making process. The Sunshine Ordinance increased the number of City-authorized groups required to comply with the Brown Act. It also strengthened the access to public records requirements. The Ordinance assures that members of the public have the right to speak to the deliberative body before a decision is made. In summary, the open government laws require that:

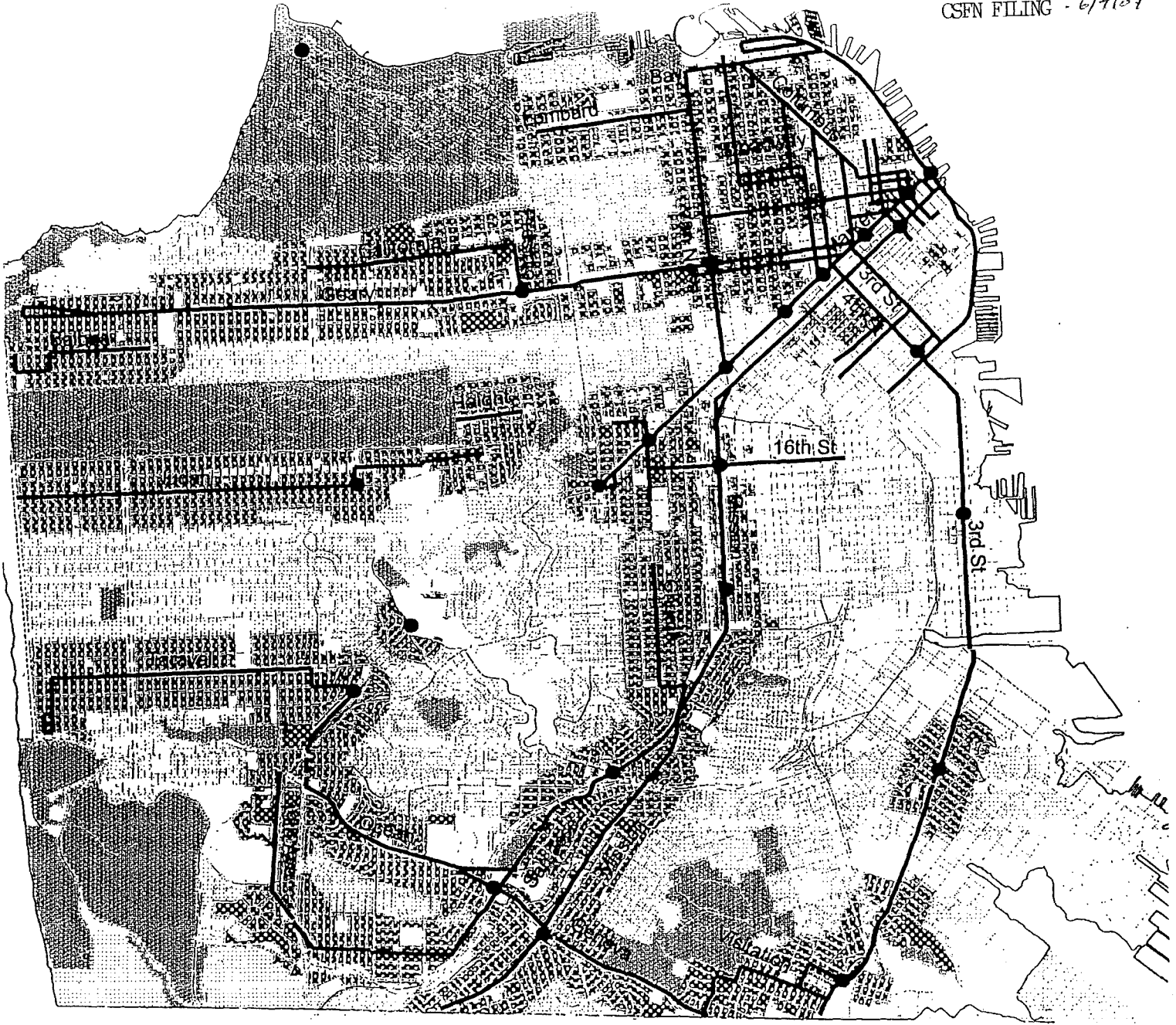
- City Boards and Commissions meet in public
- City Boards and Commissions give notice and post agendas in a timely manner, including the locations of meetings
- Citizens have a right to obtain and review public records
- Citizens have a right to speak to the issues at most public meetings
- Departments or agencies, except for those excluded, must respond to requests for records in a meaningful and timely manner.

Some of the requirements also apply to private non-profits that receive \$250,000 or more per year from City or City-administered funds.

The Brown Act, the Sunshine Ordinance and the Public Records Act are more complicated than outlined in this summary. **The Sunshine Ordinance Task Force would welcome the opportunity to appear before your group to present information on the Sunshine Ordinance.**

For additional information you may contact the Sunshine Ordinance Task Force at the address below. We hope this will help get you started in being an activist in the areas of government that concern you.

Sunshine Ordinance Task Force  
1 Dr. Carlton B. Goodlett Place, Room 409  
San Francisco, CA 94102-4683  
Tele: 415 554-7724/Fax: 415 554-7854  
<http://www.ci.sf.ca.us/bdsupvrs/sunshine.htm>

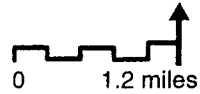
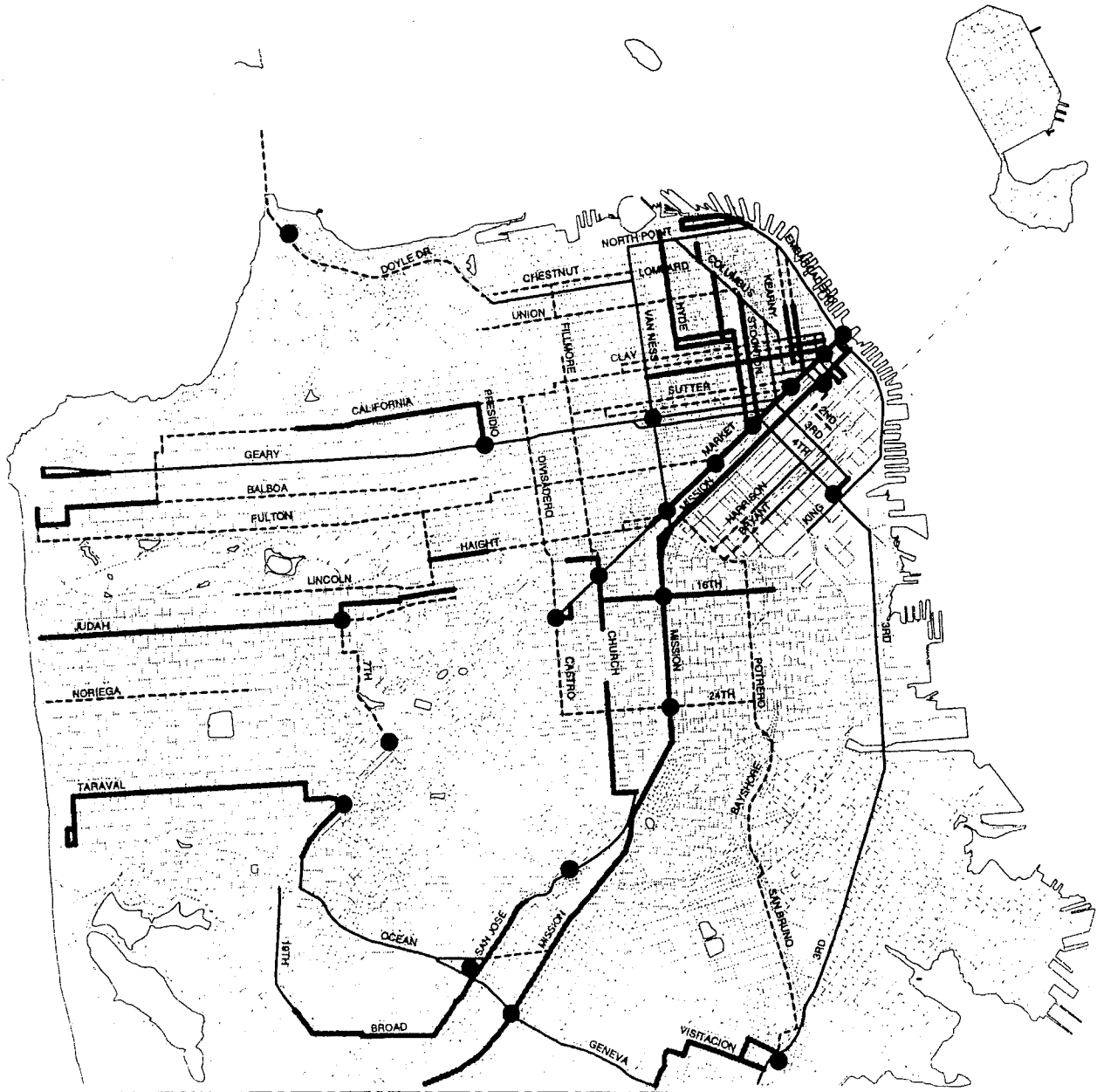


- Transit Nodes
- ▾ Primary Transit Street
- ▨ Residential Lots within 1,250 ft. of transit and commercial
- ⋯ Residential Lots
- ▧ Parks





EXHIBIT B.2  
 CSFN FILING - 6/7/07



**TRANSIT PREFERENTIAL STREETS**

**Primary Transit Streets**



Transit Oriented  
 Transit Important

**Others**



Secondary Transit Street  
 Transit Center

Map 9

Transit, Moderate-Scale Mixed Use Districts (NCT-3). The project would also increase height limits in certain areas and reduce height limits in other areas, and establish new fees. The proposed zoning and height reclassifications would increase the potential for residential development in the area.

Preliminary Recommendation: Adopt CEQA Findings.

(Continued from Regular Meeting of March 8, 2007)

23. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395)

**MARKET AND OCTAVIA PLAN AMENDMENTS** - The Planning Commission will hold a **public hearing to consider additional information related to the Market and Octavia Plan and may consider adopting General Plan, Planning Code, Zoning Map amendments and adopting other actions related to the Market and Octavia Plan.**

The Plan encompasses an irregularly shaped area in northeast San Francisco. It extends two to three blocks in width along Market Street for ten blocks and extends north along the former Central Freeway alignment at Octavia Boulevard for ten blocks. Along Market Street, the Plan Area boundaries extend from 11th and Larkin Streets in the east to Noe and Scott Streets in the west. The boundary jogs north along Noe Street, Duboce Avenue, Scott Street, Waller Street, Webster Street, Oak Street, Buchanan Street, and Grove Street; continues north along the former Central Freeway alignment to include the area up to Turk Street between Laguna and Franklin Streets; and east of Franklin Street jogs south to Grove and Larkin Streets. The Project Area boundary extends south of Market Street between 10th and 11th Street to Howard Street. Extending west along Howard Street, the Project Area boundaries jog along Division, Clinton, Stevenson, Fourteenth, Guerrero, and Sixteenth Streets. The Project Area is comprised of 89 Assessor's Blocks in entirety or in part, including the whole of Blocks 759, 761, 768, 770, 783, 785, 792 to 794, 806 to 809, 813 to 819, 830 to 841, 850 to 858, 863 to 876, 3501 to 3506, 3512 to 3514, 3533 to 3538, 3541 to 3545, 3556 to 3560; and portions of 3507 (lot 40), 3510 (lots 49, 57), 3511 (lots 1, 23, 25, 31, 33, 74, 75, 80, 82, and 93), and 3532 (lots 14, 19B, 35, 36, 88, 89, 90 and 91).

Hearing # 8 – March 22, 2007 - Schedule for Planning Commission Hearing

- Respond to Commissioner comments on Affordable Housing, Height Controls and other topics (item a)
- Finalize Plan for Adoption (item a)
- Consider taking action to approve resolutions adopting amendments to the General Plan, Planning Code, Zoning Map and approving interim procedures within the project area (items b, c, d, e)

The Planning Commission has held a number of public hearings to consider Case No. 2003.0347MTZU. Hearings were held on October 26, 2006, Nov. 2, 2006, Nov. 9, 2006, Nov. 16, 2006, January 11, 2007, Feb. 8, 2007, and Feb. 15, 2007. At the hearings, the Planning Commission considered various aspects of the Project, including adopting General Plan, Planning Code and Zoning Map amendments and adopting interim procedures for review of projects within the plan area to realize the vision articulated by the community through the Market and Octavia community planning process. For more information on this six-year planning process, please visit our website at <http://marketoctavia.betterneighborhoods.org>. The Commission has considered staff presentations and public comment on specific aspects of the Plan and proposed amendments at each hearing. The Planning Commission will consider the following items and may take action on or after March 15, 2007. Be advised that due to the nature of the public hearings, the Commission may continue any particular hearing item and/or may not hear all items at the hearing. To confirm the final Commission Hearing schedule, on the week of the hearing please visit:

[http://www.sfgov.org/site/planning\\_meeting.asp?id=15840](http://www.sfgov.org/site/planning_meeting.asp?id=15840) or call Aksel Olsen at 558-6616. For more information on this six-year planning process, please visit our website at <http://marketoctavia.betterneighborhoods.org>. In addition to providing information about the proposed General Plan, Planning Code and Zoning Map amendments, staff will also provide follow-up information on issues discussed at earlier hearings.

Together, the Commission actions are intended to implement the Market and Octavia Plan. In addition, an historic survey is currently being done of the project area; property owners considering constructing or altering a building in this area should consult with Planning Department staff to determine the historic resource status of their property. Property owners and interested parties are advised that height limits and other controls do not provide unqualified rights to development, but rather, proscribe the maximum potential building envelope that may be permitted; proposed buildings may not reach the maximum permitted building height/envelope. The Commission may also consider establishing interim procedures to guide the review of plans to construct new structures and alter existing structures to protect potentially eligible historic resources in the Plan Area prior to conclusion of an historic resources survey.

