

File No. 180697

Committee Item No. _____

Board Item No. 50

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: July 31, 2018

Cmte Board

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OTHER

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal Letter - June 25, 2018</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appellant Supplemental Materials - July 18, 2018 to July 24, 2018</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Department Memo Response - July 23, 2018</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Project Sponsor Brief - July 20, 2018</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Hearing Notice and Clerical Documents</u> |
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Prepared by: Jocelyn Wong

Date: July 27, 2018

Prepared by: _____

Date: _____

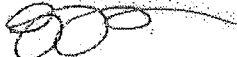
APPELLANT DANE INCE STATEMENT

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BOARD OF SUPERVISORS
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BY DN

I am a resident of 201 Harrison Street, which is immediately adjacent to the lots at 429 Beale and 430 Main which are proposed to be merged for this project.

The Planning Commission abused its discretion throughout the process of three hearings and approved the proposed project 2014-002033dnx 429 Beale/430 Main St. The Planning Commission was overly concerned with approval of housing units rather than insuring that San Francisco law -the planning code, the Building Code, the Rincon Hill Plan, and the Urban Guidelines were adhered to and followed for the benefit of all in the City and County of San Francisco. The Planning department recklessly placed rubber stamping developers plans to rush housing units to market over their duty to comply with the planning ordinance requirement to protect health and safety. The Planning Department failed to follow the intent and the spirit of California State law known as CEQA and this failure amounts to an abuse of discretion. The Planning Department was presented with credible peer revenue of the department's air quality review and they abused their discretion by failing to address this substantial evidence in the formation of their findings. In 2009 the Board of Supervisors instructed the Planning Department to follow California State law and analyze projects proposed at 49 Beale/430 Main in a fashion consistent with state law. These shortcomings represent nearly a decade's long pattern of abuse on the part of the Planning Department for this one project alone. I and other citizens are aggrieved by these failures and seek the Board of supervisors' rejection of an improper local agency environmental determination and for the Board to instruct the Planning Department AGAIN to adhere to the law and provide a proper environmental review.

Dane M. Ince



Monday, June 25, 2018



MEMORANDUM

To: Committee for Healthy Housing
cc: Dane Ince, San Francisco Surveying Company
From: Trinity Consultants
Date: 1/19/2018
RE: Review of Technical Report by Ramboll Environ dated October 2017

1.0 INTRODUCTION

On January 11, 2018, Mr. Dane Ince, a member of the Committee for Healthy Housing, contacted Trinity requesting a review of the Air Quality Analysis Technical Report dated October 2017, which was prepared by Ramboll Environ US Corporation (Ramboll Report). As shown below in Figure 1, the proposed project is located at 430 Main Street/429 Beale Street in the city of San Francisco, California¹ (Project). As requested by the Committee for Healthy Housing, Trinity performed a high level review of the Ramboll Report to evaluate its technical approach and general conformance with the cited regulatory guidelines and accepted practices for this California Environmental Quality Act (CEQA) air quality impact analysis.

2.0 BACKGROUND

While an exact project description was not provided in the Ramboll Report, the Project is stated to be a 9-story residential building reaching 84 feet in total height, which will be constructed in an area between Harrison Street, Main Street, Beale Street and the I-80 freeway within the City of San Francisco, California. The Project's daily trip activity is 263 trips per day. The Ramboll Report does state that the Project is within 200 feet of Interstate-80 (I-80), an elevated segment of a major freeway with average daily traffic levels of 265,000 vehicles.² In addition, the Project is in an area classified by the Bay Area Air Quality Management District (BAAQMD) and the City and County of San Francisco as having high concentrations of toxic air contaminants (TACs) and fine particulate matter (PM_{2.5}) as indicated in purple in Figure 1 below, which is locally referred to as an Air Pollutant Exposure Zone (APEZ).³ Based on review, the Ramboll Report conducted the following key analysis for the proposed project:

- Emission Estimates (for operational sources)
- Air Dispersion Modeling (for operational sources)
- Health Risk Assessment (for operational sources and project traffic)
- Cumulative Risk Analysis
- Refined Building Downwash

In addition, the Ramboll Report cited CEQA and related regulatory guidelines from the following authorities in its preparation of its analysis:

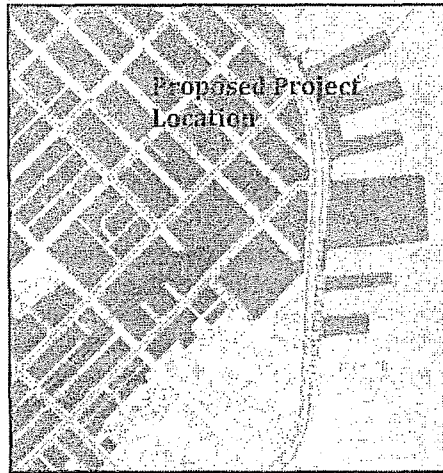
¹ Ramboll Environ US Corporation, 2017. Air Quality Technical Report – Proposed Building at 430 Main Street / 429 Beale Street, San Francisco, California. Project Number 03-39316A. October 2017.

² http://www.dot.ca.gov/trafficops/census/docs/2016_aadt_volumes.pdf

³ Bay Area Air Quality Management District, 2016. Planning Healthy Places – A Guidebook for Addressing Local Sources of Air Pollutants in Community Planning. May 2016.

- ✓ Bay Area Air Quality Management District
- ✓ California Air Resources Board
- ✓ California Office of Environmental Health Hazard Assessment (OEHHA)
- ✓ US Environmental Protection Agency (US EPA)

Figure 1. Project Area Map



The proposed Project is in an area of extreme poor air quality and high risk for human health problems due to its proximity to I-80 and population density, which is subject to Article 38 of the San Francisco Health Code⁴. The City and County of San Francisco established Article 38 because scientific studies consistently showed an association between exposure to air pollution and significant human health problems. In 2008, Article 38 was adopted to require new residential construction projects located in areas of poor air quality and pollution from roadways must install enhanced ventilation to protect residents from the respiratory, heart, and other health effects of living in a poor air quality area. The law was updated in 2014 to improve consistency with California Environmental Quality Act (CEQA) and streamline implementation. The 2014 amendments included revisions to the underlying map of the city's APEZ --the end result of a collaborative effort with the Bay Area Air Quality Management District. The amendments codify the implementation strategy that was formalized in July 2013, when the Air Quality Program began providing several options for determining compliance with Article 38.

3.0 ANALYSIS

Based on its review, Trinity is providing the following analysis of potential technical issues relating to the general approach and methodologies employed for the Ramboll Report:

3.1 Building Downwash Modeling

The Air Resources Board and OEHHA guidelines specifies that AERMOD be used for air dispersion modeling and health risk assessment purposes within the state of California (OEHHA 2015).⁵ In section 8.2, the Ramboll Report states that AERMOD is not appropriate for the Project since it can provide only screening-level estimates

⁴[http://library.amlegal.com/nxt/gateway.dll/California/health/article38enhancedventilationrequiredforu?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca](http://library.amlegal.com/nxt/gateway.dll/California/health/article38enhancedventilationrequiredforu?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca)

⁵ OEHHA, 2015. Air Toxics Hot Spots Program Risk Assessment Guidelines, Guidance Manual for Preparation of Health Risk Assessments, February 2015. <https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf>

of air quality trends, and not precise estimates of concentration differences in cases where buildings of interest are of complex shape and located in the urban core of San Francisco, which may be exposed to complex flows from the interactions of the atmosphere with the array of buildings in the vicinity. Instead of using AERMOD, the Ramboll Report argues that a Computational Fluid Dynamics (CFD) model is more appropriate for estimating building downwash for the Project.

Adopted by the United States Environmental Protection Agency and widely used by regulatory agencies across the country, AERMOD is a steady-state plume model that incorporates air dispersion based on planetary boundary layer turbulence structure and scaling concepts, including treatment of both surface and elevated sources, and both simple and complex terrains (U.S. EPA, 2009). AERMOD incorporates the Plume Rise Model Enhancements (PRIME) (Schulman et al, 2000) algorithms for estimating enhanced plume growth and restricted plume rise for plumes affected by building wakes (U.S. Environmental Protection Agency, 1995). Moreover, AERMOD contains specific algorithms for modeling the effects of aerodynamic downwash due to nearby buildings on point source emissions and depositional effects on particulate emissions.⁶ As a consequence, based on existing regulatory guidance, AERMOD is the accepted air dispersion model in California which is capable of estimating building downwash for different projects.

3.2 Offsite Impacts

CEQA requires that public agencies analyze how environmental impacts from new constructions and developments might adversely affect nearby receptors and local air quality conditions. In this case, the Ramboll Report indicate the adjacent courtyards (i.e., neighboring offsite receptors) are located about 200 feet north of the elevated portion of I-80, known as the San Francisco-Oakland Bay Bridge, which generates an average traffic movement of 265,000 vehicle trips per day.⁷ Per Article 38, the action threshold for mitigation efforts for the Project is $0.2 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$. As shown in Table 1 below, the pre-project $\text{PM}_{2.5}$ concentration in the neighboring courtyards is already significantly above the action threshold for project mitigation. Any additional impacts will deteriorate the local air quality further and pose additional health hazards for the local residents.

In section 1.1.2, based on its CFD model for building downwash analysis, the Ramboll Report shows that there would be an increase in average annual $\text{PM}_{2.5}$ concentration of $0.032 \mu/\text{m}^3$ as a result of the Project. As displayed in Table 13 of the Ramboll Report, and summarized in Table 1 below, there is an increase in $\text{PM}_{2.5}$ concentration for the center courtyard by 6%, and an increase by 13 % for the east courtyard. There is a decrease in $\text{PM}_{2.5}$ concentration by 6 % for the west courtyard. The report compares the difference of the pre- and post-project concentrations with the average background concentration of $9.3 \mu\text{g}/\text{m}^3$.

⁶ User's Guide for the AMS/EPA Regulatory Model (AERMOD), EPA-454/B-16-011 December, 2016

⁷ http://www.dot.ca.gov/trafficops/census/docs/2016_aadt_volumes.pdf

Table 1 – PM_{2.5} Concentrations Results Summary

Source	Average Annual PM _{2.5} Concentration (µg/m ³)		
	West Courtyard	Center Courtyard	East Courtyard
Without proposed Building	0.54	0.44	0.69
With Proposed Building	0.51	0.47	0.79
% Increase in the PM _{2.5} Concentration	-6%	6%	13%

The Ramboll Report concluded that the incremental increase of PM_{2.5} emissions from the Project is small in relative proportion of total post-project emissions. However, the cumulative PM_{2.5} emissions are substantially higher than levels considered reasonable for residential projects as per local codes. Given the Project is located in an area which is already classified as a health hazard based on the high concentrations of TACs and PM_{2.5}, CEQA may require a higher standard of review in such cases. Any additional amount of emissions could be considered a substantial health risk in the proposed project location for existing and new residential activities (or other sensitive receptors), and should be more thoroughly assessed and mitigated as required by Article 38 and applicable law.⁸

3.3 Construction Impacts

Per CEQA requirements, it is typical for an air quality impact analysis to include a review of environmental impacts from the construction phase of a proposed project, which may include construction traffic, excavation, building activities, fugitive dust generation and other related air emissions sources. The construction phase may include adverse impacts from emissions of criteria pollutants and others, including PM₁₀ and PM_{2.5}. In this case, the Ramboll Report did not include a review nor evaluation of construction impacts, although the proposed project is located in an area which is locally classified as an APEZ due to high concentrations of air toxics and PM_{2.5} concerns. Given the location of the project, proximity to other residential units and potentially extensive construction activities, an air quality impact analysis without such review of construction impacts would be incomplete.

3.4 Diesel Particulate Matter (DPM)

In section 4.1.1 Chemical Selection, the Ramboll Report states that California regulatory guidelines allow diesel particulate matter (DPM) to be used as a surrogate measure of exposure for the mixture of chemicals that make up diesel exhaust as a whole. Further, the Ramboll Report states that Cal/EPA advocates the surrogate approach to quantifying *cancer risks* associated with the diesel mixture in lieu of a component-based approach, which involves estimating health risks for each of the individual components of a mixture. Furthermore, the Ramboll Report states that Cal/EPA has concluded that "potential cancer risk from inhalation exposure to whole diesel exhaust will outweigh the multi-pathway *cancer risk* from the speciated components (OEHHA 2003).⁹

While the surrogate approach may be generally accepted guidance for estimating *cancer risks* from exposure to diesel exhaust, there are also non-cancer risk impacts which require consideration, including, non-cancer acute and chronic health hazards. Fuel combustion releases at least forty (40) different toxic air contaminants,

⁸ California Building Industry Association vs. Bay Area Air Quality Management District (S213478), December 17, 2015

⁹ <https://oehha.ca.gov/media/downloads/cmr/hrafinalnoapp.pdf>

including, but not limited to, diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde. Levels of these pollutants are generally concentrated within 500 feet of freeways and very busy roadways.¹⁰ For non-cancer acute impacts, Appendix D of the 2015 OEHHA guidelines recommends an evaluation of the acute health effects may be warranted in case of a multistory apartment building.¹¹ Since there is no acute REL that is currently associated with DPM, any potential acute health impacts (i.e., short term health hazards) from exposure to diesel exhaust were not determined by the Ramboll Report. As a consequence, it is likely this surrogate approach likely underestimates the overall health impacts associated with individual toxics from diesel combustion, specifically, any potential acute health hazards. Toxics in diesel exhaust include benzene, 1,3-butadiene, formaldehyde and many others which affect the respiratory organs through inhalation pathway but also affect other target organs such as reproductive or developmental system, hematologic organs, immune system and eyes through multi-pathways. Many of these air toxics in diesel exhaust may have acute health impacts upon specific target organs, which were not evaluated as part of the Ramboll Report.

3.5 Project Traffic Impacts

In section 3.12 Proposed Project Traffic, the Ramboll Report states that BAAQMD Roadway Screening Analysis Calculator was used to conservatively estimate the health risk impact from Proposed Project-related traffic of 263 vehicles per day. As stated by the Ramboll Report, traffic emission calculations were not required for the Project, nor were typical air dispersion and risk assessment modeling conducted for the Project. Instead, the BAAQMD Roadway Screening Analysis Calculator was used, which provides cancer risk and PM estimates based on the average daily traffic. While the BAAQMD Roadway Screening Analysis Calculator uses EMFAC2011 for estimated emission factors, there are two newer versions of EMFAC available: EMFAC2014 and EMFAC2017. Further, note that within the APEZ, additional emissions would adversely affect populations that are already at a higher risk which CEQA may demand a higher standard of review. Therefore, a more refined analysis of traffic emissions and impacts with the most recent accepted emission factors would be warranted.

3.6 Meteorological Data

In section 4.1.3.1 - Meteorological Data, the Ramboll Report states that for the current HRA, BAAQMD's Mission Bay meteorological data for the year 2008 were used, which aligns with the San Francisco CRRP-HRA Methodology. BAAQMD Health Risk Assessment Guidelines rely on OEHHA 2015 Air Toxic Hot Spots Program Manual (2015 OEHHA Guidelines), which recommend that the latest five (5) years of *consecutive* meteorological data be used to represent long term averages (i.e., cancer and chronic impacts).¹² In general, OEHHA guidelines specify that air dispersions models (and health risk assessments) require sufficient amount of years of meteorological data to ensure that the worst-case meteorological conditions are represented in the model results. For example, wind patterns and wind velocities can vary from year to year, which a single year of data would not capture. As a consequence, it is likely that using only 2008 meteorological data would not satisfy the 2015 OEHHA Guidelines.

¹⁰ OEHHA, 2015. Air Toxics Hot Spots Program Risk Assessment Guidelines, Guidance Manual for Preparation of Health Risk Assessments, February 2015. <https://oehha.ca.gov/media/downloads/crrp/2015guidancemanual.pdf>

¹¹ Id. at Page D-3, Appendix D"

¹² Id.



SAN FRANCISCO PLANNING DEPARTMENT

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Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- SOMA Community Stabilization Fee (Sec. 418.3)
- First Source Hiring (Admtr. Code)
- Child Care Requirement (Sec. 414A)
- Rincon Hill Impact Fee (Sec. 418)

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 20195

HEARING DATE: MAY 24, 2018

Case No.: 2014-002033DNX
 Project Address: 429 Beale Street/430 Main Street
 Zoning: RH-DTR (Rincon Hill Downtown Residential) Zoning District
 84-X Height and Bulk District
 Block/Lot: 3767/305 & 306
 Project Sponsor: Mark Loper
 Reuben, Junius & Rose, LLP
 One Bush Street Suite 600
 San Francisco, CA 94014
 Staff Contact: Douglas Vu - (415) 575-9120
Doug.Vu@sfgov.org

ADOPTING FINDINGS RELATING TO A DOWNTOWN PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 309.1, TO ALLOW AN EXCEPTION TO THE REQUIREMENT FOR DWELLING UNIT EXPOSURE PURSUANT TO PLANNING CODE SECTION 140, FOR DEMOLITION OF AN EXISTING 35,625 SQUARE FEET LIGHT INDUSTRIAL BUILDING, MERGER OF TWO LOTS, AND CONSTRUCTION OF A NEW 84-FEET TALL, NINE-STORY, AND APPROXIMATELY 140,280 SQUARE FEET RESIDENTIAL BUILDING WITH UP TO 144 DWELLING UNITS (CONSISTING OF 60 STUDIO, 25 ONE-BEDROOM, AND 59 TWO-BEDROOM UNITS), 10,800 SQUARE FEET OF OPEN SPACE, AND A 17,720 SQUARE FEET BASEMENT GARAGE FOR 72 ACCESSORY AUTOMOBILE AND 111 BICYCLE PARKING SPACES LOCATED AT 429 BEALE STREET/430 MAIN STREET, ON LOTS 305 & 306 IN ASSESSOR'S BLOCK 3767, WITHIN THE RH-DTR (RINCON HILL DOWNTOWN RESIDENTIAL) ZONING DISTRICT AND AN 84-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On November 10, 2015, Mark Loper of Reuben, Junius & Rose, LLP on behalf of LCL Global - 429 Beale & 430 Main Street, LLC (hereinafter "Project Sponsor") filed Application No. 2014-002033DNX (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Downtown Project Authorization to merge two lots and construct a new nine-story residential building with 144 dwelling units at 429 Beale and 430 Main Streets (Block 3767, Lots 305 & 306) in San Francisco, California.

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Rincon Hill Plan Final Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on May 5, 2005, by Motion No. 17007, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter "CEQA"). The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The Rincon Hill Plan EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Eastern Neighborhoods Plan, the Commission adopted CEQA Findings in its Motion No. 17007 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On March 13, 2018, the Department determined that the proposed application did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Rincon Hill Plan and was encompassed within the analysis contained in the Rincon Hill Plan Final EIR. Since the Rincon Hill Plan Final EIR was finalized, there have been no substantial changes to the Rincon Hill Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Rincon Hill Plan Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Rincon Hill Plan EIR that are applicable to the project. These mitigation measures are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2014-002033DNX at 1650 Mission Street, 4th Floor, San Francisco, California.

On March 29, 2018, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Downtown Project Authorization Application No. 2014-002033DNX, and continued the item to May 24, 2018.

On May 24, 2018, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Downtown Project Authorization Application No. 2014-002033DNX

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

MOVED, that the Commission hereby authorizes the Downtown Project Authorization requested in Application No. 2014-002033DNX, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project site covers two parcels that measure 18,906 sq. ft. in total area and are located on Assessor's Block 3767 and Lots 305 & 306, which front Beale and Main Streets between Harrison and Bryant Streets. The project site has approximately 69-feet of frontage along on Beale Street and 69-feet of frontage along Main Street. The project site is developed with a one-story and a two-story commercial building measuring 35,625 sq. ft. that were constructed in 1929 and 1951, respectively. The buildings have been used as a self-storage facility (dba "STORAGEPRO") since 2011.
3. **Surrounding Properties and Neighborhood.** The project site is located in the Rincon Hill Downtown Residential Zoning District that has experienced significant redevelopment over the past twenty-five years. The adjacent properties include the eleven-story, 288-unit Baycrest development that was constructed in 1991 to the north, the eleven-story, 150-unit Portside development constructed in 1997 to the east, and the 25-story, 245-unit Bridgeview development constructed in 2002 to the west. South of the project site is a parcel that is owned by the California Department of Transportation (Caltrans), which is bisected overhead by the Bay Bridge and is currently used as a parking lot and bridge maintenance facility. Apart from two nearby parcels adjacent to Interstate 80 that are zoned M-1 (Light Industrial), the remainder of the parcels in the area are zoned RH-DTR and TB-DTR (Downtown Residential), or RC-4 (High Density Residential Commercial).

4. **Project Description.** The proposed project includes demolition of two existing commercial structures with a combined area of 35,625 sq. ft., the merger of two parcels and construction of a new 84-ft. tall, nine-story and approximately 140,280 sq. ft. residential building with up to 144 dwelling units (consisting of 60 studio, 25 one-bedroom, and 59 two-bedroom units), a combined 10,800 sq. ft. of private open space throughout the building and common open space at a rooftop deck and solarium, and a 17,720 sq. ft. basement garage for 72 accessory auto parking spaces that are accessed through one driveway on Beale Street, and 111 Class 1 bicycle parking spaces. The residential lobby is located on Main Street and the development would also include streetscape improvements in front of the building including new street trees, landscaping, bicycle racks and sidewalk repaving.
5. **Public Comment.** The Department has received 34 letters in support of the project, and 64 letters expressing opposition or concerns regarding the project's impact on air quality for neighboring properties, traffic congestion, potential shadow impacts, and the desire for two separate buildings instead of one.

Aside from the mandatory pre-application meeting that was held on October 13, 2015, the sponsor has conducted extensive additional community outreach through letters, phone calls and meetings with residents of Baycrest, neighborhood businesses and several home owners' associations. The comprehensive outreach effort is described in detail in the Project Sponsor's submittal.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Permitted Uses in RH-DTR Zoning Districts.** Planning Code Section 827.46 states that residential use is principally permitted use within the RH-DTR Zoning District. Planning Code Section 827.26 states that ground floor retail use is principally permitted within the RH-DTR Zoning District.

The Project would construct a new development with residential use and accessory parking within the RH-DTR Zoning District in compliance with Planning Code Section 827.46.
 - B. **Rear Yard/Site Coverage.** Planning Code Section 827.12 permits up to 80 percent lot coverage for parcels at residential levels where not all units face onto streets or alleys.

The Project proposes a lot coverage of 80 percent because it contains dwelling units at every level that do not face onto a street or alley to comply with the rear yard/site coverage requirements.
 - C. **Setbacks.** Planning Code Section 827.13 requires a building setback of ten feet above a height of 65 feet along Beale and Main Streets.

The Project proposes a 10-ft. setback above a height of 65-ft., which is above the sixth floor at the Beale Street frontage and seventh floor at the Main Street frontage due to the upsloping condition of the parcels to comply with the setback requirements.

- D. **Residential Open Space.** Planning Code Sections 135 and 827.49 require a minimum of 75 square feet of usable private or common open space per dwelling unit. Private usable open space shall have a minimum horizontal dimension of six feet and a minimum area of 36 square feet if located on a deck, balcony, porch or roof, and shall have a minimum horizontal dimension of 10 feet and a minimum area of 100 square feet if located on open ground, a terrace or the surface of an inner or outer court pursuant to PC Section 145(F). Common usable open space shall be at least 15 feet in every horizontal dimension and shall be a minimum area of 300 sq. ft. The area of a totally or partially enclosed solarium may be credited as common usable open space if the space is not less than 15 feet in every horizontal dimension and 300 square feet in area; and if such area is exposed to the sun through openings or clear glazing on not less than 30 percent of its perimeter and 30 percent of its overhead.

The Project is required to provide a minimum of 10,800 sq. ft. of usable open space for the 144 dwelling units, and proposes to satisfy this through twenty-four 7-ft. x 13-ft. private balconies facing the interior courtyard on floors 2 through 9 that total 1,800 sq. ft., ten 10-ft. x 21-ft. terraces on floors 1, 7, and 8 that total 750 sq. ft., and 8,250 sq. ft. of common open space through a 5,850 sq. ft. rooftop deck and 2,400 sq. ft. solarium with over 30 percent of clear glazing. Therefore, the combination of 10,800 sq. ft. of usable private and common open space complies with this requirement.

- E. **Permitted Obstructions.** Planning Code Section 136(c)(2) outlines the requirements for features, which may project over a street, alley, setback or usable open space. Generally, projections over streets and alleys are limited to 3-ft deep with a maximum length of 15-ft for each bay window or balcony. This length shall be reduced in proportion to the distance from such line by means of a 45 degree angle drawn inward from the ends of the 15-ft dimension, thus reaching a maximum of 9-ft along a line parallel to and at a distance of 3-ft from the line establishing the required open area. Additionally, the minimum horizontal separation between bay windows and balconies shall be two feet at the line establishing the required open area, and shall be increased in proportion to the distance from such line by means of 135-degree angles drawn outward from the ends of such two-foot dimension, reaching a minimum of eight feet along a line parallel to and at a distance of three feet from the line establishing the required open area.

The Project proposes two-sided canted bay windows at floors 2 through 7 that are 3-ft. deep with a maximum length of 11-ft. at the property line and 5-ft. at the outermost plane, and with a horizontal separation of 2-ft. between bays at the property line and 13-ft. between each outermost plane to comply with the above requirements for permitted obstructions.

- F. **Streetscape and Pedestrian Improvements.** Planning Code Section 138.1 requires one new street tree for every 20 feet of street frontage for projects proposing new construction. For a

project that is greater than one-half acre in total area, contains 250 feet of total lot frontage on one or more publicly-accessible rights-of-way or encompasses the entire block face between the nearest two intersections with any other publicly-accessible rights-of-way, a streetscape plan in conformance with the adopted Better Streets Plan is required.

The Project has a total area of 18,906 sq. ft. and 137-ft. 6-in. of frontage; therefore, the Project is not required to provide a streetscape plan.

However, the Project does include at least six street trees to comply with the streetscape requirements, and will also include additional landscaping, bicycle racks and sidewalk re-paving as necessary and consistent with the Rincon Hill Streetscape Plan.

- G. **Bird Safety.** Planning Code Section 139 outlines the standards for bird-safe buildings, including the requirements for location-related and feature-related hazards.

The subject lot is not located in close proximity to an Urban Bird Refuge, and the Project meets the requirements of feature-related standards by either not including any unbroken glazed segments 24-sq. ft. and larger in size, or will utilize fritted glazing for the proposed parapets, screens and glazed panels over 24 sq. ft. Therefore, the Project complies with Planning Code Section 139.

- H. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street, public alley at least 25-ft in width, side yard at least 25-ft in width, or rear yard, which meets the requirements of the Planning Code. Alternatively, an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed (except for fire escapes not projecting more than necessary for safety and in no case more than 4'-6", chimneys, and those obstructions permitted in Sections 136(c)(14), (15), (16), (19), (20) and (29) of this Code) and is no less than 25 feet in every horizontal dimension for the floor at which the Dwelling Unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor can satisfy the exposure requirement.

The Project includes an interior courtyard with the shorter horizontal dimension of 25-ft. 4-in., which is reduced to 17-ft. 4-in. for three units each at floors 2 through 9 that contain a 7-ft. deep balcony. Exclusively facing this courtyard are nine units each on floors 1 through 6, and eight units each on floors 7 through 9. Therefore, the Project is seeking an exception of the dwelling unit exposure requirement for 65 units, or 45% of the Project's total as part of the Downtown Project Authorization (see below).

- I. **Street-Facing Active Uses.** Planning Code Sections 145.1 and 827.14 requires active uses on all street frontages. Per Planning Code Section 145.1, active use is defined as either: residential use above the ground floor or on the ground floor if they provide direct, individual pedestrian access to a public sidewalk; spaces accessory to residential uses, such as fitness or community rooms, with direct access to a public sidewalk; building lobbies, so

long as they do not exceed 40-ft or 25% of building frontage, whichever is larger; or, public uses described in Planning Code Section 790.80.

The Project provides active uses on both street frontages through dwelling units that have direct, individual pedestrian access to the public sidewalk and a 40-ft. wide residential lobby on Main Street to comply with the active street-facing uses requirement.

- J. **Shadow Impacts.** Planning Code Section 295 restricts net new shadow, cast by structures exceeding a height of 40 feet, upon property under the jurisdiction of the Recreation and Park Commission. Any project in excess of 40 feet in height and found to cast net new shadow must be found by the Planning Commission, with comment from the General Manager of the Recreation and Parks Department, in consultation with the Recreation and Park Commission, to have no adverse impact upon the property under the jurisdiction of the Recreation and Park Commission.

The Rincon Hill Programmatic EIR analyzed the shadow impacts on outdoor recreation facilities and other public areas from potential development that could occur under the Rincon Hill Area Plan. Development anticipated under the Rincon Hill Area Plan would not cast net new shadow on any properties under the jurisdiction of the Recreation and Park Commission, but it would cast net new shadow on other public open spaces, privately owned publicly accessible open spaces (POPOs), and public sidewalks. This net new shadow would not be in excess of what is common and generally expected in densely developed urban environments. For these reasons, the Rincon Hill Programmatic EIR concluded that implementation of the Rincon Hill Area Plan would not result in significant shadow impacts, and no mitigation measures were identified. Since there are no new effects that were not already identified in the Rincon Hill Programmatic EIR, the Project complies with Planning Code Section 295.

- K. **Off-Street Parking.** Planning Section 151.1 of the Planning Code permits one off-street parking space for each two dwelling units.

The Project is allowed to have a maximum of 72 off-street accessory parking spaces for the 144 dwelling units, and proposes 72 spaces in a basement parking garage that is accessed through an 11-ft. wide ramp on Beale Street, which at grade slopes up approximately 10 ft. to Main Street, to comply with the permitted parking provisions.

- L. **Parking and Loading Access.** Planning Code Sections 145.14, 151.1, 155(r), 825 and 827.16 prohibits parking above ground except on sloping sites, and limits parking access to two openings that are a maximum of 11-ft wide each, or a single opening that is no more than 22-ft wide. Loading access is limited to one opening that is a maximum of 15-ft wide.

The Project proposes 72 spaces in a basement parking garage that is accessed through an 11-ft. ramp on Beale Street, which at grade slopes up approximately 10 ft. to Main Street. Therefore, there is no parking located above the ground, which complies with the parking access restrictions.

- M. **Bicycle Parking.** Planning Section 155.2 of the Planning Code requires at least 100 Class 1 bicycle parking spaces plus one Class 1 bicycle parking space for every four dwelling units exceeding 100, and one Class 2 bicycle parking spaces for every 20 dwelling units.

The Project includes 144 dwelling units that require at least 111 Class 1 and eight Class 2 bicycle parking spaces. The Project will provide 111 Class 1 bicycle parking spaces in a 9-ft. 3-in. tall "mezzanine level" storage area between the basement and ground floor, and at least eight Class 2 spaces in front of the building on Beale and Main Streets to comply with the bicycle parking requirements.

- N. **Car Share Requirements.** Planning Code Section 166 requires one car-share parking space for a project containing between 50 and 200 residential units.

The Project includes 144 dwelling units and includes one designated car share space to comply with Planning Code Section 166.

- O. **Unbundled Parking.** Planning Code Section 167 requires that all off-street parking spaces accessory to residential uses in new structures of ten dwelling units or more be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.

The Project is providing 72 off-street parking spaces that are accessory to the dwelling units. Through a Condition of Approval, these spaces will be unbundled and sold or leased separately from the dwelling units to comply with this requirement.

- P. **Transportation Demand Management (TDM) Program.** The TDM Program seeks to promote sustainable travel modes by requiring new development projects to incorporate design features, incentives, and tools that support transit, ride-sharing, walking, and bicycle riding for the residents, tenants, employees, and visitors of their projects. The sponsor is required to submit a TDM Plan for Department review of compliance with Code Section 169, including the Planning Commission's TDM Program Standards.

The Project Sponsor submitted a completed Environmental Evaluation Application prior to September 4, 2016 on November 4, 2014, and is therefore required to achieve 50% of the point target established in the TDM Program Standards for a target of 10 points. The Project will comply with the TDM Program by achieving 11 points through the following TDM Measures: 1) Bicycle Parking Option A; 2) Bicycle Repair Station; 3) Car-Share Parking and Membership Option A; 4) On-Site Affordable Housing Option B; 5) Unbundle Parking Location C; and 6) Parking Supply Option C.

- Q. **Dwelling Unit Mix.** Planning Code Section 207.6 requires that no less than 40 percent of the total number of proposed dwelling units contain at least two bedrooms, or no less than 30 percent of the total number of proposed dwelling units contain at least three bedrooms.

The Project includes 60 studio, 25 one-bedroom, and 59 two-bedroom units, which is equal to 41 percent of the total 144 units that contain two bedrooms to comply with the dwelling unit mix requirement.

- R. **Height Exemptions.** Planning Code Section 260(b) allows certain features to be exempt from the height limits established by the Planning Code that include mechanical equipment and appurtenances necessary to the operation or maintenance of the building or structure itself (including chimneys, ventilators, plumbing vent stacks, cooling towers, water tanks, panels or devices for the collection of solar or wind energy and window-washing equipment, together with visual screening for any such features), elevator, stair and mechanical penthouses, fire towers, skylights, dormer windows, and in the Rincon Hill Downtown Residential District, enclosed space related to the recreational use of the roof, which are all limited to the top 16 feet of such features where the height limit is more than 65 feet. However, for elevator penthouses, the exemption shall be limited to the footprint of the elevator shaft.

In the Rincon Hill Downtown Residential District, a further height exemption includes additional building volume used to enclose or screen from view the features listed above. The rooftop form created by the added volume shall not be subject to the percentage coverage limitations otherwise applicable to this subsection but shall meet the requirements of Section 141 for the screening of rooftop features, and shall have a horizontal area not more than 85 percent of the total area of the highest occupied floor, and shall contain no space for human occupancy.

The Project includes 15-ft. tall rooftop features including a mechanical equipment room at the western half and an elevator penthouse at the eastern half of the building with a total horizontal area of 1,753 sq. ft. The Project also includes a permitted 2,400 sq. ft. solarium for recreational open space use, for a total horizontal roof area of 4,153 sq. ft., or 32 percent of the entire 13,038 sq. ft. roof area to comply with the Planning Code's height exemption provisions.

- S. **Transportation Sustainability Fee ("TSF").** Planning Code Section 411A applies to any development project that will result in more than twenty dwelling units. Projects that have filed a development application or environmental review application on or before July 21, 2015 are subject to 50% of the applicable fee for residential uses and the applicable TIDF fee per Planning Code Section 411 for non-residential use.

The Project includes the replacement of use for 35,625 gross sq. ft. of Non-Residential to Residential use and 104,655 sq. ft. of new Residential use that will be subject to the Transportation Sustainability Fee, which must be paid prior to the issuance of the building permit application.

- T. **Child-Care Requirements.** Pursuant to Section 414A, the Residential Child Care Impact Fee applies to a project that includes at least one new dwelling unit and takes change of use into consideration.

The Project includes the replacement of use for 35,625 gross sq. ft. of Non-Residential to Residential use and 104,655 sq. ft. of new Residential use that will be subject to the Residential Child Care Impact Fee, which must be paid prior to the issuance of the building permit application.

- U. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing for the purpose of increasing affordable housing citywide.

The Project Sponsor has demonstrated that the project is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and on December 4, 2017 submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of payment through the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be leased and will remain as rental units for the life of the project. The applicable percentage is dependent on the total number of units in the project, the zoning of the property, and the date that the project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on November 4, 2014; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 14.5% of the total proposed dwelling units as affordable. Nineteen (19) of the total 144 units provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

- V. **Rincon Hill Community Infrastructure Impact Fee.** Planning Code Section 418 is applicable to any development project within the Rincon Hill Area Plan that results in the addition of at least one net new residential unit.

The project includes the replacement of use for 35,625 gross sq. ft. of Non-Residential to Residential use and 104,655 sq. ft. of new Residential use that will be subject to the Rincon Hill Community Infrastructure Impact Fee, which must be paid prior to the issuance of the building permit application.

- W. **South of Market (SOMA) Community Stabilization Fee.** Planning Code Section 418.3(d) is applicable to any development project within the Rincon Hill Area Plan that results in new residential development.

The Project includes 140,280 gross sq. ft. of new residential development that is subject to the SOMA Community Stabilization Fee, which must be paid prior to the issuance of the building permit application.

- X. **Reduction of Ground Level Wind Currents.** Planning Code 825(d) requires that new buildings and additions to existing buildings shall not cause ground-level wind currents, which exceed more than 10 percent of the time year-round, between 7:00am and 6:00pm, the comfort level of 11 mph equivalent wind speed in areas of substantial pedestrian use and 7 mph equivalent wind speed in public seating areas.

The Project underwent wind tunnel testing and was determined that it would result in one new comfort exceedance on the east side of Beale and Bryant Streets. This location is opposite the Bay Bridge overpass from the project site that fronts Caltrans storage containers on parcels 3767/003 & 004. Wind at this location would exceed the comfort level of 11 mph 13% of the time. The Zoning Administrator has determined that because the new comfort exceedance location is over 350 feet from the project, is not considered an area of substantial pedestrian use, the nominal 3% of the time the location would the comfort level threshold, and the intervening structures between the project and the exceedance location, including the Bay Bridge, the comfort exceedance is insubstantial and the development cannot be shaped without unduly restricting the development potential of the building.

- Y. **Building Standards-Development Concept.** Planning Code Section 827(a)(1) outlines a development concept that establishes a podium up to 85-ft in height with a slender residential towers spaced to provide ample light and air to the district. New development will contribute to the creation of a substantial amount of public open space, as well as provide private common areas, courtyards, and balconies. Streets will be improved to provide widened sidewalks with substantial public open space. Ground floor uses will be pedestrian-oriented in character, consisting primarily of retail on Folsom Street, and individual townhouse-style residential units on 1st, Fremont, Beale, Main, and Spear Streets, as well as on alleys and mid-block pathways. Parking will be located below grade, and building utilities (loading bays, service doors, garage doors) will be located in sidewalk vaults or on secondary frontages.

The Project has a total height of 84-ft. that is consistent with the property's height designation, and will include a 10-ft. setback above 65-ft. to reduce the bulk and minimize light and air reduction at the street. The development will include 10,800 sq. ft. open space through a combination of 24 private balconies and ten private terraces throughout all floors of the building, and a common rooftop deck and solarium. The ground floor has been designed to be pedestrian-oriented in character with a residential lobby adjacent to a dwelling unit with direct street access on Main Street, and one 11-ft. ramp to access the basement that is flanked by two townhouse-style units on Beale Street. All of the accessory parking is located underground in the basement, and the development will include streetscape improvements in front of the Project including new street trees, landscaping, bicycle racks and sidewalk re-paving consistent with the Rincon Hill Streetscape Plan.

7. **Downtown Project Authorization in RH-DTR.** Planning Code Section 309.1 lists aspects of design review in which a project must comply. The Planning Commission finds that the Project is compliant with these aspects as follows:

A. Overall building mass and scale.

The proposed building will be 84-ft. tall, which complies with the designated height for the property, and includes a 10-ft. setback above 65-ft. to maintain the desired streetwall in Rincon Hill and reinforce the sculpting of the skyline towards the larger residential towers to the north in the Transbay Downtown Residential District. Therefore, the Project's mass and scale are appropriate for the surrounding context, which includes similar and larger-scale residential towers including the eleven-story 288-unit Baycrest development at 201 Harrison Street to the north, the eleven-story 150-unit Portside development at 403 Main Street to the east, and the 25-story 245-unit Bridgeview development at 400 Beale Street to the west.

B. Architectural treatments, facade design and building materials:

The Project's architectural treatments, façade design and building materials include the use of plank format fiber cement panels in a dark grey that will have a natural variation in tone to provide visual texture and dimension, and a window wall with metal slab edge covers that are arranged in a serrated pattern to accentuate the vertical proportions of the "podium" level and provide desirable daylight interiors. The apartments on these floors will feature large operable sliding doors that open at Juliette balconies with rails that are composed of custom laser cut aluminum to provide increased privacy while promoting air flow to the interior. The building volume that is set back above 65-ft. will be clad with larger fiber cement panels in a light cream color to visually break up the massing and further articulate the building, but will include randomized joint patterns to provide visual interest. Additionally, the lower two floors of the building are set back on each street frontage to allow for a separate expression of the ground floor residential units and the building lobby. The main entrance canopy, residential stoop gates and the parking garage entrance are highlighted by patinated metal elements in a warm orange hue. As a smaller-scale residential building, the Project utilizes high quality materials and detailing and provides variety to the skyline compared to the more glassy, larger-scale towers found in other parts of Rincon Hill and throughout the South of Market area.

C. The design of lower floors, including building setback areas, commercial space, townhouses, entries, utilities, and the design and siting of rear yards, parking and loading access;

The Project features an approximately 25-ft. wide by 35-ft. deep residential lobby at the ground floor on Main Street, and an entrance/exit to the underground basement garage through an 11-ft. wide driveway on Beale Street. Along both street frontages, the ground floor is set back 18 to 36 inches behind the property line to allow planting beds. The street frontages are activated by street-facing dwelling units, each with a 6-ft. deep by 8-ft. wide entrance stoop that acts as a buffer and private open space for the respective units. Convenient access is provided to a bike parking "mezzanine level" from Beale Street, and rooms dedicated to electrical, mechanical and other building services are planned to be located below grade and not visible where possible. An interior courtyard that is 20% in area and

functions similar to a rear yard is included in the design, and is south facing to maximize the dwelling unit exposure considering the narrow 68-ft. 9-in. width of the project site.

- D. On sloping sites, parking provided above ground pursuant to Section 825(b)(5)(A);

All off-street parking is located below grade in a basement, and is consistent with the policies of the Rincon Hill Area Plan.

- E. The provision of required open space, both on- and off-site;

The Project provides a combination of private and common usable open space that is accessible to all the intended 144 residential units and totals 10,800 sq. ft., which is the 75 sq. ft. per unit required by the Planning Code.

- F. Streetscape and other public improvements, including tree planting, street furniture, and lighting.

The Project has 137-ft. 6-in. of total frontage and will include street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan.

- G. Circulation, including streets, alleys and mid-block pedestrian pathways;

The Project has 68-ft. 9-in. of frontage each on Beale and Main Streets, and includes one 11-ft. ramp on Beale Street to access the basement garage where there will be 72 accessory parking spaces and one car-share space.

- H. Other changes necessary to bring a project into conformance with the applicable elements and area plans of the General Plan.

The Project does not propose any changes or legislative amendments to the Rincon Hill Area Plan, General Plan or any other applicable plans.

The Project, on balance, meets the Objectives and Policies of the General Plan (see below).

8. **Downtown Project Authorization Exceptions.** Planning Code Section 309.1 allows exceptions for projects in the Rincon Hill Downtown Residential District as follows:

- A. Reduction in the dwelling unit exposure requirements pursuant to Section 140;

Under Planning Code Section 140, all dwelling units must face onto a public street, alley that is at least 20-ft. wide, side yard at least 25-ft wide, or rear yard that meets the requirements of the Planning Code. Alternatively, a dwelling unit may face an open area such as an inner court which is unobstructed (except for fire escapes, chimneys, and specific obstructions permitted in Section 136(c) of this Code) and is no less than 25 feet in every horizontal dimension for the floor at which the

dwelling unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor can satisfy the exposure requirement.

The combined parcel dimensions are approximately 69-ft. wide by 275-ft. deep, so the narrow width and significant portion of the Project's perimeter located at the interior property lines present a development constraint. The Project proposes an interior rectangular courtyard with a shorter horizontal dimension of 25-ft. 4-in. that is reduced to 17-ft. 4-in. for three units each at floors 2 through 9 which contain a 7-ft. x 13-ft. balcony that functions as private open space. Exclusively facing this courtyard are nine units each on floors 1 through 6, and eight units each on floors 7 through 9. These 65 units do not face a courtyard that is at least 25-ft. in every horizontal direction on their floor and floor above they are located, with an increase of five feet at each subsequent floor. However, the units will have sufficient access to light and air because the Project's courtyard is oriented southeast onto Assessor's Parcel No. 3767/003, which is currently owned by Caltrans and used as a parking lot and bridge maintenance facility. Given the overall design, composition, and community benefits of the Project, the Commission supports this exception.

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

HOUSING

Objectives and Policies

OBJECTIVE 1

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

Policy 1.1

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

Policy 1.3

Work proactively to identify and secure opportunity sites for permanently affordable housing.

Policy 1.10

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

The Project is a high density residential development in a neighborhood that has experienced rapid land use change, and is located at an underutilized infill site that would provide housing that is easily accessible by foot or bicycle, and near public transportation. The subject properties were rezoned to RH-DTR as part of a long-range planning goal to create a cohesive, higher density residential neighborhood, and the surrounding area is almost exclusively zoned for residential use. The Project will provide new on-site affordable housing units for rent, thus increasing the availability of new housing to all income levels.

OBJECTIVE 4

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

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5

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

The Project is a high density residential development that will provide nineteen permanently affordable studio, one-bedroom and two-bedroom rental housing units in Rincon Hill.

OBJECTIVE 11

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

Policy 11.1

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

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

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

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

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

Policy 11.8

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

The proposed building complies with the designated height for the property, and includes a setback above 65-ft. to maintain the desired streetwall in Rincon Hill. The surrounding context includes similar and larger-scale residential towers that are between eleven and 25 stories in height, constructed within the last

25 years, and are contemporary in architectural style. The Project is also a residential development and will maintain the neighborhood's existing character.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.2:

Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.3:

Install pedestrian-serving street furniture where appropriate.

Policy 24.4:

Preserve pedestrian-oriented building frontages.

The Project's has 137-ft. 6-in. of total frontage and is designed with street-facing active spaces oriented at the pedestrian level that include dwelling units which have direct, individual access to the public sidewalk and a 40-ft. wide residential lobby on Main Street. Additionally, the adjacent streetscape will include at least six new street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan.

OBJECTIVE 28:

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1:

Provide secure bicycle parking in new governmental, commercial, and residential developments.

Policy 28.3:

Provide parking facilities which are safe, secure, and convenient.

The Project includes 111 Class 1 bicycle parking spaces at a "mezzanine level" area between the basement and ground floor that are conveniently accessed through a bank of elevators in the lobby off Main Street. In addition, at least eight Class 2 bicycle parking space racks will be installed in front of the building.

OBJECTIVE 34:

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1:

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Policy 34.3:

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

Policy 34.5:

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

The Project includes the principally permitted 72 off-street residential parking spaces at a ratio of one space for every two dwelling units to encourage low auto ownership and promote transit ridership. The parking spaces will be accessed through a single 11-ft. curb cut and ramp on Beale Street to minimize the reduction of existing on-street parking.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.7:

Recognize the natural boundaries of districts, and promote connections between districts.

The Project is located in the Rincon Hill neighborhood, which has been redeveloped into a dense residential area, and the proposed development includes expressive street façades that respond to the form, scale and material palette of the older and more recent construction in the neighborhood.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.5:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

The Project includes a single 11-ft. curb cut and ramp on Beale Street to access the basement-level parking that will minimize danger to pedestrians, and is designed with street-facing active uses oriented at the pedestrian level to provide human scale and interest, including dwelling units that have direct access to the public sidewalk and a 40-ft. wide residential lobby on Main Street. Additionally, the adjacent streetscape will include at least six new street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan to improve the pedestrian realm.

RINCON HILL AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1

ENCOURAGE THE DEVELOPMENT OF A UNIQUE DYNAMIC, MIXED-USE RESIDENTIAL NEIGHBORHOOD CLOSE TO DOWNTOWN, WHICH WILL CONTRIBUTE SIGNIFICANTLY TO THE CITY'S HOUSING SUPPLY.

OBJECTIVE 1.2

MAXIMIZE HOUSING IN RINCON HILL TO CAPITALIZE ON RINCON HILL'S CENTRAL LOCATION ADJACENT TO DOWNTOWN EMPLOYMENT AND TRANSIT SERVICE, WHILE STILL RETAINING THE DISTRICT'S LIVABILITY.

OBJECTIVE 1.5

ADD LIFE AND ACTIVITY TO THE DISTRICT'S PUBLIC SPACES BY PROVIDING ACTIVE USES ON STREET-FACING GROUND FLOORS.

Policy 1.1

Allow housing as a principal permitted use throughout the district.

Policy 1.3

Eliminate the residential density limit to encourage the maximum amount of housing possible within the allowable building envelope.

Policy 1.4

Require parking to be located primarily underground so that the allowable above-ground building envelope can be used for housing.

The Project is a high density residential development located at an underutilized infill site that proposes the maximum amount of housing possible within the allowable building envelope in a neighborhood that has experienced rapid land use change to become a cohesive, higher density and predominantly residentially zoned neighborhood. The new housing would be close to downtown employment, easily accessible by foot or bicycle, and near public transportation.

The Project has 137-ft. 6-in. of total frontage on Beale and Main Streets that is designed with street-facing active uses oriented at the pedestrian level including dwelling units which have direct, individual access to

the public sidewalk and a 40-ft. wide residential lobby on Main Street. Additionally, the adjacent streetscape will include at least six new street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan. The Project's principally permitted 72 off-street residential parking spaces will be accessed through a single 11-ft. curb cut and ramp on Beale Street to minimize the reduction of existing on-street parking.

Housing

OBJECTIVE 2.1

PROVIDE QUALITY HOUSING IN A PLEASANT ENVIRONMENT THAT HAS ADEQUATE ACCESS TO LIGHT, AIR, OPEN SPACE AND NEIGHBORHOOD AMENITIES, AND THAT IS BUFFERED FROM EXCESSIVE NOISE.

OBJECTIVE 2.2

ENCOURAGE NEW HOUSING PRODUCTION THAT MEETS A VARIETY OF HOUSING NEEDS, ESPECIALLY AFFORDABLE HOUSING.

OBJECTIVE 2.3

ENCOURAGE NEW HOUSING PRODUCTION OF AN ADEQUATE SIZE AND CONFIGURATION TO SERVE FAMILIES.

Policy 2.1

Require all new developments of 10 or more units in the Rincon Hill district to meet the City's affordable housing requirement of at least 12 percent on-site or 17 percent off-site, regardless of whether a Conditional Use permit is required.

Policy 2.2

Require that inclusionary housing be built within the South of Market district, in areas designated for the encouragement of new housing.

Policy 2.4

Require 40 percent of all units in new development to be two or more bedroom units.

The Project contains 144 dwelling units and will comply with the City's affordable housing requirement by providing nineteen permanently affordable on-site studio, one-bedroom and two-bedroom rental housing units in the Rincon Hill neighborhood of the South of Market district. The Project would also contain 59 two-bedroom units, which is 41 percent of the total units.

Urban Design

OBJECTIVE 3.1

ACHIEVE AN AESTHETICALLY PLEASING RESIDENTIAL COMMUNITY.

OBJECTIVE 3.8

ENCOURAGE A HUMAN SCALE STREETScape WITH ACTIVITIES AND DESIGN FEATURES AT PEDESTRIAN EYE LEVEL, AND AN ENGAGING PHYSICAL TRANSITION BETWEEN PRIVATE DEVELOPMENT AND THE PUBLIC REALM.

OBJECTIVE 3.9

MINIMIZE THE VISUAL IMPACTS OF RESIDENTIAL PARKING, LOADING, UTILITIES AND SERVICES ON THE NEIGHBORHOOD.

Policy 3.10

Provide a consistent 45 to 85 foot streetwall to clearly define the street.

Policy 3.11

Require building setbacks at upper-stories for podiums above 65 feet on Spear, Main, Beale, Fremont and First Streets, and above 45 feet on Guy and Lansing Streets and mid-block pedestrian pathways to preserve an appropriate scale and sun access to streets.

Policy 3.14

Require street-facing ground floor residential units articulated at intervals of no more than 25 feet on Spear, Main, Beale, Fremont, First, and Lansing Streets, and Guy Place, except at tower lobbies or where parking access and utilities are necessary. Encourage them on Harrison and Bryant Streets.

Policy 3.16

Restrict parking access to new buildings to two lanes (one egress, one ingress) of no more than 11 feet each, and loading access to one lane of no more than 15 feet. Parking and loading should share access lanes wherever possible.

Policy 3.17

Require that all parking must be located below street grade. For sloping sites with a grade change of greater than ten feet, require that no less than 50 percent of the parking must be below grade, and any portions not below grade must be lined by active uses.

The Project includes a 10-ft. setback above a height of 65-ft., which is above the sixth floor at the Beale Street frontage and seventh floor at the Main Street frontage to help clearly define the streetwall and preserve an appropriate scale and sun access to streets. Street-facing ground floor residential units are placed at intervals less than 25 feet on Beale and Main Streets, and access to the below grade parking in the basement is limited to a single 11-ft. curb cut and ramp on Beale Street.

Recreation, Open Space and Community Facilities

OBJECTIVE 4.1

CREATE A VARIETY OF NEW OPEN SPACES AND COMMUNITY FACILITIES FOR ACTIVE AND PASSIVE RECREATION TO MEET THE NEEDS OF A SIGNIFICANT NEW RESIDENTIAL POPULATION.

OBJECTIVE 4.7

REQUIRE PRIVATE DEVELOPMENT TO CONTRIBUTE TO THE CREATION AND ONGOING MAINTENANCE AND OPERATIONS OF PUBLIC OPEN SPACES AND COMMUNITY FACILITIES THROUGH IN-KIND CONTRIBUTION, A COMMUNITY FACILITIES DISTRICT, AND/OR DEVELOPER FEES.

Policy 4.6

Create a community facilities district to fund capital improvements, operation and maintenance of new public spaces, including the Living Streets, the Harrison/Fremont Park, and community spaces in the Sailor's Union of the Pacific building.

Policy 4.7

Require new development to implement portions of the streetscape plan adjacent to their development, and additional relevant in-kind contributions, as a condition of approval.

Policy 4.8

Require new development to provide private open space in relation to a development's residential area at a ratio of 75 square feet of open space per unit.

The Project includes a total 10,800 sq. ft. of private or common open space that is equal to 75 sq. ft. per dwelling unit, and will include improvements to the streetscape including at least six new street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan to improve the pedestrian realm. The Project will also be subject to the Rincon Hill Community Infrastructure Impact Fee that is deposited into the Rincon Hill Community Improvements Fund to be used solely to design, engineer, acquire, improve, and develop neighborhood recreation and open spaces, pedestrian and streetscape improvements, and bicycle infrastructure that result in new publicly-accessible facilities or other allowable improvements within the Rincon Hill Downtown Residential District.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:
 - A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The existing use at the project site is a 35,625 sq. ft. retail self-storage facility that is not compatible with the residential and mixed-use character of the Rincon Hill Downtown Residential District. The Project will provide 144 dwelling units in a well-designed building that is more compatible and

desirable with the existing residential context, and bring new residents to the area that will provide opportunities for patronage to nearby retail uses.

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

No housing exists on the project site. The Project will provide 144 new dwelling units in a building that is designed to be compatible with the massing, scale and architecture of the residential and mixed-use development in the neighborhood. Overall, the Project preserves the cultural and economic diversity of the surrounding neighborhood thru its strong relationship to the adjacent neighborhood character.

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

No housing exists on the project site. The Project will not eliminate any existing affordable housing and will comply with the City's Inclusionary Housing Program by providing nineteen new on-site affordable rental housing units, thus increasing the opportunity for future affordable housing.

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

The Project is well served by MUNI and other regional public transit, and traffic generated by the 72 accessory residential parking spaces would be intermittent and not significant to overburden local streets or impede transit service.

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

The project site is currently used as a 35,625 sq. ft. retail self-storage facility that will be replaced with a residential development that is more compatible in character with the existing development. The Project does not include commercial office use, nor will any industrial and service sector businesses be displaced.

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

The Project will be designed and constructed to conform to the structural and seismic safety requirements of the Building Code and will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

There are no landmarks or historic buildings on the project site.

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

The Project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of the Recreation and Park Commission.

11. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

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

12. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
13. The Commission hereby finds that approval of the Downtown Project Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Downtown Project Authorization Application No. 2014-002033DNX** under Planning Code Section 309.1 to allow demolition of an existing 35,625 sq. ft. commercial structure, merger of two lots, and construction of a new 84-ft. tall, nine-story and approximately 140,280 sq. ft. residential building with up to 144 dwelling units (consisting of 60 studio, 25 one-bedroom, and 59 two-bedroom units), 10,800 sq. ft. of open space, and a 17,720 sq. ft. basement garage for 72 accessory automobile and 111 Class 1 bicycle parking spaces, and a modification to the requirement for dwelling unit exposure under Planning Code Section 140, within the RH-DTR (Rincon Hill Downtown Residential) Zoning District, and 84-X Height and Bulk District. The Project is subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file dated February 6, 2018, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures identified in the Rincon Hill Plan EIR and contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309.1 Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

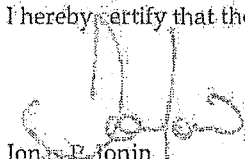
Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and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

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

Motion No. 20195
May 24, 2018

CASE NO. 2014-002033DNX
429 Beale Street/430 Main Street

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on May 24, 2018.



Jonas P. Ionin
Commission Secretary

AYES: Fong, Hillis, Johnson, Koppel, and Melgar

NAYS: Moore

ABSENT: Richards

ADOPTED: May 24, 2018

EXHIBIT A

AUTHORIZATION

This authorization is for a Downtown Project Authorization to allow demolition of an existing 35,625 sq. ft. commercial structure, merger of two lots, and construction of a new 84-ft. tall, nine-story and approximately 140,280 sq. ft. residential building with up to 144 dwelling units (consisting of 60 studio, 25 one-bedroom, and 59 two-bedroom units), 10,800 sq. ft. of open space, and a 17,720 sq. ft. basement garage for 72 accessory automobile and 111 Class 1 bicycle parking spaces, and a modification to the requirement for dwelling unit exposure pursuant to Planning Code Section 140, located at 429 Beale and 430 Main Streets, Lots 305 & 306 in Assessor's Block 3767, pursuant to Planning Code Section 309.1 within the RH-DTR (Rincon Hill Downtown Residential) Zoning District, and a 84-X Height and Bulk District; in general conformance with plans, stamp dated February 6, 2018, and stamped "EXHIBIT B" included in the docket for Case No. 2014-002033DNX and subject to conditions of approval reviewed and approved by the Commission on May 24, 2018 under Motion No. 20195. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on May 24, 2018 under Motion No. 20195.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20195 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Office Development Authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Downtown Project Authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the two (2) year period has lapsed, the Project Sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the Project Sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than two (2) years have passed since this Authorization was approved.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Planning Commission, subject to Planning Code Section 309.1, where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Mitigation Measures.** Mitigation measures described in the MMRP for the Rincon Hill Plan EIR (Case No. 2014-002033ENV) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

7. **Building Height.** The Project shall be modified to comply with the 84-ft. height limit as described under Planning Code Section 260 and will be measured at two locations, on Beale Street for a depth of 137-ft. 6-in., and on Main Street for the remaining depth of 137-ft. 6-in. depth, which is equal to the midpoint of the Project Site's total 275-ft. depth. at Main Street. The modified plans shall be reviewed and approved by the Planning Department.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

8. **Massing Break.** The Project shall be modified to incorporate a 45-ft. wide break, or notch at the center of the building. When compared to the original plans dated March 14, 2018, the modified massing that complies with the 84-ft. height limit would be equal to the topmost four floors for the one-half of the building closest to Main Street, and the topmost three floors for the one-half of the building closest to Beale Street. The walkways on each floor of this break that will connect the building volumes shall use an open railing system, and not a solid material such as glazing. The modified plans shall be reviewed and approved by the Planning Department.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

9. **Final Materials.** Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

12. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. On-site, in a ground floor façade;
5. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
6. Public right-of-way, underground; and based on Better Streets Plan guidelines;
7. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

PARKING AND TRAFFIC

13. **Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or

rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

14. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than 72 off-street parking spaces for the 144 dwelling units (or 0.5 off-street parking spaces for each dwelling unit) exclusive of any designated car-share spaces contained therein.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

15. **Car Share.** Pursuant to Planning Code Section 166, no less than one (1) car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

16. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than 111 Class 1 bicycle parking spaces and eight (8) Class 2 bicycle parking spaces.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

20. **Residential Child Care Impact Fee.** Pursuant to Planning Code Section 414A, the Project shall pay the Child Care Requirement Fee, prior to issuance of the first construction document.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
21. **Rincon Hill Community Improvements Fee.** Pursuant to Planning Code Section 418.3(b)(1), the Project shall pay the Rincon Hill Community Infrastructure Impact Fee, execution of a Waiver Agreement with the Planning Department, or execution of an In-Kind Agreement with the Planning Department prior to issuance of the first construction document.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
22. **South of Market Community Stabilization Fee.** Pursuant to Planning Code Section 418.3(d), the Project shall pay the SOMA Community Stabilization Fee, prior to issuance of the first construction document.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
23. **Transportation Sustainability Fee.** Pursuant to Planning Code Section 411A, the Project shall pay for the residential uses within the Project, either: i) pay \$3.87 per gross square foot (approximately equal to 50% of the TSF applicable to residential uses); or ii) comply with the TSF, if applicable to the project, whichever calculation results in a higher TSF requirement. Non-residential or PDR uses would continue to be subject to the TIDF at the rate applicable per Planning Code Sections 411.3(e) and 409, as well as any other applicable fees.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING

24. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
25. **Revocation Due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

26. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

27. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

INCLUSIONARY AFFORDABLE HOUSING PROGRAM

30. **Number of Required Units.** Pursuant to Planning Code Section 415.3, the Project is required to provide 13.5% of the proposed dwelling units as affordable to qualifying households. The Project contains 144 units; therefore, nineteen (19) affordable units are required. The Project Sponsor will fulfill this requirement by providing the nineteen (19) affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

31. **Unit Mix.** The Project contains 60 studios, 25 one-bedroom, and 59 two-bedroom units; therefore, the required affordable unit mix is eight (8) studios, three (3) one-bedroom, and eight (8) two-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

32. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

33. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (13.5%) of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

34. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

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

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- b. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
- f. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.

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- g. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable.

EXHIBIT C: MITIGATION MONITORING AND REPORTING PROGRAM

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MITIGATION MEASURES				
Project Mitigation Measure 1: Archeological Monitoring (Implementing Rincon Hill PEIR Mitigation Measure I.1b)				
<p>Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archeological consultant from the rotational Qualified Archeological Consultants List (QACL) maintained by the Planning Department (Department) archeologist. The project sponsor shall contact the Department archeologist to obtain the names and contact information for the next three archeological consultants on the QACL. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the Environmental Review Officer (ERO) for review and comment and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the</p>	<p>Project sponsor/ archeological consultant at the direction of the Environmental Review Officer (ERO).</p>	<p>Prior to issuance of site permits.</p>	<p>Project Sponsor shall retain archaeological consultant to undertake archaeological monitoring program in consultation with ERO.</p>	<p>Considered complete when project sponsor retains qualified archeological consultant.</p>

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<p>direction of the ERO, the suspension of <i>construction</i> can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a) and (c).</p>				
<p><i>Consultation with Descendant Communities.</i> On discovery of an archeological site¹ associated with descendant Native Americans, the Overseas Chinese, or other potentially interested descendant group, an appropriate representative² of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to offer recommendations to the ERO regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archaeological Resources Report shall be provided to the representative of the descendant group.</p>				
<p><i>Archeological Monitoring Program (AMP).</i> The archeological monitoring program shall minimally include the following provisions:</p>	<p>Project sponsor/ archeological consultant at the</p>	<p>Prior to issuance of site permits.</p>	<p>Project sponsor/archeological consultant shall meet with ERO on scope of AMP.</p>	<p>Considered complete upon ERO approval of</p>

¹ The term "archeological site" is intended here to minimally include any archeological deposit, feature, burial, or evidence of burial.
² An "appropriate representative" of the descendant group is here defined to mean, in the case of Native Americans, any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission and, in the case of the Overseas Chinese, the Chinese Historical Society of America. An appropriate representative of other descendant groups should be determined in consultation with the Department archeologist.

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<ul style="list-style-type: none"> <li data-bbox="325 381 905 852">▪ The archeological consultant, project sponsor, and the ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils-disturbing activities commencing. The ERO, in consultation with the project archeologist, shall determine what project activities shall be archeologically monitored. In most cases, any soils disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the potential risk these activities pose to archeological resources and to their depositional context; <li data-bbox="325 868 905 1055">▪ The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource; <li data-bbox="325 1071 905 1258">▪ The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant 	<p>direction of the ERO.</p>			<p>AMP.</p>

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<p>archeological deposits;</p> <ul style="list-style-type: none"> The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; <p>If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving or deep foundation activities (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving or deep foundation activities may affect an archeological resource, the pile driving or deep foundation activities shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.</p> <p>If the ERO, in consultation with the archeological consultant, determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the</p>	<p>Project sponsor/ archeological consultant at the direction of the Environmental Review Officer (ERO).</p>	<p>During soils-disturbing activities.</p>	<p>Archeological consultant to monitor soils-disturbing activities specified in AMP and immediately notify ERO of any encountered archeological resource.</p>	<p>Considered complete upon completion of AMP.</p>
<p>If the ERO, in consultation with the archeological consultant, determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the</p>	<p>ERO, archeological consultant, and project sponsor.</p>	<p>Following discovery of significant archeological</p>	<p>Project sponsor to redesign project to avoid adverse effect or undertake archeological data recovery program.</p>	<p>Considered complete upon avoidance of adverse effect.</p>

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<p>project sponsor, either:</p> <p>A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or</p> <p>B) An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.</p>		<p>resource that could be adversely affected by project.</p>		
<p>If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and the ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the</p>	<p>ERO, archeological consultant, and project sponsor.</p>	<p>Following determination by ERO that an ADRP is required.</p>	<p>Archeological consultant to prepare an ADRP in consultation with ERO.</p>	<p>Considered complete upon approval of ADRP by ERO.</p>

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proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.
- *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.
- *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.
- *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.
- *Security Measures.* Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.
- *Final Report.* Description of proposed report format and distribution of results.
- *Curation.* Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification

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<p>of appropriate curation facilities, and a summary of the accession policies of the curation facilities.</p> <p><i>Human Remains, Associated or Unassociated Funerary Objects.</i> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and, in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The ERO shall also be immediately notified upon discovery of human remains. The archeological consultant, project sponsor, ERO, and MLD shall have up to, but not beyond, six days after the discovery to make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines. Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing State regulations or in this mitigation measure compels the project sponsor and the ERO to accept recommendations of an MLD. The archeological consultant shall retain possession of any Native American human</p>	<p>Archeological consultant or medical examiner.</p>	<p>Following discovery of human remains.</p>	<p>Notification of Coroner and, as warranted, notification of NAHC.</p>	<p>Considered complete on finding by ERO that all State laws regarding human remains/burial objects have been adhered to, consultation with MLD is completed as warranted, and that sufficient opportunity has been provided to the archeological consultant for scientific and historical analysis of remains and funerary objects.</p>

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<p>remains and associated or unassociated burial objects until completion of any scientific analyses of the human remains or objects as specified in the treatment agreement if such an agreement has been made or, otherwise, as determined by the archeological consultant and the ERO. If no agreement is reached, State regulations shall be followed, including the reburial of the human remains and associated burial objects with appropriate dignity on the property in a location not subject to further subsurface disturbance (Pub. Res. Code Sec. 5097.98).</p> <p><i>Final Archeological Resources Report.</i> The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the draft final report.</p>	<p>Archeological consultant at the direction of the ERO.</p>	<p>Following completion of cataloguing, analysis, and interpretation of recovered archeological data.</p>	<p>Archeological consultant to prepare FARR.</p>	<p>Considered complete upon review and approval of FARR by ERO.</p>
<p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: the California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning Division of the Planning Department shall receive one bound, one unbound, and</p>	<p>Archeological consultant at the direction of the ERO.</p>	<p>Following completion of FARR and review and approval by ERO.</p>	<p>Following consultation with ERO, archeological consultant to distribute FARR.</p>	<p>Considered complete upon certification to ERO that copies of FARR have been distributed.</p>

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<p>one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.</p> <p>Project Mitigation Measure 2: Construction Air Quality (Implementing Rincon Hill PEIR Mitigation Measure E.1)</p> <p>The project sponsor or the project sponsor's Contractor shall comply with the following:</p> <p>A. <i>Engine Requirements.</i></p> <p>1. All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed either U.S. Environmental Protection Agency (USEPA) or California Air Resources Board (ARB) Tier 2 off-road emission standards, and have been retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy. Equipment with engines meeting Tier 4 Interim or Tier 4 Final off-road emission standards automatically meet this requirement.</p>	<p>Project sponsor, contractor(s).</p>	<p>Prior to construction activities requiring the use of off-road equipment.</p>	<p>Project sponsor, contractor(s) to submit certification statement to the ERO.</p>	<p>Considered complete upon submittal of certification statement.</p>

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2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited.				
3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The Contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two-minute idling limit.				
4. The Contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.				
B. <i>Waivers.</i>				
1. The Planning Department's Environmental Review Officer (ERO) or designee may waive the alternative source of power requirement of Subsection (A)(2) if an alternative source of				

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<p>power is limited or infeasible at the project site. If the ERO grants the waiver, the Contractor must submit documentation that the equipment used for on-site power generation meets the requirements of Subsection (A)(1).</p> <p>2. The ERO may waive the equipment requirements of Subsection (A)(1) if: a particular piece of off-road equipment with an ARB Level 3 VDECS is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use off-road equipment that is not retrofitted with an ARB Level 3 VDECS. If the ERO grants the waiver, the Contractor must use the next cleanest piece of off-road equipment, according to the table below.</p>				

Table – Off-Road Equipment Compliance Step-down Schedule

Compliance Alternative	Engine Emission Standard	Emissions Control
Tier 1	Tier 2	ARB Level 2 VDECS
Tier 2	Tier 2	ARB Level 1 VDECS
Tier 3	Tier 2	Alternative Fuel*

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<p>How to use the table: If the ERO determines that the equipment requirements cannot be met, then the project sponsor would need to meet Compliance Alternative 1. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 1, then the Contractor must meet Compliance Alternative 2. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 2, then the Contractor must meet Compliance Alternative 3. Alternative fuels are not a VDECS.</p>				
<p>C. <i>Construction Emissions Minimization Plan.</i> Before starting on-site construction activities, the Contractor shall submit a Construction Emissions Minimization Plan (Plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the Contractor will meet the requirements of Section A.</p>	<p>Project sponsor, contractor(s).</p>	<p>Prior to issuance of a permit specified in Section 106A.3.2.6 of the Francisco Building Code.</p>	<p>Project sponsor, contractor(s) to prepare and submit a Plan to the ERO.</p>	<p>Considered complete upon findings by the ERO that the Plan is complete.</p>
<p>1. The Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed, the description may include: technology type, serial number, make, model,</p>				

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<p>manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used.</p>				
<p>2. The ERO shall ensure that all applicable requirements of the Plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the Contractor agrees to comply fully with the Plan.</p>				
<p>3. The Contractor shall make the Plan available to the public for review on-site during working hours. The Contractor shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during working hours and shall explain how to request to inspect the Plan. The Contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.</p>				
<p>D. <i>Monitoring.</i> After start of construction activities, the Contractor shall submit quarterly reports to the</p>	<p>Project sponsor, contractor(s).</p>	<p>Quarterly.</p>	<p>Project sponsor, contractor(s) to submit quarterly reports to</p>	<p>Considered complete upon</p>

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<p>ERO documenting compliance with the Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the Plan.</p>			the ERO.	findings by the ERO that the Plan is being/has been implemented.
<p>Project Mitigation Measure 3 – Dewatering During Construction (Implementing Rincon Hill PEIR Mitigation Measure H.2)</p>				
<p>If dewatering is necessary, the project sponsor shall follow the recommendations of the site assessment/remediation consultant, in consultation with the Bureau of Environmental Regulation (BERM) of the San Francisco Public Utilities Commission, regarding treatment, if any, of pumped groundwater prior to discharge to the combined sewer system. Any groundwater encountered during construction of the proposed project would be subject to requirements of the City's Industrial Waste Ordinance (Ordinance No.199-77), requiring that groundwater meet specified water quality standards before it may be discharged into the sewer system. The BERM must be notified of projects necessitating dewatering. That office may require water analysis before discharge.</p>	Project sponsor and construction contractor(s).	During project construction.	Project sponsor and/or construction contractor(s) to notify the BERM if dewatering is necessary and follow the recommendations of the BERM.	Considered complete upon completion of construction
<p>If dewatering is necessary, groundwater pumped from the</p>				

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development site shall be retained in a holding tank to allow suspended particles to settle, if this is determined necessary by the BERM to reduce the amount of sediment entering the combined sewer system. The project sponsor shall require the general contractor to install and maintain sediment traps if determined necessary by the BERM.

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<p>IMPROVEMENT MEASURES</p>				
<p>Project Improvement Measure 1 – Construction Traffic (Implementing Rincon Hill PEIR Improvement Measure C.2)</p>				
<p>Construction contractor(s) for the proposed project should meet with the Municipal Transportation Agency, the Fire Department, the Planning Department, and other City agencies to determine feasible measures to reduce traffic congestion, including any potential transit disruption and pedestrian circulation impacts during construction of the project. In addition, the temporary parking demand by construction contractor(s) should be met on-site or within other off-site parking facilities, and the construction contractor(s) should determine the location of an off-site parking facility for construction workers during the construction period.</p>	<p>Project sponsor and construction contractor(s).</p>	<p>During project construction.</p>	<p>Construction contractor(s) to meet with the Municipal Transportation Agency, Planning Department, and other City agencies to determine feasible measures to reduce traffic congestion during construction.</p> <p>Construction contractor(s) to determine the location of an off-site parking facility for construction workers.</p>	<p>Considered complete upon completion of construction.</p>
<p>Project Improvement Measure 2 – Construction Management Plan (Implementing Project TIS Improvement Measure TR-1)</p>				
<p>To minimize potential disruptions to traffic, transit, pedestrians, and bicyclists, the project sponsor and/or construction contractor should develop a Construction Management Plan that could include, but not necessarily be limited to, the following:</p>	<p>Project sponsor and construction contractor(s).</p>	<p>During project construction.</p>	<p>Project sponsor and/or construction contractor(s) to develop and implement Construction Management Plan.</p>	<p>Considered complete upon completion of construction.</p>
<ul style="list-style-type: none"> Identify optimal truck routes to and from the site to minimize impacts to traffic, transit, 				

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pedestrians, and bicyclists;

- Identify off-street parking alternatives for construction workers;
- Encourage construction workers to use transit when commuting to and from the project site, reducing the need for parking.

The Construction Management Plan would disseminate appropriate information to contractors and affected agencies with respect to coordinating construction activities to minimize overall disruptions and ensure that overall circulation in the area is maintained to the extent possible, with particular focus on ensuring transit, pedestrian, and bicycle connectivity. The program would supplement and expand, rather than modify or supersede, any manual, regulations, or provisions set forth by the San Francisco Municipal Transportation Agency, the San Francisco Public Works, other City agencies, and Caltrans.

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SAN FRANCISCO PLANNING DEPARTMENT

Certificate of Determination COMMUNITY PLAN EVALUATION

Case No.: 2014-002033ENV
 Project Title: 429 Beale Street and 430 Main Street
 Zoning/Plan Area: RH-DTR (Rincon Hill Downtown Residential) District
 84-X Height and Bulk District
 Rincon Hill Area Plan
 Block/Lot: 3767/305 and 306
 Lot Size: 18,906 square feet
 Project Sponsor: LCL Global-429 Beale Street & 430 Main Street, LLC
 c/o Mark Loper - Reuben, Junius & Rose
 (415) 567-9000, mloper@reubenlaw.com
 Staff Contact: Michael Li
 (415) 575-9107, michael.li@sfgov.org

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

Reception:
 415.558.6378

Fax:
 415.558.6409

Planning
 Information:
 415.558.6377

CEQA DETERMINATION

The project is eligible for streamlined environmental review per Section 15183 of the California Environmental Quality Act (CEQA) Guidelines and California Public Resources Code Section 21083.3.

DETERMINATION

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

LISA GIBSON
 Environmental Review Officer

3/19/18

Date

cc: LCL Global-429 Beale Street & 430 Main Street, LLC,
 Project Sponsor
 Doug Vu, Current Planning Division
 Supervisor Jane Kim, District 6
 Verna Byrd, M.D.F.
 Exclusion/Exemption Dist. List

PROJECT DESCRIPTION

The project site, which is in San Francisco's Rincon Hill neighborhood, is on the block bounded by Beale Street on the west, Harrison Street on the north, Main Street on the east, and Bryant Street on the south. The project site extends from Beale Street to Main Street and consists of two adjacent parcels: Assessor's Block 3767, Lots 305 and 306. Lot 305, the western parcel, fronts on Beale Street and is occupied by a one-story building that was constructed in 1951. Lot 306, the eastern parcel, fronts on Main Street and is occupied by a two-story building that was constructed in 1929. Both buildings are currently occupied by a retail self-storage use. The project site has two existing curb cuts: one on Beale Street and one on Main Street. The project site slopes up from west to east; the western property line is about eight feet lower than the eastern property line.

The proposed project consists of merging the two existing lots into a single 18,906-square-foot lot, demolishing the existing buildings, and constructing a nine-story, 84-foot-tall building containing 144 dwelling units and 73 parking spaces (72 residential spaces and one car-share space). There would be a 15-foot-tall solarium and a 15-foot-tall mechanical penthouse on the roof, resulting in a maximum building height of 99 feet. The parking garage would be on the basement level. Due to the slope of the project site, the parking garage would be about 18 feet below grade on the Main Street side of the project site and about nine feet below grade on the Beale Street side of the project site. The garage door and a new driveway would be provided on Beale Street. The existing 20-foot-wide curb cut on Beale Street would be retained and reduced in width to 11 feet, and the existing curb cut on Main Street would be removed. A total of 119 bicycle parking spaces would be provided; 111 Class 1 spaces would be provided in a storage room on the basement mezzanine level, and eight Class 2 spaces would be provided on the Beale Street and/or Main Street sidewalk adjacent to the project site. Usable open space for the residents of the proposed project would be provided in the form of a ground-level yard, private balconies, and a roof deck.

Construction of the proposed project would take about 24 months. The proposed building would be supported by a mat foundation; pile driving would not be required. Construction of the proposed project would require excavation to depths ranging from about 10 feet to about 25.5 feet below ground surface and the removal of about 12,052 cubic yards of soil.

PROJECT APPROVAL

The proposed project would require the following approvals:

- **Section 309.1 Downtown Project Authorization** (*Planning Commission*)
- **Exception from Reduction of Ground-Level Wind Currents** (*Zoning Administrator*)
- **Demolition Permit** (*Planning Department and Department of Building Inspection*)
- **Site/Building Permit** (*Planning Department and Department of Building Inspection*)

The proposed project requires Section 309.1 Downtown Project Authorization from the Planning Commission, which constitutes the Approval Action for the proposed project. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

PREVIOUS ENVIRONMENTAL REVIEW

In 2007, a previous developer proposed the construction of an eight-story residential building on the project site. In 2009, the Planning Department issued a Certificate of Determination - Exemption from Environmental Review (Community Plan Exemption) for the 2007 project. The Community Plan Exemption was appealed to the San Francisco Board of Supervisors, which upheld the appeal on the grounds that the Community Plan Exemption did not adequately analyze the 2007 project's environmental impacts related to air quality, wind, and greenhouse gas (GHG) emissions. The Board of Supervisors directed the Planning Department to conduct additional environmental review and prepare either a negative declaration or an environmental impact report that analyzes the 2007 project's potential impacts related to air quality, wind, and GHG emissions. The previous developer did not move forward with the 2007 project, so no additional environmental review was conducted.

COMMUNITY PLAN EVALUATION OVERVIEW

California Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 provide that projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified, shall not be subject to additional environmental review except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that: (a) are peculiar to the project or parcel on which the project would be located; (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent; (c) are potentially significant off-site and cumulative impacts that were not discussed in the underlying EIR; or (d) are previously identified in the EIR, but which, as a result of substantial new information that was not known at the time that the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for the project solely on the basis of that impact.

This determination evaluates the potential project-specific environmental effects of the 429 Beale Street and 430 Main Street project described above, and incorporates by reference information contained in the Programmatic EIR for the *Rincon Hill Plan*¹ (Rincon Hill PEIR).² Project-specific studies were prepared for the proposed project to determine if the project would result in any significant environmental impacts that were not identified in the Rincon Hill PEIR.

The Rincon Hill PEIR included analyses of the following environmental issues: land use, plans, and policies; visual quality; transportation, circulation, and parking; population and housing; air quality; shadow; wind; hazardous materials; historical resources; hydrology and water quality; growth inducement; noise; utilities/public services; biology; geology/topography; water; and energy/natural resources.

¹ The *Rincon Hill Plan* is also known as the *Rincon Hill Area Plan*. The terms are interchangeable. Throughout this document, the term *Rincon Hill Area Plan* is used.

² San Francisco Planning Department, *Rincon Hill Plan Final Environmental Impact Report*, Planning Department Case No. 2000.1081E, State Clearinghouse No. 1984061912, certified May 5, 2005. Available online at <http://sf-planning.org/area-plan-eirs>, accessed March 16, 2018.

The 429 Beale Street and 430 Main Street project site is located in the area covered by the *Rincon Hill Area Plan*. As a result of the Rincon Hill rezoning process, the zoning for the project site has been reclassified from M-1 (Light Industrial) to RH-DTR (Rincon Hill Downtown Residential); the 84-X height and bulk controls were not reclassified. The RH-DTR District is designed to maintain and facilitate the growth and expansion of small-scale light industrial, wholesale distribution, arts production and performance/exhibition activities, general commercial and neighborhood-serving retail and personal service activities while protecting existing housing and encouraging the development of housing at a scale and density compatible with the existing neighborhood. The proposed project is consistent with the uses permitted within the RH-DTR District.

Individual projects that could occur in the future under the *Rincon Hill Area Plan* will undergo project-level environmental evaluation to determine if they would result in further impacts specific to the development proposal, the site, and the time of development and to assess whether additional environmental review would be required. This determination concludes that the proposed project at 429 Beale Street and 430 Main Street is consistent with and was encompassed within the analysis in the Rincon Hill PEIR. This determination also finds that the Rincon Hill PEIR adequately anticipated and described the impacts of the proposed 429 Beale Street and 430 Main Street project and identified the mitigation measures applicable to the project. The proposed project is also consistent with the zoning controls and the provisions of the Planning Code applicable to the project site.^{3,4} Therefore, no further CEQA evaluation for the 429 Beale Street and 430 Main Street project is required. In sum, the Rincon Hill PEIR and the Initial Study – Community Plan Evaluation and Certificate of Exemption for the proposed project comprise the full and complete CEQA evaluation necessary for the proposed project.

PROJECT SETTING

The project vicinity is characterized by residential, retail, office, and open space uses. The scale of development in the project vicinity varies in height from 15 to 600 feet. There is a nine- to 11-story, 110-foot-tall residential building with 294 units (BayCrest Towers, 201 Harrison Street) adjacent to and north of the project site, and there is a one-story California Department of Transportation (Caltrans) maintenance facility adjacent to and south of the project site. The elevated Interstate 80 approach to the San Francisco-Oakland Bay Bridge passes over the Caltrans property at a height of approximately 125 feet.

There is a 25-story, 200-foot-tall residential building on the west side of Beale Street across from the project site, and there is a nine-story, 105-foot-tall residential building on the east side of Main Street across from the project site. Other land uses in the project vicinity include the temporary Transbay Terminal (one block north of the project site), Rincon Hill Dog Park (one block south), and the Embarcadero Promenade (two blocks east).

The project site is well served by public transportation. Within one-quarter mile of the project site, the San Francisco Municipal Railway (Muni) operates 10 bus lines (the 5 Fulton, 5R Fulton Rapid, 7 Haight/Noriega, 25 Treasure Island, 30X Marina Express, 38 Geary, 38R Geary Rapid, 41 Union,

³ San Francisco Planning Department, *Community Plan Evaluation Eligibility Determination, Citywide Planning Analysis, 429 Beale Street and 430 Main Street*, February 21, 2018.

⁴ San Francisco Planning Department, *Community Plan Evaluation Eligibility Determination, Current Planning Analysis, 429 Beale Street and 430 Main Street*, February 23, 2018.

81X Caltrain Express, and 82X Levi Plaza Express) and two light rail lines (the N Judah and T Owl). The Bay Area Rapid Transit District’s Embarcadero station is one-half mile northwest of the project site.

POTENTIAL ENVIRONMENTAL EFFECTS

The proposed 429 Beale Street and 430 Main Street project is in conformance with the height, use and density for the site described in the Rincon Hill PEIR and would represent a small part of the growth that was forecast in the *Rincon Hill Area Plan*. Thus, the project analyzed in the Rincon Hill PEIR considered the incremental impacts of the proposed 429 Beale Street and 430 Main Street project. As a result, the proposed project would not result in any new or substantially more severe impacts than were identified in the Rincon Hill PEIR.

The Rincon Hill PEIR identified significant and unavoidable impacts for the following topics: cultural and paleontological resources (historic architectural resources) and transportation and circulation (traffic). The proposed project would not result in the demolition, alteration, or modification of any historic or potentially historic resources or any resources contributing to a historic district. For these reasons, the proposed project would not contribute to any impacts on historic architectural resources. Traffic and transit ridership generated by the project would not contribute considerably to the traffic and transit impacts identified in the Rincon Hill PEIR.

The Rincon Hill PEIR identified feasible mitigation measures to address significant impacts related to cultural and paleontological resources, transportation and circulation, noise and vibration, air quality, wind, biological resources, and hazards and hazardous materials. Table 1: Rincon Hill PEIR Mitigation Measures, below, lists the mitigation measures identified in the Rincon Hill PEIR and states whether each measure would apply to the proposed project.

Table 1 – Rincon Hill PEIR Mitigation Measures

Mitigation Measure	Applicability	Compliance
Noise		
1: Construction Noise (Pile Driving)	Not Applicable: Pile driving is not required or proposed	Not Applicable
C. Transportation, Circulation, and Parking		
C.1a: Operating Conditions at Beale/Folsom Intersection	Not Applicable: Automobile delay removed from CEQA analysis	Not Applicable
C.1b: Operating Conditions at Main/Folsom Intersection	Not Applicable: Automobile delay removed from CEQA analysis	Not Applicable
C.1c: Operating Conditions at Spear/Folsom Intersection	Not Applicable: Automobile delay removed from CEQA analysis	Not Applicable

Mitigation Measure	Applicability	Compliance
E. Air Quality		
E.1: Construction Air Quality	Not Applicable: The portion of this mitigation measure that addresses fugitive dust has been superseded by the Construction Dust Control Ordinance. Applicable: The project site is in an Air Pollutant Exposure Zone.	The project sponsor has agreed to implement a mitigation measure related to minimizing exhaust emissions from construction equipment and vehicles (see Project Mitigation Measure 2).
E.2: Operational Air Quality	Not Applicable: This mitigation measure is now implemented through required compliance with Planning Code Section 169: Transportation Demand Management (TDM) Program	The project sponsor has submitted a TDM plan in compliance with Planning Code Section 169.
G. Wind		
G.1: Wind Controls	Not Applicable: Plan-level mitigation completed by the Planning Commission.	Not Applicable
H. Hazardous Materials		
H.1: Development Sites Not Covered by the Maher Ordinance	Not Applicable: The project site is covered by the Maher Ordinance.	Not Applicable
H.2: Dewatering During Construction	Applicable: Construction of the proposed project would likely require dewatering.	The project sponsor has agreed to implement a mitigation measure to address the treatment and discharge of pumped groundwater during construction (Project Mitigation Measure 3).
I. Historical Resources		
I.1a: Projects Located in Archeological Mitigation Zone 1	Not Applicable: The project site is not in Archeological Mitigation Zone 1.	Not Applicable

Mitigation Measure	Applicability	Compliance
I.1b: Projects Located in Archeological Mitigation Zone 2	Applicable: The project site is in Archeological Mitigation Zone 2.	The project sponsor has agreed to implement procedures related to archeological monitoring during soils-disturbing activities (Project Mitigation Measure 1).
I.1c: Projects Located in Archeological Mitigation Zone 3	Not Applicable: The project site is not in Archeological Mitigation Zone 3.	Not Applicable
I.2a: Union Oil Company Building	Not Applicable: The project site does not include the Union Oil Company Building at 425 First Street.	Not Applicable
I.2b: Edwin W. Tucker & Co. Building	Not Applicable: The project site does not include the Edwin W. Tucker & Co. Building at 347 Fremont Street.	Not Applicable
I.2c: 375 Fremont Street Building	Not Applicable: The project site does not include the 375 Fremont Street Building.	Not Applicable
I.2d: Other Buildings Identified as Historic Resources	Not Applicable: The project site does not include a historic resource.	Not Applicable

Please see the attached Mitigation Monitoring and Reporting Program for the complete text of the applicable mitigation measures. With implementation of these mitigation measures the proposed project would not result in significant impacts beyond those analyzed in the Rincon Hill PEIR.

PUBLIC NOTICE AND COMMENT

A "Notification of Project Receiving Environmental Review" was mailed on January 4, 2018 to adjacent occupants and owners of properties within 300 feet of the project site. Overall, concerns and issues raised by the public in response to the notice were taken into consideration and incorporated in the environmental review as appropriate for CEQA analysis.

The Planning Department received over 60 comments (emails, letters, and telephone calls) in response to the notice. The comments covered a variety of topics, including concerns over increased traffic congestion, increased construction noise, impacts on the air quality of the outdoor courtyards of the adjacent property (BayCrest Towers, 201 Harrison Street), and increased shadow.

As part of the environmental review process, a transportation impact study was prepared to assess the proposed project's transportation impacts. The findings of the transportation impact study are summarized under Topic 4, Transportation and Circulation, in the attached initial study

checklist (pp. 9-16). Impacts related to construction noise are addressed under Topic 5, Noise, in the attached initial study checklist (pp. 16-17). An air quality technical report was prepared to assess the proposed project's air quality impacts. The findings of the air quality technical report are summarized under Topic 6, Air Quality, in the attached initial study checklist (pp. 18-29). Impacts related to shadow are discussed under Topic 8, Wind and Shadow, in the attached initial study checklist (pp. 32-35).

The comments also expressed opposition to the project as proposed (a single-tower design that would enclose the aforementioned courtyards). In addition, the comments requested that the Planning Department require the project sponsor to redesign the project as a two-tower development that would not enclose the courtyards of the adjacent property. These comments are related to the design of the proposed project. These comments are acknowledged and may be considered by City decision-makers during their deliberations on whether to approve or disapprove the proposed project.

CONCLUSION

As summarized above and further discussed in the attached initial study checklist:

1. The proposed project is consistent with the development density established for the project site in the *Rincon Hill Area Plan*;
2. The proposed project would not result in effects on the environment that are peculiar to the project or the project site that were not identified as significant effects in the Rincon Hill PEIR;
3. The proposed project would not result in potentially significant off-site or cumulative impacts that were not identified in the Rincon Hill PEIR;
4. The proposed project would not result in significant effects, which, as a result of substantial new information that was not known at the time the Rincon Hill PEIR was certified, would be more severe than were already analyzed and disclosed in the PEIR; and
5. The project sponsor will undertake feasible mitigation measures specified in the Rincon Hill PEIR to mitigate project-related significant impacts.

Therefore, the proposed project is exempt from further environmental review pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

EXHIBIT 1: MITIGATION MONITORING AND REPORTING PROGRAM

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MONITORING AND REPORTING PROGRAM				
Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
MITIGATION MEASURES				
Project Mitigation Measure 1: Archeological Monitoring (Implementing Rincon Hill PEIR Mitigation Measure I.1b)				
Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archeological consultant from the rotational Qualified Archeological Consultants List (QACL) maintained by the Planning Department (Department) archeologist. The project sponsor shall contact the Department archeologist to obtain the names and contact information for the next three archeological consultants on the QACL. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the Environmental Review Officer (ERO) for review and comment and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the	Project sponsor/ archeological consultant at the direction of the Environmental Review Officer (ERO).	Prior to issuance of site permits.	Project Sponsor shall retain archaeological consultant to undertake archaeological monitoring program in consultation with ERO.	Considered complete when project sponsor retains qualified archeological consultant.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>direction of the ERO, the suspension of <i>construction</i> can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a) and (c).</p> <p><i>Consultation with Descendant Communities.</i> On discovery of an archeological site¹ associated with descendant Native Americans, the Overseas Chinese, or other potentially interested descendant group, an appropriate representative² of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to offer recommendations to the ERO regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archaeological Resources Report shall be provided to the representative of the descendant group.</p>	Project sponsor/ archeological consultant at the	Prior to issuance of site permits.	Project sponsor/archeological consultant shall meet with ERO on scope of AMP.	Considered complete upon ERO approval of
<p><i>Archeological Monitoring Program (AMP).</i> The archeological monitoring program shall minimally include the following provisions:</p>				

¹ The term "archeological site" is intended here to minimally include any archeological deposit, feature, burial, or evidence of burial.

² An "appropriate representative" of the descendant group is here defined to mean, in the case of Native Americans, any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission and, in the case of the Overseas Chinese, the Chinese Historical Society of America. An appropriate representative of other descendant groups should be determined in consultation with the Department archeologist.

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<ul style="list-style-type: none"> ▪ The archeological consultant, project sponsor, and the ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils-disturbing activities commencing. The ERO, in consultation with the project archeologist, shall determine what project activities shall be archeologically monitored. In most cases, any soils disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the potential risk these activities pose to archeological resources and to their depositional context; ▪ The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource; ▪ The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant 	direction of the ERO.			AMP.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>archeological deposits;</p> <ul style="list-style-type: none"> ▪ The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; 	Project sponsor/ archeological consultant at the direction of the Environmental Review Officer (ERO).	During soils- disturbing activities.	Archeological consultant to monitor soils-disturbing activities specified in AMP and immediately notify ERO of any encountered archeological resource.	Considered complete upon completion of AMP.
<p>If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving or deep foundation activities (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving or deep foundation activities may affect an archeological resource, the pile driving or deep foundation activities shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.</p>	ERO, archeological consultant, and project sponsor.	Following discovery of significant archeological	Project sponsor to redesign project to avoid adverse effect or undertake archeological data recovery program.	Considered complete upon avoidance of adverse effect.
<p>If the ERO, in consultation with the archeological consultant, determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the</p>				

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>project sponsor, either:</p> <p>A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or</p> <p>B) An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.</p>		<p>resource that could be adversely affected by project.</p>		
<p>If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and the ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the</p>	<p>ERO, archeological consultant, and project sponsor.</p>	<p>Following determination by ERO that an ADRP is required.</p>	<p>Archeological consultant to prepare an ADRP in consultation with ERO.</p>	<p>Considered complete upon approval of ADRP by ERO.</p>

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 MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.</p> <p>The scope of the ADRP shall include the following elements:</p> <ul style="list-style-type: none"> ▪ <i>Field Methods and Procedures.</i> Descriptions of proposed field strategies, procedures, and operations. ▪ <i>Cataloguing and Laboratory Analysis.</i> Description of selected cataloguing system and artifact analysis procedures. ▪ <i>Discard and Deaccession Policy.</i> Description of and rationale for field and post-field discard and deaccession policies. ▪ <i>Interpretive Program.</i> Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program. ▪ <i>Security Measures.</i> Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities. ▪ <i>Final Report.</i> Description of proposed report format and distribution of results. ▪ <i>Curation.</i> Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification 				

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>of appropriate curation facilities, and a summary of the accession policies of the curation facilities.</p> <p><i>Human Remains, Associated or Unassociated Funerary Objects.</i> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and, in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The ERO shall also be immediately notified upon discovery of human remains. The archeological consultant, project sponsor, ERO, and MLD shall have up to, but not beyond, six days after the discovery to make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines. Sec.15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing State regulations or in this mitigation measure compels the project sponsor and the ERO to accept recommendations of an MLD. The archeological consultant shall retain possession of any Native American human</p>	<p>Archeological consultant or medical examiner.</p>	<p>Following discovery of human remains.</p>	<p>Notification of Coroner and, as warranted, notification of NAHC.</p>	<p>Considered complete on finding by ERO that all State laws regarding human remains/burial objects have been adhered to, consultation with MLD is completed as warranted, and that sufficient opportunity has been provided to the archeological consultant for scientific and historical analysis of remains and funerary objects.</p>

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>remains and associated or unassociated burial objects until completion of any scientific analyses of the human remains or objects as specified in the treatment agreement if such an agreement has been made or, otherwise, as determined by the archeological consultant and the ERO. If no agreement is reached, State regulations shall be followed, including the reburial of the human remains and associated burial objects with appropriate dignity on the property in a location not subject to further subsurface disturbance (Pub. Res. Code Sec. 5097.98).</p>	<p>Archeological consultant at the direction of the ERO.</p>	<p>Following completion of cataloguing, analysis, and interpretation of recovered archeological data.</p>	<p>Archeological consultant to prepare FARR.</p>	<p>Considered complete upon review and approval of FARR by ERO.</p>
<p><i>Final Archeological Resources Report.</i> The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the draft final report.</p>	<p>Archeological consultant at the direction of the ERO.</p>	<p>Following completion of FARR and review and approval by ERO.</p>	<p>Following consultation with ERO, archeological consultant to distribute FARR.</p>	<p>Considered complete upon certification to ERO that copies of FARR have been distributed.</p>

 MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.</p> <p>Project Mitigation Measure 2: Construction Air Quality (Implementing Rincon Hill PEIR Mitigation Measure E.1)</p> <p>The project sponsor or the project sponsor's Contractor shall comply with the following:</p> <p>A. <i>Engine Requirements.</i></p> <p>1. All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed either U.S. Environmental Protection Agency (USEPA) or California Air Resources Board (ARB) Tier 2 off-road emission standards, and have been retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy. Equipment with engines meeting Tier 4 Interim or Tier 4 Final off-road emission standards automatically meet this requirement.</p>	Project sponsor, contractor(s).	Prior to construction activities requiring the use of off-road equipment.	Project sponsor, contractor(s) to submit certification statement to the ERO.	Considered complete upon submittal of certification statement.

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Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited.				
3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The Contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two-minute idling limit.				
4. The Contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.				
B. <i>Waivers.</i>				
1. The Planning Department's Environmental Review Officer (ERO) or designee may waive the alternative source of power requirement of Subsection (A)(2) if an alternative source of				

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>power is limited or infeasible at the project site. If the ERO grants the waiver, the Contractor must submit documentation that the equipment used for on-site power generation meets the requirements of Subsection (A)(1).</p> <p>2. The ERO may waive the equipment requirements of Subsection (A)(1) if: a particular piece of off-road equipment with an ARB Level 3 VDECS is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use off-road equipment that is not retrofitted with an ARB Level 3 VDECS. If the ERO grants the waiver, the Contractor must use the next cleanest piece of off-road equipment, according to the table below.</p>				

Table – Off-Road Equipment Compliance Step-down Schedule

Compliance Alternative	Engine Emission Standard	Emissions Control
Tier 1	Tier 2	ARB Level 2 VDECS
Tier 2	Tier 2	ARB Level 1 VDECS
Tier 3	Tier 2	Alternative Fuel*

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Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>How to use the table: If the ERO determines that the equipment requirements cannot be met, then the project sponsor would need to meet Compliance Alternative 1. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 1, then the Contractor must meet Compliance Alternative 2. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 2, then the Contractor must meet Compliance Alternative 3. Alternative fuels are not a VDECS.</p>				
<p>C. <i>Construction Emissions Minimization Plan.</i> Before starting on-site construction activities, the Contractor shall submit a Construction Emissions Minimization Plan (Plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the Contractor will meet the requirements of Section A.</p>	Project sponsor, contractor(s).	Prior to issuance of a permit specified in Section 106A.3.2.6 of the Francisco Building Code.	Project sponsor, contractor(s) to prepare and submit a Plan to the ERO.	Considered complete upon findings by the ERO that the Plan is complete.
<p>1. The Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed, the description may include: technology type, serial number, make, model,</p>				

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Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used.</p>				
<p>2. The ERO shall ensure that all applicable requirements of the Plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the Contractor agrees to comply fully with the Plan.</p>				
<p>3. The Contractor shall make the Plan available to the public for review on-site during working hours. The Contractor shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during working hours and shall explain how to request to inspect the Plan. The Contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.</p>				
<p>D. <i>Monitoring.</i> After start of construction activities, the Contractor shall submit quarterly reports to the</p>	<p>Project sponsor, contractor(s).</p>	<p>Quarterly.</p>	<p>Project sponsor, contractor(s) to submit quarterly reports to</p>	<p>Considered complete upon</p>

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>ERO documenting compliance with the Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the Plan.</p>			the ERO.	findings by the ERO that the Plan is being/has been implemented.
<p>Project Mitigation Measure 3 – Dewatering During Construction (Implementing Rincon Hill PEIR Mitigation Measure H.2)</p> <p>If dewatering is necessary, the project sponsor shall follow the recommendations of the site assessment/remediation consultant, in consultation with the Bureau of Environmental Regulation (BERM) of the San Francisco Public Utilities Commission, regarding treatment, if any, of pumped groundwater prior to discharge to the combined sewer system. Any groundwater encountered during construction of the proposed project would be subject to requirements of the City’s Industrial Waste Ordinance (Ordinance No.199-77), requiring that groundwater meet specified water quality standards before it may be discharged into the sewer system. The BERM must be notified of projects necessitating dewatering. That office may require water analysis before discharge.</p> <p>If dewatering is necessary, groundwater pumped from the</p>	Project sponsor and construction contractor(s).	During project construction.	Project sponsor and/or construction contractor(s) to notify the BERM if dewatering is necessary and follow the recommendations of the BERM.	Considered complete upon completion of construction

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<u>Adopted Mitigation/Improvement Measures</u>	<u>Responsibility for Implementation</u>	<u>Mitigation Schedule</u>	<u>Monitoring and Reporting Actions and Responsibility</u>	<u>Status / Date Completed</u>
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development site shall be retained in a holding tank to allow suspended particles to settle, if this is determined necessary by the BERM to reduce the amount of sediment entering the combined sewer system. The project sponsor shall require the general contractor to install and maintain sediment traps if determined necessary by the BERM.

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Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
IMPROVEMENT MEASURES				
Project Improvement Measure 1 – Construction Traffic (Implementing Rincon Hill PEIR Improvement Measure C.2)				
Construction contractor(s) for the proposed project should meet with the Municipal Transportation Agency, the Fire Department, the Planning Department, and other City agencies to determine feasible measures to reduce traffic congestion, including any potential transit disruption and pedestrian circulation impacts during construction of the project. In addition, the temporary parking demand by construction contractor(s) should be met on-site or within other off-site parking facilities, and the construction contractor(s) should determine the location of an off-site parking facility for construction workers during the construction period.	Project sponsor and construction contractor(s).	During project construction.	Construction contractor(s) to meet with the Municipal Transportation Agency, Planning Department, and other City agencies to determine feasible measures to reduce traffic congestion during construction. Construction contractor(s) to determine the location of an off-site parking facility for construction workers.	Considered complete upon completion of construction.
Project Improvement Measure 2 – Construction Management Plan (Implementing Project TIS Improvement Measure TR-1)				
To minimize potential disruptions to traffic, transit, pedestrians, and bicyclists, the project sponsor and/or construction contractor should develop a Construction Management Plan that could include, but not necessarily be limited to, the following:	Project sponsor and construction contractor(s).	During project construction.	Project sponsor and/or construction contractor(s) to develop and implement Construction Management Plan.	Considered complete upon completion of construction.
<ul style="list-style-type: none"> • Identify optimal truck routes to and from the site to minimize impacts to traffic, transit, 				

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Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>pedestrians, and bicyclists;</p> <ul style="list-style-type: none"> Identify off-street parking alternatives for construction workers; Encourage construction workers to use transit when commuting to and from the project site, reducing the need for parking. <p>The Construction Management Plan would disseminate appropriate information to contractors and affected agencies with respect to coordinating construction activities to minimize overall disruptions and ensure that overall circulation in the area is maintained to the extent possible, with particular focus on ensuring transit, pedestrian, and bicycle connectivity. The program would supplement and expand, rather than modify or supersede, any manual, regulations, or provisions set forth by the San Francisco Municipal Transportation Agency, the San Francisco Public Works, other City agencies, and Caltrans.</p>				

Date: JUNE 25, 2018

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INVOICE/RECEIPT

NAME: DANE INCE

ADDRESS: 201 HARRISON SF CA ZIP: 94105
Street City State

Enclosed is the ^{amount received by} ~~information you requested~~ from the Clerk of the Board.

Please remit \$ 597 For: CEDA EXEMPTION APPEAL

Make Check Payable to: ~~City and County of San Francisco~~ N/A

Return original invoice with payment to: Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Original plus copy to Customer, copy to Accountant

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2018 JUN 25 PM 2:10
BY GW

*****FOR OFFICE USE ONLY*****

Date Rec'd 6/25/18 Initial: BJ Amt Rec'd \$ 597
Check # N/A - Cash

From: [BOS Legislation, \(BOS\)](#)
To: danemince@yahoo.com; Mark H. Loper
Cc: [GIVNER, JON \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Vu, Doug \(CPC\)](#); [Li, Michael \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: SUPPLEMENTAL APPEAL LETTER: Appeal of CEQA Community Plan Evaluation - 429 Beale Street and 430 Main Street - Appeal Hearing on July 31, 2018
Date: Wednesday, July 18, 2018 2:04:58 PM
Attachments: [image001.png](#)

Greetings,

Please find linked below a supplemental appeal letter received by the Office of the Clerk of the Board from the Appellant during General Public Comment at the July 17, 2018, Board of Supervisors meeting, regarding the appeal of the CEQA Community Plan Evaluation for the proposed project at 429 Beale Street and 430 Main Street.

[Supplemental Appeal Letter - July 17, 2018](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on July 31, 2018.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180697](#)

Regards,

Lisa Lew

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

2018 JUL 17 PM 4:58

BY _____

Ms. Malia Cohen, President
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

July 20, 2018

SUBJECT: REVIEW OF CEQA DETERMINATION FOR 430 MAIN STREET PROJECT

Dear President Cohen and Members of the Board of Supervisors:

Grassetti Environmental Consulting (GECO) has been retained by a group of concerned residents, property owners, and homeowners to conduct a peer review of the City of San Francisco's Exemption from Environmental Review, for the 430 Main Street Project. As GECO's principal, I have personally conducted this review. This review is based on my over 33 years of experience preparing, reviewing, and teaching courses in California Environmental Quality Act (CEQA) documents and processes. My qualifications are included as an attachment to this letter. I have also conducted a site visit and conducted a preliminary review of relevant portions of the 2005 Rincon Hill Plan Environmental Impact Report (EIR). This review focused on the appropriateness of the proposed exemption, technical deficiencies in the exemption analysis and applicability of the underlying RHP to the proposed project's potential environmental impacts. This letter presents the findings of my review.

Appropriateness of CEQA Exemption

The City is proposing to exempt the project from further CEQA review on the basis that it is consistent with the development density established by the Rincon Hill Plan (RHP), and that there would be no project-specific or cumulative impacts not previously anticipated and addressed in the 2005 Rincon Hill Plan EIR.

Specifically, the City is relying on a presumed exemption from further CEQA review provided for in CEQA Guidelines 15183. There are a number of problems with this approach, as follows:

1) CEQA Guidelines Section 15183 do not provide for an exemption. Said another way, there is no such thing as a "Community Plan Exemption" in CEQA. The word "exemption" nowhere appears in this section. Rather, Section 15183 reduces the need for redundant environmental analyses by tiering off of the Community Plan EIR, and limits the further analysis for projects in compliance with the Plan to items not adequately or specifically addressed in the Plan EIR. The correct process to conduct the review, per the Guidelines, is to complete the Initial Study checklist and then check the box under "Determination" on that form stating:

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

The Initial Study, including the Determination, would then be circulated for a 30-day period as required for non-exempt projects in the CEQA Guidelines. The City's use of an exemption in this case is improper.

The use of an exemption rather than a Mitigated Negative Declaration is substantive and not merely a technical error. An exemption does not require public or agency notification nor does it provide for formal review and comment. Responsible agencies, including, the Bay Area Air Quality Management Agency, also would have been provided the IS/MND for review, but apparently were not consulted or provided an opportunity to review and comment on the exemption.

2) Notwithstanding the Guidelines, the approval appears to be relying in the underlying CEQA Statutes Section 21081.2, which provides for exceptions to findings for infill housing, as well as section 21094, 21094.5, 21159.21, and 21159.24, which apply to infill housing exemptions.

Statutes section 21081.2 requires an EIR or IS to document site-specific impacts or new cumulative impacts not addressed in the Community Plan EIR. However, that statute, as well as section 21159.24, which more detail on "Special Review of Housing Projects", both specify that a Lead Agency can only use this exemption if the project application is "deemed complete within five years of the adoption of the community-level environmental review." (Statutes section 21159.24 (a) (4) and 21081.2). The Rincon Hill Plan EIR was prepared in 2004 and certified May 5, 2005. It is over 13 years old, and therefore cannot be used to support these exemptions.

3) Even if Statutes Section 21094 and 21094.5 were used in a vacuum, and not in the context of Section 21159.24, the City is under the affirmative obligation to conduct a review of the adequacy of the Community Plan EIR to current conditions, subject to Section 21166 (see Section 21094 (b)(3)). There is no evidence that the City has evaluated the applicability of the 13-year old EIR to current condition. Rather, the City's examination is only of the project's compliance with the EIR.

Failure to Consider Substantial Evidence

CEQA Guidelines section 15183(b) requires that a lead agency consider whether there could be any project-specific environmental effects that:

- 1) Are specific to the project site or project itself, and therefore not addressed in the Plan EIR;
- 2) Were not analyzed as significant effects in a prior EIR on the plan or zoning with which the project is consistent;
- 3) Are potentially significant off-site or cumulative impacts that were not discussed in the Plan EIR; or
- 4) Are previously identified significant effects which, as a result of substantial new information, were not known at the time of the Plan EIR, and are determined to now be more severe.

As discussed above, the City failed to consider whether or not there could be substantial new information (changes in traffic, air quality, development growth, etc.) in the 13 years since the adoption of the Rincon Hill Plan EIR. In these 13 years, the City has grown substantially in terms of development and traffic.

Further, as detailed below, substantial evidence has been provided to the City that the proposed project would contribute in a cumulatively considerable manner to a significant cumulative health risk impact. This evidence

is provided in a peer review of the City's consultant's air quality/health risk assessment, prepared by Trinity Consultants for my clients¹. This evidence was NOT included in the City's environmental review of the project, nor was it provided to the Planning Commission for review at the time of its approval of the project. In fact, it is entirely missing from the environmental review documents on the project.

Additionally, as detailed below, evidence of a fair argument that the project may have significant view blockage and shadow impacts on nearby residences and publicly accessible open space was disregarded in the City's environmental review via argument, unsupported by substantial evidence.

Air Quality/Health Risk Issues

Trinity Consultants conducted an expert analysis of the adequacy of the Initial Study's Ramboll/Environ² evaluation of the project's air quality and health risk impacts to the residents and users of public open space at 201 Main Street. Both the Trinity and Ramboll analyses acknowledge that the project and adjacent existing residential buildings are within a City-designated Air Pollution Exposure Zone, where residents are already exposed to unacceptably high health risks from poor air quality.

The Ramboll study acknowledges that already unacceptably high PM_{2.5} levels would be worsened at two of the three outdoor courtyards at 201 Harrison Street, as a result of the proposed project. However, it fails to even consider health risk impacts to the residences at that building, the vast majority of whom rely on opening windows for their cool air. This is a substantial deficiency requiring additional assessment.

The Trinity study's peer review of the Ramboll Report found the following additional deficiencies in that study, which are carried through to the City's IS:

1) CEQA requires that public agencies analyze how environmental impacts from new constructions and developments might adversely affect nearby receptors and local air quality conditions. In this case, the Ramboll Report indicate the adjacent courtyards (i.e., neighboring offsite receptors) are located about 200 feet north of the elevated portion of I-80, known as the San Francisco-Oakland Bay Bridge, which generates an average traffic movement of 265,000 vehicle trips per day.⁷ Per Article 38, the action threshold for mitigation efforts for the Project is 0.2 µg/m³ of PM_{2.5}. The pre-project PM_{2.5} concentration in the neighboring courtyards is already significantly above the action threshold for project mitigation. Any additional impacts will deteriorate the local air quality further and pose additional health hazards for the local residents.

