



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
richard@lozeaudrury.com

May 17, 2023

By Hand Delivery & Email

San Francisco Board of Supervisors
Angela Calvillo, Clerk of the Board
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
bos.legislation@sfgov.org

Lisa Gibson, Environmental Review Officer
San Francisco Planning Department
49 S. Van Ness Ave, Suite 1400
San Francisco, CA 94103
lisa.gibson@sfgov.org

Re: Notice of Appeal and Appeal of the San Francisco Planning Commission's Approval of the San Francisco Planning Department's Categorical Exemption Determination for the 1151 Washington Street Project (2022-010833ENV; 2022-010833CUA) at the Planning Commission Public Hearing on April 20, 2023

Dear San Francisco Board of Supervisors, Ms. Calvillo, and Ms. Gibson:

PLEASE TAKE NOTICE THAT, on behalf of Clayton Timbrell ("Appellant")¹, who resides at 1157 Washington Street, this letter appeals the San Francisco Planning Commission's approval of the Planning Department's draft Class 32 (in-fill development) categorical exemption from the California Environmental Quality Act ("CEQA") for the proposed project at 1151 Washington Street ("Project"), which was considered at the at the Planning Commission's April 20, 2023 meeting as Agenda Item 12.² The CEQA exemption determination for the Project is attached as Exhibit A to this letter.

I. INTRODUCTION

On April 20, 2023, the San Francisco Planning Commission considered and approved at a public hearing the Planning Department's draft CEQA Class 32 (in-fill development) categorical exemption for the Project. The Planning Commission voted to approve the exemption four to two. The notice and minutes from this public hearing are attached as Exhibit B to this letter. On behalf of Mr. Timbrell, Lozeau Drury LLP provided written comments to the Planning Commission on April 17, 2023 and verbal comments at the public hearing on April 20, 2023 regarding the Project's adverse impacts on health, safety and the physical environment. At the Planning Commission hearing, many neighborhood organizations filed written or oral comments opposing the CEQA exemption and/or the Project, including the Committee for Better Parks and

¹ A letter authorizing this firm to represent Mr. Timbrell is attached hereto as Exhibit H.

² This appeal is filed pursuant to San Francisco Administrative Code section 31.16.

Recreation in Chinatown, Chinatown Community Development Center (CCDC), Upper Chinatown Neighborhood Association, Pacific Avenue Neighborhood Association, and SOMA Pilipinas, (Attached hereto as Exhibit C). Despite these impacts, the Planning Commission narrowly approved the Class 32 exemption in violation of CEQA and improperly relied on the State Density Bonus Law, as discussed below. Mr. Timbrell submits this notice of appeal and appeal, along with the following comments, to the San Francisco Board of Supervisors.

Mr. Timbrell lives next door to the Project site and supports redevelopment of the parcel with a reasonably-sized project. But he has serious concerns with the proposed Project's potential for human health and environmental impacts. Therefore, Mr. Timbrell opposes the Planning Department's use of a categorical exemption because there is substantial evidence that the Project would result in numerous potentially significant environmental impacts under CEQA. The project also requires conditional use authorization under Planning Code Section 303(c) because as proposed it is inconsistent with San Francisco zoning laws. The developer seeks to invoke the State Density Bonus Law to bypass San Francisco land use requirements.³ However, the Court of Appeals has held that CEQA must be "harmonized" with the Density Bonus Law, and that agencies must comply with both laws.⁴ Therefore, the Project is subject to all of the same CEQA requirements as any other residential development.

These comments were prepared with the assistance of Matt Hageman, P.G., C.Hg. and Dr. Paul E. Rosenfeld, Ph.D., principals with environmental consulting firm Soil Water Air Protection Enterprise (SWAPE). Mr. Hageman and Dr. Rosenfeld investigated the Project files and publicly available information and concluded that the Project site is contaminated with highly toxic chemicals, and mitigation measures adopted by the City are inadequate to ensure that risks to construction workers, future residents and users of the adjacent Betty Ann Ong Recreation Center are reduced to less than significant levels. SWAPE's expert comments are attached as Exhibit D to this appeal letter.

In addition to SWAPE's expert findings, a review of the City's and developer's materials show that the Project would impact public services by creating safety risks associated with emergency access for firefighters. In addition, the site is subject to San Francisco's Slope Protection Act requiring additional analyses. Finally, shadow impacts on the Betty Ann Ong Recreation Center require CEQA review. In short, the Project cannot be exempted from CEQA, therefore an initial study must be prepared to determine the appropriate level of CEQA review.

II. PROJECT DESCRIPTION

The project site is a 3,571-square-foot parcel in the Nob Hill neighborhood. Currently the site is occupied by a single-family home built in 1940 that is approximately 3,050 square feet. Immediately east of the Project site is the Betty Ann Ong Recreation Center, which is downslope and approximately 6 to 20 feet lower than the subject site.

³ CA Govt. Code § 65915 *et. Seq.*

⁴ *Wollmer v City of Berkeley* (2011) 193 Cal.App.4th 1329, 1349.

The developer proposes to demolish the existing residence and construct a 50-foot-tall, four-story over basement building with penthouses and roof decks. The proposal is for ten four-story, for-sale townhouses and one off-street van parking space. The building itself would be approximately 12,312 square feet in size (a 9,262 sq/ft increase). A front unit along Washington Street would be approximately 2,070 square feet in size with three bedrooms, while the nine rear units would be approximately 940 square feet with two bedrooms. The proposed roof decks would include approximately 7-foot-tall privacy walls and there would be condenser units on the roof of each unit. Access to the proposed units would be from a 5-foot-wide, 137-foot-long pathway that would step up along the eastern edge of the property and would be the only access to nine of the units. The proposed pathway would include a bicycle ramp. Each unit would be equipped with an exterior hoist to facilitate moving furniture and other bulky items from the outside. The 6 existing trees on the subject property would be removed and the project would plant two trees in front of the project site. The proposed development would be supported on micropiles. The project would require approximately 130 cubic yards of excavation with a depth of approximately 12.5 feet below ground surface.

III. LEGAL STANDARD

CEQA mandates that “the long-term protection of the environment...shall be the guiding criterion in public decisions” throughout California. PRC § 21001(d). A “project” is “the whole of an action” directly undertaken, supported, or authorized by a public agency “which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” PRC § 21065; CEQA Guidelines, 14 CCR § 15378(a). For this reason, CEQA is concerned with an action’s ultimate “impact on the environment.” *Bozung v. LAFCO* (1975) 13 Cal.3d 263, 283. CEQA requires environmental factors to be considered at the “earliest possible stage . . . before [the project] gains irreversible momentum,” *Id.* 13 Cal.3d at 277, “at a point in the planning process where genuine flexibility remains.” *Sundstrom v. Mendocino County* (1988) 202 Cal.App.3d 296, 307.

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. 14 CCR § 15002(k); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86 (“*Hollywoodland*”). First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. *Id.* Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform an initial threshold study. *Id.*; 14 CCR § 15063(a). If the study indicates that there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment the agency may issue a negative declaration. *Id.*, 14 CCR §§ 15063(b)(2), 15070. Finally, if the project will have a significant effect on the environment, an environmental impact report (“EIR”) is required. *Id.* Here, since the City exempted the Project from CEQA entirely, we are at the first step of the CEQA process.

A. CEQA Exemptions.

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are called categorical exemptions. 14 CCR §§ 15300, 15354. “Exemptions to CEQA are narrowly construed and “[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.” (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.)

The determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or de novo, review. (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, (2006) 139 Cal. App. 4th 1356, 1375 (“[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. (Citations.) Thus, for example, interpreting the scope of a CEQA exemption presents ‘a question of law, subject to de novo review by this court.’ (Citations).”)

The City has issued a notice of exemption alleging that the Project is exempt from CEQA review as an “in-fill” project (Class 32).

B. Exceptions to CEQA Exemptions.

There are several exceptions to the categorical exemptions. 14 CCR § 15300.2.

- (1) Significant Effects. A project may never be exempted from CEQA if there is a “fair argument” that the project may have significant environmental impacts due to “unusual circumstances.” 14 CCR §15300.2(c). The Supreme Court has held that since the agency may only exempt activities that do not have a significant effect on the environment, a fair argument that a project will have significant effects precludes an exemption. *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 204.

C. Limitations to In-Fill Exemption.

The Class 32 In-Fill exemption can only be applied where “[a]pproval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.” 14 Cal. Admin. Code §§ 15332(c), (d).

IV. THE PLANNING DEPARTMENT ERRONEOUSLY PROPOSES TO EXEMPT THE PROJECT FROM CEQA REVIEW.

The Planning Department invoked a Class 32 (in-fill development) categorical exemption for the Project. Class 32 consists of projects characterized as in-fill development that are shown to be consistent with the City’ general plan as well as with applicable zoning designations and regulations. To be lawful the Planning Department must show that approval of the Project would

not result in any significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all required utilities and public services.⁵

In addition, a project may not be exempted from CEQA if there is a “fair argument” that the project may have significant environmental impacts due to “unusual circumstances.”⁶ The Supreme Court has held that since the agency may only exempt activities that do not have a significant effect on the environment, a fair argument that a project will have significant effects precludes an exemption.⁷ Under the “fair argument” standard, an agency is precluded from relying on a categorical exemption when there is a fair argument that a project will have a significant effect on the environment.⁸ In other words, “where there is any reasonable possibility that a project or activity may have a significant effect on the environment, an exemption would be improper.”⁹

As shown below, the Class 32 exemption cannot apply here because there is expert opinion and other evidence showing it may pose significant impacts related to public services due to access limitations for firefighters, hazardous soils and vapor contamination, steep slope and seismic concerns, and shadow and shading at Betty Ann Ong Recreation Center. The Planning Department must prepare an initial study and a mitigated negative declaration or an environmental impact report to analyze the Project’s impacts and propose all feasible mitigation measures.

A. The Project Will Have Significant Air Quality Impacts from Diesel Particulate Matter, Precluding Reliance on the Class 32 Exemption.

The Planning Department’s draft categorical exemption admitted the Project has the “potential to emit substantial pollutant concentrations from the use of diesel construction equipment, backup diesel generators, heavy industry, diesel trucks.”¹⁰ Thus, the Infill Exemption is improper under Section 15332(d).

B. The Unusual Circumstances Exception Precludes Reliance on the Class 32 Exemption.

A categorical exemption is inapplicable “where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.”¹¹ There are two ways a party may invoke the unusual circumstances exception to a CEQA exemption: First, “a party may establish an unusual circumstance with evidence that the project will have a

⁵ CEQA Guidelines § 15332.

⁶ CEQA Guidelines §15300.2(c).

⁷ *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 204.

⁸ *Banker’s Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal. App. 4th 249, 266.

⁹ *Id.*

¹⁰ Categorical Exemption at p. 2.

¹¹ CEQA Guidelines 15300.2(c).

significant environmental effect. That evidence, if convincing, necessarily also establishes ‘a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.’”¹² Alternatively, “[a] party invoking the exception may establish an unusual circumstance without evidence of an environmental effect, by showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location. In such cases, to render the exception applicable, the party need only show a reasonable possibility of a significant effect due to that unusual circumstance.”¹³

As detailed below, both prongs are satisfied. As shown above, there is evidence of significant environmental effects due to construction-air quality impacts. And the parcel itself is contaminated with hazardous materials that could pose health risks to construction workers, future residents and children playing at the Betty Ann Ong Recreation Center. The Project would impact fire protection services because of its highly unusual design of a single building containing 10 four-story residential units on a narrow and small parcel, accessible only by a steep, 5-foot-wide, 137-foot-long pathway; this would be atypical even by San Francisco standards. Also, it is subject to slope stability and liquefaction impacts. Finally, shadow impacts on the Betty Ann Ong Recreation Center would pose a significant effect in violation of San Francisco’s Prop. K.

1. The Project Site Has Unmitigated Soil and Vapor Contamination That Could Pose Health Risks.

The Project site is heavily contaminated with toxic chemicals. Both the developer and the Planning Department’s analysis acknowledged as much, and have proposed measures to mitigate the project’s health risks.¹⁴ Mr. Hageman and Dr. Rosenfeld reviewed the Project materials and concluded that the CEQA exemption underestimated and inadequately addressed the health-risk impacts associated with construction and operation of the proposed Project, and impermissibly relied on a mitigation plan.¹⁵ They also concluded that the SMP’s mitigation measures are inadequate to reduce risks to a less than significant level and additional mitigation is necessary. SWAPE recommended that a full CEQA analysis be prepared to adequately assess and mitigate the potential impacts from the hazardous materials at the site.¹⁶ The chemicals on site can cause cancer and lead to numerous acute health problems. The public has a right to understand the site’s potential health and environmental risks through a public CEQA process.

Specifically, the developer documented subsurface soils as contaminated with “low concentrations of hexavalent Chrome VI and thallium exceeding regulatory screening levels.”¹⁷

¹² *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105.

¹³ *Id.*

¹⁴ Site Mitigation Plan for 1151 Washington Street (October 2022).

¹⁵ Exhibit. A at p. 1.

¹⁶ *Id.*

¹⁷ Site Mitigation Plan, at p. 1.

Soil vapor beneath the site is impacted with volatile organic compounds (specifically, PCE or tetrachloroethylene) at concentrations exceeding regulatory screening levels.”¹⁸

Chrome VI, thallium and PCE are highly toxic chemicals:

- **Chrome VI:** Chrome VI can cause the following health effects: lung cancer and nasal cancers; irritation of the nose, throat and lungs (runny nose, coughing); allergic symptoms (wheezing, shortness of breath).¹⁹
- **Thallium:** Thallium was used as rat poison until 1972. Thallium can affect the nervous system, lung, heart, liver, and kidney. Temporary hair loss, vomiting, and diarrhea can also occur and death may result after exposure to large amounts of thallium for short periods. Thallium can be fatal from a dose as low as 1 gram.²⁰
- **PCE (Perchloroethylene):** PCE is listed as a chemical known to cause cancer in humans.²¹ Effects resulting from acute (short term) high-level inhalation exposure of humans to tetrachloroethylene include irritation of the upper respiratory tract and eyes, kidney dysfunction, and neurological effects such as reversible mood and behavioral changes, impairment of coordination, dizziness, headache, sleepiness, and unconsciousness. The primary effects from chronic (long term) inhalation exposure are neurological, including impaired cognitive and motor neurobehavioral performance. Tetrachloroethylene exposure may also cause adverse effects in the kidney, liver, immune system and hematologic system, and on development and reproduction. Studies of people exposed in the workplace have found associations with several types of cancer including bladder cancer, non-Hodgkin lymphoma, multiple myeloma. EPA has classified tetrachloroethylene as likely to be carcinogenic to humans.²²

The presence of these three toxic chemicals on the project site above regulatory screening levels, particularly given the fact that the site is adjacent to a children’s playground, may result in significant environmental impacts for construction workers, future residents, or users of the adjacent playground.²³ More specifically, according to the developer’s “Phase II environmental assessment” (“ESA”), PCE was found in all three soil vapor samples (up to 67 µg/m³), and exceeded the residential Environmental Screening Level (“ESL”) of 15 µg/m³. Concentrations of hexavalent chromium and thallium in both soil samples exceeded the residential ESLs but were below the applied construction worker ESLs.

Regarding soil vapor contamination, the SMP stated that the “source and full extent of these impacts is currently unknown”.²⁴ Were excavation of the site to occur, visual and olfactory observations indicative of contamination “if a significant issue” would trigger “environmental

¹⁸ *Id.*

¹⁹ See <https://oehha.ca.gov/media/downloads/faqs/hexchromiumairfact111616.pdf>.

²⁰ Available at: <https://wwwn.cdc.gov/TSP/PHS/PHS.aspx?phsid=307&toxid=49>.

²¹ Available at: <https://oehha.ca.gov/chemicals/tetrachloroethylene>.

²² Available at: <https://www.epa.gov/sites/default/files/2016-09/documents/tetrachloroethylene.pdf>.

²³ Exhibit D at p. 1.

²⁴ SMP at p. 4.

professional and/or appropriate regulatory agency” notification.²⁵ In lay terms, this would be far too little, far too late. In scientific terms, SWAPE’s expert opinion is that this measure would present a risk that construction workers may not have a sufficiently fine sense of smell to detect these toxic chemicals. Furthermore, since thallium and chrome VI are tasteless and odorless, relying on “olfactory” and “visual” observations will not detect this chemical.²⁶ In legal terms, this measure constitutes improper deferral of mitigation since it relies on future “visual and olfactory observations” to develop as yet undefined mitigation measures.

The Phase II ESA and the mitigation plan were both prepared for a previous project and, as shown in the diagram attached as Exhibit E, only cover a small portion of the site. The proposed Project is going to cover the entire site and no samples were taken from the rear of the site which encompasses over half of the site. The CEQA document therefore fails to adequately describe the Project’s environmental setting, which is an essential element for any CEQA document. (14 C.C.R. § 15125(a)).