Members of the public may review a copy of the proposed amendments at the San Francisco Planning Department office at 1660 Mission Street 5th Floor, San Francisco, CA 94103, at the Public Library (the Main Library 100 Larkin St., and Harvey Milk branch library, 1 Jose Sarria Ct. (near 16th & Market Sts.)). An electronic copy of the proposed amendments and actions is available at <http://marketoctavia.betterneighborhoods.org>. At this hearing, the Planning Commission will consider the following aspects of the Plan:

- a. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395)  
MARKET AND OCTAVIA PLAN AMENDMENTS - **Informational hearing on components of the Market and Octavia Plan.** Described in item 23 above. Staff will respond to Commissioner comments and questions on affordable housing, height controls and other topics raised at earlier public hearings. The Planning Commission may also finalize the Plan for adoption of amendments to the General Plan, Planning Code, Zoning Map and adoption of interim procedures for review of projects within the Plan area.  
 Preliminary Recommendation: Informational Item, no action requested.
- b. 2003.0347MTZU J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395)  
MARKET AND OCTAVIA PLAN AMENDMENTS  
**Adoption of amendments to the General Plan** for the area described in item 23 above. The proposed General Plan amendment would add a new area plan, the Market and Octavia Area Plan, and make related amendments to the Commerce and Industry, Housing, Recreation and Open Space and Transportation Elements, the Civic Center Area Plan, Downtown Area Plan.  
 Preliminary Recommendation: Adopt a Draft Resolution amending the General Plan.
- c. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395)  
MARKET AND OCTAVIA PLAN AMENDMENTS  
**Adoption of amendments to the Planning Code for the area described in item 23 above. The proposed Planning Code amendment would revise Planning Code controls, including controls for land use, height and bulk, building design, loading, parking and establish new fees.**  
 In order to fund the community improvements identified in the Plan, the Program document proposes to establish a Development Impact Fee, requiring the growth that generates the demand for additional infrastructure and services to provide some of the revenue required to fund the improvements. The proposal establishes a development impact fee on new residential and commercial development in the Plan Area. The fee

proposal is \$10.00 per square foot of residential development, and \$4.00 per square foot of commercial development.

To encourage the provision of necessary and desirable public infrastructure improvements and also in order to mitigate the impacts of this increased localized density, the Department has established the Van Ness and Market Neighborhood Infrastructure Fund. Developers may provide in-kind public improvements (such as open space or streetscape improvements) or proportional in-lieu contributions to this fund that will allow the city to develop these facilities. The Department estimates that no more than 6 potential development sites would benefit from participating in the program. The Department has set the value of the additional FAR at par with the current market value of historic TDR credits (\$15 per square foot).

Preliminary Recommendation: Adopt a Draft Resolution amending the Planning Code.

d. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395) MARKET AND OCTAVIA PLAN AMENDMENTS

**Adoption of amendments to the Zoning Map** for the area described in item 23 above.

The proposed Zoning Map amendment would revise Maps 2 and 2H, 7 and 7H, and 2SU and 7SU. The proposed Planning Code text and map (Zoning Map) amendments would a) establish three new zoning districts, b) amend the Hayes-Gough, Upper Market, and Valencia Neighborhood Commercial Districts (NCDs), c) update height and bulk districts, d) establish the Market and Octavia Community Improvements Impact Fee, and e) make related revisions necessary to implement the General Plan. The proposed changes are described in greater detail in Case 2003.0347T (above). As part of Case No. 2003.0347T, the proposed Planning Code text amendment would revise Planning Code controls, including controls for land use, height and bulk, building design, loading, parking and establish new fees. The proposed amendments are described more fully below:

Establishment of Three Zoning Districts in the Plan Area

The Transit-Oriented Residential Use District (RTO) will replace most of the RH and RM districts zoning north and south of the Market Street corridor, extending north to Turk Street, west to Noe and Scott Streets, and South to Sixteenth Street. The proposed RTO district will encourage moderate-density, multi-family, and residential infill. Because of the availability of transit service, proximity of retail and services within walking distance, and limitation on permitted parking the RTO permits the construction of some housing without accessory parking. Parking controls will establish maximum caps (instead of existing minimum requirements) and housing density will be controlled by building envelope to encourage housing within buildings in keeping with neighborhood scale. Proposed heights in Residential Transit Oriented (RTO) Districts and RH districts primarily remain 40 and 50 feet as currently classified; in some RTO areas, permitted heights will change from 50, 80 and 105 feet to 40 and 50 feet.

A Neighborhood Commercial Transit District (NCT) will overlay the Hayes-Gough Neighborhood Commercial District and portions of the Upper Market and Valencia Neighborhood Commercial Districts within the Market and Octavia neighborhood. In named NCT and NC-1 (T) districts, parking controls will establish maximum caps (instead of existing minimum requirements) and housing density will be controlled by building envelope to encourage housing above ground-floor retail uses. These districts will largely keep the existing specific use-size controls. They include current Neighborhood Commercial Districts (Hayes-Gough, portions of the Upper Market, Valencia) and several parcels currently zoned NC-1.

The Van Ness and Market Downtown Residential Special Use District (VNMDR-SUD) will permit the development of a transit-oriented, high-density, mixed-use neighborhood around the intersections of Van Ness Avenue and Market Street and South Van Ness Avenue and Mission Street. This SUD will overlay existing C-3-G districts and existing C-M districts will be rezoned to C-3-G with this new VNMDR-SUD. Parking controls will establish maximum caps (instead of existing minimum requirements) and housing density will be controlled by building envelope to encourage housing in buildings with mixed-used

podiums and some residential towers at two key intersections: Market Street and Van Ness Avenue and Mission Street and South Van Ness Avenue. Proposed heights in the Van Ness and Market Downtown Residential Use District (VNMDR-SUD) will change from 120, 130, 150, 160, 200 and 320 feet to 85, 120, 200, 320 and 400 feet; towers will be permitted over a podium of 85 or 120 feet; the highest towers will be permitted in the vicinity of the Market Street/Van Ness Avenue intersections.

In the Transit-Oriented Neighborhood Commercial Use Districts (NCT), height districts will change from 50, 80 and 105 feet to primarily 55, 65 and 85 feet; these districts will be located in SoMa West and along Market Street. The NCT district will largely replace C-M and NC-3 districts. In the NCT district, parking controls will establish maximum caps (instead of existing minimum requirements) and housing density will be controlled by building envelope to encourage housing above ground-floor retail uses. These districts will largely keep the existing specific use-size controls in place in the NC-3 district. Some heights on some parcels near Brady Street will change from 105 and 60 feet to 40 feet and 85 feet on parcels surrounding a proposed public open space.

Preliminary Recommendation: Adopt a Draft Resolution amending the Zoning Map.

- e. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395) **MARKET AND OCTAVIA PLAN AMENDMENTS - Adoption of a resolution establishing interim procedures** for the area described in item 23 above. Case Establishing interim procedures for Planning Department use for review of projects proposed within the Market and Octavia Plan area to protect potential historic buildings and potential eligible historic district or districts until an historic resources survey (Survey) is completed and the results of the Survey are incorporated into the Market and Octavia Plan and implementing instruments.

Preliminary Recommendation: Adopt a Draft Resolution adopting interim procedures.

**H. PUBLIC COMMENT**

At this time, members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items. With respect to agenda items, your opportunity to address the Commission will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Commission has closed the public hearing, your opportunity to address the Commission must be exercised during the Public Comment portion of the Calendar. Each member of the public may address the Commission for up to three minutes.

The Brown Act forbids a commission from taking action or discussing any item not appearing on the posted agenda, including those items raised at public comment. In response to public comment, the commission is limited to:

- (1) responding to statements made or questions posed by members of the public; or
- (2) requesting staff to report back on a matter at a subsequent meeting; or
- (3) directing staff to place the item on a future agenda. (Government Code Section 54954.2(a))

Adjournment:

- 16c. 2006.0584KXCV (M. LI: (415) 558-6396)  
1407-1435 MARKET STREET AND 16-70 TENTH STREET - southwest corner of Tenth and Market Streets; Lot 041 (a portion of the former Lot 039) in Assessor's Block 3507 - **Request for an elevator penthouse height exemption and usable open space dimension, dwelling unit exposure, hazard-level wind, and loading entry variances** in connection with the mixed-used project described in Item 16a. The request for exemptions/variances will be considered by the Zoning Administrator.  
 (Continued from Regular Meeting of March 22, 2007)

**6:00 P.M.**

**D. PUBLIC COMMENT ON AGENDA ITEMS WHERE THE PUBLIC HEARING HAS BEEN CLOSED**

At this time, members of the public who wish to address the Commission on agenda items that have already been reviewed in a public hearing at which members of the public were allowed to testify and the public hearing has been closed, must do so at this time. Each member of the public may address the Commission for up to three minutes.

**E. CONSIDERATION OF FINDINGS AND FINAL ACTION – PUBLIC HEARING CLOSED**

- 17. 2003.0347E (R. AHMADI: (415)-558-5966)  
MARKET & OCTAVIA NEIGHBORHOOD PLAN - **Certification of Final Environmental Impact Report** - The project area lies to the west of the City's downtown financial district and sits at the junction of several neighborhoods, including, Civic Center, Hayes Valley, Western Addition, South of Market, Inner Mission, the Castro, Duboce Triangle, Eureka Valley, and Upper Market. The proposed neighborhood plan would reclassify the existing zoning from Residential Districts (R), Neighborhood Commercial Districts (NCD's), Moderate-Scale Neighborhood Commercial (NC-3), and Heavy Commercial (C-M) to Downtown General Commercial Districts (C-3-G), Residential Transit Oriented (RTO), Neighborhood Commercial Transit Districts (NCT), Neighborhood Commercial-Transit, and Moderate-Scale Mixed Use Districts (NCT-3). It would also increase height limits in certain areas and reduce height limits in other areas. The proposed zoning and height reclassifications would increase the potential for residential development in the area.  
 Preliminary Recommendation: Certify the Final Environmental Impact Report.  
**Please note: The public review period for the Draft Environmental Impact Report is closed. The Planning Commission does not conduct public review of Final EIRs. Public comments on the certification may be presented to the Planning Commission during the Public Comment portion of the Commission calendar.**  
 (Continued from Regular Meeting of March 8, 2007)  
**NOTE: On March 22, 2007, following public testimony, the Commission closed public hearing and passed a motion of intent to certify by a vote of +4 -1. Commissioner Moore voted no. Commissioners Alexander and Sugaya were absent.**

- 18. 2003.0347E (R. AHMADI: 414-558-5966)  
MARKET & OCTAVIA NEIGHBORHOOD PLAN - **Adoption of CEQA Findings Related to EIR and Potential Project Approval Action** - The project includes proposed amendments to the General Plan, Planning Code and Zoning Map. The project area lies to the west of the City's downtown financial district and sits at the junction of several neighborhoods, including, Civic Center, Hayes Valley, Western Addition, South of Market, Inner Mission, the Castro, Duboce Triangle, Eureka Valley, and Upper Market. The proposed neighborhood plan would: (1) amend the General Plan, adding a new Area

Plan (the Market and Octavia Area Plan) and make related amendments to the Commerce and Industry, Housing, Recreation and Open Space and Transportation Elements, the Civic Center Area Plan, Downtown Area Plan, South of Market Area Plan and the Land Use Index; and (2) amend the Planning Code and Zoning Map to reclassify the existing zoning from Residential Districts (R), Neighborhood Commercial Districts (NCD's), Moderate-Scale Neighborhood Commercial (NC-3), and Heavy Commercial (C-M) to Downtown General Commercial Districts (C-3-G), Residential Transit Oriented (RTO), Neighborhood Commercial Transit Districts (NCT), Neighborhood Commercial-Transit, Moderate-Scale Mixed Use Districts (NCT-3). The project would also increase height limits in certain areas and reduce height limits in other areas, and establish new fees. The proposed zoning and height reclassifications would increase the potential for residential development in the area.

Preliminary Recommendation: Adopt CEQA Findings.

(Continued from Regular Meeting of March 8, 2007)

**NOTE: On March 22, 2007, following public testimony, the Commission closed public hearing and passed a motion of intent to adopt by a vote of +4 -1. Commissioner Moore voted no. Commissioners Alexander and Sugaya were absent.**

- 19a. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395) MARKET AND OCTAVIA PLAN AMENDMENTS - The Planning Commission will consider adopting General Plan, Planning Code, Zoning Map amendments and approve other actions related to the Market and Octavia Plan. On March 22, 2007, the Planning Commission adopted a Motion of Intent to adopt amendments to the General Plan, Planning Code, Zoning Map and other approval actions. The Plan encompasses an irregularly shaped area in northeast San Francisco. It extends two to three blocks in width along Market Street for ten blocks and extends north along the former Central Freeway alignment at Octavia Boulevard for ten blocks. Along Market Street, the Plan Area boundaries extend from 11th and Larkin Streets in the east to Noe and Scott Streets in the west. The boundary jogs north along Noe Street, Duboce Avenue, Scott Street, Waller Street, Webster Street, Oak Street, Buchanan Street, and Grove Street; continues north along the former Central Freeway alignment to include the area up to Turk Street between Laguna and Franklin Streets; and east of Franklin Street jogs south to Grove and Larkin Streets. The Project Area boundary extends south of Market Street between 10th and 11th Street to Howard Street. Extending west along Howard Street, the Project Area boundaries jog along Division, Clinton, Stevenson, Fourteenth, Guerrero, and Sixteenth Streets. The Project Area is comprised of 89 Assessor's Blocks in entirety or in part, including the whole of Blocks 759, 761, 768, 770, 783, 785, 792 to 794, 806 to 809, 813 to 819, 830 to 841, 850 to 858, 863 to 876, 3501 to 3506, 3512 to 3514, 3533 to 3538, 3541 to 3545, 3556 to 3560; and portions of 3507 (lot 40), 3510 (lots 49, 57), 3511 (lots 1, 23, 25, 31, 33, 74, 75, 80, 82, and 93), and 3532 (lots 14, 19B, 35, 36, 88, 89, 90 and 91).

