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Appeal of Infill Project Determination 1296 Shotwell Street Project

DATE: February 6, 2017

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RE: Board File No. 170024, Planning Department Case No. 2015-018056APL – Appeal of Infill Project Determination for 1296 Shotwell Street Project; Block/Lot 6751/051

PROJECT SPONSOR: Elaine Yee, Mission Economic Development Agency, (415) 282-3334
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APPELLANT: Craig Weber, on behalf of the Inner Mission Neighbors Association – (415) 641-9900

HEARING DATE: February 14, 2017

ATTACHMENT: A – Eastern Neighborhoods Public Benefits Program Information

INTRODUCTION

This memorandum and the attached documents respond to the December 30, 2016 letter of appeal (Appeal Letter 123016.pdf" online as part of Board of Supervisors File No. 170024) to the Board of Supervisors (the "Board") regarding the Planning Department's (the "Department's") issuance of an Infill Project Environmental Review Certificate of Determination ("Infill Project Determination," Exhibit A of the Appeal Letter, beginning on page 34 "Appeal Letter 123016.pdf" online as part of Board of Supervisors File No. 170024) in compliance with the California Environmental Quality Act ("CEQA") for the 1296 Shotwell Street Project (the "Project").

The Department, pursuant to CEQA, the CEQA Guidelines, 14 Cal. Code of Reg. Sections 15000 *et seq.*, and Chapter 31 of the San Francisco Administrative Code, determined that the Project qualifies for a streamlined environmental review process for infill projects under California Public Resources Code

Section 21094.5 and CEQA Guidelines Section 21083.3. (See the Streamlining for Infill Projects Overview section, below, for additional information about the streamlining process for infill projects.) Accordingly, the Department evaluated whether the Project would cause any significant environmental effects that were not analyzed in or that are substantially greater than previously analyzed and disclosed in the *Eastern Neighborhoods Rezoning and Area Plan Final Environmental Impact Report* (“Eastern Neighborhoods PEIR” or “PEIR”)¹, or that uniformly applicable development policies would not substantially mitigate. The Department found no such impacts and issued the Infill Project Determination for the Project on November 21, 2016. The Department provided a detailed analysis in support of these findings in a roughly 65-page Infill Project Initial Study, included as Exhibit A of the Appeal Letter, beginning on page 44 of “Appeal Letter 123016.pdf” available online as part of Board of Supervisors File No. 170024. The Department determined that no further environmental review is required for the Project.

The decision before the Board is whether to uphold the Department’s determination that no further environmental review is required pursuant to CEQA Guidelines Section 15183.3 and California Public Resources Code Section 21094.5 and deny the appeal, or to overturn the Department’s Infill Project Determination and return the Project to the Department for additional environmental review.

PROJECT DESCRIPTION

The proposed project would demolish the existing one-story industrial building on the site and construct a 100 percent affordable senior housing project, encompassing a total of approximately 69,500 gross square feet with 94 dwelling units (93 affordable units plus one unit for the onsite property manager), including 20 units for formerly homeless seniors.

SITE DESCRIPTION

The project site is located on a block bound by Shotwell Street to the east, 26th Street to the north, South Van Ness Avenue to the west, and Cesar Chavez Street to the south, in San Francisco’s Mission neighborhood. The project site, Block 6571, Lot 051, is irregular in shape and has frontage only on Shotwell Street. The parcel measures approximately 11,700 square feet and contains a one-story industrial building constructed in 1948 that covers the entire parcel. The building currently houses an automotive repair shop and a storage facility for a local market. The existing sidewalk along Shotwell Street is 15 feet wide and does not contain any curb cuts. Instead, there is an approximately two-foot deep “concrete ramp” along the length of the project site, which creates a transition between the sidewalk and street levels and accommodates cars associated with the auto repair shop currently on site.

¹ The Eastern Neighborhoods Rezoning and Area Plan Final EIR (Planning Department Case No. 2004.0160E), State Clearinghouse No. 2005032048) was certified by the Planning Commission on August 7, 2008. The project site is within the Eastern Neighborhoods Rezoning and Area Plan project area.

The project site does not contain trees or landscaping, nor are street trees currently adjacent to the site. The project site is zoned Mission Street Neighborhood Commercial Transit (NCT), Mission Street Formula Retail Restaurant Sub-district, Mission Alcohol Restricted Use District, and Fringe Financial Restricted Use District, and is within a 65-X height and bulk district.

The project vicinity is characterized by a mix of residential, retail, office, and production, distribution, and repair (“PDR”) uses. To the north of the project site (i.e., along 26th Street between South Van Ness Avenue and Shotwell Street) sits a commercial building housing an electric contractor, to the east and across Shotwell Street are residential complexes, and to the west of the site is an auto parts shop and adjacent parking lot, accessed at Cesar Chavez Street. The 24th Street-Mission Bay Area Rapid Transit (“BART”) station, a major regional transit station, is located five blocks northwest of the project site. There is one San Francisco Municipal Railway (“Muni”) stop approximately 250 feet southwest of the project site near the intersection of South Van Ness Avenue and Cesar Chavez Street, one 370 feet northwest of the project site at the intersection of South Van Ness Avenue and 26th Street, and one 380 feet northeast of the project site near the intersection of Folsom and 26th streets.

Buildings in the project vicinity range from 15 to 40 feet in height. Surrounding parcels on the same block (to the north and west) are zoned NCT-1 (Mission Street Neighborhood Commercial Transit), parcels across Shotwell Street to the east are zoned RM-1 (Residential-Mixed, Low Density), to the southeast across the Shotwell and Cesar Chavez streets intersection are zoned RH-3 (Residential-House, Three Family), and south across Cesar Chavez Street are zoned RH-2 (Residential-House, Two Family). Height and bulk districts in the project vicinity are 40-X, 55-X, and 65-X.

ENVIRONMENTAL REVIEW PROCESS

The environmental evaluation application (Case No. 2015-018056ENV) for the Project was filed by the sponsor on December 18, 2015. On November 21, 2016, the Department issued an Infill Project Determination and supporting Initial Study, which found:

1. The Project is eligible for the streamlining procedures, as the project site has been previously developed and is located in an urban area, the Project satisfies the performance standards provided in Appendix M of the CEQA Guidelines, and the Project is consistent with the Sustainable Communities Strategy;²

² Plan Bay Area is the current Sustainable Communities Strategy and Regional Transportation Plan that was adopted by the Metropolitan Transportation Commission and Association of Bay Area Governments in July 2013, in compliance with California’s governing greenhouse gas reduction legislation, Senate Bi11 375. Available: <http://planbayarea.org/the-plan/adopted-plan-bay-area-2013.html>. Accessed January 24, 2017.

2. The effects of the proposed infill project were analyzed in a prior EIR, and no new information shows that the significant adverse environmental effects of the infill project are substantially greater than those described in the prior EIR;
3. The proposed infill project would not cause any significant effects on the environment that either have not already been analyzed in the prior EIR or that are substantially greater than previously analyzed and disclosed, or that uniformly applicable development standards would not substantially mitigate potential significant impacts; and
4. The project sponsor will undertake feasible mitigation measures specified in the Eastern Neighborhoods PEIR to mitigate project-related significant impacts.

The Project was considered by the Planning Commission on December 1, 2016. On that date, the Planning Commission adopted the Project under Planning Code Sections 206 and 328 (100 Percent Affordable Housing Bonus), which constituted the Approval Action under Chapter 31 of the Administrative Code.

On December 30, 2016, an appeal of the Infill Project Determination was filed by Craig Weber on behalf of the Inner Mission Neighbors Association (“Appellant”). The Appellant’s letter also included five exhibits (314 pages) of materials that are provided with the appeal letter and which are included as “Appeal Letter 123016.pdf” online as part of Board of Supervisors File No. 170024.

CEQA STATUTES AND GUIDELINES

Streamlining for Infill Projects Overview

California Public Resources Code Section 21094.5 and CEQA Guidelines Section 15183.3 provide a streamlined environmental review process for eligible infill projects by limiting the topics subject to review at the project level where the effects of infill development have been previously addressed in a planning-level decision³ or by uniformly applicable development policies.⁴ CEQA does not apply to the effects of an eligible infill project under two circumstances. First, if an effect was addressed as a significant effect in a prior EIR⁵ for a planning-level decision, then that effect need not be analyzed again for an individual infill project even when that effect was not reduced to a less-than-significant level in the prior EIR. Second, an effect need not be analyzed, even if it was not analyzed in a prior EIR or is more significant than previously analyzed, if the lead agency makes a finding that uniformly applicable development policies or standards, adopted by the lead agency or a city or county, apply to the infill project and would substantially mitigate that effect. Depending on the effects addressed in the prior EIR

³ Planning level decision means the enactment of amendment of a general plan or any general plan element, community plan, specific plan, or zoning code.

