To: San Francisco Board of Supervisors
From: Gary Lucks, JD CPEA, Bay Law Group LLP
Andrew J. Junius JD Reuben, Junius, and Rose LLP
Date: January 2, 2026
RE: File No. 251239 - Appeal of Conditional Use Authorization Proposed 825 Sansome Street Project (2025-008202CUA)
Project Sponsor Response to Appeal

Our firms represent the applicant, Telsa Inc. (Tesla) regarding the Conditional Use Authorization (CUA) appeal by Mark Malouf of the approval of the above-referenced project at 825 Sansome Street in San Francisco (Project). Tesla's opposition to the appeal is set out below.

I. INTRODUCTION AND EXECUTIVE SUMMARY

On November 13, 2025, the San Francisco (City) Planning Commission (Commission) approved a Conditional Use Authorization (CUA) of Tesla electric vehicle (EV) charging facility at 825 Sansome Street, San Francisco. That approval included the determination that the Project is exempt from the California Environmental Quality Act (CEQA) as a Commonsense Exemption under 14 California Code of Regulations (CEQA Guidelines) section §15061(b)(3). Mark Malouf has appealed the CUA approval. The Project's CEQA determination (2025-008202ENV) was not timely appealed and is not at issue in this appeal. As set forth herein, the CUA appeal has no merit and must be denied.

Other than a comment from Mark Bleason, representing the Teamsters Union Joint Council 7 opposing the fleet charging portion of the project, no comments were submitted from neighbors, business associations, or historic resources advocates. In his appeal, Mr. Malouf argues that the applicant and the San Francisco Planning Department did not demonstrate that Tesla's request met the findings requirements of Planning Code Section 303 because: (A) The use is not necessary or desirable; (B) the use is incompatible with the adjacent Jackson Square Historic District; (C) the use is detrimental to Neighborhood Convenience and General Welfare; (D) the use relies on an inadequate CEQA analysis. No evidence was cited or included in the statement of appeal. Based on speculative concerns, Mr. Malouf asks the San Francisco Board of Supervisors (Board) to reverse the Commission's approval. As set out herein, there is substantial evidence supporting the Commission's CUA and none of Mr. Malouf's speculative concerns warrant reversal. The CUA appeal has no merit and must be denied.

The following points are discussed in detail below:

- **No expansion or alteration of the building envelope**: The project maintains the historic use of the property as an automobile garage. There will be no expansion of the building or significant physical alterations.

- **Expands Fast Public Charging Infrastructure**: The project will provide 18 publicly available Supercharger stations. Tesla's Superchargers are highly

reliable, achieving an average site-level uptime of greater than 99% across the global network. In San Francisco, Tesla has deployed 80 stalls and 5 locations for public charging access, but more fast charging deployment is needed to serve local EV drivers.

- **No Historic Impacts to Jackson Square District**: Because there will be no physical changes to the building other than minor façade restoration and repair, there is no impact on this historic resource or the adjacent Jackson Square historic District.

- **No Traffic Impacts**: The autonomous vehicles that will be based at this site will be leaving the garage prior to morning peak traffic hours and returning to the garage after peak traffic hours. There will be no impact on traffic in the vicinity.

- **No Outside Street Queuing**: The project is specifically designed so that there is no potential for the autonomous vehicles needing to queue on the street before getting into the garage; there is sufficient queuing space within the building to accommodate all fleet vehicles that need to enter the garage at any given time.

- **Helps Achieve City's Sustainability Goals**: The City's Climate Action Plan establishes a goal for San Francisco to be an all-electric, net-zero emission city by 2040. A key component to meeting this goal will be providing public charging infrastructure access. In addition, this project will add zero emission transportation options for City residents.

II. THE PROJECT

The building, constructed in 1922 as a parking garage, has served the community for more than 100 years. The project continues this parking use with little or no change to the existing structure. Autonomous vehicles are here and changing the way people get around the City. The project allows for a graceful transition for this building, retaining its automobile use history while at the same time upgrading it to accommodate the future of autonomous vehicles.