Hearing # 9 – April 5, 2007 - Schedule for Planning Commission Consideration

- Respond to Commissioner comments and questions.
- Consider taking action to approve resolutions adopting amendments to the General Plan, Planning Code, Zoning Map and approving interim procedures within the project area (Items a, b, c, d)

The Planning Commission has held a number of public hearings to consider Case No. 2003.0347MTZU. Hearings were held on October 26, 2006, Nov. 2, 2006, Nov. 9, 2006, Nov. 16, 2006, January 11, 2007, Feb. 8, 2007, and Feb. 15, 2007, and March 22, 2007. At the hearings, the Planning Commission considered various aspects of the Project, and on March 22, 2007, passed a Motion of intent to adopt General Plan, Planning Code and Zoning Map amendments and adopt interim procedures for review of projects within the



plan area to realize the vision articulated by the community through the Market and Octavia community planning process. For more information on this six-year planning process, please visit our website at <http://marketoctavia.betterneighborhoods.org>. The Commission has considered staff presentations and public comment on specific aspects of the Plan and proposed amendments at each hearing. The Planning Commission will consider the following items and may take action on or after April 5, 2007. Be advised that due to the nature of the public hearings, the Commission may continue any particular hearing item and/or may not hear all items at the hearing. To confirm the final Commission Hearing schedule, on the week of the hearing please visit: [http://www.sfgov.org/site/planning\\_meeting.asp?id=15840](http://www.sfgov.org/site/planning_meeting.asp?id=15840) or call Aksel Olsen at 558-6616. For more information on this six-year planning process, please visit our website at <http://marketoctavia.betterneighborhoods.org>. In addition to providing information about the proposed General Plan, Planning Code and Zoning Map amendments, staff will also provide follow-up information on issues discussed at earlier hearings.

Together, the Commission actions are intended to implement the Market and Octavia Plan. In addition, an historic survey is currently being done of the project area; property owners considering constructing or altering a building in this area should consult with Planning Department staff to determine the historic resource status of their property. Property owners and interested parties are advised that height limits and other controls do not provide unqualified rights to development, but rather, proscribe the maximum potential building envelope that may be permitted; proposed buildings may not reach the maximum permitted building height/envelope. The Commission may also consider establishing interim procedures to guide the review of plans to construct new structures and alter existing structures to protect potentially eligible historic resources in the Plan Area prior to conclusion of an historic resources survey.

Members of the public may review a copy of the proposed amendments at the San Francisco Planning Department office at 1660 Mission Street 5th Floor, San Francisco, CA 94103, at the Public Library (the Main Library 100 Larkin St., and Harvey Milk branch library, 1 Jose Sarria Ct. (near 16th & Market Sts.)). An electronic copy of the proposed amendments and actions is available at <http://marketoctavia.betterneighborhoods.org>. At this hearing, the Planning Commission will consider the following aspects of the Plan:

- 19b. 2003.0347MTZU J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395)  
**MARKET AND OCTAVIA PLAN AMENDMENTS - Adoption of amendments to the General Plan** for the area described in item 19a above. The proposed General Plan amendment would add a new area plan, the Market and Octavia Area Plan, and make related amendments to the Commerce and Industry, Housing, Recreation and Open Space and Transportation Elements, the Civic Center Area Plan, Downtown Area Plan. On Sept. 28, 2006, the Planning Commission adopted Res. 17312, a Resolution of Intention to initiate amendments to the General Plan  
Preliminary Recommendation: Adopt a Draft Resolution amending the General Plan.  
**NOTE: On March 22, 2007, following public testimony, the Commission closed public hearing and passed a motion of intent to adopt/approve by a vote of +4 -1. Commissioner Moore voted no. Commissioners Alexander and Sugaya were absent.**
- 19c. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395)  
**MARKET AND OCTAVIA PLAN AMENDMENTS - Adoption of amendments to the Planning Code** for the area described in item 19a above. The proposed Planning Code amendment would revise Planning Code controls, including controls for land use, height and bulk, building design, loading, parking and establish new fees. On Sept. 28, 2006, the Planning Commission adopted Res. 17313, a Resolution of Intention to initiate amendments to the Planning Code.

In order to fund the community improvements identified in the Plan, the Program document proposes to establish a Development Impact Fee, requiring the growth that generates the demand for additional infrastructure and services to provide some of the revenue required to fund the improvements. The proposal establishes a development impact fee on new residential and commercial development in the Plan Area. The fee proposal is \$10.00 per square foot of residential development, and \$4.00 per square foot of commercial development.

To encourage the provision of necessary and desirable public infrastructure improvements and also in order to mitigate the impacts of this increased localized density, the Department has established the Van Ness and Market Neighborhood Infrastructure Fund. Developers may provide in-kind public improvements (such as open space or streetscape improvements) or proportional in-lieu contributions to this fund that will allow the city to develop these facilities. The Department estimates that no more than 6 potential development sites would benefit from participating in the program. The Department has set the value of the additional FAR at par with the current market value of historic TDR credits (\$15 per square foot).

Preliminary Recommendation: Adopt a Draft Resolution amending the Planning Code.

**NOTE: On March 22, 2007, following public testimony, the Commission closed public hearing and passed a motion of intent to adopt/approve by a vote of +4 -1. Commissioner Moore voted no. Commissioners Alexander and Sugaya were absent.**

- 19d. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395)  
MARKET AND OCTAVIA PLAN AMENDMENTS - Adoption of amendments to the Zoning Map for the area described in item 19a above. The proposed Zoning Map amendment would revise Maps 2 and 2H, 7 and 7H, and 2SU and 7SU. The proposed Planning Code text and map (Zoning Map) amendments would a) establish three new zoning districts, b) amend the Hayes-Gough, Upper Market, and Valencia Neighborhood Commercial Districts (NCDs), c) update height and bulk districts, d) establish the Market and Octavia Community Improvements Impact Fee, and e) make related revisions necessary to implement the General Plan. The proposed changes are described in greater detail in Case 2003.0347T (above). As part of Case No. 2003.0347T, the proposed Planning Code text amendment would revise Planning Code controls, including controls for land use, height and bulk, building design, loading, parking and establish new fees. On Sept. 26, 2006, the Planning Commission adopted Res. No. 17314, a Resolution of Intention to initiate amendments to the Zoning Map. The proposed amendments are described more fully below: Establishment of Three Zoning Districts in the Plan Area

The Transit-Oriented Residential Use District (RTO) will replace most of the RH and RM districts zoning north and south of the Market Street corridor, extending north to Turk Street, west to Noe and Scott Streets, and South to Sixteenth Street. The proposed RTO district will encourage moderate-density, multi-family, and residential infill. Because of the availability of transit service, proximity of retail and services within walking distance, and limitation on permitted parking the RTO permits the construction of some housing without accessory parking. Parking controls will establish maximum caps (instead of existing minimum requirements) and housing density will be controlled by building envelope to encourage housing within buildings in keeping with neighborhood scale. Proposed heights in Residential Transit Oriented (RTO) Districts and RH districts primarily remain 40 and 50 feet as currently classified; in some RTO areas, permitted heights will change from 50, 80 and 105 feet to 40 and 50 feet.

A Neighborhood Commercial Transit District (NCT) will overlay the Hayes-Gough Neighborhood Commercial District and portions of the Upper Market and Valencia Neighborhood Commercial Districts within the Market and Octavia neighborhood. In named NCT and NC-1 (T) districts, parking controls will establish maximum caps (instead

of existing minimum requirements) and housing density will be controlled by building envelope to encourage housing above ground-floor retail uses. These districts will largely keep the existing specific use-size controls. They include current Neighborhood Commercial Districts (Hayes-Gough, portions of the Upper Market, Valencia) and several parcels currently zoned NC-1.

The Van Ness and Market Downtown Residential Special Use District (VNMDR-SUD) will permit the development of a transit-oriented, high-density, mixed-use neighborhood around the intersections of Van Ness Avenue and Market Street and South Van Ness Avenue and Mission Street. This SUD will overlay existing C-3-G districts and existing C-M districts will be rezoned to C-3-G with this new VNMDR-SUD. Parking controls will establish maximum caps (instead of existing minimum requirements) and housing density will be controlled by building envelope to encourage housing in buildings with mixed-used podiums and some residential towers at two key intersections: Market Street and Van Ness Avenue and Mission Street and South Van Ness Avenue. Proposed heights in the Van Ness and Market Downtown Residential Use District (VNMDR-SUD) will change from 120, 130, 150, 160, 200 and 320 feet to 85, 120, 200, 320 and 400 feet; towers will be permitted over a podium of 85 or 120 feet; the highest towers will be permitted in the vicinity of the Market Street/Van Ness Avenue intersections.

In the Transit-Oriented Neighborhood Commercial Use Districts (NCT), height districts will change from 50, 80 and 105 feet to primarily 55, 65 and 85 feet; these districts will be located in SoMa-West and along Market Street. The NCT district will largely replace C-M and NC-3 districts. In the NCT district, parking controls will establish maximum caps (instead of existing minimum requirements) and housing density will be controlled by building envelope to encourage housing above ground-floor retail uses. These districts will largely keep the existing specific use-size controls in place in the NC-3 district. Some heights on some parcels near Brady Street will change from 105 and 60 feet to 40 feet and 85 feet on parcels surrounding a proposed public open space.

Preliminary Recommendation: Adopt a Draft Resolution amending the Zoning Map.

**NOTE: On March 22, 2007, following public testimony, the Commission closed public hearing and passed a motion of intent to adopt/approve by a vote of +4 -1. Commissioner Moore voted no. Commissioners Alexander and Sugaya were absent.**

- 19e. 2003.0347MTZU (J. BILLOVITS (415) 558-6390/A. RODGERS: (415) 558-6395) MARKET AND OCTAVIA PLAN AMENDMENTS - Adoption of a resolution establishing interim procedures for the area described in item 19a above Case establishing interim procedures for Planning Department use for review of projects proposed within the Market and Octavia Plan area to protect potential historic buildings and potential eligible historic district or districts until an historic resources survey (Survey) is completed and the results of the Survey are incorporated into the Market and Octavia Plan and implementing instruments.

Preliminary Recommendation: Adopt a Draft Resolution adopting interim procedures.

**NOTE: On March 22, 2007, following public testimony, the Commission closed public hearing and passed a motion of intent to adopt/approve by a vote of +4 -1. Commissioner Moore voted no. Commissioners Alexander and Sugaya were absent.**

## F. COMMISSIONERS' QUESTIONS AND MATTERS

20. Commission Comments/Questions
- Inquiries/Announcements. Without discussion, at this time Commissioners may make announcements or inquiries of staff regarding various matters of interest to the Commissioner(s).
  - Future Meetings/Agendas. At this time, the Commission may discuss and take action to set the date of a Special Meeting and/or determine those items that



# PLANNING DEPARTMENT

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EXHIBIT D

CSFN FILING → 4/1/0

Page 1 of 2

February 27, 2007

Members, Planning Commission  
SF Planning Department  
1660 Mission Street – 5<sup>th</sup> Floor  
San Francisco, CA 94103

**RE: Market Octavia Neighborhood Commercial Transit District Notice**

Commissioners:

You have requested my opinion, in consultation with the City Attorney, on three items:

1. Since the NC-T district could potentially be adopted in other areas, should there have been broader notice than just to the Market-Octavia Plan Area?
2. Since the Market Octavia Plan introduces a new district, the Neighborhood Commercial, Transit (NC-T) District, does this district, per se, apply to any other districts or areas of the City.
3. What form of environmental review is required for the creation of a new zoning classification or district?

The Department has introduced, or is contemplating, new zoning districts in a number of areas. For example, the Rincon Hill Plan introduced a Downtown Residential (DTR) District. The Department is also considering new PDR-1 and PDR-2 Districts. These are in addition to the NC-T Districts. However, at this time, the Planning Commission is formally only considering applying the NC-T District within the Market-Octavia District. There are draft proposals under consideration for NC-T Districts in the Eastern Neighborhoods. These would be noticed as part of the Eastern Neighborhoods process.

The Department noticed the proposed NC-T District as part of the Market-Octavia Plan Area. Since neither the Department nor the Planning Commission are officially proposing the NC-T District for any other portions of the City at this time, no other notice, either Citywide or more focused, is required.

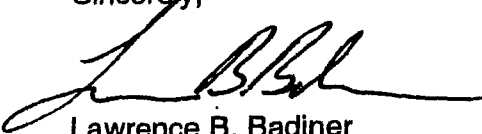
At the time of the Rincon Hill Plan amendments, only the Rincon Hill area was noticed, properly so. While the Department might propose in the future, and the Commission might eventually adopt, a DTR or NC-T District elsewhere in the City, there is no official pending proposal to do so. Accordingly, no notice is required to other areas in the City. The mere creation of a new type of zoning district does not require notice citywide. When, and if a new NC-T district is proposed, proper notice is required to be provided.

In answer to your second question, the amendments to the Market-Octavia Plan will have no applicability outside of the Market & Octavia Plan Area. Any extension of the NC-T would require notice to that area and hearings before adoption.

The third question raised is whether some form of environmental review is required for the creation of a new zoning classification or district. The mere (theoretical) creation of a new zoning category does not have any physical effect on the environment. The physical effect on the environment will occur when the zoning classification is applied to a particular area of the City. At that time, the zoning ordinance putting that new zoning classification into effect in a specified location would require environmental review and the physical effects of applying the zoning classification in a specified area would be analyzed under the California Environmental Quality Act.

If anyone has substantial reason to believe that there is an error in the interpretation of the Planning Code, or abuse of discretion on the part of the Zoning Administrator, this determination may be appealed to the Board of Appeals within fifteen (15) days from the date of this letter. For further information regarding the appeals process, please contact the Board of Appeals, 1660 Mission Street, Room 3036, San Francisco, or by telephone at (415) 575.6880.

Sincerely,



Lawrence B. Badiner  
Zoning Administrator

- Preserve the character of the Mission
- Encourage compatible housing, particularly family affordable housing
- Enhance the character of neighborhood commercial areas
- Establish new mixed use areas
- Protect important production, distribution, and repair activities

The following land use districts are proposed (*see page 10*):

#### **Neighborhood Commercial Transit (NC-T)**

This district encourages active ground floor uses by requiring minimum ceiling heights for retail uses, prohibiting new curb cuts on some of the blocks and limiting blank walls. Housing is encouraged on the upper stories with an increased amount of below market rate (BMR) inclusionary housing where up-zoning has occurred. This district would apply to Mission, Valencia and 24th Street.

#### **Residential Transit Oriented (RTO)**

This district encourages residential infill development compatible with the surrounding neighborhood. Small-scale, neighborhood oriented corner stores are permitted in order to provide goods and services to nearby residents and to create a more pleasant urban environment.

#### **Mixed Use – PDR (MU-PDR) (formerly Urban Mixed Use)**

The intent of this district is to create mixed-use places that also serve as transitional areas between established residential neighborhoods and areas intended for PDR and other business activities. It allows housing, office, and other uses and requires some PDR space in new development.

#### **PDR**

The intent of this district is to encourage new business formation, support existing businesses, and to

conserve space for Production, Distribution, and Repair (PDR) businesses, including arts activities. In order to protect PDR, certain uses such as housing and downtown office are prohibited in this district.