The Ramboll Report shows that there would be an increase in average annual PM_{2.5} concentration of 0.032 µ/m³ as a result of the Project. As displayed in Table 13 of the Ramboll Report, there is an increase in PM_{2.5} concentration for the center courtyard by 7%, and an increase by 14.5 % for the east courtyard. There is a decrease in PM_{2.5} concentration by 6 % for the west courtyard. The report compares the difference of the pre- and post-project concentrations with the average background concentration of 9.3 µg/m³.

The Ramboll Report concluded that the incremental increase of PM_{2.5} emissions from the Project is small in relative proportion of total post-project emissions. However, the cumulative PM_{2.5} emissions are substantially higher than levels considered reasonable for residential projects as per local codes. Given the Project is located in an area which is already classified as a health hazard based on the high concentrations of TACs and PM_{2.5},

¹ Trinity Consultants, *Review of Technical Report by Ramboll Environ dated October 2017*. January 18, 2018

² Ramboll/Environ, *Air Quality Analysis Technical Report, Proposed Building at 430 main/429 Beale Street, San Francisco, CA*. October 2017.

CEQA requires a higher standard of review. Even small increases in emissions could be cumulatively considerable contribution to an already unacceptable health risk in the proposed project location for residential activities (or other sensitive receptors). This should be more thoroughly assessed and mitigated as required by Article 38 and CEQA.

The mitigation measures from the Rincon Hill Plan EIR address only impacts on the residents of the new building, and would do nothing to mitigate health risk impacts to residents of 201 Harrison Street.

2.) The Ramboll Report states that California regulatory guidelines allow diesel particulate matter (DPM) to be used as a surrogate measure of exposure for the mixture of chemicals that make up diesel exhaust as a whole. Further, the Ramboll Report states that Cal/EPA advocates the surrogate approach to quantifying *cancer risks* associated with the diesel mixture in lieu of a component-based approach, which involves estimating health risks for each of the individual components of a mixture. The Ramboll Report then states that Cal/EPA has concluded that "potential cancer risk from inhalation exposure to whole diesel exhaust will outweigh the multi-pathway *cancer risk* from the speciated components (OEHHA 2003). Trinity concluded that, while the surrogate approach may be generally accepted guidance for estimating *cancer risks* from exposure to diesel exhaust, there are also non-cancer risk impacts which require consideration, including, non-cancer acute and chronic health hazards, that have not been adequately evaluated in the Ramboll report.

Fuel combustion releases at least forty (40) different toxic air contaminants. For non-cancer acute impacts, Appendix D of the 2015 OEHHA guidelines recommends an evaluation of the acute health effects may be warranted in case of a multistory apartment building. Since there is no acute risk exposure level that is currently associated with DPM, any potential acute health impacts (i.e., short term health hazards) from exposure to diesel exhaust were not determined by the Ramboll report. As a consequence, it is likely this surrogate approach likely underestimates the overall health impacts associated with individual toxics from diesel combustion, specifically, any potential acute health hazards. Simply stated, there is an increase in PM_{2.5} caused by the building design, therefore the proposed design would likely also cause an increase in other types of pollutants, the cumulative health risks of which warrants further study.

5) The traffic emissions model used in the Ramboll study is out of date and may understate project impacts from traffic emissions of air pollutants. Ramboll uses EMFAC2011 for estimated emission factors, however Trinity notes that there are two newer versions of EMFAC available: EMFAC2014 and EMFAC2017. Further, note that within the APEZ, additional emissions would adversely affect populations that are already at a higher risk which CEQA may demand a higher standard of review. Therefore, a more refined analysis of traffic emissions and impacts with the most recent accepted emission factors would be warranted.

3) The Ramboll report meteorological data may be inadequate. Ramboll states that for the current HRA, meteorological data for the year 2008 were used, which aligns with the San Francisco CRRP-HRA Methodology. BAAQMD Health Risk Assessment Guidelines rely on OEHHA 2015 Air Toxic Hot Spots Program Manual (2015 OEHHA Guidelines), which recommend that the latest five (5) years of *consecutive* meteorological data be used to represent long term averages (i.e., cancer and chronic impacts). In general, OEHHA guidelines specify that air dispersions models (and health risk assessments) require sufficient amount of years of meteorological data to ensure that the worst-case meteorological conditions are represented in the model results. For example, wind patterns and wind velocities can vary from year to year, which a single year of data would not capture. As a consequence, it is likely that using only 2008 meteorological data would not satisfy the 2015 OEHHA Guidelines.

In addition to the deficiencies identified in the Trinity Consulting report, our review of the IS indicates that there is no actual assessment of construction/demolition dust. The IS has conclusions based on no identified evidence.

Each of the above deficiencies could render the IS air quality/health risk study inadequate; all of them combined increase the likelihood that the IS's air quality and health risk assessments are not adequate. Under CEQA, when an Initial Study is conducted, a "fair argument" standard must be used for consideration of impact significance. This same standard also applies to exceptions to exemptions. Under this standard, the Trinity Consulting report constitutes a fair argument that: 1) the project may have a significant project and cumulative impact to air quality and health risk, and, 2) the air quality and health risk assessment relied upon by the IS may be substantially deficient. None of these impacts were previously analyzed in the Community Plan EIR. Therefore, additional analysis is required under CEQA, either in a revised IS or a subsequent EIR.

View Blockage and Shadows

The IS claims that the project aesthetics impacts cannot be considered significant because of its location as a residential infill project in a transit priority area. While the aesthetics of the building itself may be excluded from consideration, this exclusion may not apply to blockage of views and light, which may also have health effects on residents. This impact is akin to shadows, which the IS does address. Therefore, the IS should consider the project's blockage of existing views as potentially significant.

The Rincon Hill Plan EIR does not consider direct view blockage of nearly one hundred residences at 201 Harrison Street by the proposed new structure that would be located fewer than 10 feet in front of many of those residences' windows. Views that would be blocked would be mostly scenic vistas of the Bay. In addition, views of the Bay afforded to all residents of 201 Harrison Street from the common courtyard/plazas would be blocked by the new structure located at the property line. The complete and direct blockage of these views by a new structure would typically be considered a significant impact and certainly requires evaluation in a project-level CEQA document.

In the 2009 Staff Report for the project previously proposed at this site, City staff repeatedly assert that blockage of private views is "not considered a significant impact as defined by CEQA." (see, for example, October 13 Staff Report, p. 12). This assertion is unsupported by CEQA case law. Several CEQA court cases support the loss of views, including private views, as a significant impact. The *Ocean View Estates Homeowners Association v. Montecito Water District* (2004) decision flatly contradicts the applicant's assertion that CEQA does not apply to private views. That case specifically finds that CEQA does, in fact, apply to private views, and that the significance of the impact is determined by the specifics of the change in visual quality as well as the number of viewers affected. *The Pocket Protectors v. City of Sacramento* (2004) also affirms that private views are not exempt from CEQA significance determinations.

The *Pocket Protectors* decision and at least two other decisions, *Oro Fino Mining Corp. v. County of El Dorado* (1990), and *Berkeley Keep Jets over The Bay v. Board of Port Commissioners* (2001) all set forth the principal that local citizens can be considered experts on subjective issues with which they have daily experience, such as noise and visual quality. In the case of the proposed project, numerous private residents' views would be entirely blocked and their units would be substantially darkened during daylight hours, and those residents have clearly stated that such blockage would be significant and adverse. Residents have informed the City of their concerns yet they have been ignored in the CEQA process. Neither the Rincon Hill Plan EIR nor any of the analyses in the Exemption or post-exemption staff reports address this potentially significant impact and no mitigation is proposed.

Similarly, the shadow analysis in the IS shows substantial shading of a publicly accessible open space. The IS attempts to avoid finding a significant impact by arguing that the publicly accessible courtyard is kind of hard to find for the public, and that it's technically not under City Parks and Recreation Department Management. CEQA does not care who manages the facility or how difficult it may be to find. Further the IS argues that, because there may be other open spaces nearby, shading of this open space is not potentially significant. Argument is not evidence. These are arbitrary criteria of significance not permitted under CEQA – if the City considers shadows that adversely affect public open spaces potentially significant, then the substantial shadow impacts of the project on the publicly accessible plazas at 201 Harrison are a significant impact to the residents and public users of 201 Harrison public and private open space.

Noise

Construction noise immediately adjacent to the windows of the south-facing 201 Harrison units could adversely affect residents of those units, especially those working at home and any small children living at the units. City limits on construction hours do not mitigate impacts to those stay-at-home residents. No actual evaluation of this impact was included in the Rincon Hill Plan EIR nor was it assessed in the Initial Study.

Conclusions regarding construction noise impacts in the Initial Study are unsupported by any evidence. The discussion in that document relies entirely on the City's noise ordinance as mitigation and fails to conduct any actual impact assessment on project residents, including children and people who work from home. In fact, the staff report states that impact tool noise of 80 decibels at 100 feet from the source is permissible; this extremely high noise level would be far greater at lesser distances, such as the 10-foot minimum distance from construction to existing residences. All of these noise levels would be far in excess of the 50-65 dBA considered "normally acceptable" for multi-family residences by the California Department of Health, Office of Noise Control. In addition, the project documentation fails to address long-term impacts to adjacent residents of the project's mechanical operations, which would be audible to occupants on the upper floors of the 201 Harrison residences.

The *Berkeley Keep Jets Over the Bay* decision explicitly states that compliance with a noise ordinance does not mitigate impacts to less than significant. That decision also found that intermittent noise can be significant. The aforementioned *Oro Fino* decision also found that temporary intermittent high noise levels can be considered significant. The City's "analyses" fail to either adequately characterize the noise impacts to nearby residences or accurately assess the significance of this impact.

Despite the potential site-specific impacts identified above, and the lack of any provision for exemptions in the CEQA Guidelines used by the City for this project, the City has chosen to exempt the project by relying on mitigation measures. These mitigation measures are enumerated on pp. 46-51 of the IS. Such reliance on mitigation measures in an exemption is clearly prohibited under the *Salmon Protection and Watershed Network v. County of Marin* (2004) decision, which specifies that "Reliance on mitigation measures (whether included in the application or later adopted) involves an evaluative process...and that process must be conducted under established CEQA processes for EIRs or negative declarations." That decision also forbids a lead agency from "making a premature and unauthorized environmental evaluation at the preliminary stage of considering eligibility for a[n] ... exemption." In light of this decision, the City appears to be doing an impermissible end-run around the required CEQA analyses.

Another consideration here is that project-specific noise and air quality impacts would clearly be "more significant than described in the prior environmental impact report" because they were not addressed at all in

From: BOS Legislation, (BOS)
To: danemince@yahoo.com; Mark H. Loper; ajunius@reubenlaw.com
Cc: GIVNER, ION (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Rodgers, AnMarie (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Navarrete, Joy (CPC); Lynch, Laura (CPC); Ionin, Jonas (CPC); Vu, Doug (CPC); Li, Michael (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)
Subject: SUPPLEMENTAL APPEAL MATERIALS: Appeal of CEQA Community Plan Evaluation - 429 Beale Street and 430 Main Street - Appeal Hearing on July 31, 2018
Date: Thursday, July 19, 2018 12:03:36 PM
Attachments: image001.png

Good afternoon,

Please find linked below further supplemental appeal materials received by the Office of the Clerk of the Board from the Appellant, regarding the appeal of the Community Plan Evaluation under CEQA for the proposed project at 429 Beale Street and 430 Main Street.

[Supplemental Appeal Material - July 19, 2018](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on July 31, 2018.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180697](#)

Regards,

Brent Jalipa

Legislative Clerk

Board of Supervisors - Clerk's Office
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-7712 | Fax: (415) 554-5163
brent.jalipa@sfgov.org | www.sfbos.org



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***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

Malia Cohen
President
San Francisco Board of Supervisors

July 18, 2018
430 Main/429 Beale

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HISTORY:

First heard at the Planning Commission on April 9, 2009 as the following item:

12a. 2007.1121XV (B, FU: (415) 558- 6613)

430 MAIN STREET/ 429 BEALE STREET - north to south through lot between Main and Beale Streets, and between Harrison Street to the west and Bryant Street to the east; Lots 305 & 306 in Assessor's Block 3767 - **Request under Planning Code Sections 309.1, 825, and 827 for determinations of compliance and exceptions for dwelling unit exposure.** The subject property is located within the RH DTR (Rincon Hill Downtown Residential Mixed Use) District with an 84-X Height and Bulk Designation. The project proposal is to construct a new eight-story, 84-foot building consisting of up to 113 dwelling units over a below-grade parking structure for up to 57 spaces. The project also requires a Variance for open space, to be heard and considered by the Zoning Administrator at the same hearing.

Preliminary Recommendation: Approval with Conditions

(Continued from Regular Meeting of March 19, 2009)

12b. 2007.1121XV (B, FU: (415) 558- 6613)

430 MAIN STREET / 429 BEALE STREET - north to south through lot between Main and Beale Streets, and between Harrison Street to the west and Bryant Street to the east; Lots 305 & 306 in Assessor's Block 3767 - **Variance request** to allow reduction of the required open space per Planning Code Sections 135 and 827, for the proposed construction of a new eight-story, 84-foot building consisting of up to 113 dwelling units over a below-grade parking structure for up to 57 spaces within the RH DTR (Rincon Hill Downtown Residential Mixed Use) District with an 84-X Height and Bulk Designation.

(Continued from Regular Meeting of March 19, 2009)

After the Public hearing it was continued until May 14, 2009 with a directive to "work with neighbors etc...." Note the near identical shape and size and need for exceptions to unit exposure

16a. 2007.1121XV (B, FU: (415) 558- 6613)

430 MAIN STREET/ 429 BEALE STREET - north to south through lot between Main and Beale Streets, and between Harrison Street to the west and Bryant Street to the east; Lots 305 & 306 in Assessor's Block 3767 - **Request under Planning Code Sections 309.1, 825, and 827 for determinations of compliance and exceptions for dwelling unit exposure.** The subject property is located within the RH DTR (Rincon Hill Downtown Residential Mixed Use) District with an 84-X Height and Bulk Designation. The project proposal is to construct a new eight-story, 84-foot building consisting of up to 113 dwelling units over a below-grade parking structure for up to 57 spaces. The project also requires a Variance for open space, to be heard and considered by the Zoning Administrator at the same hearing.

Preliminary Recommendation: Approval with Conditions

Malia Cohen
President
San Francisco Board of Supervisors

July 18, 2018
430 Main/429 Beale

(Continued from Regular Meeting of April 9, 2009)

NOTE: On April 9, 2009, following public testimony, the commission continued this item and item 16b to May 14, 2009 with instructions to the project sponsor to engage in community outreach and work with Department staff and the neighbors on design and the concerns of the neighbors. Public hearing remains open.

16b. 2007.1121XV (B. FU: (415) 558- 6613)

430 MAIN STREET / 429 BEALE STREET - north to south through lot between Main and Beale Streets, and between Harrison Street to the west and Bryant Street to the east; Lots 305 & 306 in Assessor's Block 3767 - **Variance request** to allow reduction of the required open space per Planning Code Sections 135 and 827, for the proposed construction of a new eight-story, 84-foot building consisting of up to 113 dwelling units over a below-grade parking structure for up to 57 spaces within the RH DTR (Rincon Hill Downtown Residential Mixed Use) District with an 84-X Height and Bulk Designation.

(Continued from Regular Meeting of April 9, 2009)

NOTE: On April 9, 2009, following public testimony, the commission continued this item and item 12a to May 14, 2009 with instructions to the project sponsor to engage in community outreach and work with Department staff and the neighbors on design and the concerns of the neighbors. Public hearing remains open.

Project was approved and the neighbors appealed the project to the Board of Appeals and to the Board of Supervisors under CEQA.

Neighbors lost at the Board of Appeals on August 4, 2009:

BOARD OF APPEALS:

430 Main Street: Appeal on the open space variance for the construction of an eight-story, 84 foot building with up to 113 dwelling units over a below-grade parking structure for up to 57 spaces that does not meet the dimensional and/or exposure requirements for open space. **The Board voted 2-2-1 (President Fung and Commissioner Mandelman in opposition with Commissioner Goh absent) to uphold the Planning Commission exception determination and Zoning Administrator variance decision.**

And then won on the CEQA Appeal on October 20, 2009:

22. 091088 **[Public Hearing - Appeal of Determination of Exemption from Environmental Review for 430 Main Street/429 Beale Street]**
Hearing of persons interested in or objecting to the decision of the Planning Department dated February 23, 2009, Case No. 2007.1121E, that a project at 430 Main Street/429

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President
San Francisco Board of Supervisors

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Beale Street is exempt from environmental review per Section 15183 of the California Environmental Quality Act Guidelines and California Public Resources Code Section 21083.3. The proposal would demolish two existing one- and two-story concrete buildings on two adjacent parcels and construct an eight-story, approximately 146,000-square foot residential building on the site following merger of the two lots. The new building would include approximately 113 residential units and one subterranean parking level accommodating approximately 57 vehicles within the Rincon Hill Area Plan, a RH DTR (Rincon Hill Downtown Residential Mixed Use)/84-X Height and Bulk District, in Assessor's Block No. 3767, Lot Nos. 305 and 306. (Appellant: Dane Ince on behalf of the Opposition Team to 430 Main Street)

(Filed 9/8/09; Companion Measure to 091089, 091090, 091091; District 6)

WHEREAS, On October 20, 2009, this Board voted to reverse the Planning Department's determination that no further environmental review is necessary for the Project under the Community Plan Exemption with respect to three different potential environmental effects by Motion No. 091090; now therefore be it RESOLVED, That this Board finds that the Community Plan Exemption set forth in Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 applies to the Project and that the FEIR addresses the Project, with the exception of three issues as set forth herein; and be it further RESOLVED, That this Board hereby directs the Planning Department to conduct , additional environmental review and to prepare either a negative declaration or environmental impact report analyzing the potential impacts, as required by CEQA, on the following three potentially significant environmental impacts: (1) the potential air quality impacts on-site for the Project caused by concentrations of PM 2.5 because of the Project's location near the Bay Bridge on-ramps and other automobile arterials, which impacts were not specifically analyzed in the FEIR; and (2) the potential impacts of the Project on the adjacent site located at 201 Harrison Street with regard to concentrations of PM 2.5, combined with the Project's wind impacts on 201 Harrison Street, which were not analyzed in the FEIR; and (3) the Project's potential greenhouse gas effects, which were not analyzed in the FEIR, particularly with respect to the Project's relative contribution to the State of California's cumulative greenhouse gas effects.

As you can see from the attached photo, BayCrest at 201 Harrison St. has three open courtyards facing directly south. This building was designed at a time when the development lots to the south of it were not zoned for residential construction. Residential construction was previously forbidden on these lots because of health reasons due to their proximity to the Bay Bridge and the incredible amounts of air pollution and particulate matter which comes from the hundreds of thousands of cars which use the Bay Bridge every day. These lots were later rezoned to allow residential construction and because of the pollution, all new buildings are now built as "sealed systems," meaning that the windows don't open, air intake is tightly controlled and air conditioning is mandatory. Because of its age, BayCrest does not have such a system and the only means of ventilation for BayCrest are the operable windows for all 238 apartments. BayCrest was a pioneer downtown and built as naturally affordable housing which required that it remain rental housing for 20 (thanks to Sue Bierman) before any units could be sold. There are still BMR's on site and it is essentially the only "blue collar" condo development downtown.

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President
San Francisco Board of Supervisors

July 18, 2018
430 Main/429 Beale

Allowing only a five-foot setback from the property line, (the previous shorter project from 2009 gave 10' foot setback) the proposed project will build a solid wall 84-feet tall (99' feet if you count the elevator penthouses) directly across the entire southern frontage of BayCrest. This will effectively wall in all three of the open, green courtyards at BayCrest. By the way, it should be noted that the westernmost BayCrest courtyard is **privately owned, publicly accessible open space** (POPOS—more Sue Bierman). Obviously, the new building will permanently shadow all three of the open space courtyards of BayCrest including the POPOS which violates a different portion of the Code. Additionally, because it will also block up the air circulation to these courtyards, the experts hired by BayCrest have identified a 7% increase in the particulate matter and pollution in the outer courtyards and a 15% increase in such pollutants in the center courtyard. This was what resulted in the CEQA victory in 2009. The experts on the other side agree with these numbers but argue that the total particulate matter and pollution is still below the hazardous threshold. We argue any increase is hazardous especially to kids and the elderly who must open their windows.

The preliminary project analysis (PPA) recommended that the project sponsor “*mirror the project massing along the side lot line to relate to the adjacent property courtyard or in some other way conjoin the open space to add to the existing courtyard and further it as a pattern within the block to the benefit of both properties.*” This same design recommendation was made in the first Notice of Planning Department’s Requirement #1 dated June 15, 2016 (attached). The Department’s Urban Design Advisory Team (UDAT) stated that the Planning Department does not support the design with the exceptions requested. In this regard, it states as follows:

1. **“Site Design, Massing and Open Space.** The Planning Department does not support an exposure exception to the extent proposed to the current design, and recommends the project be redesigned to include two building masses that are perhaps joined by minimal bridges, relate to these two street frontages and to the adjacent buildings, and mid-block open space to the north.” (Which of course is BayCrest)

The project sponsor replied six months later to the Notice of Planning Department’s Requirement #1 via correspondence dated December 1, 2016 (see attached). In that response, the sponsor replies to all of the comments *except* for the design concern items raised by the UDAT. Apparently, the UDAT design comments were somehow done away with quietly and privately as referenced in the last sentence of the sponsor’s letter. Almost a year later, on November 16, 2017, the Planning Department issued its Notice of Planning Department’s Requirement #2. By that time, the earlier UDAT comments as well as the preliminary project analysis design concerns had disappeared without explanation.

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President
San Francisco Board of Supervisors

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The UDAT comments from the PPA and the Notice of Planning Dept Requirements #1 both directly reflect the Urban Design Guidelines. Clearly, this Project's design *grossly* violates every aspect of the newly enacted Urban Design Guidelines. The Urban Design Guidelines emphasize over and over again the need for "Site Design" to protect and relate to existing buildings and especially open space. The Urban Design Guidelines require new developments to "*respect the character of older development nearby in the design of new buildings.*" There are several provisions of the Urban Design Guidelines which specifically ask that new projects *match massing patterns and be sculpted to accommodate existing building setbacks and block patterns.* This is exactly what the pre-project analysis and the UDAT design comments were saying. Specifically, the policies require that new buildings be designed to "*promote building forms that will respect and improve the integrity of open space and other public areas.*" The Urban Design Guidelines establish that it is mandatory that new buildings have the responsibility to sensitively respond to their context and existing pattern of development in order to be a "good neighbor." Below are the highlights from the Commission's resolution from last week approving the Urban Design Guidelines directly applicable to this project:

OBJECTIVE 2 CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.6 Respect the character of older development nearby in the design of new buildings. The proposed Urban Design Guidelines A2 and A3 require projects to "Modulate Buildings Vertically and Horizontally" and "Harmonize Building Designs with Neighboring Scale and Materials" to direct projects to be compatible with neighboring building context. (page 3-4)

Policy 2.7 Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character. The proposed Urban Design Guidelines A2 and A3 require projects to "Modulate Buildings Vertically and Horizontally" and "Harmonize Building Designs with Neighboring Scale and Materials" to be compatible with neighboring building context and support the visual form and character of the city.(page 4)

OBJECTIVE 3 MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 3.1 Promote harmony in the visual relationships and transitions between new and older buildings. The proposed Urban Design Guideline S2 requires projects to "Harmonize Relationships between Buildings, Streets, and Open Spaces" asks new projects to match massing patterns and sculpt to accommodate existing building massing, setbacks, and block patterns. The proposed Urban Design Guideline A2 requires projects to "Modulate Buildings Vertically and Horizontally" to be compatible with neighboring building lot widths and massing. (page 4)

Policy 3.4 Promote building forms that will respect and improve the integrity of open spaces and other public areas. The proposed Urban Design Guideline S7 requires projects to "Integrate Common Open Space and Landscape with Architecture" to better organize building massing for the benefit of natural ground and open space. (page 4)

Built Environment Values for the City of San Francisco

Being a Good Neighbor

Good urban design is characterized by the thoughtful orchestration of buildings, landscape, open space, and streets. Such compositions result from fundamental principles that apply universally, as well as a deep understanding and response to site-specific conditions. San Francisco's architecture spans various eras and architectural styles, but its urban fabric maintains a high degree of continuity and consistency within the variety of buildings. The Urban Design Guidelines establish that new buildings have the responsibility to sensitively respond to their context and existing patterns of development while being of their moment.

Supporting Human Needs

People interact with the built environment from their homes and workplaces, neighborhood streets, and public open spaces. Urban form that considers the quality and functionality of the building fabric, streets, and open spaces contributes to the livability of San Francisco. Buildings and building features that are scaled for human interaction such as steps, doors, windows, and seating contribute to physical and psychological wellbeing. Buildings that enhance the connection between the inner life of buildings and the outer public realm also help engage people to the larger sense of activity and spirit of the place. All of these goals support an experience of urban life in which people are the measure.

Quality of Life.

There are many reasons people live in and love San Francisco—its unique and beautiful physical setting, mild climate, proximity to nature and open space. Along with promoting a safe and healthy environment, new development should support the individual experience, including senses of human-scale, beauty, and well-being. Human comfort is experienced spatially and visually through scale, enclosure, proportion, visual richness and compositional clarity. While we expect cities to feel dense, they can also remain familiar at the human-scale. New development should contribute to an individual's connection to place. Some people find delight in cities because of the achievement and physical beauty found in the spaces and buildings, while others enjoy a sense of community. The Guidelines are intended to promote the quality of individual buildings, and to enhance the experience of the city as a whole

Application of the Guidelines

Applicability

Good neighbors make great neighborhoods and great neighborhoods make a beloved city. Design review ensures that new development will appropriately contribute to fostering vibrant, healthy, livable urban places that express and advance San Francisco's unique cultures and qualities. The Urban Design Guidelines establish a set of goals, values, and qualities by which projects are evaluated in design review. They outline clear expectations that projects must demonstrate to be successfully entitled. Application of and compliance with the Urban Design Guidelines is mandatory in the permit review process. Note that other guidelines may also apply depending on the zoning, location, building type, and scale of the project. In such cases where multiple sets of

Malia Cohen
President
San Francisco Board of Supervisors

July 18, 2018
430 Main/429 Beale

guidelines apply, the respective guidelines are viewed as “layers”, where the most specific guidelines – in the unlikely event of a conflict - would take precedent.



LAW OFFICES OF
STEPHEN M. WILLIAMS

1934 Divisadero Street | San Francisco, CA 94115 | TEL: 415.292.3656 | FAX: 415.776.8047 | smw@stephenwilliams.com

Rich Hillis, President
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

March 26, 2018

RE: 430 Main Street/ 429 Beale Street
Hearing Date: March 29, 2018; Agenda Items 13
2014-002033DNX—Downtown Project and Large Authorization; Demolition;
Merging of Two Development Lots; Site/Building Permit for New 84'+ Building
in Excess of 50,000 Sq. Ft, Exceptions for Wind Currents and Unit Exposure

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President Hillis and Members of the Commission:

Please excuse this late submittal. We have requested a continuance of this matter but in the event the continuance is not granted we are submitting this brief.

This office represents the surrounding neighbors of the proposed project including the owners and occupants of the adjacent buildings BayCrest. A group of interested BayCrest homeowners has formed a group called Committee for Healthy Housing, LLC. I was recently retained to counsel the homeowners at BayCrest and because of the delay in providing requested information to me from the Planning Dept. I am submitting this short letter-brief.

HISTORY OF THE PROJECT

A near identical project was proposed at this site more than ten years ago. It was first heard at the Planning Commission on April 9, 2009 as the following item:

12a. 2007.1121XV (B. FU: (415) 558- 6613)

430 MAIN STREET/ 429 BEALE STREET - north to south through lot between Main and Beale Streets, and between Harrison Street to the west and Bryant Street to the east; Lots 305 & 306 in Assessor's Block 3767 - Request under Planning Code Sections 309.1, 825, and 827 for determinations of compliance and exceptions for dwelling unit exposure. The subject property is located within the RH DTR (Rincon Hill Downtown Residential Mixed Use) District with an 84-X Height and Bulk Designation. The project proposal is to construct a new eight-story, 84-foot building consisting of up to 113 dwelling units over a below-grade parking structure for up to 57 spaces. The project also requires a Variance for open space, to be heard and considered by the Zoning Administrator at the same hearing.

Preliminary Recommendation: Approval with Conditions
(Continued from Regular Meeting of March 19, 2009)

12b. 2007.1121XY (B. FU: (415) 558- 6613)

430 MAIN STREET / 429 BEALE STREET - north to south through lot between Main and Beale Streets, and between Harrison Street to the west and Bryant Street to the east; Lots 305 & 306 in Assessor's Block 3767 - **Variance request** to allow reduction of the required open space per Planning Code Sections 135 and 827, for the proposed construction of a new eight-story, 84-foot building consisting of up to 113 dwelling units over a below-grade parking structure for up to 57 spaces within the RH DTR (Rincon Hill Downtown Residential Mixed Use) District with an 84-X Height and Bulk Designation.

(Continued from Regular Meeting of March 19, 2009) **NOTE: On April 9, 2009, following public testimony, the commission continued this item and item 16b to May 14, 2009 with instructions to the project sponsor to engage in community outreach and work with Department staff and the neighbors on design and the concerns of the neighbors. Public hearing remains open.**

After the Public hearing it was continued until May 14, 2009 with a directive to “work with neighbors etc.....” Note the near identical shape and size and need for exceptions to unit exposure Then, as now, “working with the neighbors resulted in no significant changes.

The Project was approved on May 14, 2009 with some small changes (such as a ten-foot (10') set back from the property line) and the neighbors appealed the project to the Board of Appeals and to the Board of Supervisors under CEQA.

The neighbors lost at the Board of Appeals on August 4, 2009 by a split decision:

BOARD OF APPEALS:

430 Main Street: Appeal on the open space variance for the construction of an eight-story, 84 foot building with up to 113 dwelling units over a below-grade parking structure for up to 57 spaces that does not meet the dimensional and/or exposure requirements for open space. **The Board voted 2-2-1 (President Fung and Commissioner Mandelman in opposition with Commissioner Goh absent) to uphold the Planning Commission exception determination and Zoning Administrator variance decision.**

The neighbors then brought an appeal to the Board of Supervisors based on the environmental impacts from walling up the BayCrest courtyards. The CEQA Appeal was heard at the Board of Supervisors on October 20, 2009 as follows:

22. 091088 **[Public Hearing - Appeal of Determination
of Exemption from Environmental Review
for 430 Main Street/429 Beale Street]**

Hearing of persons interested in or objecting to the decision of the Planning Department dated February 23, 2009, Case No. 2007.1121E, that a project at 430 Main Street/429 Beale Street is exempt from environmental review per Section 15183 of the California Environmental Quality Act Guidelines and California Public Resources Code Section 21083.3. The proposal would demolish two existing one- and two-story concrete buildings on two adjacent parcels and construct an eight-story, approximately 146,000-square foot residential building on the site following merger of the two lots. The new building would include approximately 113 residential units and one subterranean parking level accommodating approximately 57 vehicles within the Rincon Hill Area Plan, a RH DTR (Rincon Hill Downtown Residential Mixed Use)/84-X Height and Bulk District, in Assessor's Block No. 3767; Lot Nos. 305 and 306. (Appellant: Dane Ince on behalf of the Opposition Team to 430 Main Street

After the Hearing the Board Made the Following Findings:

WHEREAS, On October 20, 2009, this Board voted to reverse the Planning Department's determination that no further environmental review is necessary for the Project under the Community Plan Exemption with respect to three different potential environmental effects by Motion No. 091090; now therefore be it

RESOLVED, That this Board finds that the Community Plan Exemption set forth in Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 applies to the Project and that the FEIR addresses the Project, with the exception of three issues as set forth herein; and be it further RESOLVED, That this Board hereby directs the Planning Department to conduct , additional environmental review and to prepare either a negative declaration or environmental impact report analyzing the potential impacts, as required by CEQA, on the following three potentially significant environmental impacts: (1) the potential air quality impacts on-site for the Project caused by concentrations of PM 2.5 because of the Project's location near the Bay Bridge on-ramps and other automobile arterials, which impacts were not specifically analyzed in the FEIR; and (2) the potential impacts of the Project on the adjacent site located at 201 Harrison Street with regard to concentrations of PM 2.5, combined with the Project's wind impacts on 201 Harrison Street, which were not analyzed in the FEIR; and (3) the Project's potential greenhouse gas effects, which were not analyzed in the FEIR, particularly with respect to the Project's relative contribution to the State of California's cumulative greenhouse gas effects.

The previous owner dropped the project and turned the buildings into self-storage units and has been quite successful in a City starved for storage space. The new owners

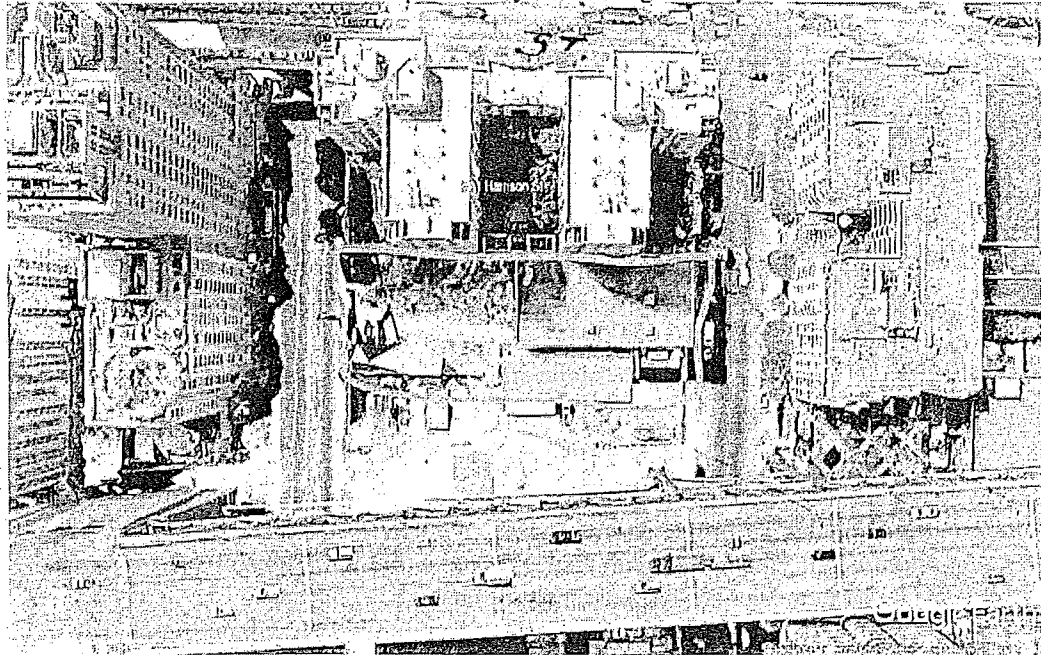
Rich Hillis, President
San Francisco Planning Commission

March 29, 2018
430 Main/429 Beale

acquired the building in May 2014 and immediately refiled for a nearly identical (slightly larger) project.

The New Project Has the Same Design Flaws and Negative Impacts on the Neighbors as the Previous Project

As shown in the attached photo, the neighboring building to the north, BayCrest Towers at 201 Harrison Street, has three open courtyards facing directly south.



Baycrest was designed at a time when the development lots to the south of it were not zoned for residential construction. Residential construction was previously forbidden on these lots for health reasons due to their proximity to the Bay Bridge and the incredible amounts of air pollution and particulate matter which comes from the hundreds of thousands of cars which use the Bay Bridge every day. These lots were later rezoned to allow residential construction and because of the pollution, all new buildings are now built as "sealed systems," meaning that the windows don't open, air intake is tightly controlled, and air conditioning is mandatory. Because of its age, BayCrest does not have such a system and the only means of ventilation for BayCrest are the operable windows for all 238 apartments.

BayCrest was a "pioneer" downtown as the first residential building in the area. The Planning Commission at that time mandated many concessions for the right to build in what was then 100% industrial area. Accordingly, the units were built as naturally affordable and mandatory rental housing which required that it remain rental housing for 20 (thanks to Sue Bierman) before any units could be sold. There are still BMR's on site and it is essentially the only "blue collar" condo development downtown. The open space shown on the BayCrest site was what was specifically required by the Rincon Hill

Special Use District (which no longer exists) for this site and imposed by the Planning Commission when BayCrest sought its approvals back in 1984. This proposed project seeks not only to build lot line to lot line but also to merge two development lots. If there is a merger which was not contemplated by the Rincon Hill Special Use District or the current Rincon Hill Plan, it creates a building that is a solid mass, a building that is a solid mass that is abutting code mandated open space. How can that possible be justified or approved?

The Impacts from the Project Design Are Overwhelming and Negative

Allowing only a five-foot setback from the property line, (the previous shorter project from 2009 gave 10' foot setback) the proposed project will build a solid wall 84-feet tall (99' feet if you count the elevator penthouses) directly across the entire southern frontage of BayCrest. This will effectively wall in all three of the open, green courtyards at BayCrest. (See Exhibit 1 attached rendering from 2009 and south view from new plan). The current proposal is to build as if BayCrest did not exist and to wall off all the open space and nearly all the windows on BayCrest's southern exposure.

It should be noted that the westernmost BayCrest courtyard is **privately owned, publicly accessible open space** (POPOS—more Sue Bierman). Obviously, the new building will permanently shadow all three of the open space courtyards of BayCrest including the POPOS which violates a different portion of the Code/Rincon Hill Plan/General Plan. Additionally, because it will also significantly restrict the air circulation to these courtyards, the experts hired by BayCrest have identified a 7% increase in the particulate matter and pollution in the center courtyard and a 15% increase in such pollutants in the west courtyard. This was what resulted in the CEQA victory in 2009. The current experts on the other side agree with these numbers but argue that the total particulate matter and pollution is still below the hazardous threshold. BayCrest argues any increase in hazardous materials caused by the Project is unacceptable especially to kids and the elderly who must open their windows for any ventilation. It is anticipated that as climate change accelerates, summer days will get smoggier, with more particulate matter in the air that BayCrest will have to contend with if the Project goes forward as proposed.

The Department REJECTED the Current Design Until Backdoor Lobbying by the Developers and their Lawyers Changed the Department's Recommendation

The preliminary project analysis (PPA) recommended that the project sponsor *"mirror the project massing along the side lot line to relate to the adjacent property courtyard or in some other way conjoin the open space to add to the existing courtyard and further it as a pattern within the block to the benefit of both properties."* (relevant portion of PPA attached as Exhibit 2) In other words, the recommendation was to create open space that matches the open space at BayCrest so that both the new building and Baycrest could "share" the open space, light and air... for the BENEFIT OF BOTH PROPERTIES.

This same design recommendation---to "flip" the project to face BayCrest and/or to articulate the new project to "mirror" the existing open space at BayCrest, so that both buildings can share the open space and light and air---was made by the Dept and the neighbors back in 2009 and rejected by the then developer. It is a design consideration which is supported by smart urban design and common sense. BayCrest is the oldest residential building in the entire area, built at a time when it was the ONLY residential building in the area and was designed to face towards lots which were never to be developed. BayCrest should not be faulted or punished because the zoning of the lots around it was changed.

Following the suggestion for design in the PPA, after the proposal was submitted to the Planning Dept., this same design recommendation was made in the first Notice of Planning Department's Requirement #1 dated June 15, 2016 (attached as Exhibit 3). The Department's Urban Design Advisory Team (UDAT) stated that the Planning Department does not support the design with the exceptions requested. In this regard, it states as follows:

- a. *"Site Design, Massing and Open Space. The Planning Department does not support an exposure exception to the extent proposed to the current design, and recommends the project be redesigned to include two building masses that are perhaps joined by minimal bridges, relate to these two street frontages and to the adjacent buildings, and mid-block open space to the north."* (which of course is BayCrest---this Requirement is Exactly the Same as the PPA).

The Project Sponsor replied six months later to the Notice of Planning Department's Requirement #1 via correspondence dated December 1, 2016 (see letter attached as Exhibit 5). In that response, the Sponsor replies to all the comments from the Dept's letter except for the design concern items raised by the UDAT. See final paragraph of the letter from the sponsors attached as Exhibit 4.

Apparently, the UDAT design comments were somehow done away with quietly and privately behind closed doors as referenced in the last sentence of the Sponsor's letter. Almost a year later, on November 16, 2017, the Planning Department issued its Notice of Planning Department's Requirement #2. By that time, the earlier UDAT comments as well as the preliminary project analysis design concerns had somehow disappeared into thin air without explanation. (Exhibit 5)

UDAT Had It Right and the Current Project Violates the Urban Design Guidelines

The UDAT comments from the PPA and the Notice of Planning Dept Requirements #1 both directly reflect the letter and the spirit of the Urban Design Guidelines which apply to this site. Clearly, this Project's design *grossly* violates every aspect of the newly enacted Urban Design Guidelines. The Urban Design Guidelines emphasize over and over again the need for "Site Design" to protect and relate to existing buildings and especially open space. The Urban Design Guidelines require new

developments to “*respect the character of older development nearby in the design of new buildings.*” (Policy 2.6)

There are numerous provisions of the Urban Design Guidelines which specifically require that new projects *match massing patterns and be sculpted to accommodate existing building setbacks and block patterns.* This is exactly what the Proposed Project Analysis (PPA Exhibit 2) and the UDAT design comments (Exhibit 3) are saying. Specifically, the UDG principals and policies require that new buildings be designed to “*promote building forms that will respect and improve the integrity of open space and other public areas.*” The Urban Design Guidelines establish that it is mandatory that new buildings have the responsibility to sensitively respond to their context and existing pattern of development to be a “good neighbor.” Below are the highlights from the Commission’s resolution from last week approving the Urban Design Guidelines directly applicable to this Project:

OBJECTIVE 2 CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.6 Respect the character of older development nearby in the design of new buildings. The proposed Urban Design Guidelines A2 and A3 require projects to “Modulate Buildings Vertically and Horizontally” and “Harmonize Building Designs with Neighboring Scale and Materials” to direct projects to be compatible with neighboring building context. (page 3-4)

Policy 2.7 Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco’s visual form and character. The proposed Urban Design Guidelines A2 and A3 require projects to “Modulate Buildings Vertically and Horizontally” and “Harmonize Building Designs with Neighboring Scale and Materials” to be compatible with neighboring building context and support the visual form and character of the city. (page 4)

OBJECTIVE 3 MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 3.1 Promote harmony in the visual relationships and transitions between new and older buildings. The proposed Urban Design Guideline S2 requires projects to “Harmonize Relationships between Buildings, Streets, and Open Spaces” asks new projects to match massing patterns and sculpt to accommodate existing building massing, setbacks, and block patterns. The proposed Urban Design Guideline A2 requires projects to “Modulate Buildings Vertically and Horizontally” to be compatible with neighboring building lot widths and massing. (page 4)

Policy 3.4 Promote building forms that will respect and improve the integrity of open spaces and other public areas. The proposed Urban Design Guideline S7 requires projects

to "Integrate Common Open Space and Landscape with Architecture" to better organize building massing for the benefit of natural ground and open space. (page 4)

Built Environment Values for the City of San Francisco

Being a Good Neighbor

Good urban design is characterized by the thoughtful orchestration of buildings, landscape, open space, and streets. Such compositions result from fundamental principles that apply universally, as well as a deep understanding and response to site-specific conditions. San Francisco's architecture spans various eras and architectural styles, but its urban fabric maintains a high degree of continuity and consistency within the variety of buildings. The Urban Design Guidelines establish that new buildings have the responsibility to sensitively respond to their context and existing patterns of development while being of their moment.

Supporting Human Needs

People interact with the built environment from their homes and workplaces, neighborhood streets, and public open spaces. Urban form that considers the quality and functionality of the building fabric, streets, and open spaces contributes to the livability of San Francisco. Buildings and building features that are scaled for human interaction such as steps, doors, windows, and seating contribute to physical and psychological wellbeing. Buildings that enhance the connection between the inner life of buildings and the outer public realm also help engage people to the larger sense of activity and spirit of the place. All these goals support an experience of urban life in which people are the measure.

Quality of Life.

There are many reasons people live in and love San Francisco—its unique and beautiful physical setting, mild climate, proximity to nature and open space. Along with promoting a safe and healthy environment, new development should support the individual experience, including senses of human-scale, beauty, and well-being. Human comfort is experienced spatially and visually through scale, enclosure, proportion, visual richness and compositional clarity. While we expect cities to feel dense, they can also remain familiar at the human-scale. New development should contribute to an individual's connection to place. Some people find delight in cities because of the achievement and physical beauty found in the spaces and buildings, while others enjoy a sense of community. The Guidelines are intended to promote the quality of individual buildings, and to enhance the experience of the city as a whole.

Application of the Guidelines

Applicability

Good neighbors make great neighborhoods and great neighborhoods make a beloved city. Design review ensures that new development will appropriately contribute to fostering

vibrant, healthy, livable urban places that express and advance San Francisco's unique cultures and qualities. The Urban Design Guidelines establish a set of goals, values, and qualities by which projects are evaluated in design review. They outline clear expectations that projects must demonstrate to be successfully entitled. Application of and compliance with the Urban Design Guidelines is mandatory in the permit review process. Note that other guidelines may also apply depending on the zoning, location, building type, and scale of the project. In such cases where multiple sets of guidelines apply, the respective guidelines are viewed as "layers", where the most specific guidelines—in the unlikely event of a conflict—would take precedent. (Relevant portions of the Urban Design Guidelines for "Site Design" are attached as Exhibit 6).

The proposed project violates nearly every single site design requirement as specified in the Urban Design Guidelines. There is nothing "respectful", "sensitive," "harmonious," "responsive" or "compatible" about erecting an eighty-four (84') foot blank wall (ninety-nine feet (99') tall with the elevator penthouses) five feet (5') away from the neighboring buildings' open space court yards. The violation of the General Plan and Urban Design Guidelines is made even more obvious when it is considered that at least one of the walled up open space courtyards is a privately maintained public open space under Section 138 of the Planning Code.

The Design Review Process Was Also Violated by the Secret Backdoor Lobbying

Planning Code Section 309.1, under which this Project seeks approval, anticipates that some developers may push back on the design issues. It provides specific criteria for Design Review and provides for a specific mechanism to be employed if a sponsor disagrees with modifications required by the Dept. as a result of Design Review. (BTW, the Commission should note that claims related to profitability are not criteria for Design Review) Section 309.1, which governs this project reads as follows:

SEC. 309.1. PERMIT REVIEW IN DOWNTOWN RESIDENTIAL DISTRICTS.

The provisions and procedures set forth in this Section shall govern the review of project authorization and building and site permit applications for the construction or substantial alteration of structures in Downtown Residential districts, the granting of exceptions to requirements of this Code, and the imposition of modifications necessary to achieve the objectives and policies of the General Plan and the purposes of this Code as provided for in Section 825 and elsewhere. When any action authorized by this Section is taken, any determination with respect to the proposed project required or authorized pursuant to CEQA may also be considered.

The Section also sets forth specific Design Review criteria as follows:

(a) Design Review.

(1) In addition to the standard permit review process, the design of projects greater than 50,000 gross square feet or 85 feet in height shall be subject to design review and approval by Department staff. A detailed design review will be initiated by Department staff working with the project sponsor, at the time an application for 309.1 review or

building permit is filed and may take place in advance of filing a building permit application. This comprehensive review shall resolve issues related to the project's design, including the following:

- (A) Overall building massing and scale;*
- (B) Architectural treatments, facade design and building materials;*
- (C) The design of lower floors, including building setback areas, townhouses, entries and parking and loading access;*
- (D) On sloping sites, parking provided above ground pursuant to Section 825(b)(5)(A);*
- (E) The provision of required open space, both on- and off-site;*
- (F) Streetscape and other public improvements, including tree planting, street furniture, and lighting;*
- (G) Circulation, including streets, alleys and mid-block pedestrian pathways;*
- (H) Other changes necessary to bring a project into conformance with the applicable elements and area plans of the General Plan.*

The Code Section then anticipates that some sponsors may disagree with modification or recommendations by the Dept and provides a specific procedure leading up to the hearing process for just such an occurrence as follows:

(2) If the project sponsor opposes project modifications and conditions recommended by the Director of Planning pursuant to the design review, the Director shall prepare a report of recommended modifications which shall be presented to the Planning Commission for a hearing pursuant to Subsection (c) and which shall be available to the public upon mail notification of said hearing.

In this instance the Project Sponsor was able to avoid the result of the Design Review and to avoid any public process or review of the proposed modifications and recommendations which the Sponsor opposed. The Sponsors were able to simply meet with Planning officials behind closed doors and do away with the design considerations and modifications which were at first recommended by the PPA and then were imposed and mandated by the UDAT. No report of these modifications has been prepared or made available to the public as required by the Code Section.

The planning process is designed to be transparent and to benefit the public. This Sponsor is seeking exceptions for unit exposure, exceptions for creation of additional wind currents at the ground level, for its loading dock and other exceptions, all of which will impact the public. These "gifts" must not be simply awarded to a project which will negatively impacts dozens of neighboring homes. Many BayCrest residents have been there for more than 20 years and some since the building first opened. They deserve the protection of the Planning Code and the design requirements set forth in the Urban Design Guidelines to protect the quality of their lives and homes.

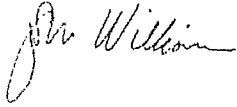
The Dept must reinstate the design requirements as set forth in the PPA and UDAT comments or at least explain how those were cast aside. Section 309.1 further allows for the imposition of such requirements at the hearing and may reimpose the

Rich Hillis, President
San Francisco Planning Commission

March 29, 2018
430 Main/429 Beale

design considerations previously mandated for the Project by the UDAT and which are obviously required by the Urban Design Guidelines.

VERY TRULY YOURS,

A handwritten signature in cursive script, appearing to read "Stephen M. Williams".

STEPHEN M. WILLIAMS

EXHIBIT 6



STILE DESIGN

- 61 *Scrupulous and Precise* / Milan Altare
- 62 *Abstractive Relativism* / Bruno Zevi, Gianni Solmi, and
Graziela Sposetti
- 63 *Design Architecture* / Luigi Mondino
- 64 *Form, Field, and Suspense* / M. Corbelli
- 65 *Complex, Intractable, and Inevitable* /
Sergio Pagni and Luisa Spagnoli
- 66 *Formica: The Revolution of the Plastic Environment*
- 67 *Early Applications and Specialized Applications of
Formica*
- 68 *Formica and the Plastic System* / Giancarlo Piretti



HARMONIZE RELATIONSHIPS BETWEEN BUILDINGS, STREETS, AND OPEN SPACES

A building that relates to city fabric, to its immediate context, and adjacent human activity helps unify neighborhood experience and character. The relationship between areas of low, fine-scaled buildings and areas of high, large-scaled buildings can be more harmonious if the transition in building height and mass between such areas is managed in an intentional and sensitive manner.

VIOLATES

VIOLATES

- Develop site and building design to establish, respect, or enhance the mid-block open space and minimize their impacts to privacy and access to light. Different configurations for rear yards may be acceptable due site conditions.
- Relate building scale and massing to the size and scale of existing buildings. Consider setbacks and side terracing to reduce light and air impacts on adjacent buildings and provide more interesting side facades, or to transition to smaller-scaled residential neighborhoods.

Reflect the existing patterns of side spacing and side setbacks.

- Sculpt building massing vertically and/or horizontally to a scale compatible to its context. *VIOLATES*

- Provide matching lightwells to augment livability and access to light and air. *VIOLATES*

- As groups of buildings create their own topography, shape new buildings to respond to, reconcile, or moderate differences between existing ones. *VIOLATES*

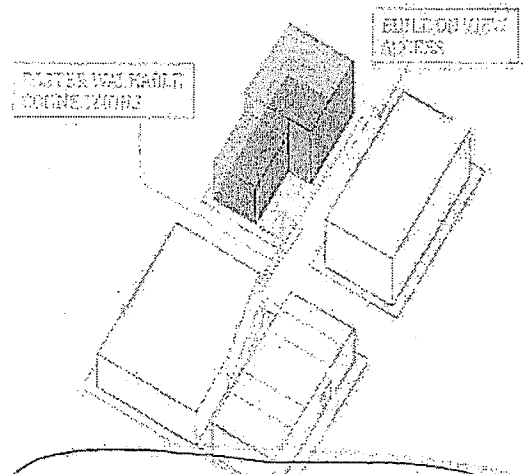
- Modify tall buildings to minimize wind impacts at the street level. *VIOLATES*

- Mass buildings to minimize shadow impacts on residential areas, lower buildings, parks, and open space. *VIOLATES*

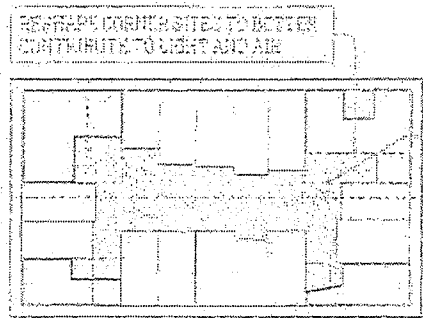
- Use street widths to help establish the general massing, scale, and proportions of the building.

- Shape the height and bulk of towers with respect to views from important vantage points around the city.

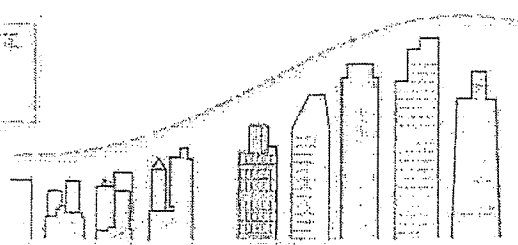
- Place, orient, and shape open space to support adjacent existing open space conditions. *VIOLATES*



Modify the shape and location of new open spaces to support existing ones

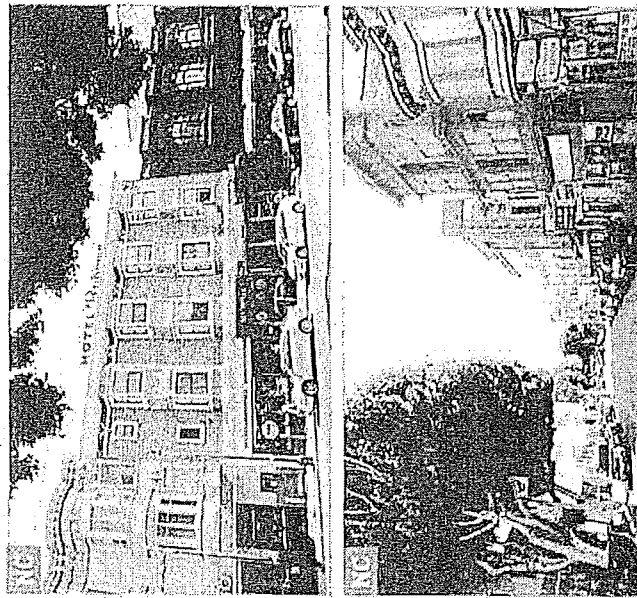


By modifying typical rear yards, corner sites can better support streetwalls and mid-block open space.

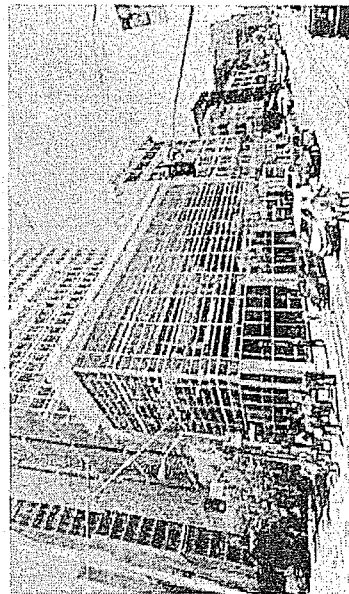


Building massing should respect larger patterns in the urban fabric.