The Project involves a change of use from the existing Public Parking Garage use with 96 parking spaces and the establishment of a private Fleet Charging use at the upper level, a public Electric Vehicle Charging Location use (principally permitted) at the ground level, and a Private Parking Garage use at the basement level at the subject property, an existing enclosed two-story, multi-level Public Parking Garage.

The 79 reconfigured parking spaces (a net loss of 16 parking spaces) will be allocated as follows:

- 31 new Tesla Fleet Storage Stalls for Private Fleet Parking (no EV chargers, no public access) at the basement level. This parking is to be used as temporary overnight parking to support private EV fleet vehicles.

- 30 new Private Fleet EV Charger Stalls + one standard parking stall at the upper level (no public access).

- 18 Public EV charging stalls at the ground level.

The project will also include 4,350 square feet that will accommodate accessory storage, mechanical room, bathrooms, and office space on the main level and in the basement.

The private EV fleet vehicle and private parking uses would be separated from the publicly accessible EV charging stations. The proposed hours of operations for the public-facing component is 24 hours a day, 7 Days a week. Whereas EV fleet vehicles will be primarily be departing during off-peak congestion hours of the early morning and returning during the late overnight hours. All levels will have audible exit warnings and the upper and basement levels will have gates in the normally closed position.

III. THE PLANNING COMMISSION'S CUA FINDINGS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE

Under San Francisco Municipal Code (SFMC) section 303(c), the Planning Commission must approve an application and authorize a Conditional Use if the facts presented are such to establish that:

1. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

2. Such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

    a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

    b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166 of this Code;

c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and

3. Such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the General Plan; and

4. Such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Use District.

In relevant part, under SFMC section 303(t), the Planning Commission must also approve an application and authorize a Conditional Use for a non-accessory parking for a specific use if the facts demonstrate the absence of potential detrimental effects upon the surrounding area, especially through unnecessary demolition of sound structures, contribution to traffic congestion, or disruption of or conflict with transit services, walking, and cycling SFMC section 303 (t)(1)(C).

SFMC Section 210.1 describes the C-2 Districts: Community Business zoning, outlining its purpose to provide areas for local neighborhood-serving retail, services, and some housing.

As noted in Motion No. 21968, "The Commission finds that this Project is necessary, desirable for, and compatible with the surrounding neighborhood as follows, ***and as set forth in Section 210.1 and 303(c), and 303(t) findings submitted as part of the application***. The proposed use is compatible with the surrounding area, which includes a mix of commercial, office and residential uses and is on balance with the General Plan and Use District. Conditional Use approval to establish private Fleet Charging and Private Parking Garage uses would promote sustainability by supporting cleaner transportation options, reducing vehicle emissions, and enhancing public health. By locating the charging infrastructure within an existing garage, all work will be completed within the existing building envelope with no major exterior alteration. Department staff believes the Project would be desirable for and compatible with the surrounding neighborhood and recommends." (emphasis added).

A. <u>The Use Is Desirable and Necessary</u>

As explained in the application materials referenced in the finding supporting approval of the CUA in Motion No. 21968, the Project's installation of a private EV fleet charging station within an existing parking garage will result in a development that is both necessary

and desirable for, and compatible with, the surrounding neighborhood and community. Key reasons include:

Enhancing Accessible and Clean Energy Transportation in Downtown and adjacent neighborhoods. The facility will support EV ride-hailing services in a greater concentration for the downtown core. This will provide convenient, emissions-free mobility to bring people to landmark locations like sports entertainment venues such as the Chase Center, and tourism spots such as Union Square and Fisherman's Wharf. It will also serve as a dedicated spot for the local community to charge and park their personal electric vehicles, promoting broader adoption of clean transportation fostering sustainable urban mobility and supporting community-driven electrification initiatives. This project supports to City's adopted goals related to sustainability, electrification of transportation, and reduction of greenhouse gas emissions, as outlined in the San Francisco Climate Action Plan and Clean Transportation Program.

