

File No. 100790<sup>\*</sup>

Committee Item No. \_\_\_\_\_  
Board Item No. 62

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date 06/29/10

**Cmte Board**

- Motion
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- Budget Analyst Report
- Legislative Analyst Report
- Introduction Form (for hearings)
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

**OTHER**

(Use back side if additional space is needed)

Appeal of Certification of Final Environmental Impact Report  
for 260 5th Street

Completed by: Joy Lamug

Date 06/24/10

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

Date \_\_\_\_\_

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



RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2010 JUN -9 PM 2:22  
BY [signature]

June 9, 2010

Board of Supervisors  
Legislative Chamber, Room 250  
City Hall, 1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

*Re: EIR appeal to 900 Folsom Street and 260 Fifth Street*

Dear Board of Supervisors,

We thank you for your support in passing the Youth and Family SUD in the Eastern Neighborhood plan in 2008. The Youth and Family Zone represents our best thinking about how to develop a comprehensive community plan to ensure that San Francisco land use policies addresses the stark statistic of having the lowest number of children of any American city. One of the goals of the **South of Market (SoMa) Youth and Family Zone Special Use District (SUD)** is intended to **protect and enhance the health and environment of youth and families.**

Since 2008, SOMCAN, including our constituents, and the SoMa Community Coalition (SCC) voiced criticisms about the 900 Folsom Street and 260 - 5th Street project because it does not meet the intent of the SoMa Youth and Family Zone SUD. Though the plan has come a long way, there are still significant issues that our constituents and community are very concerned about. On May 20, 2010, we raised our community concerns one last time at the Planning Commission, and, although the Commissioners raised significant points, especially regarding parking and traffic impacts, they still certified the Final EIR with only minor conditions. We hope through your leadership, you will address our issues by accepting our EIR appeal.

Below are list of our concerns with the project:

**Almost 1:1 Parking**

Creating "transit-oriented housing opportunities" is so much bunk for a project that exceeds the 1:4 parking ratio and instead seeks to maximize it. This is particularly true for a site with close access to freeway ramps for the Bay Bridge, southbound 1-280, and southbound 1-101. This is an auto-oriented project at an auto-accommodating site. The excessive amount of parking included in this project (221 parking spaces) is necessitated by the type of residents that this project intends to target: young upscale singles that will commute to the Silicon Valley for work and have the excess income that allows them to live in a trendy South of Market neighborhood.

It is best to have a project that will increased access to good transit along a two-way Folsom Street. The addition of the new Central Subway which is one block away (situated a short distance from Caltrain) and within walking distance of Market Street all make this an ideal location for a transit-friendly project.

*From EIR Response:* As shown in Table B-5, Proposed Project Trip Generation by Mode – Weekday PM Peak Hour, the proposed project would generate 99 inbound and 66 outbound vehicle-trips during the weekday PM peak hour, a total of 165 trips to and from the project site. About 165 trips to and from the project site in one hour translates to about three vehicle trips per minute during the weekday PM peak hour. As stated on p. 62 of DEIR, 55 trips are currently generated by the existing parking use on the project site and 110 of the 165 trips would, therefore, be new vehicle trips.

### **Facilities for youth & children within Youth & Family Zone**

The genesis of the Youth & Family Zone was a recognition of the many families that live in SOMA, in housing in the alley enclaves as well as in existing and planned family affordable housing developments in and near the zone. The SUD plan area, and Folsom Street in particular, is bounded by a new elementary school and a middle school on either end (Bessie 1 and 2), a major new park, and a recreation center, as well as a number of youth-serving organizations such as SOMCAN, United Playaz, and Oasis for Girls. These community organizations led the campaign to create the Youth & Family Zone.

The stated goal of the SUD is to "enhance the health and environment of youth and families" in the area. The community's expectation is that new development within the zone should be designed to achieve the goal of enhancing the health and environment for youth and families, which might be expressed in the proposed ground floor uses and design, mid-block alley design, street enhancements, etc.

- a. *Lack of children's play area:* There are no plans for a playground or other youth activity areas within either project.
- b. *Use of Pass-through for youth activities:* The required mid-block pass-through, should be designed and have activities programmed to serve youth, children, and families, per Youth & Family SUD goals.
- c. *Use of Ground Floor Retail for youth activities:* Of the 14,320 gross sq ft of Common space at 260 - 5th Street, how much is devoted to Youth Activities and how much to adult? Where the project faces a major corridor that community members have been fighting to make safe for youth and families, the commercial frontage should be required to provide youth-serving spaces and amenities.