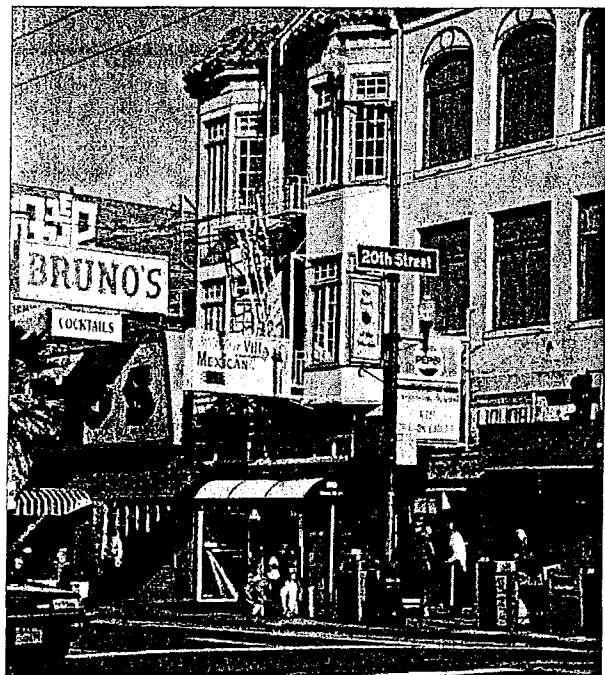
#### **Affordable Housing Overlay**

Operating in conjunction with the proposed underlying zoning, the intent of the affordable housing overlay is to encourage affordable housing development that is well served by transit, while protecting existing neighborhood serving uses including PDR activities such as auto repair businesses and arts activities.

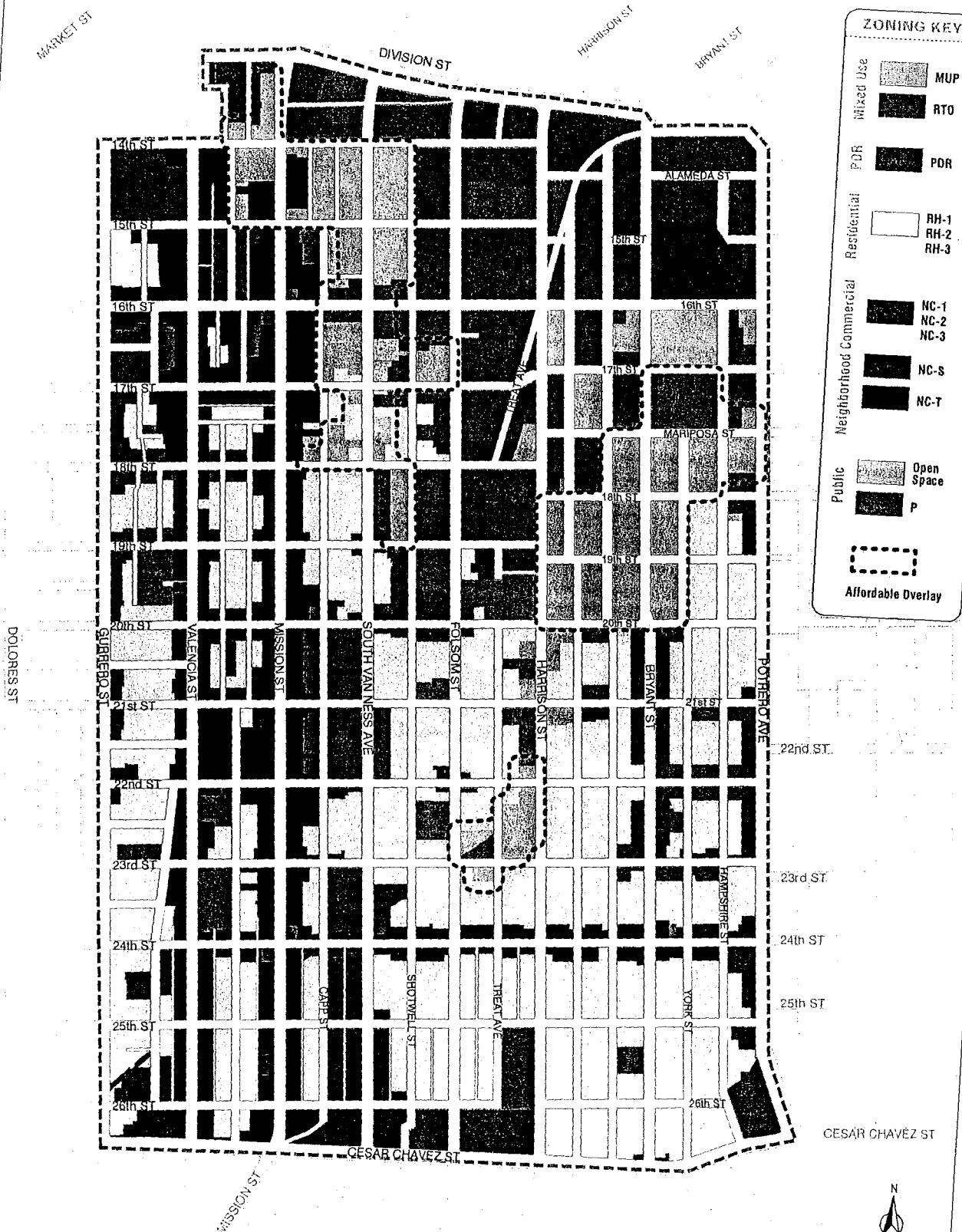
#### **Policy 1.1.2**

*Generally retain existing heights while allowing for some change where appropriate.*

Heights should generally remain the same along Mission Street, and refined to better reflect the presence of the BART stations at 16th and 24th Streets as well as the adjacent north/south alleys. For the north/south alleys adjacent to Mission and Valencia Streets, heights have been slightly decreased to 40' to ensure greater levels of sunlight and air. The existing heights of 40' in the residential area south of 20th Street and east of South Van Ness are retained, while an increase to 55' north of 20th Street is proposed to allow for taller, more flexible ground floor spaces for businesses.



# Proposed Zoning



**ZONING KEY**

- Mixed Use
  - MUP
  - RTO
- PDR
- Residential
  - RH-1
  - RH-2
  - RH-3
- Neighborhood Commercial
  - NC-1
  - NC-2
  - NC-3
  - NC-S
  - NC-T
- Public
  - Open Space
  - P
- Affordable Overlay





supporting commercial uses. The commercial uses are those permitted in C-2 Districts, located in or below the ground story in most instances, and excluding automobile-oriented establishments. Open spaces are required for dwellings in the same manner as in RM-2 Districts, except that rear yards are somewhat smaller and need not be at ground level, and front setback areas are not required.

**RC-3 Districts: Medium Density.** These districts provide for a mixture of medium-density dwellings similar to those in RM-3 Districts, with supporting commercial uses. The commercial uses are those permitted in C-2 Districts, located in or below the ground story in most instances, and excluding automobile-oriented establishments. Open spaces are required for dwellings in the same manner as in RM-3 Districts, except that rear yards need not be at ground level and front setback areas are not required.

**RC-4 Districts: High Density.** These districts provide for a mixture of high-density dwellings similar to those in RM-4 Districts with supporting commercial uses. The commercial uses are those permitted in C-2 Districts, located in or below the ground story in most instances, and excluding automobile-oriented establishments. Open spaces are required for dwellings in the same manner as in RM-4 Districts, except that rear yards need not be at ground level and front setback areas are not required. The high-density and mixed-use nature of these districts is recognized by certain reductions in off-street parking requirements. (Added by Ord. 443-78, App. 10/6/78)

## SEC. 207. DENSITY OF DWELLING UNITS IN R DISTRICTS.

The density of dwelling units permitted in the various R Districts shall be as set forth in Sections 207.1, 207.2, 207.5 and 209.1 of this Code. The term "dwelling unit" is defined in Section 102.7 of this Code. (Amended by Ord. 155-84, App. 4/11/84; Ord. 115-90, App. 4/6/90)

### SEC. 207.1. RULES FOR CALCULATION OF DWELLING UNIT DENSITIES.

The following rules shall apply in the calculation of dwelling unit densities under this Code:

(a) The entire amount of lot area per dwelling unit specified in Sections 207.5 or 209.1 of this Code shall be required for each dwelling unit on the lot.

Fractional numbers shall be adjusted downward to the next lower whole number of dwelling units.

(b) Where permitted by the provisions of Sections 207.5, 209.1 and 209.2 of this Code, two or more of the dwelling and other housing uses specified in said sections may be located on a single lot, either in one structure or in separate structures, provided that the specified density limits are not exceeded by the total of such combined uses. Where dwelling units and group housing are combined, the maximum permitted density for dwelling units and for group housing shall be prorated to the total lot area according to the quantities of these two uses that are combined on the lot.

(c) Where any portion of a lot is narrower than five feet, such a portion shall not be counted as part of the lot area for purposes of calculating the permitted dwelling density.

(d) No private right-of-way used as the principal vehicular access to two or more lots shall be counted as part of the lot area of any such lot for purposes of calculating the permitted dwelling unit density.

(e) Where a lot is divided by a use district boundary line, the dwelling unit density limit for each district shall be applied to the portion of the lot in that district, and none of the dwelling units attributable to the district permitting the greater density shall be located in the district permitting the lesser density. (Added by Ord. 443-78, App. 10/6/78; amended by Ord. 115-90, App. 4/6/90)

### SEC. 207.2. SECOND UNITS.

(a) Second units, as defined and referred to in Government Code Section 65852.2, are precluded in RH-1(D) and RH-1 zoned areas, except where second units are currently permitted under Section 209.1(m) for units designed for and occupied by senior citizens or physically handicapped persons and except as may hereafter be permitted by later amendments to this Code governing second units.

(b) Government Code Section 65852.2 requires a City to adopt either an ordinance permitting or precluding second units within single-family and multifamily zoned areas or, in the alternative, to be subject to certain restrictions set forth in Government Code Section 65852.2(b). The provisions of this ordinance, in light of other provisions of the City Planning Code governing second units, do not result

in the total preclusion of second units within single-family and multifamily zoned areas and therefore San Francisco has a legislative scheme which complies with Government Code Section 65852.2(a). In the event that it is determined, however, that San Francisco's legislative scheme does not comply with Government Code Section 65852.2(a), the following findings are made with the intent of complying with Government Code Section 65852.2(c).

(1) San Francisco's total land area is approximately 49 square miles and much of this land is not open to development because of topography or public ownership. San Francisco does not have the option open to many other cities of annexing undeveloped land currently outside its borders.

(2) San Francisco already has higher density development than other cities in California, both in terms of units per square feet of lot area and in terms of units per linear feet of street frontage. The density for housing development in San Francisco ranges from 4,000 square feet of lot area per unit in RH-1(D) (House, One-Family Detached Dwellings) Districts to 200 square feet per unit in RM-4 (Mixed Residential, High Density) Districts. Except for districts which require a lot width of 33 feet and an area of 4,000 square feet, the minimum lot size for housing development is 2,500 square feet in area, following the standard lot size in San Francisco (25 × 100 square feet), or 1,750 square feet for lots within 125 feet of a corner. This density and lot size requirement allows greater density than other jurisdictions in California where the typical density and lot size is about 5,000 square feet per unit for single-family dwellings and 1,500 square feet per unit for multifamily development.

(3) San Francisco is the most densely populated city in California. It is the fourth most densely populated city in the nation following only New York City and two cities in New Jersey (Jersey City and Patterson).

(4) The limited land area and the limited developable land area of San Francisco make it difficult to provide sites to replace single-family houses lost through conversion to a higher density. Once single-family homes are converted into multiple dwelling structures by the addition of a second unit, single-family housing stock is eliminated from the

existing supply of single-family homes. The irrevocable loss of the limited supply of single-family housing stock throughout the City will adversely affect the health, safety and welfare of San Francisco residents.

(5) Single-family residences have in recent years been demolished at a faster rate than any other residential structures in the City primarily because new multiple-unit residential development in the City often occurs as the result of the demolition of single-family homes in multiple-unit districts. Single-family homes were 37 percent of the residential units demolished in 1984, and 61 percent of the residential units demolished in 1983. Single-family homes represented an even larger percentage of the residential structures demolished. Single-family homes were 86 percent of the residential structures demolished in 1984, and 74.4 percent of the residential structures demolished in 1983.

(6) Single-family structures represent only 1/3 of all residential structures in San Francisco compared to 60 percent of the residential structures in the State of California. Single-family homes accounted for 18 percent of the new housing units in San Francisco in 1984, and 7 percent of the new units in 1983. Other jurisdictions in California had single-family structures representing approximately 50 percent of their new residential building permits for the same period.

(7) The number of families in San Francisco declined in the years from 1970 to 1980, as evidenced by the school enrollment for the population group under 15 years old. The decline in enrollment was from 106,900 to 83,790. The zoning policy of the City and County of San Francisco should encourage families to live in the City rather than encouraging them to leave the City. A further decline in the number of families living in the City is detrimental to the public health, safety and welfare.

(8) The addition of second units to single-family dwellings usually results in an increase in the cost of those dwellings, and, in addition, to the cost of the remaining smaller supply of single-family homes without second units. An increase in the cost of these types of dwellings will discourage families from living in the City because the cost of dwellings most suitable for families will be beyond the means of many who would otherwise live in the City.

(9) San Francisco will probably face a need for more large units in the future than it did in the past, as the population ages and the new baby boom continues. Many women born between 1945 and 1952 who delayed child-bearing during the 1970's are now having babies at the same rate as women born after 1952.

(10) The addition of second units in single-family houses throughout the City will irrevocably deplete its limited supply of single-family homes and discourage families from living in the City by removing the type and size of dwelling units most suitable for families. Many of the residential parcels in the City are less than 2,500 square feet in size or 1,750 square feet for corner lots and do not meet minimum lot size standards. Many of these parcels were developed without required garages or with minimal garage space, and do not comply with existing off-street parking requirements. The addition of second residential units in these areas could only worsen existing congestion.

(11) Parking problems are severe in a number of areas of the City because of its dense population. The addition of second units in such areas will exacerbate the parking problem. Imposing off-street parking requirements on secondary units would only partially alleviate that problem in that additional units cause increased traffic other than that engaged in by the occupants of the units (such as persons visiting the occupants for social or business purposes) as well as by the occupants of the units.