⁴ Uniformly applicable development policies are policies or standards adopted or enacted by a city or county, or by a lead agency, that reduce one or more adverse environmental effects.

⁵ Prior EIR means the environmental impact report certified for a planning level decision, as supplemented by any subsequent or supplemental environmental impact reports, negative declarations, or addenda to those documents.

and the availability of uniformly applicable development policies or standards that apply to the eligible infill project, the streamlined environmental review would range from a determination that no further environmental review is required to a narrowed, project-specific environmental document.

Pursuant to CEQA Guidelines Section 15183.3, an eligible infill project is examined in light of the prior EIR to determine whether the infill project will cause any effects that require additional review under CEQA. The evaluation of an eligible infill project must include the following:

- (1) demonstration that the project satisfies the performance standards of Appendix M of the CEQA Guidelines;
- (2) explanation of the degree to which the effects of the infill project were analyzed in the prior EIR;
- (3) explanation of whether the infill project will cause new specific effects⁶ not addressed in the prior EIR;
- (4) explanation of whether substantial new information shows that the adverse effects of the infill project are substantially more severe than described in the prior EIR; and
- (5) if the infill project would cause new specific effects or more significant effects than disclosed in the prior EIR, indication of whether uniformly applied development standards substantially mitigate⁷ those effects.⁸

Pursuant to CEQA Guidelines Section 15183.3, no additional environmental review is required if the infill project would not cause any new site-specific or project-specific effects or more significant effects, or if uniformly applied development standards would substantially mitigate such effects.

To be eligible for the streamlining procedures prescribed in Section 15183.3, an infill project must meet all of the criteria shown in italics below. As explained following each criterion, the proposed project meets the criteria for infill project streamlining.

- a) *The project site is located in an urban area on a site that either has been previously developed or that adjoins existing qualified urban uses on at least seventy-five percent of the site's perimeter.*⁹

⁶ A new specific effect is an effect that was not addressed in the prior EIR and that is specific to the infill project or the infill project site. A new specific effect may result if, for example, the prior EIR stated that sufficient site-specific information was not available to analyze the significance of that effect. Substantial changes in circumstances following certification of a prior EIR may also result in a new specific effect.

⁷ More significant means an effect will be substantially more severe than described in the prior EIR. More significant effects include those that result from changes in circumstances or changes in the development assumptions underlying the prior EIR's analysis. An effect is also more significant if substantial new information shows that: (1) mitigation measures that were previously rejected as infeasible are in fact feasible, and such measures are not included in the project; (2) feasible mitigation measures considerably different than those previously analyzed could substantially reduce a significant effect described in the prior EIR, but such measures are not included in the project; or (3) an applicable mitigation measure was adopted in connection with a planning level decision, but the lead agency determines that it is not feasible for the infill project to implement that measure.

⁸ Substantially mitigate means that the policy or standard will substantially lessen the effect, but not necessarily below the levels of significance.

⁹ For the purpose of this subdivision "adjoin" means the infill project is immediately adjacent to qualified urban uses, or is only separated from such uses by an improved public right-of-way. Qualified urban use means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

The project site is located within an urban area and has been previously developed. According to the Phase I Environmental Site Assessment,¹⁰ available historical records show that the site was occupied by a tannery in the late 1800s, was vacant (except for a private residence) in 1900, and has been occupied by large warehouses from at least 1914 through the present. The warehouses apparently were used for storage from 1914 to 1999. Currently the site contains an auto repair shop and a storage facility for a local market.

b) The proposed project satisfies the performance standards provided in Appendix M of the CEQA Guidelines.

The proposed project satisfies the performance standards provided in Appendix M of the CEQA Guidelines.¹¹ The Appendix M checklist, which is located within the project file, covers the following topics for mixed-use residential projects: hazardous materials, air quality, transportation, and affordable housing. The project site is not included on any list of sites with hazardous contamination compiled pursuant to Section 65962.5 of the Government Code (i.e., the “Cortese” list), and is not located near a high-volume roadway or a stationary source of air pollution (i.e., project site is not within an Air Pollutant Exposure Zone). The project site is located within a low vehicle travel area, within a half mile of an existing major transit stop, and consists of less than 300 affordable housing units.

c) The proposed project is consistent with the general use designation, density, building intensity, and applicable policies specified in the Sustainable Communities Strategy.

Plan Bay Area is the current Sustainable Communities Strategy and Regional Transportation Plan that was adopted by the Metropolitan Transportation Commission and Association of Bay Area Governments in July 2013, in compliance with California's governing greenhouse gas reduction legislation, Senate Bill 375.¹² To be consistent with *Plan Bay Area*, a proposed project must be located within a Priority Development Area (“PDA”), or must meet all of the following criteria:

- Conform with the jurisdiction’s General Plan and Housing Element;
- Be located within 0.5 miles of transit access;
- Be 100 percent affordable to low- and very-low income households for 55 years; and
- Be located within 0.5 miles of at least six neighborhood amenities.¹³

The project site is located within the Eastern Neighborhoods PDA, and therefore the project is consistent with the general use designation, density, building intensity, and applicable policies specified in *Plan Bay*

¹⁰ ESSEL. *Phase I Environmental Site Assessment Property at 1296/1298 Shotwell Street, San Francisco, CA, 94110*. October 5, 2016. This document and others referenced in this certificate unless otherwise noted are available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400 as part of Case File No. 2015-018056ENV.

¹¹ San Francisco Planning Department, *Eligibility Checklist: CEQA Guidelines Appendix M Performance Standards for Streamlined Environmental Review, 1296 Shotwell Street*, November 1, 2016. This document is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400 as part of Case File No. 2015-018056ENV.

¹² Metropolitan Transportation Commission and Association of Bay Area Governments, *Plan Bay Area*. Available: <http://onebayarea.org/plan-bay-area/final-plan-bay-area.html>. Accessed April 25, 2016

¹³ Chion, Miriam, Association of Bay Area Governments Planning & Research Director, letter to Alana Callagy, Environmental Planner, San Francisco Planning Department, October 17, 2016, *Re: 1296 Shotwell Street Project SCS Consistency*.

Area.¹⁴ As discussed above, the proposed project at 1296 Shotwell Street meets criteria a, b, and c, and is therefore considered an eligible infill project.

Pursuant to Public Resources Code Section 21094.5, if an EIR was certified for a planning-level decision of a city or county, the approval of an eligible infill project is limited to the effects on the environment that:

- A) Are specific to the project or to the project site and were not addressed as significant effects in the prior EIR, or
- B) Are effects that substantial new information shows will be more significant than described in the prior EIR.

Significant Environmental Effects

In determining the significance of environmental effects caused by a project, CEQA Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines 15604(f)(5) offers the following guidance: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts."

SAN FRANCISCO ADMINISTRATIVE CODE

Section 31.16(e)(3) of the Administrative Code states: "The grounds for appeal of an exemption determination shall be limited to whether the project conforms to the requirements of CEQA for an exemption."

San Francisco Administrative Code Section 31.16(b)(6) provides that in reviewing an appeal of a CEQA decision, the Board "shall conduct its own independent review of whether the CEQA decision adequately complies with the requirements of CEQA. The Board shall consider anew all facts, evidence and issues related to the adequacy, accuracy and objectiveness of the CEQA decision, including, but not limited to, the sufficiency of the CEQA decision and the correctness of its conclusions."

CONCERNS RAISED AND PLANNING DEPARTMENT RESPONSES:

The four-page appeal letter from the Appellant incorporated previous letters from the Appellant and interested parties that were submitted to the Planning Commission (November 30, 2016) and to Planning staff (July 7, 2016). These three letters are attached as Exhibit C to the Appellant's appeal letter and may be found on pages 209 through 211, 212 through 214, and 215 through 216 of the pdf file named "Appeal

¹⁴ Ibid.

Letter 123016.pdf" online as part of Board of Supervisors File No. 170024.¹⁵ The four-page appeal letter contains 11 bulleted items expressing the general basis for the appeal. These 11 general concerns are listed in order below as Concerns 1 through 10. The fourth bulleted item is included under the discussion for Concern 1. Additionally, the concerns raised in the previous letters are included in specific concern topics as many are also contained in the Appeal. However, a few concerns are not reiterated within the body of the Appeal Letter but are addressed below (i.e., Concern 11).

Concern 1: The Project does not qualify for a Streamlined Environmental Review under Section 15183.3 of the CEQA Guidelines and Public Resources Code Section 21094.5 because the approval is based upon an out of date 2008 EIR prepared for the Eastern Neighborhoods Area Plan and the EIR's analyses and determinations can no longer be relied upon to support the claimed exemption in the areas of direct, indirect, and cumulative impacts to: land use, consistency with area plans and policies, land use, recreation and open space, transit and transportation, health and safety. The PEIR's housing projections have been exceeded.

