

**From:** [Mary Miles](#)  
**To:** [Cabrera, Stephanie \(BOS\)](#); [Calvillo, Angela \(BOS\)](#)  
**Subject:** PUBLIC COMMENT, ITEM 1, 7-13-23 BOS GAO COMMITTEE  
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TO:

Angela Calvillo, Clerk of the Board; and

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Members of the San Francisco Board of Supervisors and GAO Committee

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**PUBLIC COMMENT OPPOSING THE 98 FRANKLIN STREET PROJECT;  
OPPOSING THE PROPOSED DEVELOPMENT AGREEMENT; OPPOSING A 400-  
PLUS FOOT HIGHRISE WITH NO AFFORDABLE HOUSING AT 98 FRANKLIN  
STREET; OPPOSING ADOPTION OF CEQA FINDINGS; OPPOSING FINDINGS OF  
CONFORMITY WITH GENERAL PLAN AND PLANNING CODE; OPPOSING  
WAIVERS OF DEVELOPMENT FEES, STATUTORY, AND CODE  
REQUIREMENTS**

**AND**

**DEMAND FOR RECUSAL OF SUPERVISOR DEAN PRESTON ON ALL  
PROCEEDINGS ON 98 FRANKLIN STREET PROJECT**

**ITEM 1, GAO COMMITTEE AGENDA, JULY 13, 2023, BOS FILE NO. 221163**

This Comment opposes approving the Development Agreement brokered by Supervisor Dean Preston between the City and “98 Franklin, LLC.” Please distribute this Comment to all Members of the Government Audit and Oversight Committee and the Board of Supervisors and place it in all relevant Board files.

This Comment OPPOSES the proposed development agreement for a 400-plus-foot highrise at 98 Franklin Street with 345 market rate housing units, and no affordable units (the Project). The amended Project allows an increase in height from the original proposal to more than 400 feet, waiving zoning and Planning Code requirements. (7/13/23 BOS Packet, Proposed Ordinance at 1(a).)

The Development Agreement waives nearly all the development fees required under the Market-Octavia project, except \$1-million instead of the \$55 million required. Other development fees mandated by the Van Ness and Market Special Use District, the Market-Octavia Project and its Community Improvements Program, transportation and fees mandated by City codes are also waived.

In return for waiving those fees and code requirements, under the Development Agreement, the Developer would give the City a parcel located at 600 Van Ness Avenue (former McDonald’s site) for developing affordable housing, though neither the City nor the developer have committed to funding any affordable development on that site.

Unnoticed for this hearing, on June 16, 2023, the Developer’s lawyer and the Mayor’s Office of Housing (“MOH”) privately negotiated material changes that allow the developer to give to the City a parcel at 600 McAllister Street, valued at \$598,000, instead of the 600 Van Ness Avenue property. The 600 McAllister site is now a parking lot providing parking for Civic Center workers and visitors to nearby cultural amenities and courts. The alleged CEQA review did not include, describe, analyze, or mitigate the unnoticed material changes in the Project’s location and description.

The Project and Development Agreement were privately negotiated by Supervisor Dean Preston. On July 10, 2023, Mr. Preston then presided over the Board’s Land Use Committee proceeding on the Project and moved to recommend its approval to the full Board. Mr. Preston’s advocacy and his private brokering of this deal with the developer clearly disqualify him from participating in any proceedings on the 98 Franklin Project and Development Agreement before this Board.

### **1. The Project Description And The Development Agreement Have Been Materially Changed.**

Both the Project and the Development Agreement contain no accurate or adequate Project Description, violating CEQA and the Brown Act. The earlier Project description has been

changed on the 98 Franklin highrise, which has been expanded in height, density, units, and physical space. The Development Agreement, has changed the location of the unfunded “Affordable Housing,” its size, height, occupation density, number of units, with more “studio” (one-room) apartments, and fewer one-bedroom units at 600 McAllister than at the former 600 Van Ness location.