### **Amount of Ground Floor Retail**


Project should emulate the block of Folsom Street immediately to the east which included a vibrant mix of restaurants, retail and commercial establishments. The contrast between the side of Folsom Street with the dead frontage of Yerba Buena Lofts to the south is clear: new development should not be allowed to destroy the pedestrian experience again. Project sponsor claims that commercial brokers caution against putting commercial uses along Folsom Street. They ignore the recommendations of the South of Market Redevelopment Project Area Committee, the Eastern Neighborhoods Plan, the Western SoMa Plan, the Rincon Area Plan, numerous neighborhood associations and the SoMa Leadership Council. Major resources are about to be poured into the Folsom Street corridor to create a pedestrian-friendly transit-oriented ceremonial center to the community that ties together the entire South of

Market, yet this project intends to create a blank wall along half the block. the developer wishes to exploit the additional 5' in allowable height (85' instead of a maximum allowed via CU of 80'), while at the same time not really using the space as intended for ground floor commercial use (commented by Jim Meko, September 18, 2009)

Note Eastern Neighborhoods Mixed Use – Residential (MUR): "as a buffer between the higher density, predominantly commercial area of Yerba Buena Center to the east and the lower-scale, mixed use service/industrial and housing area west of Sixth Street...The district is again designed to encourage the expansion of neighborhood commercial, retail, business service and cultural arts activities. Continuous ground floor commercial frontage with pedestrian-oriented retail activities along major thoroughfares is encouraged."

We spoke about our issues by writing letters, speaking at hearings and meeting with the developer, but our concerns have still not been address. Additional environmental analysis and citizen's review needs to be done, especially around parking impacts and lack of open space. We hope through your leadership you will hear our concerns and we ask you to please accept our EIR appeal.

Thank you,

  
Angelica Cabande  
SOMCAN  
Organizational Director



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Motion 18087

HEARING DATE: May 20, 2010

**Case No.:** 2007.0690E  
**Project Address:** 260 Fifth Street  
**Zoning:** Mixed Use - Residential (MUR) District  
85-X Height and Bulk District  
**Block/Lot:** 3732/008  
**Project Sponsor:** AGI Capital Group  
100 Bush Street, 22<sup>nd</sup> Floor  
San Francisco, CA 94104  
**Staff Contact:** Brett Bollinger – (415) 575-9024  
brett.bollinger@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

### ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED MIXED-USE PROJECT AT 260 FIFTH STREET WITH 179 DWELLING UNITS, 5,173 SQUARE FEET OF RETAIL USE, AND 133 PARKING SPACES.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2007.0690E, 260 Fifth Street (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
  - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on June 11, 2008.
  - B. On July 29, 2009, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.
  - C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on July 29, 2009.
  - D. On July 29, 2009, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.

- E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 29, 2009.
2. The Commission held a duly advertised public hearing on said DEIR on September 10, 2009 at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on September 15, 2009.
  3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Draft Comments and Responses document, published on May 6, 2010, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at Department offices.
  4. A Final Environmental Impact Report has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law.
  5. Project Environmental Impact Report files have been made available for review by the Commission and the public. These files are available for public review at the Department offices at 1650 Mission Street, and are part of the record before the Commission.
  6. On May 20, 2010, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
  7. The project sponsor has indicated that the presently preferred alternative is Alternative C, Adaptive Reuse/Partial Preservation, Addition to 260 Fifth Street, described in the Final Environmental Impact Report.
  8. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File No. 2007.0690E, 260 Fifth Street reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA and the CEQA Guidelines.
  9. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report:
    - A. Will have a project-specific significant effect on the environment through the loss of opportunity for PDR use on the project site; and,

Motion No. 18087  
Hearing Date: May 20, 2010

CASE NO. 2007.0690E  
260 Fifth Street

B. Will have a significant cumulative impact on the environment through demolition of a contributory building to a California Register-eligible historic district.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of May 20, 2010.



Linda Avery  
Commission Secretary

AYES: 7  
NOES: 0  
ABSENT: 0  
ADOPTED: May 20, 2010



# SAN FRANCISCO PLANNING DEPARTMENT

## NEIGHBORHOOD ORGANIZATION FEE WAIVER REQUEST FORM

Appeals to the Board of Supervisors

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

Reception:  
415.558.6378

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Planning  
Information:  
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*This form is to be used by neighborhood organizations to request a fee waiver for CEQA and conditional use appeals to the Board of Supervisors.*

Should a fee waiver be sought, an appellant must present this form to the Clerk of the Board of Supervisors or to Planning Information Counter (PIC) at the ground level of 1660 Mission Street along with relevant supporting materials identified below. Planning staff will review the form and may sign it 'over-the-counter' or may accept the form for further review.

Should a fee waiver be granted, the Planning Department would not deposit the check, which was required to file the appeal with the Clerk of the Board of Supervisors. The Planning Department will return the check to the appellant.

### TYPE OF APPEAL FOR WHICH FEE WAIVER IS SOUGHT

[Check only one and attach decision document to this form]

- Conditional Use Authorization Appeals to the Board of Supervisors
- Environmental Determination Appeals to the Board of Supervisors (including EIR's, NegDec's, and CatEx's, GREs)

### REQUIRED CRITERIA FOR GRANTING OF WAIVER

[All criteria must be satisfied. Please check all that apply and attach supporting materials to this form]

- The appellant is a member of the stated neighborhood organization and is authorized to file the appeal on behalf of that organization. Authorization may take the form of a letter signed by the president or other officer of an organization.
- The appellant is appealing on behalf of a neighborhood organization which is registered with the Planning Department and which appears on the Department's current list of neighborhood organizations.
- The appellant is appealing on behalf of a neighborhood organization, which was in existence at least 24 months prior to the submittal of the fee waiver request. Existence may be established by evidence including that relating to the organization's activities at that time such as meeting minutes, resolutions, publications, and rosters.
- The appellant is appealing on behalf of a neighborhood organization, which is affected by the project, which is the subject of the appeal.