Rather than preparing an initial study for the public under CEQA to investigate the extent of site contamination and associated potential health risks, the Planning Department’s exemption document pointed to the developer’s site mitigation plan to provide a “decision framework and specific risk management measures for managing soil and soil vapor beneath the Site.”²⁷ While the SMP contains mitigation measures, they are inadequate to ensure that all contamination will be remediated to less than significant levels. For example, the SMP inadequately mitigates soil-vapor impacts. The Project would include a subgrade bedroom.²⁸ To address the potential for vapor intrusion of PCE into indoor airspace, the SMP would provide for a vapor intrusion mitigation system (VIMS) to be installed within the subgrade following excavation.²⁹ A deed restriction would be required to ensure the proper operation and maintenance of the planned VIMS. In SWAPE’s expert opinion, mitigation measures like this should be analyzed in a CEQA document for adequacy. A CEQA document should be prepared to ensure that the mitigation measures are adequate and also to ensure that they are enforceable.³⁰

The known existence of hazardous substances at the Project site is an unusual circumstance creating the likelihood of significant environmental impacts. *McQueen v. Bd. of Directors* (1988) 202 Cal. App. 3d 1136, 1149. It is undisputed that the Project site contains toxic and hazardous substances. In *McQueen*, 202 Cal.App.3d 1136, 1149, the Court held that “the known existence of....hazardous wastes on property to be acquired is an unusual circumstance threatening the environment.” In that case, a regional open space district sought to acquire open land from the Air Force. The district exempted the purchase from CEQA review based on the “public open space” categorical exemption. *Id.* at 1141. After it had made its

²⁵ SMP at p. 10.

²⁶ https://www.cdc.gov/niosh/erashdb/emergencyresponsecard_29750026.html#:~:text=Thallium%20is%20tasteless%20and%20odorless,amounts%20in%20the%20earth's%20crust; <https://www.atsdr.cdc.gov/toxfaqs/tfacts7.pdf>.

²⁷ SMP at p. 1.

²⁸ SMP at p. 4

²⁹ SMP at p. 11

³⁰ Exhibit D at p. 3

CEQA exemption, the agency was notified by the Air Force about the existence of hazardous waste materials, including PCBs, at the site. *Id.* Rather than vacate the exemption and conduct CEQA review, the district instead proceeded with the project under the open space categorical exemption, and relied instead on future investigation and decontamination activities to be undertaken by the federal government at the site to address the contamination issues.

As in *McQueen*, the presence of recognized hazardous wastes on the site is an unusual circumstance, which creates a reasonable possibility that the project would have a significant effect on the environment, as defined by CEQA. *Id.* at 1148-49; 14 CCR §15300.2(c). The court required the district to conduct CEQA review before implementing any plan for the acquired property. *Id.* at 1140. See also, *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572; *Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011), 197 Cal.App.4th 327 (toxic contamination on project site precludes reliance on mitigated negative declaration).

Finally, the SMP is evidence in itself of a potentially significant impact. And, as a matter of law, an agency may not rely on a categorical exemption if to do so would require the imposition of mitigation measures to reduce potentially significant effects.³¹ If mitigation measures are necessary, then at a minimum, the agency must prepare a mitigated negative declaration to analyze the impacts, and to determine whether the mitigation measures are adequate to reduce the impacts to below significance.³² ““An agency should decide whether a project is eligible for a categorical exemption as part of its preliminary review of the project’ without reliance upon any proposed mitigation measures.”³³ In other words, the City was required to look at the Project application, and decide on its face, whether a categorical exemption applied, rather than assessing the Project’s impacts based on the site mitigation plan. Since mitigation measures would be necessary to abate the potentially serious contamination impacts at the Project site, a CEQA exemption is improper.

Additionally, the presence of hazardous substances is an environmental issue that must be addressed at a Project’s outset, and cannot be deferred to a future time to avoid CEQA review. *McQueen*, 2 Cal.App.3d at 1148. By including mitigation measures for future remediation of existing soil contamination in a Use Permit condition, the City improperly deferred detection and mitigation of hazardous substances to a future time. A CEQA document must be prepared to address and mitigate the significant impacts of the Project.

2. The Project’s Design Would Cause Impacts to Public Services Because of Safety Risks and Inadequate Firefighter Access.

According to the Project’s plans, the proposed townhomes would be built front to back, north to south. The building itself would be 12,312 square-feet on a steep, 3,571 square-foot,

³¹ *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108 (“SPAWN”); *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1198-1201.

³² SPAWN, 125 Cal.App.4th at 1108.

³³ SPAWN, 125 Cal.App.4th at 1106 (quoting *Azusa*, 52 Cal. App. 4th at 1199-1200).

exceedingly narrow parcel. Also, egress and ingress would be via a 5-foot-wide, 137-foot-long alleyway with eight flights of stairs. No other means of access are provided. Were a fire to occur in one or more of the front townhomes, residents living behind a burning unit would have no means of escape. Residents would be forced to run towards the fire, down a total of eight flights, and make way down a 137-foot-long alley before reaching Washington Street.

As discussed in the expert comments of Burt Engineering and Construction (Exhibit F), California's Building Codes expressly prohibit such dangerous conditions by requiring two exits, or special exit-access doorways from spaces who share a common path of egress over a certain distance.³⁴ A path of 137-feet exceeds the 125-foot maximum travel distance for fire and life safety.³⁵ The Project's proposed exit route is unsafe, hazardous, defies common sense and cannot be approved.

Equally concerning and noncompliant is the absence of proper firefighter access and emergency escape options to and from each of the townhomes' upper floors, keeping in mind each unit will have four stories. In California, upper floor bedrooms are required to have emergency escape and rescue windows. This requirement allows residents to escape should a fire occur, and also provides firefighters with access to windows to contain fires as quickly as possible.³⁶

Finally, California's Fire Code is specific about access for firefighters' ladders, and properties must provide approved access walkways where required by fire officials. The California Fire Marshal requires that rescue windows be accessible using ground ladders.³⁷ Firefighters must be able to place their ladders at the access walkway at an angle no greater than 70° from horizontal, approximately 8 feet from a building, which would be impossible on the proposed 5-foot-wide path. Based on the above public services impacts and safety hazards, CEQA review is required to:

1. Investigate options to ensure the Project is constructed with legally compliant rescue windows;
2. Investigate whether additional and/or improved egress and ingress alternatives would ensure firefighters could easily carry ground ladders along the walkway to the areas around townhome windows in a safe and readily accessible manner; and,
3. Investigate whether firefighters could set up ladders on the ground in proximity to the rescue windows in a safe and secure manner in accordance with the San Francisco Fire Department Ladder Manual.³⁸

³⁴ CA Building Code § 1028.1; *see also* Table 1006.3.4.

³⁵ *Id.*

³⁶ CA Fire Code § 504.1.

³⁷ *See* Cal Fire Interpretation 18-005; <https://osfm.fire.ca.gov/divisions/code-development-and-analysis/code-interpretations/all-code-interpretations/>.

³⁸ The proposed project runs afoul of:

The above-described Project flaws would pose unacceptable safety risks to both residents and firefighters. The Planning Department must investigate these serious design flaws and propose project alternatives to the public in a CEQA document for review and comment.

3. The Project's Shadow Impacts Will Harm the Betty Ann Ong Recreation Center.

The Project site is immediately east of the Betty Ann Ong Recreation Center, which is downslope and approximately 6 to 20 feet lower. The proposed Project would cause shadowing and shading of the recreation center in violation of San Francisco's Prop. K. In order to carry out Prop. K's mandate, the San Francisco's Planning Code, requires the Planning Commission to investigate and make findings that any shadow cast by a proposed project exceeding 40 feet in height would not have a significant effect on properties under the Recreation and Park's jurisdiction.³⁹

The fact that the Project is immediately adjacent to the sensitive receptor of Betty Ann Ong Recreation Center is an "unusual circumstance" which make the shadow impact highly significant. (*Lewis v. Seventeenth Dist. Agric. Assn.* (1985) 165 Cal. App. 3d 823, 831 ("with the adjacency of residential neighborhoods to the racetrack the 'unusual circumstances' exception to the categorical exemption applies to its project as a matter of law."))

The Project's plans show the Project would severely shade the recreation center's basketball courts and playground area. An independent shadow analysis shows that the Project will throw much of the play area of Betty Ann Ong Recreation Center into shadow during peak times of use. (Exhibit G). The developer's shadow analysis claimed the shadowing is acceptable because the Project, as proposed, would cast the same shadow as a code-compliant proposal. But that is no answer. All projects that cast shadow on a public park have a significant impact under Prop. K, regardless of whether the project is code-compliant. Therefore, the Planning Department must prepare a CEQA document that includes this potentially significant project impact for Planning Commission review.

4. The Project Is Subject to the San Francisco Slope and Seismic Hazard Zone Protection Act.

San Francisco's Slope and Seismic Hazard Zone Protection Act ("SSPA") applies to all properties that exceed an average slope of 4H:1V (25%) or fall within certain mapped areas of the City. A review of the Planning Department maps makes clear the subject property is within an identified hazardous zone. The Planning Department's draft exemption recognized the Project

-
- California Code of Regulations' minimum fire and life safety regulations.
 - California State Fire Marshal's minimum fire and life safety regulations.
 - San Francisco Fire Department's minimum fire and life safety regulations.
 - San Francisco's minimum building egress regulations.

³⁹ Planning Code § 295.

would be subject to the SSPA. Per the exemption's screening assessment: The average slope of the parcel is equal to or greater than 25%,⁴⁰ and the project involves new building construction, and construction would excavate more than 50 cubic yards of fill (approximately 130 cubic-feet in this case). In addition, San Francisco's Seismic Hazard Zones Map indicates that the front portion of the site is located in an area that is potentially susceptible to liquefaction during a major earthquake.⁴¹

The developer's geotechnical study identified four seismic and/or slope concerns:

- The thickness of the undocumented and variable fill (up to about 30 feet deep below existing site grades) across the site, which may be prone to sloughing or caving;
- The proximity of the existing, neighboring 6 to 20 feet high retaining wall along the eastern property line;
- The presence of the loose to medium dense sands that are potentially subject to dynamic densification following a strong seismic event, i.e., up to 4 inches of settlement estimated;
- The potential for severe ground shaking at the site during a major earthquake.⁴²

To address the Project's numerous and complex landslide and seismic concerns, the developer's geotechnical study contains ten pages of recommendations to mitigate potential impacts. As discussed above, the Planning Department may not rely on a categorical exemption if doing so would require the imposition of mitigation measures to reduce potentially significant effects.⁴³ There can be little argument that these types of impacts and proposed mitigation measures should be investigated and disclosed to the public. Seismic and slope hazards are highly unusual compared to the typical in-fill residential project, and thus must be addressed and mitigated in a CEQA document.

V. THE STATE DENSITY BONUS LAW DOES NOT APPLY BECAUSE THE PROJECT WILL HAVE SPECIFIC ADVERSE IMPACTS ON HEALTH, SAFETY, AND THE PHYSICAL ENVIRONMENT.

Lastly, the Planning Department misapplied the State Density Bonus Law to the Project. The Project is not entitled to any concessions or waivers pursuant to the Density Bonus Law because the Project will have a "specific adverse impact ... upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the

⁴⁰ "Topographic Map of San Francisco," *see* https://s3.amazonaws.com/sfplanninggis/Slopes+Poster_lowRes70DPI.pdf; in addition, the PIM mapping designates the site as having slopes of 25 percent or greater, *see* <https://sfplanninggis.org/pim/map.html?search=1151%20WASHINGTON%20ST&layers=Slope%20of%2025%20percent%20or%20greater>.

⁴¹ California Division of Mines and Geology, 2001.

⁴² Geotechnical Investigation, prepared for Davis Townhome Development at p. 9 (Nov. 2022).

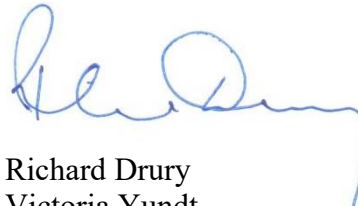
⁴³ *Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108.

specific adverse impact.”⁴⁴ As discussed above, there is expert opinion and other evidence showing that the Project will pose significant impacts related to public services due to access limitations for firefighters, hazardous soils and vapor contamination, and steep slope and seismic concerns. These are “specific adverse impact[s] upon health and safety... and the physical environment.” For these reasons, the Planning Department may not grant any concessions or waivers for the Project, including exempting the Project from CEQA, and the Project must undergo a full CEQA analysis and be redesigned to fully comply with all General Plan and zoning requirements.

VI. CONCLUSION

The Planning Commission improperly exempted the proposed Project from CEQA review. The Project does not meet the requirements for a Class 32 Infill Exemption. Accordingly, we respectfully request that the Board of Supervisors grant this appeal and direct the Planning Department to prepare an initial study followed by a mitigated negative declaration or EIR. The CEQA document must analyze the Project’s health and environmental impacts and propose feasible mitigation measures and alternatives. Thank you for considering these comments.

Sincerely,



Richard Drury
Victoria Yundt
LOZEAU | DRURY LLP

⁴⁴ Gov’t Code § 65915 (e)(1).

EXHIBIT A



CEQA Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
1151 WASHINGTON ST		0213025
Case No.		Permit No.
2022-010833ENV		
<input type="checkbox"/> Addition/ Alteration	<input checked="" type="checkbox"/> Demolition (requires HRE for Category B Building)	<input checked="" type="checkbox"/> New Construction
Project description for Planning Department approval. The project site is a 3,571-square-foot parcel in the Nob Hill neighborhood. The project site is occupied by an existing 30-foot-tall, three-story, single-family residence that is approximately 3,050 square feet in size with two off-street parking spaces. Immediately east of the project site is a lower playground area of the Betty Ann Ong Recreation Center that is approximately 6 to 20 feet lower than the subject property's rear yard. The change in elevation is supported by a retaining wall ranging between 6 to 20 feet that extends the length of the playground. Utilizing the state density bonus program, the project sponsor proposes the demolition of the existing single-family residence and construction of a 40-foot-tall (50-foot-tall with penthouses), four-story over basement residential building containing 10 for-sale townhouses and one off-street van parking space. The proposed building would be approximately 12,312 square feet in size. Each of the 10 residential units would be 4 stories and would include a penthouse and roof deck. The proposed front unit along Washington Street would be approximately 2,070 square feet in size with three bedrooms while the nine rear units would be approximately 940 square feet with two bedrooms. The proposed roof decks would include approximately 7-foot-tall privacy walls and there would be FULL PROJECT DESCRIPTION ATTACHED		

STEP 1: EXEMPTION TYPE

The project has been determined to be exempt under the California Environmental Quality Act (CEQA).	
<input type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input checked="" type="checkbox"/>	Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. FOR ENVIRONMENTAL PLANNING USE ONLY
<input type="checkbox"/>	Other ____
<input type="checkbox"/>	Common Sense Exemption (CEQA Guidelines section 15061(b)(3)). It can be seen with certainty that there is no possibility of a significant effect on the environment. FOR ENVIRONMENTAL PLANNING USE ONLY

STEP 2: ENVIRONMENTAL SCREENING ASSESSMENT

TO BE COMPLETED BY PROJECT PLANNER

<input checked="" type="checkbox"/>	<p>Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g. use of diesel construction equipment, backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to <i>The Environmental Information tab on the https://sfplanninggis.org/pim/</i>)</p>
<input checked="" type="checkbox"/>	<p>Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential?</p> <p>Note that a categorical exemption shall not be issued for a project located on the Cortese List if box is checked, note below whether the applicant has enrolled in or received a waiver from the San Francisco Department of Public Health (DPH) Maher program, or if Environmental Planning staff has determined that hazardous material effects would be less than significant. (refer to <i>The Environmental Information tab on the https://sfplanninggis.org/pim/</i>)</p>
<input checked="" type="checkbox"/>	<p>Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?</p>
<input checked="" type="checkbox"/>	<p>Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeology review is required.</p>
<input type="checkbox"/>	<p>Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to <i>The Environmental Information tab on the https://sfplanninggis.org/pim/</i>) If box is checked, Environmental Planning must issue the exemption.</p>
<input checked="" type="checkbox"/>	<p>Average Slope of Parcel = or > 25%, or site is in Edgehill Slope Protection Area or Northwest Mt. Sutro Slope Protection Area: Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, or (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area? (refer to <i>The Environmental Planning tab on the https://sfplanninggis.org/pim/</i>) If box is checked, a geotechnical report is likely required and Environmental Planning must issue the exemption.</p>
<input checked="" type="checkbox"/>	<p>Seismic Hazard: <input type="checkbox"/> Landslide or <input checked="" type="checkbox"/> Liquefaction Hazard Zone:</p> <p>Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area, or (4) grading performed at a site in the landslide hazard zone? (refer to <i>The Environmental tab on the https://sfplanninggis.org/pim/</i>) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</p>
<p>Comments and Planner Signature (optional): Don Lewis</p> <p>PLEASE SEE ATTACHED</p>	

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: <i>(refer to Property Information Map)</i>	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input checked="" type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Reclassification of property status. <i>(Attach HRER Part I)</i> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category A a. Per HRER b. Other <i>(specify)</i>: </div> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category C <i>(No further historic review)</i> </div> </div>
<input type="checkbox"/>	2. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	3. Interior alterations to publicly accessible spaces that do not remove, alter, or obscure character defining features.
<input type="checkbox"/>	4. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	5. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.

