


BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

September 13, 2016

To: John Rahaim
Planning Director

From:  Angela Calvillo
Clerk of the Board of Supervisors

Subject: Appeal of California Environmental Quality Act (CEQA) Determination of Exemption from Environmental Review - 1515 South Van Ness Avenue


An appeal of the CEQA Determination of Exemption from Environmental Review for the proposed project at 1515 Van Ness Avenue, was filed with the Office of the Clerk of the Board on September 12, 2016, by J. Scott Weaver, on behalf of the Calle 24 Latino Cultural District Community Council.

Pursuant to Administrative Code, Chapter 31.16, I am forwarding this appeal, with attached documents, to the Planning Department to determine if the appeal has been filed in a timely manner. The Planning Department's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks John Carroll at (415) 554-4445 or Brent Jalipa at (415) 554-7712.

c: Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Lisa Gibson, Environmental Review Officer, Planning Department
AnMarie Rodgers, Senior Policy Advisor, Planning Department
Aaron Starr, Manager of Legislative Affairs, Planning Department
Doug Vu, Staff Contact, Planning Department
Melinda Hue, Staff Contact, Planning Department
Jonas Ionin, Planning Commission Secretary, Planning Department

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September 12, 2016

Clerk, San Francisco Board of Supervisors
Environmental Review Officer, Bill Wycko
#1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

**Re: Case No. 2014.1020 CUA - 1515 South Van Ness Avenue
Appeal of the August 11, 2016 Planning Commission Decisions**

Dear Members of the Board of Supervisors and Bill Wycko:

The Calle 24 Latino Cultural District Community Council appeals the following decisions of the Planning Commission made on August 11, 2016 regarding the project proposed for 1515 South Van Ness Avenue ("Proposed Project" hereafter) proposed by applicant Peter Schellenger, LMC San Francisco Holdings, LLC.

- 1) Adoption of a Community Plan Exemption and CEQA findings under Section 15183 of the CEQA guidelines and Public Resources Code Section 21083.3.1

The Final Motion for the relevant appeals is attached as **Exhibit A**. Evidence in support of the appeals is attached as **Exhibits B-D** and is also contained in the letters submitted to the Planning Department objecting to the approval of the Project and the Community Plan Exemption, incorporated here by reference. **Exhibit E** contains the \$578 appeal fee for the CEQA appeal.

1. Appeal of the adoption of the Community Plan Exemption and CEQA Findings

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Calle 24 Latino Cultural District Community Council Appeal

The appeal of the adoption of the Community Plan Exemption and CEQA Findings are filed on the following bases.

- The Proposed Project does not qualify for a Community Plan Exemption under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3 because the approval is based upon an out of date 2008 EIR prepared for the Eastern Neighborhoods Area Plan and the EIR's analysis and determination can no longer be relied upon to support the claimed exemption in the areas of, *inter alia*, direct, indirect, and cumulative impacts to: land use, consistency with area plans and policies, land use, recreation and open space, traffic and circulation, transit and transportation, health and safety, and impacts relative to the Calle 24 Latino Cultural District.
- The PEIR's projections for housing, including this project and those in the pipeline, have been exceeded when cumulative impacts are considered, i.e., "past, present, and reasonably foreseeable probable future projects." (Guidelines, § 15355)
- The claimed community benefits of the Eastern Neighborhoods Area Plan, outlined in the 2008 PEIR, its approvals and the Statement of Overriding Considerations have not been fully funded, implemented, or are underperforming and the determinations and findings for the proposed Project that rely on the claimed benefits to override impacts outlined in the PEIR are not supported. The City should have conducted Project level review based upon up to date data and the actual community benefits that have accrued since the adoption of the 2008 plan and did not.
- Substantial changes in circumstances require major revisions to the Eastern Neighborhoods Area Plan EIR due to the involvement of new significant environmental effects and an increase in the severity of previously identified significant impacts; there is new information of substantial importance that would change the conclusions set forth in said EIR and the requirements of the Mitigation Monitoring and Reporting Report.
- The CEQA findings did not take into account the potential impacts of the Proposed Project on the Calle 24 Latino Cultural District (LCD), which was

not designated at the time the PEIR was prepared. Potential impacts due to gentrification and displacement to businesses, residents, and nonprofits within the LCD, including impacts to cultural and historic resources, health and safety and increased traffic due to reverse commutes and shuttle busses have not been considered.

- The CEQA findings are inadequate and incomplete and are not supported by substantial evidence.
- The Proposed Project is inconsistent with the General Plan and the Mission Area Plan.

2. Pattern and Practice

The City is engaging in a pattern and practice of approving residential projects in the Mission based upon a Community Plan Exemption that improperly tiers off of an out of date Eastern Neighborhoods Area Plan EIR instead of conducting project level environmental review. This results in the approval of projects with unexamined environmental affects to the detriment of Mission residents.

3. Attempted CU Appeal

From September 7 to September 12, 2016, Calle 24 Latino Cultural District Community Council (LCDCC) members presented the "Notice to Board of Supervisors of Appeal from Action of the City Planning Commission Form for Conditional Uses" to the members of the Board of Supervisors for their signature pursuant to Planning Code Section 308.1 (b)(ii) and explained the reasons for the appeal. As of September 12, 2016, the due date for the submission of the filing of the Conditional Uses appeal and CEQA appeal, LCDCC did not receive sufficient signatures under Planning Code Section 308.1 (b)(i). Therefore, the LCDCC does not qualify under the alternative method for appealing the Conditional Uses approval under Planning Code Section 308.1 (b). Since neither method of appeal is available to LCDCC and LCDCC objected to the Planning Commission's approval of the Conditional Uses, LCDCC has exhausted administrative remedies as to the challenge to the Conditional Uses and do not include their objections as part of this appeal. Should the Board of Supervisors later authorize the appeal of the Conditional Uses, LCDCC

will include their objections in a follow up letter.

Exhibits (Attached)

Exhibit A: Planning Commission Motion No. 19727.

Exhibit B: Link to Video of August 11, 2016 Planning Commission hearing.

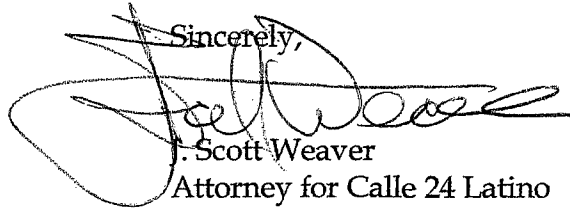
Exhibit C: Link to Eastern Neighborhoods Plan EIR, Motion 17661 of the Planning Commission, which adopted CEQA findings for the Plan EIR, and the Mitigation Monitoring Report

Exhibit D: Evidence in support of the Appeal

Exhibit E: CEQA Fee

~~**Exhibit F:** Notice to Board of Supervisors of Appeal from the City Planning Commission Form re: Conditional Uses.~~

Sincerely,

A handwritten signature in black ink, appearing to read "J. Scott Weaver", is written over the typed name and title.

J. Scott Weaver
Attorney for Calle 24 Latino
Cultural District Council