APPELLANT & PROJECT INFORMATION [to be completed by applicant]	
Name of Applicant: ANGELICA CABANDE	Address of Project: 920 FOLSEM ST. & 260 FIFTH ST.
Neighborhood Organization: SOMCAN	Planning Case No: 2007.0689E & 2007.0690E
Applicant's Address: 1070 HOWARD ST., SF 94103	Building Permit No:
Applicant's Daytime Phone No (415) 946-9904	Date of Decision: 5/20/2010
Applicant's Email Address: acabande@somcan.org	

DCP STAFF USE ONLY	
<input type="checkbox"/> Appellant authorization	Planner's Name: _____
<input type="checkbox"/> Current organization registration	Date: _____
<input type="checkbox"/> Minimum organization age	Planner's Signature: _____
<input type="checkbox"/> Project impact on organization	
<input type="checkbox"/> WAIVER APPROVED <input type="checkbox"/> WAIVER DENIED	





# MANILATOWN

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## HERITAGE FOUNDATION

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2010 JUN -9 PM 2:22  
BY [Signature]  
June 8, 2010

Dear Secretary of the Board of Supervisors:

The Manilatown Heritage Foundation would like to submit this appeal letter in opposition to the final Environmental Impact Review findings at the San Francisco Planning Commission's decision and approval of the proposed 900 Folsom Street and 260 Fifth Street sites that were voted on at its May 20, 2010 meeting.

We strongly feel that issues and concerns that we previously raised were not adequately addressed. Information and analysis was not brought forward and examined to properly and formally refute our claims. Therefore, we urge the Board of Supervisors to appeal the decision of the Planning Commission and investigate with accuracy the true basis of our objections to this development.

1. Manilatown strongly feels that increased traffic will occur in conjunction with addition of over 250 new dwellings.
2. Pedestrian safety concerns will be heightened due to the impact of the underground parking and increased traffic, thus causing the increase of potential danger and possibly accidents to students of the nearby Filipino Education Center.
3. Manilatown feels that the new development will not be fitting into the neighborhood, particularly as it will be positioned directly across from the new Fire House on Fifth St. We feel that quality of life concerns will be sacrificed.
4. Manilatown believes that the projected 130 parking places allocated to the tenants will negate the impact and effectiveness of the proposed Central Subway that is slated to run down nearby Third Street.
5. Manilatown believes that a planned courtyard / alleyway of 40 x 100 feet is not enough open space to accommodate the recreational and leisure needs of the residents and the community in correspondence with the new and existing community there. It is not enough space to properly enjoy an individual's "quality of life."

These are the concerns that the Manilatown Heritage Foundation would like to bring forward and kindly ask that San Francisco Board of Supervisors engage in a hearing that will properly mitigate our claims. And, if they do not see that this planned development does not fit the criteria of the Environmental Impact Report, then perhaps the planned development should be scrapped. In addition, Manilatown believes that this type of housing does not meet the needs of the existing working-class community.

Thank you in advance for your time and consideration

Sincerely,

Roy Recio

Board President, Manilatown Heritage Foundation

953 MISSION STREET, SUITE 30, SAN FRANCISCO, CA 94103  
(415) 777-1130

INTERNATIONAL HOTEL MANILATOWN CENTER, 868 KEARNY STREET, SAN FRANCISCO, CA 94108  
(415) 399-9580 FAX (415) 399-9581

EMAIL: MHF@MANILATOWN.ORG | WEB: WWW.MANILATOWN.ORG



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Motion 18087

HEARING DATE: May 20, 2010

*Case No.:* 2007.0690E  
*Project Address:* 260 Fifth Street  
*Zoning:* Mixed Use - Residential (MUR) District  
85-X Height and Bulk District  
*Block/Lot:* 3732/008  
*Project Sponsor:* AGI Capital Group  
100 Bush Street, 22<sup>nd</sup> Floor  
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Motion No. 18087  
Hearing Date: May 20, 2010

CASE NO. 2007.0690E  
260 Fifth Street

- B. Will have a significant cumulative impact on the environment through demolition of a contributory building to a California Register-eligible historic district.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of May 20, 2010.



Linda Avery  
Commission Secretary

AYES: 7  
NOES: 0  
ABSENT: 0  
ADOPTED: May 20, 2010



# SAN FRANCISCO PLANNING DEPARTMENT

## NEIGHBORHOOD ORGANIZATION FEE WAIVER REQUEST FORM

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- The appellant is appealing on behalf of a neighborhood organization, which is affected by the project, which is the subject of the appeal.