<input type="checkbox"/>	6. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	7. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	8. Work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (Analysis required):
<input type="checkbox"/>	9. Work compatible with a historic district (Analysis required):
<input type="checkbox"/>	10. Work that would not materially impair a historic resource (Attach HRER Part II).
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
<input type="checkbox"/>	Project can proceed with exemption review. The project has been reviewed by the Preservation Planner and can proceed with exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature:	

STEP 6: EXEMPTION DETERMINATION

TO BE COMPLETED BY PROJECT PLANNER

	No further environmental review is required. The project is exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.	
	Project Approval Action: Planning Commission Hearing	Signature: Don Lewis
		04/07/2023
<p>Supporting documents are available for review on the San Francisco Property Information Map, which can be accessed at https://sfplanninggis.org/pim/. Individual files can be viewed by clicking on the Planning Applications link, clicking the "More Details" link under the project's environmental record number (ENV) and then clicking on the "Related Documents" link.</p> <p>Once signed and dated, this document constitutes an exemption pursuant to CEQA Guidelines and Chapter 31 of the SF Admin Code. Per Chapter 31, an appeal of an exemption determination to the Board of Supervisors shall be filed within 30 days after the Approval Action occurs at a noticed public hearing, or within 30 days after posting on the Planning Department's website a written decision or written notice of the Approval Action, if the approval is not made at a noticed public hearing.</p>		

Full Project Description

The project site is a 3,571-square-foot parcel in the Nob Hill neighborhood. The project site is occupied by an existing 30-foot-tall, three-story, single-family residence that is approximately 3,050 square feet in size with two off-street parking spaces. Immediately east of the project site is a lower playground area of the Betty Ann Ong Recreation Center that is approximately 6 to 20 feet lower than the subject property's rear yard. The change in elevation is supported by a retaining wall ranging between 6 to 20 feet that extends the length of the playground.

Utilizing the state density bonus program, the project sponsor proposes the demolition of the existing single-family residence and construction of a 40-foot-tall (50-foot-tall with penthouses), four-story over basement residential building containing 10 for-sale townhouses and one off-street van parking space. The proposed building would be approximately 12,312 square feet in size. Each of the 10 residential units would be 4 stories and would include a penthouse and roof deck. The proposed front unit along Washington Street would be approximately 2,070 square feet in size with three bedrooms while the nine rear units would be approximately 940 square feet with two bedrooms. The proposed roof decks would include approximately 7-foot-tall privacy walls and there would be a mini-split heat pump (condenser unit) on the roof of each unit.

Access to the proposed units would be from a 5-foot-wide pathway that would step up along the eastern edge of the property. The proposed pathway would include a bicycle ramp. Each unit would be equipped with an exterior hoist to facilitate the moving of furniture and other bulky items from the outside. The project would include 10 class 1 bicycle parking spaces and there would be 1 class 2 bicycle parking space on the sidewalk in front of project site. The existing 13-foot-wide curb cut would be reduced to a 10-foot-wide curb cut. The 6 existing trees on the subject property would be removed and the project would plant two trees in front of the project site. Trash and recycling for the proposed building would be located in the shared garage space located at the street level basement.

The proposed development would be supported on micropiles. The project would require approximately 130 cubic yards of excavation with a depth of approximately 12.5 feet below ground surface. Construction duration is approximately 15 months.

Step 2: Environmental Screening Comments

Geology and Soils: A geotechnical report was prepared by Romig Engineers (dated November 2022), confirming that the proposed project is on a site subject to 25 percent slope and liquefaction. The project's structural drawings would be reviewed by the building department, where it would be determined if further geotechnical review and technical reports are required.

Archeological Resources: The department's staff archeologist conducted preliminary archeological review on January 23, 2023 and determined that no CEQA-significant archeological resources are expected within project-affected soils.

Hazardous Materials: The project is subject to the Maher Ordinance (Article 22A of the Health Code), which is administered by the Department of Public Health. The project sponsor enrolled in the Maher Program (Environmental Health Branch, Contaminated Sites Assessment and Mitigation Program Case No. 1905), and on January 10, 2023 the health department approved the site mitigation plan.

Transportation: The department's transportation staff reviewed the proposed project on 9/13/2022 and determined that additional transportation review is not required.

Noise: The project would use typical construction equipment that would be regulated by Article 29 of the Police Code (section 2907, Construction Equipment). No impact pile driving or nighttime construction is required. Construction vibration would not be anticipated to affect adjacent buildings. The proposed project would not generate sufficient vehicle trips to noticeably increase ambient noise levels, and the project's fixed noise sources, such as heating, ventilation, and air conditioning systems, would be subject to noise limits in Article 29 of the Police Code (section 2909, Noise Limits).

Air Quality: The proposed project's construction would be subject to the Dust Control Ordinance (Article 22B of the Health Code). The proposed land uses are below the Bay Area Air Quality Management District's construction and operational screening levels for requiring further quantitative criteria air pollutant analysis. The project site is located within an air pollutant exposure zone but would not add new stationary sources of toxic air contaminants. Pursuant to Director's Bulletin No. 2 for Type 3, Clean Construction projects, the project sponsor has committed to using Tier 4 engines on all diesel-fueled construction equipment. Thus, no significant construction or operational air quality impacts would occur.

Water Quality: The project's construction activities are required to comply with the Construction Site Runoff Ordinance (Public Works Code, article 2.4, section 146). The project sponsor would be required to implement Best Management Practices to prevent construction site runoff discharges into the combined or separate sewer systems. Stormwater and wastewater discharged from the project site during operations would flow to the City's combined sewer system and be treated to the standards in the City's National Pollution Discharge Elimination System permit.

Natural Habitat: The project site is within a developed urban area. The project site has no significant riparian corridors, estuaries, marshes, wetlands, or any other potential wildlife habitat that might contain endangered, rare or threatened species. Thus, the project site has no value as habitat for rare, threatened, or endangered species.

Vehicle Parking and Aesthetics: The proposed development qualifies as a transit-oriented infill project. Therefore, in accordance with CEQA section 21099, vehicular parking and aesthetics shall not be considered to have the potential to result in significant environmental effects.

Shadow: The proposed building height per the Planning Code does not exceed 40 feet; the rooftop penthouse areas do not exceed 20 percent of the total roof area. The project is not subject to Section 295 shadow analysis.

Public Notice: A "Notification of Project Receiving Environmental Review" was mailed on January 13 2023 to adjacent occupants and owners of buildings within 300 feet of the project site and to the Nob Hill neighborhood group list.

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?

If at least one of the above boxes is checked, further environmental review is required

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed to the Environmental Review Officer within 10 days of posting of this determination.	
Planner Name:	Date:

EXHIBIT B



NOTICE OF PUBLIC HEARING

Hearing Date: **THURSDAY, APRIL 20, 2023**
Time: **Not before 1:00 PM**
Location: **City Hall, 1 Dr. Carlton B. Goodlett Place**
Room 400 and Remote -
<https://sfplanning.org/remotehearings>
Case Type: **Conditional Use**
Hearing Body: **Planning Commission**

PROJECT INFORMATION

Project Address: **1151 Washington Street**
Cross Streets: **Tyler & Mason Streets**
Block / Lot No.: **0213 / 025**
Zoning District(s): **RM-3 / 65-A**
Area Plan: **N/A**
Record No.: **2022-010833CUA**

APPLICANT INFORMATION

Applicant: **Dana Manea**
Company: **MACY Architecture**
Address: **315 Linden Street**
City, State: **San Francisco, CA**
Telephone: **(415) 652-4535**
Email: danam@macyarchitecture.com

PROJECT DESCRIPTION

The proposal is for a Conditional Use Authorization, pursuant to Planning Code Sections 209.2, 303 and 317 to permit the demolition of a single-family dwelling on the subject property and construct a four-story, 40-foot tall building containing 10 dwelling units (1 three-bedroom unit and 9 two-bedroom units), one off-street parking space and 10 Class One bicycle parking spaces, under the Individually Requested State Density Bonus Program pursuant to Planning Code Section 206.6 and California Government Code Section 65915 within the RM-3 (Residential, Mixed – Medium Density) Zoning District and a 65-A Height and Bulk District.

A Planning Commission approval at the public hearing would constitute the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

ADDITIONAL INFORMATION

Architectural Plans: To view the plans and related documents for the proposed project, visit <https://sfplanning.org/notices> and search the Project Address listed above. The plans will also be available one week prior to the hearing through the hearing agenda at: <https://sfplanning.org/hearings> or by request at the Planning Department office located at 49 South Van Ness Avenue, Suite 1400.

For more information, please contact Planning Department staff:

Planner: **Christopher May**

Telephone: **(628) 652-7359**

Email: Christopher.May@sfgov.org

General Information About Procedures

HEARING INFORMATION

You are receiving this notice because you are either a property owner or resident that is adjacent to the proposed project or are an interested party on record with the Planning Department. **You are not required to take any action. For more information regarding the proposed work, or to express concerns about the project, please contact the Applicant or Planner listed on this notice as soon as possible.** Additionally, you may wish to discuss the project with your neighbors and/or neighborhood association as they may already be aware of the project.

Persons who are unable to attend the public hearing may submit written comments regarding this application to the Planner listed on the front of this notice, Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103, by 5:00 pm the day before the hearing. These comments will be made a part of the official public record and will be brought to the attention of the person or persons conducting the public hearing.

Comments that cannot be delivered by 5:00 pm the day before the hearing may be taken directly to the hearing at the location listed on the front of this notice. Comments received at 49 South Van Ness Avenue after the deadline will be placed in the project file, but may not be brought to the attention of the Planning Commission at the public hearing.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

BUILDING PERMIT APPLICATION INFORMATION

Pursuant to Planning Code Section 311, the Building Permit Application for this proposal may also be subject to a 30-day notification of property owners and residents within 150-feet of the subject property. **This notice covers the Section 311 notification requirements, if required.**

APPEAL INFORMATION

An appeal of the approval (or denial) of a **Conditional Use application** and/or building permit application associated with the Conditional Use application may be made to the **Board of Supervisors within 30 calendar days** after the date

of action by the Planning Commission pursuant to the provisions of Section 308.1(b). Appeals must be submitted in person at the Board's office at 1 Dr. Carlton B. Goodlett Place, Room 244. For further information about appeals to the Board of Supervisors, including current fees, contact the Clerk of the Board of Supervisors at (415) 554-5184.

An appeal of the approval (or denial) of a **building permit application** by the Planning Commission may be made to the **Board of Appeals within 15 calendar days** after the building permit is issued (or denied) by the Director of the Department of Building Inspection. Appeals must be submitted in person at the Board's office at 49 South Van Ness Avenue, Suite 1475. For further information about appeals to the Board of Appeals, including current fees, contact the Board of Appeals at (628) 652-1150.

Pursuant to California Government Code Section 65009, if you challenge, in court, the decision of an entitlement or permit, the issues raised shall be limited to those raised in the public hearing or in written correspondence delivered to the Planning Commission prior to, or at, the public hearing.

ENVIRONMENTAL REVIEW

This project has undergone preliminary review pursuant to California Environmental Quality Act (CEQA). If, as part of this process, the Department's Environmental Review Officer has deemed this project to be exempt from further environmental review, an exemption determination will be prepared and can be obtained through the Exemption Map at www.sfplanning.org prior to the approval action. An appeal of the decision **to exempt the proposed project from CEQA may be made to the Board of Supervisors within 30 calendar days** after the project approval action identified on the determination. The procedures for filing an appeal of an exemption determination are available from the Clerk of the Board at City Hall, Room 244, or by calling (415) 554-5184.

Under CEQA, in a later court challenge, a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process on the CEQA decision.



Date: **03/31/2023**

The attached notice is provided under the Planning Code. It concerns property located at **1151 Washington Street (2022-010833CUA)**. A hearing may occur, a right to request review may expire or a development approval may become final by **04/20/2023**.

To obtain information about this notice in Spanish, Chinese, or Filipino, please call **628.652.7550**. Please be advised that the Planning Department will require at least one business day to respond to any call.

附上的是三藩市城市規劃的法定通告。

此通告是與位於 **1151 Washington Street (2022-010833CUA)**

的建築計劃有關。如果在 **04/20/2023** 之前無人申請聽證會來檢討這一個建築計劃, 這計劃最終會被核准。

如果你需要用華語獲得關於這通告的細節, 請電 **628.652.7550**。

然後, 請按 “8” 及留言。城市規劃局將需要至少一個工作天回應。華語資料提供只是城市規劃局的一項服務, 此項服務不會提供額外的權利或延伸任何要求檢討的期限。

El documento adjunto es requerido por el Código de Planeación (Planning Code) y es referente a la propiedad en la siguiente dirección: **1151 Washington Street (2022-010833CUA)**. Es posible que ocurra una audiencia pública, que el derecho a solicitar una revisión se venza, o que la aprobación final de proyecto se complete el: **04/20/2023**.

Para obtener más información sobre esta notificación en español, llame al siguiente teléfono **628.652.7550**. Por favor tome en cuenta que le contestaremos su llamada en un periodo de 24 horas.

Ang nakalakip na paunawa ay ibinibigay alinsunod sa Planning Code. Tinatalakay nito ang propyedad na matatagpuan sa **1151 Washington Street (2022-010833CUA)**. Maaring may paglilitis na mangyayari, may mapapasong paghiling ng isang pagrerepaso (review), o ang na-aprobahang pagpapatayo ay malapit nang ipagtibay sa **04/20/2023**.

Para humiling ng impormasyon tungkol sa paunawang ito sa Tagalog, paki tawagan ang **628.652.7550**. Mangyaring tandaan na mangangailangan ang Planning Department ng di-kukulangin sa isang araw ng pangangalakal para makasagot sa anumang tawag.

SAN FRANCISCO PLANNING COMMISSION

Meeting Minutes

Commission Chambers, Room 400
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Thursday, April 20, 2023
1:00 p.m.
Regular Meeting

COMMISSIONERS PRESENT: Tanner, Moore, Braun, Diamond, Imperial, Koppel
COMMISSIONERS ABSENT: Ruiz

THE MEETING WAS CALLED TO ORDER BY PRESIDENT TANNER AT 1:03 PM

STAFF IN ATTENDANCE: Aaron Starr, Mat Snyder, Lily Langlois, Christopher May, Lisa Gibson, Jeff Horn, Nick Foster, Trent Greenan, Liz Watty – Director of Current Planning, Rich Hillis – Planning Director, Laura Lynch – Acting Commission Secretary

SPEAKER KEY:

- + indicates a speaker in support of an item;
- indicates a speaker in opposition to an item; and
- = indicates a neutral speaker or a speaker who did not indicate support or opposition.

A. CONSIDERATION OF ITEMS PROPOSED FOR CONTINUANCE

The Commission will consider a request for continuance to a later date. The Commission may choose to continue the item to the date proposed below, to continue the item to another date, or to hear the item on this calendar.

1. 2019-000499DRM (J. HORN: (628) 652-7366)
1 LA AVANZADA STREET – Sutro Tower, Lot 003 in Assessor's Block 2724 (District 7) – **Mandatory Discretionary Review**, pursuant to Planning Code Section 306.9, of Building Permit Application No. 2019.0108.9873, proposing the permanent removal of the exterior

cladding on the vertical elements of Sutro Tower. The subject property is located within a RH-1 (D) (Residential - House, One Family) Zoning District and 40-X Height and Bulk Districts.

*Preliminary Recommendation: Take Discretionary Review and Approve with Conditions
(Proposed for Continuance to May 25, 2023)*

SPEAKERS: Rich Hillis – Response to comments and questions regarding the continuance
Taylor Jordan – Response to comments and questions regarding the continuance
ACTION: Continued to May 25, 2023
AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner
ABSENT : Ruiz

B. CONSENT CALENDAR

All matters listed hereunder constitute a Consent Calendar, are considered to be routine by the Planning Commission, and may be acted upon by a single roll call vote of the Commission. There will be no separate discussion of these items unless a member of the Commission, the public, or staff so requests, in which event the matter shall be removed from the Consent Calendar and considered as a separate item at this or a future hearing.

