

File No. 121118

Committee Item No. \_\_\_\_\_

Board Item No. 40

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date December 11, 2012

#### Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Analyst Report                   |
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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

- Appeal of Determination of Exemption from Environmental Review  
- SFMTA Fell and Oak Streets Bikeways Project
- Planning Department's Response
- Appellants' Brief

Completed by: Joy Lamug

Date December 6, 2012

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

FROM:

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RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2012 NOV - 2 PM 4:44

TO:  
**Angela Calvillo, Clerk**  
San Francisco Board of Supervisors  
Room 244, City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Bill Wycko, Environmental Review Officer**  
San Francisco Planning Department  
1650 Mission St., 4th Floor  
San Francisco, CA 94102

DATE: November 2, 2012

**NOTICE OF APPEAL TO THE SAN FRANCISCO BOARD OF SUPERVISORS,  
REQUEST FOR STAY and REVERSAL OF IMPLEMENTATION,  
and REQUEST FOR REVIEW**

This is a Notice of Appeal of the October 16, 2012 actions of the San Francisco Municipal Transportation Agency ("MTA") Board of Directors approving the Oak and Fell Pedestrian and Bicycle Safety Improvements project (the "Oak-Fell Project" or "the Project"). The approval of the Project was an abuse of discretion and a failure to proceed as required by the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§21000 *et seq.*). This is also an appeal of the San Francisco Planning Department's October 4, 2012 Categorical Exemption of the Oak-Fell Project.

The Project is also a violation of the Americans with Disabilities Act, 42 USC Section 12101 *et seq.* ("ADA") and California disability rights laws, including California Civil Code Sections 54 *et seq.* (The ADA and California disability rights laws are sometimes referred to collectively herein as the "Disability Rights Laws.")

This is also a Request for Review of the October 16, 2012 MTA Board actions pursuant to the San Francisco Charter §8A.102 (b)(7)(i).

Appellants request an immediate STAY of implementation of the Project and every part of it, pending final determination on this Appeal and Request for Review, and pending full compliance with CEQA and other applicable laws. Also, because MTA has already begun implementing the Project before the time to appeal the actions described in this Appeal and Request for Review has ended, appellants also demand REVERSAL of all implementation of the Project and restoration of pre-Project conditions on all affected streets and sidewalks.

Copies of the MTA Board's October 16, 2012 Resolution #12-129 and the Planning Department's October 4, 2012 Categorical Exemption (Exemption from Environmental Review for the SFMTA Fell & Oak Streets Bikeways Project - Case No. E011.0836E) are attached.

Grounds for this Appeal lie within, but are not limited to, CEQA, the Disability Rights Laws, and other applicable statutes, regulations, and ordinances that may apply, including the following.

1. The categorical exemptions invoked under 14 Cal. Code Regs. (the "Guidelines") Sections 15301(c) and 15304(h) do not apply to the Project, since the Project: (1) has the potential to degrade the quality of the environment; (2) has possible effects that are cumulatively considerable; and (3) will cause substantial adverse effects on human beings, either directly or indirectly. (Pub. Res. Code Section 21083(b).) Therefore the Project cannot be classified as "categorically exempt." There is evidence supporting a fair argument that the Project could cause direct, secondary, and cumulative impacts on parking, traffic, transit, loading, air quality, public safety, and emergency services. Among other things, the Project will cause substantial adverse effects on people who need to park near where they live or work.
2. The claimed mitigations do not effectively mitigate the Project's impacts, and, in any event, cannot be used to claim a categorical exemption.
3. The Oak-Fell Project is part of a larger project, the San Francisco Bicycle Plan (the "Bicycle Plan"). If it applies at all, a categorical exemption must apply to the whole Bicycle Plan project, not just the Oak-Fell segment. The Environmental Impact Report ("EIR") on the Bicycle Plan did not specifically analyze the Oak-Fell Project.
4. The Oak-Fell Project has not received specific environmental review as part of the larger Bicycle Plan or at any other time.

5. The Project does not qualify for an exemption under Guidelines Section 15301(c), which consists of the “operation, repair, maintenance, permitting, leasing, licensing, or **minor alteration** of existing public or private structures, facilities, mechanical equipment, or topographical features, **involving negligible or no expansion of use beyond that existing at the time** of the lead agency’s determination,” (emphasis added) and (c) “Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails and similar facilities...”.

The existing conditions are parking lanes, not Class I or Class II bicycle lanes. A parking lane, as defined in the California Streets & Highways Code Section 5871(c), is “a paved area adjacent to the curb which is used **exclusively for on-street parking. It does not include any portion of the street used for through traffic or as a bicycle lane.**” (Emphasis added.) The “facility” does not meet this basic definition, since it would **completely remove the parking lane and change its use to a separated bicycle lane for exclusive use of bicyclists.** (S&H Code Section 890.4(a).) These definitions are mutually exclusive, and involve a complete change of use. The Project, therefore, does not fall within the existing facilities exemption under Guidelines Section 15301.

The Project does not consist of mere maintenance or minor alteration, but makes major changes by, among other things: (a) entirely removing the existing parking lanes on City streets; (b) removing around 100 existing parking spaces on Oak and Fell; (c) constructing concrete and other solid structures in the streets next to moving traffic (raised, landscaped traffic islands); (d) impeding visibility and access to driveways; (e) eliminating, reducing or making dangerous and more difficult streetside, emergency, and loading access to residences and businesses on Oak and Fell; (f) constructing numerous concrete bulbouts that impede traffic by making right turns difficult; (g) adjusting traffic signals to reduce traffic speed on a major East-West traffic corridor in San Francisco; (h) eliminating one traffic lane on Oak Street during morning commute hours; and (i) constructing bicycle lanes where they do not now exist.

6. For the same reasons, the Project does not qualify for an exemption under Guidelines Section 15304(h), which consists of “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry and agricultural purposes,” and “creation of bicycle lanes on **existing rights-of-way.**” (Emphasis added.) There is no existing right-of-way in the parking lanes on Oak Street and Fell Street for bicycle lanes, since the right-of-way in parking lanes is exclusively for vehicles. (See S&H Code Section 5871(c).) Nor is the Project a “minor” alteration in the condition of land, water, and/or vegetation. Rather it is a major alteration and change of use from a parking lane for exclusive use of parking vehicles to a bicycle lane for exclusive use of riding bicycles.

7. The Project is an exception to any categorical exemption, because substantial evidence supports a fair argument that the Project will have significant impacts on parking, traffic, transit, loading, noise, air quality, public safety, emergency services, and human impacts on two major East-West traffic routes carrying a combined more than 60,000 vehicles per day. (And since many vehicles carry more than one person, the number of drivers and passengers affected will be



more than 60,000 per day.) (Guidelines Section 15300.2; and see Pub. Res. Code Section 21083(b).)

8. Impacts on humans require a mandatory finding of significance, including impeding access to streetside parking, affecting disabled people, seniors, children, families, workers, and emergency, maintenance, construction and delivery services. Loading impacts also affect commercial and passenger loading. The Project will also affect public safety by impairing visibility from driveways. Bulbouts also impair visibility and delay traffic by making right turns more difficult. Asserted mitigations do not mitigate the Project's impacts and cause more impacts that require analysis.

9. Cumulative impacts on parking, traffic, air quality, noise, public safety, and emergency services also exclude the Project from any categorical exemption.

10. The Disability Rights Laws prohibit discrimination on the basis of disability in, among other things, programs of local government, use of streets and sidewalks, and transportation. California Civil Code Section 54(a) provides that "Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways... public facilities, and other public places." Title II of the ADA requires local governments to provide people with disabilities an equal opportunity to benefit from all of their programs, services and activities. Sidewalks, streets and parking are programs provided by ADA Title II entities, and therefore are subject to ADA requirements.

Although the loss of parking would be a hardship for the large numbers of people who live, visit and work in the neighborhood, it would disproportionately impact people with major mobility disabilities, such as wheelchair users and slow walkers. Many people with mobility disabilities rely heavily on private vehicles. Disabled people park in regular street parking spaces far more often than in designated accessible street parking spaces (blue zones). Many people who use wheelchairs or scooters rely on accessible minivans and vans that have ramps or lifts on the passenger side. In effect, all street parking spaces (except perpendicular and angled spaces, those on the driver's side of a one-way street, and, sometimes, those with sidewalk obstructions such as garbage cans or trees in the exact location of the ramp or lift) are accessible spaces.

The Project would remove all street parking on the South side of Oak, which means that all of the disabled accessible parking spaces would be eliminated for those three blocks. The parking spaces on the North side of Oak would remain, but it would be extremely dangerous for disabled people to use them because the ramp or lift would be deployed into the moving lane. The project includes mitigating the parking loss on Oak and Fell by converting parking spaces on some of the side streets, which are currently parallel parking, into perpendicular or angled parking spaces. This also would eliminate spaces that are currently usable by disabled people, thereby adding to the parking loss on Oak instead of mitigating it. Not only wheelchair and scooter users, but people who walk slowly and with difficulty would also be harmed by the loss of parking spaces on Oak and by the elimination of parallel parking on the side streets.

The Project would also make it more difficult, dangerous and stressful for disabled people, including wheelchair/scooter users and people who have difficulty walking, to be picked up and dropped off in this area, whether by private vehicle, taxi, paratransit or shuttle service.

These effects violate the Disability Rights Laws.

### **REQUEST FOR STAY and REVERSAL OF IMPLEMENTATION**

This is also a Request for an immediate stay of implementation of the Project and any part of it pending final determination on this Appeal and Request for Review, and pending full compliance with CEQA and other applicable laws. Also, because MTA has already begun implementing the Project before the time to appeal the actions described in this Appeal and Request for Review has ended, appellants also demand REVERSAL of all implementation of the Project and restoration of pre-Project conditions on all affected streets and sidewalks.

### **REQUEST FOR REVIEW PURSUANT TO SAN FRANCISCO CHARTER SECTION 8A.102(b)(7)(i).**

This is also a REQUEST FOR REVIEW pursuant to the San Francisco Charter Section 8A.102(b)(7)(i) of the MTA Board's Resolution #12-129 of October 16, 2012, approving the Oak-Fell Project. This Request for Review incorporates all of the grounds stated in the foregoing Appeal, and additionally requests Review by the Board of Supervisors of the City's substantive violations of CEQA, the Disability Rights Laws, and other statutes, regulations, and ordinances.

The Board's action was an abuse of discretion and a failure to proceed under CEQA, since it will cause significant impacts on the environment, including impacts on parking, loading, traffic, transit, and emergency services. The Project also affects accessibility and safety of people with disabilities, and is therefore contrary to the Disability Rights Laws.

The Project also creates public safety hazards by impairing the safety and visibility of drivers accessing driveways. The bulbouts also adversely affect visibility and safety by impairing visibility of oncoming traffic, bicyclists and pedestrians. Bulbouts also worsen congestion and delays.

### **REMEDIES REQUESTED**

1. Set aside all approvals of the Oak-Fell Project, and the October 4, 2012 Categorical Exemption.

2. Declare that any future proposal to implement the same project must be preceded by an environmental impact report fully analyzing all impacts and proposing effective mitigations for each of the Project's possible impacts on parking, traffic, transit, noise, air quality, emergency services, public safety, and human impacts. Cumulative impacts must be analyzed taking into account all past, present, and reasonably foreseeable projects that will also affect traffic, transit, parking, noise, air quality, and public safety on Oak and Fell Streets and the entire area. Spillover and secondary impacts from removal of streetside parking must also be analyzed, along with any impacts caused by mitigations, including traffic congestion caused by signal timing. The analysis must include real-time on-ground traffic counts during AM and PM peak periods, taken at a variety of representative days of the week and times of the year.

3. The EIR must propose effective mitigations that eliminate each of the Project's impacts, including consideration of avoiding each impact altogether by not implementing the Project.

4. The City must implement effective mitigation before Project implementation.

5. The City must propose a plan to effectively comply with the Disability Rights Laws, provide an opportunity for meaningful input and comment on such plan, and incorporate such plan in a revised Project.

6. Further consideration of the Project must be stayed until City has complied with CEQA, the Disability Rights Laws and other applicable statutes and regulations.

7. Such other remedies as may be appropriate.

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Appellants will submit more detailed comment and/or briefing in support of this Appeal, Request for Stay and Reversal of Implementation, and Request for Review at or before a hearing by the Board of Supervisors.

With this appeal, appellants do not waive the right to present any and all issues and other public comment in further proceedings on the Project.

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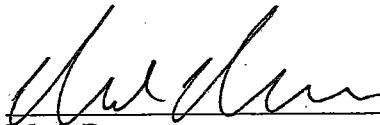
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Continued on next page.

Please notify the undersigned of the date of the hearing, all actions on this Appeal, Request for Stay and Reversal of Implementation, and Request for Review, and all actions regarding the Project. Please schedule the hearing not earlier than 30 days from the date of this document.

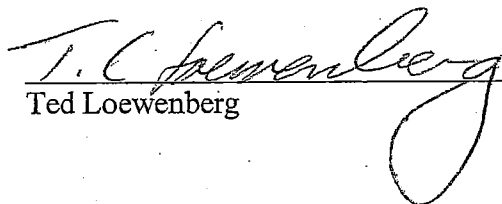
DATE: November 2, 2012



Mark Brennan



Howard Chabner



Ted Loewenberg

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 12-129

WHEREAS, The San Francisco Municipal Transportation Agency has received numerous public requests to improve conditions for people walking and riding bicycles on Oak Street and Fell Street between Scott Street and Baker Street; and,

WHEREAS, There have been multiple reported pedestrian and bicycle injury collisions on Oak Street and Fell Street between Scott Street and Baker Street; and,

WHEREAS, Goal 1 of The San Francisco Municipal Transportation Agency Strategic Plan is to "Create a safer transportation experience for everyone"; and,

WHEREAS, Goal 2 of The San Francisco Municipal Transportation Agency Strategic Plan is to "Make transit, walking, bicycling, taxi, ridesharing and carsharing the preferred means of travel"; and,

WHEREAS, The San Francisco Board of Supervisors passed Resolution #10-1319 in 2010 encouraging departments and agencies of the City and County of San Francisco to adopt a goal of 20 percent of trips by bicycle by 2020; and,

WHEREAS, Oak Street, from Baker Street to Scott Street, does not currently have a bicycle facility but was identified in the 2009 San Francisco Bicycle Plan for bicycle improvements; and,

WHEREAS, Fell Street, from Scott Street to Baker Street, has an existing bike lane adjacent to heavy volumes of motor vehicle traffic that many people report feels unsafe; and,

WHEREAS, The San Francisco Municipal Transportation Agency led a comprehensive and inclusive planning process to identify pedestrian and bicycle safety improvements for Oak Street and Fell Street between Scott Street and Baker Street; and,

WHEREAS, The specific changes to the parking and traffic regulations would be as follows:

- A. ESTABLISH – CLASS II BIKE LANE  
Oak Street, south side, from Baker to Scott Streets
- B. RESCIND – TOW-AWAY, NO STOPPING, 7 AM – 9 AM, EXCEPT  
SATURDAYS AND SUNDAYS  
Oak Street, north side, from Baker to Divisadero Streets
- C. RESCIND – TOW-AWAY LANE MUST TURN LEFT, 7 AM – 9 AM, EXCEPT  
SATURDAYS AND SUNDAYS  
Oak Street, eastbound left turn onto Divisadero Street
- D. ESTABLISH – TOW-AWAY, NO STOPPING ANYTIME

- Fell Street, south side, from Baker to Scott Streets
- Oak Street, south side, from Baker to Scott Streets
- E. ESTABLISH – LEFT LANE MUST TURN LEFT
  - Eastbound Oak Street at Baker Street
- F. ESTABLISH – NO PARKING ANYTIME
  - ESTABLISH – SIDEWALK WIDENING (6-FOOT WIDE SIDEWALK EXTENSION)
    - Fell Street and Scott Street, northwest corner (two-way bulb)
    - Fell Street, north side, at Scott from 0 to 18 feet westerly
    - Scott Street, west side, at Fell from 0 to 18 feet northerly
    - Fell Street, at Divisadero, northwest corner (one-way bulb)
    - Fell Street, north side, at Divisadero, from 0 to 18 feet westerly
    - Fell Street at Broderick Street, northwest corner (one-way bulb)
    - Fell Street, north side, at Broderick from 0 to 18 feet westerly
    - Fell Street at Broderick Street, northeast corner (two-way bulb)
    - Fell Street, north side, at Broderick from 0 to 18 feet easterly
    - Broderick Street, east side, at Fell Street from 0 to 18 feet northerly
    - Broderick Street at Fell Street, southwest corner (one-way bulb)
    - Broderick Street, west side, at Fell Street from 0 feet to 18 feet southerly
    - Fell Street and Baker Street, northwest corner (one-way bulb)
    - Baker Street, west side, at Fell Street from 0 to 30 feet northerly
    - Baker Street at Fell Street, northeast corner (two-way bulb)
    - Fell Street, north side, at Baker Street from 0 to 18 feet easterly
    - Baker Street, east side, at Fell Street from 0 to 18 feet northerly
    - Oak Street at Scott Street, northwest corner (one-way bulb)
    - Scott Street, west side, at Oak Street from 0 to 18 feet northerly
    - Oak Street and Broderick Street, northeast corner (two-way bulb)
    - Oak Street, north side, at Broderick Street from 0 to 18 feet easterly
    - Broderick Street, east side, at Oak Street from 0 to 18 feet northerly
    - Baker Street and Oak Street, northwest corner (one-way bulb)
    - Baker Street, west side, at Oak Street from 0 to 30 feet northerly
    - Oak Street and Baker Street, northeast corner (two-way bulb)
    - Oak Street, north side, from Baker to 18 feet easterly
    - Baker Street, east side, from Oak Street to 18 feet northerly
    - Oak Street and Baker Street, southwest corner (two-way bulb)
    - Oak Street, south side, at Baker Street from 0 to 18 feet westerly
    - Baker Street, west side, at Oak Street from 0 to 30 feet southerly
- G. RESCIND – BUS STOP
  - Hayes Street at Broderick Street, north side, 0 feet to 75 feet west of Broderick Street (outbound 21 Hayes line)
  - Hayes Street at Broderick Street, south side, 0 feet to 75 feet west of Broderick Street (inbound 21 Hayes line)
  - Hayes Street at Scott Street, north side, 0 feet to 74 feet west of Scott Street (outbound 21 Hayes line)
  - Hayes Street at Scott Street, south side, 0 feet to 73 feet west of Scott Street (inbound 21 Hayes line)
- H. ESTABLISH – 45 DEGREE ANGLED PARKING; BACK-IN

- Baker Street, west side, from Fell to Oak Streets
- I. ESTABLISH – PERPENDICULAR PARKING  
Baker Street, west side, from Oak Street to Haight Street  
Scott Street, east side, from Haight Street to Waller Street (existing RPP – Area S)
  - J. RESCIND – GREEN ZONE  
1195 Oak Street, south side, from 19 feet to 38 feet east of Broderick Street (19-foot zone)
  - K. ESTABLISH – GREEN ZONE  
1196 Oak Street, north side, from 0 feet to 19 feet east of Broderick Street (19-foot zone)
  - L. RESCIND – YELLOW ZONE  
1101 Oak Street, south side, from 10 feet to 51 feet west of Divisadero Street (41-foot zone – removes yellow meter #1101 and 1103) (general meter #1105 removed with No Parking Anytime (NPAT) legislation)  
1099 Oak Street, south side, from 0 feet to 62 feet east of Divisadero Street (62-foot zone – removes yellow meters #1085, 1087 & 1089)
  - M. RESCIND – WHITE ZONE  
1153 Oak Street, south side, from 208 to 230 feet west of Divisadero (22-foot zone)  
1221 Fell Street, from 191.5 to 216.5 feet east of Broderick Street (25-foot zone)

WHEREAS, The public has been notified about the proposed modifications and has been given the opportunity to comment on those modifications through the public hearing process; and,

WHEREAS, The 2009 Bicycle Plan, which included a Long Term Project on Oak Street between Baker Street and Scott Street, was analyzed at a programmatic level in the 2009 Bicycle Plan Environmental Impact Report ("EIR"), the Bicycle Plan EIR was certified by the Planning Commission on June 25, 2009, and on June 26, 2009 in Resolution 09-105, the SFMTA adopted the 2009 Bicycle Plan and adopted findings under CEQA; and,

WHEREAS, The San Francisco Planning Department has reviewed the Oak and Fell Pedestrian and Bicycle Safety Improvements as proposed herein, and determined that the project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 (Existing Facilities) and Class 4 (Minor Alterations to Land) categorical exemption, and documentation of this finding is on file with Secretary of the Board of Directors; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors, upon recommendation of the Director of Transportation, approves the traffic and parking modifications associated with the Oak and Fell Pedestrian and Bicycle Safety Project.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 16, 2012.

*R. Bowman*

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency



# SAN FRANCISCO PLANNING DEPARTMENT

## Certificate of Determination EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2011.0836E  
 Project Title: SFMTA Fell & Oak Streets Bikeways Project  
 Project Location: Fell & Oak Streets between Baker Street & Scott Street  
 Neighborhood: Between Western Addition & Haight-Ashbury Districts  
 Project Sponsor: San Francisco Municipal Transportation Agency  
 Ellen Robinson -- (415) 701-4322  
 ellen.robinson@sfmta.com  
 Staff Contact: Brett Bollinger -- (415) 575-9024  
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Planning  
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### PROJECT DESCRIPTION:

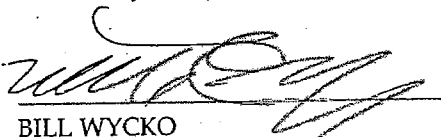
The San Francisco Municipal Transportation Agency (SFMTA) proposes the implementation of new bikeways and pedestrian facility improvements along Fell Street and Oak Street between Baker Street and Scott Street at the border of the Western Addition and Haight-Ashbury neighborhoods. Currently, Fell Street is a three-lane, one-way westbound street with a Class II bike lane running along the south side of the street. Currently, Oak Street is a three-lane, one-way eastbound street with a 12-foot wide AM peak hour traffic lane (7AM-9AM tow-away lane) and at all other times a parking lane. The proposed Fell Street improvements would consist of removing the parking lane on the south side of the street and moving the bike lane adjacent to the southern Fell Street sidewalk, adding a new 5-foot buffer between the bike lane and southern most travel lane. The proposed Oak Street improvements would consist of removing the parking lane on the south side of Oak Street and replacing it with a protected bike-lane with a 5-foot buffer. The Project would also rescind the 7AM-9AM tow-away restriction on the north side of Oak Street between Baker Street and Divisadero Street. Additionally, left-turn and right-turn pockets and bike boxes would be added to specific intersection approaches along both Fell and Oak Streets to provide additional space for queuing vehicles yielding to pedestrians. Corner bulbs and advance limit lines would also be added to various intersections. Implementation of the proposed improvements would result in a net loss of fifty-five (55) on-street parking spaces in the project area.

### EXEMPT STATUS:

Categorical Exemption, Class 1 and Class 4 [State CEQA Guidelines Sections 15301(c) 15304(h)]

### DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

  
 BILL WYCKO

Environmental Review Officer

October 4, 2012  
 Date

cc: Ellen Robinson, SFMTA  
 Supervisor Olague, District 5



**PROJECT DESCRIPTION (CONT'D):**

The Fell Street and Oak Street Bikeway project area includes the following roadway segments:

- Fell Street from Baker Street to Scott Street
- Oak Street from Baker Street to Scott Street
- Hayes Street from Baker Street to Scott Street
- Baker Street from Fell Street to Haight Street
- Broderick Street from Fell Street to Page Street
- Scott Street from Fell Street to Waller Street

**FELL STREET**

Currently, Fell Street is a three-lane, one-way westbound street with (from south side to north side) a 7'-3" wide parking lane, a 5' wide bike lane, three 9'-6" foot travel lanes, and an 8' wide parking lane (see Figure 1). The Project would upgrade the existing 5' wide, Class II bike lane on south side of the street to a curb-side, 7'-3" wide Class I bike lane with a 5' wide striped buffer. On-street parking would be prohibited on the south side of Fell Street but motor vehicle access and egress from commercial and residential driveways would be preserved (i.e., motorists would be allowed to cross the buffer and bike lane to access driveways). At locations more than 10 feet from any driveways, raised, landscaped traffic islands would be installed in the buffer area to physically separate the bike lane from the motor vehicle travel lanes. The Project would result in (from south side to north side) a 7'3" wide bike lane, a 5' wide striped and landscaped buffer, three 9'-6" travel lanes, and an 8' parking lane (see Figure 1).

For the Fell Street approach to Divisadero Street, the striped buffer would terminate and the bike lane would shift from the curbside to the right side of the existing left-turn pocket. A green bike box would be installed in front of the left-turn pocket and bike lane at the intersection. (See Figure 2)

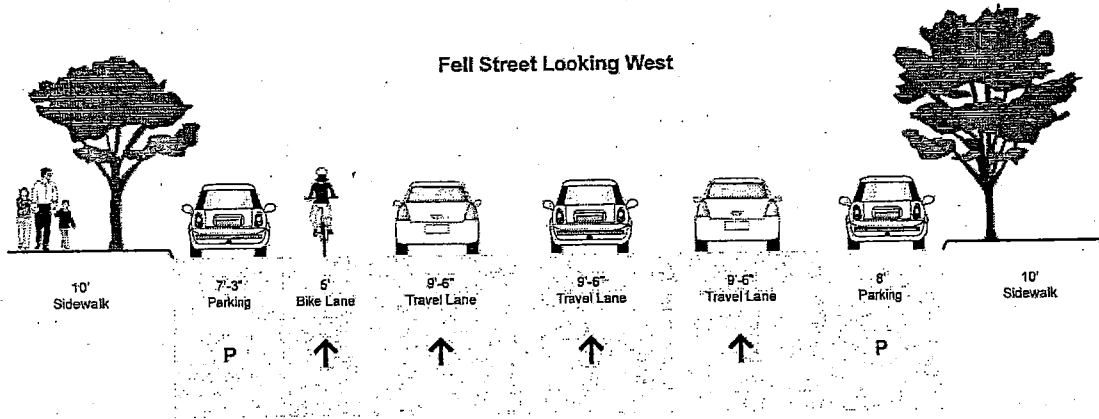
At the intersections of Fell Street with Broderick and Baker streets, left-turn pockets would be added. On the approach to the intersections, the new bikeway would merge with the left turn pocket and green-backed sharrow markings would indicate that cyclists should continue through the middle of the turn pocket to proceed straight through the intersection. Yield lines would indicate that drivers are required to yield to cyclists as they transition into the turn pocket. (See Figures 3 and 4)

Advance limit lines,<sup>1</sup> 12"- or 24"-wide white lines placed at least 4 feet in advance of a crosswalk, would be installed across the Fell Street approaches to all intersections in the study area. All crosswalks on Fell Street between Scott and Baker Streets would be enhanced with continental "ladder" markings. No signal timing or phasing changes are proposed along Fell Street as part of the Project. Corner bulbouts would be installed at the intersections of Fell Street with Scott Street, Divisadero Street, Broderick Street and Baker Street. The specific locations of bulbouts are described on page 10 and in Table 1 on page 11.

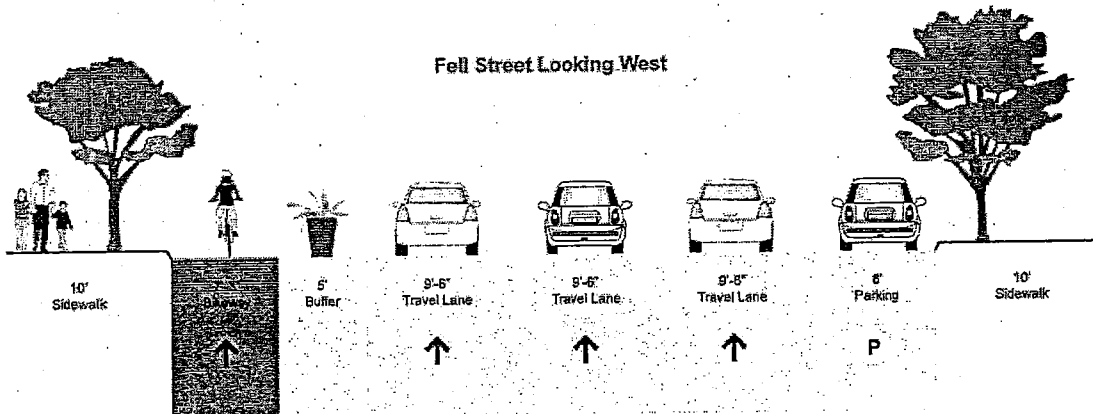
<sup>1</sup> Standard limit lines are placed preferably between 4 and 20 feet in advance of marked crosswalks at signalized intersections to encourage motorists to stop farther away from the marked crosswalk. An advance limit line increase pedestrian visibility to vehicles and reduces the number of vehicles encroaching on the crosswalk.

Figure 1

Existing Fell Street Cross Section



Proposed Fell Street Cross Section



Source: SFMTA, 2012

Figure 2  
Fell Street Approaching Divisadero Street

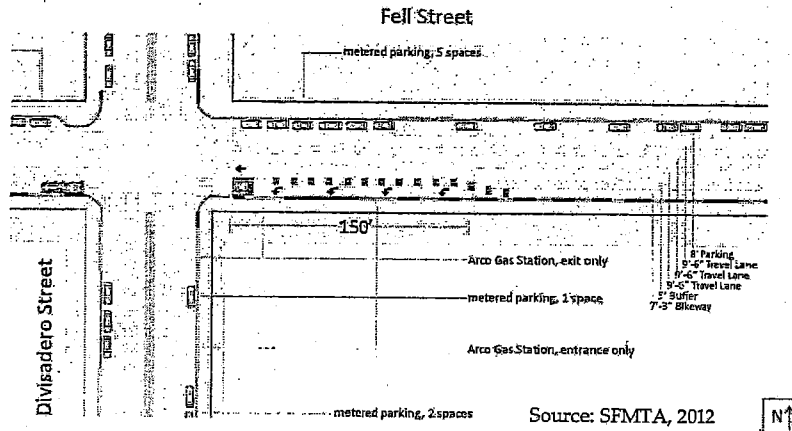


Figure 3  
Fell Street Approaching Broderick Street

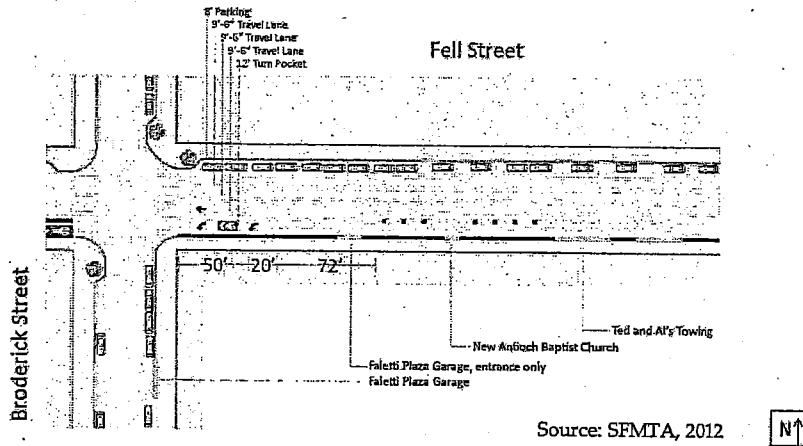
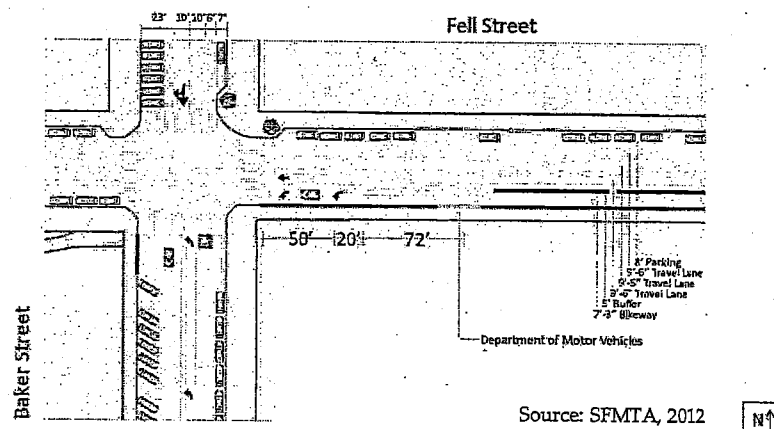


Figure 4  
Fell Street Approaching Baker Street



**OAK STREET**

Currently, Oak Street is a three-lane one-way eastbound street with (from south side to north side) an 8' 3" wide parking lane, three 9' 6" foot travel lanes, and a 12-foot wide AM peak hour (7AM-9AM) tow-away lane and at all other times a parking lane (see **Figure 5**). The Project would establish a curb-side, 7'-3" wide Class II bike lane with a 5' wide striped buffer on the south side of Oak Street. On-street parking would be prohibited on the south side of Oak Street but motor vehicle access and egress from commercial and residential driveways would be preserved. At locations more than 10 feet from any driveways, raised, planted traffic islands would be installed in the buffer area to physically separate the bike lane from the motor vehicle travel lanes. The existing AM peak hour tow-away restriction on the north side of Oak Street between Baker and Divisadero streets would be rescinded and a permanent 8' parking lane would be maintained. The removal of the tow-away lane would reduce the amount of travel lanes on this segment of Oak Street during the AM commute from four to three lanes. Implementation of the proposed Project would result in (from south side to north side) a 7'3" bike lane, a 5' striped and landscaped buffer, three 9' 6" travel lanes, and an 8' parking lane (see **Figure 5**).

At the intersection of Oak Street and Baker Street, an exclusive left-turn traffic signal phase would be added for cyclists and drivers turning left from southbound Baker Street to Oak Street. A bike box would be installed at the front of the turn pocket for cyclists to wait before turning left onto eastbound Oak Street. (**Figure 6**)

At the intersection of Oak Street and Broderick Street, a bicycle traffic signal would be installed to give eastbound cyclists in the bike lane on Oak Street a green light in advance of eastbound motor vehicles to reduce potential merging conflicts between through cyclists and right turning motorists further east on Oak Street at Divisadero Street. (**Figure 6**)

At the Oak Street approach to Divisadero Street, a right-turn pocket would be added. The design of the new right-turn lane, bike lane and bike box on this approach would be similar to the left-turn design at the Fell and Divisadero Streets intersection described above. (**Figure 7**)

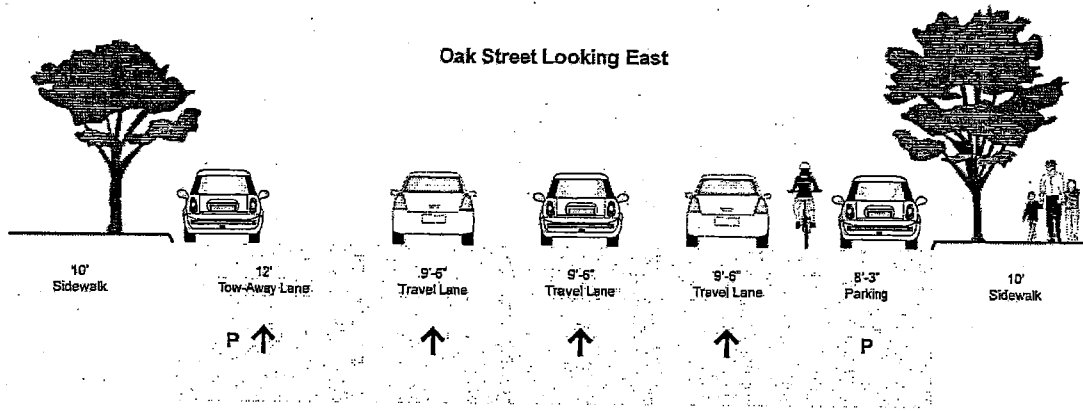
At the Oak Street approach to Scott Street, a right-turn pocket would be added. A green-backed sharrow and yield line would indicate that drivers should yield to cyclists as they merge into the turn lane, similar to the treatments at Fell and Baker streets and Fell and Broderick streets. (**Figure 8**)

Traffic signal timings and offsets would be adjusted at the intersections of Oak and Baker streets and Oak and Broderick streets. The signal timing at the Oak and Divisadero Streets intersection would be unchanged, as would the offset between this signal and the other signals along Divisadero Street.

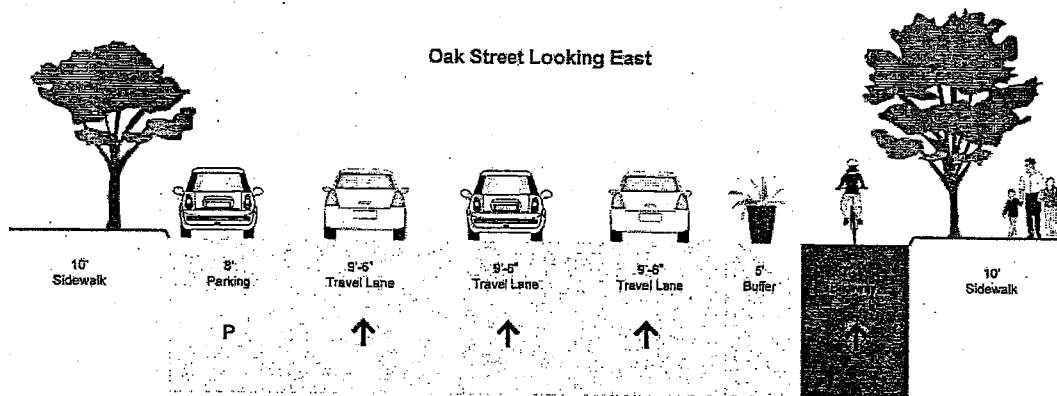
Advance limit lines, 12"- or 24"-wide white lines placed at least 4 feet in advance of a crosswalk, would be installed across the Oak Street approaches to all intersections in the study area. All crosswalks on Oak Street between Scott and Baker streets would be enhanced with continental "ladder" markings. Corner bulbouts would be installed at the intersections of Oak Street with Baker, Broderick and Scott streets. The specific locations of bulbouts are described on page 10 and in **Table 1** on page 11.