APPELLANT & PROJECT INFORMATION [to be completed by applicant]	
Name of Applicant: <u>Roy Recio</u>	Address of Project: <u>900 Folsom St. - 2007, 0689 E</u>
Neighborhood Organization: <u>SOMA / Manilokaua</u>	Planning Case No: <u>260 Fifth St. 2007, 0690 E</u>
Applicant's Address: <u>955 Mission St. Suite 30</u>	Building Permit No:
Applicant's Daytime Phone No: <u>415-777-1130</u>	Date of Decision: <u>May 20, 2010</u>
Applicant's Email Address: <u>roy.recio@Manilokaua.com</u>	

### DCP STAFF USE ONLY

- Appellant authorization
  - Current organization registration
  - Minimum organization age
  - Project impact on organization
- Planner's Name: \_\_\_\_\_
- Date: \_\_\_\_\_
- Planner's Signature: \_\_\_\_\_

WAIVER APPROVED

WAIVER DENIED

Internal Revenue Service

Date: July 7, 2005

MANILATOWN HERITAGE FOUNDATION  
% EMIL DEGUZMAN  
953 MISSION ST STE 30  
SAN FRANCISCO CA 94103-2975

Department of the Treasury  
P. O. Box 2508  
Cincinnati, OH 45201

**Person to Contact:**

Kathy Masters ID# 31-04015  
Customer Service Representative

**Toll Free Telephone Number:**

8:30 a.m. to 5:30 p.m. ET  
877-829-5500

**Fax Number:**

513-263-3756

**Federal Identification Number:**

94-3288180

Dear Sir or Madam:

This is in response to your request of July 7, 2005, regarding your organization's tax-exempt status.

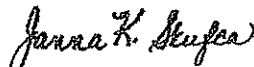
In July 1997 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

Our records indicate that your organization is also classified as a public charity under sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code.

Our records indicate that contributions to your organization are deductible under section 170 of the Code, and that you are qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Internal Revenue Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



Janna K. Skufca, Director, TE/GE  
Customer Account Services



SAN FRANCISCO  
PLANNING DEPARTMENT

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

JUN 22 AM 11:08

MEMO

BY AK

**EIR Certification Appeal**  
**260 Fifth Street**

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

Reception:  
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**DATE:** June 21, 2010  
**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Bill Wycko, Environmental Review Officer – (415) 558-9048  
Brett Bollinger, Case Planner – Planning Department (415) 575-9024  
**RE:** BOS File No. 10-0790 [Planning File Case No. 2007.0690E]  
Appeal of EIR Certification for 260 Fifth Street  
**HEARING DATE:** June 29, 2010  
**ATTACHMENTS:**

**Document is available  
at the Clerk's Office  
Room 244, City Hall**

- A. Final Environmental Impact Report
- B. Planning Commission Motion No. 18087 (Certifying FEIR)
- C. Planning Commission Motion No. 18089 (Approving Large Project Authorization (Planning Code Section 329))
- D. Photographs, plans, etc. of project-site

---

**PROJECT SPONSOR:** Eric Tao, AGI Capital  
**APPELLANT:** No. 1: Roy Recio on behalf of the Manilatown Heritage Foundation  
No. 2: Angelica Cabande on behalf of SoMa Community Action Network (SOMCAN)

---

**INTRODUCTION**

This memorandum and the attached documents are a response to the letters of appeal to the Board of Supervisors (the "Board") regarding the Planning Commission's certification of a Final Environmental Impact Report ("FEIR") for the proposed Project at 260 Fifth Street (the "Project"), Case No. 2007.0690E, under the California Environmental Quality Act ("CEQA"). The Appeals to the Board were filed on June 9, 2010. The Final Environmental Impact Report (FEIR) is being provided to the Board with this Memorandum as Attachment A.

The decision before the Board is whether to uphold the Commission's decision to certify the FEIR, or to overturn the Commission's decision to certify the FEIR and return the Project to the Planning Department for additional environmental review.

**SITE DESCRIPTION & PRESENT USE**

The Project site is comprised of four contiguous lots that form a 56,000 square foot rectangle and is bounded by Folsom Street to the south, 5th Street to the west, and Clementina Street (a one-way eastbound alley) to the north. The Project site is currently occupied by a 270-space surface parking lot divided into two parts: a private area with parking spaces leased to neighborhood businesses, and a

public parking area where drivers can pay to park. The entire parking area is surrounded by a chain-link fence. The site also contains two 40-foot tall billboards. There are no trees, open space, or other vegetation on the site.

## **PROJECT DESCRIPTION**

The proposed Project includes demolition of the existing light industrial building on the site and construct a nine-story, 85-foot tall building with a, creating up to 179 dwelling units, approximately 5,281 square feet of ground floor commercial space along 5th Street, and up to 102 off-street parking spaces (including stackers in the basement level parking garage). Open space is provided on private balconies and two rooftop decks. The building has an "L" shaped footprint with two primary wings: the 5th Street wing and the Clementina Street wing. The 5th Street wing includes ground floor commercial space with six stories of residential use above, and the sole parking access on Tehama Street. The Clementina Street wing includes 9 stories of residential use, including the residential lobby for the entire building and ground floor townhouse units that directly access Clementina Street. The Project would seek a Leadership in Energy and Environmental Design (LEED) Gold certification or equivalent rating as determined by the Planning Department.

## **BACKGROUND**

### **2007 – Project Applications**

On July 6, 2007, Eric Tao (hereinafter "Project Sponsor") filed Environmental Review Application No. 2007.0689E with the Planning Department (hereinafter "Department"), and on January 24, 2008, filed Conditional Use Application No. 2007.0690C that was subsequently updated to Large Project Authorization Application No. 2007.0690X (hereinafter "Application") per Planning Code Section 329.