Response 1: Absent a change in the Eastern Neighborhoods Rezoning and Area Plan, reopening the Eastern Neighborhoods PEIR is neither warranted nor required under CEQA. Additionally, the growth projections contained in the PEIR were not intended as a cap or limit to growth within the areas that would be subject to the Eastern Neighborhoods Plan and were based upon the best estimates available at the time the Eastern Neighborhoods PEIR was prepared.

The Appellant's appeal letter asserts that the Department's determination to issue an Infill Project Determination for the Project is invalid because substantial changes have occurred with respect to the circumstances under which the Eastern Neighborhoods Area Plans were approved due to the involvement of new significant environmental effects and a substantial increase in the severity of previously identified significant effects in the Eastern Neighborhoods PEIR.

In order to provide context for the response to this concern, a brief review of the Eastern Neighborhoods PEIR and discussion of CEQA's requirements for when a certified EIR must be revised is provided, prior to addressing the appeal's concerns with significant new environmental effects and increased severity of significant effects that were previously identified in the Eastern Neighborhoods PEIR.

¹⁵ <https://sfgov.legistar.com/LegislationDetail.aspx?ID=2930591&GUID=3DC782C2-AA32-4A9E-8CC7-14AB3D5D81AB&Options=ID|Text|&Search=170024>

Eastern Neighborhoods PEIR and the Infill Project

Eastern Neighborhoods PEIR

As discussed on pages 6 through 9 of the Infill Project Determination, the Eastern Neighborhoods PEIR is a comprehensive programmatic report that presents an analysis of the environmental effects of implementation of the Eastern Neighborhoods Rezoning and Area Plans, as well as the potential impacts under several proposed alternatives. According to CEQA Guidelines Section 15168, a program EIR:

... is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either: (1) geographically; (2) as logical parts in the chain of contemplated actions; (3) in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or (4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

Use of a program EIR: (1) provides an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action; (2) ensures consideration of cumulative impacts that might be slighted in a case-by-case analysis; (3) avoids duplicative reconsideration of basic policy considerations; (4) allows the Lead Agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts; and (5) allows reduction in paperwork. Subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.

The Eastern Neighborhoods PEIR evaluated three rezoning alternatives, two community-proposed alternatives which focused largely on the Mission District, and a "No Project" alternative. The alternative selected, or the Preferred Project, represents a combination of Options B and C. The Planning Commission adopted the Preferred Project after fully considering the environmental effects of the Preferred Project and the various scenarios discussed in the PEIR.

As discussed on page 15 of the Infill Project Initial Study, the Eastern Neighborhoods PEIR identified significant impacts related to land use, transportation, cultural resources, shadow, noise, air quality, and hazardous materials. Additionally, the PEIR identified significant cumulative impacts related to land use, transportation, and cultural resources. Mitigation measures were identified that reduced all impacts to less than significant, except for those related to land use (cumulative impacts on PDR use), transportation (program-level and cumulative traffic impacts at nine intersections; program-level and cumulative transit impacts on seven San Francisco Municipal Transportation Agency lines), cultural resources (cumulative impacts from demolition of historical resources), and shadow (program-level impacts on parks).

On August 7, 2008, the Planning Commission certified the Eastern Neighborhoods PEIR by Motion 17659 and adopted the Preferred Project for final recommendation to the Board. CEQA Guidelines Section

15162(c) establishes that once a project, in this case the Eastern Neighborhoods Rezoning and Area Plans, is approved:

“[T]he lead agency’s role in that approval is completed unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any.” [Emphasis added.]

Thus, even if the Appellant’s unsubstantiated claims that the build-out of development consistent with the adopted rezoning and area plans somehow constituted new information or changed circumstances resulting in new or more severe impacts on the physical environment than previously disclosed (i.e., the conditions described in subdivision (a) of CEQA Guidelines Section 15162), the Eastern Neighborhoods PEIR would remain valid under CEQA. Simply stated, unless and until the Eastern Neighborhoods Rezoning and Area Plans themselves are amended or revised, the reopening of the Eastern Neighborhoods PEIR is neither warranted nor required under CEQA.

Streamlined Environmental Review

As discussed above, under the Streamlining for Infill Projects Overview section, CEQA Guidelines Section 15183.3 limits the topics subject to environmental review at the project level where the effects of infill development have been previously addressed in light of a previous EIR to determine whether the infill project will cause any effects that require additional review under CEQA.

The Infill Project Determination described the Project (consistent with CEQA Guidelines Section 15124), its environmental setting (consistent with CEQA Guidelines Section 15125), and its potential impacts to the environment (consistent with CEQA Guidelines Section 15126).

Impacts to the environment that might result with implementation of the Project were analyzed in the Infill Project Determination in the context of the Project’s potential impacts upon the specific setting for each environmental topic, significance criteria, and substantial evidence in the form of topic-specific analyses. Consistent with CEQA Guidelines Section 15130, the Infill Project Initial Study also includes analysis of the Project’s potential cumulative impacts for each environmental topic. The Initial Study prepared for the Project evaluates its potential project-specific environmental effects and incorporates by reference information contained in the Eastern Neighborhoods PEIR. Project-specific studies related to wind were prepared for the Project to determine if it would result in any significant environmental impacts that were not identified in the Eastern Neighborhoods PEIR.

The Infill Project Initial Study determined that the Project would not have a significant impact that was not previously identified in the Eastern Neighborhoods PEIR for all CEQA Guidelines Appendix G environmental topics. The Infill Project Initial Study identified (and updated as needed to conform with

current Department practices) one mitigation measure from the Eastern Neighborhoods PEIR to be applied to the Project to avoid impacts previously identified in the PEIR with regard to archeological resources. Additionally, per CEQA Guidelines 15183.3, “[n]o additional environmental review is required if the infill project would not cause any new specific effects or more significant effects, or if uniformly applicable development policies or standards would substantially mitigate such effects.”

As discussed on pages 15 and 16 of the Infill Project Initial Study, since the certification of the Eastern Neighborhoods PEIR in 2008, several new policies, regulations, statutes, and funding measures have been adopted, passed, or are underway that have or will implement mitigation measures or further reduce less-than-significant impacts identified in the PEIR. These include, but are not limited to:

- State statute regarding Aesthetics, Parking Impacts, effective January 2014, and state statute and Planning Commission resolution regarding automobile delay, and vehicle miles traveled (“VMT”) effective March 2016 (see Infill Project Initial Study pages 17 and 24);
- The adoption of 2016 interim controls in the Mission District requiring additional information and analysis regarding housing affordability, displacement, loss of PDR and other analyses, effective January 2016;
- San Francisco Bicycle Plan update adoption in June 2009, Better Streets Plan adoption in 2010, Transit Effectiveness Project (aka “Muni Forward”) adoption in March 2014, Vision Zero adoption by various City agencies in 2014, Proposition A and B passage in November 2014, and the Transportation Sustainability Program process (see Infill Project Initial Study section “Transportation and Circulation” starting on page 23);
- San Francisco ordinances establishing Construction Dust Control, effective July 2008 (see Infill Project Initial Study section “Air Quality” starting on page 31) and Enhanced Ventilation Required for Urban Infill Sensitive Use Developments, amended December 2014;
- San Francisco Clean and Safe Parks Bond passage in November 2012 and San Francisco Recreation and Open Space Element of the General Plan adoption in April 2014 (see Infill Project Initial Study section “Recreation” starting on page 39);
- Urban Water Management Plan adoption in 2011 and Sewer System Improvement Program process (see Infill Project Initial Study section “Utilities and Service Systems” starting on page 41); and
- Article 22A of the Health Code amendments addressing soil and groundwater contamination, effective August 2013 (see Infill Project Initial Study section “Hazardous Materials” starting on page 48).

In summary, project-level environmental review was conducted, as documented in the Infill Project Initial Study, in accordance with CEQA Guidelines 15183.3, which does not require any further environmental review for projects, like 1296 Shotwell Street, that would not cause any new specific effects or more significant effects, or if uniformly applicable development policies or standards would substantially mitigate such effects. The environmental analysis in the Infill Project Initial Study concluded that, with the incorporation of mitigation measures from the Eastern Neighborhoods PEIR and implementation of uniformly applied development policies and standards, there would not be any project-specific effects that are peculiar to the project or its site and that were not disclosed as significant effects in the Eastern Neighborhoods PEIR. Therefore, per CEQA Guidelines Section 15183.3, no further

environmental review is required, and an Infill Project Determination was issued based on the environmental analysis in the Infill Project Initial Study.