Figure 5

Existing Oak Street Cross Section



Proposed Oak Street Cross Section



Source: SFMTA, 2012

Figure 6  
Oak Street Approaching Broderick & Baker Streets

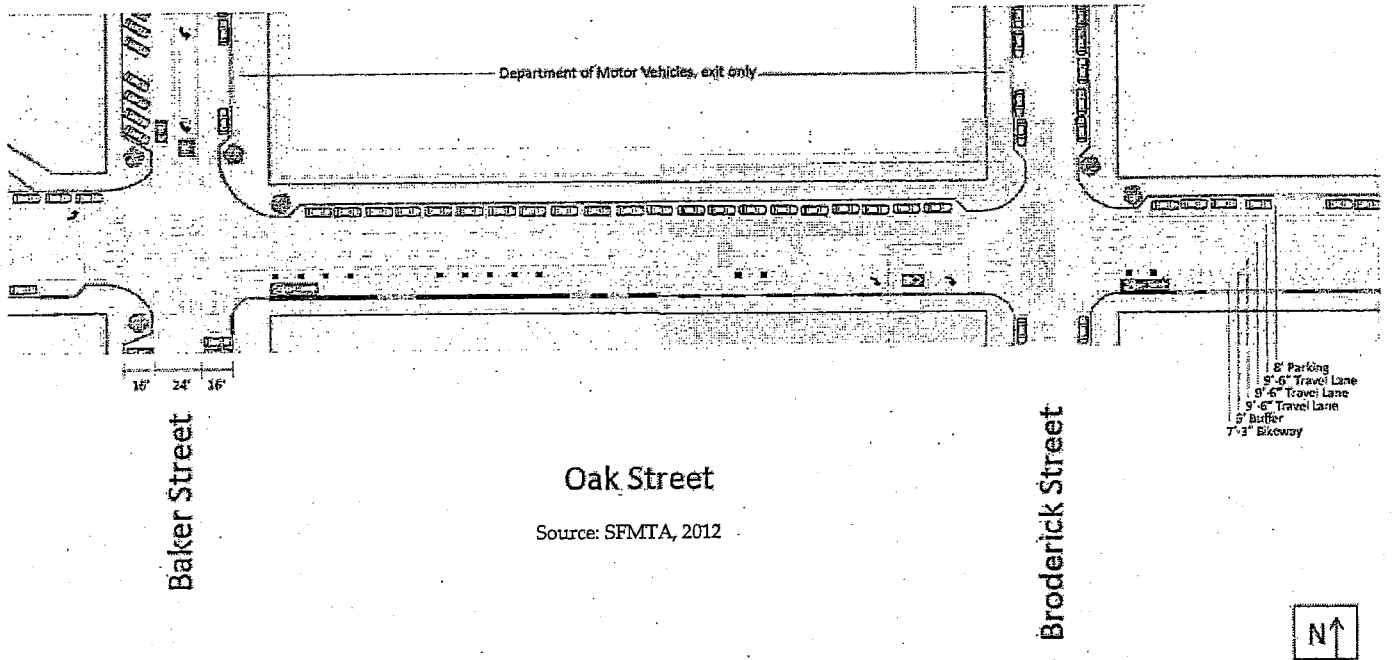


Figure 7  
Oak Street Approaching Divisadero & Broderick Streets

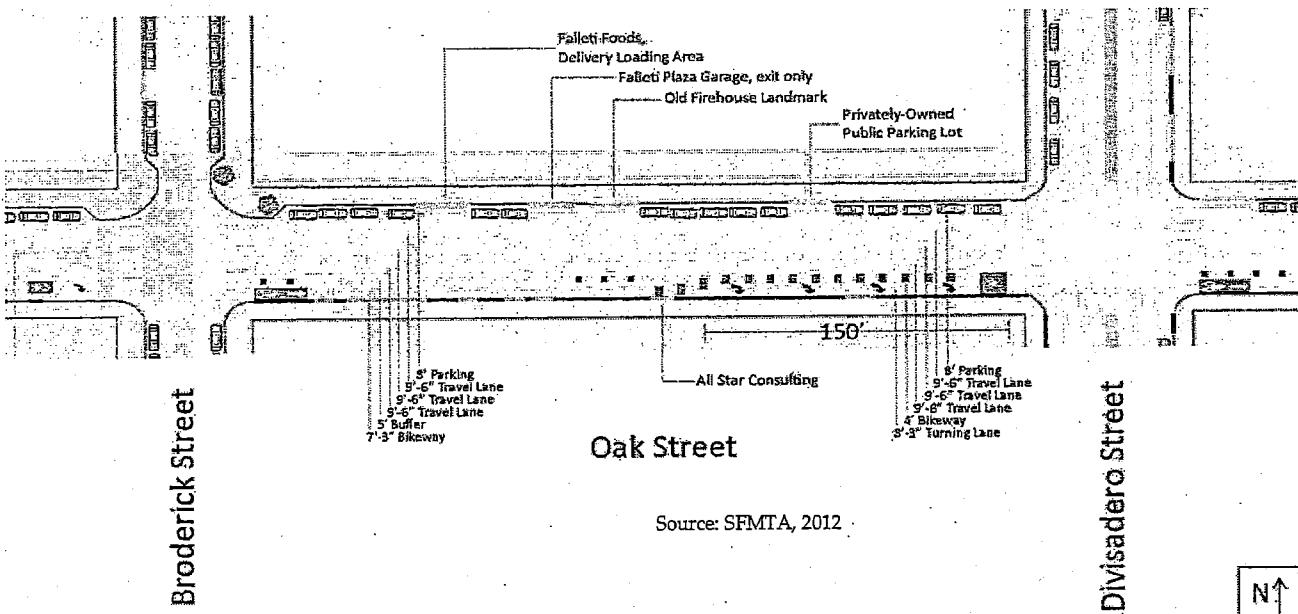
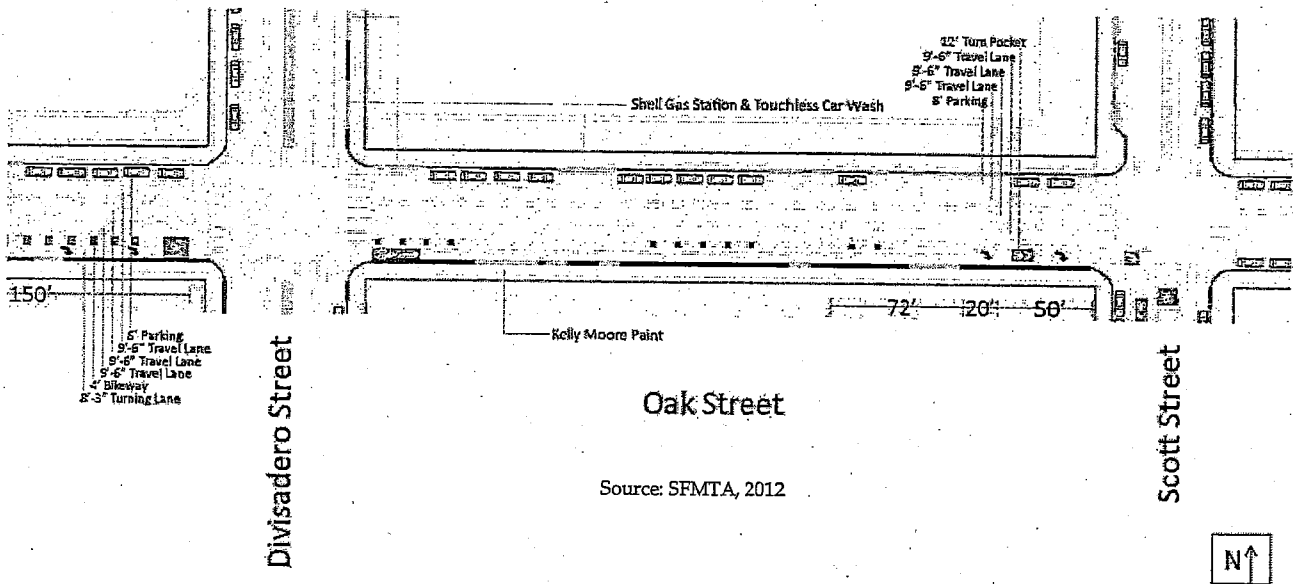


Figure 8  
Oak Street Approaching Scott Street



**PROJECT AREA PEDESTRIAN, TRANSIT, PARKING, & LANE CHANGES**

The changes proposed by the Project would result in enhanced pedestrian facilities, the removal of traffic lanes, the removal of four bus stops, and a net loss of 55 parking spaces within the project area. These parking changes would affect Fell Street, Oak Street (described in the sections-above), Baker Street, Broderick Street, Divisadero Street, Scott Street, and Hayes Street in the project area. No other streets would be affected. (See Table 1 and Figures 9, 10, & 11)

**Baker Street**

Between Fell and Oak Streets, Baker Street would be reduced from two lanes in each direction to one through lane with exclusive left-turn pockets in each direction. The existing parallel on-street parking on the west side of Baker Street from Fell Street to Oak Street would be converted to back-in angled parking, and the existing parallel on-street parking on the west side of Baker Street from Oak Street to Haight Street would be converted to perpendicular parking. Existing southbound sharrow markings between Fell Street and Page Street would be relocated to the center of the travel lane adjacent to the new angled/perpendicular parking, approximately 22 feet from the curb, to avoid conflicts between bicyclists and motor vehicles backing into or out of parking spaces. (See Figure 9)

**Broderick Street**

No lane geometry changes are proposed for the Broderick Street approaches to Fell or Oak streets. On Oak Street at Broderick a bicycle lead phase would be added which would result in a shortened green timing phase for Broderick Street. Adequate pedestrian crossing time would be maintained.

**Divisadero Street**

No lane geometry changes are proposed for the Divisadero Street approaches to Fell or Oak streets and no signal timing changes are proposed.

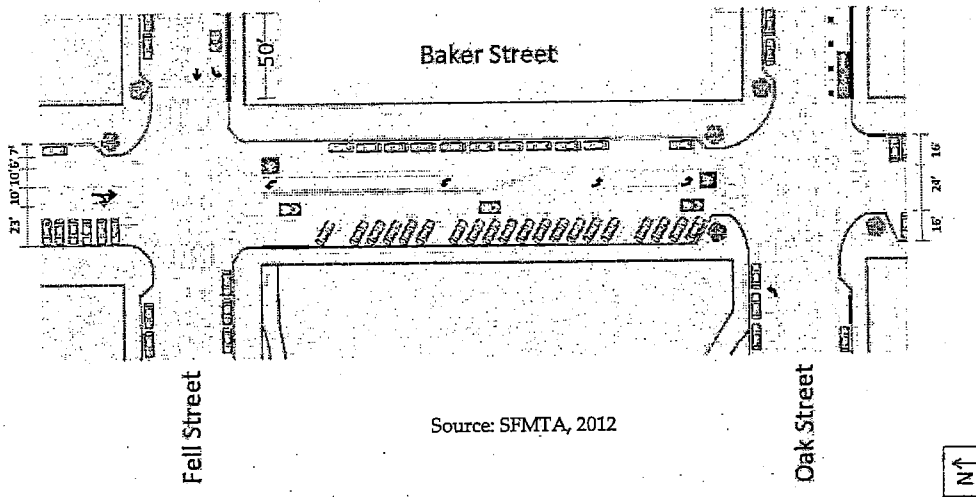
**Scott Street**

Existing on-street parking on the east side of Scott Street between Haight and Waller Streets would be converted from parallel to perpendicular parking. No lane geometry or traffic signal timing changes are proposed for the Scott Street approaches to Fell or Oak streets. (See Figure 10)

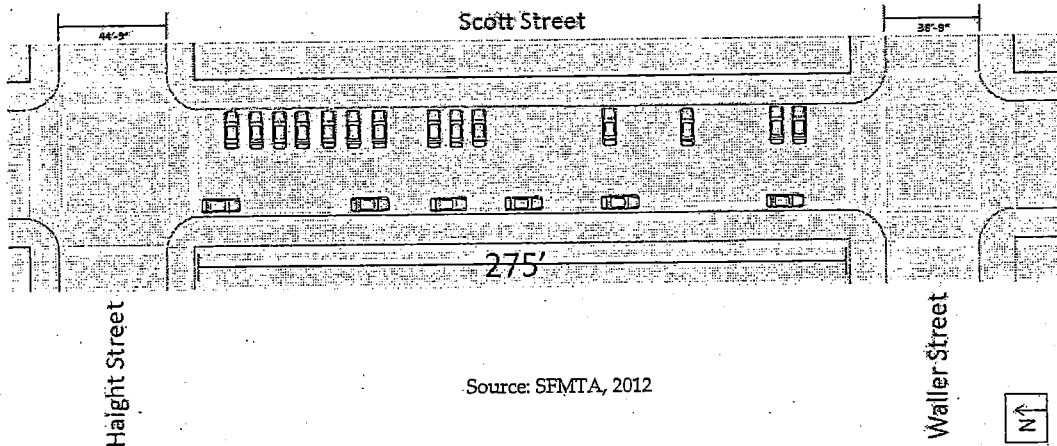
**Hayes Street**

The inbound and outbound 21 Hayes bus stops at Scott Street and Broderick Street would be converted to on-street parallel parking to offset parking losses nearby on Oak and Fell streets. The existing stops at Masonic Avenue, Central Avenue, Lyon Street, Baker Street Divisadero Street and Pierce Street would remain. Within the Project vicinity, the 21 Hayes route contains bus stops at every block, and the proposed removal of the bus-stops are in locations where slopes/grades would not pose a problem for accessibility. The new stop spacings created as a result of the consolidations would be within the SFMTA's stop spacing guidelines. (See Figure 11)

**Figure 9**  
Baker Street between Fell Street and Oak Street

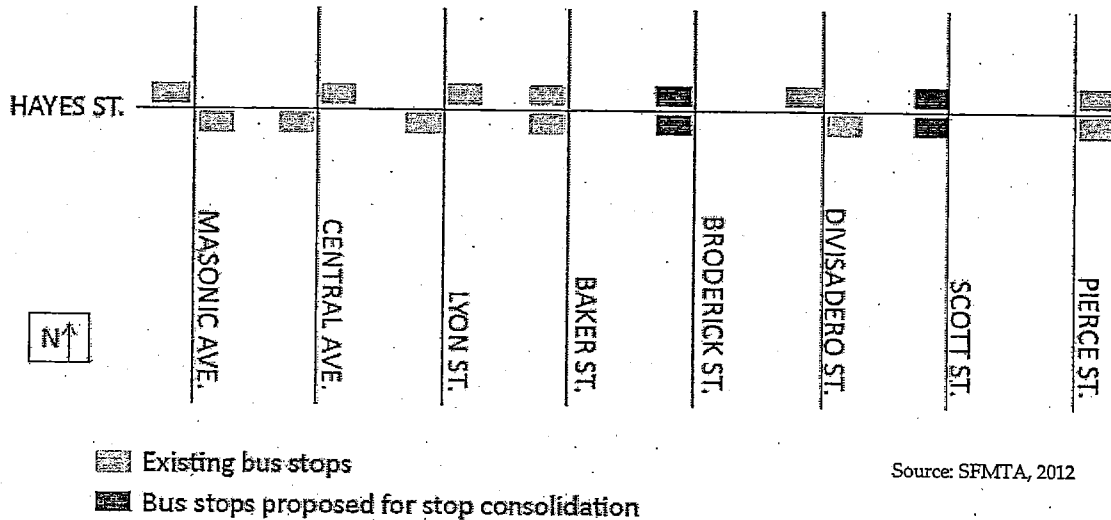


**Figure 10**  
Scott Street between Waller Street and Haight Street





**Figure 11**  
**Hayes Street Bus Stop Consolidation**



#### Pedestrian Improvements

Corner bulbs would be added at the following 13 locations:

- Fell Street and Scott Street, northwest corner (two-way bulb)
- Fell Street, at Divisadero, northwest corner (one-way bulb)
- Fell Street at Broderick Street, northwest corner (one-way bulb)
- Fell Street and Broderick Street, northeast corner (two-way bulb)
- Broderick Street at Fell Street, southwest corner (one-way bulb)
- Baker Street at Fell Street, northwest corner (one-way bulb)
- Fell Street and Baker Street, northeast corner (two-way bulb)
- Scott Street at Oak Street, northwest corner (one-way bulb)
- Oak Street and Broderick Street, northwest corner (two-way bulb)
- Oak Street and Broderick Street, northeast corner (two-way bulb)
- Oak Street and Baker Street, northeast corner (two-way bulb)
- Oak Street and Baker Street, southwest corner (two-way bulb)
- Baker Street at Oak Street, northwest corner (one-way bulb)

Overall, implementation of the Project as proposed would result in a net loss of 55 on-street parking spaces. Approximately 88 spaces would be removed along Oak and Fell Streets for installation of the curbside cycletracks, and an additional 13 spaces would be removed at Oak and Fell Street intersections to accommodate new corner bulbs. Approximately 33 spaces would be gained through the conversion of 34 existing parallel parking spaces on Baker and Scott Streets into 67 angled and perpendicular spaces. An additional 13 spaces would be gained on Hayes Street from the removal of four existing 21 Hayes bus stops. The existing on-street parking supply in area bounded by Scott, Hayes, Baker and Page streets is approximately 590 spaces. The Project does not include any changes to existing off-street parking or loading facilities. Changes to on-street parking conditions due to the proposed improvements are detailed in Table 1.

Table 1: Fell &amp; Oak Bikeways Parking Changes

Location	Project Element	Spaces Gained (Lost)
Oak St. between Baker and Broderick, south side	Curbside cycletrack	(14)
Oak St. between Broderick and Divisadero, south side	Curbside cycletrack	(12)
Oak St. between Divisadero and Scott, south side	Curbside cycletrack	(17)
Fell St. between Baker and Broderick, south side	Curbside cycletrack	(21)
Fell St. between Broderick and Divisadero, south side	Curbside cycletrack	(14)
Fell St. between Divisadero and Scott, south side	Curbside cycletrack	(10)
<i>Total Spaces Removed for Cycletracks</i>		(88)
Oak St. and Baker St., southwest corner	Corner bulb	(1)
Oak St. and Baker St., northeast corner	Corner bulb	(1)
Oak St. and Broderick St., northeast corner	Corner bulb	(2)
Oak St. and Broderick St., northwest corner	Corner bulb	(1)
Fell St. and Baker St., northeast corner	Corner bulb	(1)
Fell St. and Baker St., northwest corner	Corner bulb	(2)
Fell St. and Broderick St., southwest corner	Corner bulb	(1)
Fell St. and Broderick St., northwest corner	Corner bulb	(1)
Fell St. and Broderick St., northeast corner	Corner bulb	(2)
Fell St. and Divisadero St., northwest corner	Corner bulb	(1)
<i>Total Spaces Removed for Corner Bulbs</i>		(13)
Baker St. between Fell and Oak, west side	Back-in angled parking	11
Baker St. between Oak and Page, west side	Perpendicular parking	11
Baker St. between Page and Haight, west side	Perpendicular parking	4
Scott St. between Haight and Waller	Perpendicular parking	7
<i>Total Spaces Added by Converting Parallel Parking to Angled.</i>		33
Hayes St. between Baker and Broderick, south side	Bus stop removal	4
Hayes St. between Baker and Broderick, north side	Bus stop removal	4
Hayes St. between Divisadero and Scott, south side	Bus stop removal	4
Hayes St. between Divisadero and Scott, north side	Bus stop removal	1
<i>Total Spaces Added from Bus Stop Removal</i>		13
<b>Total Net Parking Space Gain (Loss)</b>		<b>(55)</b>

REMARKS:

Transportation

Traffic-Level of Service Analysis

**OAK STREET**

An intersection Level of Service (LOS) analysis was conducted for the intersections of Oak Street with Scott Street, Divisadero Street, Broderick Street and Baker Street for the AM peak hour (8AM-9AM). Since Oak Street is a one-way eastbound street, the Project analyzed the AM peak hour to capture the part of the day Oak Street experiences the highest amount of traffic volumes due to the eastbound AM commute times. The table below shows the AM peak hour levels for the Oak Street intersections with and without the proposed Project under existing and cumulative conditions.

Table 2  
Oak Street Intersections LOS Analysis

Intersection	AM Peak Hour LOS/Average Delay (seconds)			
	Existing Conditions	Existing Plus Project	2035 Cumulative No Project	2035 Cumulative Plus Project
Oak St /Scott St	LOS B /10 sec.	LOS A/9 sec.	LOS B/11 sec.	LOS B/10 sec.
Oak St/Divisadero St	LOS C/21 sec.	LOS C/23 sec.	LOS C/25 sec.	LOS C/27 sec.
Oak St/Broderick St	LOS A/6 sec.	LOS A/7 sec.	LOS A/6 sec.	LOS A/8 sec.
Oak St/Baker St	LOS A/9 sec.	LOS C/22 sec.	LOS B/12 sec.	LOS C/28 sec.

Source: SFMTA, 2012

**Existing Conditions**

Under Existing conditions, the intersection of Oak Street and Scott Street operates at LOS B, with an average of 10 seconds of delay for all vehicles. With implementation of the Project, this intersection would reduce average intersection delay by one (1) second, causing the intersection to operate at LOS A. The intersection LOS improvement is a result of adding an eastbound right-turn pocket. The intersection of Oak Street and Divisadero Street currently operates at LOS C with an average of 21 seconds of delay for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS C, with an increase of two (2) seconds of average delay. The intersection of Oak Street and Broderick Street currently operates at LOS A with an average delay of six (6) seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS A, with an increase of one (1) second of average delay. The intersection of Oak Street and Baker Street currently operates at a LOS A, with an average delay of nine (9) seconds for all vehicles. The Project would increase the average delay by 13 seconds, causing the intersection to operate at LOS C.

The LOS calculations for Existing Plus Project volumes indicate that all intersections operate at acceptable LOS for the AM peak hour. Therefore, the proposed Project would not have any significant traffic impacts under Existing Plus Project conditions.

**2035 Cumulative Conditions**

Future year 2035 Cumulative traffic volumes were developed in order to assess local cumulative developments which result in increases in traffic volumes. For the future year 2035, cumulative intersection traffic volumes for the AM peak hour were estimated based on growth rates developed for the study area from data taken from the City and County of San Francisco Transportation Authority

(SFCTA) travel demand model for the weekday PM and AM peak hours. These 2035 cumulative traffic volumes account for growth due to cumulative development in the City and the entire Bay Area.

Under 2035 Cumulative No Project conditions, the intersection of Oak Street and Scott Street would operate at LOS B, with an average delay of ten (11) seconds for all vehicles. With implementation of the proposed project, this intersection would continue to operate at LOS B with a decrease in delay of one (1) second. The intersection of Oak Street and Divisadero Street under 2035 Cumulative No Project conditions would operate at LOS C with an average delay of 25 seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS C under 2035 Cumulative conditions, with an increase of two (2) seconds of average delay. The intersection of Oak Street and Broderick Street under 2035 Cumulative No Project conditions would operate at LOS A with an average delay of six (6) seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS A, with an increase of two (2) second of average delay. The intersection of Oak Street and Baker Street under 2035 No Project Cumulative conditions would operate at LOS B with an average delay of 12 seconds for all vehicles. Implementation of the proposed Project would result in a sixteen-second (16) increase in average vehicular delay, causing the intersection to operate at LOS C. All study intersections are expected to continue to operate acceptably under 2035 Cumulative Plus Project conditions (at LOS D or better), therefore, the proposed Project would not have any significant traffic impacts under cumulative conditions.

**FELL STREET**

An intersection Level of Service (LOS) analysis was conducted for the intersections of Fell Street with Scott Street, Divisadero Street, Broderick Street and Baker Street for the PM peak hour (5PM-6PM). Since Fell Street is a one-way westbound street, the Project analyzed the PM peak hour to capture the part of the day Fell Street experiences the highest amount of traffic volumes due to the westbound PM commute times. The table below shows the PM peak hour levels of service for the Fell Street intersections with and without the proposed Project under existing and cumulative conditions.

**Table 3  
Fell Street Intersections LOS Analysis**

Intersection	PM Peak Hour LOS/Average Delay (seconds)			
	Existing Conditions	Existing Plus Project	2035 Cumulative No Project	2035 Cumulative Plus Project
Fell St/Scott St	LOS B/12 sec.	LOS B/12 sec.	LOS B/20 sec.	LOS B/20 sec.
Fell St/Divisadero St	LOS B/16 sec.	LOS B/16 sec.	LOS C/26 sec.	LOS C/26 sec.
Fell St/Broderick St	LOS A/8 sec.	LOS A/8sec.	LOS A/9 sec.	LOS A/8 sec.
Fell St/Baker St	LOS A/10 sec.	LOS A/9 sec.	LOS B/10 sec.	LOS B/10 sec.

Source: SFMTA, 2012

**Existing Conditions**

Under Existing conditions, the intersection of Fell Street and Scott Street currently operates at LOS B, with an average of 12 seconds of delay for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS B, with no increase in delay. The intersection of Fell Street and Divisadero Street currently operates at LOS B with an average of 16 seconds of delay for all vehicles. With implementation of the Project, the intersection would continue to operate at LOS B, with no increase in delay. The intersection of Fell Street and Broderick Street currently operates at LOS A with an average delay of eight (8) seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS A, with no increase in delay. The intersection of Fell Street and Baker Street

currently operates at LOS A with an average delay of ten (10) seconds for all vehicles. With implementation of the Project, the average intersection delay would decrease by one (1) second as a result of adding a westbound left-turn pocket.

The LOS calculations for Existing Plus Project volumes indicate that all intersections operate at acceptable LOS A and B for the PM peak hour. Therefore, the proposed Project would not have any significant traffic impacts under Existing Plus Project conditions.

### **2035 Cumulative Conditions**

Future year 2035 Cumulative traffic volumes were developed in order to assess local cumulative developments which result in increases in traffic volumes. For the future year 2035, cumulative intersection traffic volumes for the PM peak hour were estimated based on growth rates developed for the study area from data taken from the City and County of San Francisco Transportation Authority (SFCTA) travel demand model for the weekday PM and AM peak hours. These 2035 cumulative traffic volumes account for growth due to cumulative development in the City and the entire Bay Area.

Under 2035 Cumulative No Project conditions, the intersection of Fell Street and Scott Street would operate at LOS B, with an average delay of 20 seconds for all vehicles. With implementation of the proposed Project, this intersection would continue to operate at LOS B, with no change in delay. The intersection of Fell Street and Divisadero Street under 2035 Cumulative No Project conditions would operate at LOS C with an average delay of 26 seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS C, with no change in delay. The intersection of Fell Street and Broderick Street under 2035 Cumulative No Project conditions would operate at LOS A with an average delay of nine (9) seconds for all vehicles. Implementation of the proposed Project would result in a one-second (1) decrease in average vehicular delay and would continue to operate at LOS A. The intersection of Fell Street and Baker Street under 2035 Cumulative No Project conditions would operate at LOS B with an average delay of 10 seconds for all vehicles. With implementation of the proposed Project, this intersection would continue to operate at LOS B, with no change in delay. All study intersections are expected to continue to operate acceptably under 2035 Cumulative Plus Project conditions (at LOS C or better), therefore, the proposed Project would not have any significant traffic impacts under cumulative conditions.

### **Transit**

#### **Existing Conditions**

With implementation of the Project, during the AM peak hour (8AM-9AM) the 16X bus line would encounter a decreased delay of one (1) second at the intersection of Oak Street and Scott Street, an increased delay of two (2) seconds at the intersection of Oak Street and Divisadero Street, an increased delay of one (1) second at the intersection of Oak Street and Broderick Street, and an increased delay of 13 seconds at the intersection of Oak Street and Baker Street, for a total average delay increase of 15 seconds along these segments of Oak Street. With implementation of the Project, during the PM peak commute (5PM-6PM) the 16X bus line would encounter no change in delay at the intersection of Fell Street and Scott Street, no change in delay at the intersection of Fell Street and Divisadero Street, no change in delay at the intersection of Fell Street and Broderick Street, and a one (1) second decrease delay at the intersection of Fell Street and Baker Street, for a total average delay decrease of one (1) second along these segments of Fell Street. The total increase of average delay of 18 seconds on Oak Street and two (2) second of average delay decrease on Fell Street as a result of the proposed Project would not result in an unacceptable level of transit service or cause a substantial increase in delays or operating costs.

Therefore, the proposed project would not have any significant transit impacts on the 16X route under Existing Plus Project conditions.

As stated previously, the inbound and outbound 21 Hayes bus stops at Scott Street and Broderick Street would be converted to on-street parallel parking to offset parking losses nearby on Oak and Fell streets. The proposed stop spacing for the 21 Hayes would fall within the SFMTA's stop spacing guidelines. The removal of two stops on either side of the street would improve bus running times under the Existing Plus Project conditions. Therefore, no significant transit impacts on the 21 Hayes route would occur.

#### **2035 Cumulative Conditions**

During the Cumulative Plus Project AM peak hour the 16X bus line would encounter a decreased delay of one (1) second at the intersection of Oak Street and Scott Street, an increased delay of two (2) seconds at the intersection of Oak Street and Divisadero Street, an increased delay of two (2) seconds at the intersection of Oak Street and Broderick Street, and an increased delay of 16 seconds at the intersection of Oak Street and Baker Street, for a total delay increase of 15 seconds along these segments of Oak Street. During the Cumulative Plus Project PM peak hour the 16X bus line would encounter no change in delay at the intersection of Fell Street and Scott Street, no change in delay at the intersection of Fell Street and Divisadero Street, a one (1) second decrease in delay at the intersection of Fell Street and Broderick Street, and no change in delay at the intersection of Fell Street and Baker Street. The total increase of average delay of 15 seconds on Oak Street and a decrease in average delay of one (1) second on Fell Street as a result of the proposed Project would not result in an unacceptable level of transit service or cause a substantial increase in delays or operating costs. Therefore, the proposed project would not have any significant transit impacts on the 16X route under cumulative conditions.

As stated previously, the inbound and outbound 21 Hayes bus stops at Scott Street and Broderick Street would be converted to on-street parallel parking to offset parking losses nearby on Oak and Fell streets. The proposed stop spacing for the 21 Hayes would fall within the SFMTA's stop spacing guidelines. The removal of two stops on either side of the street would improve bus running times under the Cumulative Plus Project conditions. Therefore, no significant transit impacts to the 21 Hayes route would occur.

#### **Pedestrian**

The proposed Project includes sidewalk bulb-outs, as well as enhanced continental ladder markings and advance limit lines at intersections at the majority of corners in the Project area. Through increased pedestrian visibility and shortened crossings at intersections, pedestrian conditions would improve. Therefore, no significant pedestrian impacts would occur.

#### **Bicycle**

As part of the Project, the striped buffer added between the existing bicycle lane on Fell Street and right-hand travel lane would provide more protection and improve safety for cyclists. Implementation of the 5' striped and landscaped buffer between the existing bicycle lane and traffic lanes on Fell Street and implementation of a new bicycle lane with a 5' striped and landscaped buffer on Oak Street, would improve bicycle conditions along both streets as part of the proposed Project. Therefore, no significant bicycle impacts would occur.

#### **Emergency Access**

The proposed project would not close off any existing streets or entrances to public uses, and emergency vehicle access would not be impeded by the Project. Therefore, the proposed project would not result in a significant impact related to emergency access.

### Construction

The proposed project would involve restriping, elimination of parking lanes, and installation of raised bulbouts. During construction, drivers would have to adjust to temporary lane reconfiguration along Fell Street, Oak Street, Baker Street, and Scott Street. Construction would be limited in duration, involving mostly restriping, and installation of raised bulbouts and the addition of right-turn and left-turn pockets at the Fell Street and Broderick Street, Oak Street and Divisadero Street, and Oak Street and Scott Street intersections. No sidewalk closures are anticipated. Because these potential impacts would be temporary, no significant construction impacts would occur.

### Loading

The proposed project would eliminate five (5) loading spaces on Oak Street, three (3) on the southeast corner at the intersection of Divisadero Street and two (2) on the southwest corner. There are three existing loading spaces on Divisadero Street between Oak Street and Page Street, two (2) on the west side and one (1) on the east side of the street, all of which would be preserved. One block away on Divisadero Street between Fell Street and Hayes Street there are five (5) existing loading spaces being preserved, three (3) on the west side and two (2) on the east side. The Shell station and Touchless Car Wash on the northeast corner of Oak and Divisadero streets use existing on-site surface space for off street loading and circulation, and the Kelly Moore Paints on the southeast corner has its own small parking lot for customer and commercial loading. Because of the loading spaces nearby and the availability of off-street loading, no significant loading impacts would occur.

### Parking

Overall, implementation of the Project as proposed would result in a net loss of 55 on-street parking spaces. Approximately 88 spaces would be removed along Oak and Fell streets for installation of the new curbside cycletracks, and an additional 13 spaces would be removed at the Oak Street and Fell Street intersections to accommodate new corner bulbs. Approximately 33 spaces would be gained through the conversion of 34 existing parallel parking spaces on Baker and Scott streets into 67 angled and perpendicular spaces. An additional 13 spaces would be gained on Hayes Street from the removal of four (4) existing 21 Hayes bus stops. The existing on-street parking supply in the area bounded by Scott, Hayes, Baker and Page streets is approximately 590 spaces. The Project does not include any changes to off-street parking or loading. Changes to on-street parking conditions due to the proposed improvements are detailed in **Table 1**.

San Francisco does not consider parking supply as part of the permanent physical environment and therefore, does not consider changes in parking conditions to be environmental impacts as defined by CEQA. The San Francisco Planning Department acknowledges, however, that parking conditions may be of interest to the public and the decision makers. Therefore, this report presents a parking analysis for information purposes.

Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel.

Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. Environmental documents should, however, address the secondary physical impacts

that could be triggered by a social impact (CEQA Guidelines §15131 (a)). The social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion. In the experience of San Francisco transportation planners, however, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service in particular, would be in keeping with the City's "Transit First" policy. The City's Transit First Policy established in the City's Charter Article 8A, Section 8A.115, provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation."

The transportation analysis accounts for potential secondary effects, such as cars circling and looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is available. Moreover, the secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts which may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assignments used in the transportation analysis, as well as in the associated air quality, noise, and pedestrian safety analyses, reasonably addresses potential secondary effects.

In summary, changes in parking conditions are considered to be social impacts rather than impacts on the physical environment. Accordingly, the parking analysis presented in this study is for informational purposes only.

### Conclusion

In summary, the proposed Fell and Oak Streets Bikeways project would not result in significant impacts on transportation network in the study area. The proposed Project is expected to improve bicycle operations along Fell Street, Oak Street and Baker Street. The proposed removal of parking lanes along Fell and Oak Streets, addition and enhancement of bicycle lanes with striped and landscaped buffers, and addition of turning pockets, would not result in significant individual or cumulative impacts.

The California Environmental Quality Act (CEQA) Guidelines Section 15301(c) or Class 1(c), provides for exemption from environmental review for minor alterations to "existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities." Section 15304(h) or Class 4(h) provide for exemption from environmental review for creation of a new bicycle lane on existing rights-of-way along Oak Street. Therefore, the proposed implementation of SFMTA's Fell and Oak Streets Bikeways project would be exempt under Class 1 and Class 4.

CEQA State Guidelines Section 15300.2 states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity would have a significant effect on the environment due to unusual circumstances. As described above, the project would not have a significant effect on adjacent transportation facilities or modes. There are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant environmental effect. The project would be exempt under the above-cited classification.

For all of the above reasons, the proposed project is appropriately exempt from environmental review.



BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

November 8, 2012

Mark Brennan  
575 Cole Street, Apartment 210  
San Francisco, CA 94117

Howard Chabner  
1930 Fell Street  
San Francisco, CA 94117

Ted Loewenberg  
1562 Waller Street  
San Francisco, CA 94117

**Subject: Appeal of Determination of Exemption from Environmental Review for the San Francisco Municipal Transportation Agency's (SFMTA) Fell and Oak Streets Bikeways Project and Appeal of SFMTA Approval Action**

Dear Appellants:

The Office of the Clerk of the Board is in receipt of a memorandum dated November 7, 2012, from the City Attorney's office regarding the timely filing of an appeal of determination of exemption from environmental review for the San Francisco Municipal Transportation Agency's (SFMTA) Fell and Oak Streets Bikeways Project and the appeal of SFMTA approval action.

The City Attorney has determined that the appeal of determination of exemption from environmental review for the SFMTA Fell and Oak Streets Bikeways Project was timely filed.

The City Attorney has determined that the action of SFMTA Board of Directors' approval of the Fell and Oak Streets Pedestrian and Bicycle Improvement Project is not appealable to the Board of Supervisors under Charter Section 8A.102(b)(7)(i).

I have attached a copy of the City Attorney's memorandum for further explanation.

A hearing date has been scheduled for the appeal of determination of exemption from environmental review for the SFMTA Fell and Oak Streets Bikeways Project on **Tuesday, December 11, 2012, at 4:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, Legislative Chamber, Room 250, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Pursuant to the Interim Procedures 7 and 9, please provide to the Clerk's Office by:

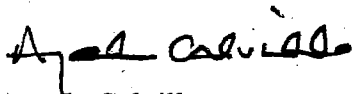
**8 days prior to the hearing:** any documentation which you may want available to the Board members prior to the hearing;

**11 days prior to the hearing:** names of interested parties to be notified of the hearing.

Please provide 18 copies of the documentation for distribution, and, if possible, names of interested parties to be notified in label format.

If you have any questions, please feel free to contact Deputy Director, Rick Caldeira at (415) 554-7711 or Legislative Clerk, Joy Lamug at (415) 554-7712.

Very truly yours,



Angela Calvillo  
Clerk of the Board

c:

Project Sponsor, Ellen Robinson, Municipal Transportation Agency  
Jon Givner, Deputy City Attorney  
Julia Friedlander, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Marlena Byrne, Deputy City Attorney  
Audrey Pearson, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Bill Wycko, Environmental Review Officer, Planning Department  
AnMarie Rodgers, Planning Department  
Tina Tam, Planning Department  
Brett Bollinger, Planning Department  
Jonas Ionin, Planning Department  
Linda Avery, Planning Commission Secretary



DENNIS J. HERRERA  
City Attorney

MARLENA G. BYRNE  
Deputy City Attorney

DIRECT DIAL: (415) 554-4620

E-MAIL: marlena.byrne@sfgov.org

## MEMORANDUM

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Marlena G. Byrne *MB/sg*  
Jon Givner  
Deputy City Attorneys

DATE: November 7, 2012

RE: Appeal of Determination of Exemption from Environmental Review for the SFMTA Fell and Oak Streets Bikeways Project and Appeal of SFMTA Approval Action

You have asked for our advice on the timeliness of an appeal to the Board of Supervisors, received by the Clerk's Office on November 2, 2012, by Mark Brennan, Howard Chabner, and Ted Loewenberg of the Planning Department's determination that the San Francisco Municipal Transportation Agency's (SFMTA) Fell and Oak Streets Bikeways Project is exempt from environmental review under the California Environmental Quality Act ("CEQA"). The proposed work involves removing parking lanes and adding bike lanes, as well as other related changes, to Fell and Oak Streets between Baker and Scott Streets. The Appellants provided a copy a Certificate of Determination Exemption from Environmental Review, dated October 4, 2012, which stated that the Planning Department determined that the project was exempt under Classes 1 and 4 of the CEQA Guidelines (14 Cal. Code Reg. §15000 *et seq.*). Appellants also provided a copy of the SFMTA Board of Directors' Resolution No.12-129 approving the proposed work on October 16, 2012.

Because the SFMTA Board of Directors has acted to approve the project, the appeal is ripe. Additionally, we are informed that the project will require approval of certain sidewalk changes, specifically "bulb-outs", by the Department of Public Works. These approvals would be made administratively by the Director of Public Works. Because these approval actions are still pending, the appeal of the categorical exemption determination is still timely.

Thus, it is our view that the appeal of this categorical exemption determination is timely, and the appeal should be calendared before the Board of Supervisors. We recommend that you so advise the Appellant.