2. [2023-001585PCA](#) (V. FLORES: (628) 652-7525)
NON-CONFORMING PUBLIC PARKING LOTS IN THE MISSION STREET NCT DISTRICT [BF 230164] – Planning Code Amendments – An ordinance, sponsored by Supervisor Ronen, to amend the Planning Code to allow continued use of existing shared spaces in specified public parking lots in the Mission Street Neighborhood Commercial Transit (NCT) District without triggering abandonment of the underlying vehicular parking use; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Preliminary Recommendation: Approve

SPEAKERS: None
ACTION: Approved
AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner
ABSENT : Ruiz
RESOLUTION: 21302

C. COMMISSION MATTERS

3. Land Acknowledgement

Commissioner Braun:

The Planning Commission acknowledges that we are on the unceded ancestral homeland of the Ramaytush Ohlone, who are the original inhabitants of the San Francisco Peninsula. As the indigenous stewards of this land and in accordance with their traditions, the Ramaytush Ohlone have never ceded, lost, nor forgotten their responsibilities as the

caretakers of this place, as well as for all peoples who reside in their traditional territory. As guests, we recognize that we benefit from living and working on their traditional homeland. We wish to pay our respects by acknowledging the Ancestors, Elders, and Relatives of the Ramaytush Ohlone community and by affirming their sovereign rights as First Peoples.

4. Consideration of Adoption:

- [Draft Minutes for March 30, 2023](#)

SPEAKERS: None

ACTION: Adopted

AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner

ABSENT : Ruiz

5. Commission Comments/Questions

President Tanner:

Great, thank you. I just want to share Commissioners, I was able to talk with Commissioner Ruiz a little bit over the weekend and saw a picture of her new daughter, Violet. Mom and baby are both doing very well. So, if she happens to be watching, we're wishing you the best and we do miss you, but I hope you are having a good time as a new mom. And then, of course tonight is the Warriors' game so we want to send some good wishes for a win. First win of this playoff for them here at home. So, looking forward to that.

Commissioner Moore:

Well, I'll chime in go Warriors. But I actually wanted to ask Director Hillis for some wisdom here. Wisdom. I am reading with increased frequency about projects becoming more and more questionable. The latest I've heard was the disagreement between partners at Treasure Island. And in light of everything what we're doing, I am very disturbed about that. That is obviously the closing of One Oak as we know it and the list goes on. And I'm kind of wondering where that leaves us. Is there anybody who is carefully assessing that this is happening and in what kind of predicament it puts us in? Because these are significant numbers in our Housing Element and they seriously tracked on our ability to meet our goals since we have diligently, and you and I know that best, worked on this project for almost over a decade. What do we do? Who's listening to us and gives us a break?

Rich Hillis, Planning Director:

It's a great question and we are working on it with other agencies including OEWD, the board, the Controllers Office. I was going to mention in my Director's report that the TAC, which is the Technical Advisory Committee, which is not the greatest sounding name of a committee, but they've got an important role to look at project feasibility and look at the inclusionary rates and other fees we charge to see why projects may not be moving forward as, you know, construction costs, can fees play a role, do we provide additional time on entitlements? And so, they've made a recommendation to the Board of Supervisors which will ultimately become legislation and come to you all. But I think we are grappling with them and other agencies on just this question. So, you will have a chance to weigh in on that as well as, you know, the Mayor put forward changes to our

processes to make it easier to entitle projects. I know this doesn't help projects that are already entitled but the TAC changes do because they are looking to make changes to existing entitled projects. On DA projects, again, the mayor put forward a legislation that allows project sponsors that have significant infrastructure requirements to tap in to tax increment financing to be able to meet those obligations which could help some of these larger DA projects. So, it's a huge issue and definitely on our radars with other agencies in the city to try to get those projects moving. One Oak for example, their entitlement stay, right, I mean just because the project sponsor were, is not the one who's necessarily executing that project. Those entitlements still exist. The bank who took over that project will look for another entity to carry forward on those entitlements. And hopefully some of these changes that the TAC is recommending will see them subsume through an ordinance and make changes that will help those projects.

Commissioner Moore:

So, all very large number projects and that's why they are really just staking out.

Rich Hillis, Planning Director:

Yup.

Commissioner Moore:

And these are south sites, not to mention [inaudible] which is even around longer --

Rich Hillis, Planning Director:

Park Merced.

Commissioner Moore:

And we are basically holding the bag which promises which have been made and can't be delivered. Thank you.

Commissioner Imperial:

Actually that was also something that I want to bring up is about the news about One Oak that, you know, it came before us and we also asked, scrutinized, in a way asked the feasibility of the development. But I guess my way to look into it as well as part of the Housing Element because part of the policy goals that we put in of course is prioritizing the affordable housing. And whether, you know, this site or other sites that may not be feasible by the private market perhaps that can be identified for land banking or affordable housing. Again, it calls for funding as well. So, that is something also to think about for us, or for the city as these projects are becoming infeasible. So, that would be my comment on that. Thank you.

President Tanner:

Yeah. Thank you for that, Commissioner Imperial. Certainly I think there is the group that the mayor put together that is looking how to meet our affordable housing goals and maybe that can be, I know it's part of our Housing Element so certainly a strategy to think about how to possibly acquire those, those sites.

Commissioner Diamond:

Thank you. Just to follow on to Commissioner Moore's question. So we are completely reliant on the private market to produce the housing and as a Commission, we approve tens of thousands of units and it doesn't do much good. They just sit on paper. And we're told these projects are infeasible. But I'm wondering if it might be helpful to have --

Laura Lynch, Acting Commission Secretary:

I hate to interrupt. I just want to make sure that we're not having a discussion about something that's not on today's agenda so,

Commissioner Diamond:

We're not.

Laura Lynch, Acting Commission Secretary:

I just want to advise you all of that.

President Tanner:

Thank you.

Commissioner Diamond:

I'm wondering if it might be possible to put together an information session with the, a number of the private housing providers in count. Not about their particular projects but the factors that go into their proformas. Obviously, our fees are one element of that but the construction costs, both supplies and labor, and the trend on rents and sales prices so that we're all on a level playing field about how the providers of our housing regard feasibility. You know there -- most of these developers, you know, were not the financiers of their projects. They rely on pension funds or private equity money. I just think it might be helpful to all of us to understand the factors that go into their decision making instead of just having to live with the result which we do. I feel like we could make more informed decision making if we were sensitive to how they look at these issues. So anyways, it's a suggestion and I wonder Director Hillis if you would --

Rich Hillis, Planning Director:

Sure. In the TAC, to have information, I mean, they were looking at kind of generic projects but I mean your point about hearing from developers who are actually in the midst of trying to get projects financed and looking up where rents are going and our construction costs and fees are a good one. So, yeah.

President Tanner:

When is the TAC's report going to come to us when that legislation. Is it still a while...

Rich Hillis, Planning Director:

The legislation, I mean we can have a hearing on recommendations if you want it in advance of the ordinance.

President Tanner:

Yeah.

Rich Hillis, Planning Director:

The recommendations, I mean the TAC had their final meeting yesterday and so they have made their recommendations.

President Tanner:

Yeah. I think that will be a good opportunity to have this discussion. Certainly bring that forward and have this discussion there.

Rich Hillis, Planning Director:

Sure.

President Tanner:

The last thing I want to make Commissioners if, were you done, Commissioner Diamond? Is around Director Hillis and I attended – was it just last week, the Reparations Task Force? So, you may report on that. But one of the outcomes of that I would like to see is us host. I would like to talk about having discussion here of their draft recommendation on which I believe they were working to finalize this by June of this year, is when there're, they are set to finalized. So, whether it's before or after or around when they finalized, to have a discussion here at this Commission about the recommendations and kind of integrating that into our efforts to pursue racial and social equity and taking a look at that. And of course we know that we've left kind of a trail of breadcrumbs in our Housing Element towards their recommendations and so I think it's good to bring it back here when they actually have made their final recommendations.

Laura Lynch, Acting Commission Secretary:

Thank you. I did want to bring to everyone's attention that we received a request to adjourn today's hearing in memoriam of Marvis Philips who passed away recently. Marvis was an active community member and specifically within District 6.

D. DEPARTMENT MATTERS**6. Director's Announcements****Rich Hillis, Planning Director:**

I think we've covered everything. Just the one other point which is Housing Element implementation related as we had a meeting last night about the site permit process. It was a public meeting to get input from customers, users, of our permitting process. We hosted it with DBI. Ms. Watty and Mr. Christiansen kind of led the charge in answering questions and talking about potential reforms to our site permit process. So well received. We got good feedback and you're going to hear the [inaudible] in our joint meeting with DBI. If I can also add, if we can also adjourn today's meeting in honor of Eleanor Johns who passed away recently too. She was Mayor Brown's Chief of Staff for decades, both in Sacramento and here at City Hall, and also was the wife of Richard Johns who is a Commissioner on the Historic Preservation Commission.

Commissioner Diamond:

And also chair at the Airport Land Use Commission.

Rich Hillis, Planning Director:
Yeah.

President Tanner:

Certainly, thank you. And maybe lastly, I don't know if you have any comments Director on the Mayor's legislation that was introduced also earlier this week or if Mr. Starr may be addressing that in his comments.

Rich Hillis, Planning Director:

Yeah. And so again it feeds off the Housing Element. Many of the recommendations we had are the requirements in the Housing Element, were put in the legislation that the Mayor has to improve the process, it reduces hearings and CUs and other things we'll get into when the legislation is before us. We'll also hear a little bit about it next week. We've got more of a broader overview on Housing Element implementation so we'll touch on it then but we'll also talk more about it and get your recommendations in a month or so.

President Tanner:

Great. Thank you.

7. Review of Past Events at the Board of Supervisors, Board of Appeals and Historic Preservation Commission

Aaron Starr, Manager of Legislative Affairs:

Good afternoon, Commissioners, Aaron Starr Manager of legislative affairs.

It's been a minute. I hope you enjoyed your break, and happy 420 to all who celebrate. It's actually been an auspicious week; this past Saturday was 415 Day or the day SF was incorporated in 1850. Tuesday was the anniversary of the 1906 earthquake and fire, and yesterday was Bicycle Day. For those that don't know, Bicycle Day commemorates the first recorded LSD "trip" by Swiss scientist Albert Hofmann in 1943. Apparently, Hoffman rode his bike home after ingesting ¼ mg of LSD, hence Bicycle Day. Yesterday was also my husband's 70th birthday. A self-described old hippie who unfortunately likes the Grateful Dead, it's fitting he shares a birthday with first LSD trip. So, a shout out to my wonderful husband, Bill Weber, happy birthday. Moving on...

Land Use Committee

221105 Planning Code - HOME-SF. Sponsor: Peskin. Staff: V. Flores.

221021 Planning, Administrative Codes - HOME-SF. Sponsors: Dorsey; Peskin. Staff: V. Flores.

Both HOME SF ordinances were continued for one week.

220340 Planning Code - Neighborhood Commercial and Mixed-Use Zoning Districts. Sponsor: Dorsey. Staff: Starr.

Also, this week, the Committee considered the long-stalled Article 8 Reorganization ordinance, also known as Neighborhood Commercial and Mixed-Use Zoning Districts ordinance, sponsored by Supervisor Dorsey. The Commission may recall this ordinance has been continued several times. This commission heard the ordinance on November 17th of 2022, and voted to recommend approval with modifications. Those modifications included:

1. Exempt Childcare Facilities and Residential Care Facilities from FAR limits in the South Park, RED and RED-MX zoning districts.
2. Remove the language referencing adequate lighting and the Planning Department's lighting guidelines from the definition of Walk-Up Facility.
3. Principally permit Nighttime Entertainment on properties fronting Folsom Street between 7th Street and Division Street and properties fronting 11th Street between Howard Street and Division Street. and
4. Encourage the Entertainment Commission to evaluate how best to mitigate impacts in RED and RED-MX districts from noise and other quality of life impacts related to Nighttime Entertainment uses.

Supervisor Dorsey did add those amendments at a previous committee hearing. Supervisor Peskin also made some minor amendments intended to maintain existing controls for adult businesses at a past hearing.

This week, with only a short presentation from Supervisor Dorsey's aide Madison Tam, the Committee voted unanimously to move the item forward with a positive recommendation.

220971 Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses. Sponsor: Safai. Staff: Merlone. Item 5

Next on the docket was Supervisor Safai's ordinance that would exempt certain existing gates, railings, and grillwork from transparency requirements; create an amnesty program for existing non-conforming gates; and exempt Cannabis Retail uses from transparency requirements for gates. Commissioners, you heard this item on December 8th of last year and voted to approve the ordinance with modifications. The Commission's proposed modifications were:

1. Require artwork on all solid security gates.
2. Allow 3 years for businesses with a non-compliant security gate to apply for a permit to legalize the gate. Businesses that failed to legalize would then be subject to the existing security gate requirements.
3. Clarify that the amnesty program does not exempt historic buildings from other required review procedures; and
4. Instruct the Commission to adopt objective design standards for gate mechanisms.

At the Land Use Committee hearing two weeks ago, Supervisor Safai introduced a host of amendments, including:

1. Change the transparency requirement for ALL security gates in the City from 75% open, to at least 20% open;
2. Require all new gates to have a "viewing window" at least 10 inches in height for fire safety;
3. Require Cannabis businesses who propose to install a new gate that is less than 20% open to also install a mural on that gate;

4. Require businesses with existing, non-conforming gates to file a building permit within 3 years to legalize the gate. Those that do not meet that deadline would be subject to fines; however, the business owner could still legalize their non-conforming gate, and;
5. Remove the provision requiring gate mechanisms to be laid flush with or receded behind storefronts but require both the mechanisms and gates to comply with any adopted objective design standards.

After some brief discussion the Committee voted unanimously to adopt Sup. Safai's amendments before continuing the item for two weeks. This week the item was passed out of committee with little to no discussion.

230192 Planning Code - Landmark Designation Amendment - 429-431 Castro Street (the Castro Theatre). Sponsor: Mandelman. Staff: Westhoff.

Also a few weeks ago, the Land Use Committee considered amendments to the Castro Theatre's Landmark designation. While the Castro theater is already landmark, this new ordinance would revise the landmark designation to include portions of the interior. The HPC heard this item on February 1st, 2023 and voted to approve the amendments as proposed by staff.

At the hearing there were numerous members of the public many who urged the Committee to landmark the seat.

Supervisor Mandelman urged the Committee members to continue the item two weeks and in the meantime instruct the City Attorney to draft amendment language that would include fixed theatrical seating as part of the Landmark designation. It was the Supervisor's hope that in the intervening two weeks the sponsor, APE, would work with the community to address their concerns regarding preserving the integrity of the space as a movie palace. If that happened, the amendment would no longer be necessary.

After hearing public comment, the Committee agreed to continue the item two weeks, and urged APE to work with the community in the interim.

This week the committee took the issue up again. During public comment, which took a few hours, both sides of the argument were well represented. After the public comment period, the committee voted to include fixed raked seating as a character defining feature and forwarded the item to the full board on a 2-1 vote. Supervisor Melgar voted against the motion.

Full Board

220340 Planning Code - Neighborhood Commercial and Mixed Use Zoning Districts. Sponsor: Dorsey. Staff: Starr. Passed First Read

220971 Planning Code - Gates, Railings, and Grillwork Exceptions for Cannabis Retail Uses and Existing Non-Residential Uses. Sponsor: Safai. Staff: Merlone. Passed First Read

**230285 Hearing - Appeal of Conditional Use Authorization Approval - 800 Taraval Street.
Staff: Alexander.**

Also, this week, the Board considered the Conditional Use appeal for the Cannabis Retail use proposed at 800 Taraval St, doing business as The Green Mirror. The new use would occupy a mezzanine space above the Italian Restaurant named The Gold Mirror. This commission heard the item on February 2, 2023, and voted unanimously to approve the project.

The appellant had three reasons for filing the appeal. Those were 1) Misrepresentation and lack of notice of on-site consumption, 2) Misrepresentation of the restaurant as vacant storefront, and 3) Incompatibility with neighborhood/Failure to alter the neighborhood for the better.

Public comment in favor of the appeal was lengthy, and the issues brought up were like what this commission heard during its hearing on the matter. There were no commentators in support of the project.

After Staff's presentation, Supervisor Melgar asked staff questions about the approval, specifically why on-site consumption was called out as an accessory use for the business when the applicant had no intention of doing on-site consumption, and why the space was described as vacant when it had been used as a restaurant.

Staff response was that the accessory use is allowed by the Planning Code, but that calling it out in the Resolution wasn't necessary. Further, we would be reevaluating how we draft these approval motions in the future. Regarding the space, it was vacant when the application was submitted due to COVID, but also staff visited the space more recently and it was not being used by the restaurant at the time. Melgar also expressed sympathy for the speakers in favor of the appeal, noting that our process can be overly bureaucratic, and can make people feel as if they are not being heard.