The 600 McAllister location removes a parking lot for Civic Center travelers to jobs, cultural facilities and the courts. Parking is now scarce throughout the Civic Center area with the City underground parking garage often full. The CEQA analysis and mitigation must take into account transportation and parking impacts, which it fails to do, and the Project and Development Agreement even waive developer transportation fees.

If the City contends this large Project has been addressed in the “Market-Octavia” or “Hub” documents, the Project’s changes at minimum require reevaluation with up-to-date Project description, analyses, mitigation, and alternatives. The Project and the Development Agreement will clearly have significant direct, indirect, and cumulative impacts on transportation, parking, air quality, energy consumption, GHG, noise, public safety, emergency services, and evacuation.

## **2. NO “Affordable” Units Exist In This Project, Since NONE HAVE BEEN FUNDED BY THE CITY OR THE DEVELOPER**

The proposed Project description is misleading, since there is NO commitment from the City to build or fund any affordable housing on the “affordable housing site” at 600 McAllister Street. Nevertheless, the Agreement waives zoning, height, Market-Octavia, Van Ness Special Use District, inclusionary zoning, and other statutory requirements. The proposal also waives MILLIONS in developer fees, including transportation, and community improvement fees for the Project.

The Project and Development Agreement should not be approved unless the “affordable housing” at the “Affordable Housing Site” is completely funded, so that the affordable housing will be available no later than the market rate units at 98 Franklin.

## **3. Waiving Development Fees Violates The Public Interest**

The purpose of developer fees is to mitigate impacts of large high-rise projects like 98 Franklin/660 McAllister, not to move unfunded OFF-SITE “affordable” units to a different location from the Project. The public is deprived of the benefits such as transportation impacts mitigation, open space, and of course affordable housing.

## **4. The Development Fee Waivers Place A Disproportionate Burden On Those Paying Fees**

By waiving developer fees for the Project, the Project developer benefits from fees paid by

other developments, without any contribution to the fees paid by other developments.

## **5. The “Market-Octavia” Zoning Requirements Have Again Been Waived And Adulterated**

The Agreement’s waiver of millions in developer fees for an uncertain and unfunded future “affordable housing” project is inadequate. That unsubstantiated promise typifies the Market-Octavia Project’s false promises. Residents now face traffic congestion, the removal of more than 10,000 parking spaces, vacant ground floor retail, inadequate or nonexistent open space, no mitigation of transportation impacts, and most importantly, the false promise of “affordable housing.” One example: After 15 years, the promised full-service grocery store at 555 Fulton has NOT materialized, while Planning has issued one waiver after another and allowed a full block of condominiums to be sold without fulfilling that agreement.

To date, less than 10 percent of new housing constructed in the entire Market-Octavia Project area has been “affordable,” with high-rise, market-rate housing both contrary to the Market-Octavia’s promises and violating the inclusionary zoning REQUIRED BY THE PLANNING CODE.

The 98 Franklin Project and the fact that the City has allocated ZERO dollars to fund “affordable housing” on the 600 McAllister “Affordable Housing Site” highlight the inadequacy of the Development Agreement.

## **6. The Lack Of An Accurate Project Description Requires Updated Analyses And Mitigation Of The Project’s And The Development Agreement’s Impacts.**

The Project changes, including the location of the “Affordable Housing Site” with no funded affordable housing, the increase in the height and other physical characteristics of the market rate 98 Franklin proposed structure, and other changes require at minimum re-evaluation to comply with CEQA.

## **7. Supervisor Dean Preston Must Be Recused From All Deliberations On The 98 Franklin Street Project**

Supervisor Preston must be recused from all proceedings on the 98 Franklin Project and Development Agreement, since he has held an insider’s material and non-public role with the developer in the planning and approval of the Project.

## **CONCLUSION**

This Committee should not approve the Development Agreement or the 98 Franklin Project.

Mary Miles