(12) Increased parking problems in areas of the City already burdened with traffic congestion adversely affects the health, safety and welfare of the residents of such areas by interfering with access to off-street parking spaces, requiring additional police services to control traffic problems and unlawful parking, requiring occupants and visitors to park further from their homes (thereby also exposing themselves to greater inconvenience and, in some instances, threat to safety), and interfering with access by emergency vehicles during an emergency (a problem which is further complicated in areas with narrow streets, winding roads, and other topographical features which make access by vehicles difficult).

(13) A need exists in San Francisco for additional affordable housing. Allowing second units in RH-1(D) and RH-1 Districts is one means of providing such

housing. However, to allow second units without restriction in all areas currently zoned RH-1(D) and RH-1 would adversely affect the health, safety and welfare of the public by permitting the conversion of an undue number of single-family houses to multi-family units; by eliminating low-density residential areas in the City and thereby depriving those who desire to live in the City without the stress of living in higher-density areas of their opportunity to do so; and by permitting second units to be added in areas where undue traffic congestion and the attendant difficulties described above, will occur.

(14) A further period of time is needed in order to determine those areas of the City where the traffic congestion problems described above would be least likely to occur and where second units may therefore be permitted without adverse impact to the public.

(15) There are no large districts suitable for the provision of second units, but instead there are small subareas which must be reviewed on a case-by-case basis with community participation in the review process. A case-by-case review is needed in order to determine those areas of the City where the traffic congestion problems described above would be least likely to occur and where second units may therefore be permitted without adverse impact to the public. Furthermore:

(A) The City Planning Code presently permits a secondary unit in all single-family homes in RH-1(S) (House, One-Family with Minor Second Unit), RH-2 (House, Two-Family) and RH-3 (House, Three-Family) Districts no matter what the lot size. Second units in single-family homes are permitted in all other multifamily residential districts (all RM and RC Districts), depending on the size of the lot.

(B) The City Planning Code Section 209.1(c) permits the mapping of the RH-1(S) (House, One-Family with Minor Second Unit) District. These RH-1(S) Zoning Districts provide for a two-family dwelling with the second dwelling limited to 600 square feet of net floor area. The second unit remains subordinate to the owner's unit and the structures retain the appearance of single-family dwellings. The RH-1(S) Zoning District has been mapped in four areas of the City. Additional mapping of the RH-1(S) Zoning District may be used to legalize existing secondary units in single-family homes and to increase the number of secondary units.

(C) Dwellings specifically designed for and occupied by senior citizens and handicapped persons are presently permitted at a density ratio or number of dwelling units not exceeding twice the number of dwelling units otherwise permitted as a principal use in the district by the City Planning Code (Section 209.1(m)).

(16) Restricting second units in single-family homes in San Francisco's RH-1(D) and RH-1 Zoning Districts may limit the housing opportunities of the region. However, over time, applications for RH-1(S) zoning designation may be reviewed on a case-by-case basis by the City Planning Commission and its staff, the Board of Supervisors and the Mayor and where second units would be appropriate and would not adversely affect the public health, safety and welfare of residents of the City and County of San Francisco, such rezoning applications would be approved. Neither the provisions of this Section nor those of Government Code Section 65852.2 preclude the City from hereafter amending this Code in order to permit second units in additional situations designed to address specific housing needs and circumstances unique to San Francisco.

(17) San Francisco has been and will continue to be a major provider of affordable housing opportunities in the region.

(A) Currently (1986) San Francisco administers 6,766 units of public housing and 2,574 Section 8 certificates.

(B) Article 34, Section 1 of the California Constitution requires the approval of the electorate as a condition to the development or acquisition of a low-rent housing project by the local jurisdiction. San Francisco has met the requirement with the City's voters approving the development of a maximum of 3,000 low-income housing units by a vote on Proposition Q on November 2, 1976. Together with the units previously approved, approximately 4,000 low-income housing units may be developed, constructed or acquired.

(C) Between 1981 and 1985, San Francisco's housing production efforts included, but were not limited to the following:

1. San Francisco undertook a major rezoning of underutilized land which will allow the development of 14,000 housing units. Another 1,700 units are underway on vacant publicly owned sites in the City.

2. San Francisco set aside \$10,000,000 in general-fund monies for an Affordable Housing Fund. \$6,100,000 of this amount is committed to create 443 housing units including the renovation of 82 vacant public housing units into privately managed two- and three-bedroom apartments.

3. San Francisco combined \$1,000,000 in federal Community Development Funds with the proceeds of an \$8,000,000 bond issue to finance home improvement loans for low- and moderate-income homeowners.

4. The Office Housing Production Program (OHPP), under which high-rise office developers are required to build or contribute to housing on a formula based on the size of their projects was instituted in 1981. The program has resulted in \$25,000,000 and over 3,700 housing units to date.

5. The City of San Francisco has sold \$84,000,000 in two bond issues since 1982 to provide 30-year, 10¼ percent mortgages to some 900 low-to middle-income first-time homebuyers. In addition a \$42,000,000 bond issue was sold to finance up to 400 homes with 9.8 percent mortgages. In June, 1985 the City sold \$44,000,000 in mortgage revenue bonds to finance the construction of 563 units of rental housing on five sites.

(D) Between 1980 and mid-1985 community-based nonprofit organizations which receive Community Development Block Grant funding built 1,166 new housing units for low- and moderate-income households. At the time of the 1985 report on their activities they had 200 units under construction, and 426 units planned. During this same time the organizations rehabilitated 1,780 units for lower-income households, had 426 units undergoing rehabilitation, and had plans to rehabilitate 1,285 units. (Added by Ord. 155-84, App. 4/11/84; amended by Ord. 526-85, App. 11/27/85; Ord. 324-86, App. 8/8/86)

#### **SEC. 207.4. DENSITY OF DWELLING UNITS IN NEIGHBORHOOD COMMERCIAL DISTRICTS.**

The density of dwelling units in Neighborhood Commercial Districts shall be as stated in the following subsections:

(a) The rules for calculation of dwelling unit densities set forth in Section 207.1 of this Code shall apply in Neighborhood Commercial Districts, except

**WEST OF TWIN PEAKS CENTRAL COUNCIL**  
**P.O. Box 27112, San Francisco, CA 94127**

January 30, 2007

Mr. Dwight S. Alexander, Esquire  
President  
San Francisco Planning Commission  
1660 Mission Street  
San Francisco, California 94103

**Re: Item(s) 2 and 3 File # 2003.0347E**

Dear President Alexander:

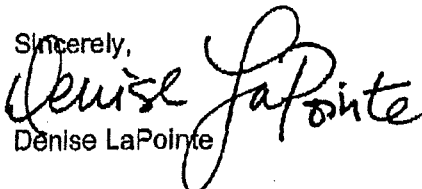
On January 29, 2006 the West of Twin Peaks Central Council, representing sixteen Westside neighborhood organizations voted to request a continuance of 90 days on the hearing on the Market Octavia Neighborhood Plan.

The plan seems to introduce two new citywide zoning categories through Planning Code amendments regarding Residential Transit-Oriented Neighborhood District (RTO) and Neighborhood Commercial Transit District (NCT). It is believed that these categories are not specific to the Market-Octavia plan and have further reaching application to all transit corridors.

Whereby our organization is currently reviewing major development plans located on Brotherhood Way, 19<sup>th</sup> Avenue, the Christian Science lots, Summerhill Homes, San Francisco State long range plan, City College expansion plans, and numerous others, we are obviously concerned for any change to the Planning Code which would increase density and height reclassifications citywide.

At your earliest convenience, please confirm that the new categories for zoning apply only to the Market Octavia Neighborhood Plan and not the entire city or major transit corridors on the west side of San Francisco.

Sincerely,

  
Denise LaPointe

Vice-President Christina Olague  
Commissioner Michael Antonini  
Commissioner William Lee  
Commissioner Kathrin Moore  
Commissioner Hisashi Sugaya

# Coalition for San Francisco

EXHIBIT H  
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**1st Vice President**

Mary Helen Briscoe 346-1448

**2nd Vice President**

Hiroshi Fukuda 386-2632

**Recording Secretary**

Dick Millet 861-0345

**Corresponding Secretary**

Jack Barry 564-0225

**Treasurer**

Jim Lew 771-5250

**Members-at-Large**

Babette Drefke

Joan Girardot

Tony Sacco

Honorable Dwight Alexander, President

Planning Commission

City & County of San Francisco

1660 Mission Street, 5th Floor

San Francisco, CA 94103-2414

March 8, 2007

cc: Members of the Planning Commission and Commission Secretary

Subject: Request for written opinion from City Attorney

Re: Market & Octavia Neighborhood Plan – Case No. 2003.0347MTZU

Dear President Alexander and Honorable Members of the Planning Commission

Last fall the planning staff presented to the Planning Commission for its consideration 650 pages of documents pertaining to the proposed Market & Octavia Neighborhood Plan. Included in this documentation, the planning staff proposed to the Planning Commission legislation for the Commission to consider for recommendation to the Board of Supervisors to adopt into law the proposed Market & Octavia Neighborhood Plan. The proposed legislation included over 300 pages of amendments to San Francisco Planning Code and San Francisco Zoning Code.

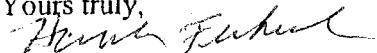
During the past six months, the public and representatives of the 44-member Coalition for San Francisco Neighborhoods expressed concerns that not only properties located within the proposed Market & Octavia Neighborhood Plan area will be subject to the proposed 300 pages of legislation. They expressed strong grave concerns that properties outside the Market & Octavia Neighborhood Plan area in other neighborhood areas of San Francisco also will be subject to provisions of this proposed legislation ostensibly for the Market & Octavia Neighborhood Plan area.

Consequently, on February 20, 2007, the General Assembly of the 44-member Coalition for San Francisco Neighborhoods voted to strongly urge the Planning Commission to request a written opinion from the City Attorney that states unequivocally that only properties within Market & Octavia Neighborhood Plan will be subject to the proposed planning and zoning amendments in the legislation before the Planning Commission and no properties outside the Market & Octavia Neighborhood Plan area, i. e., no properties in other neighborhoods throughout San Francisco will be subject now or any time in the future to the proposed planning and zoning amendments in the legislation before the Planning Commission for the Market & Octavia Neighborhood Plan area.

The resolution was presented to the Planning Commission at its Regular Meeting that was held on February 22, 2007 requesting that such a written opinion be provided to the Planning Commission no later than March 1, 2007. (Please see attached copy of resolution adopted on February 20, 2007 by the General Assembly of the Coalition for San Francisco Neighborhoods)

To date, the requested written opinion has not been provided by the City Attorney to the Planning Commission. Again, the Coalition for San Francisco Neighborhoods requests that the Planning Commission take no action on the proposed Market & Octavia Neighborhood Plan until it receives the requested written opinion from the City Attorney.

Yours truly,

  
Hiroshi Fukuda, 2<sup>nd</sup> Vice President

Barbary Coast Neighborhood Assn  
Bayview/Hunters Point  
Coordinating Council  
Buena Vista Neighborhood Assn  
Cathedral Hill Neighbors Assn  
Cayuga Improvement Assn  
Cale Valley Improvement Assn  
Cow Hollow Assn  
Diamond Heights Community Assn  
Dolores Heights Improvement Club  
East Mission Improvement Assn  
Ewing Terrace Neighborhood Assn  
Excelsior District Improvement Assn  
Fair Oaks Community Coalition  
Forest Knolls Neighborhood Assn  
Francisco Heights Civic Assn  
Glen Park Assn  
Golden Gate Heights Nghbrd Assn  
Greater West Portal Nghbrd Assn  
Inner Sunset Action Committee  
Jordan Park Improvement Assn  
Laurel Heights Improvement Assn  
Lincoln Park Homeowners Assn  
Marina Civic Improvement &  
Property Owners Assn  
Miraloma Park Improvement Club  
Low Mission Terrace Improvement Assn  
North Beach Neighbors  
North of Panhandle Nghbrd Assn  
North Park Neighbors  
Oceanview, Merced Heights,  
Ingleside — Neighbors In Action  
Outer Mission Residents Assn  
Pacific Heights Residents Assn  
Panhandle Residents Organization/  
Stanyan-Fulton  
Potrero Boosters Neighborhood Assn  
Richmond Community Assn  
Rincon Point Neighborhood Assn  
Russian Hill Improvement Assn  
Russian Hill Neighbors  
Stop 55/Preserve Our Waterfront  
Sunset Heights Assn of  
Responsible People  
Sunset-Parkside Education &  
Action Committee  
Telegraph Hill Dwellers  
Twin Peaks Council & Open  
Space Conservancy  
Twin Peaks Improvement Assn  
West Presidio Neighborhood Assn



# Neighborhoods

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Resolution urging the Planning Commission to request the City Attorney to provide by March 1, 2007 a written opinion that all documents and legislation being considered by the Planning Commission regarding the Market & Octavia Neighborhood Plan apply exclusively to the properties located within the boundaries of the Market & Octavia Neighborhood area.

*WHEREAS*, the Planning Commission is considering the proposed Market & Octavia Neighborhood Plan (File No. 2003.0347EMTZ) and the 600 pages of documents including 300 pages of draft amendments to San Francisco's Planning and Zoning Codes; and

*WHEREAS*, the Coalition for San Francisco Neighborhoods and other neighborhood organizations throughout San Francisco have great concerns regarding the provisions of the legislation proposed by the planning staff could be applied to properties in neighborhoods outside the boundaries of the proposed Market & Octavia Neighborhood Plan area; and

*WHEREAS*, the Coalition for San Francisco Neighborhoods has requested the Planning Commission to ask the City Attorney to clearly respond to those concerns and to date, the City Attorney has not provided a written opinion addressing those concerns, now, therefore, be it

*RESOLVED*, The Coalition for San Francisco Neighborhoods strongly urges the Planning Commission to request the City Attorney to provide by Thursday, March 1, 2007 to the Commission in writing the opinion of the City Attorney that confirms with appropriate citations supporting the opinion that all the documents and all the planning and zoning code legislation being considered by the Planning Commission in connection with the proposed Market & Octavia Neighborhood Plan (File No. 2003.0347EMTZ) apply exclusively to the properties located within the boundaries of the Market & Octavia Neighborhood area and under no circumstances do any of the provisions in these documents and legislation pending before the Planning Commission affect or can be applied now or any time in the future to the properties in other neighborhoods of San Francisco outside the boundaries of the Market & Octavia Neighborhood Area and all such properties in other neighborhoods are excluded from the provisions of these documents and proposed legislation being considered by the Planning Commission.