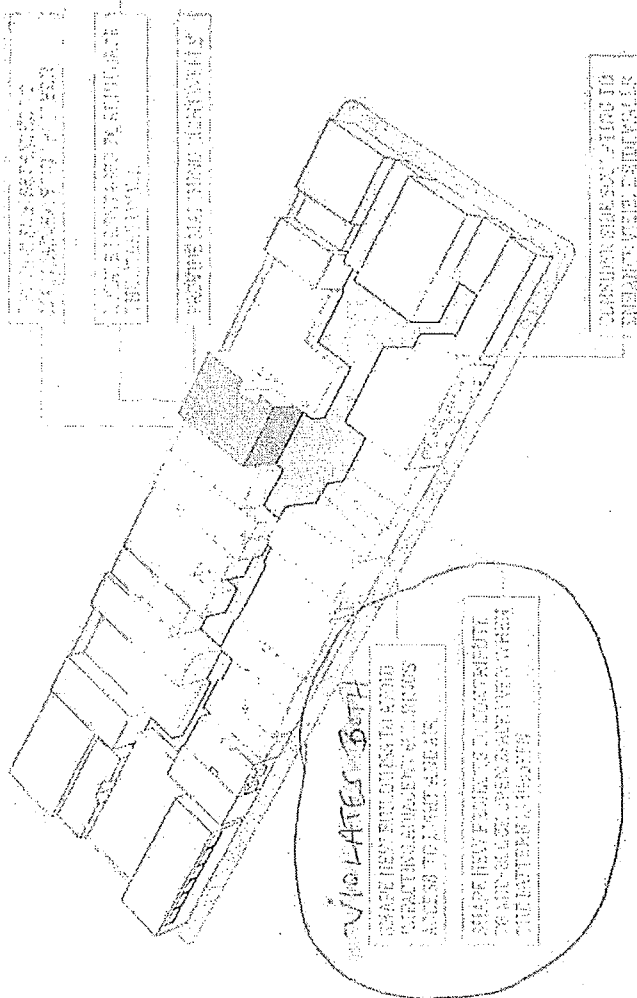
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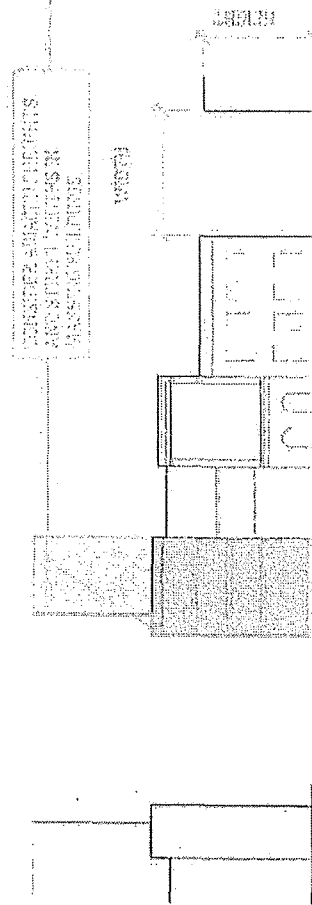
New projects should reflect the scale of existing street frontages.



Individual buildings can sculpt massing to respond to both a taller streetwall and a lower one.



Place and shape front, side, and rear facades to support the overall urban design of the block.



Massing should reflect similar dimensions to street widths and surrounding buildings.

From: BOS Legislation, (BOS)
To: danemince@yahoo.com; Mark H. Loper; ajunius@reubenlaw.com
Cc: GIVNER, JON (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Rodgers, AnMarie (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Navarrete, Joy (CPC); Lynch, Laura (CPC); Ionin, Jonas (CPC); Vu, Doug (CPC); Li, Michael (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)
Subject: APPEAL RESPONSES: Appeal of CEQA Community Plan Evaluation - 429 Beale Street and 430 Main Street - Appeal Hearing on July 31, 2018
Date: Monday, July 23, 2018 2:06:00 PM
Attachments: image001.png

Good afternoon,

Please find linked below appeal responses received by the Office of the Clerk of the Board from the appellant, Dane M. Ince, and the Planning Department, regarding the appeal of the Community Plan Evaluation under CEQA for the proposed project at 429 Beale Street and 430 Main Street.

[Supplemental Appeal Letter - July 23, 2018](#)

[Planning Appeal Response Memo - July 23, 2018](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on July 31, 2018.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180697](#)

Best Regards,

Jocelyn Wong

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T: 415.554.7702 | F: 415.554.5163
jocelyn.wong@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

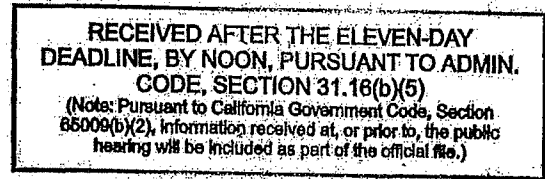
Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: [Dane Ince, LS](#)
To: [Brown, Vallie \(ECN\)](#); [Cohen, Malia \(BOS\)](#); [Fewer, Sandra \(BOS\)](#); [Kim, Jane \(BOS\)](#); [Mandelman, Rafael \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [Ronen, Hillary](#); [Safai, Ahsha \(BOS\)](#); [Stefani, Catherine \(BOS\)](#); [Tang, Katy \(BOS\)](#); [Yee, Norman \(BOS\)](#); [BOS Legislation, \(BOS\)](#)
Subject: CEQA APPEAL 430 main
Date: Monday, July 23, 2018 3:05:29 AM
Attachments: [CEQA review.docx](#)

please see attachment

Dane Ince LS 8142
Certified Federal Surveyor 1099
President of San Francisco Surveying Company, inc.
201 Harrison Street Ste 828
San Francisco, Ca. 94105-2058
phone 415-321-9300
fax 415-543-1915
www.sanfranciscosurveyingcompany.com

Delivered Via Email
President Malia Cohen and Supervisors
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102
Bos.legislation@sfgov.org
July 23, 2018
Re: 429 Beale Street, 430 Main Street
o Appeal of the Community Plan Exemption ("CPE")
Planning Department Case No. 2014.002033DNX 2014-0022033ENV
File No. 180697



The appeal of the environmental review for 430 Main/429 Beale does not hinge on substituting the opinion of one expert for another.

But "[i]f a lead agency is presented with a **fair argument** that a project may have a significant effect on the environment, [it] shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have significant effect - in Chinn v. BOARD OF SUPERVISORS OF COUNTY OF MONTEREY, 2007

The Planning Department was presented with substantial evidence from the Ramboll Enviorn report that other pollutants will increase because of the proposed design. Nowhere in the environmental review prepared by the Planning Department is there a discussion of other pollutants and the fact as reported by Ramboll that they will increase.

"Ramboll Enviorn modeled PM_{2.5} exhaust from vehicles as a surrogate for other sources of air pollution from vehicles. If PM_{2.5} concentrations from vehicles as a result of the Proposed Project change, then it is reasonable to assume that other pollutants from vehicle traffic will behave in the same manner."

The Ramboll Enviorn report shows that PM_{2.5} will increase in Baycrest Courtyards as well as other nearby areas that will negatively impact the health of residents of Baycrest and Portside specifically. In several cases shown on various Ramboll exhibits the increases in PM_{2.5} are 3, 4, and 5 times the Article 38 threshold.

"The foremost principle under **CEQA** is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language" - in County of Amador v. City of Plymouth, 2007

Examining what that Trinity states with a fair mind it would seem that the Ramboll memo of 3/26/18 misstates the Trinity review. A fair reading of the Trinity review leads one to form the opinion that additional study is required.

The agency's decision not to require an EIR may be upheld "only when there is not credible evidence to the contrary - in CITIZENS FOR CIVIC ACCOUNTABILITY v. Town of Danville, 2009

What the Trinity Report actually states with respect to their review of the Ramboll report

3.1 Building Downwash Modeling

“based on existing regulatory guidance, AERMOD is the accepted air dispersion model in California which is capable of estimating building downwash for different projects”

3.2 Offsite Impacts

“The Ramboll Report concluded that the incremental increase of PM_{2.5} emissions from the Project is small in relative proportion of total post-project emissions. However, the cumulative PM_{2.5} emissions are substantially higher than levels considered reasonable for residential projects as per local codes. Given the Project is located in an area which is already classified as a health hazard based on the high concentrations of TACs and PM_{2.5}, CEQA may require a higher standard of review in such cases. Any additional amount of emissions could be considered a substantial health risk in the proposed project location for existing and new residential activities (or other sensitive receptors), and should be more thoroughly assessed and mitigated as required by Article 38 and applicable law.”

3.3 Construction Impacts

Ramboll Report did not include a review nor evaluation of construction impacts, although the proposed project is located in an area which is locally classified as an APEZ due to high concentrations of air toxics and PM_{2.5} concerns. Given the location of the project, proximity to other residential units and potentially extensive construction activities, an air quality impact analysis without such review of construction impacts would be incomplete.

3.4 Diesel Particulate Matter (DPM)

“While the surrogate approach may be generally accepted guidance for estimating *cancer risks* from exposure to diesel exhaust, there are also non-cancer risk impacts which require consideration, including, non-cancer acute and chronic health hazards. Fuel combustion releases at least forty (40) different toxic air contaminants, including, but not limited to, diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde. Levels of these pollutants are generally concentrated within 500 feet of freeways and very busy roadways.¹⁰ For non-cancer acute impacts, Appendix D of the 2015 OEHHA guidelines recommends an evaluation of the acute health effects may be warranted in case of a multistory apartment building.¹¹ Since there is no acute REL that is currently associated with DPM, any potential acute health impacts (i.e., short term health hazards) from exposure to diesel exhaust were not determined by the Ramboll Report. As a consequence, it is likely this surrogate approach likely underestimates the overall health impacts associated with individual toxics from diesel combustion, specifically, any potential acute health hazards.”

3.5 Project Traffic Impacts

“Further, note that within the APEZ, additional emissions would adversely affect populations that are already at a higher risk which CEQA may demand a higher standard of review. Therefore, a more refined analysis of traffic emissions and impacts with the most recent accepted emission factors would be warranted.”

The California Supreme Court has "repeatedly recognized that the EIR is the `heart of CEQA. [Citations.] `Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR `protects not only the environment but also informed self-government
- in Center for Sierra Nevada Conservation v. County of El Dorado, 2012

"CEQA embodies our state's policy that the long-term protection of the environment... shall be the guiding criterion in public decisions
- in SAVE OUR CARMEL RIVER v. MONTEREY PENINSULA WATER MANAGEMENT DISTRICT, 2006

The record is clear on this matter and it is that the Planning Department has yet again failed to protect the health and safety of the public which is the stated purpose of the local planning code ordinance. The same arguments were made in 2009 where the project sponsor and the Planning Department swore up and down that they had properly executed their duties according to "Hoyle" when in fact they had not. In 2009 a report prepared by Trinity Consultants demonstrated that the exact same type of proposed project would have the exact same type of downwash effect as the current project does as reported in the recent Ramboll report. Pollution will increase because of downwash. This downwash effect will increase the health risks to residents up to and including death.

On its face the Ramboll report in black and white is what demands further study, not the mere opinion of a local resident. In my view it would be irresponsible to forgoe proper environmental study law based upon the opinion of a registered lobbyist. Since when has it become de riguer to place public health and safety at the bottom of the list of priorities? Since when is it unnecessary to protect health and safety? Further study is just that futher study and the outcome of it is most likely mitigation. Following the rules of the road is what allows us to live in harmony, in a social structure. The values we derive therefrom and enjoy far outweigh any momentary inconvenience of doing what we have to do protect each other. I suggest that we could have more and better and safer housing being built faster if the project sponsors and their registerd lobbyists would spend their time trying to comprhend the rules of the road and following them as opposed to trying to gut the rules only for their convenience and profit. Please do the right thing and protect health and safety.

Sincerely Dane Ince

CC

Supervisor Vallie Brown
Supervisor Malia Cohen
Supervisor Sandra Fewer
Supervisor Jane Kim
Supervisor Rafael Mandelman
Supervisor Aaron Peskin
Supervisor Hillary Rosen
Supervisor Ahsha Safai
Supervisor Catherine Stefani
Supervisor Katy Tang
Supervisor Norman Yee

From: [BOS Legislation, \(BOS\)](#)
To: danemince@yahoo.com; [Mark H. Loper](mailto:Mark.H.Loper); ajunius@reubenlaw.com
Cc: [GIVNER, JON \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Vu, Doug \(CPC\)](#); [Li, Michael \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: SUPPLEMENTAL APPEAL MATERIAL: Appeal of CEQA Community Plan Evaluation - 429 Beale Street and 430 Main Street - Appeal Hearing on July 31, 2018
Date: Tuesday, July 24, 2018 12:05:24 PM
Attachments: [image001.png](#)

Good afternoon,

Please find linked below further supplemental material received by the Office of the Clerk of the Board from the Appellant, Dane M. Ince, regarding the appeal of the Community Plan Evaluation under CEQA for the proposed project at 429 Beale Street and 430 Main Street.

[Supplemental Appeal Material - BOS Motion No. M09-178 - July 23, 2018](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on July 31, 2018.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180697](#)

Regards,

Brent Jalipa

Legislative Clerk

Board of Supervisors - Clerk's Office
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-7712 | Fax: (415) 554-5163
brent.jalipa@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

109-178

FILE NO. 091254

MOTION NO.

1 [Adopting findings reversing the exemption determination for the 430 Main Street/429 Beale
2 Street project.]

3
4 **Motion adopting findings reversing the exemption determination by the Planning**
5 **Department that the 430 Main Street/429 Beale Street project is exempt from further**
6 **environmental review.**

7
8 WHEREAS, On February 23, 2009, the Planning Department determined that a
9 proposal to demolish two existing one- and two-story concrete buildings on two adjacent
10 parcels and construct an eight-story, approximately 146,000 square foot residential building
11 on the site, located at 430 Main Street/429 Beale Street (the "Project") was statutorily exempt
12 from further environmental review after preparation of the Rincon Hill Plan Final
13 Environmental Impact Report ("FEIR") under the California Environmental Quality Act
14 ("CEQA"), Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 as a
15 Community Plan Exemption permitted thereunder and required no further environmental
16 review ("Exemption Determination"). A copy of the Exemption Determination is on file with the
17 Clerk of the Board of Supervisors in File No. 091088, and is incorporated by reference in this
18 motion; and,

19 WHEREAS, On May 14, 2009, the Planning Commission approved the Project; and

20 WHEREAS, By letter to the Clerk of the Board of Supervisors dated September 8,
21 2009, Dane Ince filed an appeal of the Exemption Determination to the Board of Supervisors,
22 which the Clerk of the Board of Supervisors received on or around September 8, 2009; and

23 WHEREAS, On October 20, 2009, this Board held a duly noticed public hearing to
24 consider the appeal; and

25
Clerk of the Board
BOARD OF SUPERVISORS

RECEIVED AFTER THE ELEVEN-DAY
DEADLINE, BY NOON, PURSUANT TO ADMIN.
CODE, SECTION 31.16(b)(5)

(Note: Pursuant to California Government Code, Section
86009(b)(2), information received at, or prior to, the public
hearing will be included as part of the official file.)

1 WHEREAS, This Board has reviewed and considered the Exemption Determination,
2 the appeal letter, the responses to the appeal that the Planning Department prepared, other
3 written records before this Board, staff testimony and responses to questions raised, and
4 heard public testimony in support of and opposed to the Exemption Determination appeal; and

5 WHEREAS, The Exemption Determination files and all correspondence and other
6 documents have been made available for review by this Board and the public. These files are
7 available for public review by appointment at the Planning Department offices at 1650 Mission
8 Street, and are part of the record before this Board by reference in this motion; and

9 WHEREAS, CEQA provides that where a Project meets the requirements for use of a
10 Community Plan Exemption, the public agency must limit its examination of environmental
11 effects to those which the agency determines (1) are peculiar to the project or parcel on which
12 the project would be located, or (2) were not analyzed as significant effects in the relevant
13 prior EIR, or (3) are potentially significant off-site impacts or cumulative impacts that were not
14 discussed in the prior EIR, or (4) are more severe adverse impacts than were analyzed in the
15 prior EIR; and

16 WHEREAS, This Board examined these issues and heard extensive testimony on
17 potential air quality impacts on-site for the Project caused by excessive PM 2.5 concentrations
18 because of the Project's location near the Bay Bridge on-ramps and other automobile arterials
19 that were not specifically analyzed in the FEIR; and

20 WHEREAS, This Board heard and shared concerns that the potential environmental
21 impacts of the Project on the adjacent site located at 201 Harrison Street with regard to
22 excessive PM 2.5 concentrations, combined with the Project's wind impacts on 201 Harrison
23 Street, were not adequately analyzed in the FEIR; and

24 WHEREAS, This Board reviewed the analysis of the Project's greenhouse gas effects,
25 which were not analyzed in the FEIR, and determined that further study of the greenhouse

1 gas effects of the Project is necessary to determine whether those impacts may be significant;
2 and

3 WHEREAS, This Board considered the Exemption Determination, reviewed the
4 requirements and determinations that CEQA requires for a Community Plan Exemption, and
5 determined that additional environmental review is necessary for a determination regarding
6 certain environmental effects that are peculiar to the Project and its location, were not
7 analyzed as potential significant effects in the FEIR, or are potential significant off-site impacts
8 that were not discussed in the FEIR; and

9 WHEREAS, On October 20, 2009, this Board voted to reverse the Planning
10 Department's determination that no further environmental review is necessary for the Project
11 under the Community Plan Exemption with respect to three different potential environmental
12 effects by Motion No. 091090; now therefore be it

13 RESOLVED, That this Board finds that the Community Plan Exemption set forth in
14 Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 applies to the
15 Project and that the FEIR addresses the Project, with the exception of three issues as set
16 forth herein; and be it further

17 RESOLVED, That this Board hereby directs the Planning Department to conduct
18 additional environmental review and to prepare either a negative declaration or environmental
19 impact report analyzing the potential impacts, as required by CEQA, on the following three
20 potentially significant environmental impacts: (1) the potential air quality impacts on-site for
21 the Project caused by concentrations of PM 2.5 because of the Project's location near the Bay
22 Bridge on-ramps and other automobile arterials, which impacts were not specifically analyzed
23 in the FEIR; and (2) the potential impacts of the Project on the adjacent site located at 201
24 Harrison Street with regard to concentrations of PM 2.5, combined with the Project's wind
25 impacts on 201 Harrison Street, which were not analyzed in the FEIR; and (3) the Project's

1 potential greenhouse gas effects, which were not analyzed in the FEIR, particularly with
2 respect to the Project's relative contribution to the State of California's cumulative greenhouse
3 gas effects.

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Motion

File Number: 091254

Date Passed: November 3, 2009

Motion adopting findings reversing the exemption determination by the Planning Department that the 430 Main Street/429 Beale Street project is exempt from further environmental review.

October 28, 2009 Board of Supervisors — REFERRED: Board of Supervisors

November 3, 2009 Board of Supervisors — AMENDED

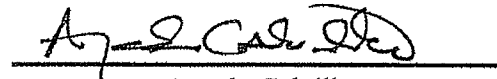
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

November 3, 2009 Board of Supervisors — APPROVED AS AMENDED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

File No. 091254

I hereby certify that the foregoing Motion
was APPROVED AS AMENDED on
November 3, 2009 by the Board of
Supervisors of the City and County of San
Francisco.



Angela Calvillo
Clerk of the Board

From: [Navarrete, Joy \(CPC\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Jalipa, Brent \(BOS\)](#); [Gibson, Lisa \(CPC\)](#); [Li, Michael \(CPC\)](#); [Huggins, Monica \(CPC\)](#); [Starr, Aaron \(CPC\)](#)
Subject: Planning APPEAL RESPONSE BRIEF: Appeal of CEQA Community Plan Evaluation - 429 Beale Street and 430 Main Street - Appeal Hearing on July 31, 2018
Date: Monday, July 23, 2018 11:37:42 AM
Attachments: [429 Beale Street Appeal Response with attachments FINAL.pdf](#)

Hi Brent-

Please find the Planning Department's response to appeal on the subject line project, BOS File 180697. A hard copy and CD will be delivered to your office shortly.

Please note that we will submit a supplemental response to the supplemental letter received on 7/17 by Wednesday, 7/25. Let me know if you have questions or require anything further.

Thanks,
Joy

Joy Navarrete, Principal Environmental Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
P. 415-575-9040 F. 415-556-6409
www.sfplanning.org



SAN FRANCISCO PLANNING DEPARTMENT

Appeal of Community Plan Evaluation 429 Beale Street and 430 Main Street Project

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE: July 23, 2018

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Lisa Gibson, Environmental Review Officer – (415) 575-9032
 Joy Navarrete, Principal Environmental Planner – (415) 575-9040
 Michael Li, Environmental Coordinator – (415) 575-9107

RE: Board File No. 180697, Planning Department Case No. 2014-002033ENV – Appeal of the Community Plan Evaluation¹ for the 429 Beale Street and 430 Main Street Project. Block/Lot: 3767/305 and 306

PROJECT SPONSOR: Andrew Junius, of Reuben, Junius & Rose, on behalf of LCL Global-429 Beale Street & 430 Main Street, LLC – (415) 567-9000

APPELLANT: Dane M. Ince – (415) 321-9300

HEARING DATE: July 31, 2018

ATTACHMENTS: A – June, 25 2018 appeal letter from Dane M. Ince
 B – Planning Commission Motion No. 20195
 C – Ramboll Environ’s Response to Trinity Consultants’ Peer Review of Air Quality Technical Report, March 26, 2018

2018 JUL 23 AM 11:30
 BOARD OF SUPERVISORS
 SAN FRANCISCO
 RECEIVED

INTRODUCTION

This memorandum and the attached documents are a response to a letter of appeal to the Board of Supervisors (Board) regarding the Planning Department’s (Department) issuance of a Community Plan Evaluation (CPE) under the *Rincon Hill Area Plan Final Environmental Impact Report (Rincon Hill PEIR)*² in

¹ 429 Beale Street and 430 Main Street CPE Certificate can be found here http://sfmea.sfplanning.org/2014-002033ENV_CPE.pdf and the Initial Study can be found here http://sfmea.sfplanning.org/2014-002033ENV_Initial%20Study.pdf

² The Rincon Hill Area Plan Final EIR (Planning Department Case No. 2000.1081E), State Clearinghouse No. 1984061912) was certified by the Planning Commission on May 5, 2005. The Project Site is within the Rincon Hill Area Plan.

compliance with the California Environmental Quality Act (CEQA) for the 429 Beale Street and 430 Main Street Project (Project).

The Department, pursuant to CEQA, the CEQA Guidelines, 14 Cal. Code of Reg. Sections 15000 *et seq.*, and Chapter 31 of the San Francisco Administrative Code (Administrative Code), determined that the Project is consistent with the development density established by zoning, community plan, and general plan policies in the Rincon Hill Area Plan for the Project Site, for which a Programmatic EIR was certified, and issued the CPE for the Project on March 19, 2018. The Department determined that the Project would not result in new significant environmental effects, or effects of greater severity than were already analyzed and disclosed in the PEIR, and that the Project is therefore exempt from further environmental review beyond what was conducted in the CPE Initial Study and the Rincon Hill PEIR in accordance with CEQA Section 21083.3 and CEQA Guidelines Section 15183.

The decision before the Board is whether to uphold the Department's determination that the Project is exempt from further environmental review (beyond what was conducted in the CPE Initial Study and the PEIR) pursuant to CEQA Section 21083.3 and CEQA Guidelines Section 15183 and deny the appeal, or to overturn the Department's CPE determination for the Project and return the CPE to the Department for additional environmental review.

PROJECT DESCRIPTION

The Project Site, which is in San Francisco's Rincon Hill neighborhood, is on the block bounded by Beale Street on the west, Harrison Street on the north, Main Street on the east, and Bryant Street on the south. The Project Site extends from Beale Street to Main Street and consists of two adjacent parcels: Assessor's Block 3767, Lots 305 and 306. Lot 305, the western parcel, fronts on Beale Street and is occupied by a one-story building that was constructed in 1951. Lot 306, the eastern parcel, fronts on Main Street and is occupied by a two-story building that was constructed in 1929. Both buildings are currently occupied by a retail self-storage use. The Project Site has two existing curb cuts: one on Beale Street and one on Main Street. The Project Site slopes up from west to east; the western property line is about eight feet lower than the eastern property line.

The Project consists of merging the two existing lots into a single 18,906-square-foot lot, demolishing the existing buildings, and constructing a nine-story, 84-foot-tall building containing 144 dwelling units and 73 parking spaces (72 residential spaces and one car-share space). There would be a 15-foot-tall solarium and a 15-foot-tall mechanical penthouse on the roof, resulting in a maximum building height of 99 feet. The parking garage would be on the basement level. Due to the slope of the Project Site, the parking garage would be about 18 feet below grade on the Main Street side of the Project Site and about nine feet below grade on the Beale Street side of the Project Site. The garage door and a new driveway would be provided on Beale Street. The existing 20-foot-wide curb cut on Beale Street would be retained and reduced in width to 11 feet, and the existing curb cut on Main Street would be removed. A total of 119 bicycle parking spaces would be provided; 111 Class 1 spaces would be provided in a storage room on the basement mezzanine level, and eight Class 2 spaces would be provided on the Beale Street and/or Main Street sidewalk adjacent to the Project Site. Usable open space for the residents of the Project would be provided in the form of a ground-level yard, private balconies, and a roof deck. See Exhibit 2 for a complete set of project plans (site plan, floor plans, elevations, sections, and renderings).

Construction of the Project would take about 24 months. The proposed building would be supported by a mat foundation; pile driving would not be required. Construction of the Project would require excavation to depths ranging from about 10 feet to about 25.5 feet below ground surface and the removal of about 12,052 cubic yards of soil.

SITE DESCRIPTION

The Project Vicinity is characterized by residential, retail, office, and open space uses. The scale of development in the Project Vicinity varies in height from 15 to 600 feet. There is a nine- to 11-story, 110-foot-tall residential building with 294 units (BayCrest Towers, 201 Harrison Street) adjacent to and north of the Project Site, and there is a one-story California Department of Transportation (Caltrans) maintenance facility adjacent to and south of the Project Site. The elevated Interstate 80 approach to the San Francisco-Oakland Bay Bridge passes over the Caltrans property at a height of approximately 125 feet.

There is a 25-story, 200-foot-tall residential building on the west side of Beale Street across from the Project Site, and there is a nine-story, 105-foot-tall residential building on the east side of Main Street across from the Project Site. Other land uses in the Project Vicinity include the temporary Transbay Terminal (one block north of the project site), Rincon Hill Dog Park (one block south), and the Embarcadero Promenade (two blocks east).

The Project Site is well served by public transportation. Within one-quarter mile of the Project Site, the San Francisco Municipal Railway (Muni) operates 10 bus lines (the 5 Fulton, 5R Fulton Rapid, 7 Haight/Noriega, 25 Treasure Island, 30X Marina Express, 38 Geary, 38R Geary Rapid, 41 Union, 81X Caltrain Express, and 82X Levi Plaza Express) and two light rail lines (the N Judah and T Owl). The Bay Area Rapid Transit District's Embarcadero station is one-half mile northwest of the project site.

ENVIRONMENTAL REVIEW PROCESS

LCL Global-429 Beale Street & 430 Main Street, LLC, the sponsor, filed the environmental evaluation application (Case No. 2014-002033ENV) for the Project on August 14, 2015. The Department issued a CPE Certificate and Initial Study on March 19, 2018, based on the following determinations:

1. The Project is consistent with the development density established for the Project Site in the Rincon Hill Area Plan;
2. The Project would not result in effects on the environment that are peculiar to the project or the Project Site that were not identified as significant effects in the Rincon Hill PEIR;
3. The Project would not result in potentially significant off-site or cumulative impacts that were not identified in the Rincon Hill PEIR;
4. The Project would not result in significant effects, which, as a result of substantial new information that was not known at the time the Rincon Hill PEIR was certified, would be more severe than were already analyzed and disclosed in the PEIR; and

5. The project sponsor will undertake feasible mitigation measures specified in the Rincon Hill PEIR to mitigate project-related significant impacts.

The Project was considered by the Planning Commission (Commission) on May 24, 2018. On that date, the Commission adopted the CPE with approval of the Project under Planning Code Section 309.1 (Downtown Project Authorization), which constituted the Approval Action under Chapter 31 of the Administrative Code.

The Commission also approved a Downtown Project Authorization on May 24, 2018 pursuant to Planning Code Section 309.1.

On June 25, 2018, an appeal of the CPE determination was filed by Dane M. Ince (Appellant). The Appeal Letter and its supporting documents, along with this Appeal Response and its supporting documents, are available online as part of Board File No. 180697³.

On July 17, 2018, a "Review of CEQA Determination for 430 Main Street Project" was filed with the Clerk of the Board by Grassetto Environmental Consulting (dated July 20, 2018). This letter will be addressed in a subsequent response by the Planning Department. On July 19, an unsigned letter including a history of the project and appeals which attaches a letter from Stephen Williams (dated March 26, 2017), was filed with the Clerk of the Board. As this letter does not provide any arguments against the CEQA analysis, a response to this letter will not be prepared.

CEQA GUIDELINES

Community Plan Evaluations

CEQA Section 21083.3 and CEQA Guidelines Section 15183 **mandate** that projects that are consistent with the development density established by existing zoning or community plan or general plan policies for which an EIR was certified, **shall not** require additional environmental review except as might be necessary to examine whether there are project-specific effects that are peculiar to the project or its site and that were not disclosed as significant effects in the prior EIR. CEQA Guidelines Section 15183 specifies that examination of environmental effects shall be limited to those effects that: (a) are peculiar to the project or parcel on which the project would be located; (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent; (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR; or d) are previously identified significant effects which, as a result of substantial information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR. CEQA Guidelines Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, has been addressed as a significant effect in the prior

³ <https://sfgov.legistar.com/LegislationDetail.aspx?ID=3542916&GUID=D73BEFC4-9D79-4536-8F5E-573547CBA53A&Options=ID|Text|&Search=180697>

EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, then an additional EIR need not be prepared for that project solely on the basis of that impact.

Significant Environmental Effects

In determining the significance of environmental effects caused by a project, CEQA Guidelines Section 15064(f) states that the decision regarding whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, 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."

SAN FRANCISCO ADMINISTRATIVE CODE

Section 31.16(e)(3) of the Administrative Code states: "The grounds for appeal of an exemption determination shall be limited to whether the project conforms to the requirements of CEQA for an exemption."

Administrative Code Section 31.16(b)(6) provides that in reviewing an appeal of a CEQA decision, the Board "shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions."

CONCERNS RAISED AND PLANNING DEPARTMENT RESPONSES:

The Appeal Letter raises two primary concerns: (1) the Commission abused its discretion in reviewing and approving the Project; and (2) the Department abused its discretion by not following the spirit and intent of CEQA in evaluating the Project's environmental impacts related to air quality.

A peer review of the Department's air quality technical report is attached as an exhibit to the Appeal Letter. A response to the peer review is attached as an exhibit to the Appeal Response. These documents are available online as part of Board File No. 180697⁴.

⁴ <https://sfgov.legistar.com/LegislationDetail.aspx?ID=3542916&GUID=D73BEFC4-9D79-4536-8F5E-573547CBA53A&Options=ID|Text|&Search=180697>

Concern 1: The Commission abused its discretion in reviewing and approving the Project. In its rush to approve more housing units, the Commission ignored Building Code and Planning Code regulations and the objectives and policies of the Rincon Hill Area Plan and the Urban Design Guidelines.

Response 1: The Commission did not abuse its discretion in reviewing and approving the Project. The Commission's review and approval of the Project was conducted in accordance with the procedures set forth in Planning Code Section 309.1: Permit Review in Downtown Residential Districts.

The consideration of the review and approval process of the project is not considered an environmental effect under CEQA. However, the Department and Commission's review and approval of the project followed all applicable regulations. Prior to the Commission's review and approval of the Project, the Department reviewed the Project for compliance with Planning Code regulations and the objectives and policies of the General Plan, the Rincon Hill Area Plan, and the Urban Design Guidelines. This review process included internal meetings of the Department's Urban Design Advisory Team and meetings between the Department and the project sponsor. In preparing a recommendation to the Commission, the Department prepared a staff report that (1) discussed the Project's compliance with Planning Code regulations, (2) identified any required exceptions from Planning Code regulations, and (3) discussed the Project's consistency with the objectives and policies of Planning Code Section 101.1, the General Plan, and the Rincon Hill Area Plan.

The Commission held two duly noticed public hearings on the Project, on March 29, 2018 and May 24, 2018. During the March 29 hearing, the Commission considered the Department's recommendation as well as comments submitted by members of the public, including the residents of BayCrest Towers, the adjacent building to the north of the Project Site. The Commission instructed the project sponsor to explore several design options that would address the concerns raised by the residents of BayCrest Towers. During the May 24 hearing, the Commission reviewed and approved a modified design for the Project.

The approval of the Downtown Project Authorization is appealable to the Board of Appeals. The Appellant has appealed the Downtown Project Authorization, and a Board of Appeals hearing has been tentatively scheduled for August 8, 2018. The Board of Appeals hearing is the appropriate forum for discussing the review and approval of the Project.

Project compliance with applicable San Francisco Building Code regulations will be reviewed by the San Francisco Department of Building Inspection (DBI) and does not fall under the jurisdiction of the Board, the Commission, or the Department.

Concern 2: The Department abused its discretion by not following the spirit and intent of CEQA in evaluating the Project's environmental impacts related to air quality. The Department did not address a peer review of the air quality technical report as part of the findings of the CPE.

Response 2: The Department did not abuse its discretion in evaluating the Project's environmental impacts related to air quality. The Department's analysis of the Project's air quality impacts was conducted in accordance with the methodology established by the Department and the San Francisco Department of Public Health, and the CEQA significance thresholds established by the Bay Area Air Quality Management District, which are based on U.S. Environmental Protection Agency, California Air Resources Board, and Office of Environmental Health Hazard Assessment guidance. In addition, the Air District reviewed and approved both the scope of and final version of the air quality technical report prepared for the Proposed Project. The Department has provided a response to the peer review of the air quality technical report, which is included as an attachment to this document, and does not require updates to the analysis contained in the CPE or air quality technical report.

Under CEQA, air quality impacts can occur during a project's construction phase, its operational phase, or during both phases. The CPE and accompanying air quality technical report⁵ for the Project properly addressed the Project's construction and operational air quality impacts related to both criteria air pollutants and health risk, thereby meeting the requirements for air quality impact assessment under CEQA. The specific concerns raised in the Trinity report along with the Department's response are first presented and responded to, followed by a summary of the operational health risk impact assessment presented in the CPE.

Response to Peer Review of Air Quality Technical Report

On behalf of the BayCrest Towers residents, Trinity Consultants prepared a peer review of the Project's air quality technical report. The assertions in the Trinity peer review are listed below along with the Department's summarized response to each issue (in italics).

1. Assertion: AERMOD should have been used for the building downwash analysis to estimate pollutant concentrations in the BayCrest courtyards instead of a computational fluid dynamics (CFD) model.

Response: CFD can accurately predict complex wind flows around structures in complex urban environments, while AERMOD does not have the capacity to account for flow interaction between multiple buildings or buildings of complex shape. Instead, AERMOD approximates building downwash for single simple-shaped buildings. CFD modeling directly simulates plume dispersion around buildings and is the appropriate model to be used to address pollutant concentrations in the adjacent courtyards.

⁵ Attached as an exhibit to this Appeal Response and available online as part of Board File No. 180697: <https://sfgov.legistar.com/LegislationDetail.aspx?ID=3542916&GUID=D73BEFC4-9D79-4536-8F5E-573547CBA53A&Options=ID|Text|&Search=180697>

2. Assertion: The Project's off-site PM_{2.5} emissions must undergo additional assessment and be mitigated.

Response: The Project's contribution to off-site PM_{2.5} emissions would be below the threshold of 7 excess cancer risks per one million persons exposed and below the PM_{2.5} threshold of 0.2 µg/m³. Under CEQA, the Project would not result in a significant operational air quality impact related to health risk, and no mitigation measures would be necessary.

3. Assertion: The Project's construction air quality impacts must be analyzed.

Response: The Project's construction air quality impacts related to criteria air pollutants and health risk were fully analyzed, and are discussed in the CPE for the Project.

4. Assertion: The acute health impacts of diesel particulate matter emitted by the Project's emergency generator should have been evaluated.

The cancer risk and chronic hazard index impact due of diesel particulate matter emitted by the Project's emergency generator were evaluated in the air quality technical report, and found to be less-than-significant. The Office of Environmental Health and Hazard Assessment does not require the evaluation of acute health impacts, and the circumstances of the project do not warrant it, as a single diesel generator is not expected to be a significant source of pollutant with acute health impacts. Before operating a diesel generator, an applicant must meet BAAQMD permitting requirements, which include a health risk analysis and permit conditions set to ensure health standards are met.

5. Assertion: A more refined analysis of the Project's traffic-related emissions should have been conducted, and more recent versions of emission factors should have been used.

Response: The Project is expected to generate 263 vehicle trips per day, which is well below the threshold of 10,000 vehicle trips per day to be considered a low-impact source. The air district only requires an evaluation of health risks for roads with more than 10,000 vehicles per day. Nonetheless, a screening-level analysis of the Project's traffic-related emission was conducted using the air district's Roadway Screening Calculator. In addition, a supplemental analysis shows that use of more updated emissions factors would reduce cancer risk and PM_{2.5} concentrations, which highlights that the results in the air quality technical report represent a more conservative (i.e. worst case) assessment.

6. Assertion: The most recent five years of consecutive meteorological data should have been used for the Project's air quality analysis instead of just a single year (2008).

Response: A single year of meteorological data was used to be consistent with the data used in the San Francisco Community Risk Reduction Plan (SFCRRP). The methodology for the SFCRRP was developed in partnership with the air district, and thus the air district has approved of the use of a single year of meteorological data for the purpose of air quality analysis under CEQA. In addition, the methodology used in the proposed Project's air quality technical report was reviewed and approved by the air district.

Summary of Operational Health Risk Impact Assessment

This portion of the response focuses on the Project's operational air quality impacts related to health risk, which was the focus of the challenge raised by the residents of BayCrest Towers and by the Appellant in the Appeal Letter.

Background Information – Previous Environmental Review

In 2007, a previous developer proposed the construction of an eight-story residential building on the Project Site. In 2009, the Department issued a Certificate of Determination - Exemption from Environmental Review (Community Plan Exemption) for the 2007 project. The Community Plan Exemption was appealed to the Board, which upheld the appeal on the grounds that the Community Plan Exemption did not adequately analyze the 2007 project's environmental impacts related to air quality, wind, and greenhouse gas (GHG) emissions. The Board directed the Department to conduct additional environmental review and prepare either a negative declaration or an environmental impact report that analyzes the 2007 project's potential impacts related to air quality, wind, and GHG emissions.

The previous developer did not move forward with the 2007 project, so no additional environmental review was conducted for that project. However, in compliance with the direction provided by the Board on the 2007 project, the Department conducted a detailed air quality analysis to evaluate how operation of the currently proposed Project would affect localized health risk to on-site and off-site sensitive receptors. The results of that analysis are discussed below.

Health Risk

Individual projects may emit toxic air contaminants (TACs). TACs collectively refer to a diverse group of air pollutants that are capable of causing chronic (i.e., of long-duration) and acute (i.e., severe but short-term) adverse effects to human health, including carcinogenic effects. Human health effects of TACs include birth defects, neurological damage, cancer, and mortality. There are hundreds of different types of TACs with varying degrees of toxicity. Individual TACs vary greatly in the health risks they present; at a given level of exposure, one TAC may pose a hazard that is many times greater than another.

Unlike criteria air pollutants, TACs do not have ambient air quality standards but are regulated by the Bay Area Air Quality Management District (air district) using a risk-based approach to determine which sources and pollutants to control as well as the degree of control. A health risk assessment is an analysis in which human health exposure to toxic substances is estimated, and considered together with information regarding the toxic potency of the substances, to provide quantitative estimates of health risks.⁶

⁶ In general, a health risk assessment is required if the air district concludes that projected emissions of a specific air toxic compound from a proposed new or modified source suggest a potential public health risk. The applicant is

Air pollution does not affect every individual in the population in the same way, and some groups are more sensitive to adverse health effects than others. Land uses such as residences, schools, children's day care centers, hospitals, and nursing and convalescent homes are considered to be the most sensitive to poor air quality because the population groups associated with these uses have increased susceptibility to respiratory distress or, as in the case of residential receptors, their exposure time is greater than that for other land uses. Therefore, these groups are referred to as sensitive receptors. Exposure assessment guidance typically assumes that residences would be exposed to air pollution 24 hours per day, 7 days a week, for 30 years.⁷ Therefore, assessments of air pollutant exposure to residents typically result in the greatest adverse health outcomes of all population groups.

Exposures to fine particulate matter (PM_{2.5}) are strongly associated with mortality, respiratory diseases, and lung development in children, and other endpoints such as hospitalization for cardiopulmonary disease.⁸ In addition to PM_{2.5}, diesel particulate matter (DPM) is also of concern. The California Air Resources Board (the "California air board") identified DPM as a toxic air contaminant in 1998, primarily based on evidence demonstrating cancer effects in humans.⁹ The estimated cancer risk from exposure to diesel exhaust is much higher than the risk associated with any other TAC routinely measured in the region.

In an effort to identify areas of San Francisco most adversely affected by sources of TACs, San Francisco partnered with the air district to conduct a citywide health risk assessment based on an inventory and assessment of air pollution and exposures from mobile, stationary, and area sources within San Francisco. Areas with poor air quality, termed the "Air Pollutant Exposure Zone," were identified based on health-protective criteria that consider estimated cancer risk, exposures to fine particulate matter, proximity to freeways, and locations with particularly vulnerable populations. The Project Site is located within the Air Pollutant Exposure Zone. Existing excess cancer risk at the closest off-site receptor is about 130 per one million persons exposed, and the existing PM_{2.5} concentration at this receptor point is 9.1 µg/m³. The criteria determining the extent of the Air Pollutant Exposure Zone are discussed below.

Excess Cancer Risk. The Air Pollution Exposure Zone includes areas where modeled cancer risk exceeds 100 incidents per million persons exposed. This criterion is based on United States Environmental Protection Agency (EPA) guidance for conducting air toxic analyses and making risk management

then subject to a health risk assessment for the source in question. Such an assessment generally evaluates chronic, long-term effects, estimating the increased risk of cancer as a result of exposure to one or more TACs.

⁷ California Office of Environmental Health Hazard Assessment, *Air Toxics Hot Spot Program Risk Assessment Guidelines*, February, 2015, pp. 4-44, 8-6

⁸ SFDPH, *Assessment and Mitigation of Air Pollutant Health Effects from Intra-Urban Roadways: Guidance for Land Use Planning and Environmental Review*, May 2008.

⁹ California Air Resources Board (ARB), Fact Sheet, "The Toxic Air Contaminant Identification Process: Toxic Air Contaminant Emissions from Diesel-fueled Engines," October 1998.

decisions at the facility and community-scale level.¹⁰ As described by the air district, the EPA considers a cancer risk of 100 per million to be within the “acceptable” range of cancer risk. Furthermore, in the 1989 preamble to the benzene National Emissions Standards for Hazardous Air Pollutants rulemaking,¹¹ the EPA states that it “...strives to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately one in one million and (2) limiting to no higher than approximately one in ten thousand [100 in one million] the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.” The 100 per one million excess cancer cases is also consistent with the ambient cancer risk in the most pristine portions of the Bay Area based on air district regional modeling.¹²

Fine Particulate Matter. In April 2011, the EPA published *Policy Assessment for the Particulate Matter Review of the National Ambient Air Quality Standards*, “Particulate Matter Policy Assessment.” In this document, EPA staff conclude that the then current federal annual PM_{2.5} standard of 15 µg/m³ should be revised to a level within the range of 13 to 11 µg/m³, with evidence strongly supporting a standard within the range of 12 to 11 µg/m³. The Air Pollutant Exposure Zone for San Francisco is based on the health protective PM_{2.5} standard of 11 µg/m³, as supported by the EPA’s Particulate Matter Policy Assessment, although lowered to 10 µg/m³ to account for uncertainty in accurately predicting air pollutant concentrations using emissions modeling programs.

Proximity to Freeways. According to the California air board, studies have shown an association between the proximity of sensitive land uses to freeways and a variety of respiratory symptoms, asthma exacerbations, and decreases in lung function in children. Siting sensitive uses in close proximity to freeways increases both exposure to air pollution and the potential for adverse health effects. As evidence shows that sensitive uses in an area within a 500-foot buffer of any freeway are at an increased health risk from air pollution,¹³ parcels that are within 500 feet of freeways are included in the Air Pollutant Exposure Zone.

Health Vulnerable Locations. Based on the air district’s evaluation of health vulnerability in the Bay Area, those zip codes (94102, 94103, 94105, 94124, and 94130) in the worst quintile of Bay Area health vulnerability scores as a result of air pollution-related causes were afforded additional protection by lowering the standards for identifying parcels in the Air Pollutant Exposure Zone to: (1) an excess cancer

¹⁰ BAAQMD, *Revised Draft Options and Justification Report, California Environmental Quality Act Thresholds of Significance*, October 2009, p. 67.

¹¹ 54 Federal Register 38044, September 14, 1989.

¹² BAAQMD, *Clean Air Plan*, May 2017, p. D-43.

¹³ California Air Resources Board, *Air Quality and Land Use Handbook: A Community Health Perspective*. April 2005. Available online at: <http://www.arb.ca.gov/ch/landuse.htm>.

risk greater than 90 per one million persons exposed, and/or (2) PM_{2.5} concentrations in excess of 9 µg/m³.¹⁴

The above citywide health risk modeling was also used as the basis for approving amendments to the San Francisco Building and Health Codes (Ordinance No. 224-14, effective December 7, 2014), referred to as Health Code Article 38: Enhanced Ventilation Required for Urban Infill Sensitive Use Developments (Article 38). For sensitive-use projects within the APEZ as defined by Article 38, such as the Project, the ordinance requires that the project sponsor submit an Enhanced Ventilation Proposal for approval by the San Francisco Department of Public Health (DPH) that achieves protection from PM_{2.5} (fine particulate matter) equivalent to that associated with a Minimum Efficiency Reporting Value 13 filtration. The DBI will not issue a building permit without written notification from the Director of the DPH that the applicant has an approved Enhanced Ventilation Proposal. In compliance with Article 38, the project sponsor submitted an initial application to the DPH.¹⁵ The regulations and procedures set forth in Article 38 would protect the Project's proposed sensitive receptors from substantial outdoor pollutant concentrations.

In addition, projects within the Air Pollutant Exposure Zone require special consideration to determine whether the project's activities would add a substantial amount of emissions to areas already adversely affected by poor air quality. The following addresses the project's operational health risk impact.

Analysis of the Project's Operational Health Risk Impact

As discussed above, the Board heard an appeal of a Community Plan Exemption for a 2007 project proposed at the Project Site. In upholding the appeal, the Board directed the Department to conduct additional environmental review on the air quality impacts of the 2007 project. The developer decided not to move forward with the 2007 project, so no additional environmental review was conducted. However, in compliance with the direction provided by the Board on the 2007 project, a detailed air quality analysis was conducted to evaluate how operation of the currently proposed Project would affect localized health risk to on-site and off-site sensitive receptors.¹⁶

As discussed above, the Project Site is located within the Air Pollutant Exposure Zone. The threshold of significance used to evaluate health risks from new sources of TACs is based on the potential for a proposed project to substantially affect the geography and severity of the Air Pollutant Exposure Zone at sensitive receptor locations. For projects that are located outside the Air Pollutant Exposure Zone and could increase pollutants such that the project site would meet the criteria for inclusion in the Air Pollutant

¹⁴ San Francisco Planning Department and San Francisco Department of Public Health, *2014 Air Pollutant Exposure Zone Map (Memo and Map)*, April 9, 2014. These documents are part of San Francisco Board of Supervisors File No. 14806, Ordinance No. 224-14; Amendment to Health Code Article 38.

¹⁵ *Application for Article 38 Compliance Assessment, 429 Beale Street & 430 Main Street*, submitted March 1, 2018.

¹⁶ Ramboll Environ, *Air Quality Analysis Technical Report, Proposed Building at 430 Main Street/429 Beale Street*, San Francisco, California (hereinafter "AQTR"), March 2018.

Exposure Zone, a proposed project that would emit PM_{2.5} concentration above 0.3 µg/m³ or result in an excess cancer risk greater than 10.0 per million would be considered a significant impact. The 0.3 µg/m³ PM_{2.5} concentration and the excess cancer risk of 10.0 per million persons exposed are the levels below which the air district considers new sources not to make a considerable contribution to cumulative health risks.¹⁷ For those locations already meeting the Air Pollutant Exposure Zone criteria, such as the Project Site, a lower significance standard is required to ensure that a proposed project's contribution to existing health risks would not be significant. In these areas, a proposed project's PM_{2.5} concentrations above 0.2 µg/m³ or an excess cancer risk greater than 7.0 per million would be considered a significant impact.¹⁸

Methodology

The detailed health risk analysis was conducted in accordance with the guidelines and methodologies established by the air district, the California air board, the California Office of Environmental Health Hazard Assessment, and the U.S. EPA. The health risk analysis evaluated the estimated cancer risk, chronic hazard index, and concentrations of DPM, total organic gases, and PM_{2.5} associated with the Project's operational emissions. The sources of the proposed project's operational emissions include project-related traffic and an emergency diesel generator.

Emissions from Project-related traffic were not directly modeled because the volume of traffic expected to be generated by the Project (263 vehicles per day) would not exceed the air district's screening criteria requiring quantification of such emissions (10,000 vehicles per day). However, health risks from the Project's expected traffic were evaluated using the air district's Roadway Screening Analysis Calculator. This calculator was used to estimate cancer risk and PM_{2.5} concentrations associated with emissions from Project-related traffic. Emissions from the Project's proposed emergency generator was modeled using the most recent version of the EPA's atmospheric dispersion modeling system (AERMOD) to estimate the concentrations of TACs at both on-site and off-site sensitive receptor locations. The AERMOD analysis also accounts for building downwash, incorporating nearby building heights. Emissions estimates from AERMOD were then used to assess the potential excess cancer risk at sensitive receptor locations based on exposure assessment guidelines from the California Office of Environmental Health Hazard Assessment and the air district. This methodology also accounts for an anticipated sensitivity to carcinogens of infants and children by incorporation of an age sensitivity factor. The results of this

¹⁷ Bay Area Air Quality Management District, *California Environmental Quality Act Guidelines Update, Proposed Air Quality CEQA Thresholds of Significance*, May 3, 2010. Available online at www.baaqmd.gov/-/media/Files/Planning%20and%20Research/CEQA/Proposed_Thresholds_Report_%20May_3_2010_Final.ashx?la=en, accessed February 20, 2014.

¹⁸ A 0.2 µg/m³ increase in PM_{2.5} would result in a 0.28 percent increase in non-injury mortality or an increase of about twenty-one excess deaths per 1,000,000 population per year from non-injury causes in San Francisco. This information is based on Jerrett M et al. 2005. *Spatial Analysis of Air Pollution and Mortality in Los Angeles*. *Epidemiology*. 16:727-736. The excess cancer risk has been proportionally reduced to result in a significance criterion of 7 per million persons exposed.

analysis are then added to existing background cancer risk and PM_{2.5} values to determine the existing-plus-project health risk at on-site and off-site sensitive receptor locations.

Findings of AERMOD Analysis

The health risk analysis evaluated the impact of the Project’s emergency diesel generator and Project-related traffic in terms of lifetime excess cancer risk and PM_{2.5} concentration. The results are discussed below.

Table 1: Existing Plus Project Health Risk Analysis (2020), shows the Project’s contribution to lifetime excess cancer risk and PM_{2.5} concentrations at off-site and on-site sensitive receptor locations. With implementation of the Project, the lifetime excess cancer risk at the maximally exposed off-site sensitive receptor would be 132 excess cancer risks per one million persons exposed. The Project’s total contribution to this cancer risk would be 0.52 excess cancer risks per one million persons exposed, which is well below the significance threshold of 7 excess cancer risks per one million persons exposed. With implementation of the Project, PM_{2.5} concentrations at the maximally exposed off-site sensitive receptor would be 9.1 µg/m³. The Project’s total PM_{2.5} contributions to off-site sensitive receptors would be 0.0093 µg/m³, which is also well below the significance threshold of 0.2 µg/m³. The Project’s health risk contribution to on-site receptors would be even lower (see Table 1). Therefore, the Project would not result in a significant health risk impact.

Table 1: Existing Plus Project Health Risk Analysis (2020)

Receptor Type	Lifetime Excess Cancer Risk (in a million)		PM _{2.5} Concentration (µg/m ³)	
	On-Site Receptor	Off-Site Receptor	On-Site Receptor	Off-Site Receptor
Proposed Project Emergency Generator	0.21	0.20	0.00028	0.00026
Project Traffic	0.18	0.32	0.0049	0.0091
Project Total	0.39	0.52	0.0052	0.0093
Existing Background	218	131	9.2	9.1
Existing Plus Project	219	132	9.2	9.1

SOURCE: Ramboll Environ, 2018

Cumulative Air Quality Impacts

By its very nature, regional air pollution (criteria air pollutant analysis) is largely a cumulative impact in that no single project is sufficient in size, by itself, to result in non-attainment of air quality standards. Instead, a project's individual emissions contribute to existing cumulative adverse air quality impacts.¹⁹ The project-level thresholds for criteria air pollutants are based on levels by which new sources are not anticipated to contribute to an air quality violation or result in a considerable net increase in criteria air pollutants. As shown above, the proposed Project would not result in significant construction or operational criteria air pollutant impacts. Therefore, the Project would not result in a cumulatively considerable contribution to regional air quality impacts, and cumulative criteria air pollutant impacts would be less than significant.

In terms of local health risks, a cumulative health risk analysis was conducted under 2040 conditions. This condition accounts for expected vehicle trips in the year 2040 and takes into account future vehicle emissions regulations. Table 2: Cumulative Health Risk Analysis (2040), shows the Project's contribution to average annual PM_{2.5} concentrations at on-site and off-site sensitive receptor locations. With implementation of the Project, the lifetime excess cancer risk at the maximally exposed off-site sensitive receptor would be 160 excess cancer risks per one million persons exposed. The Project's total contribution to this cancer risk would be 0.52 excess cancer risks per one million persons exposed, which is well below the significance threshold of 7 excess cancer risks per one million persons exposed. With implementation of the Project, PM_{2.5} concentrations at the maximally exposed off-site sensitive receptor would be 10.0 µg/m³. The Project's total PM_{2.5} contributions to off-site sensitive receptors would be 0.0093 µg/m³, which is also well below the significance threshold of 0.2 µg/m³. The Project's health risk contribution to on-site receptors would be even lower (see Table 2). Therefore, the Project would not result in a significant health risk impact.

¹⁹ BAAQMD, *CEQA Air Quality Guidelines*, May 2017, p. 2-1.

Table 2: Cumulative Health Risk Analysis (2040)

Receptor Type	Lifetime Excess Cancer Risk (in a million)		PM _{2.5} Concentration (µg/m ³)	
	On-Site Receptor	Off-Site Receptor	On-Site Receptor	Off-Site Receptor
Proposed Project Emergency Generator	0.21	0.20	0.00028	0.00026
Project Traffic	0.18	0.32	0.0049	0.0091
Project Total	0.39	0.52	0.0052	0.0093
2040 Background	304	160	11.3	10.0
Cumulative 2040	304	160	11.3	10.1

SOURCE: Ramboll Environ, 2018

Computational Fluid Dynamics Air Pollutant Analysis

In addition to the AERMOD analysis, a refined building downwash analysis was conducted using a computational fluid dynamics (CFD) model to evaluate how the proposed Project would affect the air flow and the pollutant concentration in the courtyards of BayCrest Towers. Unlike AERMOD, in which building downwash is not directly modeled but is determined by an analytical approximation, CFD modeling involves the direct computation of air flow. With CFD modeling, simulation of wind and pollutant dispersion can be conducted for accurate estimates of pollutant concentrations under different wind speeds and atmospheric conditions. Because the CFD model is not the recommended model by the air district for conducting air pollutant dispersion modeling for CEQA purposes but AERMOD is, the results of this analysis are presented for informational purposes only. This analysis also directly addresses the direction provided by the Board on the 2007 project. The CFD analysis evaluated how the proposed building would affect air pollutant flow at BayCrest Towers from Bay Bridge traffic. Therefore, this analysis considered air pollutant levels at BayCrest Towers both with and without the proposed Project.

BayCrest Towers has three exterior courtyards (west, central, and east) that are adjacent to and north of the Project Site. The west courtyard is enclosed by BayCrest Towers on two sides (north and east) and is open on two sides (south and west). The central courtyard is fully enclosed by BayCrest Towers on two sides (west and east), partially enclosed (three stories) by BayCrest Towers on one side (north), and open on one side (south). The east courtyard is enclosed by BayCrest Towers on two sides (north and west) and is open on two sides (south and east). Construction of the proposed Project would enclose the south side of each courtyard, although there would be five feet of separation between BayCrest Towers and the proposed Project.