Per CEQA Guidelines Section 15183.3, if a project would not cause any new specific effects or more significant effects *or* can be substantially mitigated by the imposition of uniformly applied development policies or standards, then no additional review is required.

Concern 1 alleges that substantial changes with respect to the circumstances under which the Eastern Neighborhoods Area Plan has been undertaken have occurred, including growth that has exceeded that which was considered in the Eastern Neighborhoods PEIR. Population and Housing

In his assertion that the Eastern Neighborhoods PEIR no longer fully discloses the cumulative impacts of Eastern Neighborhood projects, the Appellant states on page 2 of his Appeal Letter that projections for housing have been exceeded when cumulative impacts are considered.

The Infill Project Determination notes on page 6 that the Eastern Neighborhoods PEIR projected that implementation of the Eastern Neighborhoods Plan could result in an increase of approximately 7,400 to 9,900 net dwelling units and 3,200,000 to 6,600,000 square feet of net non-residential space (excluding PDR loss) through the year 2025, resulting in a total population increase of approximately 23,900 to 33,000 people.

Nowhere in the Eastern Neighborhoods PEIR is it stated or implied that the projections were intended as a cap or limit to growth within the areas that would be subject to the Eastern Neighborhoods Plan. The growth projections were based upon the best estimates available at the time the Eastern Neighborhoods PEIR was prepared.

The growth projections were used as analytical tool in the PEIR to contextualize the potential environmental impacts of the Eastern Neighborhoods Area Plan. The PEIR assumed a total amount of development resulting from the Eastern Neighborhoods Area Plan consisting of all development types (residential, commercial, etc.) and analyzed impacts based on this total development amount. Although the number of foreseeable dwelling units in the Mission plan area may exceed the range of residential development anticipated by the Eastern Neighborhoods PEIR (should all proposed projects be approved and constructed), the total amount of foreseeable non-residential space is well below the maximum evaluated in the Eastern Neighborhoods PEIR, as is the overall population increase. Therefore, while more residential development has occurred, less non-residential development has occurred, and the total development amount and estimated population increase assumed in the PEIR have not been exceeded.

Additionally, the Initial Study prepared for the Project does not rely solely on the growth projections considered in the Eastern Neighborhoods PEIR in examining whether the project would have significant impacts that are peculiar to the project or site. The project- and site-specific analysis contained in the Initial Study is based on updated growth projections and related modeling to evaluate project-level and cumulative impacts on traffic and transportation, air quality, and greenhouse gases.

For example, the projected transportation conditions and cumulative effects of project buildout analyzed in the Eastern Neighborhoods PEIR were based on a 2025 horizon year. However, in 2015, the Department updated its cumulative transportation impact analysis for all projects to use a 2040 horizon year. Therefore, the project-specific cumulative transportation impact analysis presented in the Initial Study is based on updated growth projections through year 2040. San Francisco 2040 cumulative conditions were projected using a run of the San Francisco County Transportation Authority's (Transportation Authority) San Francisco Activity Model Process and includes residential and job growth estimates and reasonably foreseeable transportation investments through 2040.

As another example, as discussed on pages 33 and 34 of the Initial Study, the Project's air quality impacts were screened using screening criteria established by the Bay Area Air Quality District in 2011 and screened using the City's Air Pollutant Exposure Zone mapping. The exposure zone mapping is based on modeling in 2012 of all known air pollutant sources, provides health protective standards for cumulative fine particulate (PM_{2.5}) concentration and cumulative excess cancer risk, and incorporates health vulnerability factors and proximity to freeways. As discussed, starting on page 34 of the Initial Study, the Project's greenhouse gas emissions impacts were evaluated against consistency with San Francisco's Greenhouse Gas ("GHG") Reduction Strategy, a strategy that has resulted in a 23.3 percent reduction in GHG emissions in 2012 compared to 1990 levels, exceeding the year 2020 reduction goals outlined in the Bay Area Air Quality Management District's 2010 Clean Air Plan.

Conclusion

On pages 1 and 2 of the Appeal Letter, the Appellant states the project does not qualify for streamlined environmental review because the Eastern Neighborhoods PEIR is out of date. This is incorrect. The Eastern Neighborhoods PEIR is properly relied upon, as it is the programmatic EIR that provided CEQA clearance for the Eastern Neighborhoods Area Plans, which established the current zoning controls for the project site. In accordance with CEQA Guidelines Section 15183.3 and Public Resources Code Section 21094.5, the Department examined whether there are project-specific significant effects which are peculiar to the 1296 Shotwell Street Project or its site. The project-level environmental review contained in the Infill Project Initial Study determined that the Project would not result in significant effects which are peculiar to the project or its site that were not previously disclosed in the Eastern Neighborhoods PEIR. .

The Appellant does not provide substantial evidence to support the contention that the Project would result in significant effects which are peculiar to the Project or its site and that were not previously disclosed in the Eastern Neighborhoods PEIR.

Concern 2: The Project's height is not consistent with the Planning Code, General Plan or zoning, or Eastern Neighborhoods PEIR, and therefore the Project is not eligible for CEQA streamlining.

Response 2: CEQA streamlining requires a project to be consistent with either a sustainable communities strategy or an alternative planning strategy, which the Infill Project Determination found to be the case.

On page 2 of the Appeal Letter and in the Appellant's November 30, 2016 letter to the Planning Commission (see page 210 in file "Appeal Letter 123016.pdf" online as part of Board of Supervisors File No. 170024), the Appellant states that the Project is not eligible for CEQA streamlining due to the Project's height.

The Infill Project Determination found, pursuant Public Resources Code 21094.5 and CEQA Section 15183.3, the Project satisfies the criteria for streamlining (see Streamlining for Infill Projects Overview, above). With regard to consistency with Planning Code, General Plan or zoning, these criteria do not require that the Project is consistent with the PEIR, but rather it is required to be consistent with the general use designation, density, building intensity, and applicable policies specified in the Sustainable Communities Strategy. For informational purposes, the following discussion identifies how the Project is consistent with other area codes, planning, and zoning; though this compliance does not constitute a requirement for CEQA streamlining eligibility.

The Project is located in the Mission Street Neighborhood Commercial Transit Zoning District and pursuant to Planning Code Section 328 (100 Percent Affordable Housing Bonus Program) is eligible for an additional 30 feet in height above the site's 65-X Height and Bulk District. The General Plan supports housing in this District and affordable housing is especially prioritized.

Pursuant to Planning Code Section 328, certain development bonus and zoning modifications are permitted for 100 Percent Affordable Housing Bonus Program projects, including allowing an additional 30 feet beyond a zoning district height limit. Per the code, the additional height may only be used to provide up to three additional 10-foot stories for residential use. The Project sponsor requested this development bonus to increase the height allowed in the Mission Street NCT Zoning District and 65-X Height and Bulk District.

Furthermore, the Project is consistent with the following Mission Area Plan housing objectives:

Objective 2.1 Ensure that a significant percent of new housing created in the Mission is affordable to people with a wide range of incomes.

Objective 2.6 Continue and expand the City's efforts to increase permanently affordable housing production and availability.

The Mission Area Plan also directs that “[p]rovisions within CEQA should be used to enable exemptions or reduced review. . .” and specifically identifies Policy 2.4.4, Facilitate housing production by simplifying the approval process wherever possible.

As noted on page 15 of the Initial Study, the Project sponsor requests using the San Francisco 100 Percent Affordable Housing Bonus Program, as codified in Section 328 of the Planning Code, to allow for the additional 19 feet of height above the zoning district height limit of 65 feet. In total, the Project proposes a height up to 84 feet (96 feet with the elevator penthouse)¹⁶ for a nine-story building. Therefore, the Project’s height is consistent with that permitted under the NCT District in combination with the density bonus requested by the sponsor under the City’s 100 Percent Affordable Housing Bonus.

Concern 3: The community benefits of the Eastern Neighborhood 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 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.

Response 3: The Planning Department has conducted project-level review in accordance with the streamlined environmental review provisions of CEQA and the CEQA Guidelines for infill projects. Appellant’s contentions concerning community benefits are not valid grounds for an appeal of the Project because they do not demonstrate that the Project would result in significant effects which are peculiar to the project or its site that were not disclosed in the Eastern Neighborhoods PEIR.

As stated above, CEQA Guidelines Section 15183.3 allows examination of an eligible infill project in light of a prior EIR to determine whether the infill project will cause any effects that require additional review under CEQA. The Appellant’s contentions concerning the funding and implementation of community benefits do not demonstrate that the Project would result in significant effects which are peculiar to the Project or its site that were not disclosed in the Eastern Neighborhoods PEIR. Therefore, these contentions do not form valid grounds for an appeal of the determination that the Project qualifies for an Infill Project determination. For informational purposes, however, the following discussion about the status of the community benefits identified in the CEQA findings and Statement of Overriding Consideration for the adoption of the Eastern Neighborhoods Area Plans is provided.