Expanded Public Supercharging Infrastructure: The site will introduce (18) new public EV charging stalls on the main level, offering reliable and accessible charging solutions to benefit local residents and businesses alike. This will provide convenient EV charging infrastructure to the neighborhood.

Distributing EV charging stations across San Francisco is crucial to serve San Francico EV drivers. Currently there is significant unmet demand for fast-charging public EV chargers. The City is underserved compared to other similarly situated cities in the Bay Area. As of this writing, there are 80 total operational public Superchargers in San Francisco. Tesla's estimates show that the Supercharger infrastructure would need to more than double over the next few years to serve the city's needs. Moreover, Tesla provides the most reliable fast charging network with uptime over 99%. EV drivers, depending on vehicle type, can recover up to 200 miles in 15 minutes at a Tesla Supercharger stall allowing for a quick and seamless charging experience.

By locating the charging infrastructure within an existing garage, the project avoids any expansion or alteration of the building envelope, preserving neighborhood character and minimizing impacts such as noise, traffic, or visual intrusion.

Existing Building Design Features Suitable for Fleet Operations: The lower level of the parking garage is reserved exclusively for queuing of Tesla fleet vehicles, eliminating the possibility for vehicles to queue on the street while they wait to get into the garage. The number of fleet queuing stalls (30) to fleet charging stalls (30) is an exact one-to-one ratio, providing sufficient buffer for fleet vehicles to wait onsite before they need to charge. Given this off-street queuing capacity within the building itself, the potential for additional traffic congestion is eliminated.

The nature, scale, and scope of the proposed use are consistent with the neighborhood's character and zoning controls. While the project introduces a non-residential use, it does not exceed the size limitations of the zoning district and the additional findings under 303(c)(1)(A-C) are not required. Even if they were, the project will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity as discussed in Section B (below). The nature, scale, and scope of the proposed use are consistent with the neighborhood's character and zoning controls because the project is located within an existing parking garage and reduces the number of available parking spaces. The project promotes the efficient use of existing urban infrastructure and supports citywide policies encouraging electric vehicle adoption and private sector participation in emissions reduction.

Mr. Malouf notes that "Tesla has not demonstrated why this specific site is necessary when industrial areas better suited for Fleet Charging operations exist throughout the City." This is not part of the required findings. Moreover, Mr. Malouf also notes that "Fleet Charging use serves corporate fleet needs, not neighborhood needs - it provides no benefit or service to local residents or businesses." This is not part of the required findings. Moreover, the project is not intended to function as a fleet vehicle dispatch center. Instead, it represents one of multiple locations throughout the City that would support private fleet vehicle charging and temporary parking. Distributing facilities across several smaller sites allows the operator to reduce vehicle travel distances when vehicles are needed and avoid concentrating fleet activity in a single location. In contrast, a single centralized facility particularly in an industrial area, could result in concentrated traffic demand longer deadhead trips and increased vehicle miles traveled as vehicles would need to travel longer distances to reach users.

The Use Is Compatible with the Adjacent Jackson Square Historic District

It is hard to imagine a project that would have less of an impact on the adjacent historic district than this one. The garage will remain a garage. There will be virtually no changes to the exterior of the building - except to restore and maintain its historic elements. As explained in the application materials referenced in the finding supporting approval of the CUA in Motion No. 21968, the project does not involve demolition or alteration of any primary structural or architectural features, nor does it affect the façade or public view of any potentially historic elements. The EV charging infrastructure will be installed internally, in parking areas that do not contribute to the historic fabric of the site or surroundings.