Supervisor Stefani also spoke, stating her support for the appeal and concern that the Cannabis Retail use wasn't appropriate at this location given that several surrounding uses catered to children. Supervisor Edgardo also spoke in favor of the appellants, noting that the neighborhood was clearly against this cannabis retail location.

Supervisor Melgar then made a motion to overturn the Commission's action, and amend the approval to include additional conditions, which included:

Maintaining all of the Commission's conditions of approval, except hours of operation, which she amended to be from 9 am to 9 pm, instead of 10 pm; no onsite consumption of edibles or smoking and vaping; deliveries can only take place between 9 am and 4:30 pm; and additional good neighbor policies related to community engagement, parking and loitering.

When put to a vote the motion to overturn and amend the Commission's approval passed on a 9-2 vote, with Supervisors Stefani and Edgardo voting against the motion.

Laura Lynch, Acting Commission Secretary:

The Historic Preservation Commission did meet yesterday. The recommended approval of three legacy business applications. Pirro's Pizzeria at 2244 Taraval Street, Ng Hing Kee at 648 Jackson Street and Maitri Compassionate Care at 401 Duboce Avenue. They also Recommended Landmark Designation to the Board of Supervisors for The Church For The Fellowship Of All Peoples (2041 Larkin Street). Lastly, they Adopted a Recommendation for a legislative item - Commercial To Residential Adaptive Reuse And Downtown Economic Revitalization that you will be hearing in a couple of weeks. No report from the Board of Appeals

E. GENERAL PUBLIC COMMENT

At this time, members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items. With respect to agenda items, your opportunity to address the Commission will be afforded when the item is reached in the meeting. Each member of the public may address the Commission for up to three minutes. When the number of speakers exceed the 15-minute limit, General Public Comment may be moved to the end of the Agenda.

SPEAKERS: Georgia Schuttish – April 15-16th WSJ article on housing supply (“How many Homes the U.S. Really Needs”) raises questions that should also be raised regarding RHNA numbers forced on San Francisco during implementation of Housing Element. Other important issue raised in article is affordability. The housing crisis in San Francisco is a crisis of affordable housing, particularly for people/families at the lower AMIs. Other issue raised in article is not only building new housing, but preserving existing housing. Unfortunately Section 317 TTD adjusting values to preserve housing never happened, despite Commission empowered with legislative authority per Section 317 (b) (2) (D). 2014 Housing Element never fully implemented. Existing housing is “cheaper” per article. This is common sense. Preserving housing: Codify the Residential Flat Policy preserving the existing configuration of Flats. Preserve UDUs. Additionally: SF Entitlements are for sale. Housing is unoccupied, tenant buy-outs, more housing commodification. See examples submitted with article.

F. REGULAR CALENDAR

The Commission Hearing Procedures provide for presentations by staff; when applicable, followed by a presentation of the project sponsor team; followed by public comment. Please be advised that the project sponsor team includes: the sponsor(s) or their designee, lawyers, architects, engineers, expeditors, and/or other advisors.

- 8a. [2019-023037GPA](#) (M. SNYDER: (628) 652-7460)
WATERFRONT PLAN RELATED GENERAL PLAN AMENDMENTS – An ordinance, initiated by the Planning Commission, to amend the Recreation and Open Space Element, the Northeastern Waterfront Area Plan and the Central Waterfront Area Plan. The Port of San Francisco's recently updated Waterfront Plan updates the 1997 Waterfront Land Use Plan, which sets long-term goals and policies to guide the use, management, and improvement of 7.5 miles of properties owned and managed by the Port of San Francisco. The General

Plan Amendments would update the two area plans and element to assure they are reflective of the same policy and developments now incorporated into the updated Waterfront Plan along with other City policy actions and developments that have occurred since they were last updated; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 340.

Preliminary Recommendation: Approve

SPEAKERS: = Mat Snyder – Staff presentation
ACTION: Approved
AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner
ABSENT : Ruiz
RESOLUTION: 21303

- 8b. [2019-023037PCA](#) (M. SNYDER: (628) 652-7460)
WATERFRONT PLAN RELATED PLANNING CODE AMENDMENTS – An ordinance, initiated by the Planning Commission, to amend Planning Code Section 240, the Waterfront Special Use District, by (1) creating a new Special Use District (SUD), Waterfront Special Use District No. 4 for the properties owned and managed by the Port of San Francisco generally south of the Mission Rock Special Use District and subjecting development projects on such properties to the review procedures of the Waterfront Design Advisory Committee (WDAC); (2) making minor changes to the composition of the WDAC; (3) making minor administrative procedural changes to the WDAC; and (4) removing the conditional use requirement for uses not screened from view from adjacent streets or other public areas; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Preliminary Recommendation: Approve

SPEAKERS: Same as item 8a.
ACTION: Approved
AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner
ABSENT : Ruiz
RESOLUTION: 21304

- 8c. [2019-023037MAP](#) (M. SNYDER: (628) 652-7460)
WATERFRONT PLAN RELATED ZONING MAP AMENDMENTS – An ordinance, initiated by the Planning Commission, to amend (1) Zoning Map ZN-08 by rezoning Lot 031 in Assessor's Block 3941 from P (Public) to M-1 (Light Industrial); and (2) Zoning Maps SU-08 and SU-09 by rezoning the following parcel so that they are included in the newly created Waterfront Special Use District No. 4: Block 9900/ Lots 050, 050H, 052, 054, 064, 064H, 068, 070, and 098; Block 3941/ Lots 021, 028, 031, and 041; Block 4111/Lot 008, Block 4301/Lot 001, Block 4302/Lot 001, Block 4303/Lot 001, Block 4304/Lot 002, Block 4307/Lot 006, Block 4308/Lots 005 and 007, Block 4379/Lot 001, Block 4380/Lot 010, Block 4502A/Lot 002, Block 4827/Lots 001 and 002 and Block 4845/Lot 002; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section

101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Preliminary Recommendation: Approve

SPEAKERS: Same as item 8a.
ACTION: Approved
AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner
ABSENT : Ruiz
RESOLUTION: 21305

9. (L. LANGLOIS: (628) 652-7472)

UNION SQUARE ALLIANCE STRATEGIC PLAN – Informational Presentation – On February 23, 2023, the Planning Department and Office of Economic and Workforce Development presented coordinated City efforts to address Downtown revitalization. The presentation included an overview of the [City's Roadmap to Downtown San Francisco's Future](#) and the Planning Department's [Future of Downtown](#) effort focused on four themes; Economic Diversification and The Future of Office, Expanding Downtown Housing, Public Life and Retail, and Union Square. At this hearing, The Union Square Alliance will present an overview of its new [Strategic Plan](#) and share their vision for Union Square and how it fits into the future of Downtown.

Preliminary Recommendation: None - Informational

SPEAKERS: = Lily Langlois – Staff report
+ Marissa Rodriguez – Union Square Alliance presentation
+ Ken Rich - Union Square Alliance presentation
= Rich Hillis – Response to comments and questions
ACTION: Reviewed and Commented

10. [2017-014833ENV](#) (J. DELUMO: (628) 652-7568)

469 STEVENSON STREET PROJECT – Certification of the **Final Environmental Impact Report** (EIR). The project site is located on the block bounded by Stevenson Street to the north, Jessie Street to the south, 6th Street to the west, and 5th Street to the east on lot 045 of Assessor's block 3704 (District 6). The proposed project would demolish the existing parking lot and construct a new 27-story mixed-use building approximately 274 feet tall with three below-grade parking levels providing approximately 178 parking spaces and freight/service loading spaces. The approximately 535,000-gross-square-foot building would consist of approximately 495 dwelling units, 4,000 square feet of commercial retail use on the ground floor, and 30,000 square feet of private and common open space. The proposed project would also provide approximately 200 Class 1 bicycle spaces, 27 Class 2 bicycle parking spaces, and passenger loading zones on Stevenson Street and Jessie Street. The proposed project would use the Individually Requested State Density Bonus Program and provide affordable housing units onsite. The Governor's Office of Planning and Research certified the project as an environmental leadership development project under the Jobs and Economic Improvement through Environmental Leadership Act of 2021. The Project Site is located within a C-3-G (Downtown General Commercial) Zoning District, Downtown Plan Area, and 160-F Height and Bulk District.

Note: The public hearing on the partially recirculated draft EIR is closed. The public comment period for the partially recirculated draft EIR ended on December 19, 2022.

Public comment will be received when the item is called during the hearing. However, comments submitted will not be included in the Final EIR.

Preliminary Recommendation: Certify

SPEAKERS:

- = Jenny Delumo – Staff presentation
- = Nick Foster – Staff presentation
- + Lou Vasquez – Project sponsor presentation
- + Strachan Forgan – Project sponsor presentation
- + Donna Horwitz – Advantages and benefits of having more housing
- + Brett Young – Allows the neighborhood to develop
- + Eric Kaplan – Housing crisis, we don't need a parking lot
- + Pat Steeler – Looking forward to construction
- Jerry Dratler – Is it a viable project?
- + Corey Smith – San Francisco can take a step forward
- + James Steichen – Supports the project
- + Richard Perino – It will provide a lot of affordable housing including to seniors
- + Ryan Patterson – Code compliant project
- + Jane Natoli – Continue to do the right thing
- + Joanna Gubman – Project doesn't harm the environment
- + Fujima Dasani – Help with the housing crisis in the city
- + Kent Rikani – People are hyper local
- + Dave Alexander – Transit oriented
- + Christopher Roach – In a transit oriented location
- + Jim Chappell – Pass entitlements today
- + Annette Billingsley – Will add vitality to the area
- + Nathan Williams – Embarrassing it is taking this long

ACTION: Certified EIR

AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner

ABSENT : Ruiz

MOTION: 21306

- 11a. [2017-014833ENV](#) (N. FOSTER: (628) 652-7330)
469 STEVENSON STREET – south side between 5th and 6th Streets; Lot 045 in Assessor's Block 3704 (District 6) – Request for **Adoption of Findings** and a Statement of Overriding Considerations pursuant to the California Environmental Quality Act (CEQA). The proposed project ("Project") includes construction of a new 27-story residential building reaching a finished roof height of 274-feet tall (290-feet including inclusive of rooftop mechanical equipment, or 296-feet inclusive of the elevator overrun), with a total Gross Floor Area of approximately 426,000 square feet devoted to residential uses, including approximately 4,000 square feet of ground-floor retail. The Project includes a total of 495 dwelling units, with a mix of 192 studio units, 149 one-bedroom units, 96 two-bedroom units, 50 three-bedroom units, and eight five-bedroom units totaling, with 73 dwelling units provided as on-site affordable dwelling units. The Project would provide 166 off-street vehicle parking spaces, up to 12 car-share spaces, 200 Class 1 and 27 Class 2 bicycle parking spaces, and three freight loading spaces within a below-grade garage. The Project is utilizing the Individually Requested State Density Bonus Program to achieve a 42.5% density bonus thereby maximizing residential density on the Site pursuant to California Government Code Sections 65915-95918, as revised under Assembly Bill No. 2345 (AB 2345). The Project

Site is located within a C-3-G Zoning District, Downtown Plan Area, and 160-F Height and Bulk District.

Preliminary Recommendation: Adopt Findings

SPEAKERS: Same as item 10.
ACTION: Adopted CEQA Findings
AYES: Braun, Diamond, Koppel, Tanner
NAYS : Imperial, Moore
ABSENT : Ruiz
MOTION: 21307

- 11b. [2017-014833DNX](#) (N. FOSTER: (628) 652-7330)
469 STEVENSON STREET – south side between 5th and 6th Streets; Lot 045 in Assessor's Block 3704 (District 6) – Request for **Downtown Project Authorization** to permit a project greater than 50,000 square feet of floor area within a C-3 Zoning District (Sections 210.2 and 309). The proposed project ("Project") is utilizing the Individually Requested State Density Bonus Program pursuant to California Government Code Sections 65915-95918, as revised under Assembly Bill No. 2345 (AB 2345) to achieve a 42.5% density bonus. The Project requests six (6) waivers from: Maximum Floor Area Ratio (Section 123); Rear Yard (Section 134); Common Useable Open Space (Section 135); Dwelling Unit Exposure (Section 140); Ground-Level Wind Current (Section 148); Bulk (Section 270); and one (1) incentive from Height (Section 250). The Project includes construction of a new 27-story residential building reaching a finished roof height of 274-feet tall (290-feet including inclusive of rooftop mechanical equipment, or 296-feet inclusive of the elevator overrun), with a total Gross Floor Area of approximately 426,000 square feet devoted to residential uses, including approximately 4,000 square feet of ground-floor retail. The Project includes a total of 495 dwelling units, with a mix of 192 studio units, 149 one-bedroom units, 96 two-bedroom units, 50 three-bedroom units, and eight five-bedroom units totaling, with 73 dwelling units provided as on-site affordable dwelling units. The Project would provide 166 off-street vehicle parking spaces, up to 12 car-share spaces, 200 Class 1 and 27 Class 2 bicycle parking spaces, and three freight loading spaces within a below-grade garage. The Project Site is located within a C-3-G Zoning District, the Downtown Plan Area, and 160-F Height and Bulk District.

Preliminary Recommendation: Approve with Conditions

SPEAKERS: Same as item 10.
ACTION: Approved with Conditions
AYES: Braun, Diamond, Koppel, Tanner
NAYS : Imperial, Moore
ABSENT : Ruiz
MOTION: 21308

- 11c. [2017-014833CUA](#) (N. FOSTER: (628) 652-7330)
469 STEVENSON STREET – south side between 5th and 6th Streets; Lot 045 in Assessor's Block 3704 (District 6) – Request for **Conditional Use Authorization** to permit additional square footage above that permitted by the base floor area ratio limits for the construction of on-site, affordable dwelling units (Sections 124(f) and 303). The proposed project ("Project") includes construction of a new 27-story residential building reaching a finished roof height of 274-feet tall (290-feet including inclusive of rooftop mechanical equipment,

or 296-feet inclusive of the elevator overrun), with a total Gross Floor Area of approximately 426,000 square feet devoted to residential uses, including approximately 4,000 square feet of ground-floor retail. The Project includes a total of 495 dwelling units, with a mix of 192 studio units, 149 one-bedroom units, 96 two-bedroom units, 50 three-bedroom units, and eight five-bedroom units totaling, with 73 dwelling units provided as on-site affordable dwelling units. The Project would provide 166 off-street vehicle parking spaces, up to 12 car-share spaces, 200 Class 1 and 27 Class 2 bicycle parking spaces, and three freight loading spaces within a below-grade garage. The Project is utilizing the Individually Requested State Density Bonus Program to achieve a 42.5% density bonus thereby maximizing residential density on the Site pursuant to California Government Code Sections 65915-95918, as revised under Assembly Bill No. 2345 (AB 2345). The Project Site is located within a C-3-G Zoning District, Downtown Plan Area, and 160-F Height and Bulk District.

Preliminary Recommendation: Approve with Conditions

SPEAKERS: Same as item 10.
 ACTION: Approved with Conditions
 AYES: Braun, Diamond, Koppel, Tanner
 NAYS : Imperial, Moore
 ABSENT : Ruiz
 MOTION: 21309

12. [2022-010833CUA](#) (C. MAY: (628) 652-7359)
1151 WASHINGTON STREET – south side between Taylor and Mason Streets; Lot 025 in Assessor's Block 0213 (District 3) – Request for **Conditional Use Authorization** pursuant to Planning Code Sections 206.6, 209.2, 303 and 317 and Adoption of Findings related to State Density Bonus pursuant to Planning Code Section 206.6, to allow the demolition of a single-family dwelling on the subject property and the construction of a four-story, 40-foot tall building containing 10 dwelling units (one three-bedroom unit and nine two-bedroom units), one unbundled off-street parking space and 10 Class 1 bicycle parking spaces, within a RM-3 Zoning District and 65-A Height and Bulk District. The project seeks waivers from Development Standards including Front Setback (Section 132), Rear Yard (Section 134), Dwelling Unit Exposure (Section 140), and Bicycle Parking (Section 155), pursuant to State Density Bonus Law. The Planning Department found that the project is exempt from the California Environmental Quality Act (CEQA). The Commission's action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code section [31.04\(h\)](#).