The Appellant does not specify which community benefits have not been fully funded, implemented or are underperforming or which findings and determinations. Nevertheless, as the following discussion indicates, community benefits are being provided under the Eastern Neighborhoods Plan through an established process.

¹⁶ Planning Code Section 260 allows penthouses an additional height of 10 or 16 feet above the building height where limits are up to 65 feet or greater than 65 feet, respectively.

The Eastern Neighborhoods Plan included, as an informational item considered by the Planning Commission at the time of the original Eastern Neighborhoods Plan approvals in 2008, a Public Benefits Program detailing a framework for delivering infrastructure and other public benefits as described in an Implementation Document titled “Materials for Eastern Neighborhoods Area Plans Initiation Hearing.”¹⁷ The Public Benefits Program consists of:

- 1) an Improvements Program that addresses needs for open space, transit and the public realm, community facilities and affordable housing;
- 2) a Funding Strategy that proposes specific funding strategies and sources to finance the various facilities and improvements identified in the Improvements Plan, and matches these sources to estimated costs; and
- 3) a section on Program Administration that establishes roles for the community and City agencies, provides responsibilities for each, and outlines the steps required to implement the program.

Some of the benefits were to be provided through requirements that would be included in changes to the Planning Code. For example, Planning Code Section 423 (Eastern Neighborhoods Community Infrastructure Impact Fee) fees are collected for “Transit,” “Complete Streets,” “Recreation and Open Space,” “Child Care,” and in some portions of the Mission District and the South of Market Area, “Affordable Housing.” Other benefits were to be funded by fees accrued with development and through other sources of funding. The Public Benefits Program was not intended to be a static list of projects; rather, it was designed to be modified by a Citizens Advisory Committee as needs were identified through time.

The current list of public benefit projects is provided as Attachment A to this appeal response. The Appellant’s assertion that the claimed benefits to override impacts outlined in the PEIR is not supported; the assertion that benefits have not been fully funded, implemented, or are underperforming, is incorrect. Attachment A shows that of the 66 capital projects that currently comprise the Public Benefits Program, 10 are complete, 16 are under construction, six are fully funded and awaiting construction, and the remaining 34 are in various stages of planning.

In terms of the process for implementing the Public Benefits Program, new developments within the Eastern Neighborhoods Plan area, including the Project, are required to pay development impact fees upon issuance of the “first construction document” (either a project’s building permit or the first addendum to a project’s site permit), which are collected to fund approximately 30 percent of the infrastructure improvements planned within the Eastern Neighborhoods Plan area. Additional funding

¹⁷ San Francisco Planning Department, *Materials for Eastern Neighborhoods Area Plans Initiation Hearing*, Case No. 2004.0160EMTUZ. April 17, 2008. Accessed January 27, 2017 at: http://sf-planning.org/sites/default/files/FileCenter/Documents/1507VOL3_Implementation.pdf

mechanisms for infrastructure improvements are identified through the City's 10-year Capital Plan. Eighty percent of development impact fees must go towards Eastern Neighborhoods priority projects, until those priority projects are fully funded. The fees are dispersed to fund infrastructure improvements within the entirety of the Eastern Neighborhoods Plan area, on a priority basis established by the Eastern Neighborhoods Citizen Advisory Committee (CAC) and the City's Interagency Plan Implementation Committee (IPIC). The IPIC works with the CAC to prioritize future infrastructure improvements. Additionally, the Department and Capital Planning Program are working with the implementing departments to identify additional state and federal grants, general fund monies, or other funding mechanisms such as land-secured financing or infrastructure finance districts to fund the remaining emerging needs. Impact fees are distributed among the following improvement categories: open space, transportation and streetscape, community facilities, childcare, library, and program administration. As stated in the January 2016 Planning Department's IPIC Annual Report,¹⁸ the Department forecasts that pipeline projects, including the proposed project, would contribute approximately \$79.1 million in impact fee revenue within the Eastern Neighborhoods Plan area between fiscal years 2017 and 2021.

Infrastructure projects that are currently underway are also listed in the Department's IPIC Annual Report. These include various streetscape, roadway, park, and childcare facility improvements. Additionally, a Transportation Sustainability Fee was adopted in November 2015 (BOS File Number 150790) and expenditures of this shall be allocated according to Table 411A.6A in the Ordinance, which gives priority to specific projects identified in different area plans. These processes and funding mechanisms are intended to provide for implementation of infrastructure improvements to keep pace with development and associated needs of existing and new residents and businesses within the area. The Initial Study provides further information regarding improvements within the Eastern Neighborhoods Plan area. In regards to transit, as discussed on page 27 of the Initial Study, Mitigation Measures E-5 through E-11 in the Eastern Neighborhoods PEIR were adopted as part of the Eastern Neighborhoods Area Plan with uncertain feasibility to address significant transit impacts. While these plan-level measures are not applicable to the Project, each is in some stage of implementation (see discussion on page 27 of the Initial Study). In regards to recreation, the funding and planning for several Eastern Neighborhoods parks and open space resources is discussed on page 40 of the Initial Study.

Thus, based on the evidence provided, the public benefits included in the Public Benefits Program are in the process of being provided under the Eastern Neighborhoods Area Plan. As is generally the case with development fee-based provision of community benefits, capital facilities are constructed as fees are collected and are rarely provided in advance of development. The Appellant's assertion that the provision of community benefits is so deficient as to render the environmental determinations in the Eastern Neighborhoods PEIR invalid is not supported by substantial evidence. As described above, the

¹⁸ City and County of San Francisco, Interagency Plan Implementation Committee Annual Report, website: http://www.sf-planning.org/ftp/files/plans-and-programs/plan-implementation/2016_IPIC_Report_FINAL.pdf, January 2016.

Initial Study does provide an up-to-date description of the provision of transportation and recreation community benefits. For these and other impact analyses, the Initial Study properly concludes that the Project would not result in a significant impact not previously identified in the Eastern Neighborhoods PEIR.

Concern 4: The Project is within the Latino Cultural District and is not consistent with the goals of district in creating jobs and protecting commercial uses, and the Project's height and design conflicts with two- and three-story Victorian and Edwardian style homes and apartment buildings on Shotwell Street.

Response 4: The Latino Cultural District is not a historical resource under CEQA and the Infill Project Determination found that the Project would not have a significant impact on offsite historic resources.

The Appellant notes on page 3 of his Appeal Letter and in his November 30, 2016 letter to the Planning Commission (see page 210 of file "Appeal Letter 123016.pdf" online as part of Board of Supervisors File No. 170024), that the Project is within the Latino Cultural District ("LCD") and creates affordable housing, but is not consistent with the goals of LCD in creating jobs and protecting commercial uses, and that the Project's height and design conflicts with two- and three-story Victorian and Edwardian style homes and apartment buildings on Shotwell Street.

Pages 21 and 22 of the Initial Study provide analysis of the Project's potential impacts with respect to Historic Architectural Resources. The analysis is based on the Eastern Neighborhoods Mission Area Plan *South Mission Historic Resources Survey* (see footnote 7 on page 21 of the Initial Study). Additionally, as stated on pages 21 and 22 of the Initial Study, the Project is located within the LCD. The Initial Study further noted that the purpose of the LCD is to recognize, promote, and preserve cultural assets of the LCD. However, the LCD is not a historic district adopted by the San Francisco Historic Preservation Commission or listed on a National, State, or local register, and, as such, is not a historic resource as defined by CEQA. Unlike historic districts that are locally designated or listed on the National or California Registers, the LCD was not established through a formal survey by a consultant or a Department staff member meeting the Secretary of the Interior's Professional Standards. Thus, while there are properties within the LCD that qualify as historic resources under CEQA, either individually or as part of smaller potential historic districts, the LCD is not considered a historic district.

The *South Mission Historic Resource Survey* surveyed the area within the LCD and identified several smaller potential historic districts within the LCD boundaries that include the National Register-eligible Shotwell Street Victoriana and the following California Register-eligible historic districts: South Mission Avenues and Alleys; East Mission Florida-to-Hampshire Streets; Horner's Addition East; Gottlieb Knopf Block; Von Schroeder-Welsh Block; 23rd Street Shops and Row-Houses; Alabama Street Pioneers; Hampshire Street False-Fronts; Juri Street; Olsen's Queen Anne Cottages; O'Donnell-Fowler Homes; and Orange Alley Stables and Lofts. The project site is not located within or near any of those National Register-eligible or California Register-eligible historic districts and as such, will not adversely affect these historic districts.