### **2008 Notice of Preparation of an Environmental Impact Report**

The Department determined that an Environmental Impact Report ("EIR") was required and the Department printed and circulated a Notice of Preparation on June 11, 2008, that solicited comments regarding the content of the proposed EIR for the Project. The Department accepted comments on the EIR content through July 11, 2008.

### **2009 Draft Environmental Impact Report**

The Department published the Draft EIR on July 29, 2009, on which comments were accepted until September 15, 2009. A public hearing on the Draft EIR was held on September 10, 2009. Following the close of the public review and comment period, the Department prepared written responses that addressed all of the substantive written and oral comments on the Draft EIR, and the EIR was revised accordingly.

### **2010 Comments & Responses Document**

Several comments on the Draft EIR were made both in writing and at a public hearing in front of the Planning Commission (hereinafter "Commission") on September 10, 2009, and those comments were incorporated in the Final EIR with a response. The comments and responses did not substantially revise



the Draft EIR and therefore no recirculation was required under the State CEQA Guidelines Section 15073.3.

#### 2010 Environmental Impact Report Certification and Large Project Authorization (Section 329)

On May 20, 2010, the Commission certified the final EIR (FEIR) for the Project and approved the Project under Large Project Authorization pursuant to Section 329 of the *Planning Code*. Both Motions are included as Attachment B and C, and sets forth the necessary California Environmental Quality Act (CEQA) and Section 329- Large Project Authorization findings.

#### CEQA GUIDELINES

This Final Environmental Impact Report (FEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA), as established under the Public Resources Code 21000 et seq., the *CEQA Guidelines* (a part of the California Code of Regulations), and local CEQA procedures under Chapter 31 of the San Francisco *Administrative Code*. The purpose of this EIR is to disclose any potential impacts on the physical environment resulting from implementation of the proposed Project, and allow a time for public review and comment, before decision makers decide to approve or deny the Project.

#### APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the June 9, 2010 Appeal Letters are cited in a summary below and are followed by the Department's responses.

**Issue 1:** "Marilatown strongly feels that increased traffic will occur in conjunction with addition of over 250 new dwellings."

**Response 1:** The Appellants' have not identified a potential traffic impact of the proposed Project and have not explained how the increase use and intensification of the Project site with new residential and commercial uses would contribute to a specific traffic impact in a significant way. In conclusion the EIR determined that the proposed Project would not result in any significant change to current traffic patterns in the vicinity of the Project site.

As discussed in Section III.B Transportation, the proposed Project would not result in significant traffic, transit, parking, bicycle, or loading impacts. The *Transportation Study*<sup>1</sup> intersections were evaluated using the 2000 Highway Capacity Manual methodology (HCM). The level of service (LOS) is calculated based on an average of the total vehicular delay per approach and weighted by the number of vehicles at each approach. As described in the EIR, "The transportation study prepared for the proposed Project, under the direction of the Planning Department, reviewed existing conditions and Project effects for traffic, transit, pedestrians, bicyclists, parking, loading, and construction operations. The study also considered the potential effects of the adjacent proposed 900 Folsom Street Project and cumulative (year 2025) effects."

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<sup>1</sup> CHS Consulting Group, *900 Folsom Street and 260 Fifth Street Projects Transportation Study*, May 2009. This document is available for review at the Planning Department, 1650 Mission Street, Suite 400, as part of Case No. 2007.0690E.

The analysis found that the proposed Project would not have significant adverse effects on operations at six study intersections; all intersections would remain at Level of Service (LOS) D or better under Project conditions- (including with 900 Folsom Street). In 2025 cumulative conditions, the Sixth/Howard and Fifth/Harrison intersections would operate at LOS E, but the proposed Project would not have significant contribution to those cumulative adverse impacts. A Project is typically considered to have a significant effect on the environment if it would cause traffic at an intersection to deteriorate to an unacceptable level, interfere with existing transportation systems, or cause major traffic hazards. Project effects on transit capacity, pedestrian conditions, bicycle facilities or movement, parking supply, loading, and construction conditions were determined to not be a significant impact under CEQA.

In general, the addition of Project-generated traffic would result in relatively small changes in the average delay per vehicle at the intersections as shown in the EIR Table B-7 below, all study intersections would continue to operate at the same service levels as under existing conditions. It should be noted that at some of the study intersections, the average delay per vehicle would remain constant or slightly decrease with the addition of Project related traffic. Increases in traffic volumes at an intersection usually result in increases in the overall intersection delay. However, if there are increases in the number of vehicles completing traffic movements, where these movements can currently be made with low delays, the average weighted delay per vehicle may remain the same or decrease. In the case of the proposed Project, the delay times at the study intersections vary, but these variations are too minor to result in any change in intersection service levels. As analyzed in the transportation study for the proposed Project, there would be no significant traffic impacts as a result of the proposed Project.