Mr. Malouf claims, without support, "Fleet charging operations for Autonomous Vehicles-with constant vehicle queuing, 24/7-are fundamentally incompatible with the district's historic residential and small-scale commercial character." The project would be located entirely within an existing parking structure that provides three separate entrances and exits. This configuration is well suited for the proposed uses as it allows each user to operate independently with dedicated access points. Private fleet vehicles would be able to

enter and exit through their own gates without waiting for or interacting with the general public. In addition, the ability for fleet vehicles to automatically trigger access gates in advance would reduce or prevent on street queuing and minimize the potential for traffic impacts on adjacent City streets.

The Project is located at 825 Sansome and is adjacent to, but not located within, the Jackson. Even if the project were located within the district, it would have no impact because all construction and activity associated with the project would be inside the parking structure with no changes proposed outside of the building. From a historic resource standpoint, this project has absolutely no impact whatsoever.

B. <u>The Use Is Not Detrimental to Neighborhood Convenience and General Welfare</u>

The operations will not detrimentally affect neighborhood convenience or general welfare, specific to requirements listed in SF Planning Code Sec 303.2. On the contrary, it stands to enhance urban mobility and efficiency.

As explained in the application materials referenced in the finding supporting approval of the CUA in Motion No. 21968, the proposed installation of private EV fleet charging stations within an existing parking garage will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity. Nor will it be injurious to property, existing improvements, or potential development nearby. The project has been designed to function entirely within the limits of the current garage and will comply with all applicable safety and operational standards. Specifically:

a. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures*:

The project involves the reuse of an existing parking garage without any expansion of the building footprint. The existing multi-level parking garage has sufficient capacity and circulation space to accommodate the proposed equipment without expansion of the building footprint or structural alterations. All EV chargers will be installed where current parking exists, preserving the size and shape of the facility and avoiding the need for new structures. The internal arrangement of chargers and electrical infrastructure will be designed to maintain safe vehicular and pedestrian circulation throughout the garage.

There will be no alterations to the overall size or shape of the structure, in accordance with Section 303.2.A. By converting the existing parking facility to an EV-exclusive parking garage. The anticipated traffic patterns will remain

comparable to those associated with the current private parking operations, in accordance with Section 303.2.B.

As the project focuses solely on repurposing the existing parking garage, there will be no changes to landscaping, open space, or loading zones, consistent with Section 303.2.D.

b. *Accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading:*

The inclusion of private vehicle fleet charging is expected to generate only a modest increase in short-term vehicle turnover, which the garage is equipped to accommodate given its existing vehicular access, egress, and internal circulation design. Fleet vehicles will be departing the project site on a full battery in the early morning (Approximately 4:00AM - 7:00AM), which is prior to the high traffic morning hours. Fleet vehicles are also expected to return to the project site in late evening hours (Approximately 9:00PM - 11:00PM), which is well past the expected evening peak traffic hours. Both departing and returning hours are periods of low to minimal congestion.

The private fleet chargers will be used by a controlled number of known vehicles with predictable schedules, minimizing traffic variability. Off-street parking remains adequate as all chargers are located within existing parking areas, No changes are needed to loading zones, which remain functional and accessible.

c. *Safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor:*

EV charging equipment and EVs produce no combustion emissions in stark contrast to vehicles powered by internal combustion engines, thereby aligning with the provisions of Section 303.2.C. This is especially true within the garage structure. Unlike garages that services combustion vehicles, the project will not result in generating carbon monoxide emissions which are a known Proposition 65 chemical listed for causing reproductive harm, specifically birth defects.

The project includes best practices for glare reduction, such as downward-directed lighting (if applicable) and the use of low-lumen status indicators. The chargers produce no dust or odor, and all electrical work will meet current building and fire safety codes. The installation will include appropriate ventilation where needed and emergency shut-off features for safety.