The environmental analysis in the Initial Study was undertaken in accordance with Section 15183.3 of the CEQA Guidelines, includes project-specific environmental review, as summarized above, and determines that the project would not result in significant historic architectural resources impacts that were not previously identified in the Eastern Neighborhoods PEIR. Therefore, consistent with CEQA Guidelines 15183.3, an Infill Project Determination was issued and further environmental review is not required for the Project.

The Appellant does not provide substantial evidence to show that the LCD is a historical resource under CEQA or that the Project would have a significant impact on offsite historic resources. Nor does the Appellant provide substantial evidence to support the assertion that the Project would result in a significant cumulative impact not discussed in the Eastern Neighborhoods PEIR.

Concern 5: The Project eliminates a PDR use on the site and does not replace it.

Response 5: The Eastern Neighborhoods PEIR identified that the loss of PDR space resulting from implementation of the Eastern Neighborhoods Plan is a significant and unavoidable impact; therefore this is not a new impact.

The Appeal states on page 3 that the Project eliminates a PDR use on the site and does not replace it. Additionally, in his November 30, 2016 letter to the Planning Commission, incorporated in Exhibit C in the Appeal Letter (see page 201 in file "Appeal Letter 123016.pdf" online as part of Board of Supervisors File No. 170024), the Appellant makes the same comment about the loss of PDR at the project site.

The Infill Determination states that the Project would eliminate an existing PDR use onsite and that it would not be replaced. The project site was rezoned through the Eastern Neighborhoods Rezoning and Area Plans to NCT. The loss of PDR use at the site was envisioned at the time that the Board adopted the Eastern Neighborhoods Rezoning and Area Plans, and the land use impacts resulting from this rezoning were disclosed in the Eastern Neighborhoods PEIR. Thus, the Eastern Neighborhoods PEIR already identified that the loss of PDR space resulting from implementation of the Eastern Neighborhoods Plan is a significant and unavoidable impact, therefore this is not a new impact.

Concern 6: The CEQA findings are inadequate and incomplete, fail to adequately describe the Project's components, and are not supported by substantial evidence.

Response 6: The CEQA findings adopted by the Planning Commission on December 1, 2016 as part of the Commission's approval of the 100 Percent Affordable Housing Bonus Program for the Project are not subject to appeal under San Francisco Administrative Code Section 31.16(e)(3).

Per San Francisco Administrative Code Section 31.16(e)(3), the grounds for appeal of a CEQA exemption determination are limited to whether the project conforms to the requirements of CEQA for an exemption. The CEQA findings are a part of the Project approval action, which is not before the Board in

this appeal of the Infill Project Determination. Regardless, neither state law nor Chapter 31 of the Administrative Code requires that any findings be made for an exemption determination, including an Infill Project. Detailed CEQA findings are required to be made only when an EIR has been prepared, there are significant unmitigated environmental impacts associated with the project, and the agency decides to approve the project despite those impacts, pursuant to CEQA Guidelines Section 15091. The Infill Project Determination found that the Project eligible for CEQA streamlining and that an EIR not necessary. As such, no detailed CEQA findings are required.

Concern 7: CEQA analysis for the Project should have considered the physical impacts to the area from the concentration of low-income housing and the potential to create increased vagrancy, blight, vandalism, and crime.

Response 7: Of the listed concerns only blight would qualify as a physical environmental impact under CEQA and there is no evidence to support the claim that the Project would result in blight.

The Appellant's assertion that the Department should have analyzed the potential physical impacts of the Project on increased vagrancy, blight, vandalism, and crime, does not contain valid support that the Project would result in these impacts. As previously mentioned under Significant Environmental Effects, per CEQA Guidelines 15064(f)(5) "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumption predicated upon facts, and expert opinion supported by facts." Furthermore, per California Public Resources Code 210800(e)(2) "Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment." No substantial evidence was presented in support of these allegations.

For informational purposes, however, the following discussion is provided. Of the listed concerns, only blight would be considered a potential physical environmental impact under CEQA and the Infill Project Determination found no evidence that the Project would result in blight. The suggestion that physical impacts from vandalism and crime could arise due to placement of low-income housing is speculative and is not supported by the materials filed by the Appellant.

The Project proposes 93 units of low-income housing for seniors, with 20 units dedicated to formerly homeless seniors. Units for formerly homeless seniors would, if anything have the potential to reduce the amount of vagrancy in the area. However, the CEQA evaluation conducted for the Project focused on the physical environmental impacts of the Project and, furthermore, did not evaluate beneficial impacts, such as reduction in vagrancy.

Concern 8: CEQA analysis of the Project should have included evaluation of the socioeconomic impacts because the San Francisco Board of Supervisors requires such for developments in the Eastern

Neighborhoods Plan Area, the LCD, and the Mission and is required for another project on the same block (1515 South Van Ness Avenue).

Response 8: The Appellant's assertion that the Board of Supervisors requires that all projects in the Eastern Neighborhoods Plan Area, LCD, and Mission include evaluation of socioeconomic impacts of those projects under CEQA is incorrect.

The Board of Supervisors requested additional information from the Planning Department related specifically to the 1515 South Van Ness Avenue project (Planning Department Case No. 2014.1020ENV). The Board of Supervisors, in amending Motion No. M16-17 on November 29, 2016, clarified that the Board requests from the Planning Department additional information related to potential environmental impacts of the 1515 South Van Ness Avenue project.

Per Motion M16-176,¹⁹ amended November 29, 2016, the Board directed the Department to provide additional information "regarding whether the proposed project would result in new significant environmental effects, or effects of greater severity than were already analyzed and disclosed in the [Eastern Neighborhoods Plan] FEIR with regard to whether the proposed project would cause social or economic change such as displacement or gentrification that would result in physical impacts to the environment, either cumulatively or at the projects-specific level, with the geographic area of the Calle 24 Latino Cultural District."

CEQA does not require discussion of socioeconomic effects, except where they would result in physical changes, and states that social or economic effects shall not be treated as significant effects (see CEQA Guidelines Sections 15064(f) and 15131). The Appellant does not provide substantial evidence in support of his contentions that socioeconomic impacts of the Project would result in significant physical impact on the environment beyond those identified in the Eastern Neighborhoods PEIR. The Project would create low-income housing units without displacement of existing housing.

For informational purposes, outside of the CEQA process, the Planning Department has devoted an unprecedented level of resources and focus on the socioeconomic issues. The Department is working with the community, Planning Commission, elected leaders, and City partners to undertake a series of policy and implementation efforts aimed at addressing socioeconomic issues. While economic displacement is a citywide phenomenon, the Department recognizes the heightened effects are acutely felt in communities of color, families, and neighborhoods that have historically been havens for immigrants and others seeking opportunity or freedom. To that end, the Department is at work on its Racial and Ethnic Equity Action Plan to train staff on these issues, and has been especially engaged in efforts with former District 9 Supervisor Campos and current District 9 Supervisor Ronen, as well as the Mayor's Office, to preserve

¹⁹ San Francisco Board of Supervisors File Number 161277. Available: <http://sfbos.org/sites/default/files/m16-0176.pdf>

the viability of the Latino community in the Mission. These efforts include the Mission 2016 Interim Zoning Controls and the Calle 24 Special Use District, which is developing commercial controls to help preserve the commercial character of the LCD, and 24th Street in particular.

The most robust effort to date, the Mission Action Plan 2020 (MAP2020)²⁰ is a major and unprecedented collaboration between the City family and Mission community organizations and residents. MAP2020 has included dialogue with community members, City agencies, and elected leaders over the past two years. The Department has taken an innovative approach to building a set of broad strategies to protect existing residents, community services, local businesses, and the Mission's unique character. The most significant of these efforts is to provide nearly 1,000 affordable housing units in the neighborhood. MAP2020 will be presented to the Planning Commission in early 2017, and the Department will continue to work with the Board to advance its specific strategies through legislation also planned for the spring of 2017.

In addition, the Planning Department is exploring how to best undertake a broader socioeconomic analysis of displacement and gentrification issues, city-wide, with a focus on equity. City staff acknowledges that such an analysis is beyond the scope of environmental review under CEQA, but wish to inform decision-makers and the public that the socioeconomic issues of affordability, economic displacement, and gentrification are being addressed by the Planning Department.

Concern 9: The Planning Department's decision to issue an Infill Project determination was not objective and impartial. The Environmental Review Officer collaborated with the sponsor to find an exemption instead of recognizing that higher level of CEQA review was needed.

Response 9: The Planning Department evaluated the Project objectively and impartially to determine the appropriate level of environmental review necessary for Project compliance with CEQA.

The Appeal on page 4 cites email correspondence between the Department Environmental Review Officer and the sponsor (see pages 219 to 311 in file "Appeal Letter 123016.pdf" online as part of Board of Supervisors File No. 170024) as suggesting that the decision to prepare an Infill Project Determination was not objective or impartial.