Resolution adopted at the February 20, 2007 regular meeting of the General Assembly of the Coalition for San Francisco Neighborhoods.

Judith Berkowitz  
President

- Barbary Coast Neighborhood Assn
- Bayview/Hunters Point
- Coordinating Council
- Buena Vista Neighborhood Assn
- Cathedral Hill Neighbors Assn
- Cayuga Improvement Assn
- Cole Valley Improvement Assn
- Cow Hollow Assn
- Diamond Heights Community Assn
- Dolores Heights Improvement Club
- East Mission Improvement Assn
- Ewing Terrace Neighborhood Assn
- Excelsior District Improvement Assn
- Fair Oaks Community Coalition
- Forest Knolls Neighborhood Assn
- Francisco Heights Civic Assn
- Glen Park Assn
- Golden Gate Heights Nghbrd Assn
- Greater West Portal Nghbrd Assn
- Inner Sunset Action Committee
- Jordan Park Improvement Assn
- Laurel Heights Improvement Assn
- Lincoln Park Homeowners Assn
- Marina Civic Improvement & Property Owners Assn
- Miraloma Park Improvement Club
- Low Mission Terrace Improvement Assn
- North Beach Neighbors
- North of Panhandle Nghbrd Assn
- North Park Neighbors
- Oceanview, Merced Heights,
- Ingliside — Neighbors in Action
- Outer Mission Residents Assn
- Pacific Heights Residents Assn
- Panhandle Residents Organization/ Stanyan-Fulton
- Potrero Boosters Neighborhood Assn
- Richmond Community Assn
- Rincon Point Neighborhood Assn
- Russian Hill Improvement Assn
- Russian Hill Neighbors
- Stop 55/Preserve Our Waterfront
- Sunset Heights Assn of Responsible People
- Sunset-Parkside Education & Action Committee
- Telegraph Hill Dwellers
- Twin Peaks Council & Open Space Conservancy
- Twin Peaks Improvement Assn
- West Presidio Neighborhood Assn





DENNIS J. HERRERA  
City Attorney

SUSAN CLEVELAND-KNOWLES  
Deputy City Attorney  
DIRECT DIAL: (415) 554-6769  
E-MAIL: susan.cleveland-  
knowles@sfgov.org

## MEMORANDUM

Exhibit I

CSFN FILING - 6/7/07

Page 1 of 2

TO: Dwight S. Alexander, President, Planning Commission  
Christina R. Olague, Vice President, Planning Commission  
Commissioner Michael J. Antonini  
Commissioner M. Sue Lee  
Commissioner William L. Lee  
Commissioner Kathrin Moore  
Commissioner Hisashi Sugaya

cc: Dean Macris, Director of City Planning  
Larry Badiner, Zoning Administrator

FROM: Susan Cleveland-Knowles *SK*  
Kate H. Stacy *KAS*  
Deputy City Attorneys

DATE: March 15, 2007

RE: Market and Octavia Area Plan: Adequacy of Notice for New Zoning Districts

You have asked for a written opinion to confirm oral advice from our office concerning whether a new zoning district created under the Market and Octavia Area Plan requires broader notice city wide or whether notice given to the Plan Area is sufficient.

**Short Answer**

The Zoning Administrator issued a letter of determination dated February 27, 2007 in response to this question. In that letter, the Zoning Administrator determined that if a new zoning district is created for the Market and Octavia Plan Area, notice need only be given for the Plan Area and not to a broader or citywide area. The City Attorney's Office reviewed that determination and finds that the determination is legally supportable.

**Analysis**

I. The Zoning Administrator is authorized to interpret the provisions of the Planning Code.

The Zoning Administrator is a position created by the San Francisco Charter. (Charter §4.105.) Under the San Francisco Planning Code, the Zoning Administrator has certain enumerated powers and duties, including the power to "adopt such rules, regulations and interpretations as are in the Zoning Administrator's opinion necessary to administer and enforce the provisions of this Code." (Plan. Code §307(a).) The Zoning Administrator must act to pursue the intent and objectives of the Code. (*Id.*)

The notice provisions in question are found in Section 306.3 of the Planning Code; thus the Zoning Administrator is the City official authorized to interpret those provisions of the Planning Code. A Zoning Administrator determination may be appealed to the Board of Appeals

Dwight S. Alexander,  
President, Planning  
Commission

2

March 15, 2007

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under the provisions described in Planning Code Section 308.2. Otherwise, the Zoning Administrator's determination is final.

II. The Zoning Administrator's letter of determination is supported by the text of the Planning Code, and consistent with the objectives of the Planning Code.

As requested by the Planning Commission, the Zoning Administrator consulted with the City Attorney's Office in making his original determination. The City Attorney's Office has again reviewed the determination in light of the Planning Commission's request for this written advice. This office finds that the Zoning Administrator's determination that citywide notice is not required to apply a new zoning district to a limited Plan Area is supported by the text of the Planning Code, is otherwise legally supportable, and that the opinion is consistent with the overall objectives of the Planning Code.

Specifically, Section 306.3 of the Planning Code sets out the notice requirements for hearings on actions related to amendments to the Planning Code and General Plan – both of which are at issue in the Market and Octavia Area Plan approvals. Section 306.3 requires mailed notice to "the owners of all real property within the area that is the subject of the action and within 300 feet of all exterior boundaries of such area . . ." (Sections 306.3(a)(2), 306.3(b)(2)(B).) This section specifically only requires notice to persons *within the area that is the subject of the action*. It is a supportable interpretation of this Code language that the area that is the "subject of the action" is the geographic area where the zoning district is actually being implemented at the time and not any possible area where the zoning district may one day be applied. In addition to mailed notice as discussed above, Section 306.3 requires newspaper notice in a newspaper of general circulation. (Section 306.3(a)(3), 306.3(b)(2)(A).) Thus, even though a new zoning district created under the Market and Octavia Area Plan – such as the Neighborhood Commercial Transit (NC-T) District or the Residential Transit Oriented (RTO) District – may one day be applied to another geographic area of the City, it is reasonable to conclude that it is not necessary to give notice city wide at this time due to the fact that the only action presently before the Commission is to apply these zoning districts to the Market and Octavia Plan Area.

This office also concurs with the Zoning Administrator that, under the San Francisco Planning Code, additional notice would be required to apply these newly created zoning districts to another geographic area of the City and that such a future action would be subject to additional environmental review as required under the California Environmental Quality Act (CEQA).

Please be advised that the Zoning Administrator's determination speaks only to the question of whether the notice provided was sufficient under the Planning Code. If the Planning Commission determines that broader notice is desirable, it may request the Zoning Administrator to provide additional notice.

*File 070560*

*Presented in Bd  
6/12/07*



# PLANNING DEPARTMENT

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FAX: 558-6426

ZONING ADMINISTRATOR  
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MAJOR ENVIRONMENTAL  
FAX: 558-5991

COMMISSION CALENDAR  
INFO: 558-6422

INTERNET WEB SITE  
WWW.SFGOV.ORG/PLANNING

April 4, 2007

## NOTIFICATION OF PROJECT RECEIVING ENVIRONMENTAL REVIEW

**PROJECT TITLE:** 2006.1431E - 1960-1998 Market Street; Closure and removal of a gas station and the new construction of a nine-story, mixed-use building with approximately 9,000 square feet of commercial space, approximately 113 dwelling units, and up to 114 parking spaces.

**PROJECT DESCRIPTION:** The proposed project would involve the closure and removal of a gas station, and the new construction of a nine-story, mixed-use building with approximately 9,000 square feet of ground floor commercial space, approximately 113 dwelling units, and up to 114 parking spaces. The approximately 21,212 square-foot project site consists of three lots located on the north side of Market Street at the corner of Buchanan Street [Assessor's Block 0872, Lots 005, 006, and 007] in San Francisco's Upper Market neighborhood. An operating gas station and parking lot currently exist on the project site. The existing gas station building was constructed in approximately 1936 and would be demolished along with the canopy over the gas pumps. The existing underground storage tanks would also be removed. Up to 101 off-street parking spaces would be provided a two-level, below-grade parking garage with vehicular access from Buchanan Street. In addition, approximately 13 parking spaces would be provided on the ground floor. The proposed project would include approximately 54 two-bedroom units, 52 one-bedroom units, and seven studio apartments for a total of 113 residential units. Pursuant to Section 228.2 of the *Planning Code*, all service stations require either Conditional Use (CU) authorization from the Planning Commission, or a conversion determination from the Zoning Administrator for change of use. The project site is zoned NC-3 (Moderate-Scale Neighborhood Commercial) and is within an 80-B height/bulk district. Projects in the NC-3 zoning district also require a CU for development over 10,000 square feet and non-residential development over 6,000 square feet. The project site is within the proposed Market and Octavia Area Plan and would be subject to the requirements of that plan when it is adopted. The project site is also included in the Upper Market Community Design Workshop.

**Reviewer:** Debra Dwyer

**Phone:** (415) 558-5917

**Email:** Debra.Dwyer@sfgov.org

The project described above is being studied by the Planning Department's Major Environmental Analysis section to determine the potential environmental effects of the proposal. No environmental documents have yet been issued by our Department for this project; however, public comments concerning the potential environmental effects of this project are welcomed. In order for your concerns to be fully considered throughout the environmental review process, we would appreciate receiving any comments you may have about issues to be addressed in the environmental review by April 17, 2007. Similarly, if you wish to receive any future environmental review documents on this matter from our office, please contact the Reviewer identified above by April 17, 2007. *If we do not hear back from you, you may not receive further notice regarding the environmental review for this project.* This notice is routinely sent to community organizations, tenants of the affected property and properties adjacent to the project site, and those persons who own property within 300 feet of the project site. In the case of projects that may have a more citywide effect, such as an ordinance amending the Planning Code, this notice is sent to potentially interested parties. Anyone receiving this notice is encouraged to pass on this information to other persons who may have an interest in the project.

Environmental review provides information on physical environmental effects and does not provide recommendations on the project itself. Other review or approval actions may be required for the project. These actions may involve further public notification and public hearings. If you have comments on the proposed project that pertain to matters other than physical environmental effects, please note the file number and contact the Public Information Counter at (415) 558-6377.

Vincent's talking points for today's hearing:

*MARK PAEZ'S COMMENTS*

- History of Market Octavia plan - Planning Department prepared a land use plan without doing research to understand the plans impact on historic resources. It is important to understand that it was neighborhood advocacy that is responsible for the Planning Department preparation of a survey at all.

- How can you change the zoning to relax existing development standards, thereby increasing and creating new threats to potential historic resources, before you understand the historical significance of your study area and its building stock?

- Not only is there still a timing problem because the survey will be completed after the plan is adopted but now we are learning that this is an "area plan" rather than comprehensive survey.

- This survey will have limited utility beyond the adoption of this plan because so many properties are not evaluated and because those that are evaluated are held to standards for significance that are unjustifiably high.

- We believe that this survey was flawed from its inception because it was defined by the timing and available budget.

- Even after this survey is completed there will still be uncertainty around which properties are historic in the plan area.
  
- This perpetuates the struggle between neighborhoods and proposed development and is not productive
  
- Without a complete survey individual properties will continue to be evaluated on a development project initiated case by case basis without the objectivity that is afforded by a comprehensive neighborhood wide survey.
  
- To fix this problem we are requesting that the survey underway be expanded in scope so that it can be a comprehensive evaluation of the properties within the Market Octavia Plan area.
  
- We want this survey to be consistent with the methodology used in the Central Waterfront and Inner Mission surveys.
  
- We also want this and all future surveys to be under the oversight of a volunteer panel of preservation professionals who can provide an objective peer review of the entire survey process

from research design, budget request, schedule work products and results. This panel should also include one or more neighborhood representatives or stakeholders from the survey area.

- The treatment of historic preservation in the Market Octavia Plan demonstrates the Planning Department's lack of understanding of this field and leaves much to be done to make the necessary structural changes with the Department to fully integrate historic preservation into the land use planning process including both the planning policy formulation and neighborhood/current planning.

File 070560

Presented in Bd. 6/12/07

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TO: SAN FRANCISCO BOARD OF SUPERVISORS  
Honorable Aaron Peskin, President

**BY HAND DELIVERY**

DATE: June 12, 2007

**REQUEST FOR RECIRCULATION OF EIR  
MARKET AND OCTAVIA NEIGHBORHOOD PLAN  
Case No. 2003.0347  
[Public Resources Code §21092.1; Guidelines §15088.5]**

Pursuant to the California Environmental Quality Act ("CEQA") Pub. Res. Code §§ 21000 *et seq.*; 21092.1; and 14 Cal. Code Regs. ("Guidelines") §15088.5, this is a Request for Recirculation of the "final environmental impact report" ("EIR") on the Market and Octavia Neighborhood Plan ("Plan" or "Project").

The Coalition for Adequate Review is an unincorporated association dedicated to the public interest and to assuring proper review, informed decisionmaking and public participation in the review of major projects proposed in San Francisco and other areas. This Request is submitted in the public interest. Public comment on this Project will be submitted separately from this Request. We submitted four requests for recirculation to the Planning Commission, with no answers ever provided. We request a formal vote of the Board on this Request for Recirculation.

The following are some but not all reasons why recirculation of the EIR on this Project is necessary under CEQA and other laws.

**I. THE PROJECT HAS UNDERGONE SUBSTANTIAL CHANGES SINCE  
RELEASE OF THE DEIR. THE FEIR IS INCOHERENT,  
INCOMPREHENSIBLE, AND ITS CONCLUSIONS ARE UNSUPPORTED.**

**A. Huge Volumes of Material Have Been Added that Substantially Change the  
DEIR and Proposed Legislation After the Close of Public Comment in 2005.**

Recirculation is required under CEQA when "significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review." 14 Cal. Code Regs. ("Guidelines") §15088.5(a); Pub. Res. Code §21092.1.