Preliminary Recommendation: Approve with Conditions

SPEAKERS: = Chris May – Staff report
 + Mark Macy – Project sponsor presentation
 - Richard Drury – Require CEQA review, toxic chemical in the site
 + Richard Perino – Replacing one unit with 10 units is good policy, availability to seniors
 + Jane Natoli – Meet the housing goals, creative ways to build homes
 + Ira Kaplan – Creative thinking to get us out of the housing crisis
 - Bob – Fundamental code flaws
 - Scott Emblige – Respect the neighborhood's topography

- + Fujima Dasani – Densifying the neighborhood is good for the environment
- + Max – Abide by the regulations that we already have
- + Joanna Gubman – No housing available in the area, environmental benefit
- + Speaker – More shade is not a bad thing, fits in the neighborhood well
- Alex Balm – Design will cause harm to neighborhood
- Chu Fong – Shadow in the park will affect the people living around the neighborhood
- Jennifer – Significant negative impact to the playground
- Han Minh Lu – Social space, health issue
- + James Steichen – More space for people to live in
- Deborah Holley – Demolition findings, detracts rather than enhances the neighborhood character
- + Mike Chen – Near transit and jobs
- Ana Fung – Concerns with shadows, health of the elders
- Maggie Dong – Impact to the park will be detrimental to the community
- Speaker – Shadow study, affordable housing not market rate housing
- + Speaker – Creative design, will allow people to stay in San Francisco
- + Frank – Building close to transit
- + Yonathan Randolph – State laws, stay objective and approve
- Lisa – Shadows that will cast on the playground
- = Lisa Gibson – Response to comments and questions
- = Don Lewis – Response to comments and questions
- = Rich Hillis – Response to comments and questions
- = Austin Yang, Deputy City Attorney – Response to comments and questions
- = Liz Watty – Response to comments and questions

ACTION: Edit Conditional Use Findings found on page 8 of the draft motion to add “in the context of State Density Bonus Law” to the last paragraph. Approved with conditions including those read into the record by staff with regards to fire department review, zoning administrator review and require any increase in volume to return to the Planning Commissions. Staff to work with Architect on materiality of the façade.

AYES: Braun, Diamond, Koppel, Tanner

NAYS : Imperial, Moore

ABSENT : Ruiz

MOTION: 21310

- 13a. [2020-001610SHD-02](#) (J. HORN: (628) 652-7366)
3832 18TH STREET – north side between Church and Sanchez Streets; Lot 018 in Assessor’s Block 3580 (District 8) – Request for **Adoption of Shadow Findings** pursuant to Section 295 that net new shadow from the project would not adversely affect the use of Mission Dolores Park under the jurisdiction of the Recreation and Park Commission. The Project Site is located within a RM-1 (Residential-Mixed, Low Density) Zoning District and 40-X Height and Bulk District.

Preliminary Recommendation: Adopt Findings

SPEAKERS: = Jeff Horn – Staff Report

- + Bryan O'Neil – Project sponsor presentation
- Thanos Diacakis – Organized opposition
- Giacomo DiGrigoli – Organized opposition
- Cindy Wong – Organized opposition
- + Jane Natoli – Learning opportunity
- + Joanna Gubman – Near a park and transit
- David Sage – Not a family housing
- + Fujima Dasani – Diversity is suffering due to lack of housing
- + Max – Single adults
- + Mike Chen – Objective findings on health and safety
- Robin Lewis – Lack of light, community housing
- + Speaker – Follow state law
- + Kent Rekani – Housing for all
- Amy Silverstein – Not group housing units
- + James Steichen – Place of refuge
- + Speaker – Make space for more neighbors
- + Eric Kaplan – Comply with state law and approve
- + Speaker – We need lots of housing
- + Yonathan Randolph – More affordable condos

ACTION: Adopted Findings
 AYES: Braun, Diamond, Koppel, Tanner
 NAYS : Imperial, Moore
 ABSENT : Ruiz
 MOTION: 21311

- 13b. [2020-001610CUA-02](#) (J. HORN: (628) 652-7366)
3832 18TH STREET – north side between Church and Sanchez Streets; Lot 018 in Assessor's Block 3580 (District 8) – Request for **Conditional Use Authorization** pursuant to Planning Code Sections 209.2, 253, and 303, to allow the new construction of a six-story, 60-foot-tall, 19-unit Group Housing residential project, with a 390-square-foot communal space, 890 square feet of common usable open space, 314 square feet of private usable open space (for two units), and 19 Class 1 and two Class 2 bicycle parking spaces and making findings of eligibility for the individually requested State Density Bonus Project. The Project would invoke the State Density Bonus law (California Government Code Sections 65915-65918) to receive waivers for: Height (Section 260), Rear Yard (Section 134), and Dwelling Unit Exposure (Section 140). The Project Site is located within a RM-1 (Residential-Mixed, Low Density) Zoning District and 40-X Height and Bulk District.
Preliminary Recommendation: Approve with Conditions

SPEAKERS: Same as item 13a.
 ACTION: Approved with Conditions
 AYES: Braun, Diamond, Koppel, Tanner
 NAYS : Imperial, Moore
 ABSENT : Ruiz
 MOTION: 21312

G. DISCRETIONARY REVIEW CALENDAR

The Commission Discretionary Review Hearing Procedures provide for presentations by staff; followed by the DR requestor team; followed by public comment opposed to the project; followed by the project sponsor team; followed by public comment in support of the project. Please be advised that the DR requestor and project sponsor teams include: the DR requestor and sponsor or their designee, lawyers, architects, engineers, expeditors, and/or other advisors.

14. [2022-003158DRP](#) (T. GREENAN: (628) 652-7324)
2207 31ST AVENUE – west side between Rivera and Santiago Streets; Lot 002 in Assessor's Block 2318 (District 4) – Request for **Discretionary Review** of Building Permit No. 2022.1114.6484 to comply with NOV#202174501, to legalize work constructed without a permit to a single story one family residence within a RH-1 (Residential House - One Family) Zoning District and 40-X Height and Bulk District. The Planning Department found that the project is exempt from the California Environmental Quality Act (CEQA). The Commission's action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code section [31.04](#)(h).
Preliminary Recommendation: Do Not Take Discretionary Review and Approve

SPEAKERS: = Trent Greenan – Staff report
 - Lop Woo – DR presentation
 - Paul Horcher – DR Presentation
 + Diane Neighbor – Project sponsor presentation
 + Brett Gladstone – Project sponsor presentation
 + David – Common pattern
 - Nora – Concerns, illegal stairway

ACTION: No DR

AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner

ABSENT : Ruiz

DRA: 824

ADJOURNMENT 6:31 PM – IN MEMORY OF MARVIS PHILLIPS AND ELEANOR JOHNS
 ADOPTED MAY 4, 2023

EXHIBIT C

華埠公園康樂會

Committee for Better Parks and Recreation in Chinatown

January 27, 2023

Don Lewis
San Francisco Planning Department
49 South Van Ness Avenue, Suite 1400
San Francisco, California 94103

Re: **Letter in Opposition to the Shadows Cast by the Project at 1151 Washington Street on Betty Ann Ong Recreation Center**
Case No.: 2022-010833ENV

Dear Mr. Lewis,

The **Committee for Better Parks and Recreation in Chinatown** (CBPRC) opposes the shadow cast by the 1151 Washington Street project.

Founded in 1969, Committee for Better Parks and Recreation in Chinatown (CBPRC) has advocated for open space and recreation areas in Chinatown. Because of Chinatown's high density, open space and parks are an especially important and a limited resource to our community. Our committee members have a long history of being engaged and active in the community processes in Chinatown including the renovation of many San Francisco Recreation and Park facilities and open spaces. Our members include volunteer architects, district council staff, community youth organizations, community childcare providers, and community members, as well as staff from neighborhood service providers like Chinatown Community Development Center, Community Youth Center, and Self-Help for the Elderly.

Chinatown is the most densely populated area west of Manhattan and has one of the lowest park and recreation space per capita in the City as well as one of the highest poverty rates in the City. Many of the Chinatown residents are elderly and live in single-room occupancy units and in very cramped living conditions. Outdoor and park space and community space is crucial for Chinatown seniors, residents, families, children and park users.

The 1151 Washington Street project will cast shadows on Betty Ann Ong Recreation Center. CBPRC is in receipt of a shadow study conducted by FastCast (the Shadow Report). The Shadow Report states:

“The maximum shadow from the proposed project on Betty Ong Recreation Center at single time would occur on August 9/May 3 and cover approximately 17% of the overall open space.”

This be a significant and adverse impact on Betty Ann Ong Recreation Center. The shadow cast by the 1151 Washington Street project will be on active play areas and when the play area will be heavily used by children and adults. The Betty Ann Ong Recreation Center is already in shadow for 77% of available sunlight hours, and the project will add significant shadows during available sunlight hours. Moreover, as the study uses the Recreation and Parks Department's definition of open space (which includes the gym building), the actual percentage of added shadows on *outdoor* open space would be much higher—a concern in a community like Chinatown which needs sunshine-accessible open space.

CBPRC opposes the 1151 Washington Street project because of the shadows cast on Betty Ann Ong Recreation Center.

Sincerely,



Allan Low
on behalf of **Committee for Better Parks and Recreation in Chinatown**

cc: Christopher May
San Francisco Planning Department

President Aaron Peskin
San Francisco Board of Supervisors

About CBPRC:

Founded in 1969, CBPRC is a community and volunteer based parks, recreational and community development advocacy group. Our mission is to protect, preserve and create open space, recreational programs and facilities for Chinatown. Our value is based in social and environmental justice and empowerment of our grassroots residents and community in shaping our open space needs and agenda. In the last decade, we have led the community effort and partner with the city and designers in rebuilding the Betty Ann Ong Chinese Rec Center, a new restroom at Portsmouth Square, a new park at St Mary's Square, a new plaza park at the new Chinatown central subway station, rebuilding of the Willie Woo Woo Wong Playground as well as advocating for CBPRC member organizations to operate and programming at Woh Hei Yuen, Willie Woo Wong Chinese Playground and Portsmouth Square clubhouses. The current Portsmouth Square redesign and visioning is the last piece yet most ambitious of our decade old Chinatown parks and recreation master plan.



615 Grant Avenue
San Francisco, CA 94108
TEL 415.984.1450
FAX 415.362.7992
TTY 415.984.9910
www.chinatowncdc.org

Via Email: Rachael.Tanner@sfgov.org

April 19, 2023

Rachel Tanner, President
San Francisco Planning Commission

Re: Letter in Opposition to the Proposed Project at 1151 Washington St.

Dear Commissioner Tanner,

Chinatown Community Development Center (CCDC) is writing in opposition to the proposed project at 1151 Washington St. CCDC is a nonprofit community development organization that aims to build community and enhance the quality of life for San Francisco residents.

1151 Washington St is located next to Betty Ann Ong Recreation Center, a heavily used and well-loved resource to the community. As a service provider for families and seniors who live in Single Room Occupancy (SRO) hotels, we know how important free and accessible open space is for dense neighborhoods like Chinatown and Nob Hill. Chinatown has some of the fewest open spaces per capita and faces high rates of poverty.

CCDC is opposing the proposed project at 1151 Washington due to the additional shadow that will be cast onto the play areas at Betty Ann Ong Recreation Center. The shadow report commissioned for this project states: "The maximum shadow from the proposed project on Betty Ong Recreation Center at single time would occur on August 9/May 3 and cover approximately 17% of the overall open space." The recreation center is already in shadow for 77% of available sunlight hours.

CCDC was involved in the years-long community design process in the most recent renovation of the recreation center. Sunlight and air are extremely important to the users of the recreation center as many of them live in small SRO buildings with no open space and common areas. The proposed project at 1151 Washington does not take into consideration that the recreation center is the community's living room, a space to gather and socialize for those who cannot afford to have their own.

CCDC opposes the project at 1151 Washington St due to the additional shadow that will be cast onto Betty Ann Ong Recreation Center.

Sincerely,

Maggie Dong
Planner

Rachael Tanner, President
San Francisco Planning Commission
49 South Van Ness Avenue
San Francisco, CA 94103
VIA EMAIL TO: rachael.tanner@sfgov.org

RE: Opposition to Item 12, 2022-010833CUA, 1151 Washington Street Project

Dear President Tanner,

On behalf of the Upper Chinatown Neighborhood Association, I am writing to express our opposition to the proposed project at 1151 Washington Street, agenda item 12 at this week's Planning Commission meeting. Specifically, we are concerned about the significant negative impact the project would have on the Betty Ann Ong Recreation Center and the precedent set for shadowing critical public recreation spaces and what we see as spiritual refuges located in mid-block open spaces.

As you are likely aware and as has been described in the January 27th, 2023 letter from the Committee for Better Parks and Recreation in Chinatown (CBPRC), the proposed project would cast shadow over the recreation center, negatively affecting the outdoor spaces and activities of the center. The center provides a vital resource for the neighborhood, offering residents in the City's highest-density community access to outdoor spaces for sports and recreation. The proposed project's height would result in meaningful portions of the recreation center's outdoor spaces being cast in shadow, limiting the amount of sunlight and fresh air available to those using the center.

Moreover, the reduced access to natural light and fresh air could impact the health and wellbeing of those using the center, particularly children and the elderly. This could also negatively impact the vegetation in the surrounding area, which requires adequate sunlight to thrive.

It is important to note the role of mid-block open spaces in Chinatown as you consider this proposal to remove one. Rear yards were designed to strengthen communal and familial connections in densely populated living quarters in neighborhoods like Chinatown. The presence of a courtyard, or rear yard, strengthens the cultural fabric, provides stability and comfort, and advances livability in the face of hardship. The 1151 Washington Street proposal both removes a mid-block open space as well as diminishes the quality of the adjacent public recreation facility.

Lastly, the proposed project would not provide adequate affordable housing, which is a critical need in San Francisco as a whole and in this neighborhood, specifically. In light of the current housing crisis, it is essential that new development projects prioritize affordable housing options for low- and middle-income residents. However, the proposed project at 1151 Washington Street does not meet these requirements.

In conclusion, I strongly urge the Planning Commission to reconsider the proposed project at 1151 Washington Street. The shadow cast over the Betty Ann Ong Recreation Center would significantly

impact the outdoor spaces and activities of the center, and there are better alternatives that would be more appropriate for the community and its residents.
Thank you for considering my concerns.

Sincerely,

Hanmin Liu and Jennifer Mei, Co-Team Leaders
Upper Chinatown Neighborhood Association

Pacific Avenue Neighborhood Association
(PANA)

April 19, 2023

Rachel Tanner, President
San Francisco Planning Commission

VIA EMAIL TO: rachael.tanner@sfgov.org

RE: Opposition to 2022-010833CUA, 1151 Washington Street

Dear President Tanner,

On behalf of the Pacific Avenue Neighborhood Association, I am writing to express our opposition to the proposed project at 1151 Washington Street, which will be heard at this week's Planning Commission meeting.

The three areas that we are extremely concerned about are:

- Loss of mid-block open space,
- Shadowing of the Betty Ann Ong Recreation Center, and
- The Precedent being set that allows shadowing of critical public AND private spaces and the loss of mid-block open space.

Mid-Block Open Space – preserve existing open space

Mid-block open space plays a critical role in the health and well-being of our entire city and especially, our neighborhoods. Densely populated neighborhoods, like Chinatown, covet their open space. Mid-block open space provides much needed light and fresh air, a place to sit outdoors and to play, a place to gather or to be quiet. There should be no exception but to preserve the open space that exists and encourage more where possible. The presence of a courtyard or rear yard strengthens the community's cultural fabric, provides stability and comfort, and advances livability in the face of hardship. The 1151 Washington Street proposal both removes mid-block open space and diminishes the quality of the adjacent public recreation facility. We, respectfully ask, that the rear yard be preserved at this location.

Building Height & Mass - reconsider

PANA is also very concerned about the serious negative impact the project would have on the Betty Ann Ong Recreation Center and the precedent this project would set allowing for shadowing of critical public recreation spaces, as this center provides a vital resource for the neighborhood, offering residents in the City's highest-density community access to outdoor spaces for sports and recreation. The proposed project's height would result in meaningful portions of the recreation center's outdoor spaces being cast in shadow, limiting the amount of healthy sunlight and fresh air available to those using the center.

Impact to Health & Wellness

Reduced access to natural light and fresh air negatively impacts the health and wellbeing of those using the center, particularly children and the elderly. The health benefits provided by access to light and air is generally known and accepted, and well-documented as well. Greening of our public spaces is so appreciated by all who use the space and who live in the surrounding area. Significant shadowing could negatively impact the much-needed vegetation at the Center and in the surrounding area. Most vegetation needs adequate sunlight to thrive.

Affordable Housing Is Absent

The proposed project would not provide adequate affordable housing, which is a critical need in San Francisco as a whole and in this neighborhood, specifically. Because of the current housing crisis, it is

Pacific Avenue Neighborhood Association
(PANA)

essential that new development projects prioritize affordable housing options for low- and middle-income residents. The proposed project at 1151 Washington Street does not meet these requirements.

We respectfully ask the Planning Commission to direct the developer of 1151 Washington Street to consider the concerns set forth herein by neighbors and neighborhood leaders and modify the design plans accordingly.

Thank you for your consideration,

Sincerely,

Robyn Tucker & Andrew Madden
Co-Chairs, Pacific Avenue Neighborhood Association



April 19, 2023

San Francisco Planning Commission
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

President Tanner and Members of the Planning Commission,

SOMA Pilipinas is writing in opposition to the proposed project at 1151 Washington Street. SOMA Pilipinas is in support of the position articulated by the Upper Chinatown Neighborhood Association, that the proposed project will have a significant negative impact on the Betty Ann Ong Recreation Center.