The emails from a Sunshine Request provided by the Appellant do not include any between the Project Sponsor and Environmental Review Officer. Regardless, the emails included do not support the Appellant's allegations of an environmental review process that was not objective or impartial. The email exchange between the Department and sponsor team is typical for project development. Planning

²⁰ San Francisco Planning Department, 2017. Mission Action Plan 2020 Phase 1 Status Report. Draft for Public Review. January. Available: http://default.sfplanning.org/Citywide/Mission2020/MAP2020_Plan_Draft-Web-111816.pdf

Department staff routinely coordinate with project sponsors to understand projects to better determine the appropriate level of environmental review.

Additionally, California Public Resources Code Section 21003 states that it is the policy of the state that:

All persons and public agencies involved in the environmental review process be responsible for carrying out the process in the most efficient, expeditious manner in order to conserve the available financial, governmental, physical, and social resources with the objective that those resources may be better applied toward the mitigation of actual significant effects on the environment.

In order to comply with this, the Department coordinates early and sometimes often with project sponsors so that the appropriate level of environmental review may occur. Environmental review was conducted for the Project and based on the Initial Study, which was informed by technical studies and professional judgment, the Acting Environmental Review Officer signed a Certificate of Determination of an Infill Project. It should also be noted that this is the first time a sponsor has applied for a 100 Percent Affordable Housing Bonus (Planning Code Section 328), which resulted in additional coordination between the Department and the sponsor.

The Appellant's claims of a non-impartial, non-objective environmental review process are unsubstantiated or supported in the appeal.

Concern 10: Several transportation-related issues were not anticipated by the Eastern Neighborhoods PEIR, including an increase in public transit ridership and vehicles and that this would have air quality and noise impacts, and San Francisco's lack of public transportation infrastructure to support the Project's lack of off-street parking.

Response 10: Transportation-related issues were addressed in the PEIR and the Infill Project Determination. No substantial evidence is presented in support of the Appellant's statements.

In his November 30, 2016 letter to the Planning Commission, incorporated in Exhibit C of the Appeal Letter (see page 210 in file "Appeal Letter 123016.pdf" online as part of Board of Supervisors File No. 170024), the Appellant states that several transportation-related issues were not anticipated by the Eastern Neighborhoods PEIR, including an increase in public transit ridership and vehicles and that this would have air quality and noise impacts. Further, the Appellant notes concern about the Project not including off-street parking. No substantial evidence was presented in support of these statements.

The travel demand analysis methodology employed in the Eastern Neighborhoods PEIR is provided on pages 267 through 269 of the PEIR. Briefly, the analysis relied upon the Transportation Authority countywide travel demand forecasting model to develop forecasts for development and growth under the No Project and three zoning options (A, B, and C) through the year 2025 in the Eastern Neighborhoods study area. This approach took into account both future development expected within the boundary of the

Eastern Neighborhoods Area Plan and the expected growth in housing and employment for the remainder of San Francisco and the nine-county Bay Area. Growth forecasts were prepared for each traffic analysis zone in the Eastern Neighborhoods study area and the remainder of the City. As the Eastern Neighborhoods PEIR points out on page 268,

“[n]o separate cumulative model run was undertaken, because, as noted, the 2025 forecasts developed by the Planning Department include growth in the remainder of San Francisco, as well as in the rest of the Bay Area. Thus, each rezoning option effectively is [sic] represents a different cumulative growth scenario for the year 2025, including growth from development that would occur with implementation of the proposed Eastern Neighborhoods Rezoning and Area Plans, as well as other, non-project-generated growth accounted for in the 2025 No-Project scenario.”

As stated on page 15 of the Initial Study for the Project, the Eastern Neighborhoods PEIR identified significant and unavoidable impacts for transportation and circulation, specifically, transit.

Topic 4 of the Initial Study (pages 23 through 28) presents the evaluation the potential transportation and circulation impacts of the Project. As discussed on page 17 of the Initial Study, the City (with the Planning Commission’s adoption of resolution 19579) no longer considers automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, to be a significant impact on the environment under CEQA. Consistent with Resolution 19579, the Initial Study provides an analysis of the Project’s anticipated project-specific and cumulative contribution to VMT and induced automobile travel. In both instances, the analysis determined that the Project would not result in a significant project-specific or cumulative impact.

In a letter in response to the Planning Commission Hearing on December 1, 2016, incorporated in Exhibit C of the Appeal Letter (see page 213 in file “Appeal Letter 123016.pdf” online as part of Board of Supervisors File No. 170024), Francesca Pastine notes that the Project does not include off-street parking and states that San Francisco does not have the public transportation infrastructure to support not needing a car.

As discussed on pages 16 and 17 of the Initial Study (under Aesthetics and Parking), the Project qualifies as an infill project: it is in a transit priority area, it is on an infill site, and it is a residential project. Consistent with CEQA Section 21099, aesthetics and parking are not considered as significant environmental effects for such infill projects. Furthermore, page 27 of the Initial Study identifies seven Muni lines within a quarter mile of the project site as well as the 24th Street-Mission BART station, considered a major regional transit station, within five blocks of the project site. The Initial Study evaluates the number of expected transit trips and found that the trips would be accommodated by existing capacity.

On the basis of analysis of the Project’s potential transportation and circulation effects in relation to the Eastern Neighborhoods PEIR, the Initial Study concluded (on page 28) that the Project “would not result

in significant impacts that were not identified in the Eastern Neighborhoods PEIR related to transportation and circulation and would not contribute considerably to cumulative transportation and circulation impacts that were identified in the Eastern Neighborhoods PEIR.”

Concern 11: The Project would create a wind tunnel.

Response 11: Wind-related issues were addressed in the PEIR and the Infill Project Determination. No substantial evidence is presented in support of the Appellant’s statements.

In a letter in response to the Planning Commission Hearing on December 1, 2016, incorporated in Exhibit C of the Appeal Letter (see page 213 in file “Appeal Letter 123016.pdf” online as part of Board of Supervisors File No. 170024), Francesca Pastine asserts that the Project would create a wind tunnel despite studies.

The Appellant’s assertion does not contain valid support that the Project would result in a wind tunnel. As previously mentioned under Significant Environmental Effects, per California Public Resources Code 210800(e)(2) and CEQA Guidelines 15064(f)(5) “Argument, speculation, unsubstantiated opinion or narrative” do not constitute substantial evidence. No substantial evidence was presented in support of these allegations.

Furthermore, the Infill Project Determination, on page 38 of the Initial Study, found that the Project “would not result in significant impacts related to wind that were not identified in the Eastern Neighborhoods PEIR.”

CONCLUSION:

The Appellant has not demonstrated nor provided substantial evidence to support a claim that the Infill Project Determination fails to conform to the requirements of CEQA pursuant to California Public Resources Code Section 21094.5 and CEQA Guidelines Section 15183.3. The Department conducted necessary studies and analyses, and provided the Planning Commission with the information and documents necessary to make an informed decision, based on substantial evidence in the record, at a noticed public hearing in accordance with the Department’s Infill Project Determination and standard procedures, and pursuant to CEQA, the CEQA Guidelines, and Administrative Code Chapter 31. Therefore, the Department respectfully recommends that the Board of Supervisors uphold the Department’s Infill Project Determination and reject Appellant’s appeal.