Findings of CFD Analysis

Table 3: Summary of CFD Analysis for PM_{2.5} Concentration in BayCrest Towers Courtyards, shows the concentrations of Bay Bridge traffic PM_{2.5} in each of the courtyards under existing conditions (without the proposed Project) and with the proposed Project in place. With implementation of the proposed Project, the PM_{2.5} concentrations would decrease in the west courtyard by 0.034 µg/m³ and increase in the central and east courtyards by 0.031 µg/m³ and 0.1 µg/m³, respectively. It is important to note that this analysis does not include background or proposed Project PM_{2.5} concentrations. If the proposed Project’s traffic and emergency generator contributions (0.0093µg/m³) were added to these totals, the proposed Project’s PM_{2.5} contributions would not exceed 0.2 µg/m³.

Table 3: Summary of CFD Analysis for PM_{2.5} Concentration in BayCrest Towers Courtyards

Source	Average Annual PM _{2.5} Concentration (µg/m ³)			
	West Courtyard	Central Courtyard	East Courtyard	Average
Without Proposed Building	0.54	0.44	0.69	0.56
With Proposed Building	0.51	0.47	0.79	0.59
Net Change	-0.034	+0.031	+0.1	+0.032

SOURCE: Ramboll Environ, 2018

CONCLUSION

The Appellant has not demonstrated nor provided substantial evidence to support a claim that the CPE fails to conform to the requirements of CEQA for a Community Plan Evaluation pursuant to CEQA Section 21083.3 and CEQA Guidelines Section 15183. The Department conducted the necessary studies and analyses and provided the Commission with the information and documents necessary to make an informed decision, based on substantial evidence in the record, at a duly noticed public hearing in accordance with the Department’s CPE Initial Study and standard procedures and pursuant to CEQA and the CEQA Guidelines. Therefore, the Department respectfully recommends that the Board uphold the Department’s determination for the CPE and reject the Appellant’s appeal.

ATTACHMENT A

June 25, 2018 appeal letter from Dane M. Ince (attachments removed)

APPELLANT DANE INCE STATEMENT

I am a resident of 201 Harrison Street, which is immediately adjacent to the lots at 429 Beale and 430 Main which are proposed to be merged for this project.

The Planning Commission abused its discretion throughout the process of three hearings and approved the proposed project 2014-002033dnx-429 Beale/430 Main St. The Planning Commission was overly concerned with approval of housing units rather than insuring that San Francisco law -the planning code, the Building Code, the Rincon Hill Plan, and the Urban Guidelines were adhered to and followed for the benefit of all in the City and County of San Francisco. The Planning department recklessly placed rubber stamping developers plans to rush housing units to market over their duty to comply with the planning ordinance requirement to protect health and safety. The Planning Department failed to follow the intent and the spirit of California State law known as CEQA and this failure amounts to an abuse of discretion. The Planning Department was presented with credible peer revenue of the department's air quality review and they abused their discretion by failing to address this substantial evidence in the formation of their findings. In 2009 the Board of Supervisors instructed the Planning Department to follow California State law and analyze projects proposed at 49 Beale/430 Main in a fashion consistent with state law. These shortcomings represent nearly a decade's long pattern of abuse on the part of the Planning Department for this one project alone. I and other citizens are aggrieved by these failures and seek the Board of supervisors' rejection of an improper local agency environmental determination and for the Board to instruct the Planning Department AGAIN to adhere to the law and provide a proper environmental review.

Dane M. Ince


Monday, June 25, 2018



MEMORANDUM

To: Committee for Healthy Housing
cc: Dane Ince, San Francisco Surveying Company
From: Trinity Consultants
Date: 1/19/2018
RE: Review of Technical Report by Ramboll Environ dated October 2017

1.0 INTRODUCTION

On January 11, 2018, Mr. Dane Ince, a member of the Committee for Healthy Housing, contacted Trinity requesting a review of the Air Quality Analysis Technical Report dated October 2017, which was prepared by Ramboll Environ US Corporation (Ramboll Report). As shown below in Figure 1, the proposed project is located at 430 Main Street/429 Beale Street in the city of San Francisco, California¹ (Project). As requested by the Committee for Healthy Housing, Trinity performed a high level review of the Ramboll Report to evaluate its technical approach and general conformance with the cited regulatory guidelines and accepted practices for this California Environmental Quality Act (CEQA) air quality impact analysis.

2.0 BACKGROUND

While an exact project description was not provided in the Ramboll Report, the Project is stated to be a 9-story residential building reaching 84 feet in total height, which will be constructed in an area between Harrison Street, Main Street, Beale Street and the I-80 freeway within the City of San Francisco, California. The Project's daily trip activity is 263 trips per day. The Ramboll Report does state that the Project is within 200 feet of Interstate-80 (I-80), an elevated segment of a major freeway with average daily traffic levels of 265,000 vehicles.² In addition, the Project is in an area classified by the Bay Area Air Quality Management District (BAAQMD) and the City and County of San Francisco as having high concentrations of toxic air contaminants (TACs) and fine particulate matter (PM_{2.5}) as indicated in purple in Figure 1 below, which is locally referred to as an Air Pollutant Exposure Zone (APEZ).³ Based on review, the Ramboll Report conducted the following key analysis for the proposed project:

- Emission Estimates (for operational sources)
- Air Dispersion Modeling (for operational sources)
- Health Risk Assessment (for operational sources and project traffic)
- Cumulative Risk Analysis
- Refined Building Downwash

In addition, the Ramboll Report cited CEQA and related regulatory guidelines from the following authorities in its preparation of its analysis:

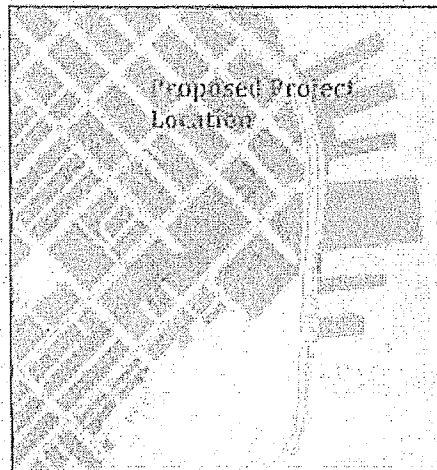
¹ Ramboll Environ US Corporation, 2017, Air Quality Technical Report – Proposed Building at 430 Main Street / 429 Beale Street, San Francisco, California. Project Number 03-39316A. October 2017.

² http://www.baaqmd.com/air/traffic/consair/2016_satah_volumes.pdf

³ Bay Area Air Quality Management District, 2016, Planning Healthy Places – A Guidebook for Addressing Local Sources of Air Pollutants in Community Planning, May 2016.

- Bay Area Air Quality Management District
- California Air Resources Board
- California Office of Environmental Health Hazard Assessment (OEHHA)
- U.S. Environmental Protection Agency (US EPA)

Figure 1. Project Area Map



The proposed Project is in an area of extreme poor air quality and high risk for human health problems due to its proximity to I-80 and population density, which is subject to Article 38 of the San Francisco Health Code⁴. The City and County of San Francisco established Article 38 because scientific studies consistently showed an association between exposure to air pollution and significant human health problems. In 2008, Article 38 was adopted to require new residential construction projects located in areas of poor air quality and pollution from roadways must install enhanced ventilation to protect residents from the respiratory, heart, and other health effects of living in a poor air quality area. The law was updated in 2014 to improve consistency with California Environmental Quality Act (CEQA) and streamline implementation. The 2014 amendments included revisions to the underlying map of the city's APEZ --the end result of a collaborative effort with the Bay Area Air Quality Management District. The amendments codify the implementation strategy that was formalized in July 2013, when the Air Quality Program began providing several options for determining compliance with Article 38.

3.0 ANALYSIS

Based on its review, Trinity is providing the following analysis of potential technical issues relating to the general approach and methodologies employed for the Ramboll Report:

3.1 Building Downwash Modeling

The Air Resources Board and OEHHA guidelines specifies that AERMOD be used for air dispersion modeling and health risk assessment purposes within the state of California (OEHHA 2015).⁵ In section 8.2, the Ramboll Report states that AERMOD is not appropriate for the Project since it can provide only screening-level estimates

⁴<http://library.amlga.com/asi/pateway.dll/California/health/article38requirementsandregulationsrequiredfor?i=templates&isDefault=true?O&vid=amlga&sid=sanfrancisco.ca>

⁵ OEHHA, 2015. Air Toxics Hot Spots Program Risk Assessment Guidelines, Guidance Manual for Preparation of Health Risk Assessments, February 2015. <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>

of air quality trends, and not precise estimates of concentration differences in cases where buildings of interest are of complex shape and located in the urban core of San Francisco, which may be exposed to complex flows from the interactions of the atmosphere with the array of buildings in the vicinity. Instead of using AERMOD, the Ramboll Report argues that a Computational Fluid Dynamics (CFD) model is more appropriate for estimating building downwash for the Project.

Adopted by the United States Environmental Protection Agency and widely used by regulatory agencies across the country, AERMOD is a steady-state plume model that incorporates air dispersion based on planetary boundary layer turbulence structure and scaling concepts, including treatment of both surface and elevated sources, and both simple and complex terrains (U.S. EPA, 2009). AERMOD incorporates the Plume Rise Model Enhancements (PRIME) (Schulman et al. 2000) algorithms for estimating enhanced plume growth and restricted plume rise for plumes affected by building wakes (U.S. Environmental Protection Agency, 1995). Moreover, AERMOD contains specific algorithms for modeling the effects of aerodynamic downwash due to nearby buildings on point source emissions and depositional effects on particulate emissions.⁶ As a consequence, based on existing regulatory guidance, AERMOD is the accepted air dispersion model in California which is capable of estimating building downwash for different projects.

3.2. Offsite Impacts

CEQA requires that public agencies analyze how environmental impacts from new constructions and developments might adversely affect nearby receptors and local air quality conditions. In this case, the Ramboll Report indicate the adjacent courtyards (i.e., neighboring offsite receptors) are located about 200 feet north of the elevated portion of I-80, known as the San Francisco-Oakland Bay Bridge, which generates an average traffic movement of 265,000 vehicle trips per day.⁷ Per Article 38, the action threshold for mitigation efforts for the Project is $0.2 \mu\text{g}/\text{m}^3$ of $\text{PM}_{2.5}$. As shown in Table 1 below, the pre-project $\text{PM}_{2.5}$ concentration in the neighboring courtyards is already significantly above the action threshold for project mitigation. Any additional impacts will deteriorate the local air quality further and pose additional health hazards for the local residents.

In section 1.1.2, based on its CFD model for building downwash analysis, the Ramboll Report shows that there would be an increase in average annual $\text{PM}_{2.5}$ concentration of $0.032 \mu\text{g}/\text{m}^3$ as a result of the Project. As displayed in Table 13 of the Ramboll Report, and summarized in Table 1 below, there is an increase in $\text{PM}_{2.5}$ concentration for the center courtyard by 6%, and an increase by 13% for the east courtyard. There is a decrease in $\text{PM}_{2.5}$ concentration by 6% for the west courtyard. The report compares the difference of the pre- and post-project concentrations with the average background concentration of $9.3 \mu\text{g}/\text{m}^3$.

⁶ User's Guide for the AMS/EPA Regulatory Model (AERMOD), EPA-454/B-16-011 December, 2016

⁷ http://www.dot.ca.gov/act/firms/census/docs/2016_mtd_volumes.pdf

Table 1 – PM_{2.5} Concentrations Results Summary

Source	Average Annual PM _{2.5} Concentration (µg/m ³)		
	West Courtyard	Center Courtyard	East Courtyard
Without proposed Building	0.54	0.44	0.69
With Proposed Building	0.51	0.47	0.79
% Increase in the PM _{2.5} Concentration	-6%	6%	13%

The Ramboll Report concluded that the incremental increase of PM_{2.5} emissions from the Project is small in relative proportion of total post-project emissions. However, the cumulative PM_{2.5} emissions are substantially higher than levels considered reasonable for residential projects as per local codes. Given the Project is located in an area which is already classified as a health hazard based on the high concentrations of TACs and PM_{2.5}, CEQA may require a higher standard of review in such cases. Any additional amount of emissions could be considered a substantial health risk in the proposed project location for existing and new residential activities (or other sensitive receptors), and should be more thoroughly assessed and mitigated as required by Article 38 and applicable law.⁸

3.3 Construction Impacts

Per CEQA requirements, it is typical for an air quality impact analysis to include a review of environmental impacts from the construction phase of a proposed project, which may include construction traffic, excavation, building activities, fugitive dust generation and other related air emissions sources. The construction phase may include adverse impacts from emissions of criteria pollutants and others, including PM₁₀ and PM_{2.5}. In this case, the Ramboll Report did not include a review nor evaluation of construction impacts, although the proposed project is located in an area which is locally classified as an APEZ due to high concentrations of air toxics and PM_{2.5} concerns. Given the location of the project, proximity to other residential units and potentially extensive construction activities, an air quality impact analysis without such review of construction impacts would be incomplete.

3.4 Diesel Particulate Matter (DPM)

In section 4.1.1 Chemical Selection, the Ramboll Report states that California regulatory guidelines allow diesel particulate matter (DPM) to be used as a surrogate measure of exposure for the mixture of chemicals that make up diesel exhaust as a whole. Further, the Ramboll Report states that Cal/EPA advocates the surrogate approach to quantifying *cancer risks* associated with the diesel mixture in lieu of a component-based approach, which involves estimating health risks for each of the individual components of a mixture. Furthermore, the Ramboll Report states that Cal/EPA has concluded that "potential cancer risk from inhalation exposure to whole diesel exhaust will outweigh the multi-pathway *cancer risk* from the speciated components (OEHHA 2003).⁹

While the surrogate approach may be generally accepted guidance for estimating *cancer risks* from exposure to diesel exhaust, there are also non-cancer risk impacts which require consideration, including, non-cancer acute and chronic health hazards. Fuel combustion releases at least forty (40) different toxic air contaminants,

⁸ California Building Industry Association vs. Bay Area Air Quality Management District (S213478), December 17, 2015

⁹ <https://oehha.ca.gov/media/downloads/cnrn/hrafinalnoapp.pdf>

including, but not limited to, diesel particulate, benzene, formaldehyde, 1,3-butadiene and acetaldehyde. Levels of these pollutants are generally concentrated within 500 feet of freeways and very busy roadways.¹⁰ For non-cancer acute impacts, Appendix D of the 2015 OEHHA guidelines recommends an evaluation of the acute health effects may be warranted in case of a multistory apartment building.¹¹ Since there is no acute REL that is currently associated with DPM, any potential acute health impacts (i.e., short term health hazards) from exposure to diesel exhaust were not determined by the Ramboll Report. As a consequence, it is likely this surrogate approach likely underestimates the overall health impacts associated with individual toxics from diesel combustion, specifically, any potential acute health hazards. Toxics in diesel exhaust include benzene, 1,3-butadiene, formaldehyde and many others which affect the respiratory organs through inhalation pathway but also affect other target organs such as reproductive or developmental system, hematologic organs, immune system and eyes through multi-pathways. Many of these air toxics in diesel exhaust may have acute health impacts upon specific target organs, which were not evaluated as part of the Ramboll Report.

3.5 Project Traffic Impacts

In section 3.12 Proposed Project Traffic, the Ramboll Report states that BAAQMD Roadway Screening Analysis Calculator was used to conservatively estimate the health risk impact from Proposed Project-related traffic of 263 vehicles per day. As stated by the Ramboll Report, traffic emission calculations were not required for the Project, nor were typical air dispersion and risk assessment modeling conducted for the Project. Instead, the BAAQMD Roadway Screening Analysis Calculator was used, which provides cancer risk and PM estimates based on the average daily traffic. While the BAAQMD Roadway Screening Analysis Calculator uses EMFAC2011 for estimated emission factors, there are two newer versions of EMFAC available: EMFAC2014 and EMFAC2017. Further, note that within the APEZ, additional emissions would adversely affect populations that are already at a higher risk which CEQA may demand a higher standard of review. Therefore, a more refined analysis of traffic emissions and impacts with the most recent accepted emission factors would be warranted.

3.6 Meteorological Data

In section 4.1.3.1 - Metrological Data, the Ramboll Report states that for the current HRA, BAAQMD's Mission Bay meteorological data for the year 2008 were used, which aligns with the San Francisco CRRP-HRA Methodology. BAAQMD Health Risk Assessment Guidelines rely on OEHHA 2015 Air Toxic Hot Spots Program Manual (2015 OEHHA Guidelines), which recommend that the latest five (5) years of *consecutive* meteorological data be used to represent long term averages (i.e., cancer and chronic impacts).¹² In general, OEHHA guidelines specify that air dispersions models (and health risk assessments) require sufficient amount of years of meteorological data to ensure that the worst-case meteorological conditions are represented in the model results. For example, wind patterns and wind velocities can vary from year to year, which a single year of data would not capture. As a consequence, it is likely that using only 2008 meteorological data would not satisfy the 2015 OEHHA Guidelines.

¹⁰ OEHHA, 2015. Air Toxics Hot Spots Program Risk Assessment Guidelines, Guidance Manual for Preparation of Health Risk Assessments, February 2015. <https://oehha.ca.gov/media/downloads/crrr/2015guidancemanual.pdf>

¹¹ Id. at Page D-3, Appendix D"

¹² Id.

ATTACHMENT B

Planning Commission Motion No. 20195



SAN FRANCISCO PLANNING DEPARTMENT

2018 JUN 25 PM 2:10
dr

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- First Source Hiring (Admin. Code)
- Jobs Housing Linkage Program (Sec. 413)
- Child Care Requirement (Sec. 414A)
- SOMA Community Stabilization Fee (Sec. 418.3)
- Rincon Hill Impact Fee (Sec. 418)

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 20195

HEARING DATE: MAY 24, 2018

Case No.: 2014-002033DNX
Project Address: 429 Beale Street/430 Main Street
Zoning: RH-DTR (Rincon Hill Downtown Residential) Zoning District
 84-X Height and Bulk District
Block/Lot: 3767/305 & 306
Project Sponsor: Mark Loper
 Reuben, Junius & Rose, LLP
 One Bush Street Suite 600
 San Francisco, CA 94014
Staff Contact: Douglas Vu – (415) 575-9120
Doug.Vu@sfgov.org

ADOPTING FINDINGS RELATING TO A DOWNTOWN PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 309.1, TO ALLOW AN EXCEPTION TO THE REQUIREMENT FOR DWELLING UNIT EXPOSURE PURSUANT TO PLANNING CODE SECTION 140, FOR DEMOLITION OF AN EXISTING 35,625 SQUARE FEET LIGHT INDUSTRIAL BUILDING, MERGER OF TWO LOTS, AND CONSTRUCTION OF A NEW 84-FEET TALL, NINE-STORY, AND APPROXIMATELY 140,280 SQUARE FEET RESIDENTIAL BUILDING WITH UP TO 144 DWELLING UNITS (CONSISTING OF 60 STUDIO, 25 ONE-BEDROOM, AND 59 TWO-BEDROOM UNITS), 10,800 SQUARE FEET OF OPEN SPACE, AND A 17,720 SQUARE FEET BASEMENT GARAGE FOR 72 ACCESSORY AUTOMOBILE AND 111 BICYCLE PARKING SPACES LOCATED AT 429 BEALE STREET/430 MAIN STREET, ON LOTS 305 & 306 IN ASSESSOR'S BLOCK 3767, WITHIN THE RH-DTR (RINCON HILL DOWNTOWN RESIDENTIAL) ZONING DISTRICT AND AN 84-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On November 10, 2015, Mark Loper of Reuben, Junius & Rose, LLP on behalf of LCL Global – 429 Beale & 430 Main Street, LLC (hereinafter "Project Sponsor") filed Application No. 2014-002033DNX (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Downtown Project Authorization to merge two lots and construct a new nine-story residential building with 144 dwelling units at 429 Beale and 430 Main Streets (Block 3767, Lots 305 & 306) in San Francisco, California.

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Rincon Hill Plan Final Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on May 5, 2005, by Motion No. 17007, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter "CEQA"). The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The Rincon Hill Plan EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Eastern Neighborhoods Plan, the Commission adopted CEQA Findings in its Motion No. 17007 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On March 13, 2018, the Department determined that the proposed application did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Rincon Hill Plan and was encompassed within the analysis contained in the Rincon Hill Plan Final EIR. Since the Rincon Hill Plan Final EIR was finalized, there have been no substantial changes to the Rincon Hill Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Rincon Hill Plan Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Rincon Hill Plan EIR that are applicable to the project. These mitigation measures are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2014-002033DNL at 1650 Mission Street, 4th Floor, San Francisco, California.

On March 29, 2018, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Downtown Project Authorization Application No. 2014-002033DNL, and continued the item to May 24, 2018.

On May 24, 2018, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Downtown Project Authorization Application No. 2014-002033DNL

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

MOVED, that the Commission hereby authorizes the Downtown Project Authorization requested in Application No. 2014-002033DNL, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project site covers two parcels that measure 18,906 sq. ft. in total area and are located on Assessor's Block 3767 and Lots 305 & 306, which front Beale and Main Streets between Harrison and Bryant Streets. The project site has approximately 69-feet of frontage along on Beale Street and 69-feet of frontage along Main Street. The project site is developed with a one-story and a two-story commercial building measuring 35,625 sq. ft. that were constructed in 1929 and 1951, respectively. The buildings have been used as a self-storage facility (dba "STORAGEPRO") since 2011.
3. **Surrounding Properties and Neighborhood.** The project site is located in the Rincon Hill Downtown Residential Zoning District that has experienced significant redevelopment over the past twenty-five years. The adjacent properties include the eleven-story, 288-unit Baycrest development that was constructed in 1991 to the north, the eleven-story, 150-unit Portside development constructed in 1997 to the east, and the 25-story, 245-unit Bridgeview development constructed in 2002 to the west. South of the project site is a parcel that is owned by the California Department of Transportation (Caltrans), which is bisected overhead by the Bay Bridge and is currently used as a parking lot and bridge maintenance facility. Apart from two nearby parcels adjacent to Interstate 80 that are zoned M-1 (Light Industrial), the remainder of the parcels in the area are zoned RH-DTR and TB-DTR (Downtown Residential), or RC-4 (High Density Residential Commercial).

4. **Project Description.** The proposed project includes demolition of two existing commercial structures with a combined area of 35,625 sq. ft., the merger of two parcels and construction of a new 84-ft. tall, nine-story and approximately 140,280 sq. ft. residential building with up to 144 dwelling units (consisting of 60 studio, 25 one-bedroom, and 59 two-bedroom units), a combined 10,800 sq. ft. of private open space throughout the building and common open space at a rooftop deck and solarium, and a 17,720 sq. ft. basement garage for 72 accessory auto parking spaces that are accessed through one driveway on Beale Street, and 111 Class 1 bicycle parking spaces. The residential lobby is located on Main Street and the development would also include streetscape improvements in front of the building including new street trees, landscaping, bicycle racks and sidewalk repaving.
5. **Public Comment.** The Department has received 34 letters in support of the project, and 64 letters expressing opposition or concerns regarding the project's impact on air quality for neighboring properties, traffic congestion, potential shadow impacts, and the desire for two separate buildings instead of one.

Aside from the mandatory pre-application meeting that was held on October 13, 2015, the sponsor has conducted extensive additional community outreach through letters, phone calls and meetings with residents of Baycrest, neighborhood businesses and several home owners' associations. The comprehensive outreach effort is described in detail in the Project Sponsor's submittal.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Permitted Uses in RH-DTR Zoning Districts.** Planning Code Section 827.46 states that residential use is principally permitted use within the RH-DTR Zoning District. Planning Code Section 827.26 states that ground floor retail use is principally permitted within the RH-DTR Zoning District.

The Project would construct a new development with residential use and accessory parking within the RH-DTR Zoning District in compliance with Planning Code Section 827.46.
 - B. **Rear Yard/Site Coverage.** Planning Code Section 827.12 permits up to 80 percent lot coverage for parcels at residential levels where not all units face onto streets or alleys.

The Project proposes a lot coverage of 80 percent because it contains dwelling units at every level that do not face onto a street or alley to comply with the rear yard/site coverage requirements.
 - C. **Setbacks.** Planning Code Section 827.13 requires a building setback of ten feet above a height of 65 feet along Beale and Main Streets.

The Project proposes a 10-ft. setback above a height of 65-ft., which is above the sixth floor at the Beale Street frontage and seventh floor at the Main Street frontage due to the upsloping condition of the parcels to comply with the setback requirements.

- D. **Residential Open Space.** Planning Code Sections 135 and 827.49 require a minimum of 75 square feet of usable private or common open space per dwelling unit. Private usable open space shall have a minimum horizontal dimension of six feet and a minimum area of 36 square feet if located on a deck, balcony, porch or roof, and shall have a minimum horizontal dimension of 10 feet and a minimum area of 100 square feet if located on open ground, a terrace or the surface of an inner or outer court pursuant to PC Section 145(F). Common usable open space shall be at least 15 feet in every horizontal dimension and shall be a minimum area of 300 sq. ft. The area of a totally or partially enclosed solarium may be credited as common usable open space if the space is not less than 15 feet in every horizontal dimension and 300 square feet in area; and if such area is exposed to the sun through openings or clear glazing on not less than 30 percent of its perimeter and 30 percent of its overhead.

The Project is required to provide a minimum of 10,800 sq. ft. of usable open space for the 144 dwelling units, and proposes to satisfy this through twenty-four 7-ft. x 13-ft. private balconies facing the interior courtyard on floors 2 through 9 that total 1,800 sq. ft., ten 10-ft. x 21-ft. terraces on floors 1, 7, and 8 that total 750 sq. ft., and 8,250 sq. ft. of common open space through a 5,850 sq. ft. rooftop deck and 2,400 sq. ft. solarium with over 30 percent of clear glazing. Therefore, the combination of 10,800 sq. ft. of usable private and common open space complies with this requirement.

- E. **Permitted Obstructions.** Planning Code Section 136(c)(2) outlines the requirements for features, which may project over a street, alley, setback or usable open space. Generally, projections over streets and alleys are limited to 3-ft deep with a maximum length of 15-ft for each bay window or balcony. This length shall be reduced in proportion to the distance from such line by means of a 45 degree angle drawn inward from the ends of the 15-ft dimension, thus reaching a maximum of 9-ft along a line parallel to and at a distance of 3-ft from the line establishing the required open area. Additionally, the minimum horizontal separation between bay windows and balconies shall be two feet at the line establishing the required open area, and shall be increased in proportion to the distance from such line by means of 135-degree angles drawn outward from the ends of such two-foot dimension, reaching a minimum of eight feet along a line parallel to and at a distance of three feet from the line establishing the required open area.

The Project proposes two-sided canted bay windows at floors 2 through 7 that are 3-ft. deep with a maximum length of 11-ft. at the property line and 5-ft. at the outermost plane, and with a horizontal separation of 2-ft. between bays at the property line and 13-ft. between each outermost plane to comply with the above requirements for permitted obstructions.

- F. **Streetscape and Pedestrian Improvements.** Planning Code Section 138.1 requires one new street tree for every 20 feet of street frontage for projects proposing new construction. For a

project that is greater than one-half acre in total area, contains 250 feet of total lot frontage on one or more publicly-accessible rights-of-way or encompasses the entire block face between the nearest two intersections with any other publicly-accessible rights-of-way, a streetscape plan in conformance with the adopted Better Streets Plan is required.

The Project has a total area of 18,906 sq. ft. and 137-ft. 6-in. of frontage; therefore, the Project is not required to provide a streetscape plan.

However, the Project does include at least six street trees to comply with the streetscape requirements, and will also include additional landscaping, bicycle racks and sidewalk re-paving as necessary and consistent with the Rincon Hill Streetscape Plan.

- G. **Bird Safety.** Planning Code Section 139 outlines the standards for bird-safe buildings, including the requirements for location-related and feature-related hazards.

The subject lot is not located in close proximity to an Urban Bird Refuge, and the Project meets the requirements of feature-related standards by either not including any unbroken glazed segments 24-sq. ft. and larger in size, or will utilize fritted glazing for the proposed parapets, screens and glazed panels over 24 sq. ft. Therefore, the Project complies with Planning Code Section 139.

- H. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street, public alley at least 25-ft in width, side yard at least 25-ft in width, or rear yard, which meets the requirements of the Planning Code. Alternatively, an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed (except for fire escapes not projecting more than necessary for safety and in no case more than 4'-6", chimneys, and those obstructions permitted in Sections 136(c)(14), (15), (16), (19), (20) and (29) of this Code) and is no less than 25 feet in every horizontal dimension for the floor at which the Dwelling Unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor can satisfy the exposure requirement.

The Project includes an interior courtyard with the shorter horizontal dimension of 25-ft. 4-in., which is reduced to 17-ft. 4-in. for three units each at floors 2 through 9 that contain a 7-ft. deep balcony. Exclusively facing this courtyard are nine units each on floors 1 through 6, and eight units each on floors 7 through 9. Therefore, the Project is seeking an exception of the dwelling unit exposure requirement for 65 units, or 45% of the Project's total as part of the Downtown Project Authorization (see below).

- I. **Street-Facing Active Uses.** Planning Code Sections 145.1 and 827.14 requires active uses on all street frontages. Per Planning Code Section 145.1, active use is defined as either: residential use above the ground floor or on the ground floor if they provide direct, individual pedestrian access to a public sidewalk; spaces accessory to residential uses, such as fitness or community rooms, with direct access to a public sidewalk; building lobbies, so

long as they do not exceed 40-ft or 25% of building frontage, whichever is larger; or, public uses described in Planning Code Section 790.80.

The Project provides active uses on both street frontages through dwelling units that have direct, individual pedestrian access to the public sidewalk and a 40-ft. wide residential lobby on Main Street to comply with the active street-facing uses requirement.

- J. **Shadow Impacts.** Planning Code Section 295 restricts net new shadow, cast by structures exceeding a height of 40 feet, upon property under the jurisdiction of the Recreation and Park Commission. Any project in excess of 40 feet in height and found to cast net new shadow must be found by the Planning Commission, with comment from the General Manager of the Recreation and Parks Department, in consultation with the Recreation and Park Commission, to have no adverse impact upon the property under the jurisdiction of the Recreation and Park Commission.

The Rincon Hill Programmatic EIR analyzed the shadow impacts on outdoor recreation facilities and other public areas from potential development that could occur under the Rincon Hill Area Plan. Development anticipated under the Rincon Hill Area Plan would not cast net new shadow on any properties under the jurisdiction of the Recreation and Park Commission, but it would cast net new shadow on other public open spaces, privately owned publicly accessible open spaces (POPOs), and public sidewalks. This net new shadow would not be in excess of what is common and generally expected in densely developed urban environments. For these reasons, the Rincon Hill Programmatic EIR concluded that implementation of the Rincon Hill Area Plan would not result in significant shadow impacts, and no mitigation measures were identified. Since there are no new effects that were not already identified in the Rincon Hill Programmatic EIR, the Project complies with Planning Code Section 295.

- K. **Off-Street Parking.** Planning Section 151.1 of the Planning Code permits one off-street parking space for each two dwelling units.

The Project is allowed to have a maximum of 72 off-street accessory parking spaces for the 144 dwelling units, and proposes 72 spaces in a basement parking garage that is accessed through an 11-ft. wide ramp on Beale Street, which at grade slopes up approximately 10 ft. to Main Street, to comply with the permitted parking provisions.

- L. **Parking and Loading Access.** Planning Code Sections 145.14, 151.1, 155(r), 825 and 827.16 prohibits parking above ground except on sloping sites, and limits parking access to two openings that are a maximum of 11-ft wide each, or a single opening that is no more than 22-ft wide. Loading access is limited to one opening that is a maximum of 15-ft wide.

The Project proposes 72 spaces in a basement parking garage that is accessed through an 11-ft. ramp on Beale Street, which at grade slopes up approximately 10 ft. to Main Street. Therefore, there is no parking located above the ground, which complies with the parking access restrictions.

- M. **Bicycle Parking.** Planning Section 155.2 of the Planning Code requires at least 100 Class 1 bicycle parking spaces plus one Class 1 bicycle parking space for every four dwelling units exceeding 100, and one Class 2 bicycle parking spaces for every 20 dwelling units.

The Project includes 144 dwelling units that require at least 111 Class 1 and eight Class 2 bicycle parking spaces. The Project will provide 111 Class 1 bicycle parking spaces in a 9-ft. 3-in. tall "mezzanine level" storage area between the basement and ground floor, and at least eight Class 2 spaces in front of the building on Beale and Main Streets to comply with the bicycle parking requirements.

- N. **Car Share Requirements.** Planning Code Section 166 requires one car-share parking space for a project containing between 50 and 200 residential units.

The Project includes 144 dwelling units and includes one designated car share space to comply with Planning Code Section 166.

- O. **Unbundled Parking.** Planning Code Section 167 requires that all off-street parking spaces accessory to residential uses in new structures of ten dwelling units or more be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.

The Project is providing 72 off-street parking spaces that are accessory to the dwelling units. Through a Condition of Approval, these spaces will be unbundled and sold or leased separately from the dwelling units to comply with this requirement.

- P. **Transportation Demand Management (TDM) Program.** The TDM Program seeks to promote sustainable travel modes by requiring new development projects to incorporate design features, incentives, and tools that support transit, ride-sharing, walking, and bicycle riding for the residents, tenants, employees, and visitors of their projects. The sponsor is required to submit a TDM Plan for Department review of compliance with Code Section 169, including the Planning Commission's TDM Program Standards.

The Project Sponsor submitted a completed Environmental Evaluation Application prior to September 4, 2016 on November 4, 2014, and is therefore required to achieve 50% of the point target established in the TDM Program Standards for a target of 10 points. The Project will comply with the TDM Program by achieving 11 points through the following TDM Measures: 1) Bicycle Parking Option A; 2) Bicycle Repair Station; 3) Car-Share Parking and Membership Option A; 4) On-Site Affordable Housing Option B; 5) Unbundle Parking Location C; and 6) Parking Supply Option C.

- Q. **Dwelling Unit Mix.** Planning Code Section 207.6 requires that no less than 40 percent of the total number of proposed dwelling units contain at least two bedrooms, or no less than 30 percent of the total number of proposed dwelling units contain at least three bedrooms.

The Project includes 60 studio, 25 one-bedroom, and 59 two-bedroom units, which is equal to 41 percent of the total 144 units that contain two bedrooms to comply with the dwelling unit mix requirement.

- R. **Height Exemptions.** Planning Code Section 260(b) allows certain features to be exempt from the height limits established by the Planning Code that include mechanical equipment and appurtenances necessary to the operation or maintenance of the building or structure itself (including chimneys, ventilators, plumbing vent stacks, cooling towers, water tanks, panels or devices for the collection of solar or wind energy and window-washing equipment, together with visual screening for any such features), elevator, stair and mechanical penthouses, fire towers, skylights, dormer windows, and in the Rincon Hill Downtown Residential District, enclosed space related to the recreational use of the roof, which are all limited to the top 16 feet of such features where the height limit is more than 65 feet. However, for elevator penthouses, the exemption shall be limited to the footprint of the elevator shaft.

In the Rincon Hill Downtown Residential District, a further height exemption includes additional building volume used to enclose or screen from view the features listed above. The rooftop form created by the added volume shall not be subject to the percentage coverage limitations otherwise applicable to this subsection but shall meet the requirements of Section 141 for the screening of rooftop features, and shall have a horizontal area not more than 85 percent of the total area of the highest occupied floor, and shall contain no space for human occupancy.

The Project includes 15-ft. tall rooftop features including a mechanical equipment room at the western half and an elevator penthouse at the eastern half of the building with a total horizontal area of 1,753 sq. ft. The Project also includes a permitted 2,400 sq. ft. solarium for recreational open space use, for a total horizontal roof area of 4,153 sq. ft., or 32 percent of the entire 13,038 sq. ft. roof area to comply with the Planning Code's height exemption provisions.

- S. **Transportation Sustainability Fee ("TSF").** Planning Code Section 411A applies to any development project that will result in more than twenty dwelling units. Projects that have filed a development application or environmental review application on or before July 21, 2015 are subject to 50% of the applicable fee for residential uses and the applicable TIDF fee per Planning Code Section 411 for non-residential use.

The Project includes the replacement of use for 35,625 gross sq. ft. of Non-Residential to Residential use and 104,655 sq. ft. of new Residential use that will be subject to the Transportation Sustainability Fee, which must be paid prior to the issuance of the building permit application.

- T. **Child-Care Requirements.** Pursuant to Section 414A, the Residential Child Care Impact Fee applies to a project that includes at least one new dwelling unit and takes change of use into consideration.

The Project includes the replacement of use for 35,625 gross sq. ft. of Non-Residential to Residential use and 104,655 sq. ft. of new Residential use that will be subject to the Residential Child Care Impact Fee, which must be paid prior to the issuance of the building permit application.

- U. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing for the purpose of increasing affordable housing citywide.

The Project Sponsor has demonstrated that the project is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and on December 4, 2017 submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of payment through the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be leased and will remain as rental units for the life of the project. The applicable percentage is dependent on the total number of units in the project, the zoning of the property, and the date that the project submitted a complete Environmental Evaluation Application. A complete Environmental Evaluation Application was submitted on November 4, 2014; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the On-site Affordable Housing Alternative is to provide 14.5% of the total proposed dwelling units as affordable. Nineteen (19) of the total 144 units provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

- V. **Rincon Hill Community Infrastructure Impact Fee.** Planning Code Section 418 is applicable to any development project within the Rincon Hill Area Plan that results in the addition of at least one net new residential unit.

The project includes the replacement of use for 35,625 gross sq. ft. of Non-Residential to Residential use and 104,655 sq. ft. of new Residential use that will be subject to the Rincon Hill Community Infrastructure Impact Fee, which must be paid prior to the issuance of the building permit application.

- W. **South of Market (SOMA) Community Stabilization Fee.** Planning Code Section 418.3(d) is applicable to any development project within the Rincon Hill Area Plan that results in new residential development.

The Project includes 140,280 gross sq. ft. of new residential development that is subject to the SOMA Community Stabilization Fee, which must be paid prior to the issuance of the building permit application.

- X. **Reduction of Ground Level Wind Currents.** Planning Code 825(d) requires that new buildings and additions to existing buildings shall not cause ground-level wind currents, which exceed more than 10 percent of the time year-round, between 7:00am and 6:00pm, the comfort level of 11 mph equivalent wind speed in areas of substantial pedestrian use and 7 mph equivalent wind speed in public seating areas.

The Project underwent wind tunnel testing and was determined that it would result in one new comfort exceedance on the east side of Beale and Bryant Streets. This location is opposite the Bay Bridge overpass from the project site that fronts Caltrans storage containers on parcels 3767/003 & 004. Wind at this location would exceed the comfort level of 11 mph 13% of the time. The Zoning Administrator has determined that because the new comfort exceedance location is over 350 feet from the project, is not considered an area of substantial pedestrian use, the nominal 3% of the time the location would the comfort level threshold, and the intervening structures between the project and the exceedance location, including the Bay Bridge, the comfort exceedance is insubstantial and the development cannot be shaped without unduly restricting the development potential of the building.

- Y. **Building Standards-Development Concept.** Planning Code Section 827(a)(1) outlines a development concept that establishes a podium up to 85-ft in height with a slender residential towers spaced to provide ample light and air to the district. New development will contribute to the creation of a substantial amount of public open space, as well as provide private common areas, courtyards, and balconies. Streets will be improved to provide widened sidewalks with substantial public open space. Ground floor uses will be pedestrian-oriented in character, consisting primarily of retail on Folsom Street, and individual townhouse-style residential units on 1st, Fremont, Beale, Main, and Spear Streets, as well as on alleys and mid-block pathways. Parking will be located below grade, and building utilities (loading bays, service doors, garage doors) will be located in sidewalk vaults or on secondary frontages.

The Project has a total height of 84-ft. that is consistent with the property's height designation, and will include a 10-ft. setback above 65-ft. to reduce the bulk and minimize light and air reduction at the street. The development will include 10,800 sq. ft. open space through a combination of 24 private balconies and ten private terraces throughout all floors of the building, and a common rooftop deck and solarium. The ground floor has been designed to be pedestrian-oriented in character with a residential lobby adjacent to a dwelling unit with direct street access on Main Street, and one 11-ft. ramp to access the basement that is flanked by two townhouse-style units on Beale Street. All of the accessory parking is located underground in the basement, and the development will include streetscape improvements in front of the Project including new street trees, landscaping, bicycle racks and sidewalk re-paving consistent with the Rincon Hill Streetscape Plan.

7. **Downtown Project Authorization in RH-DTR.** Planning Code Section 309.1 lists aspects of design review in which a project must comply. The Planning Commission finds that the Project is compliant with these aspects as follows:

A. Overall building mass and scale.

The proposed building will be 84-ft. tall, which complies with the designated height for the property, and includes a 10-ft. setback above 65-ft. to maintain the desired streetwall in Rincon Hill and reinforce the sculpting of the skyline towards the larger residential towers to the north in the Transbay Downtown Residential District. Therefore, the Project's mass and scale are appropriate for the surrounding context, which includes similar and larger-scale residential towers including the eleven-story 288-unit Baycrest development at 201 Harrison Street to the north, the eleven-story 150-unit Portside development at 403 Main Street to the east, and the 25-story 245-unit Bridgeview development at 400 Beale Street to the west.

B. Architectural treatments, facade design and building materials:

The Project's architectural treatments, façade design and building materials include the use of plank format fiber cement panels in a dark grey that will have a natural variation in tone to provide visual texture and dimension, and a window wall with metal slab edge covers that are arranged in a serrated pattern to accentuate the vertical proportions of the "podium" level and provide desirable daylight interiors. The apartments on these floors will feature large operable sliding doors that open at Juliette balconies with rails that are composed of custom laser cut aluminum to provide increased privacy while promoting air flow to the interior. The building volume that is set back above 65-ft. will be clad with larger fiber cement panels in a light cream color to visually break up the massing and further articulate the building, but will include randomized joint patterns to provide visual interest. Additionally, the lower two floors of the building are set back on each street frontage to allow for a separate expression of the ground floor residential units and the building lobby. The main entrance canopy, residential stoop gates and the parking garage entrance are highlighted by patinated metal elements in a warm orange hue. As a smaller-scale residential building, the Project utilizes high quality materials and detailing and provides variety to the skyline compared to the more glassy, larger-scale towers found in other parts of Rincon Hill and throughout the South of Market area.

C. The design of lower floors, including building setback areas, commercial space, townhouses, entries, utilities, and the design and siting of rear yards, parking and loading access;

The Project features an approximately 25-ft. wide by 35-ft. deep residential lobby at the ground floor on Main Street, and an entrance/exit to the underground basement garage through an 11-ft. wide driveway on Beale Street. Along both street frontages, the ground floor is set back 18 to 36 inches behind the property line to allow planting beds. The street frontages are activated by street-facing dwelling units, each with a 6-ft. deep by 8-ft. wide entrance stoop that acts as a buffer and private open space for the respective units. Convenient access is provided to a bike parking "mezzanine level" from Beale Street, and rooms dedicated to electrical, mechanical and other building services are planned to be located below grade and not visible where possible. An interior courtyard that is 20% in area and

functions similar to a rear yard is included in the design, and is south facing to maximize the dwelling unit exposure considering the narrow 68-ft. 9-in. width of the project site.

- D. On sloping sites, parking provided above ground pursuant to Section 825(b)(5)(A);

All off-street parking is located below grade in a basement, and is consistent with the policies of the Rincon Hill Area Plan.

- E. The provision of required open space, both on- and off-site;

The Project provides a combination of private and common usable open space that is accessible to all the intended 144 residential units and totals 10,800 sq. ft., which is the 75 sq. ft. per unit required by the Planning Code.

- F. Streetscape and other public improvements, including tree planting, street furniture, and lighting.

The Project has 137-ft. 6-in. of total frontage and will include street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan.

- G. Circulation, including streets, alleys and mid-block pedestrian pathways;

The Project has 68-ft. 9-in. of frontage each on Beale and Main Streets, and includes one 11-ft. ramp on Beale Street to access the basement garage where there will be 72 accessory parking spaces and one car-share space.

- H. Other changes necessary to bring a project into conformance with the applicable elements and area plans of the General Plan.

The Project does not propose any changes or legislative amendments to the Rincon Hill Area Plan, General Plan or any other applicable plans.

The Project, on balance, meets the Objectives and Policies of the General Plan (see below).

8. **Downtown Project Authorization Exceptions.** Planning Code Section 309.1 allows exceptions for projects in the Rincon Hill Downtown Residential District as follows:

- A. Reduction in the dwelling unit exposure requirements pursuant to Section 140;

Under Planning Code Section 140, all dwelling units must face onto a public street, alley that is at least 20-ft. wide, side yard at least 25-ft wide, or rear yard that meets the requirements of the Planning Code. Alternatively, a dwelling unit may face an open area such as an inner court which is unobstructed (except for fire escapes, chimneys, and specific obstructions permitted in Section 136(c) of this Code) and is no less than 25 feet in every horizontal dimension for the floor at which the

dwelling unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor can satisfy the exposure requirement.

The combined parcel dimensions are approximately 69-ft. wide by 275-ft. deep, so the narrow width and significant portion of the Project's perimeter located at the interior property lines present a development constraint. The Project proposes an interior rectangular courtyard with a shorter horizontal dimension of 25-ft. 4-in. that is reduced to 17-ft. 4-in. for three units each at floors 2 through 9 which contain a 7-ft. x 13-ft. balcony that functions as private open space. Exclusively facing this courtyard are nine units each on floors 1 through 6, and eight units each on floors 7 through 9. These 65 units do not face a courtyard that is at least 25-ft. in every horizontal direction on their floor and floor above they are located, with an increase of five feet at each subsequent floor. However, the units will have sufficient access to light and air because the Project's courtyard is oriented southeast onto Assessor's Parcel No. 3767/003, which is currently owned by Caltrans and used as a parking lot and bridge maintenance facility. Given the overall design, composition, and community benefits of the Project, the Commission supports this exception.

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

HOUSING

Objectives and Policies

OBJECTIVE 1

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

Policy 1.1

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

Policy 1.3

Work proactively to identify and secure opportunity sites for permanently affordable housing.

Policy 1.10

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

The Project is a high density residential development in a neighborhood that has experienced rapid land use change, and is located at an underutilized infill site that would provide housing that is easily accessible by foot or bicycle, and near public transportation. The subject properties were rezoned to RH-DTR as part of a long-range planning goal to create a cohesive, higher density residential neighborhood, and the surrounding area is almost exclusively zoned for residential use. The Project will provide new on-site affordable housing units for rent, thus increasing the availability of new housing to all income levels.

OBJECTIVE 4

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

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5

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

The Project is a high density residential development that will provide nineteen permanently affordable studio, one-bedroom and two-bedroom rental housing units in Rincon Hill.

OBJECTIVE 11

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

Policy 11.1

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

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

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

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

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

Policy 11.8

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

The proposed building complies with the designated height for the property, and includes a setback above 65-ft. to maintain the desired streetwall in Rincon Hill. The surrounding context includes similar and larger-scale residential towers that are between eleven and 25 stories in height, constructed within the last

25 years, and are contemporary in architectural style. The Project is also a residential development and will maintain the neighborhood's existing character.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.2:

Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.3:

Install pedestrian-serving street furniture where appropriate.

Policy 24.4:

Preserve pedestrian-oriented building frontages.

The Project's has 137-ft. 6-in. of total frontage and is designed with street-facing active spaces oriented at the pedestrian level that include dwelling units which have direct, individual access to the public sidewalk and a 40-ft. wide residential lobby on Main Street. Additionally, the adjacent streetscape will include at least six new street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan.

OBJECTIVE 28:

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1:

Provide secure bicycle parking in new governmental, commercial, and residential developments.

Policy 28.3:

Provide parking facilities which are safe, secure, and convenient.

The Project includes 111 Class 1 bicycle parking spaces at a "mezzanine level" area between the basement and ground floor that are conveniently accessed through a bank of elevators in the lobby off Main Street. In addition, at least eight Class 2 bicycle parking space racks will be installed in front of the building.

OBJECTIVE 34:

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1:

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Policy 34.3:

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

Policy 34.5:

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

The Project includes the principally permitted 72 off-street residential parking spaces at a ratio of one space for every two dwelling units to encourage low auto ownership and promote transit ridership. The parking spaces will be accessed through a single 11-ft. curb cut and ramp on Beale Street to minimize the reduction of existing on-street parking.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.7:

Recognize the natural boundaries of districts, and promote connections between districts.

The Project is located in the Rincon Hill neighborhood, which has been redeveloped into a dense residential area, and the proposed development includes expressive street façades that respond to the form, scale and material palette of the older and more recent construction in the neighborhood.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.5:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

The Project includes a single 11-ft. curb cut and ramp on Beale Street to access the basement-level parking that will minimize danger to pedestrians, and is designed with street-facing active uses oriented at the pedestrian level to provide human scale and interest, including dwelling units that have direct access to the public sidewalk and a 40-ft. wide residential lobby on Main Street. Additionally, the adjacent streetscape will include at least six new street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan to improve the pedestrian realm.

RINCON HILL AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1

ENCOURAGE THE DEVELOPMENT OF A UNIQUE DYNAMIC, MIXED-USE RESIDENTIAL NEIGHBORHOOD CLOSE TO DOWNTOWN, WHICH WILL CONTRIBUTE SIGNIFICANTLY TO THE CITY'S HOUSING SUPPLY.

OBJECTIVE 1.2

MAXIMIZE HOUSING IN RINCON HILL TO CAPITALIZE ON RINCON HILL'S CENTRAL LOCATION ADJACENT TO DOWNTOWN EMPLOYMENT AND TRANSIT SERVICE, WHILE STILL RETAINING THE DISTRICT'S LIVABILITY.

OBJECTIVE 1.5

ADD LIFE AND ACTIVITY TO THE DISTRICT'S PUBLIC SPACES BY PROVIDING ACTIVE USES ON STREET-FACING GROUND FLOORS.

Policy 1.1

Allow housing as a principal permitted use throughout the district.

Policy 1.3

Eliminate the residential density limit to encourage the maximum amount of housing possible within the allowable building envelope.

Policy 1.4

Require parking to be located primarily underground so that the allowable above-ground building envelope can be used for housing.

The Project is a high density residential development located at an underutilized infill site that proposes the maximum amount of housing possible within the allowable building envelope in a neighborhood that has experienced rapid land use change to become a cohesive, higher density and predominantly residentially zoned neighborhood. The new housing would be close to downtown employment, easily accessible by foot or bicycle, and near public transportation.

The Project has 137-ft. 6-in. of total frontage on Beale and Main Streets that is designed with street-facing active uses oriented at the pedestrian level including dwelling units which have direct, individual access to

the public sidewalk and a 40-ft. wide residential lobby on Main Street. Additionally, the adjacent streetscape will include at least six new street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan. The Project's principally permitted 72 off-street residential parking spaces will be accessed through a single 11-ft. curb cut and ramp on Beale Street to minimize the reduction of existing on-street parking.

Housing

OBJECTIVE 2.1

PROVIDE QUALITY HOUSING IN A PLEASANT ENVIRONMENT THAT HAS ADEQUATE ACCESS TO LIGHT, AIR, OPEN SPACE AND NEIGHBORHOOD AMENITIES, AND THAT IS BUFFERED FROM EXCESSIVE NOISE.

OBJECTIVE 2.2

ENCOURAGE NEW HOUSING PRODUCTION THAT MEETS A VARIETY OF HOUSING NEEDS, ESPECIALLY AFFORDABLE HOUSING.

OBJECTIVE 2.3

ENCOURAGE NEW HOUSING PRODUCTION OF AN ADEQUATE SIZE AND CONFIGURATION TO SERVE FAMILIES.

Policy 2.1

Require all new developments of 10 or more units in the Rincon Hill district to meet the City's affordable housing requirement of at least 12 percent on-site or 17 percent off-site, regardless of whether a Conditional Use permit is required.

Policy 2.2

Require that inclusionary housing be built within the South of Market district, in areas designated for the encouragement of new housing.

Policy 2.4

Require 40 percent of all units in new development to be two or more bedroom units.

The Project contains 144 dwelling units and will comply with the City's affordable housing requirement by providing nineteen permanently affordable on-site studio, one-bedroom and two-bedroom rental housing units in the Rincon Hill neighborhood of the South of Market district. The Project would also contain 59 two-bedroom units, which is 41 percent of the total units.

Urban Design

OBJECTIVE 3.1

ACHIEVE AN AESTHETICALLY PLEASING RESIDENTIAL COMMUNITY.

OBJECTIVE 3.8

ENCOURAGE A HUMAN SCALE STREETScape WITH ACTIVITIES AND DESIGN FEATURES AT PEDESTRIAN EYE LEVEL, AND AN ENGAGING PHYSICAL TRANSITION BETWEEN PRIVATE DEVELOPMENT AND THE PUBLIC REALM.

OBJECTIVE 3.9

MINIMIZE THE VISUAL IMPACTS OF RESIDENTIAL PARKING, LOADING, UTILITIES AND SERVICES ON THE NEIGHBORHOOD.

Policy 3.10

Provide a consistent 45 to 85 foot streetwall to clearly define the street.

Policy 3.11

Require building setbacks at upper-stories for podiums above 65 feet on Spear, Main, Beale, Fremont and First Streets, and above 45 feet on Guy and Lansing Streets and mid-block pedestrian pathways to preserve an appropriate scale and sun access to streets.

Policy 3.14

Require street-facing ground floor residential units articulated at intervals of no more than 25 feet on Spear, Main, Beale, Fremont, First, and Lansing Streets, and Guy Place, except at tower lobbies or where parking access and utilities are necessary. Encourage them on Harrison and Bryant Streets.

Policy 3.16

Restrict parking access to new buildings to two lanes (one egress, one ingress) of no more than 11 feet each, and loading access to one lane of no more than 15 feet. Parking and loading should share access lanes wherever possible.

Policy 3.17

Require that all parking must be located below street grade. For sloping sites with a grade change of greater than ten feet, require that no less than 50 percent of the parking must be below grade, and any portions not below grade must be lined by active uses.

The Project includes a 10-ft. setback above a height of 65-ft., which is above the sixth floor at the Beale Street frontage and seventh floor at the Main Street frontage to help clearly define the streetwall and preserve an appropriate scale and sun access to streets. Street-facing ground floor residential units are placed at intervals less than 25 feet on Beale and Main Streets, and access to the below grade parking in the basement is limited to a single 11-ft. curb cut and ramp on Beale Street.

Recreation, Open Space and Community Facilities

OBJECTIVE 4.1

CREATE A VARIETY OF NEW OPEN SPACES AND COMMUNITY FACILITIES FOR ACTIVE AND PASSIVE RECREATION TO MEET THE NEEDS OF A SIGNIFICANT NEW RESIDENTIAL POPULATION.

OBJECTIVE 4.7

REQUIRE PRIVATE DEVELOPMENT TO CONTRIBUTE TO THE CREATION AND ONGOING MAINTENANCE AND OPERATIONS OF PUBLIC OPEN SPACES AND COMMUNITY FACILITIES THROUGH IN-KIND CONTRIBUTION, A COMMUNITY FACILITIES DISTRICT, AND/OR DEVELOPER FEES.

Policy 4.6

Create a community facilities district to fund capital improvements, operation and maintenance of new public spaces, including the Living Streets, the Harrison/Fremont Park, and community spaces in the Sailor's Union of the Pacific building.

Policy 4.7

Require new development to implement portions of the streetscape plan adjacent to their development, and additional relevant in-kind contributions, as a condition of approval.

Policy 4.8

Require new development to provide private open space in relation to a development's residential area at a ratio of 75 square feet of open space per unit.

The Project includes a total 10,800 sq. ft. of private or common open space that is equal to 75 sq. ft. per dwelling unit, and will include improvements to the streetscape including at least six new street trees, landscaping, bicycle racks, and sidewalk re-paving where needed consistent with the Rincon Hill Streetscape Plan to improve the pedestrian realm. The Project will also be subject to the Rincon Hill Community Infrastructure Impact Fee that is deposited into the Rincon Hill Community Improvements Fund to be used solely to design, engineer, acquire, improve, and develop neighborhood recreation and open spaces, pedestrian and streetscape improvements, and bicycle infrastructure that result in new publicly-accessible facilities or other allowable improvements within the Rincon Hill Downtown Residential District.

10. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:
 - A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The existing use at the project site is a 35,625 sq. ft. retail self-storage facility that is not compatible with the residential and mixed-use character of the Rincon Hill Downtown Residential District. The Project will provide 144 dwelling units in a well-designed building that is more compatible and

desirable with the existing residential context, and bring new residents to the area that will provide opportunities for patronage to nearby retail uses.

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

No housing exists on the project site. The Project will provide 144 new dwelling units in a building that is designed to be compatible with the massing, scale and architecture of the residential and mixed-use development in the neighborhood. Overall, the Project preserves the cultural and economic diversity of the surrounding neighborhood thru its strong relationship to the adjacent neighborhood character.

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

No housing exists on the project site. The Project will not eliminate any existing affordable housing and will comply with the City's Inclusionary Housing Program by providing nineteen new on-site affordable rental housing units, thus increasing the opportunity for future affordable housing.

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

The Project is well served by MUNI and other regional public transit, and traffic generated by the 72 accessory residential parking spaces would be intermittent and not significant to overburden local streets or impede transit service.

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

The project site is currently used as a 35,625 sq. ft. retail self-storage facility that will be replaced with a residential development that is more compatible in character with the existing development. The Project does not include commercial office use, nor will any industrial and service sector businesses be displaced.

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

The Project will be designed and constructed to conform to the structural and seismic safety requirements of the Building Code and will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

There are no landmarks or historic buildings on the project site.

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

The Project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of the Recreation and Park Commission.

11. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

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

12. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
13. The Commission hereby finds that approval of the Downtown Project Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Downtown Project Authorization Application No. 2014-002033DNX** under Planning Code Section 309.1 to allow demolition of an existing 35,625 sq. ft. commercial structure, merger of two lots, and construction of a new 84-ft. tall, nine-story and approximately 140,280 sq. ft. residential building with up to 144 dwelling units (consisting of 60 studio, 25 one-bedroom, and 59 two-bedroom units), 10,800 sq. ft. of open space, and a 17,720 sq. ft. basement garage for 72 accessory automobile and 111 Class 1 bicycle parking spaces, and a modification to the requirement for dwelling unit exposure under Planning Code Section 140, within the RH-DTR (Rincon Hill Downtown Residential) Zoning District, and 84-X Height and Bulk District. The Project is subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file dated February 6, 2018, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures identified in the Rincon Hill Plan EIR and contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309.1 Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.


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

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

Motion No. 20195
May 24, 2018

CASE NO. 2014-002033DNX
429 Beale Street/430 Main Street

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on May 24, 2018.


Jon P. Tonin
Commission Secretary

AYES: Fong, Hillis, Johnson, Koppel, and Melgar

NAYS: Moore

ABSENT: Richards

ADOPTED: May 24, 2018

EXHIBIT A

AUTHORIZATION

This authorization is for a Downtown Project Authorization to allow demolition of an existing 35,625 sq. ft. commercial structure, merger of two lots, and construction of a new 84-ft. tall, nine-story and approximately 140,280 sq. ft. residential building with up to 144 dwelling units (consisting of 60 studio, 25 one-bedroom, and 59 two-bedroom units), 10,800 sq. ft. of open space, and a 17,720 sq. ft. basement garage for 72 accessory automobile and 111 Class 1 bicycle parking spaces, and a modification to the requirement for dwelling unit exposure pursuant to Planning Code Section 140, located at 429 Beale and 430 Main Streets, Lots 305 & 306 in Assessor's Block 3767, pursuant to Planning Code Section 309.1 within the RH-DTR (Rincon Hill Downtown Residential) Zoning District, and a 84-X Height and Bulk District; in general conformance with plans, stamp dated February 6, 2018, and stamped "EXHIBIT B" included in the docket for Case No. 2014-002033DNX and subject to conditions of approval reviewed and approved by the Commission on May 24, 2018 under Motion No. 20195. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on May 24, 2018 under Motion No. 20195.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20195 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Office Development Authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Downtown Project Authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than two (2) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Planning Commission, subject to Planning Code Section 309.1, where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

6. **Mitigation Measures.** Mitigation measures described in the MMRP for the Rincon Hill Plan EIR (Case No. 2014-002033ENV) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

7. **Building Height.** The Project shall be modified to comply with the 84-ft. height limit as described under Planning Code Section 260 and will be measured at two locations, on Beale Street for a depth of 137-ft. 6-in., and on Main Street for the remaining depth of 137-ft. 6-in. depth, which is equal to the midpoint of the Project Site's total 275-ft. depth. at Main Street. The modified plans shall be reviewed and approved by the Planning Department.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

8. **Massing Break.** The Project shall be modified to incorporate a 45-ft. wide break, or notch at the center of the building. When compared to the original plans dated March 14, 2018, the modified massing that complies with the 84-ft. height limit would be equal to the topmost four floors for the one-half of the building closest to Main Street, and the topmost three floors for the one-half of the building closest to Beale Street. The walkways on each floor of this break that will connect the building volumes shall use an open railing system, and not a solid material such as glazing. The modified plans shall be reviewed and approved by the Planning Department.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

9. **Final Materials.** Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

12. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. On-site, in a ground floor façade;
5. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
6. Public right-of-way, underground; and based on Better Streets Plan guidelines;
7. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

PARKING AND TRAFFIC

13. **Parking for Affordable Units.** All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or

rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

14. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than 72 off-street parking spaces for the 144 dwelling units (or 0.5 off-street parking spaces for each dwelling unit) exclusive of any designated car-share spaces contained therein.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

15. **Car Share.** Pursuant to Planning Code Section 166, no less than one (1) car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

16. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than 111 Class 1 bicycle parking spaces and eight (8) Class 2 bicycle parking spaces.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

20. **Residential Child Care Impact Fee.** Pursuant to Planning Code Section 414A, the Project shall pay the Child Care Requirement Fee, prior to issuance of the first construction document.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
21. **Rincon Hill Community Improvements Fee.** Pursuant to Planning Code Section 418.3(b)(1), the Project shall pay the Rincon Hill Community Infrastructure Impact Fee, execution of a Waiver Agreement with the Planning Department, or execution of an In-Kind Agreement with the Planning Department prior to issuance of the first construction document.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
22. **South of Market Community Stabilization Fee.** Pursuant to Planning Code Section 418.3(d), the Project shall pay the SOMA Community Stabilization Fee, prior to issuance of the first construction document.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org
23. **Transportation Sustainability Fee.** Pursuant to Planning Code Section 411A, the Project shall pay for the residential uses within the Project, either: i) pay \$3.87 per gross square foot (approximately equal to 50% of the TSF applicable to residential uses); or ii) comply with the TSF, if applicable to the project, whichever calculation results in a higher TSF requirement. Non-residential or PDR uses would continue to be subject to the TIDF at the rate applicable per Planning Code Sections 411.3(e) and 409, as well as any other applicable fees.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING

24. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
25. **Revocation Due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

26. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

27. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

INCLUSIONARY AFFORDABLE HOUSING PROGRAM

30. **Number of Required Units.** Pursuant to Planning Code Section 415.3, the Project is required to provide 13.5% of the proposed dwelling units as affordable to qualifying households. The Project contains 144 units; therefore, nineteen (19) affordable units are required. The Project Sponsor will fulfill this requirement by providing the nineteen (19) affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

31. **Unit Mix.** The Project contains 60 studios, 25 one-bedroom, and 59 two-bedroom units; therefore, the required affordable unit mix is eight (8) studios, three (3) one-bedroom, and eight (8) two-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

32. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

33. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (13.5%) of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

34. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

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

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

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

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- b. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
- f. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.

- g. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable.

EXHIBIT C: MITIGATION MONITORING AND REPORTING PROGRAM

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>MITIGATION MEASURES</p> <p>Project Mitigation Measure 1: Archeological Monitoring (Implementing Rincon Hill PEIR Mitigation Measure I.1b)</p> <p>Based on the reasonable potential that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archeological consultant from the rotational Qualified Archeological Consultants List (QACL) maintained by the Planning Department (Department) archeologist. The project sponsor shall contact the Department archeologist to obtain the names and contact information for the next three archeological consultants on the QACL. The archeological consultant shall undertake an archeological monitoring program. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the Environmental Review Officer (ERO) for review and comment and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the</p>	<p>Project sponsor/ archeological consultant at the direction of the Environmental Review Officer (ERO).</p>	<p>Prior to issuance of site permits.</p>	<p>Project Sponsor shall retain archaeological consultant to undertake archaeological monitoring program in consultation with ERO.</p>	<p>Considered complete when project sponsor retains qualified archeological consultant.</p>

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>direction of the ERO, the suspension of <i>construction</i> can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a) and (c).</p>				
<p><i>Consultation with Descendant Communities.</i> On discovery of an archeological site¹ associated with descendant Native Americans, the Overseas Chinese, or other potentially interested descendant group, an appropriate representative² of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to offer recommendations to the ERO regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archaeological Resources Report shall be provided to the representative of the descendant group.</p>				
<p><i>Archeological Monitoring Program (AMP).</i> The archeological monitoring program shall minimally include the following provisions:</p>	<p>Project sponsor/ archeological consultant at the</p>	<p>Prior to issuance of site permits.</p>	<p>Project sponsor/archeological consultant shall meet with ERO on scope of AMP.</p>	<p>Considered complete upon ERO approval of</p>

¹ The term "archeological site" is intended here to minimally include any archeological deposit, feature, burial, or evidence of burial.
² An "appropriate representative" of the descendant group is here defined to mean, in the case of Native Americans, any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission and, in the case of the Overseas Chinese, the Chinese Historical Society of America. An appropriate representative of other descendant groups should be determined in consultation with the Department archeologist.

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<ul style="list-style-type: none"> <li data-bbox="338 415 909 883">▪ The archeological consultant, project sponsor, and the ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils-disturbing activities commencing. The ERO, in consultation with the project archeologist, shall determine what project activities shall be archeologically monitored. In most cases, any soils disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the potential risk these activities pose to archeological resources and to their depositional context; <li data-bbox="338 906 909 1089">▪ The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource; <li data-bbox="338 1112 909 1294">▪ The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with the archeological consultant, determined that project construction activities could have no effects on significant 	direction of the ERO.			AMP.

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>archeological deposits;</p> <ul style="list-style-type: none"> ▪ The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; 				
<p>If an intact archeological deposit is encountered, all soils disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction crews and heavy equipment until the deposit is evaluated. If in the case of pile driving or deep foundation activities (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile driving or deep foundation activities may affect an archeological resource, the pile driving or deep foundation activities shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, present the findings of this assessment to the ERO.</p>	<p>Project sponsor/ archeological consultant at the direction of the Environmental Review Officer (ERO).</p>	<p>During soils-disturbing activities.</p>	<p>Archeological consultant to monitor soils-disturbing activities specified in AMP and immediately notify ERO of any encountered archeological resource.</p>	<p>Considered complete upon completion of AMP.</p>
<p>If the ERO, in consultation with the archeological consultant, determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the</p>	<p>ERO, archeological consultant, and project sponsor.</p>	<p>Following discovery of significant archeological</p>	<p>Project sponsor to redesign project to avoid adverse effect or undertake archeological data recovery program.</p>	<p>Considered complete upon avoidance of adverse effect.</p>

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>project sponsor, either:</p> <p>A) The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or</p> <p>B) An archeological data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.</p>		<p>resource that could be adversely affected by project.</p>		
<p>If an archeological data recovery program is required by the ERO, the archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The project archeological consultant, project sponsor, and the ERO shall meet and consult on the scope of the ADRP. The archeological consultant shall prepare a draft ADRP that shall be submitted to the ERO for review and approval. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the</p>	<p>ERO, archeological consultant, and project sponsor.</p>	<p>Following determination by ERO that an ADRP is required.</p>	<p>Archeological consultant to prepare an ADRP in consultation with ERO.</p>	<p>Considered complete upon approval of ADRP by ERO.</p>

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
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proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.
- *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.
- *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.
- *Interpretive Program.* Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program.
- *Security Measures.* Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities.
- *Final Report.* Description of proposed report format and distribution of results.
- *Curation.* Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>of appropriate curation facilities, and a summary of the accession policies of the curation facilities.</p> <p><i>Human Remains, Associated or Unassociated Funerary Objects.</i> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal Laws, including immediate notification of the Coroner of the City and County of San Francisco and, in the event of the Coroner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC), who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The ERO shall also be immediately notified upon discovery of human remains. The archeological consultant, project sponsor, ERO, and MLD shall have up to, but not beyond, six days after the discovery to make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines, Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, curation, possession, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing State regulations or in this mitigation measure compels the project sponsor and the ERO to accept recommendations of an MLD. The archeological consultant shall retain possession of any Native American human</p>	<p>Archeological consultant or medical examiner.</p>	<p>Following discovery of human remains.</p>	<p>Notification of Coroner and, as warranted, notification of NAHC.</p>	<p>Considered complete on finding by ERO that all State laws regarding human remains/burial objects have been adhered to, consultation with MLD is completed as warranted, and that sufficient opportunity has been provided to the archeological consultant for scientific and historical analysis of remains and funerary objects.</p>

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>remains and associated or unassociated burial objects until completion of any scientific analyses of the human remains or objects as specified in the treatment agreement if such an agreement has been made or, otherwise, as determined by the archeological consultant and the ERO. If no agreement is reached, State regulations shall be followed, including the reburial of the human remains and associated burial objects with appropriate dignity on the property in a location not subject to further subsurface disturbance (Pub. Res. Code Sec. 5097.98).</p>	<p>Archeological consultant at the direction of the ERO.</p>	<p>Following completion of cataloguing, analysis, and interpretation of recovered archeological data.</p>	<p>Archeological consultant to prepare FARR.</p>	<p>Considered complete upon review and approval of FARR by ERO.</p>
<p><i>Final Archeological Resources Report.</i> The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the draft final report.</p> <p>Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: the California Archaeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning Division of the Planning Department shall receive one bound, one unbound, and</p>	<p>Archeological consultant at the direction of the ERO.</p>	<p>Following completion of FARR and review and approval by ERO.</p>	<p>Following consultation with ERO, archeological consultant to distribute FARR.</p>	<p>Considered complete upon certification to ERO that copies of FARR have been distributed.</p>

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.</p> <p>Project Mitigation Measure 2: Construction Air Quality (Implementing Rincon Hill PEIR Mitigation Measure E.1)</p> <p>The project sponsor or the project sponsor's Contractor shall comply with the following:</p> <p>A. <i>Engine Requirements.</i></p> <p>1. All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed either U.S. Environmental Protection Agency (USEPA) or California Air Resources Board (ARB) Tier 2 off-road emission standards, and have been retrofitted with an ARB Level 3 Verified Diesel Emissions Control Strategy. Equipment with engines meeting Tier 4 Interim or Tier 4 Final off-road emission standards automatically meet this requirement.</p>	Project sponsor, contractor(s).	Prior to construction activities requiring the use of off-road equipment.	Project sponsor, contractor(s) to submit certification statement to the ERO.	Considered complete upon submittal of certification statement.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited.</p> <p>3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The Contractor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two-minute idling limit.</p> <p>4. The Contractor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment, and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications.</p>				
B. <i>Waivers.</i>				
<p>1. The Planning Department's Environmental Review Officer (ERO) or designee may waive the alternative source of power requirement of Subsection (A)(2) if an alternative source of</p>				

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>power is limited or infeasible at the project site. If the ERO grants the waiver, the Contractor must submit documentation that the equipment used for on-site power generation meets the requirements of Subsection (A)(1).</p> <p>2. The ERO may waive the equipment requirements of Subsection (A)(1) if: a particular piece of off-road equipment with an ARB Level 3 VDECS is technically not feasible; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or, there is a compelling emergency need to use off-road equipment that is not retrofitted with an ARB Level 3 VDECS. If the ERO grants the waiver, the Contractor must use the next cleanest piece of off-road equipment, according to the table below.</p>				

Table – Off-Road Equipment Compliance Step-down Schedule

Compliance Alternative	Engine Emission Standard	Emissions Control
Tier 1	Tier 2	ARB Level 2 VDECS
Tier 2	Tier 2	ARB Level 1 VDECS
Tier 3	Tier 2	Alternative Fuel*

MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>How to use the table: If the ERO determines that the equipment requirements cannot be met, then the project sponsor would need to meet Compliance Alternative 1. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 1, then the Contractor must meet Compliance Alternative 2. If the ERO determines that the Contractor cannot supply off-road equipment meeting Compliance Alternative 2, then the Contractor must meet Compliance Alternative 3. Alternative fuels are not a VDECS.</p>				
<p>C. <i>Construction Emissions Minimization Plan.</i> Before starting on-site construction activities, the Contractor shall submit a Construction Emissions Minimization Plan (Plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the Contractor will meet the requirements of Section A.</p>	<p>Project sponsor, contractor(s).</p>	<p>Prior to issuance of a permit specified in Section 106A.3.2.6 of the Francisco Building Code.</p>	<p>Project sponsor, contractor(s) to prepare and submit a Plan to the ERO.</p>	<p>Considered complete upon findings by the ERO that the Plan is complete.</p>
<p>1. The Plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed, the description may include: technology type, serial number, make, model,</p>				

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used.</p> <p>2. The ERO shall ensure that all applicable requirements of the Plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the Contractor agrees to comply fully with the Plan.</p> <p>3. The Contractor shall make the Plan available to the public for review on-site during working hours. The Contractor shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during working hours and shall explain how to request to inspect the Plan. The Contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.</p>				
<p>D. <i>Monitoring.</i> After start of construction activities, the Contractor shall submit quarterly reports to the</p>	<p>Project sponsor, contractor(s).</p>	<p>Quarterly.</p>	<p>Project sponsor, contractor(s) to submit quarterly reports to</p>	<p>Considered complete upon</p>

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>ERO documenting compliance with the Plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and end dates and duration of each construction phase, and the specific information required in the Plan.</p>			<p>the ERO.</p>	<p>findings by the ERO that the Plan is being/has been implemented.</p>
<p>Project Mitigation Measure 3 - Dewatering During Construction (Implementing Rincon Hill PEIR Mitigation Measure H.2)</p>	<p>Project sponsor and construction contractor(s).</p>	<p>During project construction.</p>	<p>Project sponsor and/or construction contractor(s) to notify the BERM if dewatering is necessary and follow the recommendations of the BERM.</p>	<p>Considered complete upon completion of construction</p>
<p>If dewatering is necessary, groundwater pumped from the</p>				

MONITORING AND REPORTING PROGRAM

<u>Adopted Mitigation/Improvement Measures</u>	<u>Responsibility for Implementation</u>	<u>Mitigation Schedule</u>	<u>Monitoring and Reporting Actions and Responsibility</u>	<u>Status / Date Completed</u>
development site shall be retained in a holding tank to allow suspended particles to settle, if this is determined necessary by the BERM to reduce the amount of sediment entering the combined sewer system. The project sponsor shall require the general contractor to install and maintain sediment traps if determined necessary by the BERM.				

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>IMPROVEMENT MEASURES</p> <p>Project Improvement Measure 1 – Construction Traffic (Implementing Rincon Hill PEIR Improvement Measure C.2)</p> <p>Construction contractor(s) for the proposed project should meet with the Municipal Transportation Agency, the Fire Department, the Planning Department, and other City agencies to determine feasible measures to reduce traffic congestion, including any potential transit disruption and pedestrian circulation impacts during construction of the project. In addition, the temporary parking demand by construction contractor(s) should be met on-site or within other off-site parking facilities, and the construction contractor(s) should determine the location of an off-site parking facility for construction workers during the construction period.</p>	Project sponsor and construction contractor(s).	During project construction.	<p>Construction contractor(s) to meet with the Municipal Transportation Agency, Planning Department, and other City agencies to determine feasible measures to reduce traffic congestion during construction.</p> <p>Construction contractor(s) to determine the location of an off-site parking facility for construction workers.</p>	Considered complete upon completion of construction.
<p>Project Improvement Measure 2 – Construction Management Plan (Implementing Project TIS Improvement Measure TR-1)</p> <p>To minimize potential disruptions to traffic, transit, pedestrians, and bicyclists, the project sponsor and/or construction contractor should develop a Construction Management Plan that could include, but not necessarily be limited to, the following:</p> <ul style="list-style-type: none"> Identify optimal truck routes to and from the site to minimize impacts to traffic, transit, 	Project sponsor and construction contractor(s).	During project construction.	Project sponsor and/or construction contractor(s) to develop and implement Construction Management Plan.	Considered complete upon completion of construction.

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MONITORING AND REPORTING PROGRAM

Adopted Mitigation/Improvement Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring and Reporting Actions and Responsibility	Status / Date Completed
<p>pedestrians, and bicyclists;</p> <ul style="list-style-type: none">• Identify off-street parking alternatives for construction workers;• Encourage construction workers to use transit when commuting to and from the project site, reducing the need for parking.				

The Construction Management Plan would disseminate appropriate information to contractors and affected agencies with respect to coordinating construction activities to minimize overall disruptions and ensure that overall circulation in the area is maintained to the extent possible, with particular focus on ensuring transit, pedestrian, and bicycle connectivity. The program would supplement and expand, rather than modify or supersede, any manual, regulations, or provisions set forth by the San Francisco Municipal Transportation Agency, the San Francisco Public Works, other City agencies, and Caltrans.

ATTACHMENT C

Ramboll Environ's Response to Trinity Consultants' Peer Review for Air Quality Technical Report, March 26, 2018



MEMO

Via Electronic Mail

To **Michael Li, SF Environmental Planning**
Josh Pollak, SF Environmental Planning

From **Michael Keinath**
Taylor Vencill

Subject **Response to Trinity Review of Technical Report by Ramboll Environ dated October 2017 for proposed project at 430 Main Street/ 429 Beale Street ("Project")**

Ramboll US Corporation (Ramboll, formerly known as Ramboll Environ) has reviewed the memorandum prepared by Trinity Consultants for the Committee for Healthy Housing on January 19, 2018 ("Trinity Memorandum") which commented on the Air Quality Analysis Technical Report for the proposed building at 430 Main Street/429 Beale Street in San Francisco, CA ("AQTR") we prepared in October 2017.¹ This memorandum has been prepared to address comments raised by Trinity. The organization of this memorandum follows the Analysis sections outlined in Section 3.0 of the Trinity Memorandum.

Date March 26, 2018

Ramboll
 201 California Street
 Suite 1200
 San Francisco, CA 94111
 USA

T +1 415 796 1950
 F +1 415 398 5812
www.ramboll.com

BUILDING DOWNWASH MODELING

Trinity incorrectly asserts that the less-refined regulatory model should have been used in place of a sophisticated computational fluid dynamics analysis which can accurately predict complex wind flows around structures.

As discussed in Section 4.1.3 of the AQTR, the most recent version of the American Meteorological Society/Environmental Protection Agency regulatory air dispersion model (AERMOD Version 16216r) was used to evaluate the ambient air concentrations of DPM and PM2.5 from the proposed diesel generator operation. Section 4.1.3.4 also discusses building downwash parameters used in the model. The San Francisco Planning Department directed this methodological approach. It is consistent with guidance issued by the Bay Area Air Quality Management District (BAAQMD) and the Office of Environmental Health Hazard Assessment (OEHHA). Therefore, both the regulatory model (AERMOD) and the computational fluid dynamics (CFD) model were used to evaluate the proposed project.

The CFD model was utilized to perform a refined building downwash analysis, specifically evaluating potential impacts of the proposed building on PM2.5 concentrations from nearby traffic sources. AERMOD can be used to model dispersion of pollutants from roadways, taking into account local meteorology,

¹ An updated AQTR was submitted in March 2018 to correct inconsistencies between the report technical tables and text. All results presented in the technical tables remained the same, only changes to the numbers presented in the text were made. This updated report did not include any additional analyses or calculations, nor did it change any conclusions presented in the October 2017 report.

elevation data, emissions source parameters, and basic building structure shapes; but it is not sophisticated enough to account for complex urban features. As described in Section 8.2 of the AQTR, "AERMOD does not have the capacity to account for flow interaction between multiple buildings or buildings of complex shape." Rather, AERMOD approximates building downwash for single simple-shaped buildings. In contrast to the AERMOD modeling, the CFD modeling directly simulates plume dispersion around the Project buildings, surrounding buildings, the elevated section of I-80, and other surrounding roadways. As such, it is appropriate to use a refined model for a project such as this to address the concerns raised by the Board of Supervisors in the 2009 CEQA appeal of a separate project on this site (BOS file no. 091254).

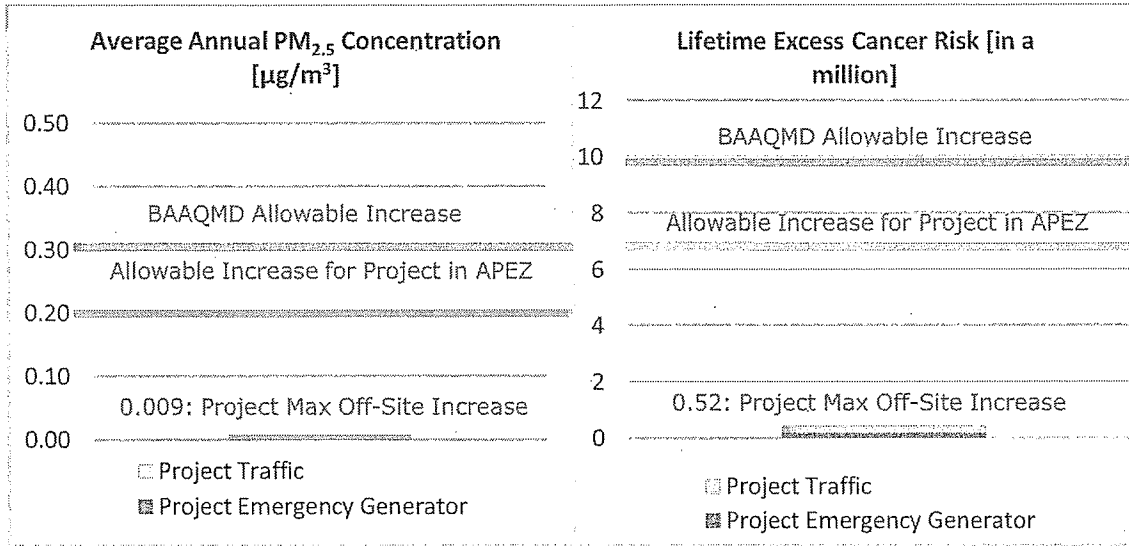
OFFSITE IMPACTS

Trinity incorrectly asserts that the Project is required to further assess and mitigate its PM_{2.5} emissions. The Project will not increase pollutant concentrations above the incremental project thresholds and already takes into account the significance standards relevant to areas with high existing pollutant concentrations.

For background on air quality thresholds, the project site is within an Air Pollution Exposure Zone ("APEZ"), due to its proximity to major freeways or other pollution sources that contribute to high existing health risks in excess of the San Francisco action levels. As shown in Table A of the AQTR, the incremental health risk thresholds for projects located in an APEZ are 7 in a million for excess lifetime cancer risk and 0.2 ug/m³ for average annual PM_{2.5} concentration. These thresholds are lower than thresholds for projects outside the APEZ of 10 in a million and 0.3 ug/m³, respectively. These higher thresholds are recommended by the Bay Area Air Quality Management District (BAAQMD) for use in CEQA analyses throughout their jurisdiction. The City and County of San Francisco have developed the lower thresholds to be more health protective in areas of the City which may experience higher exposure to pollution. The thresholds compared to in the AQTR account for the greater pre-project PM_{2.5} concentration and related health risks that are present in the APEZ. Further, under CEQA, the Project is not required to mitigate for existing conditions.

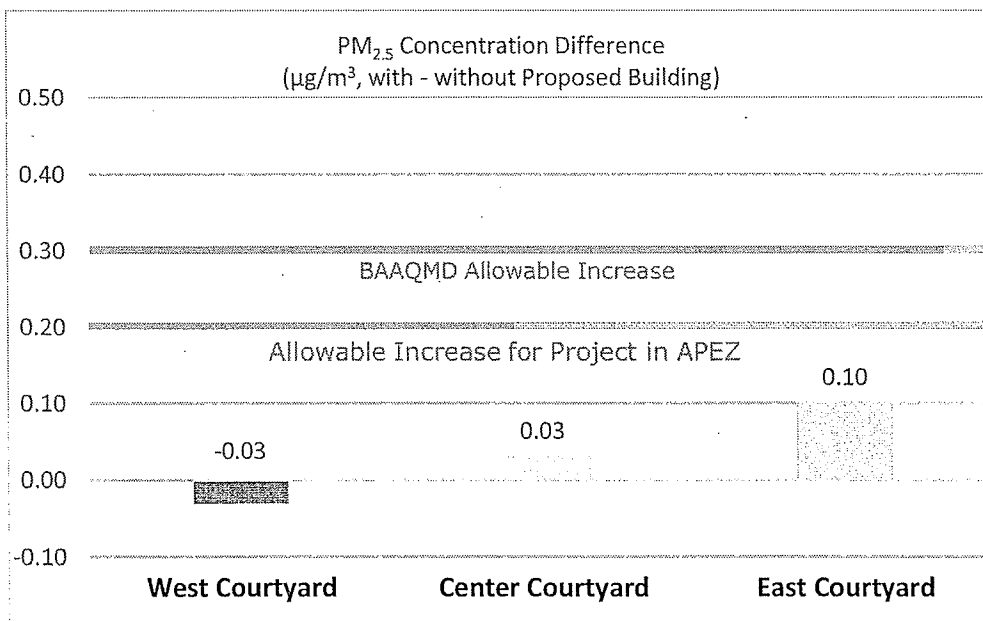
Analyses were conducted to determine whether the additional impact of the proposed Project emissions to off-site and on-site receptors would exceed these incremental thresholds. As shown in Tables 8 through 11 of the AQTR, the maximum cumulative cancer risk and PM_{2.5} concentrations from traffic plus emergency generator operations were 0.52 in a million and 0.0093 ug/m³, respectively. These maximum impacts are far below the thresholds and are therefore not considered to significantly impact health. Comparisons of the maximum Project impacts to the PM_{2.5} and cancer risk thresholds are shown in Figure 1.

Figure 1. (left) PM_{2.5} Thresholds and Maximum Project Impact. (right) Cancer Risk Thresholds and Maximum Project Impact.



CFD modeling was performed to further visualize the potential impacts of the proposed building on existing traffic emissions dispersion in response to the 2009 CEQA appeal of a previous project on the project site. As shown in Table 13 of the AQTR, the maximum increase in PM_{2.5} concentration in any of the neighboring courtyards due to the building placement was 0.1 ug/m³. This increase would also be well below the threshold of 0.2 ug/m³, as shown in Figure 2.

Figure 2. CFD Modeling Results





CONSTRUCTION IMPACTS

Trinity asserts that a construction air quality analysis is needed to complete CEQA requirements, even though construction impacts for the Proposed Project have already been analyzed in the Rincon Hill Plan and these impacts will be discussed further in the Community Plan Exemption.

The Rincon Hill Plan EIR includes a discussion of air quality impacts from construction that applies to this project. It also identifies mitigation measures that can be implemented on a project-specific basis. Potential construction impacts, Project compliance, and mitigation measures from the Rincon Hill Plan EIR are expected to be discussed in detail in the Project's CEQA determination document.

DIESEL PARTICULATE MATTER

Trinity incorrectly asserts that acute health impacts should have been evaluated for components of diesel exhaust for the emergency generator, in contradiction to BAAQMD recommendations and practice.

The analysis presented in the AQTR quantified the cancer risk and chronic hazard index impacts due to the proposed rooftop diesel emergency generator. While the OEHHA guidance does present a methodology to quantify the acute health impacts by speciating diesel exhaust, the OEHHA guidance does not require the evaluation of acute health impacts, and the circumstances of the project here do not warrant it because a single emergency diesel generator is not expected to be a significant source of pollutants with acute health impacts.

Furthermore, BAAQMD states "diesel exhaust particulate matter should be used as a surrogate for all TAC emissions from diesel-fueled compression-ignition internal combustion engines" (BAAQMD Rule 2-5). There is currently no acute non-cancer toxicity value available for diesel exhaust particulate matter. In addition, before operating the diesel generator, the applicant must comply with BAAQMD permitting requirements, which include a health risk analysis and permit conditions set to ensure health standards are met.

PROJECT TRAFFIC IMPACTS

Trinity incorrectly concludes that an analysis of Project traffic emissions and impacts using 2014 and 2017 data is warranted, even though the Proposed Project risk results are well below thresholds using a conservative screening approach.

The Proposed Project is expected to generate just 263 net new trips per day, which is well below the threshold of 10,000 trips per day to be considered a low-impact source (BAAQMD, 2017) (see Section 3.1.2 of the AQTR). BAAQMD only requires an evaluation of health risks for roads with 10,000 or more trips per day.

Nevertheless, a screening analysis was performed using the BAAQMD Roadway Screening Calculator, which is a BAAQMD-developed tool for use in CEQA analyses. The Calculator uses emission factors for the County for calendar year (CY) 2014 from EMFAC2011. These factors could be updated to use either factors from the current USEPA-approved model EMFAC2014, or the newest ARB model EMFAC2017. In addition, the factors could be adjusted to more accurately represent the health risks at project buildout in year 2020 rather than 2014. To test this potential refinement, Ramboll ran EMFAC2011 for San Francisco County and CY 2014 (as used in the current BAAQMD Roadway Screening Calculator) and compared to results from EMFAC2014 and EMFAC2017 for CY 2020 (representative of conditions for an updated Screening Calculator). As shown in Table 1 below, using the more up-to-date emission factors would actually reduce the cancer risk and PM_{2.5} concentrations from that reported in the AQTR. Thus, again, the results in the AQTR are conservative (i.e., worst case).



Table 1. Reduction of Emissions Factors for Project Buildout Year (2020) with Newer EMFAC vs BAAQMD Screening Tool Default (EMFAC2011 for Year 2014)

Pollutant	Reduction Using EMFAC2014	Reduction Using EMFAC2017
PM2.5	-16%	-22%
PM10	-62%	-66%
TOG (exhaust)	-88%	-83%
TOG (evaporative)	-28%	-22%

As shown in Table 7 of the AQTR, the traffic analysis resulted in a total lifetime excess cancer risk of 0.32 in a million and a PM_{2.5} concentration of 0.0091 ug/m³ at the maximum exposed off-site receptor. This analysis could be refined to more specifically model emissions and dispersion at the Project site; however, as shown in the table above, this would only reduce estimated impacts further. Therefore, since results are already well below significance thresholds, a more refined analysis is not required.

METEOROLOGICAL DATA

Trinity incorrectly asserts that the use of the meteorological data approved by the District for use in the citywide San Francisco Community Risk Reduction Plan likely would not satisfy the 2015 OEHHA Guidelines.

Section 4.1.3.1 of the AQTR describes the selection of meteorological data for use in AERMOD modeling. A single year of data from Mission Bay was used to be consistent with the data used in the SF CRRP. The 2015 OEHHA Guidance states "...the District may determine that one year of representative meteorological data is sufficient to adequately characterize the facility's impact" (OEHHA, 2015, p. 4-28). The SF CRRP methodology was developed in partnership with the Air District and thus they have approved of the use of the meteorological data used.

From: BOS Legislation, (BOS)
To: danemince@yahoo.com; Mark H. Loper; ajunius@reubenlaw.com
Cc: GIVNER, JON (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Rodgers, AnMarie (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Navarrete, Joy (CPC); Lynch, Laura (CPC); Ionin, Jonas (CPC); Vu, Doug (CPC); Li, Michael (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)
Subject: APPEAL RESPONSE BRIEF: Appeal of CEQA Community Plan Evaluation - 429 Beale Street and 430 Main Street - Appeal Hearing on July 31, 2018
Date: Friday, July 20, 2018 1:33:15 PM
Attachments: [image001.png](#)

Good afternoon,

Please find linked below an appeal response brief received by the Office of the Clerk of the Board from Andrew Junius, of Reuben, Junius & Rose, LLP, representing the Project Sponsor, regarding the appeal of the Community Plan Evaluation under CEQA for the proposed project at 429 Beale Street and 430 Main Street.

[Appeal Response Brief - July 20, 2018](#)

The appeal hearing for this matter is scheduled for a 3:00 p.m. special order before the Board on July 31, 2018.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180697](#)

Regards,

Brent Jalipa

Legislative Clerk

Board of Supervisors - Clerk's Office
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-7712 | Fax: (415) 554-5163
brent.jalipa@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

From: [Jennifer Lew](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Andrew Junius](#)
Subject: 429 Beale/430 Main St. - Project Sponsor's Brief in Opposition to Appeal of Community Plan Exemption (CPE) File No 180697 / 7810.07
Date: Friday, July 20, 2018 9:45:42 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Dear Supervisors:

At Andrew Junius' request, via this link <https://reubenlaw.sharefile.com/d-s44a2dff731d4e5f9> please find project sponsor's brief in opposition to appeal of the Community Plan Exemption (CPE) in reference to 429 Beale/430 Main Street, File No. 180697.

Two (2) hard copies of this brief will be messengered to your office later this morning.

Thank you.

Sincerely,

REUBEN, JUNIUS & ROSE, LLP

Jennifer Lew
Legal Assistant
T. (415) 567-9000
F. (415) 399-9480
jlw@reubenlaw.com
www.reubenlaw.com

SF Office:	Oakland Office:
One Bush Street, Suite 600 San Francisco, CA 94104	456 8th Street, 2nd Floor Oakland, CA 94607



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REUBEN, JUNIUS & ROSE, LLP

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JUL 20 AM 10:17
LL

Andrew Junius
ajunius@reubenlaw.com

July 20, 2018

Delivered Via Email and Messenger

President Malia Cohen and Supervisors
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102
Bos.legislation@sfgov.org

**Re: 429 Beale Street, 430 Main Street
Opposition to Appeal of the Community Plan Exemption ("CPE")
Planning Department Case No. 2014.002033DNX
File No. 180697
Our File No.: 7810.07**

Dear President Cohen and Supervisors:

This office represents LCL Global-429 Beale & 430 Main Street, LLC—an affiliate of War Horse Cities and Tidewater Capital (collectively the "Project Sponsor"), the sponsor of a project to construct a mixed-income 9-story residential building featuring 135 dwelling units (the "Project"). Located in the Rincon Hill neighborhood with frontages on Beale and Main Streets, the Project will add much-needed housing—including 18 affordable units—on an ideal infill site currently used as warehouses.

The Project's Community Plan Exemption ("CPE") was issued on March 19th, 2018 and the Project approved by the Planning Commission on May 24, 2018. The CEQA process is not meant to be used to revisit an entitlement approval¹. To the extent Appellant has issues with the Section 309.1 approval, this hearing is not the proper forum to raise them.

As discussed in more detail below, the CEQA process was exhaustive, and resulted in a finding that the Project would not have a significant effect on the environment. The City's use of a CPE for the Project is proper, and the appeal is without merit and should be denied.

¹ As noted in a recent law review article discussing CEQA lawsuits and California's housing crisis, "Housing can be built, and it is politically supported by majorities of existing residents, including those who are protective of the character, services, and property values in their community across the country. However, CEQA lawsuits provide California's anti-housing holdouts—the political minority of as few as one anonymous party—with a uniquely effective litigation tool to simply say 'no' to change." *California Environmental Quality Act Lawsuits and California's Housing Crisis*, Hastings Environmental Law Journal, Winter 2018, pg. 41.

San Francisco Office
One Bush Street, Suite 600, San Francisco, CA 94104
tel: 415-567-9000 | fax: 415-399-9480

Oakland Office
456 8th Street, 2nd Floor, Oakland, CA 94607
tel: 510-257-5589

www.reubenlaw.com

Background

The Project Sponsor acquired 429 Beale Street and 430 Main Street in April 2014 and subsequently embarked on an entitlement process to convert the current light industrial use on the site (which creates one job, generates de Minimis tax revenue for the City and Neighborhood, and provides zero street level activation) to mixed income, multifamily housing. The immediate area around 430 Main is made up of new residential towers along with smaller office and residential buildings. The Rincon Hill Plan dictates that residential development in this area should taper down in height from the top of the hill to the Embarcadero. As such, Project Sponsor's proposed project at 84' fits within the intent of the Plan and allows for Project Sponsor to add a new category of renter to the neighborhood who may not be able to afford to live in the surrounding towers. The Project presents an opportunity to construct dense, mixed-income housing to address the City's shortage while removing what is currently a poor use of transit-served urban land. Through extensive community outreach, we ascertained that most of the project's neighbors agreed this change of use represented a welcome addition to the area.

Sponsor's robust community engagement efforts over the past four years included holding monthly office hours at Ada's Café, attending neighborhood meetings, presenting to neighboring HOAs, and engaging with neighborhood businesses totaling over 200 direct connections with community and neighborhood stakeholders (see **Exhibit A**). This outreach yielded nearly 80 letters of support and over 40 speakers in support of the Project at the Project's Planning Commission hearings.

The Project approved by the Planning Commission contains a number of concessions to the Project's direct neighbor to the north, including a five-foot setback from the lot line (allowing the Neighbor's at-risk windows to be preserved) and a 45' separation in the middle of the building to preserve the neighbor's views and allowing light into their courtyard. These concessions led an overwhelming majority of the residents of the neighboring building who were originally opposed to the Project to cease their opposition. In order to accommodate the separation in the building, the Project's unit count decreased by 9 units (from 144 to 135). Project Sponsor worked tirelessly over the course of the entitlement process to address the neighboring concerns and understands the importance of compromise in the development process.

Project Metrics and Benefits

1. **A mixed income development with BMR rental units.** Like its project at 1028 Market St. in Mid-Market, Project Sponsor is committed to constructing a mixed-income residential development on this site. The Project will provide 18 on-site affordable units in the Project. Consistent with Board of Supervisors Ordinance No. 76-16, 13.5% of the Project's 135 dwelling units will be affordable to households whose total income is below 55% of Area Median Income. Below Market Rate rental units are in particularly high demand due to the lower AMI threshold, which is especially important because those affordable units will be within walking distance or a short transit ride from San Francisco's two biggest employment centers: the Financial District and SOMA.

2. **Project Sponsor's Extensive Community Involvement.** Project Sponsor's level of involvement with the surrounding community goes above and beyond typical outreach efforts and shows a unique level of dedication to the neighborhood. Over the last four years, Project Sponsor has committed to being an active member of the Rincon Hill and South Beach communities. Project Sponsor's overall business philosophy is based on principled and authentic relationships with community leaders, non-profits, and other stakeholders, and being engaged members of the communities in which it operates. Project

Sponsor is proposing to build for-rent housing and expects to own and operate the site if the Project is approved and built, ensuring that its involvement with the neighborhood will continue for the duration of its ownership.

3. **The project is consistent with Rincon Hill's planned urban form and uses.** The Rincon Hill Plan was designed to create a high density transit oriented neighborhood close to jobs. The Plan set forth a carefully crafted set of zoning controls that will support a significant amount of new housing close to downtown, while creating a new community of unique quality for San Franciscans to live. The Project is consistent with the Plan and furthers its goals.

The Property's 84-foot height limit is consistent with the Rincon Hill Plan's proposed urban form, which located taller buildings higher on the hill, tapering off height limits towards Rincon Hill's base. The Project complies with the height limit designated for the site, which is significantly less than the 105-foot height limit on the site immediately north of the Property, and the 150-foot to 400-foot height limits on the block north of Harrison Street.

4. **Other Benefits.** The Project will make a wide-ranging contribution to the San Francisco and Rincon Hill community, in addition to providing on-site affordable units. Among other benefits, it will pay impact fees that will go towards public transit, childcare, community infrastructure, and other public services. Based on current rates, the Project will contribute approximately \$5.7 million towards neighborhood and citywide improvements. It is also estimated to generate \$14 million in real estate taxes over the next 10 years supporting a range of public services provided by the City of San Francisco.

The Project is also expected to provide economic opportunity across many sectors. Construction of the Project is expected to create approximately 170 jobs. The Project Sponsor is using a union signatory general contractor to ensure that jobs created will come with livable wages and benefits. The Project Sponsor is committed to local hiring and is in conversation with several groups regarding the training and hiring of local workers.

Issue on Appeal

Appellants raise a single issue in their initial appeal filing. They state that "the planning department was presented with credible peer review of the departments air quality review and they abused their discretion by failing to address this substantial evidence in the formation of their findings."

Appellant makes reference to the January 19, 2018 peer review prepared by Trinity Consultants. While Trinity appears to disagree with some of the Ramboll conclusions relied on by the Planning Department staff and Commission in approving the project, such a disagreement is simply not a basis for any additional review under CEQA.

Other than attaching the Trinity report and claiming that the Commission "abused their discretion by failing to address this substantial evidence in the formation of their findings" there is no explanation at all as to what these alleged failures are.

Because the analysis in the CPE is supported by substantial evidence, the appeal should be denied.

The Commission's Decision Must Be Upheld If Supported by Substantial Evidence

When considering the adequacy of any CEQA analysis, it is the lead agency's job to weigh the evidence relating to the accuracy and sufficiency of the information and analysis and to decide whether to accept it. In this case, the lead agency is the San Francisco Planning Department.

It is long established law that the lead agency may adopt the environmental conclusions reached by the experts that do the analysis even though others may disagree with the underlying data or conclusions. *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1988) 47 C3d 376, 408; *State Water Resources Control Bd. Cases* (2006) 136 CA4th 674, 795. Discrepancies in results arising from different methods for assessing environmental issues do not undermine the validity of the analysis as long as a reasonable explanation supporting the analysis is provided. *Planning & Conserv. League v Castaic Lake Water Agency* (2009) 180 CA4th 210, 243.

There is consistent CEQA case law in the area of "expert opinions." The existence of differing opinions arising from the same set of facts is not a basis for finding any CEQA analysis to be inadequate; the lead agency need not resolve a dispute among experts about the accuracy of any analysis. The following cases are examples of this accepted doctrine:

- *Eureka Citizens for Responsible Gov't v City of Eureka* (2007) 147 CA4th 357 (city could accept expert's findings on noise impacts despite disagreement over methodology used);
- *Save Cuyama Valley v County of Santa Barbara* (2013) 213 CA4th 1059, 1069 (county could rely on expert's conclusions regarding hydraulic impacts despite differing opinions by EPA and petitioner's expert);
- *Cadiz Land Co. v Rail Cycle* (2000) 83 CA4th 74, 102 (county appropriately relied on expert opinions that further geologic trenching not necessary);

Appellant's arguments disputing the scope of the analysis, the validity of the methodology used, or the accuracy of data, involve factual issues. The issue before the Board is whether the air quality analysis and conclusions are supported by substantial evidence. *North Coast Rivers Alliance v Marin Mun. Water Dist.* (2013) 216 CA4th 614, 622. Appellant has offered nothing new and simply complains that the Planning Department should have accepted Trinity's opinion and not Ramboll's. This argument should be rejected.

An appellate body should resolve any disputes regarding the adequacy of the CEQA analysis in favor of the lead agency if there is **any substantial evidence in the record supporting the analysis**. See, e.g., *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1988) 47 C3d 376, 409; *San Diego Citizenry Group v County of San Diego* (2013) 219 CA4th 1, 11; *Eureka Citizens for Responsible Gov't v City of Eureka* (2007) 147 CA4th 357, 372; *Anderson First Coalition v City of Anderson* (2005) 130 CA4th 1173; *Association of Irrigated Residents v County of Madera* (2003) 107 CA4th 1383, 1397; *Chaparral Greens v City of Chula Vista* (1996) 50 CA4th 1134, 1143.

The Analysis in the CPE Is Supported by Substantial Evidence

In approving the Project, the Commission relied on a large body of substantial evidence (based on a scope of work developed by the Planning Department in consultation with the Bay Area Air Quality Management District (“BAAQMD”)) in connection with the air quality issue.

Of the 73 pages of environmental analysis in the Initial Study for the Project, 11 pages—approximately 15 percent of the analysis in the Initial Study—are devoted to an analysis of air quality impacts from the Project. (See **Exhibit B.**) This analysis engaged in a robust discussion of air quality issues related to the project.

Appellant submitted a 5 page critique of the air quality analysis in the Initial Study authored by Trinity Consultants (“Trinity”). Of the 5 pages in the Trinity critique, only 3 pages are devoted to an analysis of air quality impacts.

On March 26, 2018, Ramboll submitted a point-by-point response to the Trinity critique. (See **Exhibit C.**) The Ramboll response shows that Trinity advanced misleading or flatly incorrect data and assumptions, and provides further substantial evidence supporting the Commission’s approvals, which is summarized below:

BUILDING DOWNWASH MODELING

Trinity incorrectly asserts that the less-refined regulatory model should have been used in place of a sophisticated computational fluid dynamics analysis which can accurately predict complex wind flows around structures.

OFFSITE IMPACTS

Trinity incorrectly asserts that the Project is required to further assess and mitigate its PM2.5 emissions. The Project will not increase pollutant concentrations above the incremental project thresholds and already takes into account the significance standards relevant to areas with high existing pollutant concentrations.

CONSTRUCTION IMPACTS

Trinity asserts that a construction air quality analysis is needed to complete CEQA requirements, even though construction impacts for the Proposed Project have already been analyzed in the Rincon Hill Plan and these impacts will be discussed further in the Community Plan Exemption.

DIESEL PARTICULATE MATTER

Trinity incorrectly asserts that acute health impacts should have been evaluated for components of diesel exhaust for the emergency generator, in contradiction to BAAQMD recommendations and practice.

PROJECT TRAFFIC IMPACTS

Trinity incorrectly concludes that an analysis of Project traffic emissions and impacts using 2014 and 2017 data is warranted, even though the Proposed Project risk results are well below thresholds using a conservative screening approach.

METEOROLOGICAL DATA

Trinity incorrectly asserts that the use of the meteorological data approved by the District for use in the citywide San Francisco Community Risk Reduction Plan likely would not satisfy the 2015 OEHHA Guidelines.

There was no follow up on the part of Appellant to further challenge the Ramboll responses during the entitlement process. Notwithstanding these responses being available since March 26, 2018, Appellant has not pursued this issue and simply asks the Board to rely on the original Trinity critique that has already been debunked. Even the Grassetti letter, submitted to the Board this week and dated July 20, 2018 (and discussed below), ignores the Ramboll follow up. Appellant has provided the Board with no new facts, evidence or analysis.

Ramboll's response to Trinity's response is attached as Exhibit C and a presentation prepared by Ramboll to simplify the explanation of their findings is attached as **Exhibit D**.

The Grassetti Letter

On July 20, 2018, Grassetti Environmental Consulting submitted a letter on behalf of the appellant, allegedly adding several new and creative arguments, but no new evidence. The Grassetti letter adds nothing of substance to the discussion. Each issue raised by Grassetti can be dispensed with quickly:

"There is no such thing as a Community Plan Exemption." This battle was fought and decided long ago. The CPE has become a well-worn path in the last decade in San Francisco, and furthers the stated goal of CEQA to reduce paperwork and redundant analysis. Reliance on a Plan level EIR in this context is completely appropriate and in fact encouraged by CEQA. CEQA clearance of land use projects using this process satisfies the requirements of the law. This argument should be rejected.

"Failure to Consider Substantial Evidence." As stated above and pursuant to established CEQA case law, there is literally a mountain of substantial evidence supporting the Planning Department's conclusions. The air quality analysis alone went above and beyond any CEQA requirements. The claim that a biased "peer review" paid for by Appellants must override the work done by the City should be rejected.

"Air Quality/Health Risk Issues." Grassetti continues to claim that the Trinity Consultants peer review of Ramboll's work somehow invalidates the analysis and triggers yet more CEQA review. As summarized above and discussed in detail in the Ramboll March 26, 2018 document, none of Trinity's claims or arguments stand up to close scrutiny. And finally, it does not appear that Grassetti even bothered to review the March 26 Ramboll response to the Trinity peer review. Each of Trinity's claims, as summarized above, is easily debunked by Ramboll. There is ample substantial evidence in record supporting the City's conclusions.

"View Blockage and Shadow." Grassetti mistakenly argues that CEQA requires additional analysis of blocked views and shadows on privately owned open space. Aesthetic considerations relating to residential infill projects within transit priority areas are not considered impacts as a matter of law. (CEQA § 21099(d)(1).) Further, the analysis of shadow impacts is grounded not in "arbitrary criteria of significance" as Grassetti suggests, but rather grounded in substantial evidence as found in Section 295 of the Planning Code, adopted by the voters in 1984 through Proposition K.

“*Construction Noise.*” In the Initial Study, the Planning Department correctly summarized both the applicable Rincon Hill EIR mitigation measures as well as the local Noise Ordinances that all must be complied with and which collectively reduce construction noise. It is well-settled that a reviewing agency can rely on other generally-applicable laws and regulations to determine that impacts will be less than significant. (See *San Francisco Beautiful v. City & Cty. Of San Francisco*^[1] [“An agency may rely on generally applicable regulations to conclude an environmental impact will not be significant and therefore does not require mitigation.”].) Further, under CEQA Guidelines section 15183, construction noise effects need not be analyzed if uniformly applied development policies, like the Noise Ordinance, will substantially mitigate the effects. In this case, local controls and regulatory schemes apply to the Project and will avoid these impacts. This argument should be rejected.

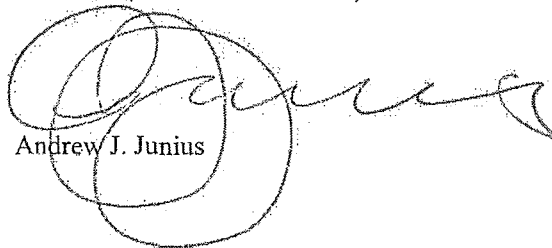
Conclusion

Appellant has not met its burden to show that the Planning Department analysis is not supported by substantial evidence. Requiring further environmental review to be conducted for the Project is unnecessary and unsupported by the law. It would discourage both this beneficial mixed-income housing project and similar projects in any part of the City that conduct CEQA review using a Community Plan Exemption, further exacerbating the shortage of housing of all income types in San Francisco. We respectfully request that you deny the appeal.

Thank you.

Sincerely,

REUBEN, JUNIUS & ROSE, LLP



Andrew J. Junius

- cc: Supervisor Sandra Lee Fewer
Supervisor Catherine Stefani
Supervisor Aaron Peskin
Supervisor Katy Tang
Supervisor Vallie Brown
Supervisor Jane Kim
Supervisor Norman Yee
Supervisor Rafael Mandelman
Supervisor Hillary Ronen
Supervisor Ahsha Safai
Angelia Calvillo, Clerk of the Board

^[1] (2014) 226 Cal. App. 4th 1012, 1033.