The South of Market similarly struggles with lack of adequate open space and recreation space for our children, youth, families, and seniors. The little open space that does exist is critical to maintaining a balanced and healthy neighborhood for residents, workers, and community members. New shadows from private development on open spaces in neighborhoods like South of Market and Chinatown have an extremely significant negative impact.

We ask the Commission to protect the health and well being of our neighborhoods, and prioritize the preservation and protection of the limited open space in our neighborhoods. This is an issue of racial and social equity, and we urge the Commission to view it through that lens.

Thank you,

David Woo
Community Development and Policy Coordinator
SOMA Pilipinas

EXHIBIT D



Technical Consultation, Data Analysis and
Litigation Support for the Environment

2656 29th Street, Suite 201
Santa Monica, CA 90405

Matt Hagemann, P.G., C.Hg.
(949) 887-9013
mhagemann@swape.com

Paul E. Rosenfeld, PhD
(310) 795-2335
prosenfeld@swape.com

April 12, 2023

Richard Drury
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94618

Subject: Comments on the 1151 Washington Street Project

Dear Mr. Drury,

We have reviewed the April 2023 CEQA Exemption Determination ("Exemption") and the October 2022 Site Mitigation Plan ("SMP") for the 1151 Washington Street Project ("Project") located in the City of San Francisco ("City"). The Project proposes to demolish the existing 3,050-square-foot residential building and construct a 12,312-SF building consisting of 10 dwelling units on the Project site.

Our review concludes that the Exemption fails to adequately evaluate the Project's hazards and hazardous materials impact. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. A full CEQA analysis should be prepared to adequately assess and mitigate the potential hazards and hazardous materials impact that the project may have on the environment.

Hazards and Hazardous Materials

Inadequate Disclosure and Analysis of Impacts

The SMP purports to offer a "decision framework and specific risk management measures for managing soil and soil vapor beneath the Site" (p. 1). The SMP documents subsurface soils to be contaminated with "low concentrations of hexavalent Chrome VI and thallium exceeding regulatory screening levels" (p. 1). Soil vapor beneath the Site is documented to have been "impacted with VOCs [volatile organic compounds] (specifically, PCE [tetrachloroethylene]) at concentrations exceeding regulatory screening levels" (p. 1). Guidelines are presented in the SMP to protect construction workers from soil contamination and future residents from soil vapor contamination.

Chrome VI, thallium and PCE are toxic chemicals. The presence of these three toxic chemicals on the project site above regulatory screening levels, particularly given the fact that the site is adjacent to a children's playground, is an unusual circumstance that may result in significant environmental impacts for construction workers, future residents, or users of the adjacent playground.

Chrome VI: Chrome VI can cause the following health effects: lung cancer and nasal cancers; irritation of the nose, throat and lungs (runny nose, coughing); allergic symptoms (wheezing, shortness of breath).

(<https://oehha.ca.gov/media/downloads/faqs/hexchromiumairfact111616.pdf>)

Thallium: Thallium was used as rat poison until 1972. Thallium can affect the nervous system, lung, heart, liver, and kidney. Temporary hair loss, vomiting, and diarrhea can also occur and death may result after exposure to large amounts of thallium for short periods. Thallium can be fatal from a dose as low as 1 gram.

(<https://www.cdc.gov/TSP/PHS/PHS.aspx?phsid=307&toxid=49>).

PCE (Perchloroethylene): PCE is listed as a chemical known to cause cancer in humans.

(<https://oehha.ca.gov/chemicals/tetrachloroethylene>). Effects resulting from acute (short term) high-level inhalation exposure of humans to tetrachloroethylene include irritation of the upper respiratory tract and eyes, kidney dysfunction, and neurological effects such as reversible mood and behavioral changes, impairment of coordination, dizziness, headache, sleepiness, and unconsciousness. The primary effects from chronic (long term) inhalation exposure are neurological, including impaired cognitive and motor neurobehavioral performance. Tetrachloroethylene exposure may also cause adverse effects in the kidney, liver, immune system and hematologic system, and on development and reproduction. Studies of people exposed in the workplace have found associations with several types of cancer including bladder cancer, non-Hodgkin lymphoma, multiple myeloma. EPA has classified tetrachloroethylene as likely to be carcinogenic to humans.

(<https://www.epa.gov/sites/default/files/2016-09/documents/tetrachloroethylene.pdf>).

Given the toxicity of these chemicals, it is necessary to ensure that the site is adequately mitigated to safeguard future residents, construction workers and children at the adjacent playground. While the SMP contains mitigation measures, they are not adequate to ensure that all contamination will be remediated to less than significant levels.

The SMP was prepared for review by the San Francisco Department of Public Health ("SFPDH"). Soil and soil vapor contamination was delineated in a Maher Ordinance Phase II investigation under Article 22A of the San Francisco Health Code per a SFPDH request according to the SMP (p. 2). On January 10, 2023 the SFPDH approved the SMP.

The Phase II Environmental Site Assessment (ESA) found PCE in all three soil vapor samples (up to 67 $\mu\text{g}/\text{m}^3$) to exceed the residential Environmental Screening Level ("ESL") of 15 $\mu\text{g}/\text{m}^3$. Concentrations of hexavalent chromium and thallium in both soil samples exceeded the residential ESLs but were below the applied construction worker ESLs. Regarding soil vapor contamination, the SMP states that the

“source and full extent of these impacts is currently unknown” (p. 4). As excavation of the Site proceeds, visual and olfactory observations indicative of contamination “if a significant issue” would trigger “environmental professional and/or appropriate regulatory agency” notification (p. 10). This constitutes improper deferral of mitigation since it relies on future “visual and olfactory observations” to develop as yet undefined mitigation measures. It also presents a risk that construction workers may not have a sufficiently fine sense of smell to detect these toxic chemicals. Furthermore, since thallium and chrome VI are tasteless and odorless, relying on “olfactory” observations will not detect this chemical. (https://www.cdc.gov/niosh/ershdb/emergencyresponsecard_29750026.html#:~:text=Thallium%20is%20tasteless%20and%20odorless,amounts%20in%20the%20earth's%20crust;https://www.atsdr.cdc.gov/toxfaqs/tfacts7.pdf). Thus, this mitigation measure is inadequate.

The proposed development includes a subgrade bedroom (p. 4). To address the potential for vapor intrusion of PCE into indoor airspace, the SMP as approved by SFDPH, will provide for a vapor intrusion mitigation system (VIMS) to be installed within the subgrade of the proposed development following excavation (p. 11). A deed restriction will be required to ensure the proper operation and maintenance of the planned VIMS according to the January 10, 2023 SFDPH approval letter. These are mitigation measures that should be analyzed in a CEQA document for adequacy. A CEQA document should be prepared to ensure that the mitigation measures are adequate and also to ensure that they are enforceable.

We recommend the preparation of full CEQA analysis to further evaluate and disclose soil and soil vapor contamination and the control measures that are outlined in the SMP. The preparation of a full CEQA analysis would allow for inclusion of the control measures as enforceable mitigation measures. Mitigation measures in a CEQA document, as we propose, should also include a process where state agencies, including the DTSC and the Regional Board are notified of the Phase II findings. State-agency review is important because of the Phase II finding that the source and extent of the PCE contamination is unknown. Without knowing the source and addressing it through remedial actions like removal or isolation, contaminants may persist and even increase in severity as PCE moves through the subsurface, potentially rendering control measures like the vapor intrusion mitigation system less effective over time.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

A handwritten signature in blue ink, appearing to read "M Hagemann".

Matt Hagemann, P.G., C.Hg.

A handwritten signature in blue ink, appearing to read "Paul Rosenfeld".

Paul E. Rosenfeld, Ph.D.

EXHIBIT E



EXHIBIT F

BURTT ENGINEERING & CONSTRUCTION

120 Village Square #150, Orinda CA. 94563 OFFICE (510) 540 - 0155

April 17, 2023

Richard T. Drury, Partner
Lozeau Drury LLP
1939 Harrison St Suite 150
Oakland, CA 94612

RE: 1151 Washington St. Proposed Development
 1151 Washington St., San Francisco, CA 94108
 Fire and Life Safety Engineering Opinion Letter

Dear Mr. Drury:

We have reviewed the proposed 1151 Washington St. development project and associated plan set, dated December 1st, 2022. The project represents a very unique and unusual construction development, with several key features that may be a safety issue and appear to lack compliance under California Code of Regulations and San Francisco Municipal Code. We would recommend jurisdictional authority perform careful review of the project's fire and life safety risks against City, State, and Federal standards and building code requirements to ensure it meets minimum standards prior to approval of the project.

Resident evacuation and egress from the townhomes:

The townhomes are built front to back, north to south. The means of egress and access to the townhomes appears to be limited to a 5-foot wide, 137-foot long pedestrian walkway with eight flights of stairs. It appears that this is the only means of egress from the property. As such, if a fire occurs in any of the townhomes, occupants must travel down a 137-foot long alleyway before reaching the public road. This is an unusual condition that appears to not meet the intent of California Building Code. California typically requires such exit routes be limited to a maximum of 125 feet in travel distance for fire and life safety in accordance with 2022 California Building Code Section 1028.1 and 2022 California Building Code Table 1006.3.4. The current proposed 137-foot long exit route should be carefully studied to confirm it meets minimum City, State, and Federal fire and life safety standards, codes, and egress requirements.

Firefighter ladder access and emergency escape windows on the upper floors:

It appears that the development's bedrooms each require emergency escape and rescue window in accordance with state regulation. Typically this is required to allow residents to escape from their home if a fire occurs, and also to allow firefighters to access the windows to contain the fire and ensure the safety of the community.

California regulations require rescue windows be "readily accessible" by firefighter ladders. The California Fire Marshal requires that rescue windows must be accessible using ground ladders (California Fire Marshal Interpretation 18-005).

This typically means that the development must be designed so that firefighters:

- 1). Can readily carry their ground ladders along the walkway to the townhome window area in a safe and readily accessible manner.
- 2). Can set ladders on the ground to the rescue windows in a safe and secure manner following the San Francisco Fire Department Ladder Manual.

It is unclear where ground ladders would be able to be safely placed on the development property for safe window access. The San Francisco Fire Department Ladder Manual and typical firefighter standards note

a maximum accessible ladder angle of 70° from horizontal. To safely access the development's third-story rescue windows (24'-6" high), the ground ladder would be placed at least 8 feet away from the building. The development walkway appears to be only 5 feet wide, with at least 6-inches of obstructing guardrails and handrails. From a mathematical perspective, it appears that at least an additional 3'-6" of walkway may be required to meet safe firefighter ladder angle access. Further and more detailed study may identify additional issues which may require additional walkway clearance. The development walkway width of 5 feet is unusually restrictive to firefighter access of required emergency escape and rescue windows. We would suggest firefighter access to upper stories of the development be reviewed carefully to confirm meets minimum City, State, and Federal firefighter access requirements.

Firefighter access walkway:

As discussed previously, the means of access to the townhomes appears to be limited to a single 5-foot wide, 137-foot long walkway with approximately eight sets of stairs. This access walkway is a very unusual condition and appears to represent the only means of access and egress from the townhomes. In addition to aforementioned egress requirements, California Fire Code Section 504.1 states that access walkways leading from the road to the exterior opening of the townhomes shall be approved where required by the fire code official.

It is unclear if the fire code official has previously been consulted. We would recommend the fire code official perform careful review of the walkway for safe firefighter access in accordance with California Fire Code Section 504.1 to ensure it meets minimum standards.

Overall, the development has several unusual elements which appear to lack compliance under California Code of Regulations and San Francisco Municipal Code. We would recommend the jurisdictional authority perform careful review of the project's fire safety, life safety, and associated public health and safety risks against City, State, and Federal standards to ensure it meets minimum standards prior to approval of the project. We would recommend further study, and more clarification be provided to ensure these standards are met to maintain the public health and safety of occupants, firefighters, adjoining properties, and the community. This engineering opinion letter is preliminary only. Further review and more detailed study may identify additional hazards, building code issues, violations, etc...

Sincerely,



Robert E. Burt, P.E.

Fire Protection Engineer



EXHIBIT G

1151 Washinton Street
Case Number: 2021-010236PPA

September 17, 2022

To: Clayton Timbrell & Company Inc.
1033 Polk Street
San Francisco, CA 94109

PRELIMINARY MEMORANDUM OF POTENTIAL SHADOW EFFECT:

1151 Washington Street, SAN FRANCISCO

To whom it may concern,

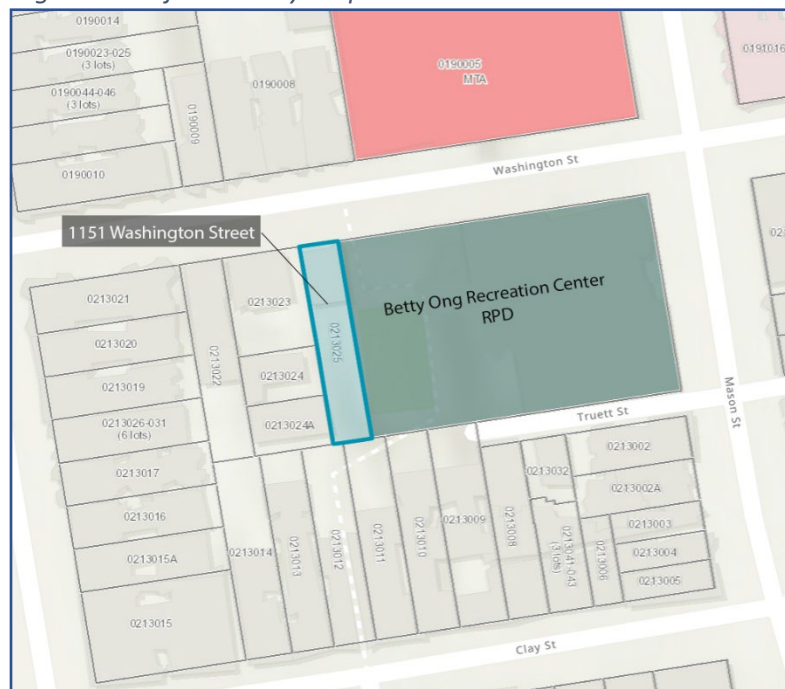
Fastcast has performed a preliminary shadow analysis for the proposed 1151 Washington Street Housing Project (Planning Case# 2022-008223PPA), in accordance with San Francisco Planning Department and CEQA standards and procedures, as encoded in the July 2014 Memorandum "Shadow Analysis Procedures and Scope Requirements" and as modified by other subsequent written directives from SF Planning in San Francisco.

Site Details Block/Lot(s): 0213/025

Parcel Area: 3,575 sq. ft.