Tesla fleets currently operate with Full Self Driving [FSD] (Supervised), which results in 7x fewer minor collisions than the U.S. Average. The FSD

(Supervised) system is uniquely trained on billions of real-world, anonymized driving data collected from millions of Tesla vehicles globally. This will reduce the likelihood of collisions caused by human error, which can result in a safer neighborhood to live and work. A cumulative total of over 7 billion FSD (Supervised) miles and counting have been driven in Tesla vehicles, which is 70x times larger than the over 100 million autonomous miles driven by the competitors that operate in San Francisco.

In addition, the fleet EV vehicles are also much quieter than vehicles with internal combustion engine, resulting in minimal noise disruption to the local neighborhood which will fall below City noise thresholds.

d. Treatment given, as appropriate to aspects such as landscaping, screening, open spaces, parking and loading areas, service areas, lighting, and signs:

Because the project is entirely within an existing parking structure, no modifications to landscaping, open space, or screening are necessary. Existing lighting will remain, and any additional lighting installed for safety or signage will comply with Planning Code illumination standards and not contribute to light pollution. Signage will be limited to wayfinding and charger operation instructions, conforming to the San Francisco Sign Code. There are no new impacts to public-facing aesthetics or service areas.

Mr. Malouf argues, with no evidence, that "[t]his site along with the Waymo operations site 200 feet away will create continuous robotaxi fleet vehicles circulating including congestion, that impacts the neighborhood. Planning Staff did not consider such concentration. Round-the-clock operations disrupt neighborhood peace and livability at all hours."

The nearby Waymo parking facility has been in operation since 2021 and therefore constitutes part of the existing baseline condition considered by the City in its evaluation. CRA reviewed traffic volume data obtained from Replica along Pacific Avenue and surrounding streets and found no evidence of a substantial increase in traffic volumes associated with the introduction of Waymo operations. This information supports the conclusion that similar fleet related uses in the area have not resulted in measurable adverse traffic effects.

The City Approved the CUA based on an Adequate CEQA Analysis

As noted above, the City's CEQA Exemption Determination for the Project (2025-008202ENV) was signed and dated October 28, 2025. Once signed and dated, this document constitutes an exemption pursuant to CEQA Guidelines and chapter 31 of the San Francisco Administrative 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. [1] No appeal of the CEQA Exemption Determination has been filed and the deadline to appeal has past. As such, the City's CEQA findings for the Project are not at issue in this appeal.

Even if it were timely appealed, substantial evidence supports the determination that the project is exempt under CEQA because it can be seen with certainty that there is no possibility of a significant effect on the environment.[2]

Under CEQA, traffic level of service metric (measuring traffic congestion) is not used for evaluating transportation impacts.

In addition, Planning Department Transportation staff determined that no specific transportation analysis was required for the Project because:

> The proposed project is expected to generate only a modest increase in short-term vehicle turnover, similar to the existing use as a vehicle parking garage. The proposed project is equipped to accommodate its related EV vehicle trips given its existing vehicular access, egress, and internal circulation design. According to the sponsor team, the private fleet chargers will be used by a controlled number of known vehicles with predictable schedules, minimizing traffic variability. No changes are needed to adjacent loading zones. The project frontage is not along a bicycle or transit route. All levels will have audible exit warnings for pedestrians and other vehicles.

Mr. Malouf claims that the "CEQA analysis fails to examine cumulative impacts of concentrated AV fleet charging in the area. CEQA requires assessment of the combined effects of multiple similar projects-this has not been done and there is no mention of Waymo or Tesla in the CEQA analysis. Proper environmental review must analyze the concentration of fleet operations before approval, including the impact of a Telsa robotaxi charging location only 200 feet from Waymo's existing AV facility."

As discussed above, the nearby Waymo parking facility is part of the existing baseline condition considered by the City in its evaluation and supports the conclusion that similar fleet related uses in the area have not resulted in measurable adverse traffic effects.

[1] CEQA Exemption Determination.
[2] CEQA Exemption Determination, citing CEQA Guidelines section 15061(b)(3)).