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Brent Jalipa, Legislative Clerk
Lisa Lew, Legislative Clerk
Michael Li, Environmental Planner, Planning Department
Joy Navarrete, Environmental Planner
Wade Wietgreffe, Environmental Planner
Lisa Gibson, Environmental Review Officer, Planning Department
Tidewater Capital

List of Exhibits

- A - Community Outreach
- B - Air Quality Section – Initial Study
- C - Ramboll March 26, 2018 Memo
- D - Ramboll Summary Air Quality Materials

EXHIBIT A

430 MAIN STREET COMMUNITY OUTREACH

Sponsor engaged in extensive community outreach since their acquisition of the site in 2014

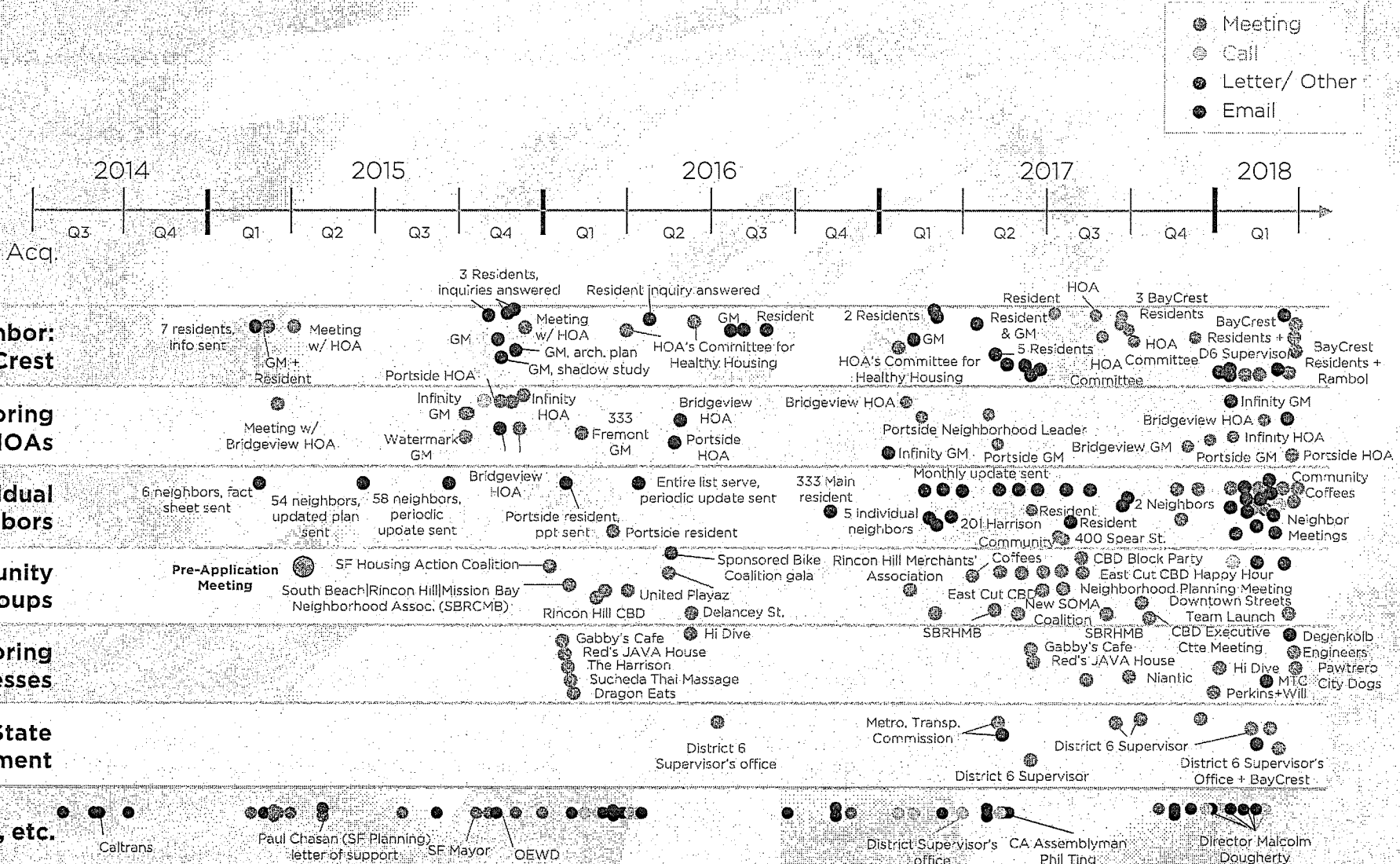


EXHIBIT B



SAN FRANCISCO PLANNING DEPARTMENT

Initial Study – Community Plan Evaluation

Case No.: 2014-002033ENV
Project Title: 429 Beale Street and 430 Main Street
Zoning/Plan Area: RH-DTR (Rincon Hill Downtown Residential) District
84-X Height and Bulk District
Rincon Hill Area Plan
Block/Lot: 3767/305 and 306
Lot Size: 18,906 square feet
Project Sponsor: LCL Global-429 Beale Street & 430 Main Street, LLC
c/o Mark Loper – Reuben, Junius & Rose
(415) 567-9000, mloper@reubenlaw.com
Staff Contact: Michael Li
(415) 575-9107, michael.j.li@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The project site, which is in San Francisco's Rincon Hill neighborhood, is on the block bounded by Beale Street on the west, Harrison Street on the north, Main Street on the east, and Bryant Street on the south (see Figure 1). The project site extends from Beale Street to Main Street and consists of two adjacent parcels: Assessor's Block 3767, Lots 305 and 306. Lot 305, the western parcel, fronts on Beale Street and is occupied by a one-story building that was constructed in 1951. Lot 306, the eastern parcel, fronts on Main Street and is occupied by a two-story building that was constructed in 1929. Both buildings are currently occupied by a retail self-storage use. The project site has two existing curb cuts: one on Beale Street and one on Main Street. The project site slopes up from west to east; the western property line is about eight feet lower than the eastern property line.

The proposed project consists of merging the two existing lots into a single 18,906-square-foot lot, demolishing the existing buildings, and constructing a nine-story, 84-foot-tall building containing 144 dwelling units and 73 parking spaces (72 residential spaces and one car-share space). There would be a 15-foot-tall solarium and a 15-foot-tall mechanical penthouse on the roof, resulting in a maximum building height of 99 feet. The parking garage would be on the basement level. Due to the slope of the project site, the parking garage would be about 18 feet below grade on the Main Street side of the project site and about nine feet below grade on the Beale Street side of the project site. The garage door and a new driveway would be provided on Beale Street. The existing 20-foot-wide curb cut on Beale Street would be retained and reduced in width to 11 feet, and the existing curb cut on Main Street would be removed. A total of 119 bicycle parking spaces would be provided; 111 Class 1 spaces would be provided in a storage room on the basement mezzanine level, and eight Class 2 spaces would be provided on the Beale Street and/or Main Street sidewalk adjacent to the project site. Usable open space for the residents of the proposed project would be provided in the form of a ground-level yard, private balconies, and a roof deck. See Exhibit 2 for a complete set of project plans (site plan, floor plans, elevations, sections, and renderings).

The full Initial Study is available in the Planning Department File.

The following pages 18 – 32 from the Initial Study summarize the Air Quality analysis.

Topics:	<i>Significant Impact Peculiar to Project or Project Site</i>	<i>Significant Impact not Identified in PEIR</i>	<i>Significant Impact due to Substantial New Information</i>	<i>No Significant Impact not Previously Identified in PEIR</i>
6. AIR QUALITY—Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal, state, or regional ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The Rincon Hill PEIR identified potentially significant air quality impacts related to construction activities that may cause wind-blown dust and pollutant emissions; roadway-related air quality impacts on sensitive land uses; and the siting of uses that emit diesel particulate matter (DPM) and toxic air contaminants (TACs) as part of everyday operations. The Rincon Hill PEIR identified two mitigation measures that would reduce air quality impacts to less-than-significant levels.

Rincon Hill PEIR Mitigation Measure E.1: Construction Air Quality, requires individual projects that include construction activities to include dust control measures and maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants.

Rincon Hill PEIR Mitigation Measure E.2, Operational Air Quality, requires project sponsors to implement various transportation control measures to reduce the rate of increase in the number of passenger vehicle trips and VMT, thus reducing the operational air quality impacts from implementation of the *Rincon Hill Area Plan*. The transportation control measures include but are not limited to: constructing transit facilities (bus turnouts, bulbs, and shelters); providing shuttle service to and from work sites, commercial areas, and transit stations; providing locker and shower facilities for employees who bicycle or walk to work; providing services (banks, cafeterias, childcare, dry cleaners, etc.) to employees at or near their places of employment.

Two types of air quality impacts are generally evaluated: regional air quality impacts to the air basin (criteria air pollutant analysis), and localized impacts (health risk analysis). Project-related air quality effects from short-term construction activities and long-term operational activities are evaluated to determine both the regional and local impact of the project on air quality. A project-specific analysis was conducted for the proposed project and the results of this analysis are discussed below.

Construction Dust Control

Subsequent to the certification of the Rincon Hill PEIR, the Board of Supervisors approved amendments to the San Francisco Building and Health Codes, referred to as the Construction Dust Control Ordinance (Ordinance No. 176-08, effective August 29, 2008). The intent of this ordinance is to reduce the quantity of

fugitive dust generated during site preparation, demolition, and construction work in order to protect the health of the general public and of on-site workers, to minimize public nuisance complaints, and to avoid orders to stop work by the DBI. Project-related construction activities would result in construction dust, primarily from ground-disturbing activities. In compliance with the Construction Dust Control Ordinance, the project sponsor and contractor responsible for construction activities at the project site would be required to control construction dust on the site through a combination of watering disturbed areas, covering stockpiled materials, sweeping streets and sidewalks, and other measures.

The regulations and procedures set forth in the Construction Dust Control Ordinance would ensure that construction dust impacts would not be significant. Therefore, the portion of PEIR Mitigation Measure E.1 that addresses construction dust is not applicable to the proposed project.

Criteria Air Pollutants

In accordance with the state and federal clean air acts, air pollutant standards are identified for the following six criteria air pollutants: ozone, carbon monoxide (CO), particulate matter (PM), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), and lead. These air pollutants are termed criteria air pollutants because they are regulated by developing specific public health- and welfare-based criteria as the basis for setting permissible levels. In general, the San Francisco Bay Area Air Basin (air basin) experiences low concentrations of most pollutants when compared to federal or state standards. The air basin is designated as either in attainment or unclassified for most criteria pollutants with the exception of ozone, PM_{2.5}, and PM₁₀, for which these pollutants are designated as non-attainment for either the state or federal standards.

The air district's 2017 *CEQA Air Quality Guidelines* (guidelines)²⁸ provide methodologies for analyzing air quality impacts. The guidelines also provide screening criteria and thresholds of significance for those criteria air pollutants for which the air basin is in non-attainment. The guidelines and supporting documents²⁹ provide substantial evidence for the criteria air pollutant thresholds (as shown in Table 2: Daily Project Construction Emissions, below), and are therefore used by the City.

Construction

Construction activities from the proposed project would result in the emission of criteria air pollutants from equipment exhaust, construction-related vehicular activity, and construction worker automobile trips. Construction of the proposed project would occur over an approximately 24-month period and would require excavation to depths ranging from about 10 feet to about 25.5 feet below ground surface and the removal of about 12,052 cubic yards of soil. Construction-related criteria air pollutants generated by the proposed project were quantified using the California Emissions Estimator Model (CalEEMod) and provided in an air quality memorandum.³⁰ The model, including default data (e.g., emission factors, meteorology, etc.), was developed in collaboration with staff from California's air districts. Default assumptions were used where project-specific information was unknown. Emissions were converted from tons/year to pounds/day using the estimated construction duration of 487 working days. As shown

²⁸ Bay Area Air Quality Management District, *California Environmental Quality Act Air Quality Guidelines*, updated May 2017, pp. 2-1 to 2-4.

²⁹ Bay Area Air Quality Management District, *Revised Draft Options and Justification Report, California Environmental Quality Act Thresholds of Significance*, October 2009,

³⁰ San Francisco Planning Department, *Air Quality Memorandum, 429 Beale Street and 430 Main Street*, March 8, 2018.

in Table 2, unmitigated project construction emissions would be below the thresholds of significance for reactive organic gases (ROG), oxides of nitrogen (NO_x), exhaust PM₁₀, and exhaust PM_{2.5}.

Table 2: Daily Project Construction Emissions

	Pollutant Emissions (Average Pounds per Day)			
	ROG	NO _x	Exhaust PM ₁₀	Exhaust PM _{2.5}
Unmitigated Project Emissions	4.63	7.43	0.28	0.26
Significance Threshold	54.0	54.0	82.0	54.0

Emissions over threshold levels are in **bold**.

SOURCE: Air District, 2017; San Francisco Planning Department, 2018

As shown in Table 2, the proposed project would not exceed the construction-related significance thresholds developed by the air district. As such, the proposed project would not result in significant construction-related criteria air pollutant impacts.

Operation

As discussed above, the air district's guidelines also contain screening criteria that can be used to determine whether a proposed project requires a more detailed air quality analysis. If a proposed project meets the screening criteria, then the project would result in less-than-significant criteria air pollutant impacts. The *CEQA Air Quality Guidelines* note that the screening levels are generally representative of new development on greenfield sites³¹ without any form of mitigation measures taken into consideration. In addition, the screening criteria do not account for project design features, attributes, or local development requirements that could also result in lower emissions. The proposed project, with a total of 144 dwelling units, is well below the operational screening criterion of 510 dwelling units for the "apartment, high-rise" land use type. Therefore, the proposed project would not have a significant impact related to criteria air pollutants, and a detailed air quality assessment is not required for operational emissions related to criteria air pollutants.

As discussed above, the proposed project would result in a less-than-significant impact related to operational criteria air pollutant emissions. Therefore, Rincon Hill PEIR Mitigation Measure E.2, which requires project sponsors to implement various transportation control measures to reduce the rate of increase in the number of passenger vehicle trips and VMT, is not applicable to the proposed project. Furthermore, the proposed project is subject to the Transportation Demand Management (TDM) Ordinance, which requires the project sponsor to implement various measures to reduce VMT. The measures specified in the TDM Ordinance are similar to many of the transportation control measures identified in PEIR Mitigation Measure E.2. The proposed project would provide the following TDM measures: bicycle parking, a bicycle repair station, car-share parking and membership, on-site affordable housing, unbundled parking, and parking in an amount below the maximum permitted by the Planning Code.³²

³¹ A greenfield site refers to agricultural or forest land or an undeveloped site earmarked for commercial, residential, or industrial projects.

³² *Transportation Demand Management Plan Application, 429 Beale & 430 Main.*

Health Risk

In addition to criteria air pollutants, individual projects may emit toxic air contaminants (TACs). TACs collectively refer to a diverse group of air pollutants that are capable of causing chronic (i.e., of long-duration) and acute (i.e., severe but short-term) adverse effects to human health, including carcinogenic effects. Human health effects of TACs include birth defects, neurological damage, cancer, and mortality. There are hundreds of different types of TACs with varying degrees of toxicity. Individual TACs vary greatly in the health risk they present; at a given level of exposure, one TAC may pose a hazard that is many times greater than another.

Unlike criteria air pollutants, TACs do not have ambient air quality standards but are regulated by the air district using a risk-based approach to determine which sources and pollutants to control as well as the degree of control. A health risk assessment is an analysis in which human health exposure to toxic substances is estimated, and considered together with information regarding the toxic potency of the substances, to provide quantitative estimates of health risks.³³

Air pollution does not affect every individual in the population in the same way, and some groups are more sensitive to adverse health effects than others. Land uses such as residences, schools, children's day care centers, hospitals, and nursing and convalescent homes are considered to be the most sensitive to poor air quality because the population groups associated with these uses have increased susceptibility to respiratory distress or, as in the case of residential receptors, their exposure time is greater than that for other land uses. Therefore, these groups are referred to as sensitive receptors. Exposure assessment guidance typically assumes that residences would be exposed to air pollution 24 hours per day, 7 days a week, for 30 years.³⁴ Therefore, assessments of air pollutant exposure to residents typically result in the greatest adverse health outcomes of all population groups.

Exposures to fine particulate matter (PM_{2.5}) are strongly associated with mortality, respiratory diseases, and lung development in children, and other endpoints such as hospitalization for cardiopulmonary disease.³⁵ In addition to PM_{2.5}, diesel particulate matter (DPM) is also of concern. The California Air Resources Board (California air board) identified DPM as a toxic air contaminant in 1998, primarily based on evidence demonstrating cancer effects in humans.³⁶ The estimated cancer risk from exposure to diesel exhaust is much higher than the risk associated with any other TAC routinely measured in the region.

In an effort to identify areas of San Francisco most adversely affected by sources of TACs, San Francisco partnered with the air district to conduct a citywide health risk assessment based on an inventory and assessment of air pollution and exposures from mobile, stationary, and area sources within San Francisco. Areas with poor air quality, termed the "Air Pollutant Exposure Zone," were identified based on health-

³³ In general, a health risk assessment is required if the air district concludes that projected emissions of a specific air toxic compound from a proposed new or modified source suggest a potential public health risk. The applicant is then subject to a health risk assessment for the source in question. Such an assessment generally evaluates chronic, long-term effects, estimating the increased risk of cancer as a result of exposure to one or more TACs.

³⁴ California Office of Environmental Health Hazard Assessment, *Air Toxics Hot Spot Program Risk Assessment Guidelines*, February, 2015, pp. 4-44, 8-6

³⁵ SFDPH, *Assessment and Mitigation of Air Pollutant Health Effects from Intra-Urban Roadways: Guidance for Land Use Planning and Environmental Review*, May 2008.

³⁶ California Air Resources Board (ARB), Fact Sheet, "The Toxic Air Contaminant Identification Process: Toxic Air Contaminant Emissions from Diesel-fueled Engines," October 1998.

protective criteria that consider estimated cancer risk, exposures to fine particulate matter, proximity to freeways, and locations with particularly vulnerable populations. The project site is located within the Air Pollutant Exposure Zone. Existing excess cancer risk at the closest off-site receptor is about 130 per one million persons exposed, and the existing PM_{2.5} concentration at this receptor point is 9.1 µg/m³. The Air Pollutant Exposure Zone criteria are discussed below.

Excess Cancer Risk. The Air Pollution Exposure Zone includes areas where modeled cancer risk exceeds 100 incidents per million persons exposed. This criterion is based on United States Environmental Protection Agency (EPA) guidance for conducting air toxic analyses and making risk management decisions at the facility and community-scale level.³⁷ As described by the air district, the EPA considers a cancer risk of 100 per million to be within the “acceptable” range of cancer risk. Furthermore, in the 1989 preamble to the benzene National Emissions Standards for Hazardous Air Pollutants rulemaking,³⁸ the EPA states that it “...strives to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately one in one million and (2) limiting to no higher than approximately one in ten thousand [100 in one million] the estimated risk that a person living near a plant would have if he or she were exposed to the maximum pollutant concentrations for 70 years.” The 100 per one million excess cancer cases is also consistent with the ambient cancer risk in the most pristine portions of the Bay Area based on air district regional modeling.³⁹

Fine Particulate Matter. In April 2011, the EPA published *Policy Assessment for the Particulate Matter Review of the National Ambient Air Quality Standards*, “Particulate Matter Policy Assessment.” In this document, EPA staff conclude that the then current federal annual PM_{2.5} standard of 15 µg/m³ should be revised to a level within the range of 13 to 11 µg/m³, with evidence strongly supporting a standard within the range of 12 to 11 µg/m³. The Air Pollutant Exposure Zone for San Francisco is based on the health protective PM_{2.5} standard of 11 µg/m³, as supported by the EPA’s Particulate Matter Policy Assessment, although lowered to 10 µg/m³ to account for uncertainty in accurately predicting air pollutant concentrations using emissions modeling programs.

Proximity to Freeways. According to the California air board, studies have shown an association between the proximity of sensitive land uses to freeways and a variety of respiratory symptoms, asthma exacerbations, and decreases in lung function in children. Siting sensitive uses in close proximity to freeways increases both exposure to air pollution and the potential for adverse health effects. As evidence shows that sensitive uses in an area within a 500-foot buffer of any freeway are at an increased health risk from air pollution,⁴⁰ parcels that are within 500 feet of freeways are included in the Air Pollutant Exposure Zone.

Health Vulnerable Locations. Based on the air district’s evaluation of health vulnerability in the Bay Area, those zip codes (94102, 94103, 94105, 94124, and 94130) in the worst quintile of Bay Area health vulnerability scores as a result of air pollution-related causes were afforded additional protection by

³⁷ BAAQMD, *Revised Draft Options and Justification Report, California Environmental Quality Act Thresholds of Significance*, October 2009, p. 67.

³⁸ 54 Federal Register 38044, September 14, 1989.

³⁹ BAAQMD, *Clean Air Plan*, May 2017, p. D-43.

⁴⁰ California Air Resources Board, *Air Quality and Land Use Handbook: A Community Health Perspective*. April 2005. Available online at: <http://www.arb.ca.gov/ch/landuse.htm>.

lowering the standards for identifying parcels in the Air Pollutant Exposure Zone to: (1) an excess cancer risk greater than 90 per one million persons exposed, and/or (2) PM_{2.5} concentrations in excess of 9 µg/m³.⁴¹

The above citywide health risk modeling was also used as the basis in approving amendments to the San Francisco Building and Health Codes (Ordinance No. 224-14, effective December 7, 2014), referred to as Health Code Article 38: Enhanced Ventilation Required for Urban Infill Sensitive Use Developments (Article 38). For sensitive-use projects within the APEZ as defined by Article 38, such as the proposed project, the ordinance requires that the project sponsor submit an Enhanced Ventilation Proposal for approval by the Department of Public Health (DPH) that achieves protection from PM_{2.5} (fine particulate matter) equivalent to that associated with a Minimum Efficiency Reporting Value 13 filtration. The DBI will not issue a building permit without written notification from the Director of the DPH that the applicant has an approved Enhanced Ventilation Proposal. In compliance with Article 38, the project sponsor submitted an initial application to the DPH.⁴² The regulations and procedures set forth in Article 38 would protect the project's proposed sensitive receptors from substantial outdoor pollutant concentrations.

In addition, projects within the Air Pollutant Exposure Zone require special consideration to determine whether the project's activities would add a substantial amount of emissions to areas already adversely affected by poor air quality. The following addresses the project's construction and operational health risk impact.

Construction Health Risks

In terms of construction emissions, off-road equipment (which includes construction-related equipment) is a large contributor to diesel particulate matter emissions in California, although since 2007, the California air board has found the emissions to be substantially lower than previously expected.⁴³

Additionally, a number of federal and state regulations are requiring cleaner off-road equipment. Specifically, both the EPA and California air board have set emissions standards for new off-road equipment engines, ranging from Tier 1 to Tier 4. Tier 1 emission standards were phased in between 1996 and 2000, and Tier 4 Interim and Final emission standards for all new engines were phased in between 2008 and 2015. To meet the Tier 4 emission standards, engine manufacturers will be required to produce new engines with advanced emission-control technologies. Although the full benefits of these regulations will not be realized for several years, the EPA estimates that by implementing the federal Tier 4 standards, NO_x and PM emissions will be reduced by more than 90 percent.⁴⁴

In addition, construction activities do not lend themselves to analysis of long-term health risks because of their temporary and variable nature. As explained in the air district's *CEQA Air Quality Guidelines*:

⁴¹ San Francisco Planning Department and San Francisco Department of Public Health, *2014 Air Pollutant Exposure Zone Map (Memo and Map)*, April 9, 2014. These documents are part of San Francisco Board of Supervisors File No. 14806, Ordinance No. 224-14; Amendment to Health Code Article 38.

⁴² *Application for Article 38 Compliance Assessment, 429 Beale Street & 430 Main Street*, submitted March 1, 2018.

⁴³ ARB, Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Proposed Amendments to the Regulation for In-Use Off-Road Diesel-Fueled Fleets and the Off-Road Large Spark-Ignition Fleet Requirements, p. 1 and p. 13 (Figure 4), October 2010.

⁴⁴ USEPA, "Clean Air Nonroad Diesel Rule: Fact Sheet," May 2004.

“Due to the variable nature of construction activity, the generation of TAC emissions in most cases would be temporary, especially considering the short amount of time such equipment is typically within an influential distance that would result in the exposure of sensitive receptors to substantial concentrations. Concentrations of mobile-source diesel PM emissions are typically reduced by 70 percent at a distance of approximately 500 feet (ARB 2005). In addition, current models and methodologies for conducting health risk assessments are associated with longer-term exposure periods of 9, 40, and 70 years, which do not correlate well with the temporary and highly variable nature of construction activities. This results in difficulties with producing accurate estimates of health risk.”⁴⁵

Therefore, project-level analyses of construction activities have a tendency to produce overestimated assessments of long-term health risks. However, within the Air Pollutant Exposure Zone, as discussed above, additional construction activity may adversely affect populations that are already at a higher risk for adverse long-term health risks from existing sources of air pollution.

The proposed project would require construction activities for the approximate 24-month construction period. Project construction activities would result in short-term emissions of DPM and other TACs. The project site is located in an area that already experiences poor air quality, and project construction activities would generate additional air pollution, affecting nearby sensitive receptors and resulting in a significant impact. As discussed above, the Rincon Hill PEIR determined that construction emissions from subsequent projects constructed in the Area Plan would result in a significant impact and identified Rincon Hill PEIR Mitigation Measure E.1: Construction Air Quality to reduce impacts to less than significant levels. PEIR Mitigation Measure E.1 requires individual projects that include construction activities to include dust control measures and maintain and operate construction equipment so as to minimize exhaust emissions of particulates and other pollutants. Project Mitigation Measure 2: Construction Air Quality, has been identified to implement the portion of PEIR Mitigation Measure E.1 related to emissions exhaust by requiring engines to meet higher emission standards on certain types of construction equipment. Project Mitigation Measure 2 is discussed on pp. 49-51.

Implementation of Project Mitigation Measure 2 would reduce the magnitude of this impact to a less-than-significant level. While emissions reductions from limiting idling, educating workers and the public, and properly maintaining equipment are difficult to quantify, other measures, specifically the requirement for equipment with Tier 2 engines and Level 3 Verified Diesel Emission Control Strategy (VDECS) can reduce construction emissions by 89 to 94 percent compared to equipment with engines meeting no emission standards and without a VDECS.⁴⁶ Emissions reductions from the combination of

⁴⁵ BAAQMD, *CEQA Air Quality Guidelines*, May 2017, p. 8-7.

⁴⁶ PM emissions benefits are estimated by comparing off-road PM emission standards for Tier 2 with Tier 1 and 0. Tier 0 off-road engines do not have PM emission standards, but the United States Environmental Protection Agency's *Exhaust and Crankcase Emissions Factors for Nonroad Engine Modeling – Compression Ignition* has estimated Tier 0 engines between 50 hp and 100 hp to have a PM emission factor of 0.72 g/hp-hr and greater than 100 hp to have a PM emission factor of 0.40 g/hp-hr. Therefore, requiring off-road equipment to have at least a Tier 2 engine would result in between a 25 percent and 63 percent reduction in PM emissions, as compared to off-road equipment with Tier 0 or Tier 1 engines. The 25 percent reduction comes from comparing the PM emission standards for off-road engines between 25 hp and 50 hp for Tier 2 (0.45 g/bhp-hr) and Tier 1 (0.60 g/bhp-hr). The 63 percent reduction comes from comparing the PM emission standards for off-road engines above 175 hp for Tier 2 (0.15 g/bhp-hr) and Tier 0 (0.40 g/bhp-hr). In addition to the Tier 2 requirement, ARB Level 3 VDECSs are required and would reduce PM by an additional 85 percent. Therefore, the mitigation measure would result in a

Tier 2 equipment with Level 3 VDECS is almost equivalent to requiring only equipment with Tier 4 Final engines.

Operational Health Risk

As discussed under "Previous Environmental Review" (p. 3 of the initial study checklist), the Board of Supervisors heard an appeal of a Community Plan Exemption for a 2007 project proposed at the project site. In upholding the appeal, the Board of Supervisors directed the Planning Department to conduct additional environmental review on the air quality impacts of the 2007 project. The developer decided not to move forward with the 2007 project, so no additional environmental review was conducted. However, additional analysis is provided below for this proposed project.

In compliance with the direction provided by the Board of Supervisors on the 2007 project, a detailed air quality analysis was conducted to evaluate how operation of the proposed project would affect localized health risk to on-site and off-site sensitive receptors.⁴⁷

As discussed above, the project site is located within the Air Pollutant Exposure Zone. The threshold of significance used to evaluate health risks from new sources of TACs is based on the potential for the proposed project to substantially affect the geography and severity of the Air Pollutant Exposure Zone at sensitive receptor locations. For projects that could result in sensitive receptor locations meeting the Air Pollutant Exposure Zone criteria that otherwise would not without the project, a proposed project that would emit PM_{2.5} concentration above 0.3 µg/m³ or result in an excess cancer risk greater than 10.0 per million would be considered a significant impact. The 0.3 µg/m³ PM_{2.5} concentration and the excess cancer risk of 10.0 per million persons exposed are the levels below which the air district considers new sources not to make a considerable contribution to cumulative health risks.⁴⁸ For those locations already meeting the Air Pollutant Exposure Zone criteria, such as the project site, a lower significance standard is required to ensure that a proposed project's contribution to existing health risks would not be significant. In these areas, a proposed project's PM_{2.5} concentrations above 0.2 µg/m³ or an excess cancer risk greater than 7.0 per million would be considered a significant impact.⁴⁹

Methodology

The detailed health risk analysis was conducted in accordance with the guidelines and methodologies established by the air district, the California air board, the California Office of Environmental Health Hazard Assessment, and the EPA. The health risk analysis evaluated the estimated cancer risk, chronic

reduction in PM emissions between 89 percent (0.0675 g/bhp-hr) and 94 percent (0.0225 g/bhp-hr), as compared to equipment with Tier 1 (0.60 g/bhp-hr) or Tier 0 engines (0.40 g/bhp-hr).

⁴⁷ Ramboll Environ, *Air Quality Analysis Technical Report, Proposed Building at 430 Main Street/429 Beale Street*, San Francisco, California (hereinafter "AQTR"), March 2018.

⁴⁸ Bay Area Air Quality Management District, *California Environmental Quality Act Guidelines Update, Proposed Air Quality CEQA Thresholds of Significance*, May 3, 2010. Available online at www.baaqmd.gov/~lmedia/Files/Planning%20and%20Research/CEQA/Proposed_Thresholds_Report_%20May_3_2010_Final.ashx?la=en, accessed February 20, 2014.

⁴⁹ A 0.2 µg/m³ increase in PM_{2.5} would result in a 0.28 percent increase in non-injury mortality or an increase of about twenty-one excess deaths per 1,000,000 population per year from non-injury causes in San Francisco. This information is based on Jerrett M et al. 2005. *Spatial Analysis of Air Pollution and Mortality in Los Angeles*. *Epidemiology*. 16:727-736. The excess cancer risk has been proportionally reduced to result in a significance criteria of 7 per million persons exposed.

hazard index, and concentrations of DPM, total organic gases, and PM_{2.5} associated with the proposed project's operational emissions. The sources of the proposed project's operational emissions include project-related traffic and an emergency diesel generator.

Emissions from project-related traffic were not directly modeled, because the volume of traffic expected to be generated by the proposed project (263 vehicles per day) would not exceed the air district's screening criteria requiring quantification of such emissions (10,000 vehicles per day). However, health risks from the proposed project's expected traffic were evaluated using the air district's Roadway Screening Analysis Calculator. This calculator was used to estimate cancer risk and PM_{2.5} concentrations associated with emissions from project-related traffic. Emissions from the project's proposed emergency generator was modeled using the most recent version of the EPA's atmospheric dispersion modeling system (AERMOD) to estimate the concentrations of TACs at both on-site and off-site sensitive receptor locations. The AERMOD analysis also accounts for building downwash, incorporating nearby building heights. Emissions estimates from AERMOD were then used to assess the potential excess cancer risk at sensitive receptor locations based on exposure assessment guidelines from the California Office of Environmental Health Hazard Assessment and the air district. This methodology also accounts for an anticipated sensitivity to carcinogens of infants and children by incorporation of an age sensitivity factor. The results of this analysis are then added to existing background cancer risk and PM_{2.5} values to determine the existing-plus-project health risk at on-site and off-site sensitive receptor locations.

Findings of AERMOD Analysis

The health risk analysis evaluated the impact of the proposed project's emergency diesel generator and project-related traffic in terms of lifetime excess cancer risk and PM_{2.5} concentration. The results are discussed below.

Table 3: Existing Plus Project Health Risk Analysis (2020), shows the proposed project's contribution to lifetime excess cancer risk and PM_{2.5} concentrations at off-site and on-site sensitive receptor locations. With implementation of the proposed project, the lifetime excess cancer risk at the maximally exposed off-site sensitive receptor would be 132 excess cancer risks per one million persons exposed. The proposed project's total contribution to this cancer risk would be 0.52 excess cancer risks per one million persons exposed, which is well below the significance threshold of 7 excess cancer risks per one million persons exposed. With implementation of the proposed project, PM_{2.5} concentrations at the maximally exposed off-site sensitive receptor would be 9.1 µg/m³. The proposed project's total PM_{2.5} contributions to off-site sensitive receptors would be 0.0093 µg/m³, which is also well below the significance threshold of 0.2 µg/m³. The proposed project's health risk contribution to on-site receptors would be even lower (see Table 3). Therefore, the proposed project would not result in a significant health risk impact, and no mitigation measures are necessary.

Table 3: Existing Plus Project Health Risk Analysis (2020)

Receptor Type	Lifetime Excess Cancer Risk (in a million)		PM _{2.5} Concentration (µg/m ³)	
	On-Site Receptor	Off-Site Receptor	On-Site Receptor	Off-Site Receptor
Proposed Project Emergency Generator	0.21	0.20	0.00028	0.00026
Project Traffic	0.18	0.32	0.0049	0.0091
Project Total	0.39	0.52	0.0052	0.0093
Existing Background	218	131	9.2	9.1
Existing Plus Project	219	132	9.2	9.1

SOURCE: Ramboll Environ, 2018

Cumulative Air Quality Impacts

By its very nature, regional air pollution (criteria air pollutant analysis) is largely a cumulative impact in that no single project is sufficient in size, by itself, to result in non-attainment of air quality standards. Instead, a project's individual emissions contribute to existing cumulative adverse air quality impacts.⁵⁰ The project-level thresholds for criteria air pollutants are based on levels by which new sources are not anticipated to contribute to an air quality violation or result in a considerable net increase in criteria air pollutants. As shown above, the proposed project would not result in significant construction or operational criteria air pollutant impacts. Therefore the project would not result in a cumulatively considerable contribution to regional air quality impacts, and cumulative criteria air pollutant impacts would be less than significant.

In terms of local health risks, a cumulative health risk analysis was conducted under 2040 conditions. This condition accounts for expected vehicle trips in the year 2040 and takes into account future vehicle emissions regulations. Table 4: Cumulative Health Risk Analysis (2040), shows the proposed project's contribution to average annual PM_{2.5} concentrations at on-site and off-site sensitive receptor locations. With implementation of the proposed project, the lifetime excess cancer risk at the maximally exposed off-site sensitive receptor would be 160 excess cancer risks per one million persons exposed. The proposed project's total contribution to this cancer risk would be 0.52 excess cancer risks per one million persons exposed, which is well below the significance threshold of 7 excess cancer risks per one million persons exposed. With implementation of the proposed project, PM_{2.5} concentrations at the maximally exposed off-site sensitive receptor would be 10.0 µg/m³. The proposed project's total PM_{2.5} contributions to off-site sensitive receptors would be 0.0093 µg/m³, which is also well below the significance threshold of 0.2 µg/m³. The proposed project's health risk contribution to on-site receptors would be even lower (see Table 4). Therefore, the proposed project would not result in a significant health risk impact, and no mitigation measures are necessary.

⁵⁰ BAAQMD, *CEQA Air Quality Guidelines*, May 2017, p. 2-1.

Table 4: Cumulative Health Risk Analysis (2040)

Receptor Type	Lifetime Excess Cancer Risk (in a million)		PM _{2.5} Concentration (µg/m ³)	
	On-Site Receptor	Off-Site Receptor	On-Site Receptor	Off-Site Receptor
Proposed Project Emergency Generator	0.21	0.20	0.00028	0.00026
Project Traffic	0.18	0.32	0.0049	0.0091
Project Total	0.39	0.52	0.0052	0.0093
2040 Background	304	160	11.3	10.0
Cumulative 2040	304	160	11.3	10.1

SOURCE: Ramboll Environ, 2018

Computational Fluid Dynamics Air Pollutant Analysis

In addition to the AERMOD analysis, a refined building downwash analysis was conducted using a computational fluid dynamics (CFD) model to evaluate how the proposed project would affect the air flow and the pollutant concentration in the courtyards of BayCrest Towers. Unlike AERMOD, in which building downwash is not directly modeled but is determined by an analytical approximation, CFD modeling involves the direct computation of air flow. With CFD modeling, simulation of wind and pollutant dispersion can be conducted for accurate estimates of pollutant concentrations under different wind speeds and atmospheric conditions.⁵¹ Because the CFD model is not the recommended model by the air district for conducting air pollutant dispersion modeling for CEQA purposes but AERMOD is, the results of this analysis are presented for informational purposes. This analysis also directly addresses the direction provided by the Board of Supervisors on the 2007 project.⁵² The CFD analysis evaluated how the proposed building would affect air pollutant flow at BayCrest Towers from Bay Bridge traffic. Therefore, this analysis considered air pollutant levels at BayCrest Towers both with and without the proposed project. The CFD modeling methodology is detailed in the project's Air Quality Analysis Technical Report.

BayCrest Towers has three exterior courtyards (west, central, and east) that are adjacent to and north of the project site. The west courtyard is enclosed by BayCrest Towers on two sides (north and east) and is open on two sides (south and west). The central courtyard is fully enclosed by BayCrest Towers on two sides (west and east), partially enclosed (three stories) by BayCrest Towers on one side (north), and open on one side (south). The east courtyard is enclosed by BayCrest Towers on two sides (north and west) and is open on two sides (south and east). Construction of the proposed project would enclose the south side of each courtyard, although there would be five feet of separation between BayCrest Towers and the proposed project.

⁵¹ AQTR, p. 15.

⁵² AQTR, p. 14.

Findings of CFD Analysis

Table 5: Summary of CFD Analysis for PM_{2.5} Concentration in BayCrest Towers Courtyards, shows the concentrations of Bay Bridge traffic PM_{2.5} in each of the courtyards under existing conditions (without the proposed project) and with the proposed project in place. With implementation of the proposed project, the PM_{2.5} concentrations would decrease in the west courtyard by 0.034 µg/m³ and increase in the central and east courtyards by 0.031 µg/m³ and 0.1 µg/m³, respectively. It is important to note that this analysis does not include background or proposed project PM_{2.5} concentrations. If the proposed project’s traffic and emergency generator contributions (0.0093µg/m³) were added to these totals, the proposed project’s PM_{2.5} contributions would not exceed 0.2 µg/m³.

Table 5: Summary of CFD Analysis for PM_{2.5} Concentration in BayCrest Towers Courtyards

Source	Average Annual PM _{2.5} Concentration (µg/m ³)			
	West Courtyard	Central Courtyard	East Courtyard	Average
Without Proposed Building	0.54	0.44	0.69	0.56
With Proposed Building	0.51	0.47	0.79	0.59
Net Change	-0.034	+0.031	+0.1	+0.032

SOURCE: Ramboll Environ, 2018

Topics:	Significant Impact Peculiar to Project or Project Site	Significant Impact not Identified in PEIR	Significant Impact due to Substantial New Information	No Significant Impact not Previously Identified In PEIR
7. GREENHOUSE GAS EMISSIONS—Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Rincon Hill PEIR

The State CEQA Guidelines were amended in 2010 to require an analysis of a project’s GHG emissions on the environment. The Rincon Hill PEIR was certified in May 2005 and, therefore, did not analyze the effects of GHG emissions. In addition, the BAAQMD has prepared guidelines that provide methodologies for analyzing air quality impacts under CEQA, including the impact of GHG emissions. These guidelines are consistent with CEQA Guidelines Sections 15064.4 and 15183.5, which address the analysis and determination of significant impacts from a proposed project’s GHG emissions and allow for projects that are consistent with a GHG reduction strategy to conclude that the project’s GHG impact would be less than significant. The following analysis is based on BAAQMD and CEQA guidelines for

analyzing GHG emissions. As discussed below, the proposed project would not result in any new significant impacts related to GHG emissions.

Proposed Project

San Francisco's *Strategies to Address Greenhouse Gas Emissions*⁵³ presents a comprehensive assessment of policies, programs, and ordinances that collectively represent San Francisco's GHG reduction strategy in compliance with the BAAQMD and CEQA guidelines. These GHG reduction actions have resulted in a 23.3 percent reduction in GHG emissions in 2012 compared to 1990 levels,⁵⁴ exceeding the year 2020 reduction goals outlined in the BAAQMD's *2010 Clean Air Plan*,⁵⁵ Executive Order S-3-05,⁵⁶ and Assembly Bill 32 (also known as the Global Warming Solutions Act).^{57, 58} In addition, San Francisco's GHG reduction goals are consistent with, or more aggressive than, the long-term goals established under Executive Orders S-3-05⁵⁹ and B-30-15^{60, 61} and Senate Bill 32.^{62, 63} Therefore, projects that are consistent with San Francisco's GHG reduction strategy would not result in GHG emissions that would have a

⁵³ San Francisco Planning Department, *Strategies to Address Greenhouse Gas Emissions in San Francisco*, November 2010. Available at http://sfmea.sfplanning.org/GHG_Reduction_Strategy.pdf, accessed March 3, 2016.

⁵⁴ ICF International, *Technical Review of the 2012 Community-wide GHG Inventory for the City and County of San Francisco*, January 21, 2015. Available at http://sfenvironment.org/sites/default/files/fliers/files/icf_verificationmemo_2012sfcommunityinventory_2015-01-21.pdf, accessed March 16, 2015.

⁵⁵ Bay Area Air Quality Management District, *Clean Air Plan*, September 2010. Available at <http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans>, accessed March 3, 2016.

⁵⁶ Office of the Governor, Executive Order S-3-05, June 1, 2005. Available at <https://www.gov.ca.gov/news.php?id=1861>, accessed March 3, 2016.

⁵⁷ California Legislative Information, Assembly Bill 32, September 27, 2006. Available at [http://www.leginfo.ca.gov/pub/05-06/bill/asnm/ab_0001-0050/ab_32_bill_20060927_chaptered.pdf](http://www.leginfo.ca.gov/pub/05-06/bill/asnm/ab_0001-0050/ab_0001-0050_ab_32_bill_20060927_chaptered.pdf), accessed March 3, 2016.

⁵⁸ Executive Order S-3-05, Assembly Bill 32, and the *Bay Area 2010 Clean Air Plan* set a target of reducing GHG emissions to below 1990 levels by year 2020.

⁵⁹ Executive Order S-3-05 sets forth a series of target dates by which statewide emissions of GHGs need to be progressively reduced, as follows: by 2010, reduce GHG emissions to 2000 levels (approximately 457 million metric tons of carbon dioxide equivalent (MTCO₂E)); by 2020, reduce emissions to 1990 levels (approximately 427 million MTCO₂E); and by 2050, reduce emissions to 80 percent below 1990 levels (approximately 85 million MTCO₂E). Because of the differential heat absorption potential of various GHGs, GHG emissions are frequently measured in "carbon dioxide-equivalent," which present a weighted average based on each gas's heat absorption (or "global warming") potential.

⁶⁰ Office of the Governor, Executive Order B-30-15, April 29, 2015. Available at <https://www.gov.ca.gov/news.php?id=18938>, accessed March 3, 2016. Executive Order B-30-15 sets a state GHG emissions reduction goal of 40 percent below 1990 levels by the year 2030.

⁶¹ San Francisco's GHG reduction goals are codified in Section 902 of the Environment Code and include: (i) by 2008, determine City GHG emissions for year 1990; (ii) by 2017, reduce GHG emissions by 25 percent below 1990 levels; (iii) by 2025, reduce GHG emissions by 40 percent below 1990 levels; and by 2050, reduce GHG emissions by 80 percent below 1990 levels.

⁶² Senate Bill 32 amends California Health and Safety Code Division 25.5 (also known as the California Global Warming Solutions Act of 2006) by adding Section 38566, which directs that statewide greenhouse gas emissions to be reduced by 40 percent below 1990 levels by 2030.

⁶³ Senate Bill 32 was paired with Assembly Bill 197, which would modify the structure of the State Air Resources Board; institute requirements for the disclosure of greenhouse gas emissions criteria pollutants and toxic air contaminants; and establish requirements for the review and adoption of rules, regulations, and measures for the reduction of greenhouse gas emissions.

significant effect on the environment and would not conflict with state, regional, and local GHG reduction plans and regulations.

The proposed project would increase the intensity of use of the project site by introducing a total of 144 dwelling units and 73 parking spaces to replace a retail self-storage use. Therefore, the proposed project would contribute to annual long-term increases in GHGs as a result of residential operations that result in an increase in energy use, water use, wastewater treatment, and solid waste disposal. Construction activities would also result in temporary increases in GHG emissions.

The proposed project would be subject to regulations adopted to reduce GHG emissions as identified in the GHG reduction strategy. As discussed below, compliance with the applicable regulations would reduce the project's GHG emissions related to transportation, energy use, waste disposal, wood burning, and use of refrigerants.

Compliance with the City's Transportation Sustainability Fee, bicycle parking requirements, low-emission car parking requirements, and car sharing requirements would reduce the proposed project's transportation-related GHG emissions. These regulations reduce GHG emissions from single-occupancy vehicles by promoting the use of alternative transportation modes with zero or lower GHG emissions on a per capita basis.

The proposed project would be required to comply with the energy efficiency requirements of the City's Green Building Code, the Stormwater Management Ordinance, the Residential Water Conservation Ordinance, and the Water Efficient Irrigation Ordinance, all of which would promote energy and water efficiency, thereby reducing the proposed project's energy-related GHG emissions.⁶⁴

The proposed project's waste-related emissions would be reduced through compliance with the City's Recycling and Composting Ordinance, Construction and Demolition Debris Recovery Ordinance, and construction and demolition debris recycling requirements. These regulations reduce the amount of materials sent to a landfill, reducing GHGs emitted by landfill operations. These regulations also promote reuse of materials, conserving their embodied energy⁶⁵ and reducing the energy required to produce new materials.

Compliance with the City's street tree planting requirements would serve to increase carbon sequestration. Regulations requiring low-emitting finishes would reduce volatile organic compounds (VOCs).⁶⁶ Thus, the proposed project was determined to be consistent with San Francisco's GHG reduction strategy.⁶⁷

⁶⁴ Compliance with water conservation measures reduces the energy (and GHG emissions) required to convey, pump, and treat water required for the project.

⁶⁵ Embodied energy is the total energy required for the extraction, processing, manufacture, and delivery of building materials to the building site.

⁶⁶ While not a GHG, VOCs are precursor pollutants that form ground-level ozone. Increased ground-level ozone is an anticipated effect of future global warming that would result in added health effects locally. Reducing VOC emissions would reduce the anticipated local effects of global warming.

⁶⁷ San Francisco Planning Department, *Greenhouse Gas Analysis: Compliance Checklist for 429 Beale Street and 430 Main Street*, December 12, 2017.

Therefore, the proposed project’s GHG emissions would not conflict with state, regional, and local GHG reduction plans and regulations. Furthermore, the proposed project is within the scope of the development evaluated in the PEIR and would not result in impacts associated with GHG emissions beyond those disclosed in the PEIR. For these reasons, the proposed project would not result in significant GHG emissions that were not identified in the Rincon Hill PEIR, and no mitigation measures are necessary.

Topics:	Significant Impact Peculiar to Project or Project Site	Significant Impact not Identified in PEIR	Significant Impact due to Substantial New Information	No Significant Impact not Previously Identified in PEIR
8. WIND AND SHADOW—Would the project:				
a) Alter wind in a manner that substantially affects public areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Wind

The Rincon Hill PEIR analyzed the wind impacts from potential development that could occur under the *Rincon Hill Area Plan*. Development anticipated under the *Rincon Hill Area Plan* was found to have the potential to create new exceedances of the wind hazard criterion established in the Planning Code. Under the Rincon Hill PEIR, a project that causes the wind hazard criterion to be exceeded for more than one hour per year would be considered to have a significant impact. A project that would cause exceedances of the wind comfort criteria, but not the wind hazard criterion, would not be considered to have a significant impact.⁶⁸ In order to ensure that implementation of the *Rincon Hill Area Plan* would not result in significant wind impacts, Mitigation Measure G.1, identified in the Rincon Hill PEIR, requires the City to adopt Planning Code controls on wind speeds for the RH-DTR District that are, at a minimum, functionally equivalent to the controls contained in Planning Code Section 148. A legislative amendment was adopted to add Section 825(d) to the Planning Code, which establishes regulations related to ground-level wind currents in the RH-DTR District. Each development project proposed under the *Rincon Hill Area Plan* is required to comply with the provisions of Planning Code Section 825(d). The potential wind impacts of each individual project would have to be assessed, and if it is determined that any individual project would result in exceedances of the wind hazard criterion, design modifications or wind reduction measures would have to be implemented to eliminate those exceedances. For these reasons, the Rincon Hill PEIR concluded that, with mitigation, implementation of the *Rincon Hill Area Plan* would result in less-than-significant wind impacts.

In compliance with Planning Code Section 825(d), the proposed project underwent wind tunnel testing to determine if it would cause hazardous wind conditions (i.e., if it would cause winds to reach or exceed 26 mph for one hour a year). The results of the wind tunnel test are presented in a wind tunnel report and are summarized below.⁶⁹

⁶⁸ Rincon Hill PEIR, p. 177.

⁶⁹ RWDI, *Pedestrian Wind Study, 430 Main Street, San Francisco, California*, November 1, 2017.

EXHIBIT C



MEMO

Via Electronic Mail

To **Michael Li, SF Environmental Planning**
Josh Pollak, SF Environmental Planning

From **Michael Keinath**
Taylor Vencill

Subject **Response to Trinity Review of Technical Report by Ramboll Environ**
dated October 2017 for proposed project at 430 Main Street/ 429
Beale Street ("Project")

Ramboll US Corporation (Ramboll, formerly known as Ramboll Environ) has reviewed the memorandum prepared by Trinity Consultants for the Committee for Healthy Housing on January 19, 2018 ("Trinity Memorandum") which commented on the Air Quality Analysis Technical Report for the proposed building at 430 Main Street/429 Beale Street in San Francisco, CA ("AQTR") we prepared in October 2017.¹ This memorandum has been prepared to address comments raised by Trinity. The organization of this memorandum follows the Analysis sections outlined in Section 3.0 of the Trinity Memorandum.

Date March 26, 2018

Ramboll
201 California Street
Suite 1200
San Francisco, CA 94111
USA

T +1 415 796 1950
F +1 415 398 5812
www.ramboll.com

BUILDING DOWNWASH MODELING

Trinity incorrectly asserts that the less-refined regulatory model should have been used in place of a sophisticated computational fluid dynamics analysis which can accurately predict complex wind flows around structures.

As discussed in Section 4.1.3 of the AQTR, the most recent version of the American Meteorological Society/Environmental Protection Agency regulatory air dispersion model (AERMOD Version 16216r) was used to evaluate the ambient air concentrations of DPM and PM2.5 from the proposed diesel generator operation. Section 4.1.3.4 also discusses building downwash parameters used in the model. The San Francisco Planning Department directed this methodological approach. It is consistent with guidance issued by the Bay Area Air Quality Management District (BAAQMD) and the Office of Environmental Health Hazard Assessment (OEHHA). Therefore, both the regulatory model (AERMOD) and the computational fluid dynamics (CFD) model were used to evaluate the proposed project.

The CFD model was utilized to perform a refined building downwash analysis, specifically evaluating potential impacts of the proposed building on PM2.5 concentrations from nearby traffic sources. AERMOD can be used to model dispersion of pollutants from roadways, taking into account local meteorology,

¹ An updated AQTR was submitted in March 2018 to correct inconsistencies between the report technical tables and text. All results presented in the technical tables remained the same, only changes to the numbers presented in the text were made. This updated report did not include any additional analyses or calculations, nor did it change any conclusions presented in the October 2017 report.



elevation data, emissions source parameters, and basic building structure shapes; but it is not sophisticated enough to account for complex urban features. As described in Section 8.2 of the AQTR, "AERMOD does not have the capacity to account for flow interaction between multiple buildings or buildings of complex shape." Rather, AERMOD approximates building downwash for single simple-shaped buildings. In contrast to the AERMOD modeling, the CFD modeling directly simulates plume dispersion around the Project buildings, surrounding buildings, the elevated section of I-80, and other surrounding roadways. As such, it is appropriate to use a refined model for a project such as this to address the concerns raised by the Board of Supervisors in the 2009 CEQA appeal of a separate project on this site (BOS file no. 091254).

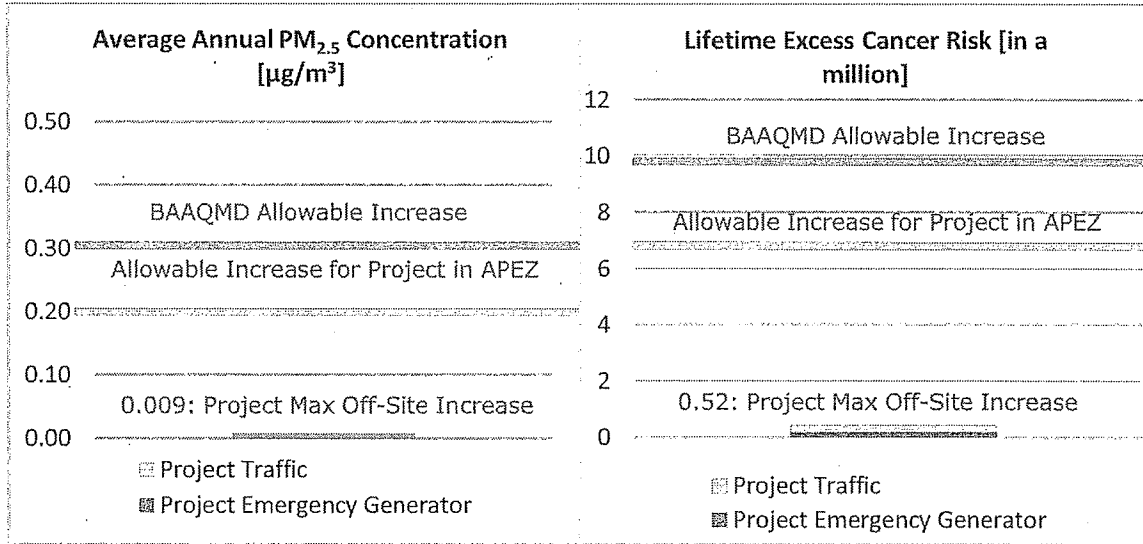
OFFSITE IMPACTS

Trinity incorrectly asserts that the Project is required to further assess and mitigate its PM_{2.5} emissions. The Project will not increase pollutant concentrations above the incremental project thresholds and already takes into account the significance standards relevant to areas with high existing pollutant concentrations.

For background on air quality thresholds, the project site is within an Air Pollution Exposure Zone ("APEZ"), due to its proximity to major freeways or other pollution sources that contribute to high existing health risks in excess of the San Francisco action levels. As shown in Table A of the AQTR, the incremental health risk thresholds for projects located in an APEZ are 7 in a million for excess lifetime cancer risk and 0.2 ug/m³ for average annual PM_{2.5} concentration. These thresholds are lower than thresholds for projects outside the APEZ of 10 in a million and 0.3 ug/m³, respectively. These higher thresholds are recommended by the Bay Area Air Quality Management District (BAAQMD) for use in CEQA analyses throughout their jurisdiction. The City and County of San Francisco have developed the lower thresholds to be more health protective in areas of the City which may experience higher exposure to pollution. The thresholds compared to in the AQTR account for the greater pre-project PM_{2.5} concentration and related health risks that are present in the APEZ. Further, under CEQA, the Project is not required to mitigate for existing conditions.

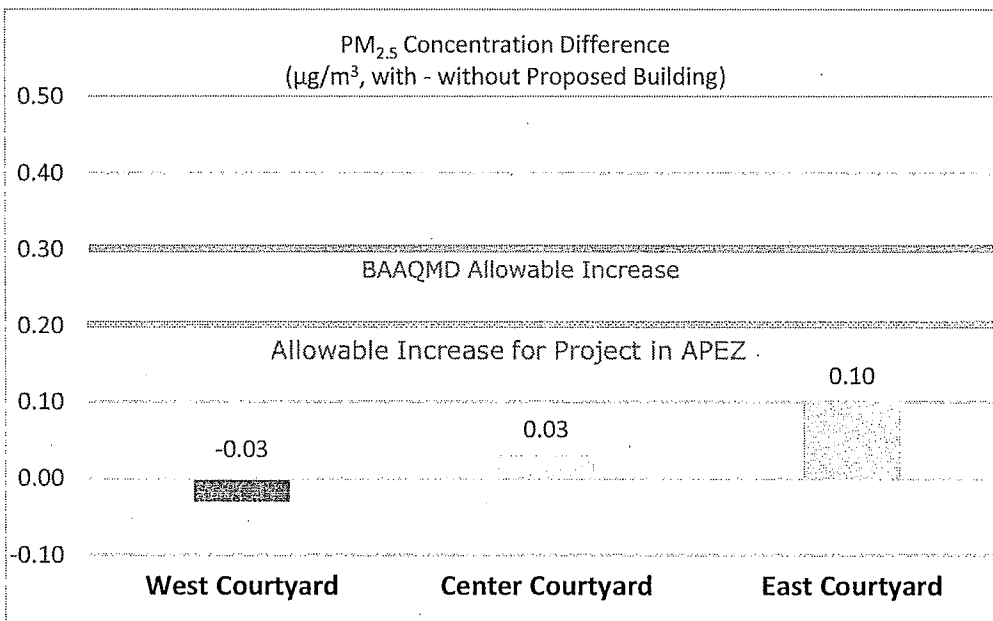
Analyses were conducted to determine whether the additional impact of the proposed Project emissions to off-site and on-site receptors would exceed these incremental thresholds. As shown in Tables 8 through 11 of the AQTR, the maximum cumulative cancer risk and PM_{2.5} concentrations from traffic plus emergency generator operations were 0.52 in a million and 0.0093 ug/m³, respectively. These maximum impacts are far below the thresholds and are therefore not considered to significantly impact health. Comparisons of the maximum Project impacts to the PM_{2.5} and cancer risk thresholds are shown in Figure 1.