You also asked whether the SFMTA Board of Directors' approval of the Fell and Oak Streets Pedestrian and Bicycle Improvement Project is appealable to the Board of Supervisors under Charter section 8A.102(b)(7)(i). It is not. Under the Charter, the SFMTA has exclusive jurisdiction over the creation of bicycle lanes unless the Board of Supervisors adopts an ordinance establishing a process for Board review. Charter section 8A.102(b)(7)(i) provides that the Board of Supervisors "may by ordinance establish procedures by which the public may seek Board of Supervisors review of any Agency decision with regard to the installation or removal of a stop sign or the creation or elimination of a bicycle lane." The Board of Supervisors has not adopted such an ordinance providing for review of Agency decisions. Accordingly, the SFMTA

**Memorandum**

TO: Angela Calvillo  
Clerk of the Board of Supervisors  
DATE: November 7, 2012  
PAGE: 2  
RE: Appeal of Determination of Exemption from Environmental Review for the  
SFMTA Fell and Oak Streets Bikeways Project and Appeal of SFMTA Approval  
Action

---

Board of Directors' decision is not appealable under section 8A.102(b)(7)(i). We recommend that you so advise the Appellant.

Please let us know if we may be of further assistance.

MGB and JG

cc: Rick Caldeira, Deputy Director, Clerk of the Board  
Joy Lamug, Board Clerk's Office  
Andrea Ausberry, Board Clerk's Office  
Jon Givner, Deputy City Attorney  
Julia Friedlander, Deputy City Attorney  
Kate Stacy, Deputy City Attorney  
Audrey Pearson, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Bill Wycko, Environmental Review Officer, Planning Department  
AnMarie Rodgers, Planning Department  
Brett Bollinger, Planning Department  
Jonas Ionin, Planning Department

BOARD of SUPERVISORS



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TDD/TTY No. 544-5227

November 5, 2012

To: Jon Givner  
Deputy City Attorney

From: Madeleine Licavoli *Madeleine Licavoli*  
Deputy Director

**Subject: Appeal of the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors Action on the Approval of the Fell and Oak Streets Pedestrian and Bicycle Improvement Project and Planning Department's Categorical Exemption Determination from Environmental Review for SFMTA Fell and Oak Streets Bikeways Project**

An appeal of the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors action on the approval of the Fell and Oak Streets Pedestrian and Bicycle Improvement Project and Planning Department's categorical exemption determination from environmental review for SFMTA Fell and Oak Streets Bikeways Project was filed with the Office of the Clerk of the Board on November 2, 2012, by Mark Brennan, Howard Chabner, and Ted Loewenberg.

Pursuant to the Interim Procedures of Appeals for Negative Declaration and Categorical Exemptions No. 5, I am forwarding this appeal, with attached documents, to the City Attorney's Office to determine if the appeal has been filed in a timely manner and if SFMTA Board of Directors action on the approval of the above mentioned project is appealable to the Board of Supervisors. The City Attorney's determination should be made within three (3) working days of receipt of this request.

If you have any questions, you can contact Joy Lamug at (415) 554-7712.

c: Angela Calvillo, Clerk of the Board  
Kate Stacy, Deputy City Attorney  
Marlena Byrne, Deputy City Attorney  
Scott Sanchez, Zoning Administrator, Planning Department  
Bill Wycko, Environmental Review Officer, Planning Department  
AnMarie Rodgers, Planning Department  
Tina Tam, Planning Department  
Brett Bollinger, Planning Department  
Linda Avery, Planning Commission Secretary  
Ellen Robinson, Municipal Transportation Agency

**Mark Brennan**  
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**Howard Chabner**  
1930 Fell Street  
San Francisco, CA 94117  
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**Ted Loewenberg**  
1562 Waller  
San Francisco, CA 94117  
415-522-1560

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2012 DEC -3 PM 3:17

**DATE: December 3, 2012**

**MEMORANDUM IN SUPPORT OF APPEAL  
TO THE SAN FRANCISCO BOARD OF SUPERVISORS  
OF MTA BOARD APPROVAL  
AND SF PLANNING DEPARTMENT CEQA EXEMPTION DETERMINATION  
OF OAK AND FELL BIKE LANE PROJECT**

**INTRODUCTION**

This is a Memorandum in Support of the Appeal by appellants Mark Brennan, Howard Chabner and Ted Loewenberg ("Appellants") of the October 16, 2012 actions of the San Francisco Municipal Transportation Agency ("MTA") Board of Directors approving the Oak and Fell Pedestrian and Bicycle Safety Improvements project (the "Project") and of the San Francisco Planning Department's October 4, 2012 Categorical Exemption of the Project from environmental review.

Appellants filed a Notice of Appeal with the Clerk of the Board of Supervisors on November 2, 2012, and included copies of the MTA Board's October 16, 2012 Resolution #12-129 (the "MTA Resolution") and the Planning Department's October 4, 2012 Certificate of Determination regarding Categorical Exemption (Exemption from Environmental Review for the MTA Fell & Oak Streets Bikeways Project - Case No. E011.0836E) (the "Certificate").

**PROJECT DESCRIPTION**

The Project is located in a densely populated residential, commercial and tourist area in the heart of San Francisco. The Project would make major changes on Oak, Fell, Baker and Scott Streets. Fell, which is one-way Westbound, and Oak, one-way Eastbound; together

comprise one of San Francisco's most vital and heavily trafficked East-West thoroughfares, carrying a combined more than 60,000 motor vehicles per day. (Since many vehicles carry more than one person, the number of drivers and passengers affected by the Project will be many more than 60,000 per day.) They are the major thoroughfares leading to (Oak) and from (Fell) the Octavia Boulevard entrance and exit for Highway 101. This is also a major pedestrian area with a large amount of pedestrians traveling up and down Oak and Fell Streets towards Divisadero and downtown, or vice versa to the Panhandle and the Haight. The Project area also includes Divisadero Street, a major North-South thoroughfare and commercial street that includes many stores, restaurants, cafés, a hotel and other small businesses.

The Project would:

Create a bike lane and 5-foot wide buffer strip on the South side of the three blocks of Oak from Scott to Baker, where no bike lane or buffer strip currently exists.

Move the bike lane that currently exists on the South side of the three blocks of Fell from Scott to Baker to the curb lane, where no bike lane currently exists, and add a 5-foot wide buffer strip where no buffer strip currently exists.

In the buffer strips construct concrete raised, planted traffic islands, as close as approximately 10 feet from residential and commercial driveways, and next to abundant moving traffic.

Remove all existing parking lanes on the South side of three blocks of Oak and the South side of three blocks of Fell (in each case from Scott to Baker), resulting in the loss of 88 street parking spaces on Oak and Fell, in addition to parallel parking in front of driveways on those streets which are currently being used as parking spaces by residents of the buildings.

Remove over 100 feet (five metered parking spaces) of yellow zone (commercial loading and unloading) parking on Oak.

Remove certain white zone (passenger loading and unloading) parking spaces on Oak and Fell.

Narrow the parking lane on the North side of Oak.

Construct 12 concrete bulbouts on various corners of Oak and Fell, many of which are double bulbouts.

Result in the loss of 13 street parking spaces on Oak and Fell to make room for the bulbouts.

Reduce the number of travel lanes on Oak during morning rush hour (7 AM to 9 AM) from four to three, a 25% reduction.

Reduce the number of travel lanes on Baker between Oak and Fell from two lanes in each direction to one lane in each direction plus one lane with exclusive left turn pockets.

Convert parallel street parking spaces on one side of certain blocks of Baker and Scott to back-in angled parking (Baker between Fell and Oak) or perpendicular parking.

Change or add various traffic signals at Oak/Baker and Oak/Broderick, and add turn pockets at several locations on Oak.

Establish a left turn only lane on Eastbound Oak at Baker.

(Except for the introductory paragraph, the above descriptions are from the Certificate.)

### PROJECT IMPACTS

As described in numerous public testimonies, including comments at meetings and hearings, and in correspondence, the Project will have the following impacts:

Threaten the safety of bicyclists and motorists. Encouraging cycling on high-speed, heavy volume streets such as Oak and Fell is unsafe. Cars and bikes often don't remain in their lanes. Many cyclists refuse to use lights at night and are difficult for motorists and pedestrians to see. Cyclists will also be at risk from motor vehicles backing out with poor visibility from driveways and garages on Oak and Fell, plus other motorists using the bike lane to load and unload passengers and packages. All of this will be made more difficult by the raised planters as close as a bit more than 10 feet away from driveways, which will further reduce visibility, making it more difficult to pull out of driveways, and in many cases will force residents to block the bicycle lane while waiting to back out into heavy traffic. Moreover, unlike on low volume streets such as Page and Hayes, cars pulling out of driveways on Oak and Fell are only able to do so when motor vehicle traffic is stopped by a red light. Given the fact that many cyclists do not obey traffic signals, vehicles could be pulling out of driveways when they do not expect any traffic, only to tragically hit (or be hit by) an unexpected cyclist. Currently, Page and Hayes, located just one block from Oak and Fell, respectively, are designated as bike transit streets and are used by many bicyclists each day.

Jeopardize pedestrian safety by concentrating more cyclists in busy pedestrian intersections. Many cyclists go through red lights, don't use lights at night, text or use cell phones while cycling, and disobey other traffic safety laws, yet San Francisco is notoriously lax in enforcing traffic safety laws against cyclists.

Increase traffic, congestion and idling of vehicles because of the reduction in travel lanes on Oak during morning rush hour, the reduction in travel lanes on Baker between Fell and Oak, the left turn only lane on Eastbound Oak at Baker, the numerous bulbouts that make it more difficult to turn, the loss of many street parking spaces, the loss of yellow zone and white zone parking, the conversion of parallel parking into back-in angled parking and perpendicular



parking (which takes longer and is more complex than parallel parking), and the changes to traffic signals.

Increase pollution, including greenhouse gases and toxic air contaminants (TAC) emitted by motor vehicles, because of the increased traffic, congestion and idling of vehicles. Fell and Oak are predominately residential in the Project area, and residences are considered sensitive receptors for the purposes of a TAC analysis. But to appellants' knowledge, MTA has not done a TAC analysis of the Project (if an analysis was done, it has not been disseminated to the public).

Jeopardize public safety by slowing down emergency vehicle response time. Besides the impact of overall congestion described above in the area, emergency vehicle access, especially for firefighting vehicles, is likely to be impeded by the numerous bulbouts, including double bulbouts. The Project was going to include a bulbout on Broderick and Oak near Falletti's Market, but at the MTA Board hearing on October 16, 2012, it was removed from the Project because MTA staff and the Board acknowledged that the bulbout would make it much more difficult, if not impossible, for Falletti's suppliers to drive their trucks around that corner. Suppliers would have to drive around the block and approach the building from the other direction in order to avoid the bulbout. If a bulbout would be an obstacle for delivery trucks, it would also be an obstacle for large fire trucks and engines. This would be especially problematic considering the Project would include 12 bulbouts clustered in nearby intersections in a dense, heavily trafficked area. Moreover the Project would make the entire situation more complex and congested, reducing the space for stationing fire vehicles and setting up firefighting equipment, and also reducing the space for civilian vehicles to pull over and get out of the way of fire vehicles.

The loss of street parking would be a major hardship (not an "inconvenience" as MTA staff has characterized it) for residents, merchants, customers and visitors. The existing street parking supply in the area bounded by Scott, Hayes, Baker and Page is approximately 590 spaces. (Certificate, pp. 10, 16.) The Project would mitigate the loss by converting street parallel parking to angled or perpendicular on some blocks of Baker and Scott (which would add 33 spaces), and by eliminating bus stops on Hayes (which would add 13 spaces). However, 11 of the spaces gained are outside the Project area (on Scott between Haight and Waller, and on Baker between Page and Haight). Assuming that these changes do not get reversed after implementation, there will be a net loss of around 11% ( $66 \div 590$ ) of the parking spaces in the Project area; if they get reversed, it would be more. (Some of the angled or perpendicular spaces may well be converted back to parallel because of the increased traffic complexity and additional time required to park. This is especially likely on Baker between Fell and Oak, because the traffic lanes will be reduced, the situation will be made more complex, there will be a higher volume of bicycles, and back-in angled parking is difficult and requires all motor vehicle and cycle traffic to stop.) Even under a narrow view of environmental impact, as the Planning Department has taken in the Certificate, there would be a significant environmental impact of cars circling looking for parking - congestion, idling, pollution, and traffic on the side streets would all be increased.

The parking loss will be an even greater hardship for residents and visitors at night. Street parking is already scarce in this neighborhood at night, and the Project would significantly worsen it. This is not an "inconvenience," but a **personal safety risk**, especially for vulnerable people - women, seniors, disabled people - who will have to park further from their residence or the place they are visiting. The risk to personal safety will especially increase for residents returning to their homes late at night, and for visitors returning to their cars late at night after visiting friends in the area.

The major parking loss will especially impact seniors and disabled people, who are limited in how far they can walk and how many streets they can cross (even with bulbouts). Some of the side streets South of Oak are steep and difficult for many seniors and disabled people to climb and to park on, which further adds to the impact of parking loss on seniors and disabled people.

Those who use wheelchair/scooter accessible minivans and vans with side ramps or lifts (the most common configuration) will be especially impacted, because in effect, all street parking spaces (except perpendicular and angled spaces, those on the driver's side of a one-way street, and, sometimes, those with sidewalk obstructions such as garbage cans or trees in the exact location of the ramp or lift) are accessible spaces. The Project would remove all street parking on the South side of Oak, which means that all of the wheelchair/scooter accessible parking spaces, and even the custom of temporarily pulling up parallel to open driveway spaces for those purposes, would be eliminated for those three blocks. Converting parallel parking into perpendicular or angled parking would also eliminate spaces that are currently usable by disabled people, worsening the parking loss instead of mitigating it. For the disabled and seniors it means that transport vehicles will have to double park and force them upon exiting the vehicle to dodge bicyclists, many of whom are traveling in groups and at speeds equal to those of vehicles.

Loading and unloading will be made much more difficult for everyone along Fell and Oak in the Project area, and impossible for some. Residents, especially those who don't have driveways, won't be able to be picked up or dropped off in front of their homes. This will be a hardship and safety risk for everyone, but especially seniors, disabled people and families with small children. Some will choose to park temporarily in the bike lane, potentially causing conflicts and even collisions among residents and bicyclists. Merchants will be heavily impacted because they rely on daily deliveries from suppliers. Suppliers will have to spend more time searching for parking, and will have to park further away, making deliveries more difficult and increasing costs. The loss of yellow zone parking will exacerbate these impacts. Merchants will also be impacted by the increased difficulty of their customers being able to find street parking, and by the increased difficulty of customers being picked up and dropped off. The loss of white zone parking will worsen these impacts. The churches will be impacted; churches in the area have objected to the Project.

It will be more difficult, costly and hectic for residents and merchants on Fell and Oak to have construction, maintenance, painting and similar work done on their homes and businesses. Consider, for example, how difficult, costly, time-consuming and even dangerous it would be to set up scaffolding on a building if the scaffolding truck could not park anywhere on the block

where the building is located. Having large contractors' vehicles circling the neighborhood looking for parking would further increase congestion, idling, pollution, and traffic on the side streets. Or, if temporary permits were issued for contractors to park on Fell and Oak, they would be blocking the bike lane and part of the buffer strip, putting cyclists at risk by forcing them into the adjacent traffic lane or the sidewalk. In many locations there might not even be space for contractors' vehicles because of the raised planters in the buffer strip.

Similarly, it will be much harder for residents and merchants in the area, especially those on Fell and Oak, to move in and out. Where would moving trucks park? Consider how difficult, expensive, time-consuming and even dangerous it would be if moving trucks had to park far from the building to or from which they were carrying large, heavy furniture, equipment, inventory and other items. As with contractors, if temporary permits were issued for movers to park on Fell and Oak, this would be dangerous for cyclists because the moving trucks would be blocking the bike lane and part of the buffer strip. Moving trucks are large, so there might not even be space for them because of the planters in the buffer strip.

The likelihood and impacts of double-parking would increase because of the impediments created by the Project. Delivery trucks, cars, taxis and other vehicles will double-park in the remaining travel lanes, causing sudden, unforeseeable stops due to blocking of travel lanes, with traffic having to change lanes to use the remaining travel lanes. It only takes one double-parked vehicle to cause serious back-ups, congestion, and dangerous conditions on major traffic corridors like Fell and Oak. Besides the danger to motorists and cyclists, this would increase pollution, and probably also noise from horns.

The increased congestion caused by drivers circling the area looking for parking, and by people being picked up and dropped off on nearby streets because they can't be on Fell and Oak, may also have an adverse impact on the 21 Hayes bus, which is already an extremely slow bus line, and on the 6 Parnassus, 16X, 33 Stanyan and 71 Haight-Noriega. Although eliminating two stops in each direction is likely to improve running time for the 21 Hayes, this is likely to be more than offset by these congestion impacts.

In sum, the likely impacts are significant, individually and cumulatively.

### **CEQA EXEMPTIONS MUST BE NARROWLY CONSTRUED, AND THE PROJECT'S IMPACTS ARE TOO GREAT FOR AN EXEMPTION**

The approval of the Project was an abuse of discretion and a failure to proceed as required by the California Environmental Quality Act ("CEQA") (Public Resources Code Sections 21000 *et seq.*). The categorical exemptions invoked by the Planning Department under 14 Cal. Code Regs. (the "Guidelines") Sections 15301(c) and 15304(h) do not apply, since the Project: (1) has the potential to degrade the quality of the environment; (2) has possible effects that are cumulatively considerable; and (3) will cause substantial adverse effects on human beings, either directly or indirectly. (Public Resources Code Section 21083(b).) Therefore the Project cannot be classified as categorically exempt. As described above, there is ample

evidence supporting a fair argument that the Project could cause direct, secondary, and cumulative impacts on traffic, air quality, public safety, parking, loading, disability access, transit and emergency services.

The claimed parking loss mitigations do not effectively mitigate the Project's impacts, and, in any event, cannot be used to claim a categorical exemption.

In *McQueen v. Mid-Peninsula Regional Open Space* (1988) 202 Cal. App. 3d 1136, the court reiterated that categorical exemptions are construed strictly, shall not be unreasonably expanded beyond their terms, and may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment.

### THE PROJECT IS NOT CATEGORICALLY EXEMPT UNDER THE CEQA EXEMPTION FOR EXISTING FACILITIES

The Project does not qualify for an exemption under Guidelines Section 15301 (also referred to as "Class 1"), the Existing Facilities exemption. That exemption is for the "operation, repair, maintenance, permitting, leasing, licensing, or **minor alteration** of **existing** public or private structures, facilities, mechanical equipment, or topographical features, **involving negligible or no expansion of use beyond that existing at the time** of the lead agency's determination." (Emphasis added.) "The key consideration is whether the project involves negligible or no expansion of an existing use." The Certificate asserts that the Project is exempt under 15301(c) "**Existing** highways and streets, sidewalks, gutters, bicycle and pedestrian trails and similar facilities..." (Emphasis added.)

There is no bike lane existing on Oak, so the exemption asserted, example (c), could not even arguably apply to Oak.

On both Oak and Fell, the existing conditions in the locations where bike lanes would be installed consist of parking lanes, not bicycle lanes. A parking lane, as defined in California Streets & Highways Code Section 5871(c), is "a paved area adjacent to the curb which is used **exclusively for on-street parking. It does not include any portion of the street used for through traffic or as a bicycle lane.**" (Emphasis added.) The "facility" does not meet this basic definition, since it would **completely remove the parking lane and change its use to a separated bicycle lane for exclusive use of bicyclists.** (S&H Code Section 890.4(a).) These definitions are mutually exclusive, and the Project involves a complete change of use - far more than "negligible."

The changes the Project would create are not minor alterations. Among other things, it would create bike lanes where none exist; create buffer strips on Oak and Fell with raised, planted traffic islands where none exist; reduce the number of travel lanes on Oak during morning rush hour; reduce the number of travel lanes on Baker between Oak and Fell; remove many street parking spaces; and impose other traffic changes that are cumulatively significant.

The policy entitled "Categorical Exemptions from CEQA" adopted by the San Francisco Planning Commission (Resolution No. 14952, August 17, 2000) lists items eligible for exemption under 15301(c). Item 7 (p.3) is:

"Repair and replacement of bicycle ways, pedestrian trails, and dog exercise areas, and signs so designating, where to do so will not involve the removal of a scenic resource. (Creation of bicycle lanes is covered under Class 4(h) below.)"

The Project **does not involve repair and replacement** of bicycle ways. Even more important, the list explicitly states that **creation** of bicycle lanes is covered under Class 4(h). (Class 4(h) refers to Guidelines Section 15304(h), discussed below.) Therefore, by the terms of San Francisco's own policy, the Project doesn't qualify for an exemption under 15301(c).

### **THE PROJECT IS NOT CATEGORICALLY EXEMPT UNDER THE CEQA EXEMPTION FOR MINOR ALTERATIONS**

For reasons similar to those with respect to the Existing Facilities exemption, the Project does not qualify for an exemption under Guidelines Section 15304 (also referred to as "Class 4"), the exemption for Minor Alterations. This exemption consists of "**minor public or private alterations** in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry and agricultural purposes." (Emphasis added.) The Planning Department has invoked 15304(h): "creation of bicycle lanes on **existing rights-of-way**." (Emphasis added.) There is no existing right-of-way in the parking lanes on Oak and Fell for bicycle lanes, since the right-of-way in those parking lanes is exclusively for vehicles. (See S&H Code Section 5871(c).)

The Project includes 5-foot wide buffer strips along Fell and Oak, with raised, planted traffic islands, and the exemption asserted, example (h), does not even mention buffer strips or raised traffic islands.

Nor is the Project a minor alteration in the condition of land, water, and/or vegetation. Rather, it is a major alteration and change of use from parking lanes for exclusive use of parking vehicles to bicycle lanes for exclusive use of riding bicycles. It would also create buffer strips on Oak and Fell with raised, planted traffic islands where none exist; reduce the number of travel lanes on Oak during morning rush hour; reduce the number of travel lanes on Baker between Oak and Fell; remove many street parking spaces; and impose other traffic changes that are cumulatively significant.

If the removal of parking lanes or travel lanes, and their replacement with bicycle lanes, were automatically, categorically deemed a minor alteration that qualifies for this exemption, then it would be possible to remove **all** parking lanes and **all** travel lanes, replace **all** of them with bike lanes, and still qualify for the exemption - certainly an absurd result that is contrary to CEQA and the Guidelines.

## THE FAILURE TO CONDUCT ENVIRONMENTAL REVIEW OF THE PROJECT VIOLATES CEQA AND ITS PURPOSES

The Project is part of a larger project, the San Francisco Bicycle Plan (the "Bicycle Plan"). If it applies at all, a categorical exemption must apply to the whole Bicycle Plan project, not just one segment. See *Association for a Cleaner Environment v. Yosemite Community College District* (2004) 116 Cal. App. 4<sup>th</sup>, 629, 640. But the court has already held, in the *Coalition for Adequate Review* cases, that the Bicycle Plan is not categorically exempt.

The Environmental Impact Report ("EIR") for the Bicycle Plan did not specifically analyze the Project. The MTA Resolution attempts to skirt this defect by stating that the Bicycle Plan, which included a Long Term project on Oak between Baker and Scott, was analyzed at a programmatic level in the EIR. (MTA Resolution; penultimate preamble paragraph.) Literally, this means that the Bicycle Plan itself (not the Project) was analyzed only at a programmatic level, but even if the Project had been analyzed at a programmatic level, this would not be sufficient. Importantly, the Bicycle Plan EIR predates by several years the essential details of the Project, many of which were only finalized in recent months.

Clearly, the environmental impacts of introducing a bike lane and buffer strip on Oak from Baker to Scott were never studied, with regard to Levels of Service at signals, volumes of traffic (both bicycle and vehicle), flows and impacts resulting from bulbouts, parking removal, or impacts on residents, visitors and businesses in the area. In our opinion, such changes constitute major revisions of the status quo that more than warrant a complete and thorough CEQA analysis.

The Bicycle Plan EIR doesn't analyze the Project, but it does make faulty judgments about several issues regarding the segments of the Bicycle Plan that it does analyze, such as parking removal. The impacts of parking removal are described as being of little consequence environmentally, as they are allegedly balanced by changes of habit and transportation modes. This is a terrible assumption, and is essentially repeated in the Certificate. See the discussion of parking in "The Planning Department's Exemption Determination is Incorrect and Inadequate," below.

Each of the appellants has attended meetings and hearings about the Project, and has corresponded with MTA about it. It has been clear throughout the process that MTA did not seriously consider any alternatives to the Project, such as proposals by the Haight Ashbury Improvement Association and others for a bike route on Page Street (especially Eastbound) and Hayes Street (especially Westbound). Nor did they seriously analyze mitigation measures such as creating bike lanes for use during the daytime, when bicycle demand is greatest, and allowing street parking at night, when neighborhood parking demand is greatest. By rejecting alternatives and moving forward with design details without conducting environmental review, MTA violated the principles set forth by the California Supreme Court in *Save Tara v. City of West Hollywood* (2008) 45 Cal. 4th 116, and *Laurel Heights Improvement Ass'n v. Regents of the*

*University of California* (1988) 47 Cal. 3rd 376. In *Save Tara*, the Court stated: "Before conducting CEQA review, agencies must not 'take any action' that significantly furthers a project 'in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of the CEQA review of that public project.' "

MTA created the institutional momentum to impose the Project without seriously analyzing its environmental impact or considering alternatives. The Court held in Laurel Heights that "CEQA requires that an agency determine whether a project may have a significant environmental impact, and thus whether an EIR is required, before it approves that project." Further, "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 posthoc rationalizations to support action already taken. We have expressly condemned this use of EIR's."

At the MTA/SF Bicycle Coalition workshops about the project held at the San Francisco Day School in 2011, the MTA's presentation about the Project at the March 2012 meeting of the Physical Access Committee of the Mayor's Disability Council (appellant Chabner was chair of the committee at that time), and the May 2012 MTA hearing in front of an MTA employee, it was clear that MTA was already irrevocably committed to the Project. It is quite possible that MTA's haste in implementing the Project was motivated in large part by political considerations. At the May 2012 hearing, and at other times, various elected officials have spoken in support of the project, including Supervisor Christina Olague and a member of Assemblyman Tom Ammiano's staff, who urged MTA to implement the project by November. It is also interesting that the last week of September 2012 was the 20th anniversary of Critical Mass in San Francisco, an anniversary marked by fanfare and controversy, and the MTA Board unanimously approved the Project on October 16, just two weeks later, and with almost no Board discussion of the concerns raised by residents and merchants at the meeting and in written comments, or of the potential environmental impacts. Project approval was a foregone conclusion for quite some time, and the manner in which it was handled was politically motivated.

### **CUMULATIVE IMPACTS AND UNUSUAL CIRCUMSTANCES EXIST THAT PRECLUDE A CATEGORICAL EXEMPTION**

Guidelines Section 15300.2 provides that categorical exemptions may not be used in the following circumstances (among others):

(b) Cumulative Impact. All exemptions for these classes [including Class 4] are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

In *McQueen v. Mid-Peninsula Regional Open Space*, cited above, the court emphasized that categorical exemptions may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment.

There is a reasonable possibility that this Project will have a significant effect on the environment due to unusual circumstances; therefore, per Section 15300.2(c), this precludes use of categorical exemptions. As described above, the Project is located in a densely populated residential, commercial and tourist area in the heart of San Francisco. The Project would make major changes on Fell/Oak, one of San Francisco's most indispensable and heavily trafficked East-West thoroughfares, the major thoroughfare leading to and from the Octavia Boulevard entrance and exit for Highway 101. There are no comparable alternatives to these streets for motor vehicles going to and from this primary entrance/exit for Highway 101. The Project area also includes Divisadero Street, a major North-South thoroughfare and commercial street that includes many stores, restaurants, cafés, a hotel and other small businesses. The population and traffic density, central location, unique nature of the neighborhood, complexity, and indispensable nature of the corridor to and from Highway 101, together constitute unusual circumstances.

In addition, per Section 15300.2(b), the Minor Alterations exemption (Class 4) is unavailable because the Project, together with the bicycle boulevard project on Masonic Avenue approved by the MTA Board, would have significant cumulative impacts. Masonic Avenue is only three blocks from Baker Street, the Westernmost street of the Project area. The two areas are contiguous and essentially are part of the same neighborhood. (In fact, as part of the Project MTA staff considered removing the 21 Hayes bus stop on Hayes/Central in order to mitigate the parking loss. Central is only one block from Masonic.) The Masonic project would remove all street parking on both sides of Masonic for over half a mile, including through Fell Street, would reduce travel lanes on Masonic, and would make other major changes in the neighborhood. These would have environmental impacts similar to those of the Project, including increasing congestion, vehicular idling and pollution. Because of the close proximity of the Project to the Masonic project, the cumulative impact of both projects must be considered together.

#### **THE PLANNING DEPARTMENT'S EXEMPTION DETERMINATION IS INCORRECT AND INADEQUATE**

The Planning Department, in support of its determination that the Project is categorically exempt from environmental review, discusses certain matters in the Certificate, including Level of Service analysis for traffic on Fell and Oak, and potential impacts on transit, pedestrians, bicycles, emergency access, loading and parking. These discussions are incomplete and inadequate, and they ignore or understate the likely impacts of the Project. Importantly, the data



and analyses underlying these assertions have not been disseminated to the public for consideration before the October 16, 2012 MTA Board hearing (or at any other time).

In great contrast, if the MTA had commissioned an EIR, the EIR would have been detailed, would have been made widely available for review and comment, and would have required detailed responses to public comments in order to be certified as final. Some information has been made available in response to Sunshine Ordinance requests by appellants and others, but the public's right to know the data and analyses supporting the Project, and on which the categorical exemption from environmental review is based, and MTA/the Planning Department's obligation to provide this information to the public in a comprehensive, organized and systematic fashion, are not satisfied by responding to Sunshine Ordinance requests.

Traffic Level of Service. The traffic Level of Service analysis is conclusory and inadequate. No information is given in the Certificate about who conducted the measurements, how they were conducted, what instruments were used to measure traffic delay, the dates traffic delay was measured, or how many days traffic was measured. Nothing is stated about who analyzed the data. No explanation is given of how "delay" is defined. Each of us having lived in the neighborhood for many years and driven or been passengers on Oak and Fell hundreds of times, it certainly seems to appellants that the number of seconds stated for delay during peak hours under existing conditions (ranging from 6 to 21 seconds at the various Oak intersections in the Project area, and from 8 to 16 seconds at the Fell intersections, in both cases without the expected impact of the Project) are grossly understated. **And then, crucially, no explanation is given for how the expected delay impact of the Project was estimated.** The Certificate devotes much of its limited discussion of traffic analysis to estimating delays in the year 2035, concluding for most intersections that the Project impact would be 0, 1 or 2 seconds, which seems an exercise in false precision if ever there was one.

There are no data or analyses of total travel time along Fell or Oak within the Project area, nor for the blocks of Fell and Oak outside but near the Project area, let alone a comparison of these travel times before and after the Project. For example, it would be important to know the impact of the Project on travel time from Oak/Stanyan to Oak/Octavia at various times of day, but the Certificate is silent about this. Nor is there any discussion or analysis at all of traffic impacts on streets besides Fell and Oak, such as Baker, which is losing travel lanes and adding a more difficult, cumbersome, slower parking scheme. Impacts on the other cross streets, and on parallel nearby streets such as Hayes and Page, also are completely ignored. Perhaps this is because the Certificate denies that there will be increased congestion due to parking loss (see below).

Although the Certificate does not state who performed the traffic Level of Service analysis, appellants have been informed that it was MTA staff. Therefore, no independent traffic study was done; the only analysis, inadequate as it is, was performed by employees of the Project sponsor.

In contrast, two recent major projects in the area were required to do thorough traffic studies. The Falletti's development, which is in the Project area, performed an extensive traffic

study in support of a negative declaration. The Whole Foods project, near the area, did a full EIR, including two traffic studies, one in the winter and one in the spring. The idea behind performing two studies was that there were likely to be fewer cyclists, pedestrians and vehicles in the winter than in the spring, and it was important to ascertain and account for conditions throughout the year in evaluating the environmental impact of the development.

Transit. The Certificate devotes one paragraph each to a discussion of the impact on the 21 Hayes and 16X bus lines (plus one paragraph each to a discussion of the expected impact in the year 2035; as above, an exercise in false precision). It concludes that the impacts would be minimal, estimating slightly increased or decreased delays (such as 1 or 2 seconds at various intersections) for the 16X, and doesn't discuss delays at all for the 21 Hayes. With respect to the 16X, there is no discussion of how the increased or decreased delays were estimated, nor by whom. Asserting increased or decreased delays of 1 or 2 seconds implies a level of precision that is highly unlikely - essentially a rounding error. Because the Certificate denies there will be increased congestion caused by drivers circling the area looking for parking, and by people and goods being picked up and dropped off on nearby streets because they can't be on Fell and Oak, there is no mention of possible delays on the 21 Hayes, which is already maddeningly slow. The discussion of the 16X also ignores these impacts.

There is also no discussion of potential impacts on the 6 Parnassus, 33 Stanyan and 71 Haight-Noriega, all of which have stops in the area and would be impacted by diversion of traffic to the nearby streets and by cars circling in search of parking.

Pedestrian. In the three sentences devoted to this topic, the Certificate mentions bulbouts, continental ladder markings and advanced limit lines, concluding that pedestrian conditions would improve. No observations, data, studies or analyses are cited. There is no mention whatsoever of the likely dangers to pedestrians discussed in the "Project Impacts" section of this Memorandum.

Bicycle. In the three sentences devoted to this subject, the Certificate mentions the striped, landscaped buffers on Oak and Fell, concluding that the Project would improve bicycle conditions. There is no mention whatsoever of the likely dangers to cyclists discussed in the "Project Impacts" section of this Memorandum, especially the danger of encouraging more cycling on high-speed, heavy volume, complex streets such as Oak and Fell instead of slower, lower volume, simpler streets, and the danger of being hit by cars backing out of driveways.

Emergency Access. In the two sentences devoted to this topic, the Certificate states that the project would not close any existing streets or entrances, and emergency vehicle access would not be impeded. There is no mention whatsoever of the likely impact of having so many bulbouts on so many adjacent and nearby intersections in a dense area, discussed in the "Project Impacts" section of this Memorandum. For example, as discussed in that section, if a bulbout impedes delivery vehicles, causing them to go around the block, wouldn't it have a similar impact on large fire engines and trucks?

Loading. In the one paragraph devoted to this subject, the Certificate describes the location of the five loading spaces that would be eliminated on Oak, emphasizes that other loading spaces would be preserved, and concludes that because of those other loading spaces and the availability of off-street loading for two gas stations and Kelly Moore Paints, no significant loading impacts would occur. No observations, studies, data or analyses are cited. The discussion ignores the testimony of merchants in the area about the hardship the elimination of the five yellow zone commercial loading spaces would cause to their businesses. It ignores the fact that the area is already congested, and the impact of the net loss of loading spaces and overall large loss of street parking.

Importantly, there is no discussion whatsoever of the hardship and safety issues for residents of Oak and Fell who could no longer be picked up or dropped off in front of their homes, and could no longer load and unload objects and packages in front of their homes. There is also no discussion of the loss of the white zone passenger loading spaces.

Parking. The Planning Department claims that loss of parking spaces is not an environmental impact under CEQA, just a social effect. They acknowledge, however, that parking conditions "may be of interest to the public and the decision makers," and therefore present a parking analysis for information purposes. They state that under CEQA, a project's social impacts need not be treated as significant impacts on the environment but acknowledge that environmental documents should address the secondary physical impacts that could be triggered by the impact, citing CEQA Guidelines Section 15131(a). They state that because the availability of parking changes over time, parking is not a permanent physical condition, and therefore not an environmental impact. (The discussion of parking is at pp. 16 and 17 of the Certificate.)

Appellants do not agree that parking is not an environmental impact. We believe it is. CEQA defines the environment broadly to include "physical conditions which exist within the area which will be affected by a proposed project." (Public Resources Code Section 21060.5.) "Environment" means "physical conditions which exist within the area which will be affected by a proposed project, including air, water, minerals, flora, fauna, ambient noise, and objects of historical interest or significance. The 'environment' includes both natural and man-made conditions." (Guidelines Section 15360.) Many of these things change over time (ambient noise, especially, is ephemeral and fluctuates), yet the law considers them part of the physical environment. Also, the Planning Department conflates the availability of parking spaces at any time (a function of supply and demand at a particular point in time) with the City's choice about what uses to assign to specific pieces of land in a project area (for example, travel lanes, parking, bike lanes, open space); those pieces of land, and their uses, are part of the physical environment.

Removing parking spaces and making existing parking deficits worse are significant impacts that must be analyzed and mitigated under CEQA; *Land Value 77 v. Board of Trustees of the California State University* (2011) 193 Cal. App. 4th 675, 679-680. Traffic analysis that failed to analyze impacts caused by eliminating parking was held inadequate; *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal. App. 3d 1011, 1028. Also, "Traffic and parking have the potential...of causing serious environmental problems;" *Sacramento Old*

City. Loss of street parking “indicated that a finding of significant environmental effect was mandatory” *Friends of “B” Street v. City of Hayward* (1980) 106 Cal. App. 3rd 988, 1003.

The Planning Department states that the “social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion.” But after acknowledging this possibility, the Planning Department dismisses it in two conclusory paragraphs full of boilerplate. They claim: “**In the experience of San Francisco transportation planners**, however, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g. transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits.” (Emphasis added.)

The Certificate goes on to state: “The transportation analysis accounts for potential secondary effects, such as cars circling looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking further away if convenient parking is available. Moreover, the secondary effect of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area.” Because of this, the Planning Department concludes that any secondary environmental impacts resulting from parking shortage would be minor. (The last sentence quoted is circular, and if it were really true, there would be little or no parking-related congestion anywhere because, as parking became scarcer, people would either change transportation modes or stay away from an area altogether, and the area would remain static.)

No factual basis is stated for these conclusory assertions - no observations, no studies, no investigations, no surveys, no data, no measurements, no statistics, no analyses of the particular conditions in this particular neighborhood, no interviews, no testimony of residents, merchants or visitors – just the “experience of San Francisco transportation planners...” The time period on which their opinion is based, is unstated. The identity, professional qualifications, expertise, experience, and track record of these anonymous transportation planners are not revealed, nor is any factual, empirical basis whatsoever given for their opinion.

Moreover, the statement quoted is internally inconsistent: if drivers seek parking further away from the Project area, then they would be driving further, therefore causing more congestion, more idling and more pollution. The question is: how much? But neither MTA nor the Planning Department has made a factually based attempt to answer it.

In October 2012, pursuant to the Sunshine Ordinance, appellant Chabner requested from MTA and the Planning Department:

“All documents regarding the factual statements, analyses and conclusions in the second, third, fourth, fifth and sixth paragraphs of the section entitled “Parking” in the Exemption

from Environmental Review for the SFMTA Fell & Oak Streets Bikeways Project.”  
[Note – The Parking section has six paragraphs.]

MTA responded: “After reviewing our records, the SFMTA has determined that the agency does not have any records responsive to your request.”

The Planning Department responded: “There is nothing to provide since the “Parking” standard language does not reference any specific document, is not based on a specific study, and is grounded on the expertise of San Francisco transportation planners, as stated in the language.”