The Project began in 2000 as a proposal for residential development on 22 parcels transferred to the City by the State (Caltrans) when it removed the elevated Central Freeway.<sup>1</sup> At some point not defined in any Project documents, those 22 “freeway parcels” metastasized into the huge present Plan to rezone up to 4,773 parcels in the heart of San Francisco for unrestricted density and high-rise development and parking elimination. (DEIR, Fig. 3-2) The Project area was fictitiously coined the “Market and Octavia Neighborhood,” though no such “neighborhood” exists. In fact, the Project now encompasses a large part of central San Francisco, including all or parts of the Hayes Valley, Civic Center, Van Ness, Mid-Market, South of Market, Inner Mission, Castro, Upper Market, Mission Dolores, Mint Hill, Western Addition, Duboce Triangle, Eureka Valley, and parts of other neighborhoods.

The DEIR on this Project was released on June 25, 2005, after which the public was allowed a short period of public comment. On September 26, 2006, the Project sponsor, the San Francisco Planning Department (“Planning”), which is also the lead agency that created the DEIR and generated the subsequent documents on the Project, released a document entitled “Market and Octavia Neighborhood Plan Comments and Responses” (“C & R”). The C & R responded to some public comments submitted during the 2005 DEIR public comment period.

The C & R made substantial changes to the Project, including revised provisions on zoning, an increased height “bonus” throughout the Plan area, increased height and removal of rear yard requirements on the “freeway parcels” given to the San Francisco Redevelopment Commission, additional high rise areas (up to 400 feet) that did not exist in the DEIR, new provisions on bulk, parking, parking lots, density, lot merger exemptions, transportation, historic preservation, boundaries, “land use controls,” and proposed mitigations. (C & R, pp. 5-1 - 6-16.) In the C & R, Planning introduced entirely new policies that significantly revised the Plan, including, among others the Plan’s correction of previous claims of promoting affordable housing, admitting that the Project in fact contains *no* provision requiring inclusionary affordable housing anywhere in the Project area. Among many other substantial revisions of the Project, Planning now admits that the Project contains no requirement of inclusionary affordable housing, though the Project claims its primary objective is to “provide additional housing, especially affordable housing.” (Exhibit M-1 at p. 7; and “Executive Summary Addendum for Hearing February 8, 2007 at p. 12.) In fact, as the revisions show, the Project requires *no* inclusionary affordable housing. (*Ibid.*) Of 5,960 projected new

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<sup>1</sup> Of the 22 freeway parcels, only half are projected to include affordable housing. The City has now transferred several freeway parcels to private ownership for market-rate residential development. Coherent information about the disposition of these parcels has not been provided, in spite of plans already approved or under construction, and with at least one market-rate condominium development already constructed with no public review. The descriptions of developments in the EIR (DEIR 4-55 - 4-60) are inconsistent with proposed and ongoing developments already implemented on these parcels.

housing units,<sup>2</sup> only 400 of the 800 on the “freeway” parcels given to the Redevelopment Agency by the City are projected to be affordable, and those are reserved for special groups and not the general public. (*E.g.*, C&R, pp. 5-31 - 5-32)

Other substantial changes include but are not limited to a five-foot height “bonus” throughout the Plan area, new high-rise development (up to 400 feet) in areas not described in the DEIR, substantial height increases on “freeway parcels” given to the Redevelopment Agency, new provisions on bulk, parking, transportation, historic preservation, boundaries, “land use controls,” and proposed new mitigations. (C & R, pp. 5-1 - 6-16.) Several newly proposed mitigations are enjoined by court order in other litigation. All of these changes are significant and require recirculation and a new public comment period.

The EIR changed data from that in the DEIR. For example, the data on growth caused by the Project was significantly increased on September 18, 2006, from 4,400 to 5,960 new market-rate housing units. (Ex. P-1 at p. 11, revised February 8, 2007; Ex. P-1-B, again revised March 20, 2007 at p. 10). No impacts from this increase were evaluated, such as on parking, traffic, transit, open space, historic, visual and aesthetic resources, and others. The Ordinances, which are referred to as “Exhibits” in the Planning Commission’s legislation, were never labeled as such, making it impossible to ascertain what the Exhibits are. All of the Exhibits referred to in the legislation and the Project contain the actual text of ordinances, proposed mitigations, and “improvements.” Each was substantively changed at every hearing and thereafter with no public notice.

The C & R also described new information and data affecting significant impacts including but not limited to impacts on transportation, traffic, parking, historic resources, open space, visual impacts, and others. Some of the new information is inconsistent information in the DEIR, and some “new” information, is incomplete and/or contains substantial errors.

At public hearings since October 26, 2006, and in non-public sessions with private interests, including selected private organizations calling themselves “neighborhood groups,” the Planning Department has changed the Plan as it goes along, making exceptions to its purported physical “controls” on behalf of various projects that will have significant impacts. (*E.g.*, Planning Commission Resolution No. 17408.) The resulting deals exempt developers from the Project’s height and bulk requirements, while dismissing the concerns of those affected by the new height-bulk-setback-no yard

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<sup>2</sup> The baseless 5,950 figure is itself a dubious understatement that only appeared after the close of public comment. Given the huge number of parcels listed for rezoning (3,000 to 5,000 or more) and the Project’s removal of density, height, setback, yard, open space, parking, and other requirements, the number of new housing units encouraged by the Project is likely to be much higher. Regardless of how many existing structures will be demolished to make way for more profitable density and high-rise development, there is *no* requirement in this Project for affordable housing on-site anywhere in the Project area.

requirements. Neither the exceptions nor the public concerns have been included in the additional documents or in Planning's feel-good selective "summary" of the public comments since release of the DEIR. For example, while supporting exceptions to the Project's "restrictions" on behalf of developers, Planning summarily dismissed the large amount of negative public comment on a proposed nine-story box of condominiums on Market Street that will destroy the character of the Mint Hill neighborhood and obscure the view of the historic Mint. The same exceptions from requirements ensued on the "555 Fulton," and Freeway "Parcel I" proposals.

On February 8, 2007, more than 1,000 pages of new revisions were released on Planning's web site, with hard copy backdated to February 1, 2007. The revisions significantly changed Project provisions including physical attributes, and legislation including hundreds of pages of revised proposed Ordinances and Resolution(s) proposing permanent, radical changes to the City's Planning Code, Zoning Maps and General Plan to accommodate the Project, and several other documents, including documents on a "Community Improvement Program." This huge volume of material, by its bulk alone, renders the EIR incomprehensible, incoherent, inconsistent and impossible for the public to assimilate, much less to give informed public input, defeating CEQA's primary purpose of informed decisionmaking and informed public participation.

Planning's new "Community Improvements Program" document backdated to February 8, 2007, containing proposals that have been enjoined by the Court, will have significant adverse impacts, some of which are preempted under the State Constitution. Planning revised that document, back-dating the revision to April 5, 2007, when it changed its mind about mitigating significant adverse impacts on traffic, transit and parking caused by eliminating westbound traffic lanes on Hayes Street between Van Ness and Gough, changing Hayes to a two-way street, after demands from the San Francisco Bicycle Coalition. Yet even the latest version of that document still contains misinformation, such as its claim that Hayes will remain one-way. (MMRP, April 5, 2007, Item D). The Commission took action claiming such mitigation would be "infeasible." (Planning Commission Motion No. 17406, Attachment A (CEQA Findings), April 5, 2007, at ¶F, pp. 20-21.) Thus, many documents are deceptive and incorrect, even after numerous revisions, making it impossible to ascertain the actual contents of the ever-changing FEIR and legislation.

Significant changes were made from December through March on the borders of the Project area, which itself changed the Project description substantively, by permitting more towers and high rises in different locations, moving borders of proposed rezoning, and other physical changes that substantially changed the Project, requiring new analysis and public comment.

#### **B. Changes Were Made *After* the Planning Commission's Vote.**

The Project's "Exhibit Z-3-A," dated February 1, 2007, contained a listing of the thousands of parcels to be rezoned, a total of 4,773 parcels, consuming a Proposed Ordinance (unlabeled) that was 49 pages long.

On April 17, 2007-- *after* adoption of Resolution No. 17410 referring to it-- that Exhibit was changed to "Exhibit Z-3-B" with parcels added for rezoning, and a new total of 119 pages with 3,255 parcels listed for rezoning. Neither proposed Ordinance was placed before the public before the close of public comment in 2005, making it impossible to ascertain which parcels were affected and how.

"Exhibit Z-3-B" (hereinafter "119-page Ordinance") did not exist on April 5, 2007 when the Planning Commission voted. It remains impossible to determine how many *thousands* of parcels this Project will rezone for unrestricted density, high-rise development and parking removal in the heart of San Francisco, which parcels will be rezoned, and where they are. When Project boundaries are changed, the EIR must be recirculated.

No environmental review has been conducted on any of the added material, and no further public input has been allowed, in violation of CEQA. Since September 28, 2006, Planning has stated on its web site that the public cannot submit comment on the Project's many amendments and changes.

**C. The Decisionmakers, the Appellants, and the Public Cannot Ascertain What Is In the FEIR on this Project, in Violation of CEQA.**

With no public notice or mailed announcement, even to those, like the Appellants, who requested it, Planning first released its proposed legislation after September 26, 2006, by placing the huge legislative documents referring to attachments that were not attached on its website in PDF format, making it impossible for the public without advanced downloading and reproduction capabilities to get copies. The Planning Commission began a series of eight hearings, announcing before each that public comment was closed and that it would not accept any further comment. (*See* Agendas of San Francisco Planning Commission, October 26, 2006, November 2, 2006, November 9, 2006, December 7, 2006, January 11, 2007, February 8, 2007, February 15, 2007, and March 22, 2007.) At each hearing, substantive changes to the Project and legislation were announced with no opportunity for public comment since it remained closed.

Planning has never publicly released any coherent Final Environmental Impact Report ("FEIR"), claiming instead that the FEIR on this Project consisted of the DEIR, the C&R, its proposed legislation, and its traveling sideshow of surprise volumes of every-changing documents. \ In its Motion No. 17406, the Planning Commission claimed that the FEIR now consists of "the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law." (San Francisco Planning Commission Motion No. 17406 at ¶4). Those materials were never made available to the public in a coherent form. Instead, thousands of pages were changed from week to week, with the changes announced after the fact.

After hearings began on October 26, 2006, Planning made major changes to the legislation, adding more documents to the FEIR at every hearing and between hearings, with no public notice or announcement. Planning added Exhibits to the FEIR consisting of hundreds of pages of additional material and then changed the content of these documents, the addenda, its Community Improvement Plan, the Plan itself, and proposed mitigations at least nine times, requiring reproduction of revised lengthy documents of more than 1,000 pages with each change.

Planning made a major revision of the entire legislation package in December, 2006, then another major revision on February 8, 2007, with no advance public notice or announcement.

The proposed legislation, including hundreds of pages of ordinances, resolutions, motions, addenda, and exhibits, was also changed at least nine times between the release of the C&R and the Planning Commission's actions of April 5, 2007.

On April 5, 2007, all of the documents contained in the FEIR were again substantively changed. Copies of the Planning Commission's actions were not made publicly available until April 19, 2007, even though Planning demanded that appeals of the Commission's actions must be submitted by April 25, 2007, less than one week later.

The legislation that is part of the FEIR was changed *after* the Planning Commission's vote recommending its adoption by this Board--in plan violation of due process and CEQA requirements.

Revisions of the Project and FEIR after the close of comment have been substantive, including revisions to proposed rezoning, height, density, bulk, parking, and even the borders of the Project area. The most recent revised legislation was not available to the public until May 15, 2007, one week before the Planning Commission hearing, with some of it dated *after* the Planning Commission's vote. Thus the material voted on could not have been before the Commission when it voted on April 5, 2007.

The Legislation as of this Comment consists of hundreds of pages of material, including:

- 1) MOTION NO. 17406 ("Adopting Findings Related to the Certification of a Final Environmental Impact Report for the Proposed Market and Octavia Plan, Amendments to the San Francisco Planning Code and Zoning Maps, Amendments to the San Francisco General Plan, Adoption of Urban Design Guidelines, and Amendments to the Western Addition A-2 Redevelopment Plan. The Plan Area Is Generally Located to the West of the City's Downtown Area and Includes Portions of Civic Center, Hayes Valley, Western Addition, South of Market, Inner Mission, the Castro, Duboce Triangle, Eureka Valley, and Upper Market Neighborhoods of San Francisco");

2) "ATTACHMENT A" to Motion 17406, consisting of CEQA "Findings of Fact, Evaluation of Mitigation Measures and Alternatives, and Statement of Overriding Considerations;

3) MOTION 17407 ("Adopting Environmental Findings (and a Statement of Overriding Considerations) Under the California environmental Quality Act and State Guidelines in Connection with the Adoption of the Market and Octavia Area Plan and Related Actions Necessary to Implement Such Plan.");

4) RESOLUTION NO. 17408 (recommending that the Board of Supervisors adopt amendments to the General Plan attached in an Ordinance as "Exhibit M-3-B") (No Exhibit was attached in the copy provided the Appellants.)

5) Unnumbered ORDINANCE amending the San Francisco General Plan related to Market & Octavia Area Plan, dated April 17, 2007;

6) RESOLUTION NO. 17409 (recommending that the Board of Supervisors amend the San Francisco Planning Code by an ordinance attached as "Exhibit T-3-B") (No "Exhibit" was attached in the copy provide the Appellants.);

7) Unnumbered ORDINANCE amending the San Francisco Planning Code (hereinafter "254-page Ordinance"), dated April 17, 2007;

8) RESOLUTION NO. 17410 (recommending that the Board amend the San Francisco Zoning Maps via an ordinance [referred to as "Exhibit Z-3-B"]) (No "Exhibit" was attached in the copy provided the Appellants.);

9) Unnumbered ORDINANCE amending the San Francisco Zoning Maps 2, 2H, 2SU, 7, 7H, and 7SU in the City Zoning Maps, dated April 17, 2007 (hereinafter "119-page Ordinance");

10) MOTION NO. 17411 enacting "interim procedures" due to Planning's failure to conduct a historic resources survey in compliance with CEQA, and referring to "Exhibits U-3-B" and "U-4-B." (No "Exhibit" was attached in the copy provided the Appellants);

11) "Exhibit U-3-B";

12) "Exhibit U-4-B";

13) "Exhibit P-1-B," "Draft Community Improvements Document," March 20, 2007 (113 pages);

14) "Mitigation Monitoring and Reporting Program" ("MMRP"), April 5, 2007 (28 pages, of which 17 pages are devoted to archaeological and human remains);

15) Other “Exhibits,” proposed Ordinances and addenda which remain undefined, as well as the DEIR and C & R documents.