Figure 1. (left) PM_{2.5} Thresholds and Maximum Project Impact. (right) Cancer Risk Thresholds and Maximum Project Impact.



CFD modeling was performed to further visualize the potential impacts of the proposed building on existing traffic emissions dispersion in response to the 2009 CEQA appeal of a previous project on the project site. As shown in Table 13 of the AQTR, the maximum increase in PM_{2.5} concentration in any of the neighboring courtyards due to the building placement was 0.1 ug/m³. This increase would also be well below the threshold of 0.2 ug/m³, as shown in Figure 2.

Figure 2. CFD Modeling Results





CONSTRUCTION IMPACTS

Trinity asserts that a construction air quality analysis is needed to complete CEQA requirements, even though construction impacts for the Proposed Project have already been analyzed in the Rincon Hill Plan and these impacts will be discussed further in the Community Plan Exemption.

The Rincon Hill Plan EIR includes a discussion of air quality impacts from construction that applies to this project. It also identifies mitigation measures that can be implemented on a project-specific basis. Potential construction impacts, Project compliance, and mitigation measures from the Rincon Hill Plan EIR are expected to be discussed in detail in the Project's CEQA determination document.

DIESEL PARTICULATE MATTER

Trinity incorrectly asserts that acute health impacts should have been evaluated for components of diesel exhaust for the emergency generator, in contradiction to BAAQMD recommendations and practice.

The analysis presented in the AQTR quantified the cancer risk and chronic hazard index impacts due to the proposed rooftop diesel emergency generator. While the OEHHA guidance does present a methodology to quantify the acute health impacts by speciating diesel exhaust, the OEHHA guidance does not require the evaluation of acute health impacts, and the circumstances of the project here do not warrant it because a single emergency diesel generator is not expected to be a significant source of pollutants with acute health impacts.

Furthermore, BAAQMD states "diesel exhaust particulate matter should be used as a surrogate for all TAC emissions from diesel-fueled compression-ignition internal combustion engines" (BAAQMD Rule 2-5). There is currently no acute non-cancer toxicity value available for diesel exhaust particulate matter. In addition, before operating the diesel generator, the applicant must comply with BAAQMD permitting requirements, which include a health risk analysis and permit conditions set to ensure health standards are met.

PROJECT TRAFFIC IMPACTS

Trinity incorrectly concludes that an analysis of Project traffic emissions and impacts using 2014 and 2017 data is warranted, even though the Proposed Project risk results are well below thresholds using a conservative screening approach.

The Proposed Project is expected to generate just 263 net new trips per day, which is well below the threshold of 10,000 trips per day to be considered a low-impact source (BAAQMD, 2017) (see Section 3.1.2 of the AQTR). BAAQMD only requires an evaluation of health risks for roads with 10,000 or more trips per day.

Nevertheless, a screening analysis was performed using the BAAQMD Roadway Screening Calculator, which is a BAAQMD-developed tool for use in CEQA analyses. The Calculator uses emission factors for the County for calendar year (CY) 2014 from EMFAC2011. These factors could be updated to use either factors from the current USEPA-approved model EMFAC2014, or the newest ARB model EMFAC2017. In addition, the factors could be adjusted to more accurately represent the health risks at project buildout in year 2020 rather than 2014. To test this potential refinement, Ramboll ran EMFAC2011 for San Francisco County and CY 2014 (as used in the current BAAQMD Roadway Screening Calculator) and compared to results from EMFAC2014 and EMFAC2017 for CY 2020 (representative of conditions for an updated Screening Calculator). As shown in Table 1 below, using the more up-to-date emission factors would actually reduce the cancer risk and PM_{2.5} concentrations from that reported in the AQTR. Thus, again, the results in the AQTR are conservative (i.e., worst case).



Table 1. Reduction of Emissions Factors for Project Buildout Year (2020) with Newer EMFAC vs BAAQMD Screening Tool Default (EMFAC2011 for Year 2014)

Pollutant	Reduction Using EMFAC2014	Reduction Using EMFAC2017
PM2.5	-16%	-22%
PM10	-62%	-66%
TOG (exhaust)	-88%	-83%
TOG (evaporative)	-28%	-22%

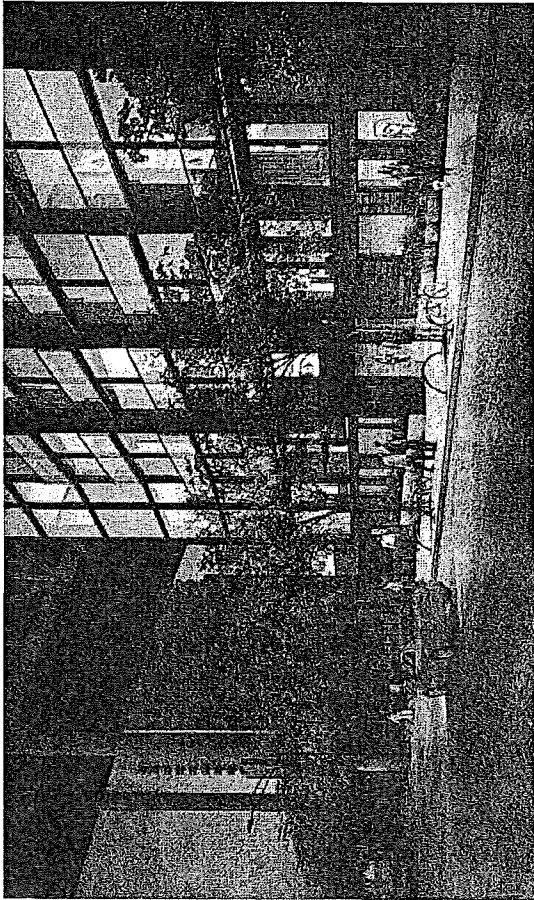
As shown in Table 7 of the AQTR, the traffic analysis resulted in a total lifetime excess cancer risk of 0.32 in a million and a PM_{2.5} concentration of 0.0091 ug/m³ at the maximum exposed off-site receptor. This analysis could be refined to more specifically model emissions and dispersion at the Project site; however, as shown in the table above, this would only reduce estimated impacts further. Therefore, since results are already well below significance thresholds, a more refined analysis is not required.

METEOROLOGICAL DATA

Trinity incorrectly asserts that the use of the meteorological data approved by the District for use in the citywide San Francisco Community Risk Reduction Plan likely would not satisfy the 2015 OEHHA Guidelines.

Section 4.1.3.1 of the AQTR describes the selection of meteorological data for use in AERMOD modeling. A single year of data from Mission Bay was used to be consistent with the data used in the SF CRRP. The 2015 OEHHA Guidance states "...the District may determine that one year of representative meteorological data is sufficient to adequately characterize the facility's impact" (OEHHA, 2015, p. 4-28). The SF CRRP methodology was developed in partnership with the Air District and thus they have approved of the use of the meteorological data used.

EXHIBIT D



430 MAIN STREET / 429 BEALE STREET AIR QUALITY ANALYSIS



430 MAIN AIR QUALITY ANALYSIS
MARCH 19, 2018

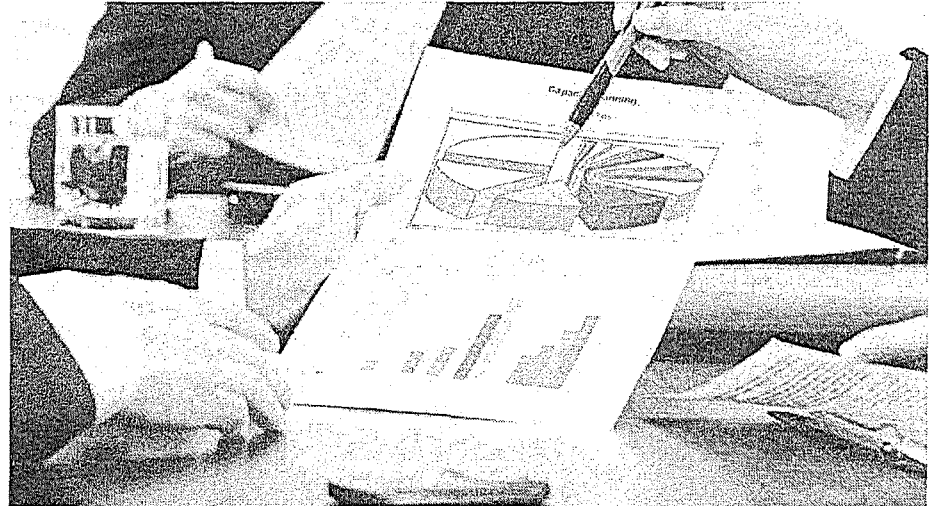
DISCUSSION OUTLINE

Who we are

Analyses conducted

Results

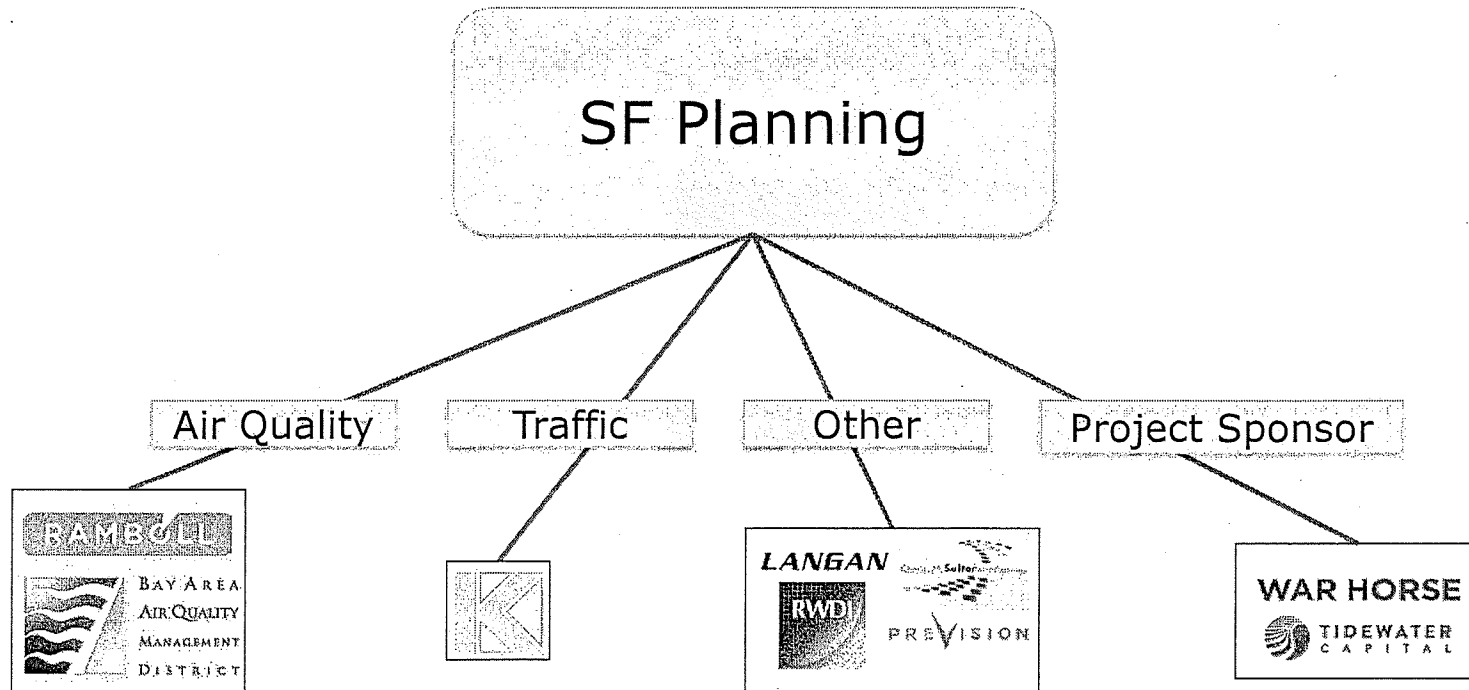
Questions



2967



PROJECT STRUCTURE, OUR ROLE



2968



WHO WE ARE

RAMBOLL AT A GLANCE

- Leading engineering, design, and consultancy employing 13,000 experts.
- 2,100 experts in Environment & Health
- Our Northern California offices form the largest **Air Quality and Climate Change** center of excellence within the firm



13,000 EXPERTS
300 OFFICES
35 COUNTRIES



SAN FRANCISCO EXPERTISE

- Work with the SF Planning Department, SF Department of Public Health and the Bay Area Air Quality Management District (BAAQMD) to develop the technical analyses to delineate the Air Pollution Exposure Zones (APEZ)
- Prior Air Quality and Health Risk Evaluations conducted in San Francisco include:
 - Candlestick Point-Hunter's Point Shipyard Phase II;
 - 34th America's Cup (AC34) and James R. Herman Cruise Terminal;
 - Golden State Warriors Chase Center; and
 - Forest City's Pier 70
 - Central SOMA

ANALYSES CONDUCTED

Task 1: CEQA Analyses

Required

Evaluation of Potential **Health Risk Impacts** (Cancer Risk, PM_{2.5} Concentrations) from Project (Traffic & Operation of Emergency Generator)

Results: Project impacts are a **small fraction** of allowable increase.

Task 2: Building Downwash Analysis

Per Community Request

Refined Building Downwash Analysis to Evaluate PM_{2.5} Concentrations in Nearby Courtyards

Results: All modeled changes in Courtyards are **significantly below** allowable increases.

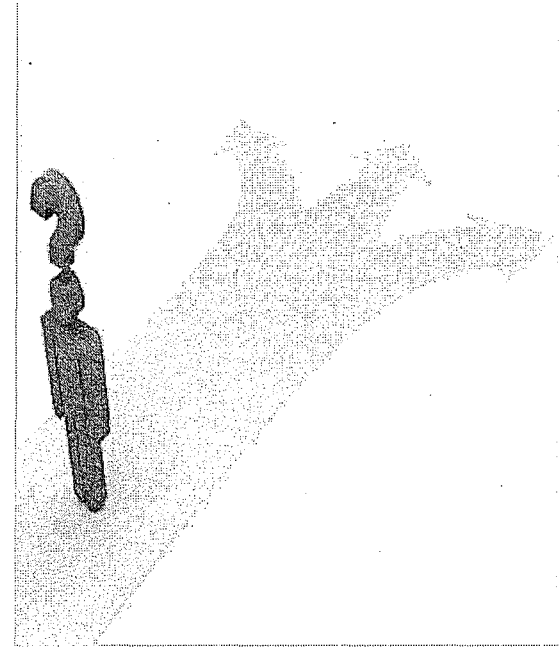
2970



HEALTH RISK ASSESSMENT - WHAT IS IT?

Designed to be health protective and protect the community.

- Questions to answer:
 - What chemicals?
 - What concentrations?
 - How much are people exposed to?
 - What are the possible health effects?
- Intended to be very conservative, meaning **health protective**.
- Designed to **protect the community** as a whole, as well as the individual.



HEALTH RISK ASSESSMENT - ASSUMPTIONS

Results conservatively determined based on the most vulnerable population.

Most sensitive populations (infants, children)

24 hours/day, 7 days/week

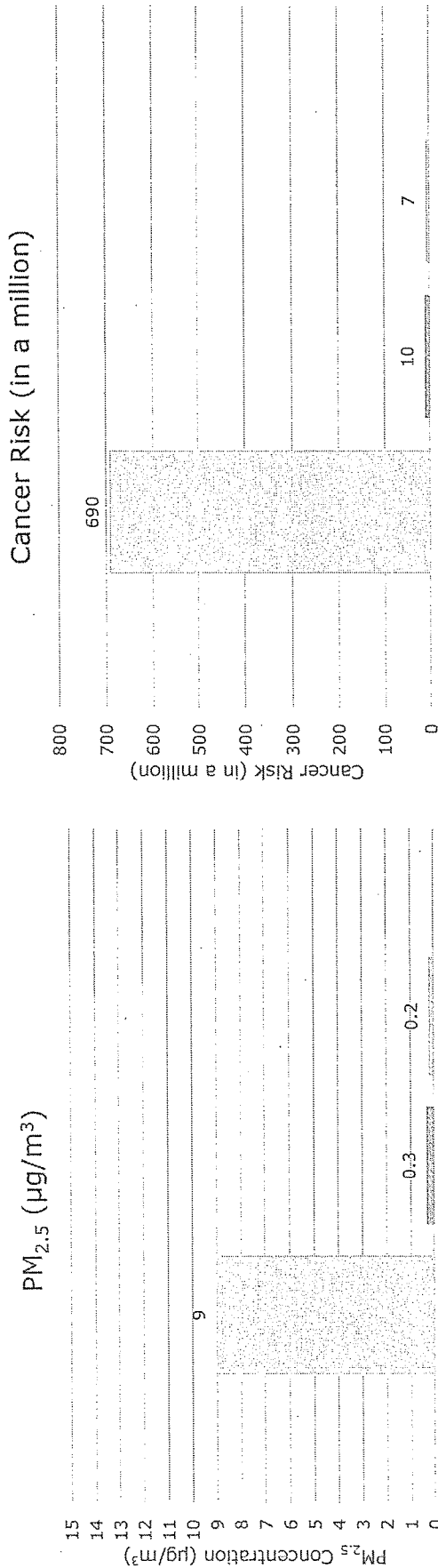
High-end breathing rates

100% outdoor exposure



HEALTH RISK ASSESSMENT - THRESHOLDS

Health protective incremental thresholds are a tiny fraction of existing conditions.



Incremental thresholds are a small fraction of existing conditions and are designed to be health protective and de minimis

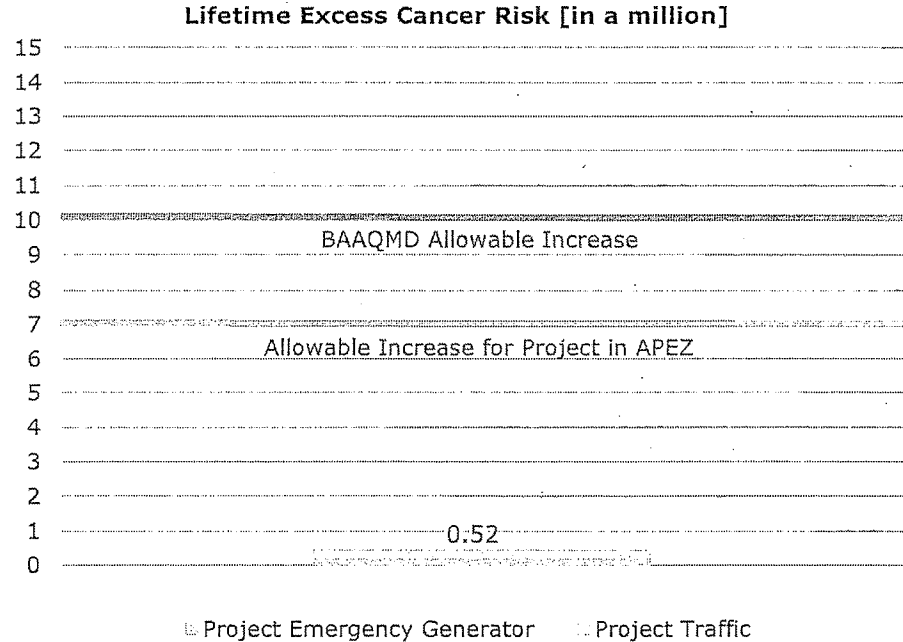
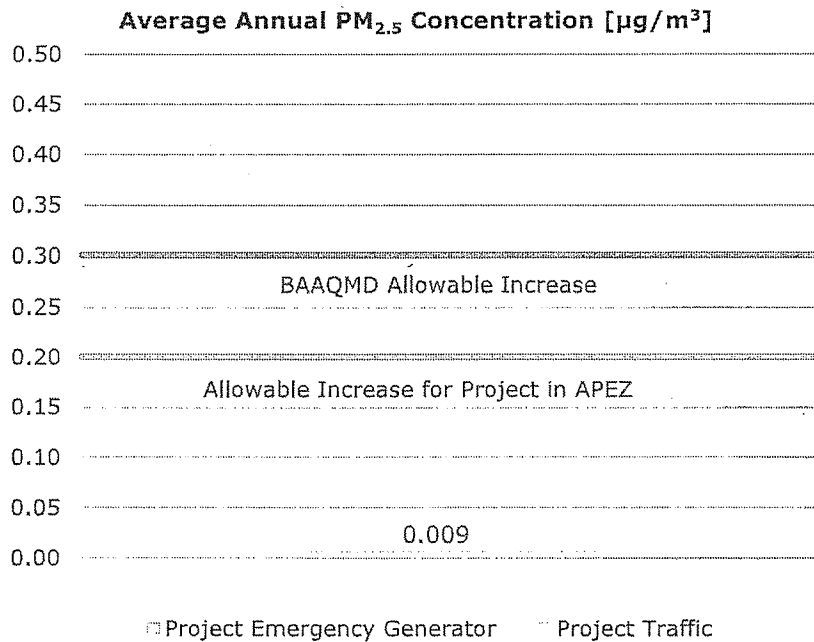
*Existing conditions shown here represent cancer risk and PM_{2.5} concentrations from existing sources and do not include potential Project impacts.

APEZ = Air Pollution Exposure Zone
 BAAQMD = Bay Area Air Quality Management District
 Cancer risk = risk of contracting cancer over a 70-year lifetime
 µg/m³ = micrograms per cubic meter
 PM_{2.5} = fine particulate matter (less than 2.5 microns in diameter)
 SF = San Francisco
 Threshold = insignificant increase above background



HEALTH RISK ASSESSMENT - RESULTS

Project impacts are a small fraction of health protective allowable increases.



Project impacts are a small fraction of allowable increases.

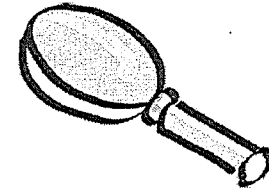
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DOWNWASH ANALYSIS – PREVIOUS STUDY

Current analysis is much more sophisticated and appropriate for this site.

- Trinity Consultants, Inc. completed a **screening-level analysis** (in 2009) of a previously proposed project
 - Model selection: AERMOD (USEPA dispersion model)
 - Trinity report, "Model may **not** accurately assess the effects of the individual wind patterns created by high-rise structures..."
 - **Qualitative conclusions** showed *possibility* of increased PM_{2.5} concentrations in courtyards and recommended more **comprehensive air dispersion study** to quantify actual PM_{2.5} changes due to downwash
 - → **Comprehensive air dispersion study now completed and results presented in following slides**

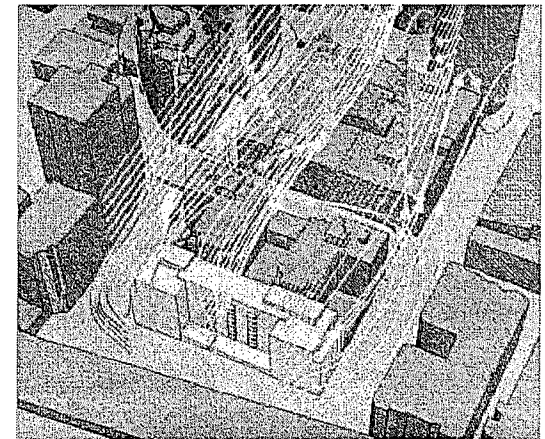
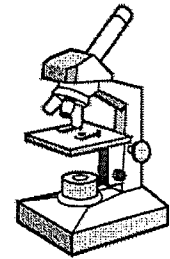


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DOWNWASH ANALYSIS – REFINED STUDY

SF Planning determined CFD modeling is the most appropriate method for addressing downwash.

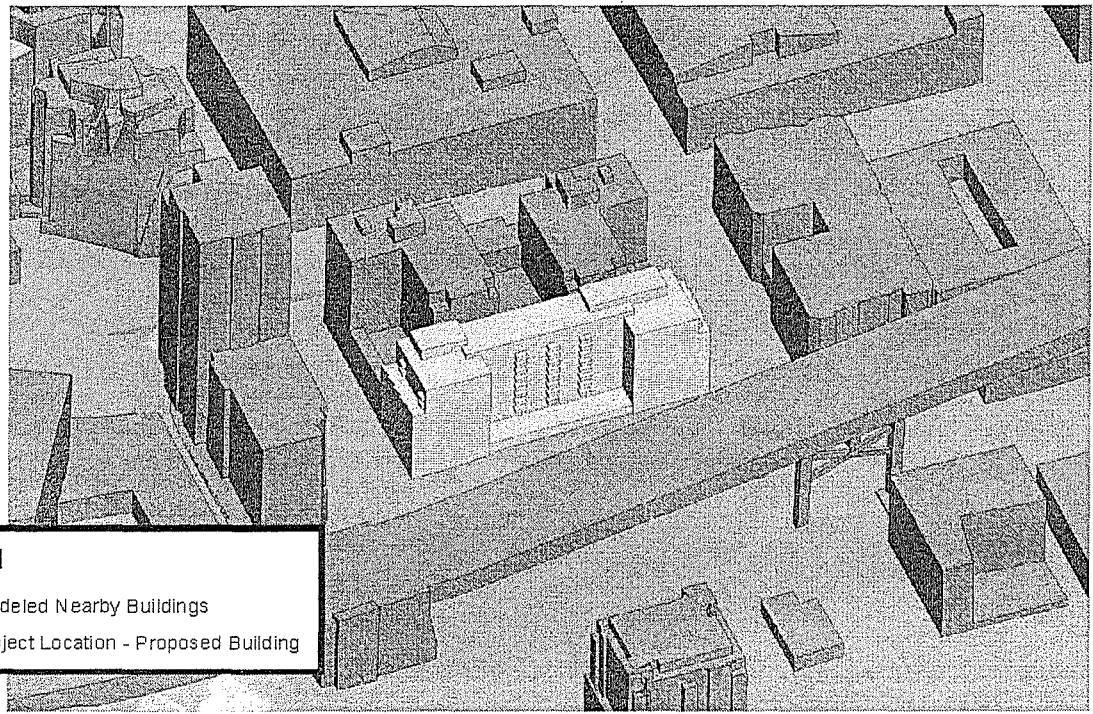
- Model Selection: Atmospheric Computational Fluid Dynamics (CFD) model
 - True scale 3D model of surrounding buildings, topography, and structures
 - **SF Planning & BAAQMD determined this is the most appropriate model** for the building configurations seen here
- Evaluated how proposed building affects airflow and pollutant concentrations in outdoor courtyards of BayCrest Towers.
- PM_{2.5} impacts from traffic on nearby roadways were evaluated pre- and post- building construction
 - **SF Planning determined this was the best approach to answering the questions posed in the Trinity Report.**



2976

3D MODEL - PROPOSED BUILDING

True scale 3D model of surrounding buildings, topography, and structures.



Legend

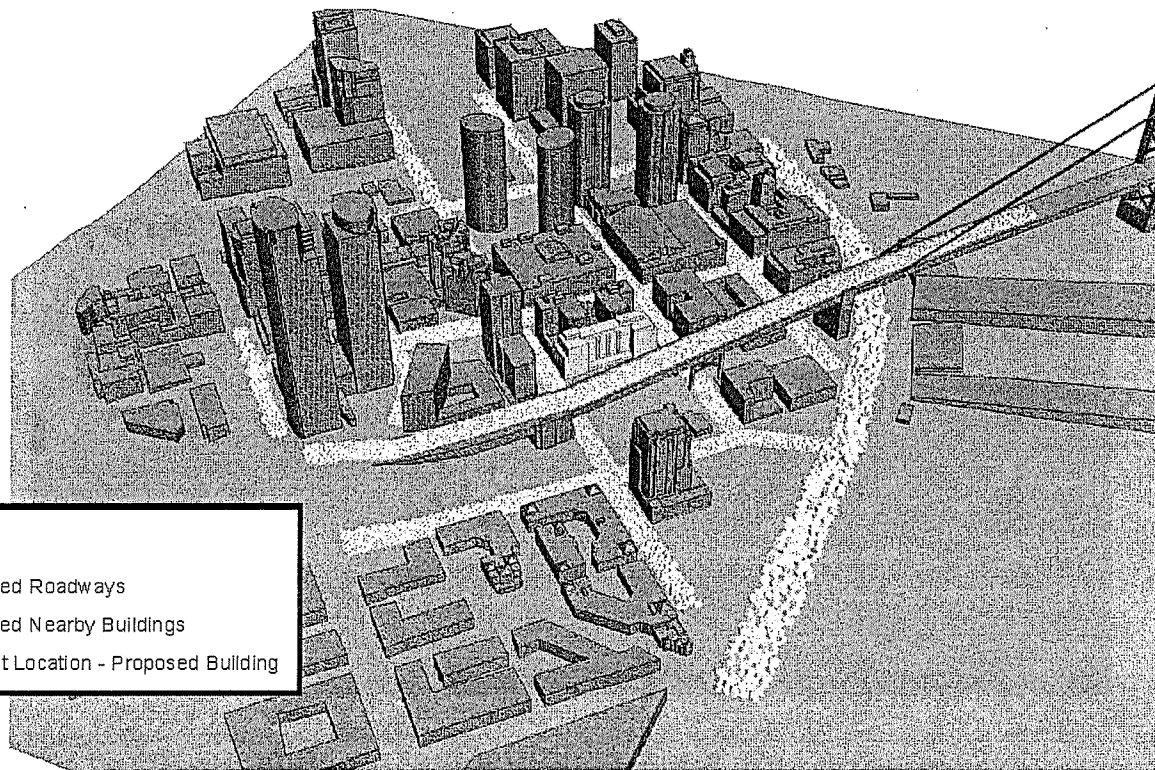
- Modeled Nearby Buildings
- Project Location - Proposed Building

2977



3D MODEL – TRAFFIC EVALUATED

Traffic evaluated from all surrounding roadways.



Legend

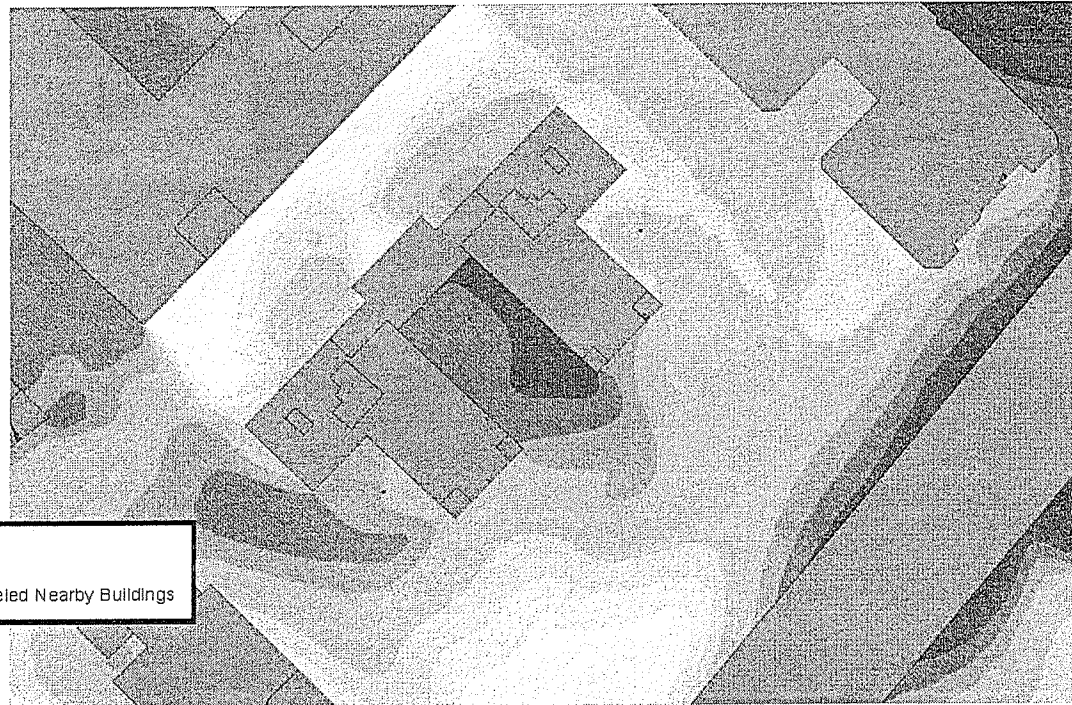
- Modeled Roadways
- Modeled Nearby Buildings
- Project Location - Proposed Building

2978

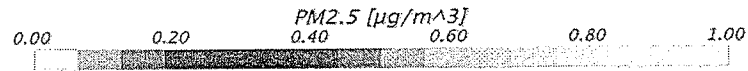


ANALYSIS RESULTS – CURRENT CONDITIONS

Below illustrates the current conditions in the immediate area.



Legend
Modeled Nearby Buildings

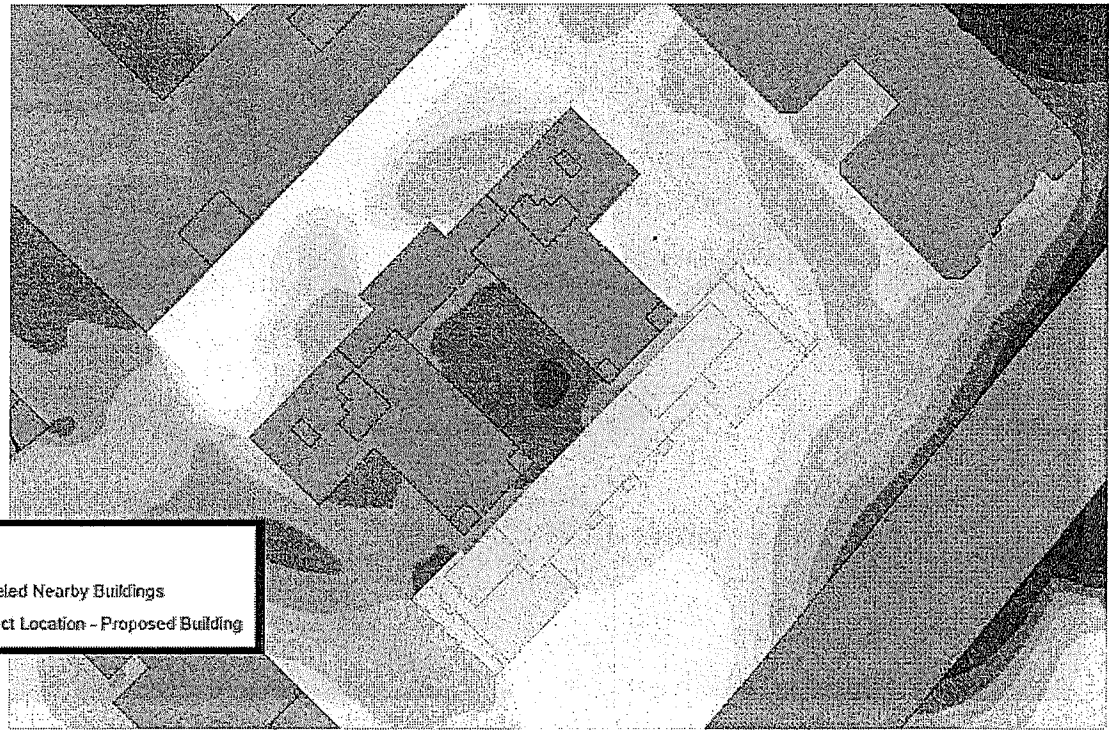


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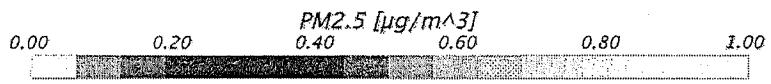
ANALYSIS RESULTS – PROPOSED PROJECT

Below illustrates the projected conditions in the immediate area with the proposed project.



Legend

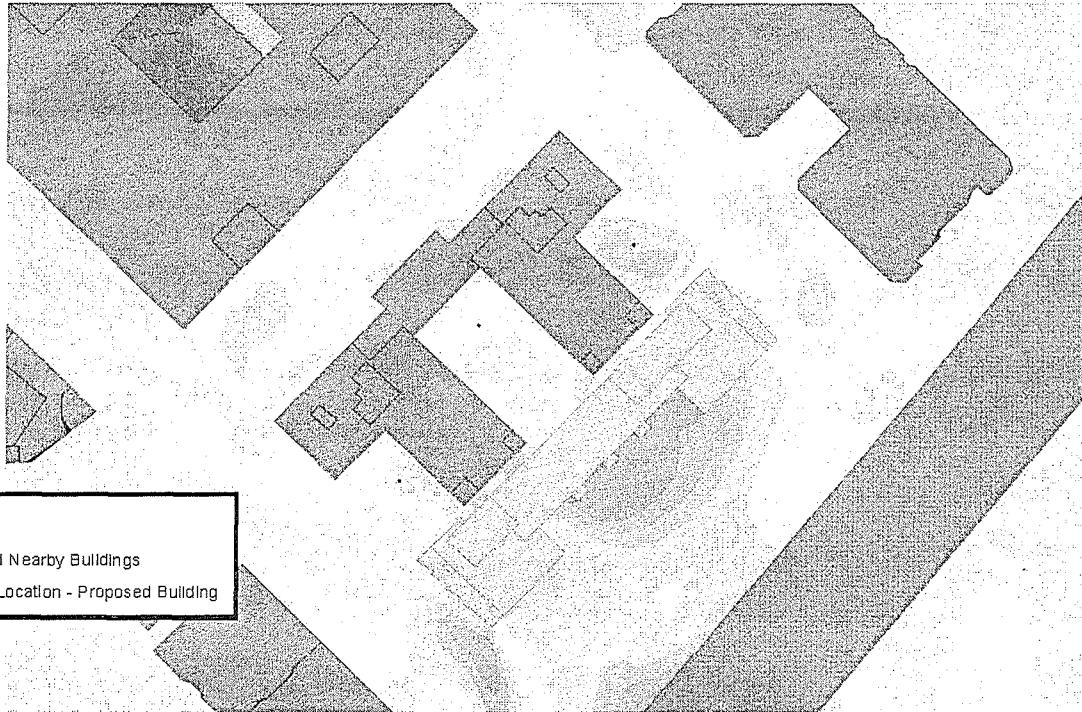
- Modeled Nearby Buildings
- Project Location - Proposed Building



2980

ANALYSIS RESULTS – CURRENT VS. PROPOSED

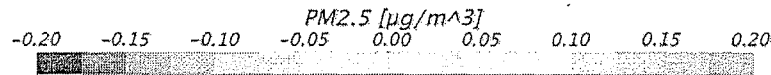
All changes in courtyards are significantly below health protective threshold.



All modeled changes in Courtyards are **significantly below** health protective threshold

Legend

- Modeled Nearby Buildings
- Project Location - Proposed Building



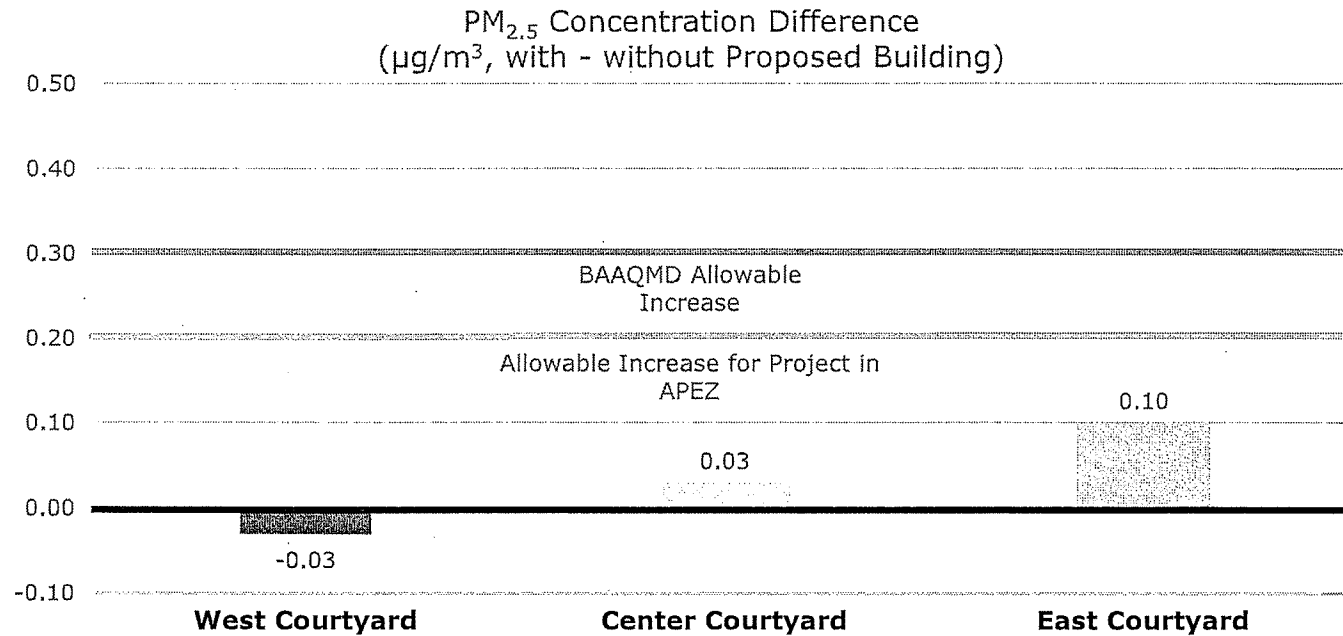
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ANALYSIS RESULTS – PROJECTED CHANGE

Project impacts are significantly below health protective incremental limits.

Average Annual PM_{2.5} Concentration (µg/m³)



Project impacts are **significantly below** limits, which are **health protective and de minimis**

Modeled changes average 0.35% of existing conditions: a **small fraction**

West Courtyard experiences an **improvement in Air Quality**

2982



QUESTIONS?

Michael Keenathy, PE

Principal

mike.keenathy@ramboll.com

415.796.1934

Taylor Vencill, PE

Managing Consultant

tvencill@ramboll.com

415.426.5017

RAMBOLL

From: BOS Legislation, (BOS)
To: danemince@yahoo.com; Mark H. Loper
Cc: GIVNER, JON (CAT); STACY, KATE (CAT); JENSEN, KRISTEN (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Gibson, Lisa (CPC); Jain, Devyani (CPC); Rodgers, AnMarie (CPC); Sider, Dan (CPC); Starr, Aaron (CPC); Navarrete, Joy (CPC); Lynch, Laura (CPC); Ionin, Jonas (CPC); Vu, Doug (CPC); Li, Michael (CPC); Calvillo, Angela (BOS); Somera, Alisa (BOS); BOS-Supervisors; BOS-Legislative Aides; BOS Legislation, (BOS)
Subject: HEARING NOTICE: Appeal of CEQA Community Plan Evaluation - 429 Beale Street and 430 Main Street - Appeal Hearing on July 31, 2018
Date: Tuesday, July 17, 2018 9:35:30 AM
Attachments: [image001.png](#)

Good morning,

The Office of the Clerk of the Board has scheduled a hearing for Special Order before the Board of Supervisors on **July 31, 2018, at 3:00 p.m.**, to hear an appeal of the Community Plan Evaluation under CEQA for the proposed project at 429 Beale Street and 430 Main Street.

Please find the following link to the hearing notice for the matter.

[Public Hearing Notice - July 17, 2018](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180697](#)

Regards,

Brent Jalipa

Legislative Clerk

Board of Supervisors - Clerk's Office

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

(415) 554-7712 | Fax: (415) 554-5163

brent.jalipa@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

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 appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

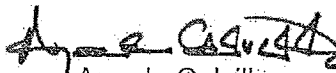
Date: Tuesday, July 31, 2018

Time: 3:00 p.m.

Location: Legislative Chamber, City Hall, Room 250
1 Dr. Carlton B. Goodlett, Place, San Francisco, CA 94102

Subject: File No. 180697. Hearing of persons interested in or objecting to a Community Plan Evaluation by the Planning Department under the California Environmental Quality Act on March 19, 2018, for the proposed project at 429 Beale Street and 430 Main Street, approved on May 24, 2018, to merge two existing lots into a single 18,906-square-foot lot, demolishing existing buildings, and constructing a nine-story, 84-foot-tall building containing 144 dwelling units and 73 parking spaces. (District 3) (Appellant: Dane M. Ince) (Filed June 25, 2018)

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, July 27, 2018.


Angela Calvillo
Clerk of the Board

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

PROOF OF MAILING

Legislative File No. 180697

Description of Items: Hearing - Appeal of Determination of Community Plan Evaluation - 429 Beale Street and 430 Main Street - 43 Notices Mailed

I, Brent Jalipa, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: July 17, 2018

Time: 9:47 am

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: *Brent Jalipa*

Instructions: Upon completion, original must be filed in the above referenced file.

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

July 2, 2018

File Nos. 1806⁹⁷-180700

Planning Case No. 2014-002033ENV

Received from the Board of Supervisors Clerk's Office Five Hundred Ninety Seven Dollars (\$597) in cash representing the filing fee paid by Dane M. Ince for the appeal of the CEQA Community Plan Evaluation for the proposed project at 429 Beale Street and 430 Main Street.

Planning Department

By:

Tomy Young
Print Name

[Signature] 7/2/18
Signature and Date

From: [BOS Legislation, \(BOS\)](#)
To: danemince@yahoo.com; Mark H. Loper
Cc: [GIVNER, JON \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Rahaim, John \(CPC\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Sider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Jonin, Jonas \(CPC\)](#); [Vu, Doug \(CPC\)](#); [Li, Michael \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: Appeal of CEQA Community Plan Evaluation - 429 Beale Street and 430 Main Street - Appeal Hearing on July 31, 2018
Date: Friday, June 29, 2018 4:13:47 PM
Attachments: [Image001.png](#)

Good afternoon,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on **July 31, 2018, at 3:00 p.m.** Please find linked below a letter of appeal filed for a proposed project at 429 Beale Street and 430 Main Street, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

[Community Plan Evaluation Appeal Letter - June 25, 2018](#)

[Planning Department Memo - June 29, 2018](#)

[Clerk of the Board Letter - June 29, 2018](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

[Board of Supervisors File No. 180697](#)

Regards,

Brent Jalipa

Legislative Clerk

Board of Supervisors - Clerk's Office

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

(415) 554-7712 | Fax: (415) 554-5163

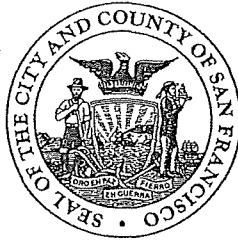
brent.jalipa@sfgov.org | www.sfbos.org



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

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

June 29, 2018

Dane M. Ince
201 Harrison Street
San Francisco, CA 94105

**Subject: File No. 180697 - Appeal of CEQA Exemption Determination -
429 Beale Street and 430 Main Street Project**

Dear Mr. Ince:

The Office of the Clerk of the Board is in receipt of a memorandum dated June 29, 2018, from the Planning Department regarding their determination on the timely filing of appeal of the CEQA Exemption Determination for the proposed project at 429 Beale Street and 430 Main Street.

The Planning Department has determined that the appeal was filed in a timely manner (copy attached).

Pursuant to Administrative Code, Section 31.16, a hearing date has been scheduled for **Tuesday, July 31, 2018, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by noon:

20 days prior to the hearing: names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and

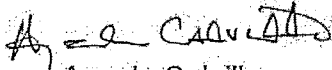
11 days prior to the hearing: any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and two copies of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalpa at (415) 554 7712, Lisa Lew at (415) 554-7718, or Jocelyn Wong at (415) 554-7702.

Very truly yours,


Angela Calvillo
Clerk of the Board

- c: Jon Givner, Deputy City Attorney
- Kate Stacy, Deputy City Attorney
- Kristen Jensen, Deputy City Attorney
- Scott Sanchez, Zoning Administrator, Planning Department
- Lisa Gibson, Environmental Review Officer, Planning Department
- Devyani Jain, Deputy Environmental Review Officer, Planning Department
- AnMarie Rodgers, Director of Citywide Planning, Planning Department
- Dan Sider, Director of Executive Programs
- Aaron Starr, Manager of Legislative Affairs, Planning Department
- Joy Navarrete, Environmental Planning, Planning Department
- Laura Lynch, Environmental Planning, Planning Department
- Jonas Jonin, Director of Commission Affairs, Planning Department
- Douglas Vu, Staff Contact, Planning Department
- Michael Li, Staff Contact, Planning Department



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: June 29, 2018

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Lisa Gibson, Environmental Review Officer *LJ*

RE: Appeal Timeliness Determination – 429 Beale Street and 430 Main Street Community Plan Evaluation; Planning Department Case No. 2014-002033ENV

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

On June 25, 2018, Dane M. Ince (Appellant) filed an appeal of the Community Plan Evaluation (CPE) for the proposed project at 429 Beale Street and 430 Main Street with the Office of the Clerk of the Board of Supervisors. As explained below, the appeal is timely.

Date of Approval Action	30 Days after Approval Action	Appeal Deadline (Must Be Day Clerk of Board's Office Is Open)	Date of Appeal Filing	Timely?
May 24, 2018	Saturday, June 23, 2018	Monday, June 25, 2018	Monday, June 25, 2018	Yes

Approval Action: On March 19, 2018, the Planning Department issued a CPE for the proposed project. The Approval Action for the project was Downtown Project Authorization by the Planning Commission, which occurred on May 24, 2018 (Date of the Approval Action).

Appeal Deadline: Sections 31.16(a) and (e) of the San Francisco Administrative Code state that any person or entity may appeal an exemption determination (including a CPE) to the Board of Supervisors during the time period beginning with the date of the exemption determination (including a CPE) and ending 30 days after the Date of the Approval Action. The 30th day after the Date of the Approval Action was Saturday, June 23, 2018. The next day when the Office of the Clerk of the Board of Supervisors was open was Monday, June 25, 2018 (Appeal Deadline).

Appeal Filing and Timeliness: The Appellant filed the appeal of the exemption determination on June 25, 2018, prior to the end of the Appeal Deadline. Therefore, the appeal is timely.

From: [BOS Legislation, \(BOS\)](#)
To: [Rahaim, John \(CPC\)](#)
Cc: [GIVNER, ION \(CAT\)](#); [STACY, KATE \(CAT\)](#); [JENSEN, KRISTEN \(CAT\)](#); [Sanchez, Scott \(CPC\)](#); [Gibson, Lisa \(CPC\)](#); [Jain, Devyani \(CPC\)](#); [Rodgers, AnMarie \(CPC\)](#); [Slider, Dan \(CPC\)](#); [Starr, Aaron \(CPC\)](#); [Navarrete, Joy \(CPC\)](#); [Lynch, Laura \(CPC\)](#); [Ionin, Jonas \(CPC\)](#); [Yu, Doug \(CPC\)](#); [Li, Michael \(CPC\)](#); [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [BOS-Supervisors](#); [BOS-Legislative Aides](#); [BOS Legislation, \(BOS\)](#)
Subject: Appeal of CEQA Exemption Determination - 429 Beale Street and 430 Main Street - Timeliness Determination Request
Date: Thursday, June 28, 2018 1:24:23 PM
Attachments: [Appeal Ltr 062518.pdf](#)
[CoB Ltr 062718.pdf](#)

Good afternoon, Director Rahaim:

The Office of the Clerk of the Board is in receipt of an appeal of the CEQA Exemption Determination for the proposed 429 Beale Street and 430 Main Street project. The appeal was filed by Dane M. Ince, on June 25, 2018.

Please find the attached letter of appeal and timely filing determination request letter from the Clerk of the Board.

Kindly review for timely filing determination.

Best Regards,

Jocelyn Wong

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

T: 415.554.7702 | F: 415.554.5163

jocelyn.wong@sfgov.org | www.sfbos.org

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

June 27, 2018

To: John Rahaim
Planning Director

From: *ACC* Angela Calvillo
Clerk of the Board of Supervisors

Subject: **Appeal of California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review - 429 Beale Street and 430 Main Street**

An appeal of the CEQA Determination of Exemption from Environmental Review for the proposed project of 429 Beale Street and 430 Main Street, was filed with the Office of the Clerk of the Board on June 25, 2018, by Dane M. Ince.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, Lisa Lew at (415) 554-7718, or Jocelyn Wong at (415) 554-7702.

c: Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
Devyani Jain, Deputy Environmental Review Officer, Planning Department
AnMarie Rodgers, Director of Citywide Planning, Planning Department
Dan Sider, Director of Executive Programs
Aaron Starr, Manager of Legislative Affairs, Planning Department
Joy Navarrete, Environmental Planning, Planning Department
Laura Lynch, Environmental Planning, Planning Department
Jonas Ionin, Director of Commission Affairs, Planning Department
Douglas Vu, Staff Contact, Planning Department
Michael Li, Staff Contact, Planning Department

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; BOS Legislation, (BOS)
Subject: FW: Attention: To Board of Supervisors/Public Testimony
Date: Thursday, July 26, 2018 5:14:50 PM

From: Genny Lim [mailto:gennyeshel@gmail.com]
Sent: Wednesday, July 25, 2018 4:19 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Attention: To Board of Supervisors/Public Testimony

re: File No. 180697

Dear Board Members:

I am unable to appear at the hearing for this case on July 31st as I will be out of the country. Nonetheless, I wish to protest the approved construction of the proposed project at 429 Beale Street and 430 Main Street. There are several critical reasons for not proceeding with this 18,906 sq.ft., nine story condominium building on these two major access streets to and from the SF Bay Bridge and major freeway arteries.

1) Congestion on Beale and Main Streets are presently so severe that there are literally only a window of several hours a day when there is relatively little traffic. The queue of cars trying to get onto the Bay Bridge on ramp during peak commute typically crawls to a stand still and vehicles often get so irate they jump the line and cross over into oncoming traffic just to escape. Residents on Beale are rendered virtual hostages, because it is nearly impossible to get in or out of the garage during these times. At one time Beale Street was closed to traffic on Bryant. Now that they unsealed the Bryant Street entrance to the bridge there are cars queuing up and down this narrow one lane coming and going corridor all day long. With the added cars that will be accessing Beale and Main Streets this will only add to the chaos and danger at present.

2) We are told that the rear of the condominium with its garage and trash dumpsters, will face Beale. This will pose an additional health problem on this narrow street which already experiences garbage overflow and infestation of flies and vermin onto the sidewalks and streets, made worse by homeless people picking through the refuse. The unsightly row of dumpsters along Beale Street is nothing short of revolting and can only get worse with the rise of yet another condo in an already overdeveloped area.

3) The 9-story building will block the sunlight and view along the Embarcadero for many. My 4th floor unit directly faces the Condo. This will definitely lower my property value and make my unit hard to sell or rent. Other units are already selling because the quality of life has been so drastically compromised by the overbuilding on our street, both in front and back of the Bridgeview.

4) These condos springing up like weeds all over the city for mega-profits do not address the affordable housing crisis. Long time residents are moving out of the city, selling their units or renting them to predominantly young, high tech workers from overseas. The demographics of my building has changed drastically from middle class families to singles working in the

booming Tech industries. They are not a stable population invested in building community or in the future of our city. They are a mobile class of workers who go wherever the opportunities lie.

Finally, if you, the Board of Supervisors want to make good on your campaign promises to make San Francisco a more liveable, affordable and vibrant city where families and residents of all ages can survive in and enjoy, I urge you to stop the transformation of our neighborhoods into urban prisons for working and middle class families and expensive playgrounds for the rich!

Sincerely yours,
Genny Lim,
Poet and Playwright,
San Francisco Native and Resident
400 Beale St., #411
San Francisco, CA. 94105

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning: "Supervisor: [redacted] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [redacted] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [redacted]
- 9. Reactivate File No. [redacted]
- 10. Topic submitted for Mayoral Appearance before the BOS on [redacted]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Appeal of Determination of Community Plan Evaluation - 429 Beale Street and 430 Main Street

The text is listed:

Hearing of persons interested in or objecting to a Community Plan Evaluation by the Planning Department under the California Environmental Quality Act on March 19, 2018, for the proposed project at 429 Beale Street and 430 Main Street, approved on May 24, 2018, to merge two existing lots into a single 18,906-square-foot lot, demolishing existing buildings, and constructing a nine-story, 84-foot-tall building containing 144 dwelling units and 73 parking spaces. (District 3) (Appellant: Danë M. Ince) (Filed June 25, 2018).

Signature of Sponsoring Supervisor:

Alia Gomez

For Clerk's Use Only