It’s revealing that the Planning Department response to the Sunshine request refers to the “‘Parking’ standard language” in the Certificate: they admit that their discussion is mere boilerplate! (This appears to be the same boilerplate used in the Bicycle Plan EIR.) MTA and the Planning Department have no factual basis for their claim that parking impact would be minor and have completely ignored the testimonies to the contrary from residents and merchants referred to in the “Project Impacts” section of this Memorandum.

Most people who own cars are very unlikely to sell them even if forced into longer searches for street parking. Nor are they likely to readily switch to, or increase their use of, a flawed transit system, especially at night even though the parking shortage is worse at night. And for those who rent or own housing that includes off street parking, the presence of increased bicycle traffic that increases safety risks would still not result in major abandonment of the motor vehicle.

### **THE PROJECT DISCRIMINATES AGAINST PEOPLE WITH MOBILITY DISABILITIES**

Accessible transportation, and an equal opportunity to choose among modes of transportation, are essential to living a full, independent life, and are central disability rights. The Americans with Disabilities Act, 42 USC Section 12101 *et seq*, and California disability rights laws, including California Civil Code Sections 54 *et seq*, (the ADA and California disability rights laws are referred to as the “Disability Rights Laws”) prohibit discrimination on the basis of disability in programs of local government, use of streets and sidewalks, and transportation. California Civil Code Section 54(a) provides that “Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways... public facilities, and other public places.” Title II of the ADA requires local governments to provide people with disabilities an equal opportunity to benefit from all of their programs, services and activities. Sidewalks, streets and parking are programs provided by ADA Title II entities, and therefore are subject to ADA requirements.

Most people with major mobility disabilities are unable to bike, ride a motorcycle, or use a skateboard, razor-style scooters, rollerblades or roller skates. Most slow walkers and many manual wheelchair users can go only a limited distance. Although many pedestrians who use electric wheelchairs and scooters are able to go far, some of them, too, can go only a limited distance. Finding a wheelchair accessible taxi is problematic. San Francisco’s public

transportation system has access limitations, flaws and gaps. Individual circumstances also limit many disabled people's ability to use public transportation. Rain and cold weather also limit the distance many disabled people can walk or roll, and also limit their ability to use public transportation. Therefore, many people with mobility disabilities rely heavily on automobiles for transportation, both as drivers and as passengers.

Many seniors and disabled people rely on service providers coming to their homes, including caregivers, Meals on Wheels, physical, respiratory and occupational therapists, and wheelchair repair companies. These providers typically use automobiles, so when street parking is removed, it becomes more time-consuming and costly to provide these services, and people with disabilities and seniors are impacted.

If he or she owns a vehicle, almost everyone who uses an electric wheelchair, and many who use scooters and manual wheelchairs, have either a lowered floor minivan with a passenger-side ramp or a full-size van. (Lowered floor minivans are also available with the ramp in the rear, but this configuration is rare except in taxis. For full-size vans, a side lift is the most common configuration.) For those with accessible minivans and vans with ramps or lifts on the side, all street parking spaces (except perpendicular and angled spaces, those on the driver's side of a one-way street, and, sometimes, those with sidewalk obstructions such as garbage cans or trees in the exact location of the ramp or lift) are, in effect, accessible spaces even though they are not blue zones. In fact, disabled people park in regular street parking spaces far more often than in blue zones because: (a) the number of blue zones is very limited and they are often occupied; and (b) quite often a regular space is available closer to the destination than a blue zone.

Therefore, removing street parking spaces, and replacing parallel spaces with perpendicular or angled ones, disparately impact people with mobility disabilities.

The Project would remove all street parking on the South side of Oak, which means that all of the effectively wheelchair/scooter accessible parking spaces would be eliminated for those three blocks. The parking spaces on the North side of Oak would remain, but it would be extremely dangerous for people in wheelchairs/scooters to use them because the ramp or lift would be deployed into the travel lane. Converting parking spaces on some of the side streets, which are currently parallel parking, into perpendicular or angled spaces also would eliminate spaces that are currently usable by wheelchair/scooter users, thereby adding to the parking loss instead of mitigating it. (Baker between Fell and Oak, and Scott between Haight and Waller, are flat, and the loss of half the accessible parking on those blocks would worsen the hardship. Baker between Page and Haight is moderately sloped, and there is already perpendicular parking on the East side, so converting the West side to perpendicular would make that entire block off-limits for parking by wheelchair/scooter users.)

Not only wheelchair/scooter users, but people who walk slowly and with difficulty would also be harmed and disparately impacted by the loss of parking spaces on Oak and the elimination of parallel parking on the side streets.

As described above, the Project would also make it more difficult, dangerous and stressful for disabled people, including wheelchair/scooter users and people who have difficulty walking, and for seniors, to be picked up and dropped off.

These impacts discriminate against people with disabilities and violate the Disability Rights Laws.

### REMEDIES REQUESTED

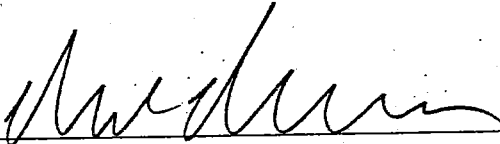
1. Set aside all approvals of the Project, and the Categorical Exemption.
2. Declare that any future proposal to implement the same project must be preceded by an environmental impact report fully analyzing all impacts and proposing effective mitigations for each of the Project's possible impacts on parking, traffic, transit, noise, air quality, emergency services, public safety, and human impacts. Cumulative impacts must be analyzed taking into account all past, present, and reasonably foreseeable projects that will also affect traffic, transit, parking, noise, air quality, and public safety on Oak and Fell Streets and the entire area. Spillover and secondary impacts from removal of street parking must also be analyzed, along with any impacts caused by mitigations, including traffic congestion caused by signal timing. The analysis must include real-time on-ground traffic counts during AM and PM peak periods, taken at a variety of representative days of the week and times of the year.
3. The EIR must propose effective mitigations that eliminate each of the Project's impacts, including consideration of avoiding each impact altogether by not implementing the Project.
4. The City must implement effective mitigation before Project implementation.
5. The City must propose a plan to effectively comply with the Disability Rights Laws, provide an opportunity for meaningful input and comment on such plan, and incorporate such plan in a revised Project.
6. Further consideration of the Project must be stayed until the City has complied with CEQA, the Disability Rights Laws and other applicable statutes and regulations.
7. Such other remedies as may be appropriate.

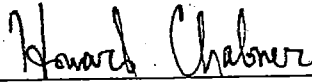
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Appellants request copies by e-mail, no later than five days in advance of the hearing on this appeal, of all documents submitted by MTA, the Planning Department, the City Attorney's office and other city agencies in opposition to this appeal. (The Clerk of the Board of Supervisors has appellants' e-mail addresses.)

Appellants reserve the right to submit supplemental memoranda, rebuttals and other documents.

DATE: December 3, 2012

  
\_\_\_\_\_  
Mark Brennan

  
\_\_\_\_\_  
Howard Chabner

  
\_\_\_\_\_  
Ted Loewenberg







**SAN FRANCISCO  
PLANNING DEPARTMENT**

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

2012 DEC 3 AM 11:00 **MEMO**

**Appeal of a Categorical Exemption**

**AK**

**DATE:** December 3, 2012

**TO:** President David Chiu and Members of the Board of Supervisors

**FROM:** Bill Wycko, Environmental Review Officer – (415) 575-9048  
Brett Bollinger, Case Planner – (415) 575-9024

**RE:** Planning Department Case Nos. 2011.0836E: Appeal of Categorical Exemption for the SFMTA Fell & Oak Streets Bikeways Project

**PROJECT SPONSORS:** San Francisco Municipal Transportation Agency (SFMTA)

**HEARING DATE:** December 11, 2012

**ATTACHMENTS:**

- A: CEQA Determination-Categorical Exemption
- B: San Francisco Municipal Transportation Agency Board of Directors Resolution No. 12-129
- C: Appeal Letter Dated November 2, 2012

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**INTRODUCTION**

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the "Board") regarding the issuance of a categorical exemption certificate under the California Environmental Quality Act ("CEQA Determination") for the proposed Fell and Oak Streets Bikeways project (the "Project") by the Planning Department (the "Department") on October 4, 2012. This response addresses the appeal ("Appeal Letter") to the Board filed on November 2, 2012 by Mark Brennan, Howard Chabner, and Ted Loewenberg (collectively, the "Appellant"). The Appeal Letter referenced the CEQA Determination issued for Case File No. 2011.0836E, in which the Department determined that the project was exempt from environmental review under Title 14 California Code of Regulations ("CEQA Guidelines") Section 15301(c), or "Class 1," and Section 15304(h), or "Class 4." The CEQA Determination and the Appeal Letter are included in this memorandum as Attachments A and C, respectively. The San Francisco Municipal Transportation Agency Board's ("SFMTAB") resolution approving the Project is included in this memorandum as Attachment B.

The decision before the Board is whether to uphold the Department's decision to issue a categorical exemption and deny the appeal, or to overturn the Department's decision to issue a categorical exemption and return the project to the Department staff for additional environmental review.

Section 21084 of the California Public Resources Code requires that the CEQA Guidelines identify a list of classes of projects that have been determined not to have a significant effect on the environment and, therefore, are exempt from further environmental review under CEQA. In response to that mandate, the State Secretary of Resources found that certain classes of projects, which are listed in CEQA Guidelines Sections 15301 through 15333, do not have a significant impact on the environment and therefore, are categorically exempt from the requirement for the preparation of further environmental review. As

Memo

detailed below, the Department concluded that the Fell and Oak Streets Bikeways Project qualifies for a categorical exemption under Class 1 and Class 4.

As described in Attachment A, the project primarily involves implementation of bikeways and pedestrian facility improvements along Fell Street and Oak Street between Baker Street and Scott Street at the border of the Western Addition and Haight-Ashbury neighborhoods. The project also involves various changes to parking configurations on Baker, Scott, Divisadero Broderick and Hayes streets. The proposed Fell Street bicycle improvements would consist of removing the parking lane on the south side of the street and moving the existing bike lane adjacent to the southern Fell Street sidewalk, and adding a new 5' buffer between the bike lane and southern most travel lane. The proposed Oak Street bicycle improvements would consist of removing the parking lane on the south side of Oak Street and reallocating this right-of-way to a protected bike lane with a 5' buffer. The Project would also rescind the 7AM-9AM tow-away restriction on the north side of Oak Street between Baker Street and Divisadero Street. Additionally, left-turn and right-turn pockets and bike boxes would be added to specific intersection approaches along both Fell and Oak Streets to provide additional space for queuing vehicles yielding to pedestrians. Corner bulbs, advance limit lines and signal timing changes would also be added to various intersections to enhance pedestrian safety. Implementation of the proposed improvements would result in a net loss of fifty-five (55) on-street parking spaces in the project area. A more detailed project description and accompanying graphics are included in Attachment A.

The California Environmental Quality Act (CEQA) Guidelines Section 15301(c) or Class 1(c), provides for exemption from environmental review for minor alterations to "existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities." Section 15304(h) or Class 4(h) provide for exemption from environmental review for creation of a new bicycle lane on existing rights-of-way. The Project fits within Class 1 and 4 because it is comprised of minor alternation to existing streets, sidewalks and gutters and the creation of a new bicycle lane within the existing right-of-way.

## APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the Appeal Letter are cited below, followed by the Department's responses. In determining the significance of environmental effects caused by a project, CEQA State Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA State Guidelines 15604(f)(5) offers the following guidance: "Arguments, speculations, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

### Issue 1:

"The categorical exemptions invoked under 14 Cal. Code Regs. (the "Guidelines") Sections 15301(c) and 15304(h) do not apply to the Project, since the Project: (1) has the potential to degrade the quality of the environment; (2) has possible effects that are cumulatively considerable; and (3) will cause substantial adverse effects on human beings, either directly or indirectly. (Pub. Res. Code Section 21083(b).) Therefore the Project cannot be classified as "categorically exempt." There is evidence supporting a fair argument that the Project could cause direct, secondary, and cumulative impacts on parking, traffic,

transit, loading, air quality, public safety, and emergency services. Among other things, the Project will cause substantial adverse effects on people who need to park near where they live or work."

**Response 1:**

As discussed above, certain types of projects, listed in Article 19 of the CEQA Guidelines, do not have a significant impact on the environment and therefore, are exempt from environmental review. The Project fits within the definitions of Article 19 subject to exceptions in Section 15300.2.

Section 15300.2 of CEQA State Guidelines directs that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will: a) have a significant effect on the environment due to unusual circumstances; b) result in cumulative impacts; c) result in damage to scenic resources; c) be located on a hazardous waste site; and/or d) cause substantial adverse change in the significance of a historical resource. As described throughout this appeal response, there is no substantial evidence to suggest that there exists a reasonable possibility of any significant direct or cumulative environmental effects, either from usual or unusual circumstances. The Project would not cause significant environmental effects nor would it contribute to cumulative impacts in a considerable way. Therefore, the proposed Project is appropriately categorically exempt from the provisions of CEQA as detailed in the categorical exemption certificate (Attachment A).

The Appellant does not identify specific details on how the "Project (1) has the potential to degrade the quality of the environment; (2) has possible effects that are cumulatively considerable; and (3) will cause substantial adverse effects on human beings, either directly or indirectly" that would make a categorical exemption inappropriate for the Project.

The Appellant has alleged, without supporting facts, that there is "evidence supporting a fair argument that the Project could cause direct, secondary, and cumulative impacts" that make the categorical exemption inappropriate for the proposed Project. The Appellant has not identified a cumulative impact and has not explained how this Project would contribute to a cumulative impact in a considerable way. The Appellant must present "substantial evidence" of a fair argument that the "Project could cause direct, secondary, and cumulative impacts".

The analysis conducted for the Project and detailed in the categorical exemption demonstrates that the Project would not create any new significant environmental impacts or contribute in a considerable manner to cumulative impacts and therefore, is appropriately exempt. As detailed in the categorical exemption certificate, the Project would not adversely directly or cumulatively affect traffic, transit, pedestrian, bicycle, loading or emergency vehicle conditions. Additionally, it would not adversely affect air quality or historical resources, be located on a hazardous waste site or damage scenic resources. Moreover, there is no evidence that the Project would create or have cumulatively considerable contributions to any significant cumulative impacts. Cumulative impacts occur when impacts that are significant or less than significant from a proposed project combine with similar impacts from other past, present, or reasonably foreseeable projects. The geographic context for cumulative impacts is the streets (public right-of-way) and their vicinity affected by the Project. There are no known proposed or reasonably foreseeable projects within the vicinity of the proposal that could combine to create significant environmental effects. The Bicycle Plan did identify a separate project within the study area, *Project 3-5: Scott Street Bicycle Lane, Fell Street to Oak Street* (see Bicycle Plan Final Environmental Impact Report ("EIR" page IV.B-26). This project proposed the installation of a Class II left-turn bicycle lane in the

northbound direction on Scott Street between Oak Street and Fell Street and has already been implemented. This project is part of the existing conditions, as defined by CEQA, and thus, has been accounted for in the analysis of this Project (including traffic analysis). Further, the Bicycle Plan EIR set forth the cumulative analysis for implementation of all the projects proposed by the Plan, including the *Long-Term Improvement L-19: Oak Street Between Baker Street and Scott Street* and *Project 3-5: Scott Street Bicycle Lane, Fell Street to Oak Street* (see Bicycle Plan EIR pages VI-2 – VI-8). Thus, cumulative analysis has been conducted and as discussed in the categorical exemption certificate, the Project would not result in cumulatively considerable contributions to any impacts. Therefore, the issuance of the categorical exemption is appropriate.

Further, the Appellant has alleged, also without supporting facts, that the Project could cause impacts on parking and public safety. While these are important issues that are considered during project approval, they are not topics directly explored under CEQA (although parking is discussed for informational purposes). This is because they are considered to be social issues rather than concerns pertaining to the physical environment.

**Issue 2:**

"The claimed mitigations do not effectively mitigate the Project's impacts, and, in any event, cannot be used to claim a categorical exemption."

**Response 2:**

A project may not rely on mitigation measures and be determined to be categorically exempt from CEQA. If the Project requires mitigation to reduce a significant environmental impact below the level of significance, a Mitigated Negative Declaration or an Environmental Impact Report must be prepared. The categorical exemption issued for the Project does not include any mitigation measures and does not rely on mitigations for its categorical exemption. The proposed Project itself includes bicycle lane enhancements, signal timing changes, bulbouts, parking removal, turn pockets, and advance limit lines. All Project features proposed for implementation have been included in the project description. MTA holistically addresses the design of a project to ensure the most efficient operation of the transportation network within the physical constraints of the right-of-way to safely and efficiently accommodate the needs of all roadway users, including but not limited to pedestrians, bicyclists, vehicles and transit. To that end, a project may include numerous components such as bicycle lanes, signal timing changes, bulbs, transit stop adjustments and on-street parking changes.

**Issue 3:**

"The Oak-Fell Project is part of a larger project, the San Francisco Bicycle Plan (the "Bicycle Plan"). If it applies at all, a categorical exemption must apply to the whole Bicycle Plan project, not just the Oak-Fell segment. The Environmental Impact Report ("EIR") on the Bicycle Plan did not specifically analyze the Oak-Fell Project."

**Response 3:**

The San Francisco Bicycle Plan EIR evaluated three sets of project types that included; minor improvements to the bicycle route network that may be implemented as necessary to facilitate the policies of the Bicycle Plan ("minor improvements"), long-term improvement projects to address gaps in

the existing bicycle route network, but that had not been designed or funded at the time of the preparation of the EIR ("long-term improvements"), and near-term improvement projects for the bicycle route network ("near-term improvements").

**Long-Term Improvements:** The Bicycle Plan included 24 long-term improvements that were proposed to be designed and implemented at some point in the future to complete the bicycle route network within San Francisco. These long-term improvements would: complete the bicycle route network envisioned in the Bicycle Plan, close network gaps, refine the bicycle route network, and improve safety and the bicyclist's experience. The long-term improvements were assessed on a program level in the Bicycle Plan EIR because details of the long-term improvements had not been developed. As indicated on page V.A.5-14 of the Bicycle Plan EIR, the Oak Street segment was included as *Long-Term Improvement Project L-19: Oak Street Between Baker Street and Scott Street*.

**"LONG-TERM IMPROVEMENT L-19: OAK STREET BETWEEN BAKER STREET AND SCOTT STREET**

Oak Street between Baker Street and Scott Street is a three-block segment of a high volume arterial that extends between Stanyan Street and Market Street. This three-block segment is not part of the existing bicycle network. Oak Street runs one-way eastbound with three travel lanes, and parking on both sides of the street. The 16AX/16BX-Noriega Express Muni buses run on Oak Street during the morning peak commute period.

Long-term improvements on this segment of Oak Street could involve installation of Class II or Class III bicycle facilities. This improvement would provide a connection between existing Bicycle Route 51 on Baker Street, and the existing Bicycle Route 47 on Scott Street. This improvement would create the eastbound couplet to the bicycle lane that currently exists in the westbound direction on Fell Street, and would move the eastbound portion of existing Bicycle Route 30 from Hayes Street to Oak Street."

The Bicycle Plan EIR analysis provides a foundation for any necessary future environmental review documents that focus on the individual long-term improvements. As required by CEQA, and where necessary, project-level CEQA review would be conducted separately for the individual long-term improvements. The separate environmental review would evaluate site specific impacts of the improvement project. Project-level CEQA review was conducted for the Oak Street segment as part of the Fell and Oak Street Bikeways project categorical exemption.

**Minor Improvements:** As stated on page V.A.4-1 of the Bicycle Plan EIR, "Minor improvements include treatments to the City's roadway and sidewalk network and infrastructure to improve conditions for bicycle use within the city. These treatments are often design elements included as part of Class II and Class III bicycle routes, and would therefore be located within the existing and proposed bicycle route network. These treatments would be implemented as warranted." The nine different treatments include; sharrows, bicycle racks, on-street bicycle parking, bicycles boxes, minor pavement marking changes, colored pavement materials, signage changes, traffic signal changes, and on-street vehicle parking.

The Bicycle Plan EIR provides only program-level analysis for minor improvements that would be utilized on an as needed basis to address deficiencies in the bicycle route network. Specifically, the Fell and Oak Streets Bikeways project would incorporate multiple minor improvement treatments as part of

the proposed Project. The categorical exemption issued for the Project provided analysis that these treatments would not result in significant CEQA impacts.

The Appellant does not clearly illustrate or offer examples of why a categorical exemption "must apply to the whole Bicycle Plan project" if one is issued for the Fell and Oak Streets Bikeways project; therefore, the Department is unable to provide a specific response to this statement. The Appellant is correct in that the "Environmental Impact Report ("EIR") on the Bicycle Plan did not specifically analyze the Oak-Fell Project", which is why further environmental review has been conducted for the Project. The Project was reviewed on a project-specific basis and was determined to fit within Class 1 and Class 4 categorical exemption. The analysis concluded that there was no reasonable possibility that the Fell and Oak Streets Bikeway Project would result in a significant environmental impact under CEQA due to unusual circumstances, or due to cumulative impacts from successive projects of the same type in the same place. Therefore, the Department determined that a categorical exemption is appropriate.

**Issue 4:**

"The Oak-Fell Project has not received specific environmental review as part of the larger Bicycle Plan or at any other time."

**Response 4:**

See Response 3 above.

**Issue 5:**

"The Project does not qualify for an exemption under Guidelines Section 15301(c), which consists of the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination," (emphasis added) and (c) "Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails and similar facilities..."

The existing conditions are parking lanes, not Class I or Class II bicycle lanes. A parking lane, as defined in the California Streets & Highways Code Section 5871(c), is "a paved area adjacent to the curb which is used exclusively for on-street parking. It does not include any portion of the street used for through traffic or as a bicycle lane." (Emphasis added.) The "facility" does not meet this basic definition, since it would completely remove the parking lane and change its use to a separated bicycle lane for exclusive use of bicyclists. (S&H Code Section 890.4(a).) These definitions are mutually exclusive, and involve a complete change of use. The Project, therefore, does not fall within the existing facilities exemption under Guidelines Section 15301.

The Project does not consist of mere maintenance or minor alteration, but makes major changes by, among other things (a) entirely removing the existing parking lanes on City streets; (b) removing around 100 existing parking spaces on Oak and Fell; (c) constructing concrete and other solid structures in the streets next to moving traffic (raised, landscaped traffic islands); (d) impeding visibility and access to driveways, (e) eliminating, reducing or making dangerous and more difficult streetside, emergency, and loading access to residences and businesses on Oak and Fell; (f) constructing numerous concrete bulbouts

that impede traffic by making right turns difficult, (g) adjusting traffic signals to reduce traffic speed on a major East-West traffic corridor in San Francisco, (h) eliminating one traffic lane on Oak Street during morning commute hours; and (i) constructing bicycle lanes where they do not now exist."

**Response 5:**

CEQA Guideline section 15301, or "Class 1," exempts from CEQA:

the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of project which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include, but are not limited to:

(c) Existing highway and streets, sidewalks, gutter, bicycle and pedestrian trails and similar facilities.

Thus, the exemption applies to the "minor alteration" of "existing streets." Both Fell Street and Oak Street are considered "existing streets" within the City and County of San Francisco. "Street" as defined in the California Vehicle Code means: "a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel." "Street" is also included in the definition of "right-of-way" in San Francisco Public Works Code section 2.4.4(t), which states: "[t]he existing right of way includes the area across, along, beneath, in, on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, roads, sidewalks, spaces, streets, and ways within the City, as they now exist or hereafter will exist and which are or will be under the permitting jurisdiction of the Department of Public Works." (See S.F. Public Works Code section 2.4.4(t)).

On Fell Street (between Baker and Scott streets), the "existing street" is part of the 68' 9" Fell Street right-of-way, as indicated on Department of Public Works (DPW) Grade Map 38 filed with the Office of the County Surveyor. Currently, the Fell Street right of way includes two 10' sidewalks, three 9'6" through travel lanes, an 8' parking lane, a 7'3" parking lane and a 5' bicycle lane.

On Oak Street, the existing street is part of the 68' 9" Oak Street right of way, as indicated on the DPW Grade Map. Currently, the Oak Street right of way includes two 10' sidewalks, three 9'6" travel lanes, a 12' travel lane/parking lane, and an 8'3" parking lane.

Appellant cites to California Streets and Highways Code section 5871(c), which states: "as used in this subdivision, "parking lane" means a paved area adjacent to the curb which is used exclusively for on-street parking. It does not include any portion of the street used for through traffic or as a bicycle lane." Appellant's reliance on this section is misplaced, as the definition of "parking lane" in Streets and Highways Code section 5871 is limited to its use in the subdivision of the Streets and Highways Code. This section of the Streets and Highways Code allows local agencies to construct sidewalks, gutters, curbs and other improvements in front of certain properties and levy an assessment against the adjacent property owner to pay the cost. The definition of "parking lane" in the Streets and Highways Code is not



applicable to, nor does it limit, the use of a Class 1 exemption for minor alterations to existing highways and streets.

The Fell/Oak Street Project would be a minor alteration of the existing street. Generally, on Fell Street, the Project reallocates right-of-way from an existing parking and bicycle lanes to a bicycle lane and buffer. The Project also adds several landscape traffic islands, sidewalk bulbouts at certain locations, and advance limit lines. Fell Street would retain three through travel lanes, and there would be no expansion of the existing use as a street, as the project does not generate vehicle travel trips. The Project would result in minor alteration of the existing facility by reallocating the street portion of the right-of-way from an existing parking and bicycle lane to a bicycle lane and buffer. However, the proposed project would not expand the use of the Fell Street right-of-way by bicyclists, vehicles and pedestrians. Therefore, a Class 1 exemption is appropriate.

On Oak Street, the Project creates a bicycle lane and buffer from an existing parking lane, and removes parking restrictions from an existing parking/through lane. The Project also adds several landscape traffic islands, sidewalk bulbouts at certain locations, and advance limit lines. Oak Street would retain three through travel lanes (except for a 2 hour period in the morning, during which 4 lanes would be reduced to 3), and there would be no expansion of the existing use as a street, as the project does not generate vehicle travel trips.

The changes contemplated by the Project are considered minor or negligible. Prohibiting parking to accommodate the bicycle lane would be a minor alteration of the right-of-way. The existing parking supply in the area bounded by Scott, Hayes, Baker and Page streets is approximately 590 on-street parking spaces. Existing off-street parking would not be affected. The Project would remove approximately 101 existing on-street spaces, and create an additional 46 spaces by converting parallel parking to angled parking and converting current bus zones to parking. The net loss of 55 on-street spaces (approximately 10 percent) in the area would be considered a minor decrease in the amount of parking supply in the area. In addition, the traffic islands, sidewalk bulbouts and advance limit lines would be considered minor alterations to the existing street or right of way due to their small size and negligible change to the existing transportation facility.

San Francisco does not consider parking supply as part of the permanent physical environment. Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel. Thus, a parking shortage is not considered to be a permanent condition and is also not considered to be a physical environmental impact even though it is understood to be an inconvenience to drivers. Therefore, the creation of or an increase in parking demand resulting from the proposed Project would not by itself be considered a significant environmental effect under CEQA. Parking analysis is presented in the exemption determination for informational purposes.

**Issue 6:**

"For the same reasons, the Project does not qualify for an exemption under Guidelines Section 15304(h), which consists of "minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry and agricultural purposes," and "creation of bicycle lanes on **existing rights-of-way**" (Emphasis added) There is no existing right-of-way in the parking lanes on Oak Street and Fell Street for bicycle lanes, since the right-of-way in parking lanes is exclusively for vehicles (See S&H Code Section 5871(c).) Nor is the Project a "minor" alteration in the condition of land, water, and/or vegetation. Rather it is a major alteration and change of use from a parking lane for exclusive use of parking vehicles to a bicycle lane for exclusive use of riding bicycles."

**Response 6:**

Appellant claims that the Project does not qualify for a Class 4 exemption under CEQA Guidelines section 15304 – Minor Alterations to Land. This section exempts activities involving the "minor public or private alteration in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples include, but are not limited to: (h) the creation of bicycle lanes on existing rights-of-way.

The "existing right-of-way" includes "the area across, along, beneath, in, on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, roads, sidewalks, spaces, streets, and ways within the City, as they now exist or hereafter will exist and which are or will be under the permitting jurisdiction of the Department of Public Works." (See S.F. Public Works Code section 2.4.4(t)). As noted in Response 5, the existing right-of-way on Fell Street between Baker and Scott consists of the publicly owned areas between the abutting property lines on either side, as shown on the DPW maps, including the area currently allocated to parking. "Existing right-of-way" as used in the CEQA Guideline section 15304 is not limited to the through-lanes on each street.

The changes contemplated by the Project are considered minor or negligible as they would be implemented within the "right-of-way" of both Fell and Oak Streets and do not fundamentally change the circulation system in the project vicinity. As stated in Response 5, prohibiting parking to accommodate the bicycle lane would be a minor alteration of the "right-of-way." In addition, the small traffic islands, sidewalk bulbouts and advance limit lines would also be considered minor alterations.

**Issue 7:**

"The Project is an exception to any categorical exemption, because substantial evidence supports a fair argument that the Project will have significant impacts on parking, traffic, transit, loading, noise, air quality, public safety, emergency services, and human impacts on two major East-West traffic routes carrying a combined more than 60,000 vehicles per day. (And since many vehicles carry more than one person, the number of drivers and passengers affected will be more than 60,000 per day.) (Guidelines Section 15300.2; and see Pub. Res. Code Section 21083(b).)"

**Response 7:**

The Appellant does not identify specific circumstances of how the Project implementation "will have significant impacts on parking, traffic, transit, loading, noise, air quality, public safety, emergency services, and human impacts." Based on the analysis in the categorical exemption certificate, the Project

would not result in a significant environmental impact. As stated in the categorical exemption, the proposed Project Level of Service (LOS) calculations for Existing Plus Project and Cumulative conditions indicate that all intersections would operate at acceptable LOS levels for the AM and PM Peak Hours. Therefore, the proposed Project would not have any significant traffic impacts with implementation of the Project. The Department also concluded that the Project would not result in significant environmental impacts on transit, pedestrians, bicycles, emergency access, and loading.

An approximate doubling of traffic volumes in the area would be necessary to produce an increase in ambient noise levels noticeable to most people. The Project would not cause a doubling in traffic volumes and therefore, would not cause a noticeable increase in the ambient noise level in the project vicinity.

Implementation of the proposed Project would not result in any new traffic volumes being added to the roadway network; therefore, there would be no change in the intersection volume under Project conditions and the Project would not result in, or contribute substantially to, violations of air quality standards. Furthermore, bicycling has no associated emissions and the proposed Project can reasonably be expected to marginally reduce emissions by shifting a portion of motor vehicle trips to bicycle trips and thus, would have no impact with respect to air quality and would not contribute to a cumulative impact.

The Project site is not located within an identified air pollution hot spot and any emissions as a result of construction activity would be temporary and variable in nature and would not be expected to expose sensitive receptors to substantial long-term toxic air pollutants nor would construction activities be expected to exceed ambient air quality standards. Therefore, operational and construction period emissions would result in a less-than-significant air quality impact.

As discussed in Response 1, while public safety is an important issue that is considered during project approval, it is not a topic directly explored under CEQA. This is because public safety is considered to be a social issue rather than pertaining to the physical environment.

The Appellant must present "substantial evidence" of a fair argument that the Project implementation would result in a significant impact. The Appellant has failed to provide substantial evidence of a fair argument that the Project contributes to a specific impact in a significant way. No evidence, let alone the required substantial evidence of a significant environmental effect has been presented that would warrant preparation of further environmental review. For example, the Appellant does not explain why the Project would result in an adverse transit, bicycle or emergency access impact.

The Appellant does not raise any new environmental concerns that were not already addressed in the categorical exemption determination. Argument, speculation, and unsubstantiated opinion do not constitute substantial evidence. The Appellant has not put forth substantial evidence to the contrary, and thus no further response is required. In light of the above, the project was appropriately exempt from environmental review.

**Issue 8:**

"Impacts on humans require a mandatory finding of significance, including impeding access to streetside parking, affecting disabled people, seniors, children, families, workers, and emergency, maintenance, construction and delivery services. Loading impacts also affect commercial and passenger loading. The Project will also affect public safety by impairing visibility from driveways. Bulbouts also impair visibility and delay traffic by making right turns more difficult. Asserted mitigations do not mitigate the Project's impacts and cause more impacts that require analysis."

**Response 8:**

Significant effects on pedestrians, which include persons with mobility disabilities, could result from a project if the project increased hazards to pedestrians. The Oak/Fell Street Project includes sidewalk bulb-outs, enhanced continental ladder markings at crosswalks, and advance limit lines at intersections at the majority of corners in the Project area. These changes will increase pedestrian visibility and shorten the crossing length at intersections, which would improve conditions for pedestrians. The Project proposes no changes to the use of the curb lane on the north side of Oak Street, except to remove the restrictions on parking during the AM commute. Further, the Project does not substantially interfere with access to streets and sidewalks. As under existing conditions, pedestrians, bicyclists, vehicles and emergency service providers would continue to be able to access all land uses and facilities within the project area.

The five metered commercial loading spaces on Oak Street (two west of Divisadero Street and three east of Divisadero Street) would be removed. Two passenger loading spaces (white zones) would be removed, one on Fell Street between Divisadero and Broderick streets and one on Oak Street between Divisadero and Broderick streets. One 10-minute green zone on Oak Street, east of Broderick Street, would be relocated to the north side of the street. As discussed in the categorical exemption certificate, loading impacts would be less-than-significant because there is available on-street loading spaces nearby as well as off-street.

The project description includes landscaping traffic islands in the buffer area between a traffic lane and the bike lane. These traffic islands would be placed in locations more than 10 feet from any driveways and would be designed to allow cyclists freedom to move out of the bike lane if it is blocked. The final design will accommodate clear sight lines entering and exiting driveways through both the placement and height of the plantings in the median.

In response to the Appellant claim that, "Bulbouts also impair visibility and delay traffic by making right turns more difficult," the City's standard traffic analysis methodology, that of the Highway Capacity Manual ("HCM") 2000, accounts for the fact that right-turn movements are slower than through-movements at signalized intersections. The HCM does not recommend any adjustment of the saturation flow rate based on corner radii at an intersection without channelized right turns. Though detailed design of the curb extensions has not begun, the corners would be designed to allow turns to be made at a reasonable speed and to improve sight distance around the corner, while influencing the very fastest drivers to take the turn more slowly. The locations where curb extensions are proposed, next to shared through/right-turn lanes, have low right-turn volumes. Even if the intersection capacity were manually reduced to reflect unusually low right-turning speeds, the effect on intersection delay would be small (less than 1 second or 0.01 v/c), and would not change the conclusions detailed in the categorical exemption.

**Issue 9:**

"Cumulative impacts on parking, traffic, air quality, noise, public safety, and emergency services also exclude the Project from any categorical exemption."

**Response 9:**

As stated previously in Response 1, cumulative impacts occur when impacts that are significant or less than significant from a proposed project combine with similar impacts from other past, present, or reasonably foreseeable projects. The geographic context for cumulative impacts is the streets (public right-of-way) and their vicinity affected by the Project. There are no known proposed or reasonably foreseeable projects within the vicinity of the proposal that could combine to create significant environmental effects.

The Appellant provides no evidences to support that the Project would result in "Cumulative impacts on parking, traffic, air quality, noise, public safety, and emergency services." Based on the analysis in the categorical exemption, the Project would not result in cumulative significant environmental impacts. The Appellant must present "substantial evidence" of a fair argument that Project implementation would result in a significant impact. The Appellant has not provided substantial evidence of a fair argument that the Project contributes to a specific impact in a significant way.

No evidence, let alone the required substantial evidence of a significant environmental effect has been presented that would warrant preparation of further environmental review. The appellant does not raise any new environmental concerns that were not already addressed in the categorical exemption. Argument, speculation, and unsubstantiated opinion do not constitute substantial evidence. The appellant has not put forth substantial evidence to the contrary, and thus no further response is required. In light of the above, the project was appropriately exempt from environmental review.

**Issue 10:**

"The Disability Rights Laws prohibit discrimination on the basis of disability in, among other things, programs of local government, use of streets and sidewalks, and transportation. California Civil Code Section 54(a) provides that "Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways... public facilities, and other public places." Title II of the ADA requires local governments to provide people with disabilities an equal opportunity to benefit from all of their programs, services and activities. Sidewalks, streets and parking are programs provided by ADA Title II entities, and therefore are subject to ADA requirements.

Although the loss of parking would be a hardship for the large numbers of people who live, visit and work in the neighborhood, it would disproportionately impact people with major mobility disabilities, such as wheelchair users and slow walkers. Many people with mobility disabilities rely heavily on private vehicles. Disabled people park in regular street parking spaces far more often than in designated accessible street parking spaces (blue zones). Many people who use wheelchairs or scooters rely on accessible minivans and vans that have ramps or lifts on the passenger side. In effect, all street parking spaces (except perpendicular and angled spaces, those on the driver's side of a one-way street, and, sometimes, those with sidewalk obstructions such as garbage cans or trees in the exact location of the ramp or lift) are accessible spaces.

The Project would remove all street parking on the South side of Oak, which means that all of the disabled accessible parking spaces would be eliminated for those three blocks. The parking spaces on the North side of Oak would remain, but it would be extremely dangerous for disabled people to use them because the ramp or lift would be deployed into the moving lane.

The project includes mitigating the parking loss on Oak and Fell by converting parking spaces on some of the side streets, which are currently parallel parking, into perpendicular or angled parking spaces. This also would eliminate spaces that are currently usable by disabled people, thereby adding to the parking loss on Oak instead of mitigating it. Not only wheelchair and scooter users, but people who walk slowly and with difficulty would also be harmed by the loss of parking spaces on Oak and by the elimination of parallel parking on the side streets.."

The Project would also make it more difficult, dangerous and stressful for disabled people, including wheelchair/scooter users and people who have difficulty walking, to be picked up and dropped off in this area, whether by private vehicle, taxi, paratransit or shuttle service.

These effects violate the Disability Rights Laws.

**Response 10:**

Appellant states that parking on the north side of Oak Street could be an issue because "Many people who use wheelchairs or scooters rely on accessible minivans and vans that have ramps or lifts on the passenger side."

The south side of the street was chosen for parking removal to accommodate the new bike lane on Oak Street for two reasons:

- to avoid three busy commercial driveways on the north side (Falletti Plaza exit, gas station and car wash).
- to allow cyclists to turn right onto Scott Street without having to cross three lanes of traffic on Oak Street from the left lane. This is the primary route for most cyclists on this street, connecting cyclists on Oak Street to Scott Street, which is the flattest route in this part of the city. Cyclists crossing Oak when they turn left from Baker into the south-side cycle track is a more expected movement, and the Project includes the addition of a protected-permitted left-turn phase to facilitate making this movement safely.

The bike lane and buffer conforms to the policy of the SFMTA, which allow loading and unloading by paratransit vehicles. Both taxis and paratransit vehicles are allowed to enter the bike lane for loading and unloading. The width of the bike lane and buffer are designed to allow bicyclists to get around vehicles that may temporarily block the lane.