At the final Planning Commission meeting on April 5, 2007, Planning staff referred to new documents that were not publicly announced or provided, yet were included in the substance of the Commission’s votes. Some documents approved by the Commission on April 5, 2007, were created *after* the Commission’s vote. Planning did not make publicly available its motions, resolutions and attached documents reflecting the actions of the Planning Commission on April 5th until after the deadline for filing an Appeal of the Planning Commission’s actions (April 25th). Planning did not provide signed copies of the Commission’s legislation until May 14, 2007, and documents referred to in those actions still have not been provided to the Appellants and the public.

The Appellants have requested numerous times copies of the materials before this Board, and have not even received the courtesy of a response to our requests, much less copies of the materials that are the subject of this Appeal.

Where a “new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented,” the EIR must be recirculated. (Guidelines §15088.5(a)(1).)

Where a “substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance,” the EIR must be recirculated. (Guidelines §15088.5(a)(2).)

The large number of revisions in many documents render the EIR incomprehensible, defeating CEQA’s central purpose of informed decision-making and informed public participation. The public has had NO opportunity to formally comment on the substantive changes Planning has made to the Project’s EIR. The new additions and information require revision and recirculation of the EIR for public comment.

On March 2, 2007, March 22, 2007, and April 3, 2007, the Appellants requested recirculation of the EIR to allow public input and informed decision-making, but that request was denied without a response. We received no reply to our Requests. Therefore, Appellants request that this Board make findings and a formal decision on this Request for Recirculation.

**B. The Proposed Legislation Was Changed AFTER the Planning Commission’s Purported Vote Adopting It.**

The purported “resolutions” and “motions” of the Planning Commission on April 5, 2007, were created *after* the Commission’s vote, and were not released to the public until after the period for appealing those actions had expired. Until a transcript of the Planning Commission’s hearing of April 5, 2007, is produced, the content of the Commission’s actual deliberations and vote cannot be ascertained. The Commission has refused to release properly dated, certified copies of the Commission’s legislation.



The substantive changes *aft* failure to produce this material information before the close of public comment require recirculation.

The purpose of the EIR is to evaluate the impacts caused by the Project. The Project's physical description has been changed over and over with no opportunity for public review and no specific analysis or mitigation of physical impacts. CEQA requires a stable and finite Project description as a beginning point for this analysis. Changing the Project description requires recirculation and a new period of public comment. The public has no way of knowing what this huge Project will do to the middle of San Francisco.

Other changes were made by the Planning Commission, including its flip-flop on Hayes Street, that are inconsistent with previous statements and findings.

#### **C. The Additions to the EIR Have Not Been Accurately Analyzed and Will Result in Significant Environmental Impacts.**

Where a "new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented," the EIR must be recirculated. (Guidelines §15088.5(a)(1).) Significant impacts will result from the changes proposed in the DEIR, including but not limited to impacts from added height and bulk, transportation, traffic, parking, growth, visual, air quality, noise, open space, and aesthetic and visual impacts, and impacts on historic resources, among others. New information describing these impacts is plainly inaccurate, incomplete, or omitted.

Where a "substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance," the EIR must be recirculated. (Guidelines §15088.5(a)(2).)

#### **D. The EIR Contains Insufficient Information on Historic Resources, Transportation, Traffic, and Other Significant Impacts.**

The EIR contains no coherent information on impacts on historic resources, both site-specific and cumulative. Any impacts on historic resources or their significance require mandatory findings of significance and mitigation under CEQA. Instead, the Project proponent proposes that "areas of increased scrutiny" will receive an undefined "discretionary review" for all construction over 50 feet.

The "areas of increased scrutiny" were established by a "windshield survey of Market Street." (Ex. "U-3," February 15, 2007, at p. 1.) The "areas of increased scrutiny" do *not* include major portions of the Project. (*Id.* at p. 3)

The results of analysis of historic resources must be contained in *this* EIR--not in some future study-- so that impacts can be analyzed and mitigated. That analysis must include every inch of the Project Area and must include meaningful mitigations for both

site-specific and cumulative impacts on historic resources, not merely “scrutiny” and “discretionary review.” This omission flaws the “EIR” beyond legal acceptability under CEQA.

Also omitted is any coherent, up-to-date data on the impacts on transportation, transit, and traffic from the removal of the Central Freeway and the construction of a six-lane ingress-egress cutting through the Project Area on Octavia “boulevard,” and causing significant traffic impacts on that and many other streets. There is no coherent analysis or mitigation of these impacts. There is no analysis whatsoever of urban blight, which is caused by lack of parking, density, lack of open space, and other attributes of this Project. There is no analysis or mitigation of the impacts on public transit, height, wind, shadow, aesthetic, open space and other impacts, or any analysis of cumulative impacts from this large Project, though it is of regional and statewide significance under CEQA. The failure to provide supporting data for its conclusions violates CEQA, and the EIR’s omissions require reanalysis and mitigation of this Project’s impacts.

These are only a few examples of the type of misinformation and unsupported conclusions contained in the “EIR.” There are many more, as the public has pointed out in comment in these proceedings. To approve the “EIR” under these circumstances is an abuse of discretion.

**E. The Project Proponents and the Commission Have Rejected Feasible Project Alternative(s) that Would Clearly Lessen the Significant Environmental Impacts of the Project.**

A number of alternatives have been proposed in public comment that would clearly lessen the significant environmental impacts of the Project. For example, numerous public comments have proposed that the Plan dispense with all its punitive parking restrictions, including its proposed changes to the Planning Code’s “1:1” requirements of minimum parking in new construction, the Project’s imposition of “maximum” caps on parking, its limits on public parking garage facilities, demands of no “curb cuts” (driveways) on city streets, no parking and loading provisions for commercial uses, etc. However, the Project Proponents (*i.e.*, the Planning Department) has summarily dismissed and rejected every single one of these comments and suggestions for alternatives and mitigations to the severe impacts on parking from the Project.

The same is true, for example, of the Project’s elimination of rear yard requirements, full build out requirements, and high rise incursion into the city’s central core. The public has also recommended that the “Historic Resources Survey” be completed before further action on this Project. Planning has summarily rejected this reasonable request.

The public has repeatedly requested that historic study be completed before further action is taken on this Project.

Where feasible alternatives are proposed but summarily rejected by Project proponents, the EIR must be recirculated. (Guidelines, §15088.5(a)(3).) Even if alternatives are properly proposed and analyzed, the public must be allowed to comment on alternatives after they are analyzed in the EIR. (*E.g., Preservation action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1358.) In this case, feasible alternative have neither been properly analyzed nor presented for public comment, requiring revision and recirculation of the “EIR.” (*Id.*)

**F. The Public Has Not Received Adequate Notice or Sufficient Time to Assimilate and Review Major Changes in the Project Since the DEIR.**

The lack of a coherent FEIR, as well as the city’s failure to give public notice on this project, violate the California Environmental Quality Act (CEQA), Cal.Pub. Res. Code §§21000 *et seq.*, the Government Code, and the city’s Administrative Code. The failure to compile a coherent, reviewable FEIR document also renders these proceedings an absurdity that is both pointless and against the law. No informed decisionmaking or informed public participation can result from the thousands of pages of revisions of revisions of revisions of the Project and proposed legislation, and the innumerable exceptions favorable to development that the Planning Department has already generated--with no evaluation or mitigation of the significant impacts from these changes. Significant new information has been added; yet the “EIR” remains deficient in many areas, reaching blanket conclusions with no substantial evidence to support them.

**G. Newly Proposed “Community Improvements” Will Have Significant Impacts, Have Been Enjoined Under Other Litigation, May Be Preempted, and May Not be Reintroduced in this Project.**

Recent addenda and other provisions for any changes included in the San Francisco Bicycle Plan have been enjoined by a Court order, including but not limited to, “bicycle improvements,” “bicycle lanes,” “bicycle boulevards,” and “traffic calming,” and may not lawfully be approved as part of this Project or any other. Some of these features may also be preempted under the California Constitution. Far from being “improvements,” even if they could lawfully be included in this Project, and they cannot, these proposals will surely have significant impacts that have not been analyzed, which is why the Court enjoined them in their incarnation in the San Francisco Bicycle Plan. Planning must remove these proposals from this Project to avert being in contempt of the Court’s order.

**H. Conclusions of “Infeasibility” of Mitigations Were Introduced After the Close of Public Comment, and Are Unsupported.**

The Planning Commission’s “findings” on “infeasibility” of, *e.g.*, leaving Hayes Street between Van Ness and Gough Streets as a one-way street are unsupported, were made at the last minute, and are unlawful under CEQA. Surprise “findings” are improper. The purpose of CEQA--to provide the public and the decisionmakers with necessary information--are defeated by last-minute changes that are not released publicly.

## II. CONCLUSION AND REQUEST FOR A COMPLETE AND COHERENT EIR AND RECIRCULATION.

The EIR has been revised with huge addenda and large volumes of data. The revisions are not “insignificant modifications,” but involve impacts on height, density, transportation, traffic, open space, and “mitigations.” The EIR’s findings of no impacts from this Project are unsupported, and a full range of alternatives has not been offered for public consideration or comment.

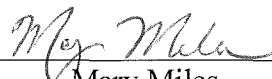
Without supporting evidence, Planning falsely claims that many significant impacts “cannot be avoided, such as shadow impacts from new high rise construction, incentives for demolition of historic resources, and traffic impacts from changing Hayes Street. Of course, these and other significant impacts that the Project does not accurately analyze can be avoided by simply choosing the No Project Alternative, or by creating feasible alternatives. City claims there is only one alternative besides the No Project Alternative -- itself a fiction. City’s failure to describe a full range of alternatives does not mean there are none.

This Project proposes radical physical changes to the central core and heart of San Francisco, which will create permanent adverse significant impacts on residents, commuters, and visitors to the city. The EIR created by the Project Sponsor is inaccurate, incomplete, and “so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” (Guidelines §15088.5(a)(4); *Mountain Lion Coalition v. Fish & Game Comm.* (1989) 214 Cal.App.3d 1043, 1050-54.)

The changes to this Project, its unsupported conclusions, voluminous legislation, lack of mitigations, and large volume of added information, as well as its severe flaws and incoherent agglomeration of tomes of paper, require that the EIR be revised and recirculated. In its present form, the FEIR is incomprehensible to decision-makers and the public, and the public has been denied the opportunity for input on this EIR and Project.

The Appellants request a formal vote and findings by this Board on this Request for Recirculation.

DATED: June 12, 2007

  
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Mary Miles

File 070560

Resubmitted in Bd 6/12/07

FROM:  
Mary Miles (#230395)  
Attorney at Law, and  
Coalition for Adequate Review  
364 Page Street, No. 36  
San Francisco, CA 94102  
(415) 863-2310

TO:  
The Honorable Aaron Peskin, President and  
San Francisco Board of Supervisors

BY HAND DELIVERY

DATE: June 12, 2007

**REQUEST FOR CONTINUANCE OF HEARING ON APPEAL TO BOARD**  
**File No. 2003.0347, Market and Octavia Plan**

This is a Request for Continuance of Hearing on the Appeal of the Coalition for Adequate Review dated April 25, 2007, of the actions of the Planning Commission on the above-described Project. The following are reasons why the Hearing of the Appeal must be continued:

1. I represent the above-described Appellant. We timely appealed the Commission's actions to the Board of Supervisors based on the many violations of CEQA and Government Code in the Final Environmental Impact Report ("FEIR") on this large project. The San Francisco Administrative Code §31.16(b) requires that the Board provide not less than ten (10) days notice by mail to appellants prior to the date of hearing.
2. Several times after filing this Appeal, I have requested a copy of all the materials before this Board, but my requests have received *no* response from the Clerk and staff of the Board, and we have not received any copy of what is before this Board, obstructing the Appellant's and the public's right to informed participation in the decision-making process. The Appellants and the public have the right to receive copies of the materials before this Board, and fair hearing cannot be conducted until we have received these materials. As Appellants, we cannot fairly participate in these proceedings without knowing what this Board has in front of it.
3. The Administrative Code §31.16 requires that hearing be scheduled before the full Board, and provides that the Board may postpone its hearing and decision until "the full membership of the Board is present" up to 90 days from the date of filing the appeal. (Admin. Code §§31.16(a) and (d).

4. A continuance is also necessary because CEQA and the Administrative Code require that the Board of Supervisors consider our Appeal and all other issues raised *de novo* and make independent findings from those of the Planning Commission. This is a very large project, proposing to rezone more than 4,000 parcels in the Civic Center of San Francisco.

5. The Supervisors do not have the necessary information to make an informed decision and findings, and cannot properly assimilate the huge volume of paper generated by the Project sponsor and lead agency (Planning Department) to properly consider this Project in an abbreviated time period.

6. To achieve one of its principle purposes of informed public participation in the decisionmaking process, the California Environmental Quality Act ("CEQA") requires notice and the right to be heard in this matter. (Pub. Res. Code §21000 *et seq.* and §21151.) The Government Code also requires proper notice of hearing, which has not been given. (*E.g.*, Gov. Code §54950 *et seq.*) Basic constitutional due process rights also apply to this proceeding, requiring notice and the right to be heard.

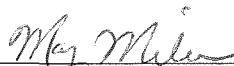
7. The Project sponsor (Planning Department) has improperly conducted negotiations with groups while this matter is under Appeal in attempt to undermine this Appeal. The Administrative Code and fair due process prohibit any action on the Project while any Appeal is pending. (Admin. Code §31.16(a)(3).

8. The Planning Department has misstated the grounds for our Appeal, which also violates CEQA, because it misleads the public and the decision-makers. We are submitting today our Public Comment in the public interest. We have spent a great deal of time on this Comment, and it is our best effort to communicate the serious deficiencies in the EIR on this Project. We respectfully request that the Board allow itself adequate time to objectively consider our Comment and this Appeal before voting on this Project.

This is a very large project which proposes to permanently change the face of the City. CEQA's principle purposes of informed decisionmaking and informed public participation in the decisionmaking process should not be defeated by giving this Project short shrift.

Therefore, on behalf of the Appellants and in the public interest, I respectfully request that the Hearing on the above-described matter, apparently scheduled on May 22, 2007, be continued until at July 10, 2007, or until such time thereafter as the Board has provided the Appellants and the public with copies of the materials before it, has had time to assimilate and thoroughly and objectively review the large volume of materials and proposed legislation, and has a full Board assembled.

DATED June 12, 2007

  
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Mary Miles