**TABLE B-7  
INTERSECTION LEVEL OF SERVICE:  
EXISTING PLUS PROJECT WEEKDAY PM PEAK HOUR**

Intersection	Existing		Existing plus 260 Fifth Street Project	
	Delay	LOS	Delay	LOS
Fifth/Howard	23.4	C	23.5	C
Fifth/Clementina*	1.8/25.6	A/C	2.1/24.8	A/C
Fifth/Folsom	18.0	B	18.2	B
Fifth/Harrison	42.1	D	43.3	D
Sixth/Folsom	17.6	B	17.7	B
Sixth/Howard	22.4	C	22.4	C

Source: CHS Consulting Group

In conclusion, the FEIR determined that the proposed Project would not result in any significant change to current traffic patterns in the vicinity of the Project site.

Issue 2: "Pedestrian Safety concerns will be heightened due to the impact of the underground parking and increased traffic, thus causing the increase of potential danger and possibly accidents to students of nearby Filipino Education Center."

Response 2: The FEIR analysis concluded that the Project would not have adverse effects on pedestrian conditions. The Project would generate new pedestrian trips and include improvements that would enhance pedestrian safety at the Project site and vicinity. The proposed Project would include improvements to the surrounding pedestrian environment and activate dreary portions of Clementina and Tehama Streets, including ground level dwelling units, numerous street trees, sidewalk upgrades, crosswalk improvements, and improved sidewalk access for disabled persons and other pedestrians.

Currently, pedestrian volumes on Fifth Street along the Project site lot lines are relatively higher than on other streets in the area. The EIR analysis concluded that the Project would not have adverse effects on pedestrian conditions. The Project would install new sidewalk paving on Fifth, Folsom, Clementina, and Tehama Streets. Given that the addition of pedestrian and vehicular traffic generated by the proposed Project would not substantially affect pedestrian conditions in the vicinity of the Project site, and given that the proposed Project includes enhancements to existing pedestrian facilities, the proposed Project would not have significant adverse impacts on pedestrian conditions or safety.

Issue 3: "Manilatown feels that the new development will not be fitting into the neighborhood, particularly as it will be positioned directly across from the new Fire House on Fifth St. We feel that quality of life concerns will be sacrificed."

Response 3: The Appellant has not identified a potential impact relating to the Department's review of the proposed Project and has not explained how "quality of life concerns" would contribute to a specific impact in a significant way.

The Appellants' have not offered credible factual support for the claim that the Project would create a burden on the "quality of life" in immediate area. Although the proposed Project would entail an increase in use of the site through new residential and commercial uses, factual information has not been provided showing that such an increase in use would have an impact on the "quality of life."

Issue 4: "Manilatown believes that the Projected 130 parking spaces allocated to the tenants will negate the impact and effectiveness of the proposed Central Subway that is slated to run down nearby Third Street."

Response 4: The Appellants' have not offered credible factual support for the claim that the Project proposed parking would create a burden on future transit services relevant to the EIR analysis. Although the proposed Project would entail residential parking, factual information has not been provided showing that such parking would impact the proposed Central Subway. The Appellants' have not identified a potential impact relating to the Department's review of the proposed Project and has not explained how the proposed Project parking would contribute to a specific impact in a significant way on the proposed Central Subway.

Issue 5: "Manilatown believes that a planned courtyard/alleyway of 40x100 feet is not enough open space to accommodate the recreational and leisure needs of the residents and the community in correspondence with the new and existing community there. It is not enough space to properly enjoy an individual's 'quality of life'."

Response 5: The Appellants comments are not relevant to the adequacy of the EIR. The comments pertain to the approval of the Section 329 approval granted by the Planning Commission, not the adequacy of analysis of open space contained in the EIR.

The Project is occupied by residential uses, except for a small amount of ground floor commercial space, and a comparable amount of readily accessible open space is proposed. Per the *Planning Code*, the required rear yard should equal 25 percent of the lot area, which is approximately 14,320 square feet for this property. The Project includes 13 private decks that meet the minimum open space requirements for their respective units. While additional decks are provided, they do not meet the minimum requirements for useable open space. Two roof decks are proposed to provide 7,156 square feet and 6,744 square feet of useable open space. The 13,900 square feet of total roof deck area provides approximately 84 square feet of useable open space to each of the remaining units. Therefore, the proposed Project would meet Planning Code requirements for usable open space for the residential component.

The Appellant's comment is not relevant to the adequacy of the EIR. Comments regarding the merits of and concerns about the Project should have been directed to the Planning Commission to assist with its decision of whether or not to approve the Project under the Large Project Authorization pursuant to Section 329 of the *Planning Code*, a decision that was made at a public hearing following the certification (determination of completeness) of the Final EIR on May 20, 2010. Merits and concerns of the Project are not before the Board, whereas, the adequacy of the Final EIR is before the Board.

The Appellants' have not identified a potential impact relating to the Department's review of the proposed Project and have not explained how the proposed open space for the Project would contribute to a specific impact in a significant way.

Issue 6: "Almost 1:1 Parking: Creating 'transit-orientated housing opportunities' is so much bunk for a project that exceeds the 1:4 parking ration and instead seek to maximize it. This is particularly true for a site with close access to freeway ramps for the Bay Bridge, southbound I-280, and southbound I-101. This is an auto-orientated project at an auto-accommodating site. The excessive amount of parking included in this project (221 parking space) is necessitated by the type of residents that this project intends to target: young upscale singles that will commute to the Silicon Valley for work and have the excess income that allows them to live in the trendy South of Market neighborhood."