The Appellant states that the Project violates the California Civil Code section 54(a) and Title II of the Americans with Disability Act, which, generally prohibit discrimination on the basis of disability in use of streets and sidewalks. Significant effects on pedestrians, which include persons with mobility disabilities, could result from a project if the project increased hazards to pedestrians. The Oak/Fell Street Project includes sidewalk bulb-outs, enhanced continental ladder markings at crosswalks, and advance limit lines at intersections at the majority of corners in the Project area. These changes will increase pedestrian

visibility and shorten the crossing length at intersections, which would improve conditions for pedestrians. The Project proposes no changes to the use of the curb lane on the north side of Oak Street, except to remove the restrictions on parking during the AM commute.

## CONCLUSION

The Appellant has not raised any new issues relative to CEQA review that were not previously addressed in the categorical exemption, nor has the Appellant provided any substantial evidence to refute the conclusions of the Department with respect to the Project's physical environmental effects under CEQA. The Appeal Letter states that the Appellant will submit more detailed comment and/or briefing in support of this Appeal. However, as of the date of this memorandum, no additional information has substantiating the Appellant's assertions has been submitted. Correspondence on matters in front of the BOS are due eight days prior to the hearing to afford members of the BOS, staff and other interested parties adequate time to review, and if necessary, respond to issues.

The Department conducted an in-depth and thorough analysis of the proposed Fell and Oak Streets Bikeways project pursuant to the CEQA Guidelines. The Appellant has not submitted any evidence that the Project would result in individual or cumulative impacts under CEQA not already discussed and analyzed in the categorical exemption. For the reasons stated above, the Department finds that the categorical exemption complies with the requirements of CEQA, the CEQA Guidelines and Chapter 31 of the *San Francisco Administrative Code*. The Department, therefore, recommends that the Board uphold the categorical exemption and deny the appeal.

**Attachment A:  
CEQA Determination-Categorical Exemption**







# SAN FRANCISCO PLANNING DEPARTMENT

## Certificate of Determination EXEMPTION FROM ENVIRONMENTAL REVIEW

Case No.: 2011.0836E  
 Project Title: SFMTA Fell & Oak Streets Bikeways Project  
 Project Location: Fell & Oak Streets between Baker Street & Scott Street  
 Neighborhood: Between Western Addition & Haight-Ashbury Districts  
 Project Sponsor: San Francisco Municipal Transportation Agency  
 Ellen Robinson - (415) 701-4322  
 ellen.robinson@sfmta.com  
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 415.558.6409

Planning  
 Information:  
 415.558.6377

### PROJECT DESCRIPTION:

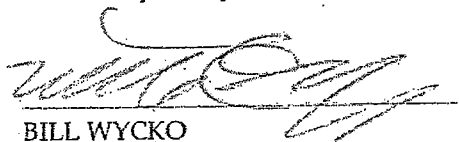
The San Francisco Municipal Transportation Agency (SFMTA) proposes the implementation of new bikeways and pedestrian facility improvements along Fell Street and Oak Street between Baker Street and Scott Street at the border of the Western Addition and Haight-Ashbury neighborhoods. Currently, Fell Street is a three-lane, one-way westbound street with a Class II bike lane running along the south side of the street. Currently, Oak Street is a three-lane, one-way eastbound street with a 12-foot wide AM peak hour traffic lane (7AM-9AM tow-away lane) and at all other times a parking lane. The proposed Fell Street improvements would consist of removing the parking lane on the south side of the street and moving the bike lane adjacent to the southern Fell Street sidewalk, adding a new 5-foot buffer between the bike lane and southern most travel lane. The proposed Oak Street improvements would consist of removing the parking lane on the south side of Oak Street and replacing it with a protected bike lane with a 5-foot buffer. The Project would also rescind the 7AM-9AM tow-away restriction on the north side of Oak Street between Baker Street and Divisadero Street. Additionally, left-turn and right-turn pockets and bike boxes would be added to specific intersection approaches along both Fell and Oak Streets to provide additional space for queuing vehicles yielding to pedestrians. Corner bulbs and advance limit lines would also be added to various intersections. Implementation of the proposed improvements would result in a net loss of fifty-five (55) on-street parking spaces in the project area.


### EXEMPT STATUS:

Categorical Exemption, Class 1 and Class 4 [State CEQA Guidelines Sections 15301(c) 15304(h)]

### DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

  
 BILL WYCKO  
 Environmental Review Officer

  
 Date

cc: Ellen Robinson, SFMTA  
 Supervisor Olague, District 5

**PROJECT DESCRIPTION (CONT'D):**

The Fell Street and Oak Street Bikeway project area includes the following roadway segments:

- Fell Street from Baker Street to Scott Street
- Oak Street from Baker Street to Scott Street
- Hayes Street from Baker Street to Scott Street
- Baker Street from Fell Street to Haight Street
- Broderick Street from Fell Street to Page Street
- Scott Street from Fell Street to Waller Street

**FELL STREET**

Currently, Fell Street is a three-lane, one-way westbound street with (from south side to north side) a 7'-3" wide parking lane, a 5' wide bike lane, three 9'-6" foot travel lanes, and an 8' wide parking lane (see Figure 1). The Project would upgrade the existing 5' wide, Class II bike lane on south side of the street to a curb-side, 7'-3" wide Class I bike lane with a 5' wide striped buffer. On-street parking would be prohibited on the south side of Fell Street but motor vehicle access and egress from commercial and residential driveways would be preserved (i.e., motorists would be allowed to cross the buffer and bike lane to access driveways). At locations more than 10 feet from any driveways, raised, landscaped traffic islands would be installed in the buffer area to physically separate the bike lane from the motor vehicle travel lanes. The Project would result in (from south side to north side) a 7'3" wide bike lane, a 5' wide striped and landscaped buffer, three 9'-6" travel lanes, and an 8' parking lane (see Figure 1).

For the Fell Street approach to Divisadero Street, the striped buffer would terminate and the bike lane would shift from the curbside to the right side of the existing left-turn pocket. A green bike box would be installed in front of the left-turn pocket and bike lane at the intersection. (See Figure 2)

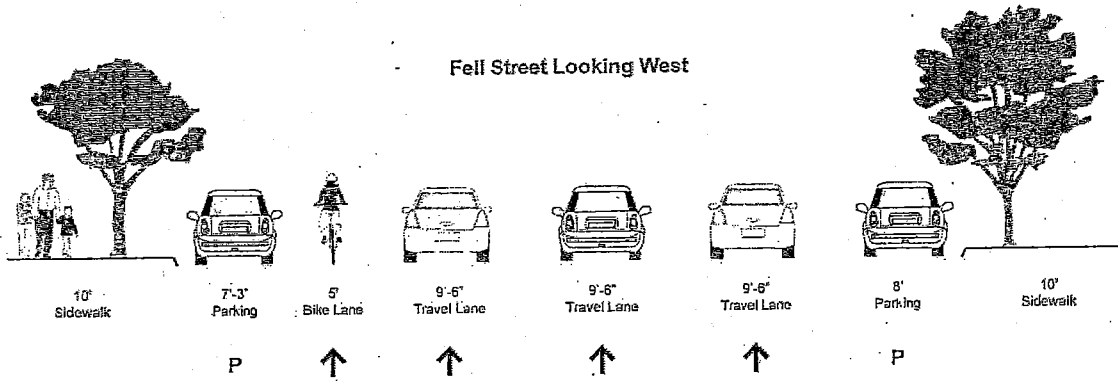
At the intersections of Fell Street with Broderick and Baker streets, left-turn pockets would be added. On the approach to the intersections, the new bikeway would merge with the left turn pocket and green-backed sharrow markings would indicate that cyclists should continue through the middle of the turn pocket to proceed straight through the intersection. Yield lines would indicate that drivers are required to yield to cyclists as they transition into the turn pocket. (See Figures 3 and 4)

Advance limit lines,<sup>1</sup> 12"- or 24"-wide white lines placed at least 4 feet in advance of a crosswalk, would be installed across the Fell Street approaches to all intersections in the study area. All crosswalks on Fell Street between Scott and Baker Streets would be enhanced with continental "ladder" markings. No signal timing or phasing changes are proposed along Fell Street as part of the Project. Corner bulbouts would be installed at the intersections of Fell Street with Scott Street, Divisadero Street, Broderick Street and Baker Street. The specific locations of bulbouts are described on page 10 and in Table 1 on page 11.

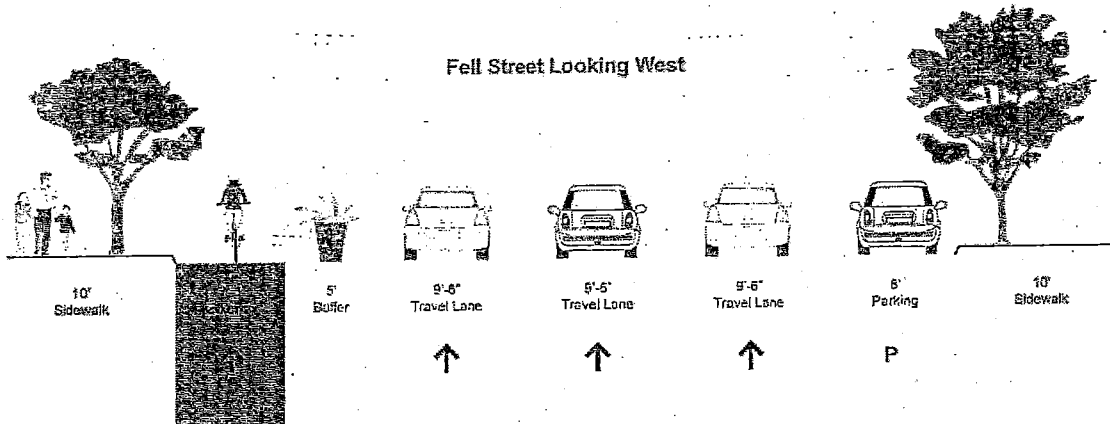
<sup>1</sup> Standard limit lines are placed preferably between 4 and 20 feet in advance of marked crosswalks at signalized intersections to encourage motorists to stop farther away from the marked crosswalk. An advance limit line increase pedestrian visibility to vehicles and reduces the number of vehicles encroaching on the crosswalk.

Figure 1

Existing Fell Street Cross Section



Proposed Fell Street Cross Section



Source: SFMTA, 2012

Figure 2  
Fell Street Approaching Divisadero Street

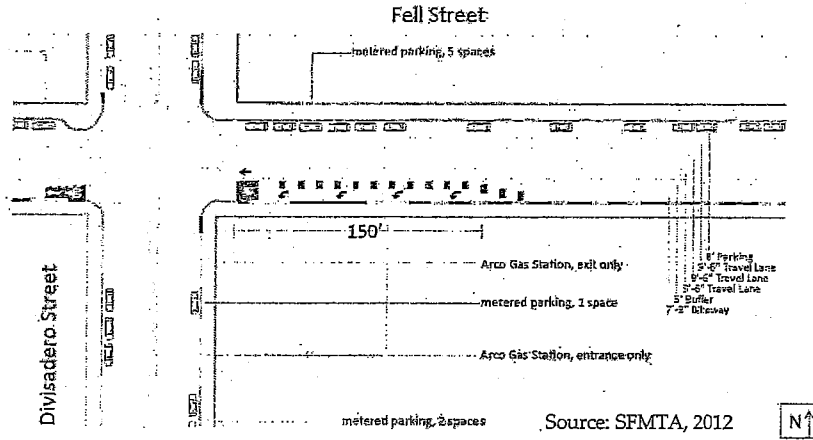


Figure 3  
Fell Street Approaching Broderick Street

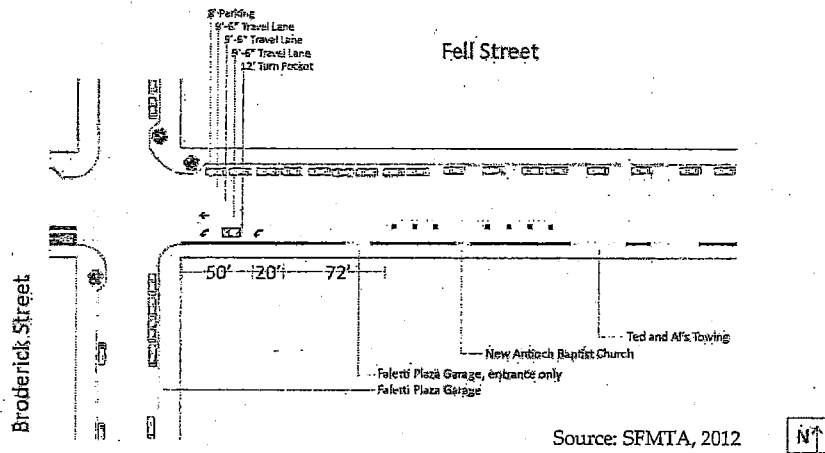
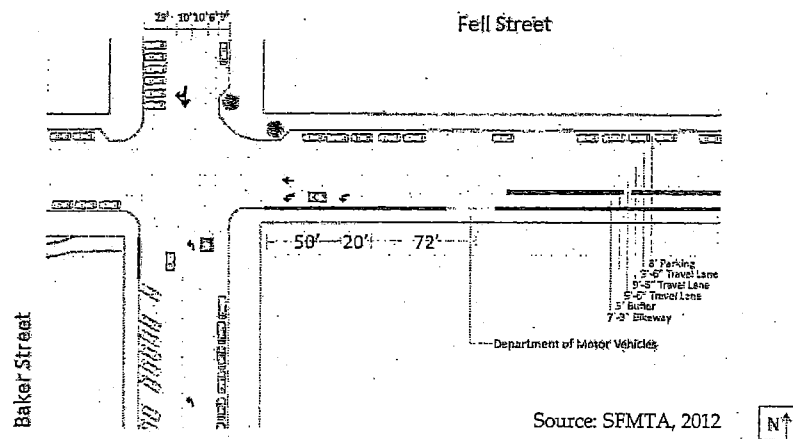


Figure 4  
Fell Street Approaching Baker Street



**OAK STREET**

Currently, Oak Street is a three-lane one-way eastbound street with (from south side to north side) an 8' 3" wide parking lane, three 9' 6" foot travel lanes, and a 12-foot wide AM peak hour (7AM-9AM) tow-away lane and at all other times a parking lane (see Figure 5). The Project would establish a curb-side, 7'-3" wide Class II bike lane with a 5' wide striped buffer on the south side of Oak Street. On-street parking would be prohibited on the south side of Oak Street but motor vehicle access and egress from commercial and residential driveways would be preserved. At locations more than 10 feet from any driveways, raised, planted traffic islands would be installed in the buffer area to physically separate the bike lane from the motor vehicle travel lanes. The existing AM peak hour tow-away restriction on the north side of Oak Street between Baker and Divisadero streets would be rescinded and a permanent 8' parking lane would be maintained. The removal of the tow-away lane would reduce the amount of travel lanes on this segment of Oak Street during the AM commute from four to three lanes. Implementation of the proposed Project would result in (from south side to north side) a 7'3" bike lane, a 5' striped and landscaped buffer, three 9' 6" travel lanes, and an 8' parking lane (see Figure 5).

At the intersection of Oak Street and Baker Street, an exclusive left-turn traffic signal phase would be added for cyclists and drivers turning left from southbound Baker Street to Oak Street. A bike box would be installed at the front of the turn pocket for cyclists to wait before turning left onto eastbound Oak Street. (Figure 6)

At the intersection of Oak Street and Broderick Street, a bicycle traffic signal would be installed to give eastbound cyclists in the bike lane on Oak Street a green light in advance of eastbound motor vehicles to reduce potential merging conflicts between through cyclists and right turning motorists further east on Oak Street at Divisadero Street. (Figure 6)

At the Oak Street approach to Divisadero Street, a right-turn pocket would be added. The design of the new right-turn lane, bike lane and bike box on this approach would be similar to the left-turn design at the Fell and Divisadero Streets intersection described above. (Figure 7)

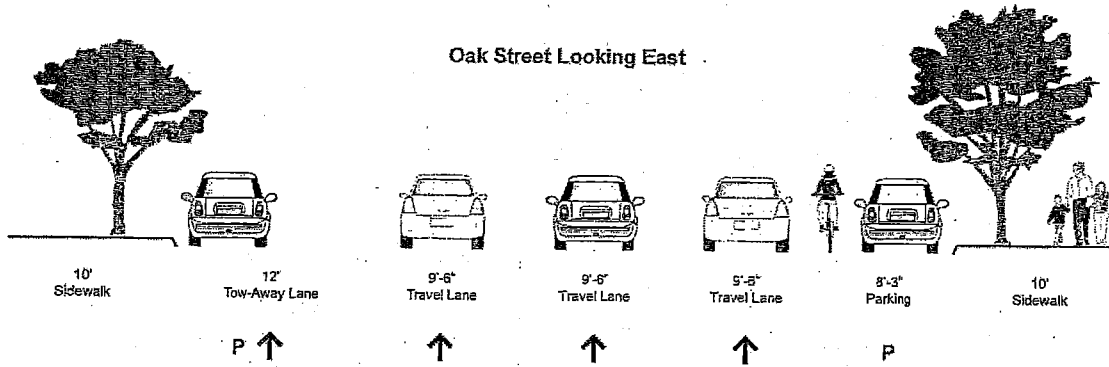
At the Oak Street approach to Scott Street, a right-turn pocket would be added. A green-backed sharrow and yield line would indicate that drivers should yield to cyclists as they merge into the turn lane, similar to the treatments at Fell and Baker streets and Fell and Broderick streets. (Figure 8)

Traffic signal timings and offsets would be adjusted at the intersections of Oak and Baker streets and Oak and Broderick streets. The signal timing at the Oak and Divisadero Streets intersection would be unchanged, as would the offset between this signal and the other signals along Divisadero Street.

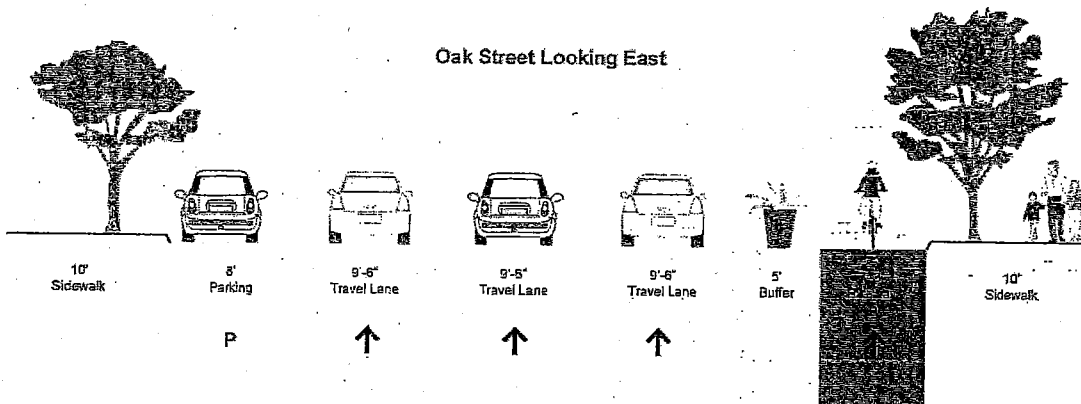
Advance limit lines, 12"- or 24"-wide white lines placed at least 4 feet in advance of a crosswalk, would be installed across the Oak Street approaches to all intersections in the study area. All crosswalks on Oak Street between Scott and Baker streets would be enhanced with continental "ladder" markings. Corner bulbouts would be installed at the intersections of Oak Street with Baker, Broderick and Scott streets. The specific locations of bulbouts are described on page 10 and in Table 1 on page 11.

Figure 5

Existing Oak Street Cross Section

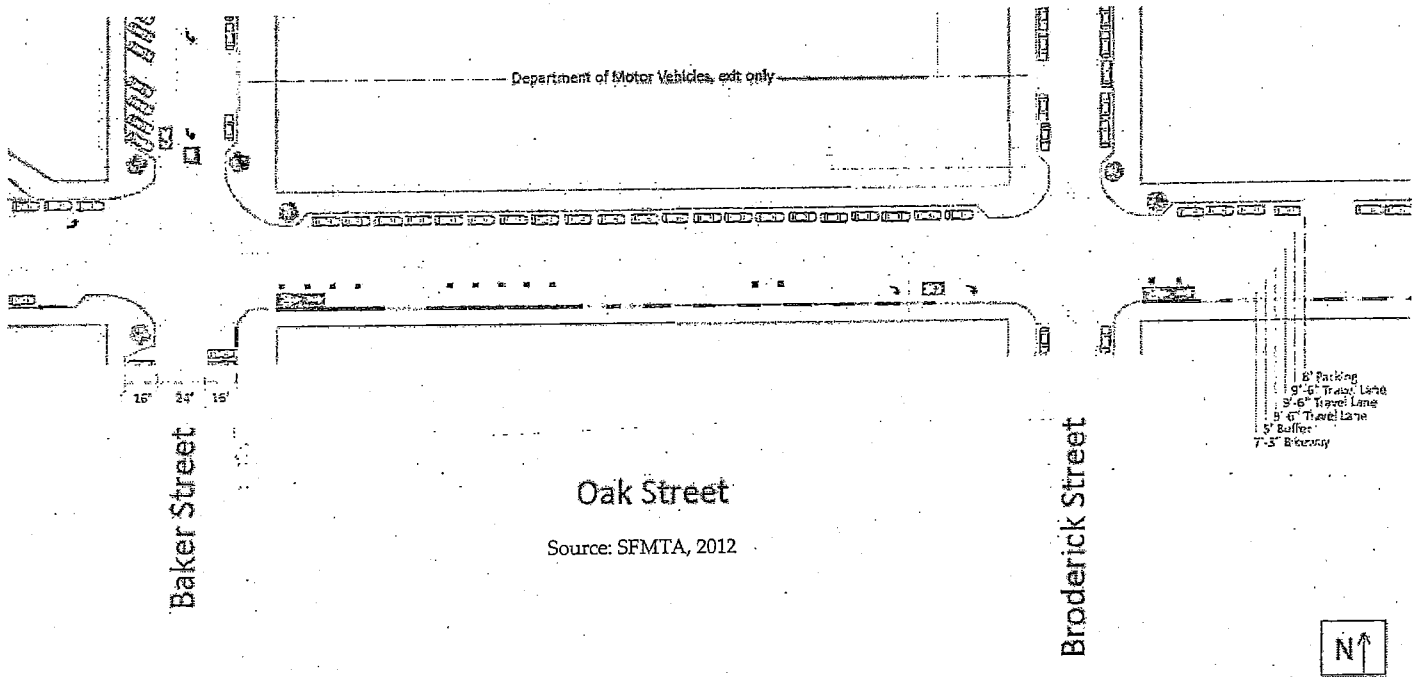


Proposed Oak Street Cross Section



Source: SFMTA, 2012

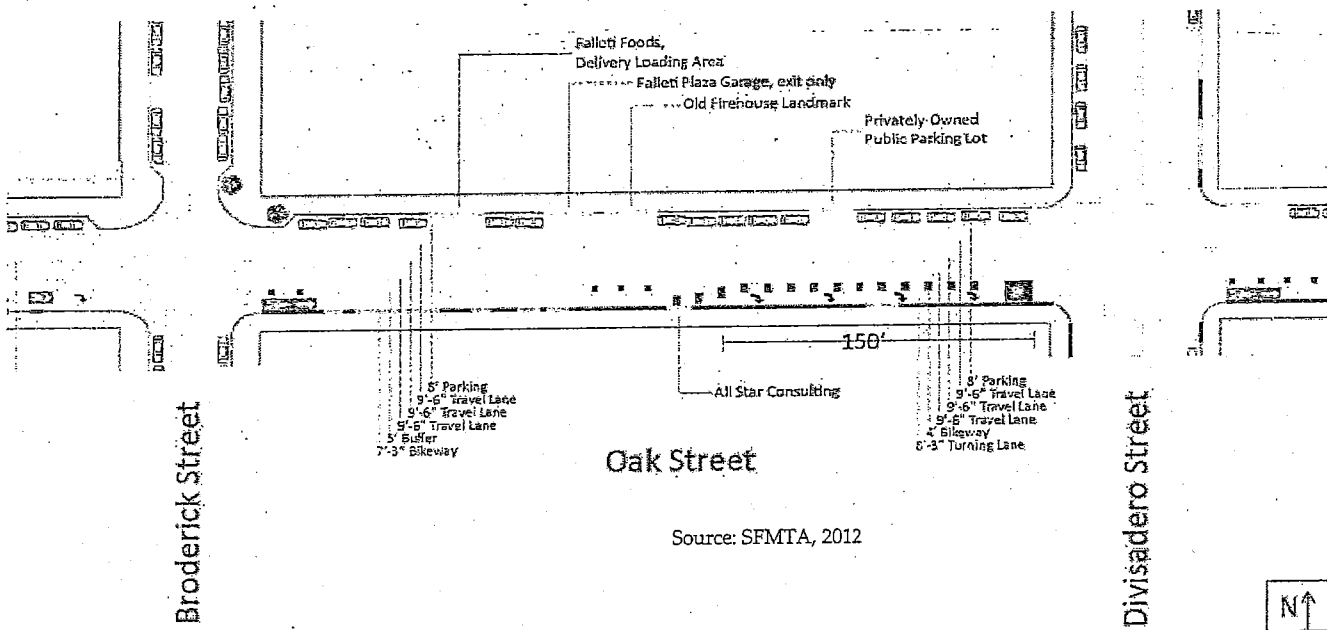
Figure 6  
Oak Street Approaching Broderick & Baker Streets



Oak Street

Source: SFMTA, 2012

Figure 7  
Oak Street Approaching Divisadero & Broderick Streets

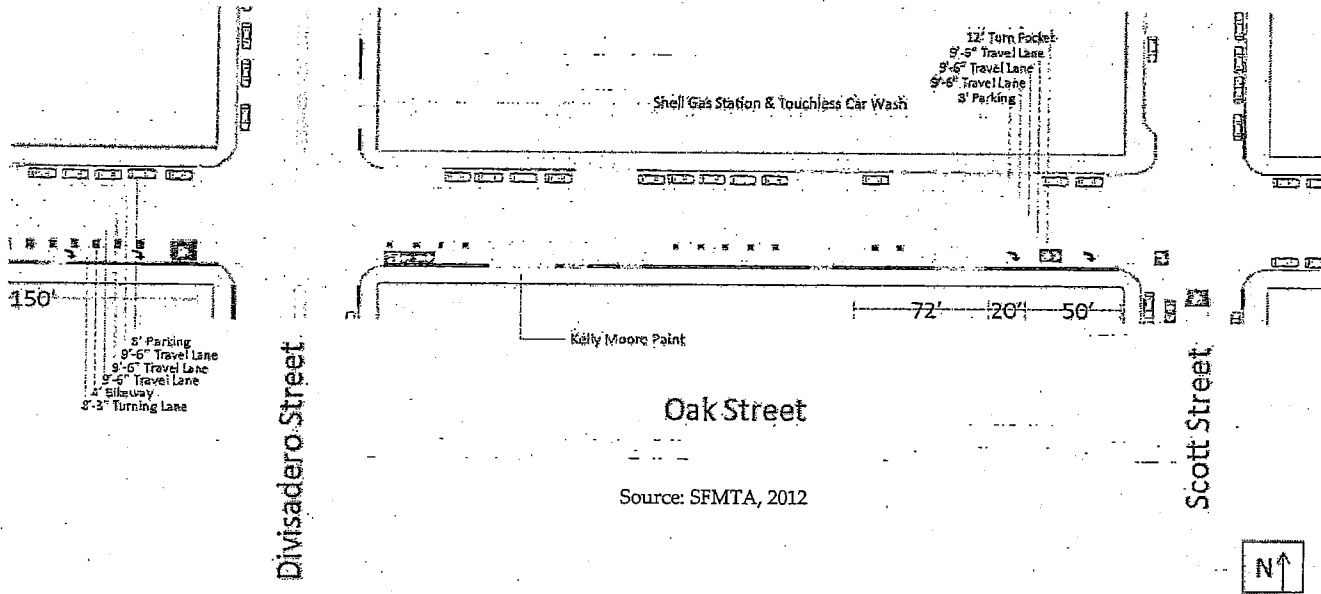


Oak Street

Source: SFMTA, 2012



Figure 8  
Oak Street Approaching Scott Street



Source: SFMTA, 2012

**PROJECT AREA PEDESTRIAN, TRANSIT, PARKING, & LANE CHANGES**

The changes proposed by the Project would result in enhanced pedestrian facilities, the removal of traffic lanes, the removal of four bus stops, and a net loss of 55 parking spaces within the project area. These parking changes would affect Fell Street, Oak Street (described in the sections above), Baker Street, Broderick Street, Divisadero Street, Scott Street, and Hayes Street in the project area. No other streets would be affected. (See Table 1 and Figures 9, 10, & 11)

**Baker Street**

Between Fell and Oak Streets, Baker Street would be reduced from two lanes in each direction to one through lane with exclusive left-turn pockets in each direction. The existing parallel on-street parking on the west side of Baker Street from Fell Street to Oak Street would be converted to back-in angled parking, and the existing parallel on-street parking on the west side of Baker Street from Oak Street to Haight Street would be converted to perpendicular parking. Existing southbound sharrow markings between Fell Street and Page Street would be relocated to the center of the travel lane adjacent to the new angled/perpendicular parking, approximately 22 feet from the curb, to avoid conflicts between bicyclists and motor vehicles backing into or out of parking spaces. (See Figure 9)

**Broderick Street**

No lane geometry changes are proposed for the Broderick Street approaches to Fell or Oak streets. On Oak Street at Broderick a bicycle lead phase would be added which would result in a shortened green timing phase for Broderick Street. Adequate pedestrian crossing time would be maintained.

**Divisadero Street**

No lane geometry changes are proposed for the Divisadero Street approaches to Fell or Oak streets and no signal timing changes are proposed.

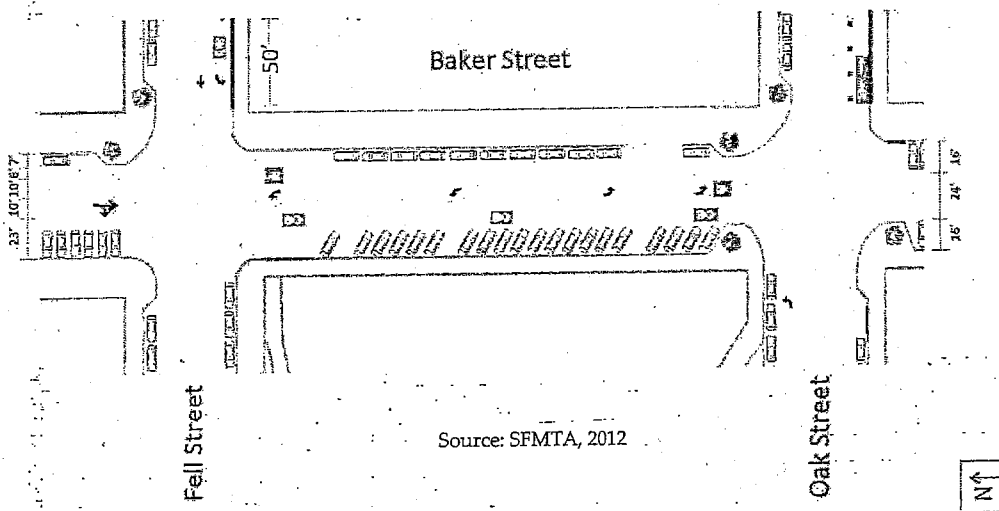
**Scott Street**

Existing on-street parking on the east side of Scott Street between Haight and Waller Streets would be converted from parallel to perpendicular parking. No lane geometry or traffic signal timing changes are proposed for the Scott Street approaches to Fell or Oak streets. (See Figure 10)

**Hayes Street**

The inbound and outbound 21 Hayes bus stops at Scott Street and Broderick Street would be converted to on-street parallel parking to offset parking losses nearby on Oak and Fell streets. The existing stops at Masonic Avenue, Central Avenue, Lyon Street, Baker Street Divisadero Street and Pierce Street would remain. Within the Project vicinity, the 21 Hayes route contains bus stops at every block, and the proposed removal of the bus stops are in locations where slopes/grades would not pose a problem for accessibility. The new stop spacings created as a result of the consolidations would be within the SFMTA's stop spacing guidelines. (See Figure 11)

**Figure 9**  
Baker Street between Fell Street and Oak Street



**Figure 10**  
Scott Street between Waller Street and Haight Street

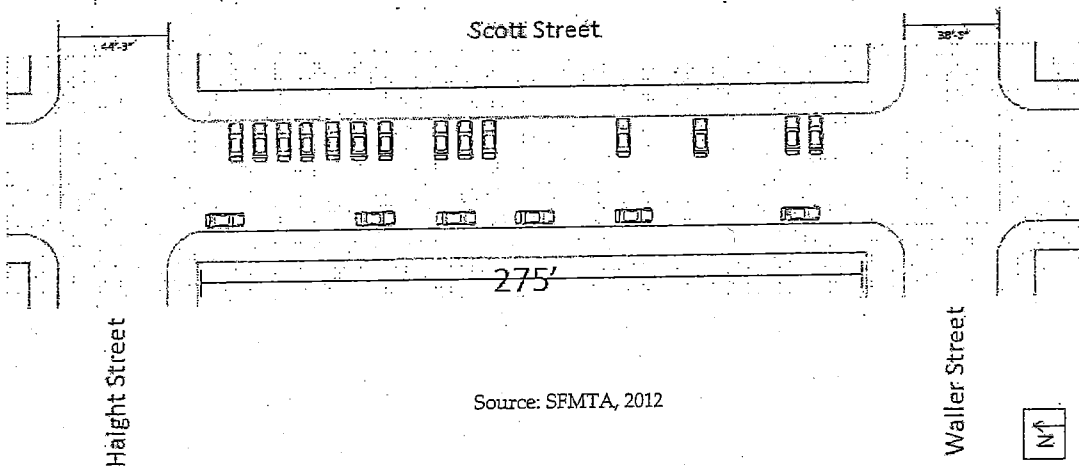
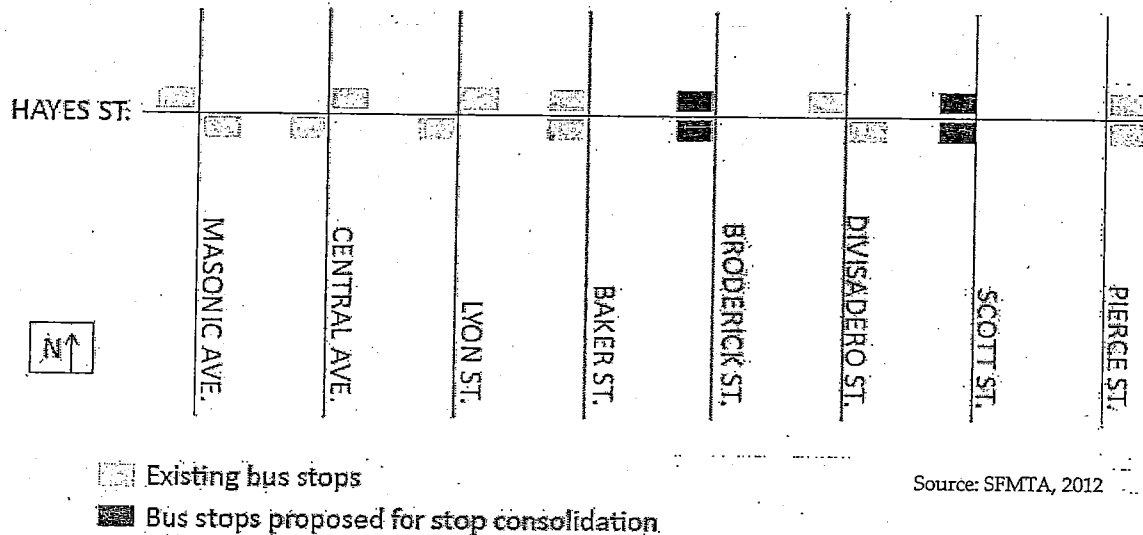


Figure 11  
Hayes Street Bus Stop Consolidation



**Pedestrian Improvements**

Corner bulbs would be added at the following 13 locations:

- Fell Street and Scott Street, northwest corner (two-way bulb)
- Fell Street, at Divisadero, northwest corner (one-way bulb)
- Fell Street at Broderick Street, northwest corner (one-way bulb)
- Fell Street and Broderick Street, northeast corner (two-way bulb)
- Broderick Street at Fell Street, southwest corner (one-way bulb)
- Baker Street at Fell Street, northwest corner (one-way bulb)
- Fell Street and Baker Street, northeast corner (two-way bulb)
- Scott Street at Oak Street, northwest corner (one-way bulb)
- Oak Street and Broderick Street, northwest corner (two-way bulb)
- Oak Street and Broderick Street, northeast corner (two-way bulb)
- Oak Street and Baker Street, northeast corner (two-way bulb)
- Oak Street and Baker Street, southwest corner (two-way bulb)
- Baker Street at Oak Street, northwest corner (one-way bulb)

Overall, implementation of the Project as proposed would result in a net loss of 55 on-street parking spaces. Approximately 88 spaces would be removed along Oak and Fell Streets for installation of the curbside cycletracks, and an additional 13 spaces would be removed at Oak and Fell Street intersections to accommodate new corner bulbs. Approximately 33 spaces would be gained through the conversion of 34 existing parallel parking spaces on Baker and Scott Streets into 67 angled and perpendicular spaces. An additional 13 spaces would be gained on Hayes Street from the removal of four existing 21 Hayes bus stops. The existing on-street parking supply in area bounded by Scott, Hayes, Baker and Page streets is approximately 590 spaces. The Project does not include any changes to existing off-street parking or loading facilities. Changes to on-street parking conditions due to the proposed improvements are detailed in Table 1.

Table 1: Fell &amp; Oak Bikeways Parking Changes

Location	Project Element	Spaces Gained (Lost)
Oak St. between Baker and Broderick, south side	Curbside cycletrack	(14)
Oak St. between Broderick and Divisadero, south side	Curbside cycletrack	(12)
Oak St. between Divisadero and Scott, south side	Curbside cycletrack	(17)
Fell St. between Baker and Broderick, south side	Curbside cycletrack	(21)
Fell St. between Broderick and Divisadero, south side	Curbside cycletrack	(14)
Fell St. between Divisadero and Scott, south side	Curbside cycletrack	(10)
<i>Total Spaces Removed for Cycletracks</i>		(88)
Oak St. and Baker St., southwest corner	Corner bulb	(1)
Oak St. and Baker St., northeast corner	Corner bulb	(1)
Oak St. and Broderick St., northeast corner	Corner bulb	(2)
Oak St. and Broderick St., northwest corner	Corner bulb	(1)
Fell St. and Baker St., northeast corner	Corner bulb	(1)
Fell St. and Baker St., northwest corner	Corner bulb	(2)
Fell St. and Broderick St., southwest corner	Corner bulb	(1)
Fell St. and Broderick St., northwest corner	Corner bulb	(1)
Fell St. and Broderick St., northeast corner	Corner bulb	(2)
Fell St. and Divisadero St., northwest corner	Corner bulb	(1)
<i>Total Spaces Removed for Corner Bulbs</i>		(13)
Baker St. between Fell and Oak, west side	Back-in angled parking	11
Baker St. between Oak and Page, west side	Perpendicular parking	11
Baker St. between Page and Haight, west side	Perpendicular parking	4
Scott St. between Haight and Waller	Perpendicular parking	7
<i>Total Spaces Added by Converting Parallel Parking to Angled</i>		33
Hayes St. between Baker and Broderick, south side	Bus stop removal	4
Hayes St. between Baker and Broderick, north side	Bus stop removal	4
Hayes St. between Divisadero and Scott, south side	Bus stop removal	4
Hayes St. between Divisadero and Scott, north side	Bus stop removal	1
<i>Total Spaces Added from Bus Stop Removal</i>		13
<b>Total Net Parking Space Gain (Loss)</b>		<b>(55)</b>

## REMARKS:

## Transportation

Traffic-Level of Service Analysis

## OAK STREET

An intersection Level of Service (LOS) analysis was conducted for the intersections of Oak Street with Scott Street, Divisadero Street, Broderick Street and Baker Street for the AM peak hour (8AM-9AM). Since Oak Street is a one-way eastbound street, the Project analyzed the AM peak hour to capture the part of the day Oak Street experiences the highest amount of traffic volumes due to the eastbound AM commute times. The table below shows the AM peak hour levels for the Oak Street intersections with and without the proposed Project under existing and cumulative conditions.