Zoning District(s): [RM-3 - Residential- Mixed, Medium Density](#)

Figure 1: Project Vicinity Map



The site is a single 3,575 sf parcel that is 26'-0" wide x 137'-6" deep. It slopes up from the street with an average gradient of approximately 18% (+24.84'; front-to-back) and has an average cross-slope at the sidewalk of approximately 13%. It is located in the RM-3 "Residential Mixed, Medium Density" Zoning District and 65-A Height/Bulk District. It contains an existing 3-story, approximately 3005 sf single-family home built in 1940 that has been determined by the Planning Department to not be an historic resource. The Project Sponsor proposes to demolish the existing structure and redevelop the property per the State Density Bonus Law into a multi-family project consisting of (10) for-sale townhomes ¹

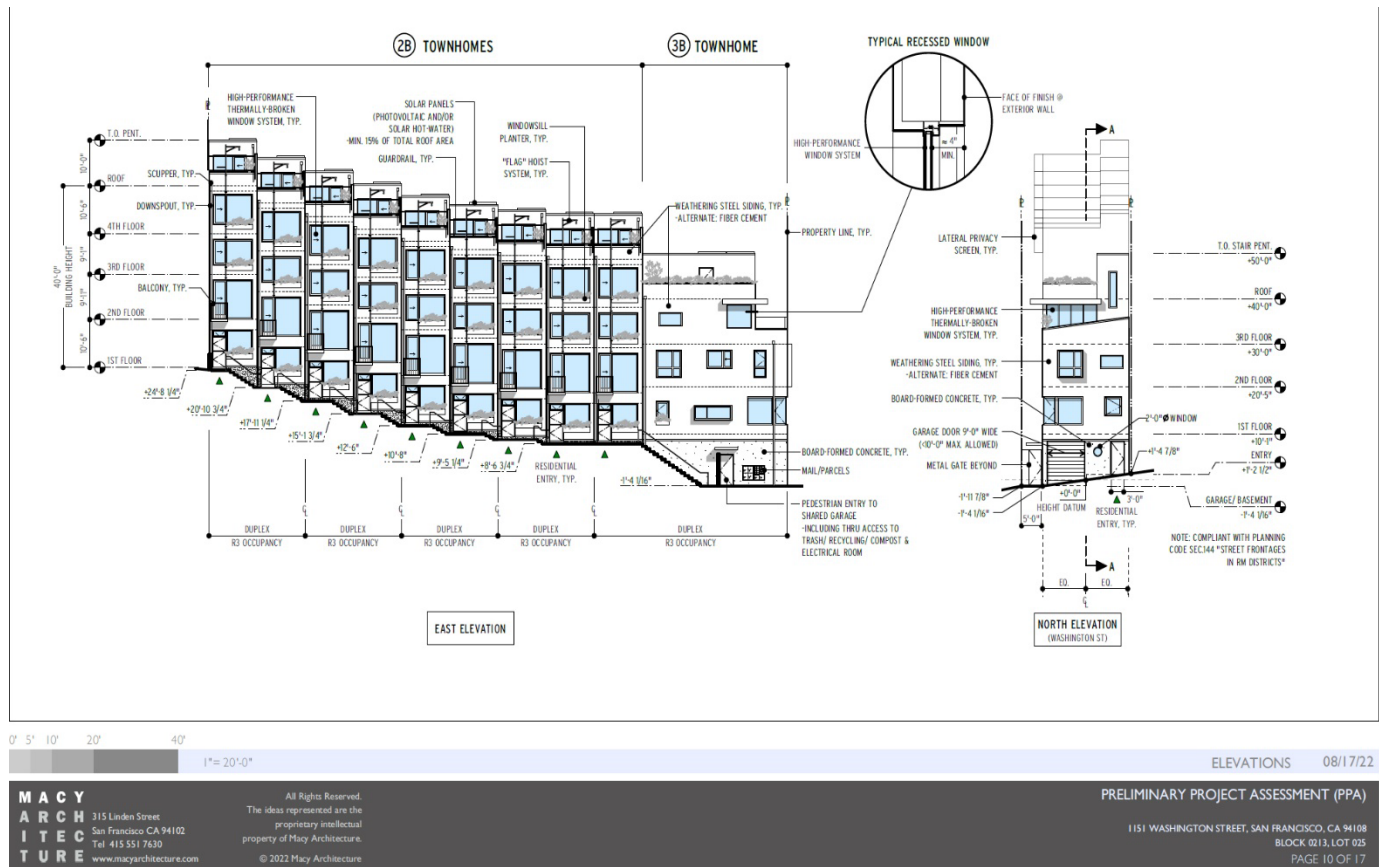


Figure 2: Macy Architecture Project Elevation (PPA 08/17/22)

The proposed project, as documented in the PPA plan set, is over 40 feet in height and is therefore considered subject to review under CEQA and Section 295 of the Planning Code.

To conduct this analysis, Fastcast utilized existing building and topographical data from city blessed sources to generate the ground surface and 3D built environment surrounding the project site in order to determine the existing shadow conditions in the vicinity of the project.²

¹ [PPA Application - 1151 Washington Street.pdf](#)

² In addition to the certified boundary, Due to the varied and sloping terrain and rec center grading Fastcast recommends that a high-resolution detailed survey of the recreation center and surrounding area be provided if a SF Planning certified analysis is to be developed.



Trees and existing landscape elements are not included in the baseline shadow conditions. The proposed project general massing was inserted into this baseline condition model and used to analyze the net change in shadow conditions prior to, and after the completion of the proposed project.

The proposed project was modeled based on the plans prepared by Macy Architecture submitted to the City as part of the Preliminary Project Assessment opened 8/22/2022 and is still under review.

Clayton Timbrell requested Fastcast prepare a preliminary analysis of the proposed 1141 Washington PPA submitted design to better understand the potential shadow on Betty Ong Recreation Center. It should be noted that this analysis is preliminary in nature and while is consistent with the CEQA Standard and City Shadow Analysis Procedures does not meet the standard of a final shadow analysis for submittal to SF Planning.

Shadow Results

With this data, Fastcast calculated a full year net new shadow result, quantifying the total aggregate of all net new project-generated shadow (in excess of shadow cast under current conditions) that would occur at any point between 1 hour after sunrise through 1 hour before sunset, throughout the year.

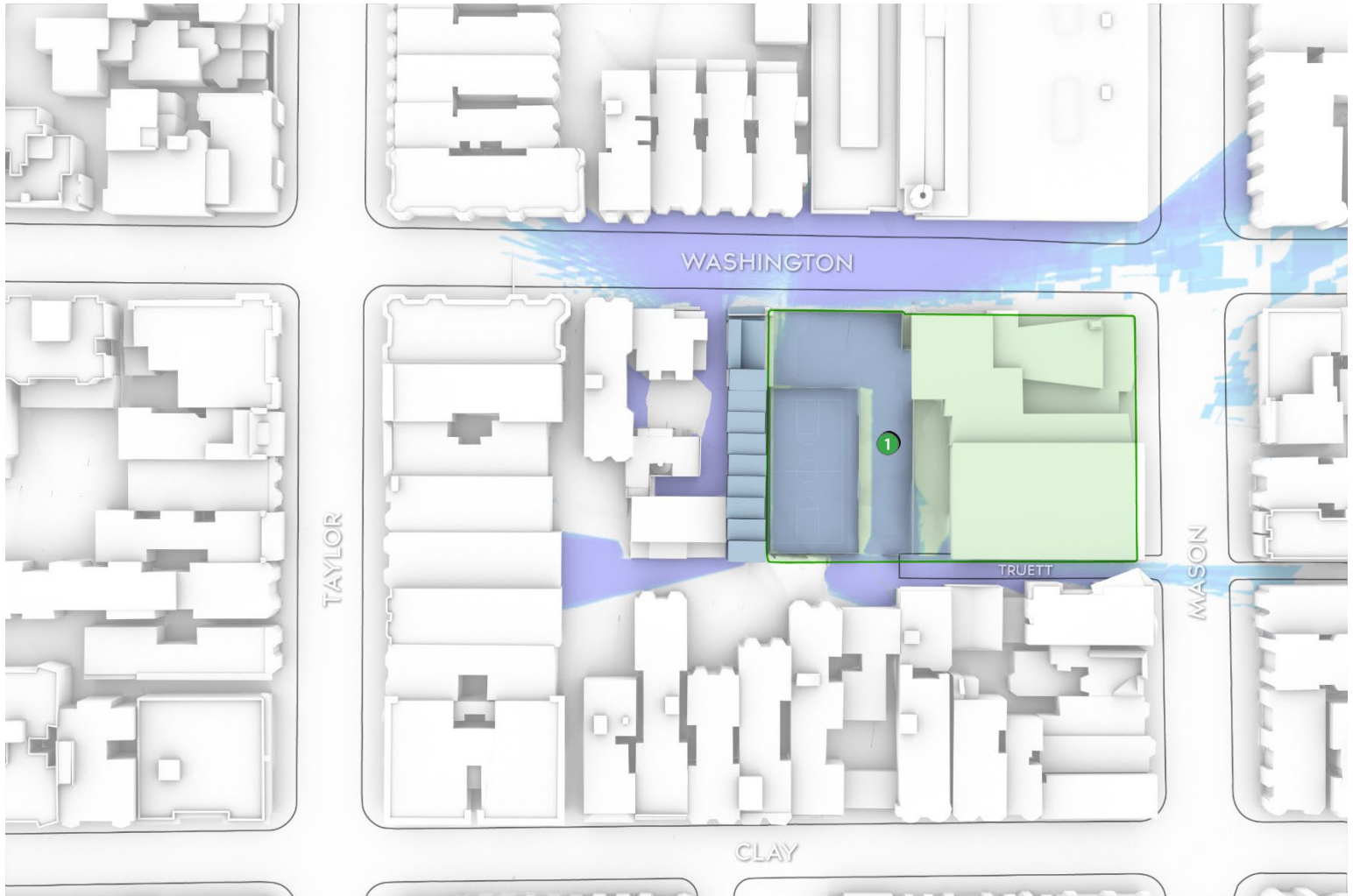
With this data, Fastcast generated a graphical full year net new shadow diagram, depicting the total aggregate extents of all net new project-generated shadow (in excess of shadow cast under current conditions) that would occur at any point between 1 hour after sunrise through 1 hour before sunset, throughout the year.

The annual accrual shadow fan graphic (included as Figure 1) determined new shadow from the project would intersect within the Betty Ong Recreation Center boundary across all hard courts play areas within the Betty Ong Recreation Center.³

³ Note: The Betty Ong Recreation Center boundary was defined by City GIS resource but has not been certified by Environmental Planning and/or RPD

f.01 1151 WASHINGTON STREET PROJECT - ANNUAL ACCRUAL MAP

Plan View



COMBINED YEAR ROUND SHADOW FAN



LEGEND

- Existing Structures
- 1151 Washington Street Project
- Proposed Project's Net New Shadow
- Open Spaces
- 1 Betty Ong Courts

FASTCAST | 1151 WASHINGTON STREET PROJECT | SEPTEMBER, 2022

Figure 3: 1151 Washington Generalized Annual Accrual Shadow Map depicting all areas potentially affected by shadow from the 1151 Washington Street project as proposed in PPA.



Maximum Shadow Coverage

The maximum shadow from the proposed project on Betty Ong Recreation Center at a single time would occur on August 9/May 3 and cover approximately 17% of the overall open space. Figure 4 below shows the maximum shadow coverage time at 5:00 p.m. as well as the projection sun angles prior at 4:45 p.m. and after at 5:15 p.m.

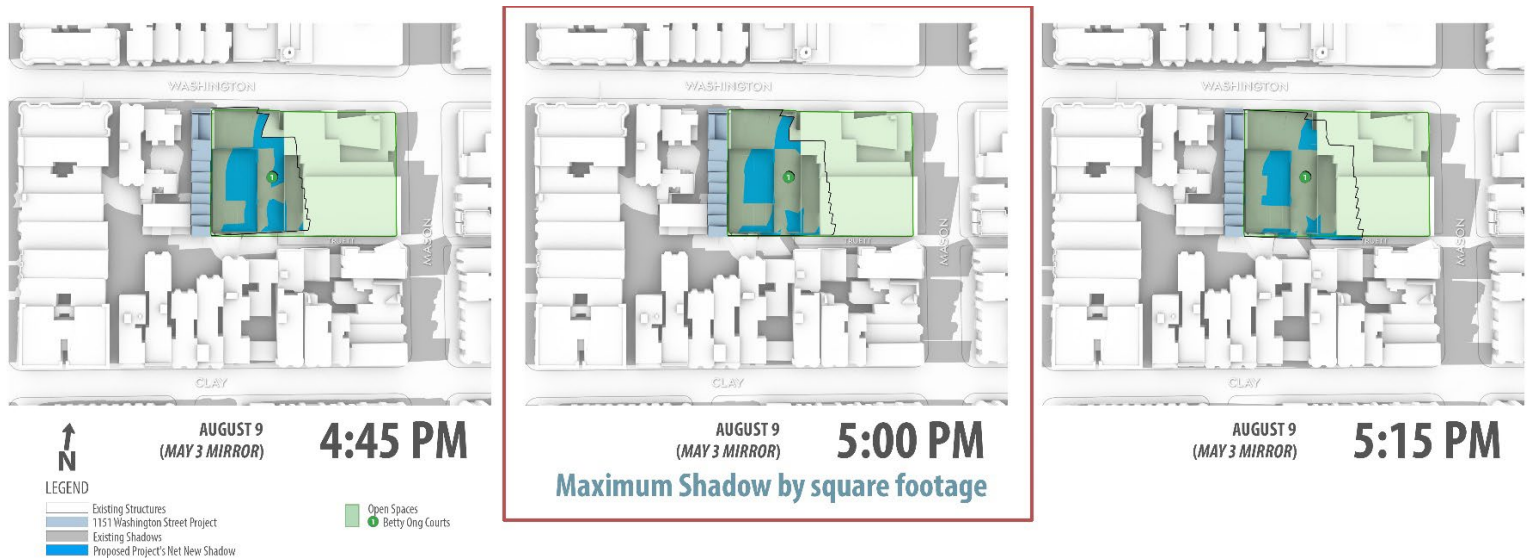


Figure 4: 1151 Washington Shadow Projections on maximum shadow day of August 9th/May 3rd.

Quantified Results

The quantified annual results show the proposed project has the potential to add approximately **2.97%** new shading against the overall theoretical annual available sunlight (TAAS)⁴ on the Betty Ong Recreation Center throughout the year. Potential new shading is most prevalent during the spring afternoons from approximately 1:30 p.m. to 4:30 p.m. The largest shadow from the project on the recreation center would occur on August 9 (Mirror May 3) at 5:00 p.m. and cover approximately 17% of the overall open space. Summary of results provided in Table 1 below. The maximum coverage on August 9 at 5:00 p.m. adds approximately 48% of shadow on the Betty Ong Recreation's upper hardcourt and approximately 18% of the lower play area hardcourt along Washington Street.

⁴ Theoretical Annual Available Sunlight or TAAS represents the total amount of available sunlight to the open space if it were unaffected by shadow year round. The City represents the TAAS in square foot hours and is calculated by multiplying the square footage by the annual constant of 13.501 (park sq ft * 13.501)

1151 Washington Street PPA 08/17/22 BETTY ONG REC CENTER ANNUAL SHADOW LOAD / SQUARE FOOT HOURS (sfh)			
Existing / Current Shadow 76.56% 80,720,521 sfh	Project Net New Shadow 2.97% 3,136,578 sfh	Cumulative Net New Shadow NA	Remaining Sunlight 20.47% 77,583,943
Betty Ong Rec Center Annual Shadow Load with Project (sfh)		79.53% (83,857,099 sfh)	
EXISTING SHADOW DETAILS			
Range in existing shadow area coverage throughout the year		Between 55% - 100%	
Time of year / time of day most affected by existing shadow		Winter / Late Afternoon (after 4:30 PM)	
NET NEW SHADOW DETAILS			
Days net new shadow would occur (date range)		Year-round	
Date(s) with most sfh net new shadow		July 26 & May 17	
Season / Time of day most affected by net new shadow		Spring / Afternoon (1:30-4:30 PM)	
Area of largest net new shadow (date and time)		4,820 sf (August 9 & May 3 @ 5:00 PM)	
Percentage of Betty Ong Rec Center covered by largest shadow		17.01%	
Range in shadow coverage throughout the year (area range)		Between 0% - 17% (0 - 4,820 sf)	
Average shadow size across affected dates (percent coverage)		2,093 sf (7.39%)	
Date(s) with the longest duration of net new shadow (duration)		June 21 (5 hr 30 min +/- 14 min)	
Range in daily net new shadow duration across affected dates		Between zero minutes up to 5 hr 30 min (+/- 14 min)	
Average daily net new shadow duration across affected dates		4 hr 6 min	

Table 1: 1151 Washington Summary Shadow Results

Please direct any question regarding this analysis and report to Adam Noble

adam@fastcastcity.com

415.816.3505



EXHIBIT H

May 16, 2023

San Francisco Board of Supervisors
Angela Calvillo, Clerk of the Board
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
bos.legislation@sfgov.org

Dear Board of Supervisors:

I, Clayton Timbrell, residing at 1157 Washington Street, San Francisco, California, hereby grant written authorization to the law firm of Lozeau Drury LLP, to file an appeal of the San Francisco Planning Commission's approval of the Planning Department's draft Class 32 (in-fill development) categorical exemption from the California Environmental Quality Act ("CEQA") for the proposed project at 1151 Washington Street ("Project"), which was considered at the at the Planning Commission's April 20, 2023 meeting as Agenda Item 12 (2022-010833ENV; 2022-010833CUA).

Thank you,

Clayton Timbrell

A handwritten signature in black ink, appearing to read 'Clayton Timbrell', with a stylized, cursive script.

LOZEAU DRURY, LLP

1939 HARRISON ST STE 150
OAKLAND, CA 94612
(510) 836-4200



JPMorgan Chase Bank, N.A.
www.Chase.com
90-7162/3222

5/15/2023

PAY TO THE
ORDER OF

San Francisco Planning Department

\$ **698.00

Six Hundred Ninety-Eight and 00/100*****

DOLLARS

San Francisco Planning Department
Clerk of the Board of Supervisors
1 Dr. Carlton B Goodlett Place, Room 244
San Francisco, CA 94102

MEMO

CEQA Determination Appeal Fee

Michael R. O'Leary
AUTHORIZED SIGNATURE

11

LOZEAU DRURY, LLP

15137

San Francisco Planning Department

Date	Type	Reference	Original Amt.	Balance Due	5/15/2023	Discount	Payment
5/12/2023	Bill		698.00	698.00			698.00
					Check Amount		698.00

10020.Chase Checkin CEQA Determination Appeal Fee

698.00

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2023 MAY 17 PM 2:30
BY *[Signature]*