Response 6: The EIR analysis is accurate with regards to transportation impacts as they relate to parking. The Appellant is concerned about the amount of parking proposed for the project and the type of residents this type of project intends to target.

San Francisco does not consider parking supply to be part of the permanent physical environment and does not consider increased parking demand to constitute a significant impact pursuant to CEQA. That

said, the issue of parking was analyzed in the FEIR. A traffic study was prepared for the project by a qualified transportation consultant whose analysis included an evaluation of the proposed Project's parking effects.

The DEIR analysis is accurate with regards to transportation impacts as they relate to parking. The Appellant is concerned about the amount of parking proposed for the Project and the type of residents this type of Project intends to target. As described in the FEIR, the Project would now include 102 parking spaces, compared to 133 as presented in the DEIR. The Project would still require an exception for providing off-street parking in excess of one space per four residential units, under *Planning Code* Section 151.1. *Planning Code* Section 151.1 would permit up to 0.25 parking spaces per unit, or 45 spaces. Additional spaces can be approved as an exception, at 0.75 space for each studio or one-bedroom unit, and one space per two-bedroom or larger unit. The proposed Project would have 139 studio or one-bedroom units permitting 104 spaces, and 40 two bedroom or larger units which could permit 40 spaces if approved by the Planning Commission. Therefore, the maximum amount of parking spaces permitted with an exception would be 144. Under MUR zoning, the parking in excess of 0.25 parking spaces per unit would need an exception under *Planning Code* Sections 151.1(f) and 329. The total number of proposed parking spaces would be less than the maximum permitted with an exception.

The proposed Project would generate a demand of 214 parking spaces for the residential use, and 44 parking spaces for the retail use, or a combined demand for 258 parking spaces. The proposed Project would provide 133 on-site parking spaces. Thus, the proposed Project would fall short of demand by approximately 114 spaces. In addition, the proposed project would displace the 35-space public parking lot on the project site. A field survey showed that 26 vehicles occupy the lot during a typical weekday at midday. Overall, based on a parking survey conducted on October 11, 2007, the proposed Project would cause a parking shortage of approximately 149 parking spaces (114-space project deficit plus 35 spaces on site). Based on 26 occupied spaces, the net parking deficit would be 140 spaces.

As noted above, San Francisco does not consider parking supply as part of the permanent physical environment. Parking conditions are not static, as parking supply and demand varies from day to day, from day to night, from month to month, etc. Hence, the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel. Parking deficits are considered to be social effects, rather than impacts on the physical environment as defined by CEQA. Therefore, the creation of or an increase in parking resulting from the proposed Project would not by itself be considered a significant environmental effect under CEQA. Therefore, the proposed Project would not have a significant impact on the environment regarding parking.

The comment regarding occupation of units near freeway ramps by persons who work in Silicon Valley is not relevant to the adequacy of the EIR.

Issue 7: "Facilities for youth & children within Youth & Family Zone: The genesis of the Youth & Family Zone was a recognition of the many families that live in SOMA, in housing in the alley enclaves as well as in existing and planned family affordable housing developments in and near the zone.....The stated goal of the SUD is to 'enhance the health and environment of youth and families' in the area. The

community's expectation is that new development within the zone should be designed to achieve the goal of enhancing the health and environment for youth and families, which might be expressed in the proposed ground floor uses and design, mid-block alley design, street enhancements, etc."

**Response 7:** The Project site is located in the SoMa Youth and Family Special Use District (SUD). This District requires Conditional Use Authorization for certain land uses and increased affordable housing requirements for properties that front only on smaller streets within the District. The Project does not propose any land use restricted by this District. It also does not occupy any property that fronts only on Clementina or Tehama Street. Therefore, there are no additional affordable housing requirements. Overall, the proposed Project would provide sufficient outdoor open space through private and common roof decks that would meet Planning Code requirements.

The issue the Appellant raises concerns the merits of the Project and does not concern the adequacy of the Final EIR.

**Issue 8: "Amount of Ground Floor Retail:** Project should emulate the block of Folsom Street immediately to the east which included a vibrant mix of restaurants, retail and commercial establishments. The contrast between the side of Folsom Street with the dead frontage of Yerba Buena Lofts to the south is clear: new development should not be allowed to destroy the pedestrian experience again.....Major resources are about to be poured into the Folsom Street corridor to create a pedestrian-friendly transit-orientated ceremonial center to the community that ties together the entire South of Market, yet this Project intends to create a blank wall along half the block. The developer wishes to exploit the additional 5' in allowable height (85' instead of a maximum allowed via CU of 80'), while at the same time not really using the space as intended in the ground floor commercial use."