Table 2  
Oak Street Intersections LOS Analysis

Intersection	AM Peak Hour LOS/Average Delay (seconds)			
	Existing Conditions	Existing Plus Project	2035 Cumulative No Project	2035 Cumulative Plus Project
Oak St /Scott St	LOS B /10 sec.	LOS A/9 sec.	LOS B/11 sec.	LOS B/10 sec.
Oak St/Divisadero St	LOS C/21 sec.	LOS C/23 sec.	LOS C/25 sec.	LOS C/27 sec.
Oak St/Broderick St	LOS A/6 sec.	LOS A/7 sec.	LOS A/6 sec.	LOS A/8 sec.
Oak St/Baker St	LOS A/9 sec.	LOS C/22 sec.	LOS B/12 sec.	LOS C/28 sec.

Source: SFMTA, 2012

## Existing Conditions

Under Existing conditions, the intersection of Oak Street and Scott Street operates at LOS B, with an average of 10 seconds of delay for all vehicles. With implementation of the Project, this intersection would reduce average intersection delay by one (1) second, causing the intersection to operate at LOS A. The intersection LOS improvement is a result of adding an eastbound right-turn pocket. The intersection of Oak Street and Divisadero Street currently operates at LOS C with an average of 21 seconds of delay for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS C, with an increase of two (2) seconds of average delay. The intersection of Oak Street and Broderick Street currently operates at LOS A with an average delay of six (6) seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS A, with an increase of one (1) second of average delay. The intersection of Oak Street and Baker Street currently operates at a LOS A, with an average delay of nine (9) seconds for all vehicles. The Project would increase the average delay by 13 seconds, causing the intersection to operate at LOS C.

The LOS calculations for Existing Plus Project volumes indicate that all intersections operate at acceptable LOS for the AM peak hour. Therefore, the proposed Project would not have any significant traffic impacts under Existing Plus Project conditions.

## 2035 Cumulative Conditions

Future year 2035 Cumulative traffic volumes were developed in order to assess local cumulative developments which result in increases in traffic volumes. For the future year 2035, cumulative intersection traffic volumes for the AM peak hour were estimated based on growth rates developed for the study area from data taken from the City and County of San Francisco Transportation Authority

(SFCTA) travel demand model for the weekday PM and AM peak hours. These 2035 cumulative traffic volumes account for growth due to cumulative development in the City and the entire Bay Area.

Under 2035 Cumulative No Project conditions, the intersection of Oak Street and Scott Street would operate at LOS B, with an average delay of ten (11) seconds for all vehicles. With implementation of the proposed project, this intersection would continue to operate at LOS B with a decrease in delay of one (1) second. The intersection of Oak Street and Divisadero Street under 2035 Cumulative No Project conditions would operate at LOS C with an average delay of 25 seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS C under 2035 Cumulative conditions, with an increase of two (2) seconds of average delay. The intersection of Oak Street and Broderick Street under 2035 Cumulative No Project conditions would operate at LOS A with an average delay of six (6) seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS A, with an increase of two (2) second of average delay. The intersection of Oak Street and Baker Street under 2035 No Project Cumulative conditions would operate at LOS B with an average delay of 12 seconds for all vehicles. Implementation of the proposed Project would result in a sixteen-second (16) increase in average vehicular delay, causing the intersection to operate at LOS C. All study intersections are expected to continue to operate acceptably under 2035 Cumulative Plus Project conditions (at LOS D or better), therefore, the proposed Project would not have any significant traffic impacts under cumulative conditions.

**FELL STREET**

An intersection Level of Service (LOS) analysis was conducted for the intersections of Fell Street with Scott Street, Divisadero Street, Broderick Street and Baker Street for the PM peak hour (5PM-6PM). Since Fell Street is a one-way westbound street, the Project analyzed the PM peak hour to capture the part of the day Fell Street experiences the highest amount of traffic volumes due to the westbound PM commute times. The table below shows the PM peak hour levels of service for the Fell Street intersections with and without the proposed Project under existing and cumulative conditions.

**Table 3  
Fell Street Intersections LOS Analysis**

Intersection	PM Peak Hour LOS/Average Delay (seconds)			
	Existing Conditions	Existing Plus Project	2035 Cumulative No Project	2035 Cumulative Plus Project
Fell St/Scott St	LOS B/12 sec.	LOS B/12 sec.	LOS B/20 sec.	LOS B/20 sec.
Fell St/Divisadero St	LOS B/16 sec.	LOS B/16 sec.	LOS C/26 sec.	LOS C/26 sec.
Fell St/Broderick St	LOS A/8 sec.	LOS A/8sec.	LOS A/9 sec.	LOS A/8 sec.
Fell St/Baker St	LOS A/10 sec.	LOS A/9 sec.	LOS B/10 sec.	LOS B/10 sec.

Source: SFMTA, 2012

**Existing Conditions**

Under Existing conditions, the intersection of Fell Street and Scott Street currently operates at LOS B, with an average of 12 seconds of delay for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS B, with no increase in delay. The intersection of Fell Street and Divisadero Street currently operates at LOS B with an average of 16 seconds of delay for all vehicles. With implementation of the Project, the intersection would continue to operate at LOS B, with no increase in delay. The intersection of Fell Street and Broderick Street currently operates at LOS A with an average delay of eight (8) seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS A, with no increase in delay. The intersection of Fell Street and Baker Street

currently operates at LOS A with an average delay of ten (10) seconds for all vehicles. With implementation of the Project, the average intersection delay would decrease by one (1) second as a result of adding a westbound left-turn pocket.

The LOS calculations for Existing Plus Project volumes indicate that all intersections operate at acceptable LOS A and B for the PM peak hour. Therefore, the proposed Project would not have any significant traffic impacts under Existing Plus Project conditions.

### 2035 Cumulative Conditions

Future year 2035 Cumulative traffic volumes were developed in order to assess local cumulative developments which result in increases in traffic volumes. For the future year 2035, cumulative intersection traffic volumes for the PM peak hour were estimated based on growth rates developed for the study area from data taken from the City and County of San Francisco Transportation Authority (SFCTA) travel demand model for the weekday PM and AM peak hours. These 2035 cumulative traffic volumes account for growth due to cumulative development in the City and the entire Bay Area.

Under 2035 Cumulative No Project conditions, the intersection of Fell Street and Scott Street would operate at LOS B, with an average delay of 20 seconds for all vehicles. With implementation of the proposed Project, this intersection would continue to operate at LOS B, with no change in delay. The intersection of Fell Street and Divisadero Street under 2035 Cumulative No Project conditions would operate at LOS C with an average delay of 26 seconds for all vehicles. With implementation of the Project, this intersection would continue to operate at LOS C, with no change in delay. The intersection of Fell Street and Broderick Street under 2035 Cumulative No Project conditions would operate at LOS A with an average delay of nine (9) seconds for all vehicles. Implementation of the proposed Project would result in a one-second (1) decrease in average vehicular delay and would continue to operate at LOS A. The intersection of Fell Street and Baker Street under 2035 Cumulative No Project conditions would operate at LOS B with an average delay of 10 seconds for all vehicles. With implementation of the proposed Project, this intersection would continue to operate at LOS B, with no change in delay. All study intersections are expected to continue to operate acceptably under 2035 Cumulative Plus Project conditions (at LOS C or better), therefore, the proposed Project would not have any significant traffic impacts under cumulative conditions.

### Transit

#### Existing Conditions

With implementation of the Project, during the AM peak hour (8AM-9AM) the 16X bus line would encounter a decreased delay of one (1) second at the intersection of Oak Street and Scott Street, an increased delay of two (2) seconds at the intersection of Oak Street and Divisadero Street, an increased delay of one (1) second at the intersection of Oak Street and Broderick Street, and an increased delay of 13 seconds at the intersection of Oak Street and Baker Street, for a total average delay increase of 15 seconds along these segments of Oak Street. With implementation of the Project, during the PM peak commute (5PM-6PM) the 16X bus line would encounter no change in delay at the intersection of Fell Street and Scott Street, no change in delay at the intersection of Fell Street and Divisadero Street, no change in delay at the intersection of Fell Street and Broderick Street, and a one (1) second decrease delay at the intersection of Fell Street and Baker Street, for a total average delay decrease of one (1) second along these segments of Fell Street. The total increase of average delay of 18 seconds on Oak Street and two (2) second of average delay decrease on Fell Street as a result of the proposed Project would not result in an unacceptable level of transit service or cause a substantial increase in delays or operating costs.

Therefore, the proposed project would not have any significant transit impacts on the 16X route under Existing Plus Project conditions.

As stated previously, the inbound and outbound 21 Hayes bus stops at Scott Street and Broderick Street would be converted to on-street parallel parking to offset parking losses nearby on Oak and Fell streets. The proposed stop spacing for the 21 Hayes would fall within the SFMTA's stop spacing guidelines. The removal of two stops on either side of the street would improve bus running times under the Existing Plus Project conditions. Therefore, no significant transit impacts on the 21 Hayes route would occur.

#### **2035 Cumulative Conditions**

During the Cumulative Plus Project AM peak hour the 16X bus line would encounter a decreased delay of one (1) second at the intersection of Oak Street and Scott Street, an increased delay of two (2) seconds at the intersection of Oak Street and Divisadero Street, an increased delay of two (2) seconds at the intersection of Oak Street and Broderick Street, and an increased delay of 16 seconds at the intersection of Oak Street and Baker Street, for a total delay increase of 15 seconds along these segments of Oak Street. During the Cumulative Plus Project PM peak hour the 16X bus line would encounter no change in delay at the intersection of Fell Street and Scott Street, no change in delay at the intersection of Fell Street and Divisadero Street, a one (1) second decrease in delay at the intersection of Fell Street and Broderick Street, and no change in delay at the intersection of Fell Street and Baker Street. The total increase of average delay of 15 seconds on Oak Street and a decrease in average delay of one (1) second on Fell Street as a result of the proposed Project would not result in an unacceptable level of transit service or cause a substantial increase in delays or operating costs. Therefore, the proposed project would not have any significant transit impacts on the 16X route under cumulative conditions.

As stated previously, the inbound and outbound 21 Hayes bus stops at Scott Street and Broderick Street would be converted to on-street parallel parking to offset parking losses nearby on Oak and Fell streets. The proposed stop spacing for the 21 Hayes would fall within the SFMTA's stop spacing guidelines. The removal of two stops on either side of the street would improve bus running times under the Cumulative Plus Project conditions. Therefore, no significant transit impacts to the 21 Hayes route would occur.

#### **Pedestrian**

The proposed Project includes sidewalk bulb-outs, as well as enhanced continental ladder markings and advance limit lines at intersections at the majority of corners in the Project area. Through increased pedestrian visibility and shortened crossings at intersections, pedestrian conditions would improve. Therefore, no significant pedestrian impacts would occur.

#### **Bicycle**

As part of the Project, the striped buffer added between the existing bicycle lane on Fell Street and right-hand travel lane would provide more protection and improve safety for cyclists. Implementation of the 5' striped and landscaped buffer between the existing bicycle lane and traffic lanes on Fell Street and implementation of a new bicycle lane with a 5' striped and landscaped buffer on Oak Street, would improve bicycle conditions along both streets as part of the proposed Project. Therefore, no significant bicycle impacts would occur.

#### **Emergency Access**

The proposed project would not close off any existing streets or entrances to public uses, and emergency vehicle access would not be impeded by the Project. Therefore, the proposed project would not result in a significant impact related to emergency access.



### Construction

The proposed project would involve restriping, elimination of parking lanes, and installation of raised bulbouts. During construction, drivers would have to adjust to temporary lane reconfiguration along Fell Street, Oak Street, Baker Street, and Scott Street. Construction would be limited in duration, involving mostly restriping, and installation of raised bulbouts and the addition of right-turn and left-turn pockets at the Fell Street and Broderick Street, Oak Street and Divisadero Street, and Oak Street and Scott Street intersections. No sidewalk closures are anticipated. Because these potential impacts would be temporary, no significant construction impacts would occur.

### Loading

The proposed project would eliminate five (5) loading spaces on Oak Street, three (3) on the southeast corner at the intersection of Divisadero Street and two (2) on the southwest corner. There are three existing loading spaces on Divisadero Street between Oak Street and Page Street, two (2) on the west side and one (1) on the east side of the street, all of which would be preserved. One block away on Divisadero Street between Fell Street and Hayes Street there are five (5) existing loading spaces being preserved, three (3) on the west side and two (2) on the east side. The Shell station and Touchless Car Wash on the northeast corner of Oak and Divisadero streets use existing on-site surface space for off street loading and circulation, and the Kelly Moore Paints on the southeast corner has its own small parking lot for customer and commercial loading. Because of the loading spaces nearby and the availability of off-street loading, no significant loading impacts would occur.

### Parking

Overall, implementation of the Project as proposed would result in a net loss of 55 on-street parking spaces. Approximately 88 spaces would be removed along Oak and Fell streets for installation of the new curbside cycletracks, and an additional 13 spaces would be removed at the Oak Street and Fell Street intersections to accommodate new corner bulbs. Approximately 33 spaces would be gained through the conversion of 34 existing parallel parking spaces on Baker and Scott streets into 67 angled and perpendicular spaces. An additional 13 spaces would be gained on Hayes Street from the removal of four (4) existing 21 Hayes bus stops. The existing on-street parking supply in the area bounded by Scott, Hayes, Baker and Page streets is approximately 590 spaces. The Project does not include any changes to off-street parking or loading. Changes to on-street parking conditions due to the proposed improvements are detailed in Table 1.

San Francisco does not consider parking supply as part of the permanent physical environment and therefore, does not consider changes in parking conditions to be environmental impacts as defined by CEQA. The San Francisco Planning Department acknowledges, however, that parking conditions may be of interest to the public and the decision makers. Therefore, this report presents a parking analysis for information purposes.

Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel.

Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. Environmental documents should, however, address the secondary physical impacts

that could be triggered by a social impact (CEQA Guidelines §15131 (a)). The social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion. In the experience of San Francisco transportation planners, however, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service in particular, would be in keeping with the City's "Transit First" policy. The City's Transit First Policy established in the City's Charter Article 8A, Section 8A.115, provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation."

The transportation analysis accounts for potential secondary effects, such as cars circling and looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is available. Moreover, the secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts which may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assignments used in the transportation analysis, as well as in the associated air quality, noise, and pedestrian safety analyses, reasonably addresses potential secondary effects.

In summary, changes in parking conditions are considered to be social impacts rather than impacts on the physical environment. Accordingly, the parking analysis presented in this study is for informational purposes only.

## Conclusion

In summary, the proposed Fell and Oak Streets Bikeways project would not result in significant impacts on transportation network in the study area. The proposed Project is expected to improve bicycle operations along Fell Street, Oak Street and Baker Street. The proposed removal of parking lanes along Fell and Oak Streets, addition and enhancement of bicycle lanes with striped and landscaped buffers, and addition of turning pockets, would not result in significant individual or cumulative impacts.

The California Environmental Quality Act (CEQA) Guidelines Section 15301(c) or Class 1(c), provides for exemption from environmental review for minor alterations to "existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities." Section 15304(h) or Class 4(h) provide for exemption from environmental review for creation of a new bicycle lane on existing rights-of-way along Oak Street. Therefore, the proposed implementation of SFMTA's Fell and Oak Streets Bikeways project would be exempt under Class 1 and Class 4.

CEQA State Guidelines Section 15300.2 states that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity would have a significant effect on the environment due to unusual circumstances. As described above, the project would not have a significant effect on adjacent transportation facilities or modes. There are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant environmental effect. The project would be exempt under the above-cited classification.

For all of the above reasons, the proposed project is appropriately exempt from environmental review.



**Attachment B:**  
**San Francisco Municipal Transportation Agency Board of**  
**Directors Resolution No. 12-129**



SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 12-129

WHEREAS, The San Francisco Municipal Transportation Agency has received numerous public requests to improve conditions for people walking and riding bicycles on Oak Street and Fell Street between Scott Street and Baker Street; and,

WHEREAS, There have been multiple reported pedestrian and bicycle injury collisions on Oak Street and Fell Street between Scott Street and Baker Street; and,

WHEREAS, Goal 1 of The San Francisco Municipal Transportation Agency Strategic Plan is to "Create a safer transportation experience for everyone"; and,

WHEREAS, Goal 2 of The San Francisco Municipal Transportation Agency Strategic Plan is to "Make transit, walking, bicycling, taxi, ridesharing and carsharing the preferred means of travel"; and,

WHEREAS, The San Francisco Board of Supervisors passed Resolution #10-1319 in 2010 encouraging departments and agencies of the City and County of San Francisco to adopt a goal of 20 percent of trips by bicycle by 2020; and,

WHEREAS, Oak Street, from Baker Street to Scott Street, does not currently have a bicycle facility but was identified in the 2009 San Francisco Bicycle Plan for bicycle improvements; and,

WHEREAS, Fell Street, from Scott Street to Baker Street, has an existing bike lane adjacent to heavy volumes of motor vehicle traffic that many people report feels unsafe; and,

WHEREAS, The San Francisco Municipal Transportation Agency led a comprehensive and inclusive planning process to identify pedestrian and bicycle safety improvements for Oak Street and Fell Street between Scott Street and Baker Street; and,

WHEREAS, The specific changes to the parking and traffic regulations would be as follows:

- A. ESTABLISH – CLASS II BIKE LANE  
Oak Street, south side, from Baker to Scott Streets
- B. RESCIND – TOW-AWAY, NO STOPPING, 7 AM – 9 AM, EXCEPT SATURDAYS AND SUNDAYS  
Oak Street, north side, from Baker to Divisadero Streets
- C. RESCIND – TOW-AWAY LANE MUST TURN LEFT, 7 AM – 9 AM, EXCEPT SATURDAYS AND SUNDAYS  
Oak Street, eastbound left turn onto Divisadero Street
- D. ESTABLISH – TOW-AWAY, NO STOPPING ANYTIME

- Fell Street, south side, from Baker to Scott Streets
- Oak Street, south side, from Baker to Scott Streets
- E. ESTABLISH – LEFT LANE MUST TURN LEFT
  - Eastbound Oak Street at Baker Street
- F. ESTABLISH – NO PARKING ANYTIME
  - ESTABLISH – SIDEWALK WIDENING (6-FOOT WIDE SIDEWALK EXTENSION)
    - Fell Street and Scott Street, northwest corner (two-way bulb)
    - Fell Street, north side, at Scott from 0 to 18 feet westerly
    - Scott Street, west side, at Fell from 0 to 18 feet northerly
    - Fell Street, at Divisadero, northwest corner (one-way bulb)
    - Fell Street, north side, at Divisadero, from 0 to 18 feet westerly
    - Fell Street at Broderick Street, northwest corner (one-way bulb)
    - Fell Street, north side, at Broderick from 0 to 18 feet westerly
    - Fell Street at Broderick Street, northeast corner (two-way bulb)
    - Fell Street, north side, at Broderick from 0 to 18 feet easterly
    - Broderick Street, east side, at Fell Street from 0 to 18 feet northerly
    - Broderick Street at Fell Street, southwest corner (one-way bulb)
    - Broderick Street, west side, at Fell Street from 0 feet to 18 feet southerly
    - Fell Street and Baker Street, northwest corner (one-way bulb)
    - Baker Street, west side, at Fell Street from 0 to 30 feet northerly
    - Baker Street at Fell Street, northeast corner (two-way bulb)
    - Fell Street, north side, at Baker Street from 0 to 18 feet easterly
    - Baker Street, east side, at Fell Street from 0 to 18 feet northerly
    - Oak Street at Scott Street, northwest corner (one-way bulb)
    - Scott Street, west side, at Oak Street from 0 to 18 feet northerly
    - Oak Street and Broderick Street, northeast corner (two-way bulb)
    - Oak Street, north side, at Broderick Street from 0 to 18 feet easterly
    - Broderick Street, east side, at Oak Street from 0 to 18 feet northerly
    - Baker Street and Oak Street, northwest corner (one-way bulb)
    - Baker Street, west side, at Oak Street from 0 to 30 feet northerly
    - Oak Street and Baker Street, northeast corner (two-way bulb)
    - Oak Street, north side, from Baker to 18 feet easterly
    - Baker Street, east side, from Oak Street to 18 feet northerly
    - Oak Street and Baker Street, southwest corner (two-way bulb)
    - Oak Street, south side, at Baker Street from 0 to 18 feet westerly
    - Baker Street, west side, at Oak Street from 0 to 30 feet southerly
- G. RESCIND – BUS STOP
  - Hayes Street at Broderick Street, north side, 0 feet to 75 feet west of Broderick Street (outbound 21 Hayes line)
  - Hayes Street at Broderick Street, south side, 0 feet to 75 feet west of Broderick Street (inbound 21 Hayes line)
  - Hayes Street at Scott Street, north side, 0 feet to 74 feet west of Scott Street (outbound 21 Hayes line)
  - Hayes Street at Scott Street, south side, 0 feet to 73 feet west of Scott Street (inbound 21 Hayes line)
- H. ESTABLISH – 45 DEGREE ANGLED PARKING; BACK-IN

- Baker Street, west side, from Fell to Oak Streets
- I. ESTABLISH – PERPENDICULAR PARKING  
 Baker Street, west side, from Oak Street to Haight Street  
 Scott Street, east side, from Haight Street to Waller Street (existing RPP – Area S)
- J. RESCIND – GREEN ZONE  
 1195 Oak Street, south side, from 19 feet to 38 feet east of Broderick Street (19-foot zone)
- K. ESTABLISH – GREEN ZONE  
 1196 Oak Street, north side, from 0 feet to 19 feet east of Broderick Street (19-foot zone)
- L. RESCIND – YELLOW ZONE  
 1101 Oak Street, south side, from 10 feet to 51 feet west of Divisadero Street (41-foot zone – removes yellow meter #1101 and 1103) (general meter #1105 removed with No Parking Anytime (NPAT) legislation)  
 1099 Oak Street, south side, from 0 feet to 62 feet east of Divisadero Street (62-foot zone – removes yellow meters #1085, 1087 & 1089)
- M. RESCIND – WHITE ZONE  
 1153 Oak Street, south side, from 208 to 230 feet west of Divisadero (22-foot zone)  
 1221 Fell Street, from 191.5 to 216.5 feet east of Broderick Street (25-foot zone)

WHEREAS, The public has been notified about the proposed modifications and has been given the opportunity to comment on those modifications through the public hearing process; and,

WHEREAS, The 2009 Bicycle Plan, which included a Long Term Project on Oak Street between Baker Street and Scott Street, was analyzed at a programmatic level in the 2009 Bicycle Plan Environmental Impact Report ("EIR"), the Bicycle Plan EIR was certified by the Planning Commission on June 25, 2009, and on June 26, 2009 in Resolution 09-105, the SFMTA adopted the 2009 Bicycle Plan and adopted findings under CEQA; and,

WHEREAS, The San Francisco Planning Department has reviewed the Oak and Fell Pedestrian and Bicycle Safety Improvements as proposed herein, and determined that the project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 (Existing Facilities) and Class 4 (Minor Alterations to Land) categorical exemption, and documentation of this finding is on file with Secretary of the Board of Directors; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors, upon recommendation of the Director of Transportation, approves the traffic and parking modifications associated with the Oak and Fell Pedestrian and Bicycle Safety Project.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 16, 2012.

*R. P. ...*

Secretary to the Board of Directors  
 San Francisco Municipal Transportation Agency





**Attachment C:  
Appeal Letter**



FROM:

**Mark Brennan**  
575 Cole Street, Apartment 210  
San Francisco CA 94117  
415-260-9662

**Howard Chabner**  
1930 Fell Street  
San Francisco, CA 94117  
415-221-2351

**Ted Loewenberg**  
1562 Waller  
San Francisco, CA 94117  
415-522-1560

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2012 NOV - 2 PM 4:14

TO:

**Angela Calvillo, Clerk**  
San Francisco Board of Supervisors  
Room 244, City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Bill Wycko, Environmental Review Officer**  
San Francisco Planning Department  
1650 Mission St., 4th Floor  
San Francisco, CA 94102

**DATE: November 2, 2012**

**NOTICE OF APPEAL TO THE SAN FRANCISCO BOARD OF SUPERVISORS,  
REQUEST FOR STAY and REVERSAL OF IMPLEMENTATION,  
and REQUEST FOR REVIEW**

This is a Notice of Appeal of the October 16, 2012 actions of the San Francisco Municipal Transportation Agency ("MTA") Board of Directors approving the Oak and Fell Pedestrian and Bicycle Safety Improvements project (the "Oak-Fell Project" or "the Project"). The approval of the Project was an abuse of discretion and a failure to proceed as required by the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§21000 *et seq.*). This is also an appeal of the San Francisco Planning Department's October 4, 2012 Categorical Exemption of the Oak-Fell Project.

The Project is also a violation of the Americans with Disabilities Act, 42 USC Section 12101 *et seq* ("ADA") and California disability rights laws, including California Civil Code Sections 54 *et seq*. (The ADA and California disability rights laws are sometimes referred to collectively herein as the "Disability Rights Laws.")

This is also a Request for Review of the October 16, 2012 MTA Board actions pursuant to the San Francisco Charter §8A.102 (b)(7)(i).

Appellants request an immediate STAY of implementation of the Project and every part of it, pending final determination on this Appeal and Request for Review, and pending full compliance with CEQA and other applicable laws. Also, because MTA has already begun implementing the Project before the time to appeal the actions described in this Appeal and Request for Review has ended, appellants also demand REVERSAL of all implementation of the Project and restoration of pre-Project conditions on all affected streets and sidewalks.

Copies of the MTA Board's October 16, 2012 Resolution #12-129 and the Planning Department's October 4, 2012 Categorical Exemption (Exemption from Environmental Review for the SFMTA Fell & Oak Streets Bikeways Project - Case No. E011.0836E) are attached.

Grounds for this Appeal lie within, but are not limited to, CEQA, the Disability Rights Laws, and other applicable statutes, regulations, and ordinances that may apply, including the following.

1. The categorical exemptions invoked under 14 Cal. Code Regs. (the "Guidelines") Sections 15301(c) and 15304(h) do not apply to the Project, since the Project: (1) has the potential to degrade the quality of the environment; (2) has possible effects that are cumulatively considerable; and (3) will cause substantial adverse effects on human beings, either directly or indirectly. (Pub. Res. Code Section 21083(b).) Therefore the Project cannot be classified as "categorically exempt." There is evidence supporting a fair argument that the Project could cause direct, secondary, and cumulative impacts on parking, traffic, transit, loading, air quality, public safety, and emergency services. Among other things, the Project will cause substantial adverse effects on people who need to park near where they live or work.

2. The claimed mitigations do not effectively mitigate the Project's impacts, and, in any event, cannot be used to claim a categorical exemption.

3. The Oak-Fell Project is part of a larger project, the San Francisco Bicycle Plan (the "Bicycle Plan"). If it applies at all, a categorical exemption must apply to the whole Bicycle Plan project, not just the Oak-Fell segment. The Environmental Impact Report ("EIR") on the Bicycle Plan did not specifically analyze the Oak-Fell Project.

4. The Oak-Fell Project has not received specific environmental review as part of the larger Bicycle Plan or at any other time.

5. The Project does not qualify for an exemption under Guidelines Section 15301(c), which consists of the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination," (emphasis added) and (c) "Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails and similar facilities..."

The existing conditions are parking lanes, not Class I or Class II bicycle lanes. A parking lane, as defined in the California Streets & Highways Code Section 5871(c), is "a paved area adjacent to the curb which is used exclusively for on-street parking. It does not include any portion of the street used for through traffic or as a bicycle lane." (Emphasis added.) The "facility" does not meet this basic definition, since it would completely remove the parking lane and change its use to a separated bicycle lane for exclusive use of bicyclists. (S&H Code Section 890.4(a).) These definitions are mutually exclusive, and involve a complete change of use. The Project, therefore, does not fall within the existing facilities exemption under Guidelines Section 15301.

The Project does not consist of mere maintenance or minor alteration, but makes major changes by, among other things: (a) entirely removing the existing parking lanes on City streets; (b) removing around 100 existing parking spaces on Oak and Fell; (c) constructing concrete and other solid structures in the streets next to moving traffic (raised, landscaped traffic islands); (d) impeding visibility and access to driveways; (e) eliminating, reducing or making dangerous and more difficult streetside, emergency, and loading access to residences and businesses on Oak and Fell; (f) constructing numerous concrete bulbouts that impede traffic by making right turns difficult; (g) adjusting traffic signals to reduce traffic speed on a major East-West traffic corridor in San Francisco; (h) eliminating one traffic lane on Oak Street during morning commute hours; and (i) constructing bicycle lanes where they do not now exist.

6. For the same reasons, the Project does not qualify for an exemption under Guidelines Section 15304(h), which consists of "minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry and agricultural purposes," and "creation of bicycle lanes on existing rights-of-way." (Emphasis added.) There is no existing right-of-way in the parking lanes on Oak Street and Fell Street for bicycle lanes, since the right-of-way in parking lanes is exclusively for vehicles. (See S&H Code Section 5871(c).) Nor is the Project a "minor" alteration in the condition of land, water, and/or vegetation. Rather it is a major alteration and change of use from a parking lane for exclusive use of parking vehicles to a bicycle lane for exclusive use of riding bicycles.

7. The Project is an exception to any categorical exemption, because substantial evidence supports a fair argument that the Project will have significant impacts on parking, traffic, transit, loading, noise, air quality, public safety, emergency services, and human impacts on two major East-West traffic routes carrying a combined more than 60,000 vehicles per day. (And since many vehicles carry more than one person, the number of drivers and passengers affected will be

more than 60,000 per day.) (Guidelines Section 15300.2; and see Pub. Res. Code Section 21083(b).)

8. Impacts on humans require a mandatory finding of significance, including impeding access to streetside parking, affecting disabled people, seniors, children, families, workers, and emergency, maintenance, construction and delivery services. Loading impacts also affect commercial and passenger loading. The Project will also affect public safety by impairing visibility from driveways. Bulbouts also impair visibility and delay traffic by making right turns more difficult. Asserted mitigations do not mitigate the Project's impacts and cause more impacts that require analysis.

9. Cumulative impacts on parking, traffic, air quality, noise, public safety, and emergency services also exclude the Project from any categorical exemption.

10. The Disability Rights Laws prohibit discrimination on the basis of disability in, among other things, programs of local government, use of streets and sidewalks, and transportation. California Civil Code Section 54(a) provides that "Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways... public facilities, and other public places." Title II of the ADA requires local governments to provide people with disabilities an equal opportunity to benefit from all of their programs, services and activities. Sidewalks, streets and parking are programs provided by ADA Title II entities, and therefore are subject to ADA requirements.

Although the loss of parking would be a hardship for the large numbers of people who live, visit and work in the neighborhood, it would disproportionately impact people with major mobility disabilities, such as wheelchair users and slow walkers. Many people with mobility disabilities rely heavily on private vehicles. Disabled people park in regular street parking spaces far more often than in designated accessible street parking spaces (blue zones). Many people who use wheelchairs or scooters rely on accessible minivans and vans that have ramps or lifts on the passenger side. In effect, all street parking spaces (except perpendicular and angled spaces, those on the driver's side of a one-way street, and, sometimes, those with sidewalk obstructions such as garbage cans or trees in the exact location of the ramp or lift) are accessible spaces.

The Project would remove all street parking on the South side of Oak, which means that all of the disabled accessible parking spaces would be eliminated for those three blocks. The parking spaces on the North side of Oak would remain, but it would be extremely dangerous for disabled people to use them because the ramp or lift would be deployed into the moving lane. The project includes mitigating the parking loss on Oak and Fell by converting parking spaces on some of the side streets, which are currently parallel parking, into perpendicular or angled parking spaces. This also would eliminate spaces that are currently usable by disabled people, thereby adding to the parking loss on Oak instead of mitigating it. Not only wheelchair and scooter users, but people who walk slowly and with difficulty would also be harmed by the loss of parking spaces on Oak and by the elimination of parallel parking on the side streets.

The Project would also make it more difficult, dangerous and stressful for disabled people, including wheelchair/scooter users and people who have difficulty walking, to be picked up and dropped off in this area, whether by private vehicle, taxi, paratransit or shuttle service.

These effects violate the Disability Rights Laws.

### **REQUEST FOR STAY and REVERSAL OF IMPLEMENTATION**

This is also a Request for an immediate stay of implementation of the Project and any part of it pending final determination on this Appeal and Request for Review, and pending full compliance with CEQA and other applicable laws. Also, because MTA has already begun implementing the Project before the time to appeal the actions described in this Appeal and Request for Review has ended, appellants also demand REVERSAL of all implementation of the Project and restoration of pre-Project conditions on all affected streets and sidewalks.

### **REQUEST FOR REVIEW PURSUANT TO SAN FRANCISCO CHARTER SECTION 8A.102(b)(7)(i)**

This is also a REQUEST FOR REVIEW pursuant to the San Francisco Charter Section 8A.102(b)(7)(i) of the MTA Board's Resolution #12-129 of October 16, 2012, approving the Oak-Fell Project. This Request for Review incorporates all of the grounds stated in the foregoing Appeal, and additionally requests Review by the Board of Supervisors of the City's substantive violations of CEQA, the Disability Rights Laws, and other statutes, regulations, and ordinances.

The Board's action was an abuse of discretion and a failure to proceed under CEQA, since it will cause significant impacts on the environment, including impacts on parking, loading, traffic, transit, and emergency services. The Project also affects accessibility and safety of people with disabilities, and is therefore contrary to the Disability Rights Laws.

The Project also creates public safety hazards by impairing the safety and visibility of drivers accessing driveways. The bulbouts also adversely affect visibility and safety by impairing visibility of oncoming traffic, bicyclists and pedestrians. Bulbouts also worsen congestion and delays.

### **REMEDIES REQUESTED**

1. Set aside all approvals of the Oak-Fell Project, and the October 4, 2012 Categorical Exemption.



2. Declare that any future proposal to implement the same project must be preceded by an environmental impact report fully analyzing all impacts and proposing effective mitigations for each of the Project's possible impacts on parking, traffic, transit, noise, air quality, emergency services, public safety, and human impacts; Cumulative impacts must be analyzed taking into account all past, present, and reasonably foreseeable projects that will also affect traffic, transit, parking, noise, air quality, and public safety on Oak and Fell Streets and the entire area. Spillover and secondary impacts from removal of streetside parking must also be analyzed, along with any impacts caused by mitigations, including traffic congestion caused by signal timing. The analysis must include real-time on-ground traffic counts during AM and PM peak periods, taken at a variety of representative days of the week and times of the year.

3. The EIR must propose effective mitigations that eliminate each of the Project's impacts, including consideration of avoiding each impact altogether by not implementing the Project.

4. The City must implement effective mitigation before Project implementation.

5. The City must propose a plan to effectively comply with the Disability Rights Laws, provide an opportunity for meaningful input and comment on such plan, and incorporate such plan in a revised Project.

6. Further consideration of the Project must be stayed until City has complied with CEQA, the Disability Rights Laws and other applicable statutes and regulations.

7. Such other remedies as may be appropriate.

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Appellants will submit more detailed comment and/or briefing in support of this Appeal, Request for Stay and Reversal of Implementation, and Request for Review at or before a hearing by the Board of Supervisors.

With this appeal, appellants do not waive the right to present any and all issues and other public comment in further proceedings on the Project.

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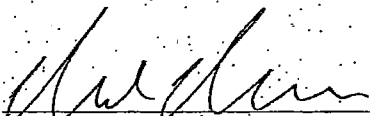
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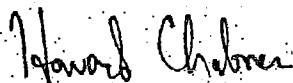
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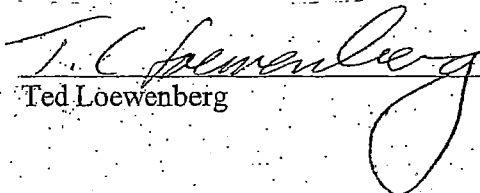
Continued on next page.

Please notify the undersigned of the date of the hearing, all actions on this Appeal, Request for Stay and Reversal of Implementation, and Request for Review, and all actions regarding the Project. Please schedule the hearing not earlier than 30 days from the date of this document.

DATE: November 2, 2012

  
\_\_\_\_\_  
Mark Brennan

  
\_\_\_\_\_  
Howard Chabner

  
\_\_\_\_\_  
Ted Loewenberg



BOS-11

**Oak Fell Bike Plan - Vote No**

sfpedestrians@gmail.com

Sent: Wednesday, December 05, 2012 9:44 AM

Please include the letter attached in the Supervisor packet for the Oak Fell Bike Plan Project for the December 11 meeting. I believe it is file #121118.

Thank you,  
Jung

-----

Jung O'Donnell  
145 Broderick Street #203  
San Francisco, CA 94117

December 1, 2012

Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall  
San Francisco, Ca. 94102

Re: Oak and Fell Street Project - Vote No

Dear Board of Supervisors,

My family and I have lived in San Francisco for 14 years and in the Haight at Broderick/Page for 7 years. We love the City. We love our neighborhood. And, we couldn't have wished for better neighbors. As with many San Franciscans, we sometimes have to deal with unfortunate events like burglaries and vandalism, but none of that has deterred our desire and hope to raise our 2 daughters (2 years old and 9 months old) in San Francisco.

On September 11, 2012, I was made aware of massive traffic changes occurring on Oak and Fell Streets between Baker and Scott. SFMTA had sent a letter saying they are proposing traffic changes to the intersection of Oak/Broderick and holding a meeting to discuss this. I didn't fully understand the flyer and no neighbor I spoke with knew anything about this, so I went to the meeting to find out more. It was during this meeting that I learned of 100 parking spaces in the area being removed to be moved to other areas. I learned about a bike lane with buffer at Oak (there are currently bike routes designated on Page Street 1 block parallel to Oak St that hundreds of cyclists use daily). I learned there is going to be a change in the intersection at Oak/Broderick to protect cyclists including giving cyclists the green light first and not allowing cars to go straight or turn onto Broderick. A ton of questions were going through my mind. Any of the numerous changes they discussed will have an enormous impact on our neighborhood. But, together, they all will greatly impact the quality of life for hundreds of families.

3626

I applaud the City and SFMTA's efforts to add more bike lanes. Our family bikes to work downtown when we can, and we enjoy biking with our kids. However, as a parent it is too hard to take young kids on a bike or Muni. My Muni experiences have been challenging with 2 kids, stroller, diaper bag, going up the steps, staying away during rush hours, finding an area for all of us, keeping an eye on the kids, etc. I have concluded that I need to either walk or take my car. Now I'm facing increased congestion, less parking and safety concerns of bicycles flying as fast as cars on Fell/Oak... some with no regard to traffic lights. This directly impacts families like us who have children, and I feel as if none of us were contacted to share our thoughts.

I am extremely upset because I had no idea SFMTA was considering these massive changes in our neighborhood. I was never contacted. I was never sent anything until the September 11<sup>th</sup> meeting. I would have loved the opportunity to express our family's opinions, helped with ideas and planning (I have worked for Bridge Housing planning affordable housing for 8 years!), shared what was going on with neighbors and been a part of this process. None of the 5 families in our building knew anything about the proposed changes. Only a few of the 50+ neighbors I have spoken to knew anything about the proposed changes. This was also evident at the meeting on September 11. Around 25 people attended the meeting, and almost all also shared they were not made aware of the plans. We were told by Luis Montoya, SFMTA representative, that they had 1 community meeting earlier in the year; however, it was not publicized to any of us. Everyone at the Sept 11 meeting expressed wanting an opportunity for their ideas and voices to be heard.

Then, to my astonishment, I find out that there has been no independent impact or traffic assessment done and none pending. There is already so much traffic gridlock on Oak and Fell Streets that it seems an impact study should be a top priority. For Falletti's grocery store to be approved for development at Broderick/Oak, they had to do extensive third-party traffic plans and an EIR. All the people I've spoken to are not only upset we were never contacted for input, but we are not confident these traffic changes will be positive for residents, pedestrians, drivers and may be more dangerous for cyclists who are riding beside cars going extremely fast on the main thoroughfare going across our City.

I would like to share that my husband and I are not ill-informed residents. We care very much about the issues in our community. My husband and a fellow neighbor worked tirelessly with the community, City's Department of Children, Youth and Their Families and the SFUSD Board for over 2 years to convert a vandalized abandoned school building at 1155 Page Street into much needed childcare in the City. In May 2012, the school board approved the French American International School to provide preschool at the site beginning 2014. That is why it is even more perplexing how I could have not known about this proposal and been given an opportunity to provide feedback.

My family is doing everything we can to be able to raise our children here. I am embarrassed when I hear that it was announced earlier this year that recent census numbers showed San Francisco has the lowest percentage of children of any major city in the country at 13.4%. Major changes such as the one SFMTA is proposing should want to include feedback and ideas from everyone who wishes to be involved include cyclists, parents who have to walk or drive, residents who live around the streets, businesses impacted, and people who frequently use those thoroughfares.

We would like to request an independent impact study to be performed to make sure SFMTA have

taken into account how it will impact all of us who live here. I would also request for SFMTA to notify residents within a 2 block radius of Oak/Fell between Baker and Scott to be mailed notification of this project.

Thank you for your time.

Warm regards,

Jung O'Donnell

**Evans, Derek**

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**From:** Board of Supervisors  
**Sent:** Thursday, December 06, 2012 1:56 PM  
**To:** BOS-Supervisors; Evans, Derek  
**Subject:** File 121118: Oak and Fell Street bike lanes

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**From:** Joan Czaia [jczaia@hotmail.com]  
**Sent:** Thursday, December 06, 2012 9:17 AM  
**To:** Board of Supervisors; mtaboard@sfmta.com; Lee, Mayor; Wycko, Bill  
**Subject:** Oak and Fell Street bike lanes

Hi,

I'm writing about the proposed separated bike lane on Oak and Fell Streets. I live on Oak Street (across from the DMV) and am very interested in this project as it will affect my daily life. As a resident who will be directly impacted by the proposed bike lanes, I want to make sure the following concerns and ideas are not left out of this important discussion.

A major concern is loading/unloading on Oak Street. I live in a three-unit building, and like many of my neighbors, we do not have a garage. Currently, if I have to unload groceries and there are no parking spots available in the immediate area, I can park for a couple of minutes in front of a neighboring driveway that is rarely used. This process also works when people are getting picked up or dropped off. This close proximity is especially important for people with disabilities. And while double parking for a few minutes happens throughout San Francisco, it is not possible on Oak Street.

A separated bike lane would prevent such temporary parking which would be a significant hardship for residents. I heard that this concern might be addressed by having designated loading zones that are available with permits issued prior to loading/unloading items. This is an unacceptable and impractical solution for short day-to-day needs, such as those mentioned above. I think residents living in any neighborhood would object to the inability to load/unload items near their homes. I can also foresee potential conflicts/clashes between bikers and residents whose cars are legitimately parked in the bike lanes for a few minutes as bikers may feel cars should not be blocking the bike lane at any time.

Another concern which has been discussed is the removal of parking spaces in a neighborhood where it is already difficult to park, as it puts an unfair burden on neighborhood residents and their guests. While I support the addition of bike lanes in general and think the SFBC does great work, I think residents living in any neighborhood in San Francisco would object to losing a significant amount of street parking. For instance, it routinely takes at least 20 minutes to park in the evening and this will only get worse with the loss of parking spaces. Circling the neighborhood looking for parking for an extended time is not good for the environment or for one's sanity!

I am also concerned that removing the parking restrictions on the north side of Oak Street (currently 7am tow-away) will make parking in the immediate neighborhood even more difficult, especially if we do not have residential parking permits. I can often park here during the day, which is fairly

convenient for loading/unloading items from my car, as there is 24-hour turn-over every weekday. If this restriction is removed, I can foresee cars and campers owned by people that don't live in the area staying parked in these spaces for several days which currently happens throughout the neighborhood.

Finally, I am concerned how the construction of a separated bike lane would impact or limit our ability to have repairs and/or construction done at our property. Typically, property owners place temporary no-parking signs in front of their properties when work is being done on their properties so crews can access the job site. How would this work if there is a permanent bike lane in front of our property?

I would also like to bring up again a couple alternatives to the proposed separated bike lanes that may be an improvement over the current situation for both bikers and neighborhood residents.

- 1) Slow down traffic on Oak and Fell Streets and construct a bike lane on Oak Street similar to the bike lane that was recently removed on Fell Street. Cars racing along Oak Street get backed up a few blocks down from here when they are turning onto Highway 101, so having slower traffic all along Oak Street would not impact cars very much and would make the streets much safer for bikers and pedestrians. Also, it seems the most dangerous places for bikers along Oak and Fell Streets are at intersections where cars and bikes are making turns, not along straight-aways. Separated bike lanes would not improve the potential collisions between cars and bikes at intersections.
- 2) In addition to Oak and Fell Street bike lanes, a bike lane could be constructed on Hayes Street to accommodate bikers who don't feel comfortable biking on Oak and Fell Streets. The topography on Hayes Street between Baker and Scott Streets is similar to Oak and Fell Streets so bikers wouldn't have to climb hills getting to and from the Wiggle. Or bikes could get onto Page Street somewhere along the panhandle (west of Baker Street) where the grade from Oak to Page Street is less than it is on Baker between Oak and Page Streets.

While these ideas may be considered inconvenient to bikers and car drivers occasionally riding through the area, I hope you consider again the impact the separated bike lanes will have on people living in the neighborhood. The loss of access to people's homes living on Oak Street, (as well as the potential loss of business for neighborhood merchants due to parking issues) and the loss of a significant number of parking spaces in an area that where parking is already challenging should not be overlooked nor its impact minimized in bringing more bike lanes to San Francisco.

Sincerely,

Joan Czaia



**Evans, Derek**

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**From:** Board of Supervisors  
**Sent:** Thursday, December 06, 2012 2:00 PM  
**To:** BOS-Supervisors; Evans, Derek  
**Subject:** File 121118: Oak & Fell Bike Lane Project

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**From:** Thor Hibbeler [thorhibbeler@sbcglobal.net]  
**Sent:** Thursday, December 06, 2012 10:16 AM  
**To:** Board of Supervisors  
**Subject:** Oak & Fell Bike Lane Project

I am writing to oppose the Oak & Fell bike lane project, as currently assessed and configured.

Specifically, this project requires additional study of the potential environmental impacts by a 3rd party entity. Without this additional assessment the City will subject itself to potential litigation and likely end up having to perform this additional environmental work anyway.

Sincerely,

Thor Hibbeler  
1910 Fell  
SF, CA

Evans, Derek

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From: Board of Supervisors  
Sent: Wednesday, December 05, 2012 1:18 PM  
To: BOS-Supervisors; Evans, Derek  
Subject: File 121118: Oak/Fell Bike lane

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From: chelsea shields [chelsea\_shields@yahoo.com]  
Sent: Tuesday, December 04, 2012 11:05 PM  
To: Board of Supervisors; Lee, Mayor  
Subject: Oak/Fell Bike lane

Dear supervisors and Mayor Lee:

I just wanted to write and confirm that I enthusiastically support the traffic and parking modifications that are underway on Oak and Fell. I am a resident that lives directly on Oak and street parks my car. Although we will lose a few parking spots I think the proposed changes will significantly improve the safety for bikers on these few blocks and that this is FAR more important than the parking concerns. I moved from Portland OR and am a bike commuter here as well as in Portland. We found that the "green" biker boxes and road demarcations hugely improve(d) driver awareness.

Thank you for your commitment to support city and traffic modifications that improve biker safety and promote alternative commuting!

Best Regards,

Chelsea S Bahney

---

1235 Oak Street, Apt #1  
San Francisco, CA 94117  
503-333-3991  
[chelsea\\_shields@yahoo.com](mailto:chelsea_shields@yahoo.com)

**Oak/Fell Bike lane**

chelsea shields [chelsea\_shields@yahoo.com]

Sent: Tuesday, December 04, 2012 11:05 PM

To: Board of Supervisors; Lee, Mayor

File 121118

Dear supervisors and Mayor Lee:

I just wanted to write and confirm that I enthusiastically support the traffic and parking modifications that are underway on Oak and Fell. I am a resident that lives directly on Oak and street parks my car. Although we will lose a few parking spots I think the proposed changes will significantly improve the safety for bikers on these few blocks and that this is FAR more important than the parking concerns. I moved from Portland OR and am a bike commuter here as well as in Portland. We found that the "green" biker boxes and road demarcations hugely improve(d) driver awareness.

Thank you for your commitment to support city and traffic modifications that improve biker safety and promote alternative commuting!

Best Regards,

Chelsea S Bahney

1235 Oak Street, Apt #1  
San Francisco, CA 94117  
503-333-3991  
chelsea\_shields@yahoo.com



**Hearing Notice - Fell and Oak Streets Bikeways Project**

hlchabner, ellen.robinson, BOS-Supervisors,  
Joy Lamug to: BOS-Legislative Aides, Jon Givner, Julia  
Friedlander, Kate Stacy, Marlena Byrne, Audrey  
Cc: Angela Calvillo, Rick Caldeira, Erica Dayrit  
Bcc: "Lamug, Joy"

11/29/2012 03:40 PM

Good Afternoon,

Please find the attached Notice of Public Hearing for an appeal of Determination of Exemption from Environmental Review for the San Francisco Municipal Transportation Agency's Fell and Oak Streets Bikeways Project.



Hearing Notice Fell Oak Sts Bikeways Project.pdf

Thanks,

Joy Lamug  
Board of Supervisors  
Legislative Division  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102  
Tel: 415.554.7712  
Fax: 415.554.7714  
Email: joy.lamug@sfgov.org

MONDAY DEADLINE: Departments must submit electronic version of legislation by 9:00 am with original and 4 copies to be submitted by 12:00 noon.

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below.  
[http://www.sfgov.org/site/bdsupvrs\\_form.asp?id=18548](http://www.sfgov.org/site/bdsupvrs_form.asp?id=18548)

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

### BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO


NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

- Date:** Tuesday, December 11, 2012
- Time:** 4:00 p.m.
- Location:** Legislative Chamber, Room 250 located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102
- Subject:** File No. 121118. Hearing of persons interested in or objecting to the Planning Department's determination dated October 4, 2012, Case No. 2011.0836E, that the San Francisco Municipal Transportation Agency's Fell and Oak Streets Bikeways Project is exempt from environmental review under the California Environmental Quality Act (CEQA), Classes 1 and 4 (State CEQA Guidelines Sections 15301(c) 15304(h)). The proposed work involves removing parking lanes and adding bike lanes, as well as other related changes to Fell and Oak Streets between Baker and Scott Streets. (District 5) (Appellants: Mark Brennan, Howard Chabner, and Ted Loewenberg) (Filed November 2, 2012).

Pursuant to Government Code Section 65009, notice is hereby given, if you challenge, in court, the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be

made part of the official public record in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on Thursday, December 6, 2012.



Angela Calvillo  
Clerk of the Board

DATED: November 28, 2012  
POSTED/MAILED: November 30, 2012



# SAN FRANCISCO PLANNING DEPARTMENT

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

**MEMO**

## Appeal of a Categorical Exemption

2012 DEC -7 AM 11:25

**DATE:** December 7, 2012

**TO:** President David Chiu and Members of the Board of Supervisors  
Angela Calvillo, Clerk of the Board of Supervisors

**FROM:** Bill Wycko, Environmental Review Officer - (415) 575-9048  
Brett Bollinger, Case Planner - (415) 575-9024

**RE:** BOS File No. 121118 [Planning Department Case Nos. 2011.0836E]  
Supplemental Appeal Letter Response - Appeal of Categorical  
Exemption for the SFMTA Fell & Oak Streets Bikeways Project

**PROJECT SPONSORS:** San Francisco Municipal Transportation Agency (SFMTA)

**HEARING DATE:** December 11, 2012

**ATTACHMENTS:** Supplemental Appeal Letter (December 3, 2012)

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

### INTRODUCTION

This memorandum is a response ("Supplemental Appeal Response") to a supplemental letter of appeal ("Supplemental Appeal Letter"; Attachment A) submitted on December 3, 2012, by the Appellant to the Board of Supervisors (the "Board") regarding the issuance of a categorical exemption certificate under the California Environmental Quality Act ("CEQA Determination") for the proposed Fell and Oak Streets Bikeways Project (the "Project") by the Planning Department (the "Department") on October 4, 2012. Department staff submitted an appeal response memorandum on December 3, 2012 ("Original Appeal Response"), addressing concerns raised in the original, November 2, 2012, letter of appeal ("Original Appeal Letter"). The CEQA Determination and the Appeal Letter were included in the Original Appeal Response as Attachments A and C, respectively. The San Francisco Municipal Transportation Agency Board's ("SFMTAB") resolution approving the Project was included as Attachment B.

The Original Appeal Response summarized the project description and set forth why the Project is appropriately exempt under CEQA Guidelines Section 15301(c) or Class 1(c), and Section 15304(h) or Class 4(h). It also addressed most of the concerns raised in the Supplemental Appeal Letter. The following information is intended to clarify and provide more detail about the issues raised by the Appellant and does not change the Department's determination that the Project would not result in significant impacts to the physical environment and therefore, is appropriately exempt from environmental review.

As noted in the Original Appeal Response, the decision before the Board is whether to uphold the Department's decision to issue a categorical exemption and deny the appeal, or to overturn the Department's decision to issue a categorical exemption, uphold the appeal, and return the Project to the Department staff for additional environmental review.

## APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

In general, the Supplemental Appeal Letter does not raise any new primary concerns, but expands upon previously raised concerns in the Original Appeal Letter. This new information is summarized below, followed by the Department's response. The concerns are numbered beginning with "Issue 11" to reflect the numbering of the issues addressed in the Department's Original Appeal Response, which ended with "Issue 10".

In determining the significance of environmental effects caused by a project, CEQA State Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA State Guidelines 15604(f)(5) offers the following guidance: "Arguments, speculations, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

### Issue 11:

**Air Quality:** "Increase pollution, including greenhouse gases and toxic air contaminants (TAC) emitted by motor vehicles, because of the increased traffic, congestion and idling of vehicles."

### Response 11:

As discussed in the Original Appeal Response, implementation of the proposed Project would not result in any new traffic volumes being added to the roadway network; therefore, there would be no change in the intersection volume between existing conditions and existing plus Project conditions, and the Project would not result in, or contribute substantially to, violations of air quality standards. Furthermore, bicycling has no associated emissions and the proposed Project can reasonably be expected to marginally reduce emissions by shifting a portion of motor vehicle trips to bicycle trips and thus, implementation of the Project would have no impact with respect to air quality and would not contribute to a cumulative impact. Further, as detailed in the Certificate of Determination, the Level of Service ("LOS") at the study intersections would remain at acceptable levels (LOS D or better) with implementation of the Project. In fact, none of the study intersections are expected to operate below LOS C either under Existing Plus Project of 2035 Cumulative Plus Project conditions. This result makes sense in that the Project would not reduce roadway capacity on Fell Street and would reduce roadway capacity on Oak Street by only one lane for two hours out of the day. The LOS at other intersections in the study area would be expected to remain similar to existing conditions. As such, increases in congestions are not anticipated as a result of the Project.

The Project site is not located within an identified air pollution hot spot and any emissions as a result of construction activity would be temporary and variable in nature and would not be expected to expose sensitive receptors to substantial long-term toxic air pollutants nor would construction activities be expected to exceed ambient air quality standards. Therefore, operational and construction period emissions would not result in an air quality impact.



**Issue 12:**

**Emergency Vehicle Access:** "Besides the impact of overall congestion described above in the area, emergency vehicle access, especially for firefighting vehicles, is likely to be impeded by the numerous bulbouts, including double bulbouts."

**Response 12:**

All bulbouts included in the project are designed to allow emergency response vehicles to execute turns and access fire hydrants. This project was presented to the Transportation Advisory Staff Committee (TASC) on April 26, 2012. The committee consists of staff from various City agencies, including the SFMTA, SFFD, SFPD and DPW. TASC is an advisory committee, so it does not have formal authority to approve a project. A project overview was given, and members of the committee asked questions and commented on the proposal to install a buffered bikeway, bulbouts, traffic islands and other related improvements on Oak and Fell between Baker and Scott.

The buffered bike lane is specifically designed to allow for temporary infrequent use of the space for necessary activities like street sweeping, emergency vehicle access, construction, and taxi and paratransit passenger loading and unloading. The flexible design includes traffic islands that are sporadically located eight feet or more from the edge of the curb and a five foot wide buffer space between the bike lane and travel lanes. If vehicles or objects are blocking the bike lane cyclists can maneuver in the buffer space to avoid the obstruction without having to ride in the traffic lane.

In addition to the preliminary review conducted by TASC, the Fire Department, along with other City Agencies, reviews the details of proposals that modify sidewalks as part of the 'sidewalk legislation process'. In accordance with the Department of Public Works' Order No. 172, 512, the BOS must approve changes to the City's sidewalks. As part of this approval, public agencies and private contractors submit necessary plans and information to the Bureau of Street Use and Mapping ("BSM"), a division of the Department of Public Works, for review and approval. The BSM refers the plans to many City Agencies, including the Department of Public Health, Fire Department, Port, SFPUC as well as outside utility companies, including PG&E and a number of telecommunications infrastructure providers. This review ensures that any safety issues, including emergency access, are resolved prior to permit issuance.

**Issue 13:**

**Parking:** "The loss of street parking would be a major hardship (not an "inconvenience" as MTA staff has characterized it) for residents, merchants, customers and visitors.....Even under a narrow view of environmental impact, as the Planning Department has taken in the Certificate, there would be a significant environmental impact of cars circling looking for parking - congestion, idling, pollution, and traffic on the side streets would all be increased."

**Transit:** "congestion caused by drivers circling the area looking for parking, and by people picked up and dropped off on nearby streets because they can't be on Fell and Oak, may also have an adverse impact on the 21 Hayes bus, which is already an extremely slow bus line, and on the 6 Parnassus, 16X, 33 Stanyan and 71 Haight-Noriega. Although eliminating two stops in each direction is likely to improve running time for the 21 Hayes, this is likely to more than offset by these congestion impacts."

**Response 13:**

As stated in the Categorical Exemption Certificate of Determination issued for the Project, the net loss of 55 parking spaces would not result in a significant environmental impact because parking is not considered to be environmental impacts under CEQA or the *CEQA Guidelines*, but rather a social impact. The significance criteria used by the City and County of San Francisco Planning Department for the determination of impacts associated with proposed projects do not include criteria for the amount of available parking, and parking as a transportation significance criterion threshold was removed from the *CEQA Guidelines* in 2010. Further, the relatively small reduction in parking supply (55 spaces out of 590 spaces or 9 percent) is not expected to result in appreciable change to the overall traffic volumes, and by extension in the LOS, in the project vicinity even if some portion of the drivers circled around blocks more than under existing conditions due to the constrained parking supply.<sup>1</sup>

The Appellant also claims that car circling would impact Muni bus lines on adjacent streets due to the removal of on-street parking along Fell and Oak streets. The Project analysis indicated that all study intersection would continue to operate at acceptable LOS levels and any increase in delay at intersections would be minimal, if any. As stated in the Categorical Exemption, "the increase of average delay of 18 seconds on Oak Street and two (2) second of average delay decrease on Fell Street as a result of the proposed Project would not result in an unacceptable level of transit service or cause a substantial increase in delays or operating costs. Therefore, the proposed project would not have any significant transit impacts on the 16X route under Existing Plus Project conditions." For the 21 Hayes Muni bus line, the Categorical Exemption concluded that "the removal of two stops on either side of the street would improve bus running times under the Existing Plus Project conditions. Therefore, no significant transit impacts on the 21 Hayes route would occur." As previously discussed, the Project would not result in substantial roadway capacity reductions such that traffic redistribution to side streets would occur, particularly given that the side streets (Hayes, Page, etc.) are mostly stop-controlled except for the intersections with Divisadero Street and Hayes/Baker streets intersection, whereas Oak and Fell streets are traffic light-controlled and timed for progression in the peak direction. The reduction in parking supply would also not result in appreciable change to the overall traffic volumes, and by extension in the LOS, in the project vicinity. As such, Muni lines 71/71L Haight/Noriega and 6 Parnassus would not operate any slower than under existing conditions. The 33 Stanyan does not operate in the project area.

As stated in the Categorical Exemption Certificate of Determination, the proposed Project LOS calculations for Existing Plus Project and Cumulative conditions indicate that all intersections would operate at acceptable LOS levels for the AM and PM Peak Hours. Therefore, the proposed Project would not have any significant traffic impacts on Muni bus lines with implementation of the Project.

**Issue 14:**

**Loading:** "Loading and unloading will be made much more difficult for everyone along Fell and Oak in the Project area, and impossible for some. Residents, especially those who don't have driveways, won't be able to be picked up or dropped off in front of their homes. This will be a hardship and safety risk for everyone, but especially seniors, disabled people and families with small children.....Similarly, it will be

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<sup>1</sup> The Project is converting an AM peak hour tow-away lane on Oak Street to an all-day parking lane. Thus, the supply of parking between the hours of 7 a.m. and 9 a.m. will increase along this stretch of Oak Street.

much harder for residents and merchants in the area, especially those on Fell and Oak, to move in and out."

**Response 14:**

Residential moving trucks would not have access to load from the bike lane on both Fell and Oak Streets. Residents would be allowed to load from the nearest travel lane during off-peak times of day, similar to allowances made for other residences in the city that do not have parking immediately adjacent to their property. Currently, residents without driveways do not have a guarantee that they will be able to be "picked up or dropped off in front of their homes" since parking is usually occupied. Under existing conditions, when parking is occupied, pick up and drop off must take place from the travel lane or from an adjacent driveway. The project does not alter this condition.

The buffered bike lane is specifically designed to allow for temporary infrequent use of the space for necessary activities like street sweeping, emergency vehicle access, construction, and taxi and paratransit passenger loading and unloading. The flexible design includes traffic islands that are sporadically located eight feet or more from the edge of the curb and a five foot wide buffer space between the bike lane and travel lanes. If vehicles or objects are blocking the bike lane cyclists can maneuver in the buffer space to avoid the obstruction without having to ride in the traffic lane.

**Issue 15:**

**Categorical Exemption Class 1 & Class 4 Determination:** "THE PROJECT IS NOT CATEGORICALLY EXEMPT UNDER THE CEQA EXEMPTION FOR EXISTING FACILITIES.....THE PROJECT IS NOT CATEGORICALLY EXEMPT UNDER THE CEQA EXEMPTION FOR MINOR ALTERATIONS"

**Response 15:**

Appellant claims that the Project does not qualify for a Class 1 exemption under *CEQA Guidelines* Section 15301 – Existing Facilities. The Project would be a minor alteration of the existing street. Generally, on Fell Street, the Project reallocates right-of-way from an existing parking and bicycle lanes to a bicycle lane and buffer. The Project also adds several landscape traffic islands, sidewalk bulbouts, and advance limit lines on both Fell and Oak streets. Thus, the exemption applies to the "minor alteration" of "existing streets." Both Fell Street and Oak Street are considered "existing streets" within the City and County of San Francisco. The changes contemplated by the Project are considered minor or negligible. Prohibiting parking to accommodate the bicycle lane would be a minor alteration of the right-of-way. The existing parking supply in the area bounded by Scott, Hayes, Baker and Page streets is approximately 590 on-street parking spaces. Existing off-street parking would not be affected. The Project would remove approximately 101 existing on-street spaces, and create an additional 46 spaces by converting parallel parking to angled parking and converting current bus zones to parking. The net loss of 55 on-street spaces (approximately 9 percent) in the area would be considered a minor decrease in the amount of parking supply in the area. In addition, the traffic islands, sidewalk bulbouts and advance limit lines would be considered minor alterations to the existing street or right of way due to their small size and negligible change to the existing transportation facility.

The California Environmental Quality Act (CEQA) Guidelines Section 15301(c) or Class I(c), provides for exemption from environmental review for minor alterations to "existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities." Therefore, implementation of bulbouts, traffic

islands, advance limit lines, on-street parking changes, and the enhancement of the existing Fell Street bike lane would be appropriate within the definition of a CEQA Guidelines Class 1 Categorical Exemption.

Appellant claims that the Project does not qualify for a Class 4 exemption under CEQA Guidelines section 15304 – Minor Alterations to Land. This section exempts activities involving the “minor public or private alteration in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples include, but are not limited to: (h) the creation of bicycle lanes on existing rights-of-way. Section 15304(h) or Class 4(h) provide for exemption from environmental review for “creation of a new bicycle lane on existing rights-of-way”. Therefore, the implementation of a new bike lane and buffer within the existing Oak Street right-of-way would be appropriate within the definition of the CEQA Guidelines Class 4 Categorical Exemption.

**Issue 16:**

**Hayes and Page streets bikeways consideration:** “It has been clear throughout the process that MTA did not seriously consider any alternatives to the Project, such as proposals by the Haight Ashbury Improvement Association and others for a bike route on Page Street (especially Eastbound) and Hayes Street (especially Westbound).”

**Response 16:**

The Appellant’s comments do not relate to the adequacy of the categorical exemption determination and therefore no response is required. However, for information purposes the following provides a summary of the rationale for locating the Project on Fell and Oak streets.

Throughout the SFMTA community outreach process members of the public reported that Page Street and Hayes Street are less desirable bike routes compared to Oak and Fell streets because they do not offer a direct connection to the Panhandle bike path and they require cyclists to encounter hills. Also, Page Street and Hayes Street have “STOP” signs at every intersection, while Oak and Fell have coordinated traffic signals. Cycling on Hayes Street instead of Fell Street takes about 20 percent longer, and riding on Page Street instead of Oak Street takes roughly 30 percent longer according to SFMTA field observation. Due to Oak and Fell streets being the flattest and most direct route, SFMTA bicycle counts reflect that more than twice as many people choose to ride on Oak Street compared to Page Street and roughly fourteen times as many people prefer to ride on Fell Street compared to Hayes Street.<sup>2</sup> Directing cyclists to use a less desirable route would not achieve the SFMTA project goal of attracting people with a range of cycling comfort levels to ride more often. Furthermore, creating bike lanes on Page or Hayes streets would require extensive parking removal on those streets.

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<sup>2</sup> SFMTA, *Manual Bicycle Screenline Counts*, June 2012. The report is on file and available for public review as part of Project File No. 2011.0836E at the San Francisco Planning Department, 1650 Mission Street, 4th Floor.

**Issue 17:**

**Unusual Circumstances:** "There is a reasonable possibility that this Project will have a significant effect on the environment due to unusual circumstances; therefore, per Section 15300.2(c), this precludes use of categorical exemptions.....The population and traffic density, central location, unique nature of the neighborhood, complexity, and indispensable nature of the corridor to and from Highway 101, together constitute unusual circumstances."

**Response 17:**

The Project was reviewed on a project-specific basis and was determined to fit within Class 1 and Class 4 categorical exemption. The analysis concluded that there was no reasonable possibility that the Fell and Oak Streets Bikeway Project would result in a significant environmental impact under CEQA due to unusual circumstances, or due to cumulative impacts from successive projects of the same type in the same place. Therefore, the Department determined that a categorical exemption is appropriate.

Section 15300.2 of CEQA State Guidelines directs that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will: a) have a significant effect on the environment due to unusual circumstances; b) result in cumulative impacts; c) result in damage to scenic resources; c) be located on a hazardous waste site; and/or d) cause substantial adverse change in the significance of a historical resource. As described throughout Original Appeal Response, there is no substantial evidence to suggest that there exists a reasonable possibility of any significant direct or cumulative environmental effects, either from usual or unusual circumstances. The Project would not cause significant environmental effects nor would it contribute to cumulative impacts in a considerable way. Therefore, the proposed Project is appropriately categorically exempt from the provisions of CEQA.

The "population and traffic density, central location, unique nature of the neighborhood, complexity, and indispensable nature of the corridor to and from Highway 101, together constitute unusual circumstances," would not be considered unusual circumstances, particularly in San Francisco. The population and traffic density in the area can be found throughout San Francisco, which consists of numerous unique neighborhoods. Although Fell and Oak Streets are centrally located and are corridors providing access to and from Highway 101, these circumstances would not be considered unusual in the urban transportation context of San Francisco which provides numerous routes widely used to access area freeways. Moreover, the Project would not have any significant traffic impacts due to these circumstances, even if considered "unusual" under CEQA.

**Issue 18:**

**Cumulative Impacts:** "the Project, together with the bicycle boulevard project on Masonic Avenue approved by the MTA Board, would have significant cumulative impacts.....Because of the close proximity of the Project to the Masonic project, the cumulative impact of both projects must be considered together."

**Response 18:**

Cumulative impacts occur when impacts that are significant or less than significant from a proposed project combine with similar impacts from other past, present, or reasonably foreseeable projects. The geographic context for cumulative impacts is the streets (public right-of-way) and their vicinity affected

by the Project. There are no known proposed or reasonably foreseeable projects within the vicinity of the Project that could combine to create significant environmental effects.

The Masonic Avenue Bicycle Lanes, Fell to Geary Streets Project (Project 3-2 from the Bicycle Plan Environmental Impact Report) was recently adopted by the SFMTA Board on September 18, 2012. That project consists of would provide two full-time vehicle travel lanes in each direction from Geary Boulevard to Fell Street, removing parking on both sides of the street and similarly removing the alternating peak hour (northbound in AM peak period; southbound in PM peak period) travel lane; replacing this roadway right-of-way with a separated bike lane (sometimes grade separated, sometimes adjacent but separated (at intersections) and a landscaped center median all along Masonic Avenue. The design would also install transit bulbs at all existing bus stops, relocate one southbound bus stop at Fulton Street from the nearside to the farside of the intersection. The design would also install corner pedestrian bulbouts at all intersections and enhance sidewalks with additional landscaping and wider widths in locations. Left turn restrictions from Masonic Avenue would remain the same as under existing conditions (no left turns during peak periods (7-9 a.m. and 4-7 p.m.) at Hayes, Grove, Fulton, Golden Gate Avenue and Turk Streets). Left turns would continue to be allowed at O'Farrell/Anza Streets and from Masonic Avenue onto Geary Boulevard. With the exception of an additional PM peak southbound right-turn lane at Fell Street, turning lanes and pockets on Masonic Avenue would remain the same as under existing conditions.

The Bicycle Plan FEIR identified existing and cumulative conditions for signalized intersections along the Masonic Avenue corridor between Fell Street and Geary Boulevard. Minor project changes were proposed after certification of the EIR, and an Addendum was prepared, which demonstrated that the final project design would not result in significant traffic impacts that were not previously identified in the Bicycle Plan FEIR.<sup>3</sup>

The Masonic Avenue Bicycle Lane project and the Project are separated by three blocks between Fell and Baker streets and Fell and Masonic streets. The boundaries do not overlap, and there are no common intersections between the two projects. Thus, as discussed in the Categorical Exemption Certificate Determination, the Project would not result in cumulatively considerable contributions to any impacts. Therefore, the issuance of the categorical exemption is appropriate.

**Issue 19:**

**Previous Traffic Studies:** "In contrast, two recent major projects in the area were required to do thorough traffic studies. The Falletti's development, which is in the Project area, performed an extensive traffic study in support of a negative declaration. The Whole Foods project, near the area, did a full EIR, including two traffic studies, one in the winter and one in the spring."

**Response 19:**

The Falletti's (at the corner of Fell and Broderick streets) transportation study was initiated in 2001 for a proposed project that would demolish a single-story, 10,000 square feet (sf) structure and construct a

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<sup>3</sup> Masonic Avenue Bicycle Lanes, Fell to Geary Street, Addendum to Environmental Impact Report, Planning Department Case No. 2011.0935E, June 28, 2012.

Planned Unit Development containing 125 units with 15,329 sf of retail and 171 off-street parking spaces. The Whole Foods project is located at Haight and Stanyan Streets, approximately 10 blocks from the project site. The transportation study for that project was initiated in 2006 for a proposed project that would demolish one-story retail building and construct a new 62 unit residential structure with 34,400 sq. ft. of ground floor retail and two stories of underground parking with 176 parking spaces. Both projects fell within the San Francisco Planning Department's Environmental Review Guideline requirements to prepare a transportation study due to their size and the potential to generate a substantial number of trips.

The Fell and Oak streets Project is proposing the enhancement of the bicycle lane on Fell Street, a new bicycle lane on Oak Street, removal of parking on one side of each street, and the addition of bulbouts, traffic islands, and advance limit lines. The Project would not generate any additional traffic trips or substantially reduce the roadway capacity, and would not significantly alter the transportation network. This finding is supported by the traffic analysis conducted for the Project. The traffic analysis was conducted by a licensed SFMTA traffic engineer and reviewed by another licensed SFMTA traffic engineer. It was subsequently thoroughly reviewed by two Planning Department transportation planners. If the analysis were to be conducted by a private consultant as part of a Transportation Impact Study, similar to the ones done for projects cited by the Appellant, it would show the same LOS results as presented in the Categorical Exemption Certificate of Determination. In other words, the Planning Department required the same level of traffic analysis to be conducted by the SFMTA as it would require of private consultants.

## CONCLUSION

The Appellant has not raised any new issues relative to CEQA review that were not previously addressed in the categorical exemption, nor has the Appellant provided any substantial evidence to refute the conclusions of the Department with respect to the Project's physical environmental effects under CEQA.

The Department conducted an in-depth and thorough analysis of the proposed Fell and Oak Streets Bikeways project pursuant to the *CEQA Guidelines*. The Appellant has not submitted any evidence that the Project would result in individual or cumulative impacts under CEQA not already discussed and analyzed in the categorical exemption. For the reasons stated above, the Department finds that the categorical exemption complies with the requirements of CEQA, the *CEQA Guidelines* and Chapter 31 of the *San Francisco Administrative Code*. The Department, therefore, recommends that the Board uphold the categorical exemption and deny the appeal.

**Supplemental Appeal Letter (December 3, 2012)**



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**MEMORANDUM IN SUPPORT OF APPEAL  
TO THE SAN FRANCISCO BOARD OF SUPERVISORS  
OF MTA BOARD APPROVAL  
AND SF PLANNING DEPARTMENT CEQA EXEMPTION DETERMINATION  
OF OAK AND FELL BIKE LANE PROJECT**

**INTRODUCTION**

This is a Memorandum in Support of the Appeal by appellants Mark Brennan, Howard Chabner and Ted Loewenberg ("Appellants") of the October 16, 2012 actions of the San Francisco Municipal Transportation Agency ("MTA") Board of Directors approving the Oak and Fell Pedestrian and Bicycle Safety Improvements project (the "Project") and of the San Francisco Planning Department's October 4, 2012 Categorical Exemption of the Project from environmental review.

Appellants filed a Notice of Appeal with the Clerk of the Board of Supervisors on November 2, 2012, and included copies of the MTA Board's October 16, 2012 Resolution #12-129 (the "MTA Resolution") and the Planning Department's October 4, 2012 Certificate of Determination regarding Categorical Exemption (Exemption from Environmental Review for the MTA Fell & Oak Streets Bikeways Project - Case No. E011.0836E) (the "Certificate").

**PROJECT DESCRIPTION**

The Project is located in a densely populated residential, commercial and tourist area in the heart of San Francisco. The Project would make major changes on Oak, Fell, Baker and Scott Streets. Fell, which is one-way Westbound, and Oak, one-way Eastbound, together

comprise one of San Francisco's most vital and heavily trafficked East-West thoroughfares, carrying a combined more than 60,000 motor vehicles per day. (Since many vehicles carry more than one person, the number of drivers and passengers affected by the Project will be many more than 60,000 per day.) They are the major thoroughfares leading to (Oak) and from (Fell) the Octavia Boulevard entrance and exit for Highway 101. This is also a major pedestrian area with a large amount of pedestrians traveling up and down Oak and Fell Streets towards Divisadero and downtown, or vice versa to the Panhandle and the Haight. The Project area also includes Divisadero Street, a major North-South thoroughfare and commercial street that includes many stores, restaurants, cafés, a hotel and other small businesses.

The Project would:

Create a bike lane and 5-foot wide buffer strip on the South side of the three blocks of Oak from Scott to Baker, where no bike lane or buffer strip currently exists.

Move the bike lane that currently exists on the South side of the three blocks of Fell from Scott to Baker to the curb lane, where no bike lane currently exists, and add a 5-foot wide buffer strip where no buffer strip currently exists.

In the buffer strips construct concrete raised, planted traffic islands, as close as approximately 10 feet from residential and commercial driveways, and next to abundant moving traffic.

~~Remove all existing parking lanes on the South side of three blocks of Oak and the South side of three blocks of Fell (in each case from Scott to Baker), resulting in the loss of 88 street parking spaces on Oak and Fell, in addition to parallel parking in front of driveways on those streets which are currently being used as parking spaces by residents of the buildings.~~

Remove over 100 feet (five metered parking spaces) of yellow zone (commercial loading and unloading) parking on Oak.

Remove certain white zone (passenger loading and unloading) parking spaces on Oak and Fell.