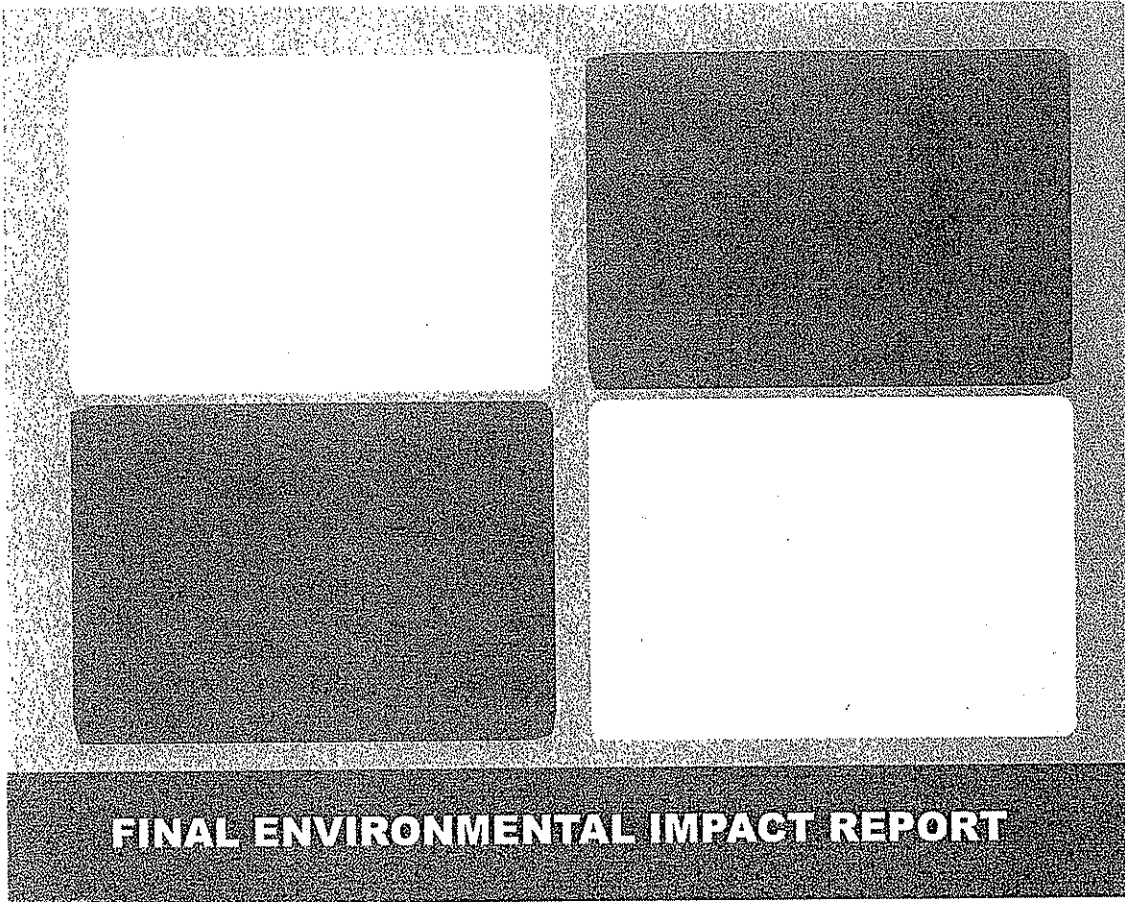
**Response 8:** The ground floor character of the building is two-fold; active, commercially oriented and viable space along 5<sup>th</sup> Street, where the Project's commercial space is located. The Appellant's comment is not relevant to the adequacy of the EIR. Comments regarding the merits of and concerns about the Project should have been directed to the Planning Commission to assist with its decision of whether or not to approve the Project, a decision that was made at a public hearing following the certification (determination of completeness) of the Final EIR on May 20, 2010. Merits and concerns of the Project are not before the Board, whereas, the adequacy of the Final-EIR is before the Board. The Appellants' have not identified a potential impact relating to the Department's review of the proposed Project and has not explained how the proposed amount of ground floor retail would contribute to a specific impact in a significant way.

The issue the Appellant raises concerns the merits of the Project and does not concern the adequacy of the Final EIR.

## CONCLUSION

The Department conducted an in-depth and thorough analysis of 260 Fifth Street Project under the CEQA Guidelines. The Appellants' have not provided any substantial evidence to refute the conclusion of the Department.

For the reasons provided in this appeal response, the Department believes that the FEIR complies with the requirements of CEQA and the CEQA Guidelines, provides an adequate, accurate, and objective analysis of the potential impacts of the Project. Therefore, the Planning department respectfully recommends that the Board uphold the Planning commission's certification of the FEIR.



# **260 FIFTH STREET PROJECT**

San Francisco Planning Department

City and County of San Francisco

**Case No. 2007.0690E**

State Clearinghouse No. 2008062036

Draft EIR Publication Date: July 29, 2009

Draft EIR Public Hearing Date: September 10, 2009

Draft EIR Public Comment Period: July 29, 2009 - September 15, 2009

FEIR Certification Date: May 20, 2010



File No. 100786  
100790

6-14-10

Angela:

I hope all is well!

It's Roy Vecio here. I wanted ask if you can delay the hearing for an E.L.R. appeal at 900 Folsom St. and 260 9th to be heard in late July or early Aug.

We were surprised that the appeal was scheduled so soon, especially since we filed only last week. We need a bit more time for the pro-bono lawyer to prepare the case.

Thank you,  
- Roy

415-676-1967 roy.vecio@manilatown.org