Narrow the parking lane on the North side of Oak.

Construct 12 concrete bulbouts on various corners of Oak and Fell, many of which are double bulbouts.

Result in the loss of 13 street parking spaces on Oak and Fell to make room for the bulbouts.

Reduce the number of travel lanes on Oak during morning rush hour (7 AM to 9 AM) from four to three, a 25% reduction.

Reduce the number of travel lanes on Baker between Oak and Fell from two lanes in each direction to one lane in each direction plus one lane with exclusive left turn pockets.

Convert parallel street parking spaces on one side of certain blocks of Baker and Scott to back-in angled parking (Baker between Fell and Oak) or perpendicular parking.

Change or add various traffic signals at Oak/Baker and Oak/Broderick, and add turn pockets at several locations on Oak.

Establish a left turn only lane on Eastbound Oak at Baker.

(Except for the introductory paragraph, the above descriptions are from the Certificate.)

### PROJECT IMPACTS

As described in numerous public testimonies, including comments at meetings and hearings, and in correspondence, the Project will have the following impacts:

Threaten the safety of bicyclists and motorists. Encouraging cycling on high-speed, heavy volume streets such as Oak and Fell is unsafe. Cars and bikes often don't remain in their lanes. Many cyclists refuse to use lights at night and are difficult for motorists and pedestrians to see. Cyclists will also be at risk from motor vehicles backing out with poor visibility from ~~driveways and garages on Oak and Fell, plus other motorists using the bike lane to load and~~ unload passengers and packages. All of this will be made more difficult by the raised planters as close as a bit more than 10 feet away from driveways, which will further reduce visibility, making it more difficult to pull out of driveways, and in many cases will force residents to block the bicycle lane while waiting to back out into heavy traffic. Moreover, unlike on low volume streets such as Page and Hayes, cars pulling out of driveways on Oak and Fell are only able to do so when motor vehicle traffic is stopped by a red light. Given the fact that many cyclists do not obey traffic signals, vehicles could be pulling out of driveways when they do not expect any traffic, only to tragically hit (or be hit by) an unexpected cyclist. Currently, Page and Hayes, located just one block from Oak and Fell, respectively, are designated as bike transit streets and are used by many bicyclists each day.

Jeopardize pedestrian safety by concentrating more cyclists in busy pedestrian intersections. Many cyclists go through red lights, don't use lights at night, text or use cell phones while cycling, and disobey other traffic safety laws, yet San Francisco is notoriously lax in enforcing traffic safety laws against cyclists.

Increase traffic, congestion and idling of vehicles because of the reduction in travel lanes on Oak during morning rush hour, the reduction in travel lanes on Baker between Fell and Oak, the left turn only lane on Eastbound Oak at Baker, the numerous bulbouts that make it more difficult to turn, the loss of many street parking spaces, the loss of yellow zone and white zone parking, the conversion of parallel parking into back-in angled parking and perpendicular

parking (which takes longer and is more complex than parallel parking), and the changes to traffic signals.

Increase pollution, including greenhouse gases and toxic air contaminants (TAC) emitted by motor vehicles, because of the increased traffic, congestion and idling of vehicles. Fell and Oak are predominately residential in the Project area, and residences are considered sensitive receptors for the purposes of a TAC analysis. But to appellants' knowledge, MTA has not done a TAC analysis of the Project (if an analysis was done, it has not been disseminated to the public).

Jeopardize public safety by slowing down emergency vehicle response time. Besides the impact of overall congestion described above in the area, emergency vehicle access, especially for firefighting vehicles, is likely to be impeded by the numerous bulbouts, including double bulbouts. The Project was going to include a bulbout on Broderick and Oak near Falletti's Market, but at the MTA Board hearing on October 16, 2012, it was removed from the Project because MTA staff and the Board acknowledged that the bulbout would make it much more difficult, if not impossible, for Falletti's suppliers to drive their trucks around that corner. Suppliers would have to drive around the block and approach the building from the other direction in order to avoid the bulbout. If a bulbout would be an obstacle for delivery trucks, it would also be an obstacle for large fire trucks and engines. This would be especially problematic considering the Project would include 12 bulbouts clustered in nearby intersections in a dense, heavily trafficked area. Moreover the Project would make the entire situation more complex and congested, reducing the space for stationing fire vehicles and setting up firefighting equipment, and also reducing the space for civilian vehicles to pull over and get out of the way of fire vehicles.

The loss of street parking would be a major hardship (not an "inconvenience" as MTA staff has characterized it) for residents, merchants, customers and visitors. The existing street parking supply in the area bounded by Scott, Hayes, Baker and Page is approximately 590 spaces. (Certificate, pp. 10, 16.) The Project would mitigate the loss by converting street parallel parking to angled or perpendicular on some blocks of Baker and Scott (which would add 33 spaces), and by eliminating bus stops on Hayes (which would add 13 spaces). However, 11 of the spaces gained are outside the Project area (on Scott between Haight and Waller, and on Baker between Page and Haight). Assuming that these changes do not get reversed after implementation, there will be a net loss of around 11% ( $66 \div 590$ ) of the parking spaces in the Project area; if they get reversed, it would be more. (Some of the angled or perpendicular spaces may well be converted back to parallel because of the increased traffic complexity and additional time required to park. This is especially likely on Baker between Fell and Oak, because the traffic lanes will be reduced, the situation will be made more complex, there will be a higher volume of bicycles, and back-in angled parking is difficult and requires all motor vehicle and cycle traffic to stop.) Even under a narrow view of environmental impact, as the Planning Department has taken in the Certificate, there would be a significant environmental impact of cars circling looking for parking - congestion, idling, pollution, and traffic on the side streets would all be increased.

The parking loss will be an even greater hardship for residents and visitors at night. Street parking is already scarce in this neighborhood at night, and the Project would significantly worsen it. This is not an "inconvenience," but a **personal safety risk**, especially for vulnerable people - women, seniors, disabled people - who will have to park further from their residence or the place they are visiting. The risk to personal safety will especially increase for residents returning to their homes late at night, and for visitors returning to their cars late at night after visiting friends in the area.

The major parking loss will especially impact seniors and disabled people, who are limited in how far they can walk and how many streets they can cross (even with bulbouts). Some of the side streets South of Oak are steep and difficult for many seniors and disabled people to climb and to park on, which further adds to the impact of parking loss on seniors and disabled people.

Those who use wheelchair/scooter accessible minivans and vans with side ramps or lifts (the most common configuration) will be especially impacted, because in effect, all street parking spaces (except perpendicular and angled spaces, those on the driver's side of a one-way street, and, sometimes, those with sidewalk obstructions such as garbage cans or trees in the exact location of the ramp or lift) are accessible spaces. The Project would remove all street parking on the South side of Oak, which means that all of the wheelchair/scooter accessible parking spaces, and even the custom of temporarily pulling up parallel to open driveway spaces for those purposes, would be eliminated for those three blocks. Converting parallel parking into perpendicular or angled parking would also eliminate spaces that are currently usable by disabled people, ~~worsening the parking loss instead of mitigating it.~~ For the disabled and seniors it means that transport vehicles will have to double park and force them upon exiting the vehicle to dodge bicyclists, many of whom are traveling in groups and at speeds equal to those of vehicles.

Loading and unloading will be made much more difficult for everyone along Fell and Oak in the Project area, and impossible for some. Residents, especially those who don't have driveways, won't be able to be picked up or dropped off in front of their homes. This will be a hardship and safety risk for everyone, but especially seniors, disabled people and families with small children. Some will choose to park temporarily in the bike lane, potentially causing conflicts and even collisions among residents and bicyclists. Merchants will be heavily impacted because they rely on daily deliveries from suppliers. Suppliers will have to spend more time searching for parking, and will have to park further away, making deliveries more difficult and increasing costs. The loss of yellow zone parking will exacerbate these impacts. Merchants will also be impacted by the increased difficulty of their customers being able to find street parking, and by the increased difficulty of customers being picked up and dropped off. The loss of white zone parking will worsen these impacts. The churches will be impacted; churches in the area have objected to the Project.

It will be more difficult, costly and hectic for residents and merchants on Fell and Oak to have construction, maintenance, painting and similar work done on their homes and businesses. Consider, for example, how difficult, costly, time-consuming and even dangerous it would be to set up scaffolding on a building if the scaffolding truck could not park anywhere on the block

where the building is located. Having large contractors' vehicles circling the neighborhood looking for parking would further increase congestion, idling, pollution, and traffic on the side streets. Or, if temporary permits were issued for contractors to park on Fell and Oak, they would be blocking the bike lane and part of the buffer strip, putting cyclists at risk by forcing them into the adjacent traffic lane or the sidewalk. In many locations there might not even be space for contractors' vehicles because of the raised planters in the buffer strip.

Similarly, it will be much harder for residents and merchants in the area, especially those on Fell and Oak, to move in and out. Where would moving trucks park? Consider how difficult, expensive, time-consuming and even dangerous it would be if moving trucks had to park far from the building to or from which they were carrying large, heavy furniture, equipment, inventory and other items. As with contractors, if temporary permits were issued for movers to park on Fell and Oak, this would be dangerous for cyclists because the moving trucks would be blocking the bike lane and part of the buffer strip. Moving trucks are large, so there might not even be space for them because of the planters in the buffer strip.

The likelihood and impacts of double-parking would increase because of the impediments created by the Project. Delivery trucks, cars, taxis and other vehicles will double-park in the remaining travel lanes, causing sudden, unforeseeable stops due to blocking of travel lanes, with traffic having to change lanes to use the remaining travel lanes. It only takes one double-parked vehicle to cause serious back-ups, congestion, and dangerous conditions on major traffic corridors like Fell and Oak. Besides the danger to motorists and cyclists, this would increase pollution, and probably also noise from horns.

The increased congestion caused by drivers circling the area looking for parking, and by people being picked up and dropped off on nearby streets because they can't be on Fell and Oak, may also have an adverse impact on the 21 Hayes bus, which is already an extremely slow bus line, and on the 6 Parnassus, 16X, 33 Stanyan and 71 Haight-Noriega. Although eliminating two stops in each direction is likely to improve running time for the 21 Hayes, this is likely to be more than offset by these congestion impacts.

In sum, the likely impacts are significant, individually and cumulatively.

### **CEQA EXEMPTIONS MUST BE NARROWLY CONSTRUED, AND THE PROJECT'S IMPACTS ARE TOO GREAT FOR AN EXEMPTION**

The approval of the Project was an abuse of discretion and a failure to proceed as required by the California Environmental Quality Act ("CEQA") (Public Resources Code Sections 21000 *et seq.*). The categorical exemptions invoked by the Planning Department under 14 Cal. Code Regs. (the "Guidelines") Sections 15301(c) and 15304(h) do not apply, since the Project: (1) has the potential to degrade the quality of the environment; (2) has possible effects that are cumulatively considerable; and (3) will cause substantial adverse effects on human beings, either directly or indirectly. (Public Resources Code Section 21083(b).) Therefore the Project cannot be classified as categorically exempt. As described above, there is ample

evidence supporting a fair argument that the Project could cause direct, secondary, and cumulative impacts on traffic, air quality, public safety, parking, loading, disability access, transit and emergency services.

The claimed parking loss mitigations do not effectively mitigate the Project's impacts, and, in any event, cannot be used to claim a categorical exemption.

In *McQueen v. Mid-Peninsula Regional Open Space* (1988) 202 Cal. App. 3d 1136, the court reiterated that categorical exemptions are construed strictly, shall not be unreasonably expanded beyond their terms, and may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment.

### THE PROJECT IS NOT CATEGORICALLY EXEMPT UNDER THE CEQA EXEMPTION FOR EXISTING FACILITIES

The Project does not qualify for an exemption under Guidelines Section 15301 (also referred to as "Class 1"), the Existing Facilities exemption. That exemption is for the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination." (Emphasis added.) "The key consideration is whether the project involves negligible or no expansion of an existing use." The Certificate asserts that the Project is exempt under 15301(c) "Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails and similar facilities..." (Emphasis added.)

There is no bike lane existing on Oak, so the exemption asserted, example (c), could not even arguably apply to Oak.

On both Oak and Fell, the existing conditions in the locations where bike lanes would be installed consist of parking lanes, not bicycle lanes. A parking lane, as defined in California Streets & Highways Code Section 5871(c), is "a paved area adjacent to the curb which is used exclusively for on-street parking. It does not include any portion of the street used for through traffic or as a bicycle lane." (Emphasis added.) The "facility" does not meet this basic definition, since it would completely remove the parking lane and change its use to a separated bicycle lane for exclusive use of bicyclists. (S&H Code Section 890.4(a).) These definitions are mutually exclusive, and the Project involves a complete change of use - far more than "negligible."

The changes the Project would create are not minor alterations. Among other things, it would create bike lanes where none exist; create buffer strips on Oak and Fell with raised, planted traffic islands where none exist; reduce the number of travel lanes on Oak during morning rush hour; reduce the number of travel lanes on Baker between Oak and Fell; remove many street parking spaces; and impose other traffic changes that are cumulatively significant.

The policy entitled "Categorical Exemptions from CEQA" adopted by the San Francisco Planning Commission (Resolution No. 14952, August 17, 2000) lists items eligible for exemption under 15301(c). Item 7 (p.3) is:

"Repair and replacement of bicycle ways, pedestrian trails, and dog exercise areas, and signs so designating, where to do so will not involve the removal of a scenic resource. (Creation of bicycle lanes is covered under Class 4(h) below.)"

The Project does not involve repair and replacement of bicycle ways. Even more important, the list explicitly states that creation of bicycle lanes is covered under Class 4(h). (Class 4(h) refers to Guidelines Section 15304(h), discussed below.) Therefore, by the terms of San Francisco's own policy, the Project doesn't qualify for an exemption under 15301(c).

### THE PROJECT IS NOT CATEGORICALLY EXEMPT UNDER THE CEQA EXEMPTION FOR MINOR ALTERATIONS

For reasons similar to those with respect to the Existing Facilities exemption, the Project does not qualify for an exemption under Guidelines Section 15304 (also referred to as "Class 4"), the exemption for Minor Alterations. This exemption consists of "minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, except for forestry and agricultural purposes." (Emphasis added.) ~~The Planning Department has invoked 15304(h):~~ "creation of bicycle lanes on existing rights-of-way." (Emphasis added.) There is no existing right-of-way in the parking lanes on Oak and Fell for bicycle lanes, since the right-of-way in those parking lanes is exclusively for vehicles. (See S&H Code Section 5871(c).)

The Project includes 5-foot wide buffer strips along Fell and Oak, with raised, planted traffic islands, and the exemption asserted, example (h), does not even mention buffer strips or raised traffic islands.

Nor is the Project a minor alteration in the condition of land, water, and/or vegetation. Rather, it is a major alteration and change of use from parking lanes for exclusive use of parking vehicles to bicycle lanes for exclusive use of riding bicycles. It would also create buffer strips on Oak and Fell with raised, planted traffic islands where none exist; reduce the number of travel lanes on Oak during morning rush hour; reduce the number of travel lanes on Baker between Oak and Fell; remove many street parking spaces; and impose other traffic changes that are cumulatively significant.

If the removal of parking lanes or travel lanes, and their replacement with bicycle lanes, were automatically, categorically deemed a minor alteration that qualifies for this exemption, then it would be possible to remove all parking lanes and all travel lanes, replace all of them with bike lanes, and still qualify for the exemption - certainly an absurd result that is contrary to CEQA and the Guidelines.



## THE FAILURE TO CONDUCT ENVIRONMENTAL REVIEW OF THE PROJECT VIOLATES CEQA AND ITS PURPOSES

The Project is part of a larger project, the San Francisco Bicycle Plan (the "Bicycle Plan"). If it applies at all, a categorical exemption must apply to the whole Bicycle Plan project, not just one segment. See *Association for a Cleaner Environment v. Yosemite Community College District* (2004) 116 Cal. App. 4<sup>th</sup>, 629, 640. But the court has already held, in the *Coalition for Adequate Review* cases, that the Bicycle Plan is not categorically exempt.

The Environmental Impact Report ("EIR") for the Bicycle Plan did not specifically analyze the Project. The MTA Resolution attempts to skirt this defect by stating that the Bicycle Plan, which included a Long Term project on Oak between Baker and Scott, was analyzed at a programmatic level in the EIR. (MTA Resolution; penultimate preamble paragraph.) Literally, this means that the Bicycle Plan itself (not the Project) was analyzed only at a programmatic level, but even if the Project had been analyzed at a programmatic level, this would not be sufficient. Importantly, the Bicycle Plan EIR predates by several years the essential details of the Project, many of which were only finalized in recent months.

Clearly, the environmental impacts of introducing a bike lane and buffer strip on Oak from Baker to Scott were never studied, with regard to Levels of Service at signals, volumes of traffic (both bicycle and vehicle), flows and impacts resulting from bulbouts, parking removal, or ~~impacts on residents, visitors and businesses in the area.~~ In our opinion, such changes constitute major revisions of the status quo that more than warrant a complete and thorough CEQA analysis.

The Bicycle Plan EIR doesn't analyze the Project, but it does make faulty judgments about several issues regarding the segments of the Bicycle Plan that it does analyze, such as parking removal. The impacts of parking removal are described as being of little consequence environmentally, as they are allegedly balanced by changes of habit and transportation modes. This is a terrible assumption, and is essentially repeated in the Certificate. See the discussion of parking in "The Planning Department's Exemption Determination is Incorrect and Inadequate," below.

Each of the appellants has attended meetings and hearings about the Project, and has corresponded with MTA about it. It has been clear throughout the process that MTA did not seriously consider any alternatives to the Project, such as proposals by the Haight Ashbury Improvement Association and others for a bike route on Page Street (especially Eastbound) and Hayes Street (especially Westbound). Nor did they seriously analyze mitigation measures such as creating bike lanes for use during the daytime, when bicycle demand is greatest, and allowing street parking at night, when neighborhood parking demand is greatest. By rejecting alternatives and moving forward with design details without conducting environmental review, MTA violated the principles set forth by the California Supreme Court in *Save Tara v. City of West Hollywood* (2008) 45 Cal. 4<sup>th</sup> 116, and *Laurel Heights Improvement Ass'n v. Regents of the*

*University of California* (1988) 47 Cal. 3rd 376. In *Save Tara*, the Court stated: "Before conducting CEQA review, agencies must not 'take any action' that significantly furthers a project 'in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of the CEQA review of that public project.' "

MTA created the institutional momentum to impose the Project without seriously analyzing its environmental impact or considering alternatives. The Court held in Laurel Heights that "CEQA requires that an agency determine whether a project may have a significant environmental impact, and thus whether an EIR is required, before it approves that project." Further, "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 posthoc rationalizations to support action already taken. We have expressly condemned this use of EIR's."

At the MTA/SF Bicycle Coalition workshops about the project held at the San Francisco Day School in 2011, the MTA's presentation about the Project at the March 2012 meeting of the Physical Access Committee of the Mayor's Disability Council (appellant Chabner was chair of the committee at that time), and the May 2012 MTA hearing in front of an MTA employee, it was clear that MTA was already irrevocably committed to the Project. It is quite possible that MTA's haste in implementing the Project was motivated in large part by political considerations. At the May 2012 hearing, and at other times, various elected officials have spoken in support of the project, including Supervisor Christina Olague and a member of Assemblyman Tom Ammiano's staff, who urged MTA to implement the project by November. It is also interesting that the last week of September 2012 was the 20th anniversary of Critical Mass in San Francisco, an anniversary marked by fanfare and controversy, and the MTA Board unanimously approved the Project on October 16, just two weeks later, and with almost no Board discussion of the concerns raised by residents and merchants at the meeting and in written comments, or of the potential environmental impacts. Project approval was a foregone conclusion for quite some time, and the manner in which it was handled was politically motivated.

**CUMULATIVE IMPACTS AND UNUSUAL CIRCUMSTANCES EXIST THAT  
PRECLUDE A CATEGORICAL EXEMPTION**

Guidelines Section 15300.2 provides that categorical exemptions may not be used in the following circumstances (among others):

(b) Cumulative Impact. All exemptions for these classes [including Class 4] are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

In *McQueen v. Mid-Peninsula Regional Open Space*, cited above, the court emphasized that categorical exemptions may not be used where there is substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment.

There is a reasonable possibility that this Project will have a significant effect on the environment due to unusual circumstances; therefore, per Section 15300.2(c), this precludes use of categorical exemptions. As described above, the Project is located in a densely populated residential, commercial and tourist area in the heart of San Francisco. The Project would make major changes on Fell/Oak, one of San Francisco's most indispensable and heavily trafficked East-West thoroughfares, the major thoroughfare leading to and from the Octavia Boulevard entrance and exit for Highway 101. There are no comparable alternatives to these streets for motor vehicles going to and from this primary entrance/exit for Highway 101. The Project area also includes Divisadero Street, a major North-South thoroughfare and commercial street that includes many stores, restaurants, cafés, a hotel and other small businesses. The population and traffic density, central location, unique nature of the neighborhood, complexity, and indispensable nature of the corridor to and from Highway 101, together constitute unusual circumstances.

~~In addition, per Section 15300.2(b), the Minor Alterations exemption (Class 4) is unavailable because the Project, together with the bicycle boulevard project on Masonic Avenue approved by the MTA Board, would have significant cumulative impacts. Masonic Avenue is only three blocks from Baker Street, the Westernmost street of the Project area. The two areas are contiguous and essentially are part of the same neighborhood. (In fact, as part of the Project MTA staff considered removing the 21 Hayes bus stop on Hayes/Central in order to mitigate the parking loss. Central is only one block from Masonic.) The Masonic project would remove all street parking on both sides of Masonic for over half a mile, including through Fell Street, would reduce travel lanes on Masonic, and would make other major changes in the neighborhood. These would have environmental impacts similar to those of the Project, including increasing congestion, vehicular idling and pollution. Because of the close proximity of the Project to the Masonic project, the cumulative impact of both projects must be considered together.~~

### **THE PLANNING DEPARTMENT'S EXEMPTION DETERMINATION IS INCORRECT AND INADEQUATE**

The Planning Department, in support of its determination that the Project is categorically exempt from environmental review, discusses certain matters in the Certificate, including Level of Service analysis for traffic on Fell and Oak, and potential impacts on transit, pedestrians, bicycles, emergency access, loading and parking. These discussions are incomplete and inadequate, and they ignore or understate the likely impacts of the Project. Importantly, the data

and analyses underlying these assertions have not been disseminated to the public for consideration before the October 16, 2012 MTA Board hearing (or at any other time).

In great contrast, if the MTA had commissioned an EIR, the EIR would have been detailed, would have been made widely available for review and comment, and would have required detailed responses to public comments in order to be certified as final. Some information has been made available in response to Sunshine Ordinance requests by appellants and others, but the public's right to know the data and analyses supporting the Project, and on which the categorical exemption from environmental review is based, and MTA/the Planning Department's obligation to provide this information to the public in a comprehensive, organized and systematic fashion, are not satisfied by responding to Sunshine Ordinance requests.

Traffic Level of Service. The traffic Level of Service analysis is conclusory and inadequate. No information is given in the Certificate about who conducted the measurements, how they were conducted, what instruments were used to measure traffic delay, the dates traffic delay was measured, or how many days traffic was measured. Nothing is stated about who analyzed the data. No explanation is given of how "delay" is defined. Each of us having lived in the neighborhood for many years and driven or been passengers on Oak and Fell hundreds of times, it certainly seems to appellants that the number of seconds stated for delay during peak hours under existing conditions (ranging from 6 to 21 seconds at the various Oak intersections in the Project area, and from 8 to 16 seconds at the Fell intersections, in both cases without the expected impact of the Project) are grossly understated. **And then, crucially, no explanation is given for how the expected delay impact of the Project was estimated.** The Certificate devotes much of its limited discussion of traffic analysis to estimating delays in the year 2035, concluding for most intersections that the Project impact would be 0, 1 or 2 seconds, which seems an exercise in false precision if ever there was one.

There are no data or analyses of total travel time along Fell or Oak within the Project area, nor for the blocks of Fell and Oak outside but near the Project area, let alone a comparison of these travel times before and after the Project. For example, it would be important to know the impact of the Project on travel time from Oak/Stanyan to Oak/Octavia at various times of day, but the Certificate is silent about this. Nor is there any discussion or analysis at all of traffic impacts on streets besides Fell and Oak, such as Baker, which is losing travel lanes and adding a more difficult, cumbersome, slower parking scheme. Impacts on the other cross streets, and on parallel nearby streets such as Hayes and Page, also are completely ignored. Perhaps this is because the Certificate denies that there will be increased congestion due to parking loss (see below).

Although the Certificate does not state who performed the traffic Level of Service analysis, appellants have been informed that it was MTA staff. Therefore, no independent traffic study was done; the only analysis, inadequate as it is, was performed by employees of the Project sponsor.

In contrast, two recent major projects in the area were required to do thorough traffic studies. The Falletti's development, which is in the Project area, performed an extensive traffic

study in support of a negative declaration. The Whole Foods project, near the area, did a full EIR, including two traffic studies, one in the winter and one in the spring. The idea behind performing two studies was that there were likely to be fewer cyclists, pedestrians and vehicles in the winter than in the spring, and it was important to ascertain and account for conditions throughout the year in evaluating the environmental impact of the development.

Transit. The Certificate devotes one paragraph each to a discussion of the impact on the 21 Hayes and 16X bus lines (plus one paragraph each to a discussion of the expected impact in the year 2035; as above, an exercise in false precision). It concludes that the impacts would be minimal, estimating slightly increased or decreased delays (such as 1 or 2 seconds at various intersections) for the 16X, and doesn't discuss delays at all for the 21 Hayes. With respect to the 16X, there is no discussion of how the increased or decreased delays were estimated, nor by whom. Asserting increased or decreased delays of 1 or 2 seconds implies a level of precision that is highly unlikely - essentially a rounding error. Because the Certificate denies there will be increased congestion caused by drivers circling the area looking for parking, and by people and goods being picked up and dropped off on nearby streets because they can't be on Fell and Oak, there is no mention of possible delays on the 21 Hayes, which is already maddeningly slow. The discussion of the 16X also ignores these impacts.

There is also no discussion of potential impacts on the 6 Parnassus, 33 Stanyan and 71 Haight-Noriega, all of which have stops in the area and would be impacted by diversion of traffic to the nearby streets and by cars circling in search of parking.

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Pedestrian. In the three sentences devoted to this topic, the Certificate mentions bulbouts, continental ladder markings and advanced limit lines, concluding that pedestrian conditions would improve. No observations, data, studies or analyses are cited. There is no mention whatsoever of the likely dangers to pedestrians discussed in the "Project Impacts" section of this Memorandum.

Bicycle. In the three sentences devoted to this subject, the Certificate mentions the striped, landscaped buffers on Oak and Fell, concluding that the Project would improve bicycle conditions. There is no mention whatsoever of the likely dangers to cyclists discussed in the "Project Impacts" section of this Memorandum, especially the danger of encouraging more cycling on high-speed, heavy volume, complex streets such as Oak and Fell instead of slower, lower volume, simpler streets, and the danger of being hit by cars backing out of driveways.

Emergency Access. In the two sentences devoted to this topic, the Certificate states that the project would not close any existing streets or entrances, and emergency vehicle access would not be impeded. There is no mention whatsoever of the likely impact of having so many bulbouts on so many adjacent and nearby intersections in a dense area, discussed in the "Project Impacts" section of this Memorandum. For example, as discussed in that section, if a bulbout impedes delivery vehicles, causing them to go around the block, wouldn't it have a similar impact on large fire engines and trucks?

Loading. In the one paragraph devoted to this subject, the Certificate describes the location of the five loading spaces that would be eliminated on Oak, emphasizes that other loading spaces would be preserved, and concludes that because of those other loading spaces and the availability of off-street loading for two gas stations and Kelly Moore Paints, no significant loading impacts would occur. No observations, studies, data or analyses are cited. The discussion ignores the testimony of merchants in the area about the hardship the elimination of the five yellow zone commercial loading spaces would cause to their businesses. It ignores the fact that the area is already congested, and the impact of the net loss of loading spaces and overall large loss of street parking.

Importantly, there is no discussion whatsoever of the hardship and safety issues for residents of Oak and Fell who could no longer be picked up or dropped off in front of their homes, and could no longer load and unload objects and packages in front of their homes. There is also no discussion of the loss of the white zone passenger loading spaces.

Parking. The Planning Department claims that loss of parking spaces is not an environmental impact under CEQA, just a social effect. They acknowledge, however, that parking conditions "may be of interest to the public and the decision makers," and therefore present a parking analysis for information purposes. They state that under CEQA, a project's social impacts need not be treated as significant impacts on the environment but acknowledge that environmental documents should address the secondary physical impacts that could be triggered by the impact, citing CEQA Guidelines Section 15131(a). They state that because the availability of parking changes over time, parking is not a permanent physical condition, and therefore not an environmental impact. (The discussion of parking is at pp. 16 and 17 of the Certificate.)

Appellants do not agree that parking is not an environmental impact. We believe it is. CEQA defines the environment broadly to include "physical conditions which exist within the area which will be affected by a proposed project." (Public Resources Code Section 21060.5.) "Environment" means "physical conditions which exist within the area which will be affected by a proposed project, including air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The 'environment' includes both natural and man-made conditions." (Guidelines Section 15360.) Many of these things change over time (ambient noise, especially, is ephemeral and fluctuates), yet the law considers them part of the physical environment. Also, the Planning Department conflates the availability of parking spaces at any time (a function of supply and demand at a particular point in time) with the City's choice about what uses to assign to specific pieces of land in a project area (for example, travel lanes, parking, bike lanes, open space); those pieces of land, and their uses, are part of the physical environment.

Removing parking spaces and making existing parking deficits worse are significant impacts that must be analyzed and mitigated under CEQA; *Land Value 77 v. Board of Trustees of the California State University* (2011) 193 Cal. App. 4th 675, 679-680. Traffic analysis that failed to analyze impacts caused by eliminating parking was held inadequate; *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal. App. 3d 1011, 1028. Also, "Traffic and parking have the potential...of causing serious environmental problems;" *Sacramento Old*

City. Loss of street parking "indicated that a finding of significant environmental effect was mandatory" *Friends of "B" Street v. City of Hayward* (1980) 106 Cal. App. 3rd 988, 1003.

The Planning Department states that the "social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion." But after acknowledging this possibility, the Planning Department dismisses it in two conclusory paragraphs full of boilerplate. They claim: "In the experience of San Francisco transportation planners, however, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g. transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits." (Emphasis added.)

The Certificate goes on to state: "The transportation analysis accounts for potential secondary effects, such as cars circling looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking further away if convenient parking is available. Moreover, the secondary effect of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area." Because of this, the Planning Department concludes that any secondary environmental impacts resulting from parking shortage would be minor. (The last sentence quoted is circular, and if it were really true, ~~there would be little or no parking-related congestion anywhere because, as parking became~~ scarcer, people would either change transportation modes or stay away from an area altogether, and the area would remain static.)

No factual basis is stated for these conclusory assertions - no observations, no studies, no investigations, no surveys, no data, no measurements, no statistics, no analyses of the particular conditions in this particular neighborhood, no interviews, no testimony of residents, merchants or visitors - just the "experience of San Francisco transportation planners..." The time period on which their opinion is based, is unstated. The identity, professional qualifications, expertise, experience, and track record of these anonymous transportation planners are not revealed, nor is any factual, empirical basis whatsoever given for their opinion.

Moreover, the statement quoted is internally inconsistent: if drivers seek parking further away from the Project area, then they would be driving further, therefore causing more congestion, more idling and more pollution. The question is: how much? But neither MTA nor the Planning Department has made a factually based attempt to answer it.

In October 2012, pursuant to the Sunshine Ordinance, appellant Chabner requested from MTA and the Planning Department:

"All documents regarding the factual statements, analyses and conclusions in the second, third, fourth, fifth and sixth paragraphs of the section entitled "Parking" in the Exemption

from Environmental Review for the SFMTA Fell & Oak Streets Bikeways Project.”  
[Note – The Parking section has six paragraphs.]

MTA responded: “After reviewing our records, the SFMTA has determined that the agency does not have any records responsive to your request.”

The Planning Department responded: “There is nothing to provide since the “Parking” standard language does not reference any specific document, is not based on a specific study, and is grounded on the expertise of San Francisco transportation planners, as stated in the language.”

It’s revealing that the Planning Department response to the Sunshine request refers to the “Parking” standard language” in the Certificate: they admit that their discussion is mere boilerplate! (This appears to be the same boilerplate used in the Bicycle Plan EIR.) MTA and the Planning Department have no factual basis for their claim that parking impact would be minor and have completely ignored the testimonies to the contrary from residents and merchants referred to in the “Project Impacts” section of this Memorandum.

Most people who own cars are very unlikely to sell them even if forced into longer searches for street parking. Nor are they likely to readily switch to, or increase their use of, a flawed transit system, especially at night even though the parking shortage is worse at night. And for those who rent or own housing that includes off street parking, the presence of increased bicycle traffic that increases safety risks would still not result in major abandonment of the motor vehicle.

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### THE PROJECT DISCRIMINATES AGAINST PEOPLE WITH MOBILITY DISABILITIES

Accessible transportation, and an equal opportunity to choose among modes of transportation, are essential to living a full, independent life, and are central disability rights. The Americans with Disabilities Act, 42 USC Section 12101 *et seq.*, and California disability rights laws, including California Civil Code Sections 54 *et seq.*, (the ADA and California disability rights laws are referred to as the “Disability Rights Laws”) prohibit discrimination on the basis of disability in programs of local government, use of streets and sidewalks, and transportation. California Civil Code Section 54(a) provides that “Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways... public facilities, and other public places.” Title II of the ADA requires local governments to provide people with disabilities an equal opportunity to benefit from all of their programs, services and activities. Sidewalks, streets and parking are programs provided by ADA Title II entities, and therefore are subject to ADA requirements.

Most people with major mobility disabilities are unable to bike, ride a motorcycle, or use a skateboard, razor style scooters, rollerblades or roller skates. Most slow walkers and many manual wheelchair users can go only a limited distance. Although many pedestrians who use electric wheelchairs and scooters are able to go far, some of them, too, can go only a limited distance. Finding a wheelchair accessible taxi is problematic. San Francisco’s public



transportation system has access limitations, flaws and gaps. Individual circumstances also limit many disabled people's ability to use public transportation. Rain and cold weather also limit the distance many disabled people can walk or roll, and also limit their ability to use public transportation. Therefore, many people with mobility disabilities rely heavily on automobiles for transportation, both as drivers and as passengers.

Many seniors and disabled people rely on service providers coming to their homes, including caregivers, Meals on Wheels, physical, respiratory and occupational therapists, and wheelchair repair companies. These providers typically use automobiles, so when street parking is removed, it becomes more time-consuming and costly to provide these services, and people with disabilities and seniors are impacted.

If he or she owns a vehicle, almost everyone who uses an electric wheelchair, and many who use scooters and manual wheelchairs, have either a lowered floor minivan with a passenger-side ramp or a full-size van. (Lowered floor minivans are also available with the ramp in the rear, but this configuration is rare except in taxis. For full-size vans, a side lift is the most common configuration.) For those with accessible minivans and vans with ramps or lifts on the side, all street parking spaces (except perpendicular and angled spaces, those on the driver's side of a one-way street, and, sometimes, those with sidewalk obstructions such as garbage cans or trees in the exact location of the ramp or lift) are, in effect, accessible spaces even though they are not blue zones. In fact, disabled people park in regular street parking spaces far more often than in blue zones because: (a) the number of blue zones is very limited and they are often occupied; and (b) quite often a regular space is available closer to the destination than a blue zone.

Therefore, removing street parking spaces, and replacing parallel spaces with perpendicular or angled ones, disparately impact people with mobility disabilities.

The Project would remove all street parking on the South side of Oak, which means that all of the effectively wheelchair/scooter accessible parking spaces would be eliminated for those three blocks. The parking spaces on the North side of Oak would remain, but it would be extremely dangerous for people in wheelchairs/scooters to use them because the ramp or lift would be deployed into the travel lane. Converting parking spaces on some of the side streets, which are currently parallel parking, into perpendicular or angled spaces also would eliminate spaces that are currently usable by wheelchair/scooter users, thereby adding to the parking loss instead of mitigating it. (Baker between Fell and Oak, and Scott between Haight and Waller, are flat, and the loss of half the accessible parking on those blocks would worsen the hardship. Baker between Page and Haight is moderately sloped, and there is already perpendicular parking on the East side, so converting the West side to perpendicular would make that entire block off-limits for parking by wheelchair/scooter users.)

Not only wheelchair/scooter users, but people who walk slowly and with difficulty would also be harmed and disparately impacted by the loss of parking spaces on Oak and the elimination of parallel parking on the side streets.

As described above, the Project would also make it more difficult, dangerous and stressful for disabled people, including wheelchair/scooter users and people who have difficulty walking, and for seniors, to be picked up and dropped off.

These impacts discriminate against people with disabilities and violate the Disability Rights Laws.

### REMEDIES REQUESTED


1. Set aside all approvals of the Project, and the Categorical Exemption.
2. Declare that any future proposal to implement the same project must be preceded by an environmental impact report fully analyzing all impacts and proposing effective mitigations for each of the Project's possible impacts on parking, traffic, transit, noise, air quality, emergency services, public safety, and human impacts. Cumulative impacts must be analyzed taking into account all past, present, and reasonably foreseeable projects that will also affect traffic, transit, parking, noise, air quality, and public safety on Oak and Fell Streets and the entire area. Spillover and secondary impacts from removal of street parking must also be analyzed, along with any impacts caused by mitigations, including traffic congestion caused by signal timing. The analysis must include real-time on-ground traffic counts during AM and PM peak periods, taken at a variety of representative days of the week and times of the year.
3. ~~The EIR must propose effective mitigations that eliminate each of the Project's impacts, including consideration of avoiding each impact altogether by not implementing the Project.~~
4. The City must implement effective mitigation before Project implementation.
5. The City must propose a plan to effectively comply with the Disability Rights Laws, provide an opportunity for meaningful input and comment on such plan, and incorporate such plan in a revised Project.
6. Further consideration of the Project must be stayed until the City has complied with CEQA, the Disability Rights Laws and other applicable statutes and regulations.
7. Such other remedies as may be appropriate.

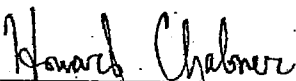
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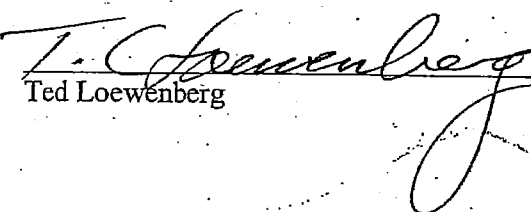
Appellants request copies by e-mail, no later than five days in advance of the hearing on this appeal, of all documents submitted by MTA, the Planning Department, the City Attorney's office and other city agencies in opposition to this appeal. (The Clerk of the Board of Supervisors has appellants' e-mail addresses.)

Appellants reserve the right to submit supplemental memoranda, rebuttals and other documents.

DATE: December 3, 2012

  
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Mark Brennan

  
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Howard Chabner

  
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Ted Loewenberg