Attachment A

Eastern Neighborhoods Public Benefits Program Information

Eastern Neighborhoods
List of Capital Projects

IPIC Category	Capital Plan Sub-Category	Project Title	Scope	Status
Complete Streets	Green Connections	22nd Street (Pennsylvania to Illinois)	Streetscaping, including but not limited street trees, landscaping, and pedestrian lighting.	Planned: fully funded, final design underway.
Complete Streets	Green Connections	CalTrain bridge lighting	Lighting of CalTrain bridges with artistic lighting.	Planned - fully funded.
Complete Streets	Green Connections	Blue Greenway (24th to Cove)		Planned
Complete Streets	Green Connections	Blue Greenway (Illinois)		Planned
Open Space		Angel Alley Improvements (CCG Recipient)	Creation of a community gather space at Tennessee and 22nd Street	Complete
Open Space		Tunnel Top Park (CCG Recipient)	Creation of a mini-park at 25th and Pennsylvania Streets.	Phase I Complete; Phase II to begin summer 2016
Open Space	Open Space New	New Park(s) Central Waterfront	Placeholder for one or more new parks, open space, or recreational facility for the Central Waterfront.	Planning underway. Not fully funded. CW/D Public Realm Plan expected to be completed by summer 2016, which will inform how to move forward with both new parks and rehabilitation of parks in CW.
Open Space	Open Space New	Dogpatch Art Plaza	Located at the dead-end portion of 19th Street, the plaza envisions a pedestrian space of 8,000 sf designed to accommodate special events and rotating art exhibits, bulb-outs, café and other movable seating and bleacher seating.	Planned and underway: to be under construction soon.
Open Space	Open Space Rehab	Park Rehab: Central Waterfront	Though not yet scoped out, funds have been set aside to establish new parks and/or improve Esprit Park.	Planning underway. Not fully funded. CW/D Public Realm Plan expected to be completed by summer 2016, which will inform how to move forward with both new parks and rehabilitation of parks in CW.
Open Space	Open Space Rehab	Warm Water Cove Park	Improvement to and expansion of Warm Water Cover Park.	Planning underway as part of the Dogpatch Public Realm Plan
Complete Streets		Dogpatch and Potrero Sidewalk Landscaping (CCG Recipient)	Installation of sidewalk landscaping in the Dogpatch and Potrero Hill neighborhoods.	Complete
Complete Streets	Green Connections	22nd Street Steps (Missouri to Texas)	Stairs and open space landscaping, along 22nd Street alignment between Texas and Missouri.	Planned: fully funded; to be constructed by adjacent Project Sponsor.
Complete Streets	Green Connections	22nd Street (Pennsylvania to Texas)	One block of landscaping between Pennsylvania (where the Green Connections project will end) and the 22nd Street stair.	Conceptual - not currently funded.
Complete Streets	Streetscape Projects	6th Street Streetscape	Pedestrian safety improvements on 6th Street from Market to Howard Streets. Project could sidewalk widening on both sides of 6th Street, vehicle travel lane reduction, "flex" zone and textured median with raised refuges, pedestrian scale lighting, new street furnishings and tree grates as well	Planned and underway: community engagement currently underway.
Complete Streets	Vision Zero	6th and Minna (traffic signal)	6th and Minna (traffic signal)	Complete
Complete Streets	Vision Zero	King St (Bike lanes between 2nd/3rd)	King St (Bike lanes between 2nd/3rd)	Planned - not complete.
Complete Streets	Streetscape Projects	SoMa Alleyways Phase II	Alley improvements that include raised crosswalks, stamped asphalt, traffic calming, chicanes, street trees, among other features. Minna and Natoma Streets, from 6th Street to Mary Street; Tehama, Clementina, Shipley, and Clara streets, from 6th Street to 5th Street	Complete
Open Space	Open Space Rehab	South Park Rehabilitation	Park features are proposed to include a variety of different programmatic spaces, including a children's play area, a large open meadow, plazas of varying scales, and a variety of areas designed for sitting and/or picnicking to increase park capacity.	Planned and underway: under construction.

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IPIC Category	Capital Plan Sub-Category	Project Title	Scope	Status
Complete Streets	Vision Zero	5th Street (green backed sharrows)	Green back sharrows from Market to Townsend on 5th St.	Complete
Complete Streets	Streetscape Projects	2nd Street Streetscape	Includes sidewalk widening, curbside bikeways with floating parking and bus boarding islands, vehicle lane reduction and traffic signal modifications	Planned and underway: fully funded; construction expected fall 2016.
Open Space	Open Space New	Brannan Street Warf		Complete
Complete Streets	Streetscape Projects	7th Street Streetscape	Includes streetscape improvements on Seventh Street between Market and Harrison Streets. Elements include: Reducing the amount of traffic lanes from four to three; the addition of a buffer separated bike lane or "cycle track"; corner bulbs and bus bulbs at intersections reducing pedestrian	Planned: (update coming soon)
Complete Streets	Major Projects	Folsom Streetscape	Includes streetscape improvements on Folsom Street between Fifth Street and 11th Street. Improvements include: the addition of an improved separated bi-directional bike lane "cycle track" with a buffer using either parking or raised traffic islands; corner bulbs and bus bulbs at intersections	Planned - Partially Funded, EIR to be complete by winter 2016-17. Community engagement and design planned for 2017, approvals 2018, construction 2019 or after.
Complete Streets	Major Projects	Howard Streetscape	Streetscape improvements on Folsom Street between Fifth Street and 11th Street and start construction. Improvements include: The current four lane one way street will be converted to one eastbound and two westbound traffic lanes and a planted median; the existing Howard Street bike	Planned - Partially Funded, EIR to be complete by winter 2016-17. Community engagement and design planned for 2017, approvals 2018, construction 2019 or after.
Complete Streets	Streetscape Projects	SoMa Alleyways (Minna, Shipley, Clara, Natoma, Clementina)	Alley improvements that include raised crosswalks, stamped asphalt, traffic calming, chicanes, street trees, among other features.	Complete
Complete Streets	Streetscape Projects	7th and 8th Street Restriping	Remove one travel lane on 7th Street between Harrison and Market Streets and study the operation of the new lane configuration. The lane reduction will help inform the environmental review for the preferred design of the ENTRIPS 7th Street Streetscape.	Complete
Open Space	Open Space New	New Park(s) Soma	Placeholder for one or more new parks, open space, or recreational facility for the South of Market.	Planned and underway, Rec and Park actively seeking acquisition; not fully funded.
Open Space	Open Space Rehab	Gene Friend/SOMA Recreation Center Reconstruction	Plans for the rehabilitation of Gene Friend currently include demolishing the existing structure and rebuilding a larger, more flexible and attractive facility.	Planned and underway: completed initial phase of community engagement; currently in planning phase.
Complete Streets	Streetscape Projects	Bartlett Street / Mission Mercado	Streetscape improvements to make the street segment double as a plaza. Interventions include widened sidewalks, raised shared surface, new street trees and landscaping, and pergola structures.	Planned and underway: under construction.
Complete Streets	Streetscape Projects	Potrero Ave.	Repaving and utility upgrades from Alameda to 25th Street. Bus bulbs, ped and bike improvements throughout. Focused streetscaping between 21st and 25th including median, widened sidewalks and pedestrian lighting.	Planned and underway: currently under construction.
Complete Streets	Streetscape Projects	Mission District Traffic Calming	In Mission Streetscape Plan (Hampshire, Shotwell, 20, 26)	Conceptual - not currently funded.
Complete Streets	Vision Zero	16th and Capp (traffic signal)	16th and Capp (traffic signal)	Complete
Open Space	Open Space Rehab	Mission Rec Center	The project is currently being scoped with the goal of completely rebuilding the enclosed Recreation Center.	Planned: seed funding provided through IPIC; planning to begin mid 2016.
Open Space	Open Space New	17th and Folsom Street Park	A new park at 17th and Folsom that will include a children's play ara, demonstration garden, outdoor amphitheater and seating, among other amenities.	Planned and underway: under construction.
Open Space	Open Space Rehab	Franklin Square	The smaller near-term project is to install a exercise course at the park.	Planned: athletic course project fully funded; beginning design with construction 2016.
Open Space	Open Space Rehab	Jose Coronado Playground	The project could include playing field resurfacing and new fencing.	Planned: - additional scoping exected.

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Open Space	Open Space Rehab	Juri Commons (Playground)	This smaller near-term project looks to reconstruct the playground at this small park.	Planned, fully funded.
Open Space		Fallen Bridge Park (CCG Recipient)	Further improvement of Fallen Bridge Park, a community-created park, located at the base of the I-101 pedestrian bridge on its west side.	Complete
Open Space	Open Space Rehab	Garfield Square Aquatics Center	This project includes enhancing the facility to a higher capacity Aquatics Center, which, besides refurbishing the pool, would also include adding additional amenities such as a multi-purpose room and a slide.	Planned and underway: currently completing community engagement for final design.
Transit	Major Projects	Mission Street (Muni Forward) - Mission		Planned and underway. Frequency increase in 2015. Construction scheduled for 2016.
Transit	Major Projects	16th Street Multimodal Corridor Project		Planned and underway: fully funded, phased implementation to begin soon; hard construction to begin 2018.
Complete Streets	Streetscape Projects	Cesar Chavez (Hairball short term improvements)		Conceptual - not currently funded.
Complete Streets	Vision Zero	11th/13th/Bryant (bicycle intersection improvements)	11th/13th/Bryant (bicycle intersection improvements)	Planned.
Complete Streets		Hope SF Potrero Street Safety improvements	[need to check]	Planned and underway.
Complete Streets	Green Connections	22nd Street Steps (Arkansas to Missouri)	Stairs along the north side of Potrero Recreation center along the 22nd Street right-of-way and alignment.	Conceptual - not currently funded.
Complete Streets	Green Connections	17th Street (phased with Loop OS)	Streetscape improvements to activate the portion of 17th Street that crosses under the 101.	Planned; funding being sought.
Complete Streets	Green Connections	17th Street Green Street	Green connection streetscape interventions along 17th Street within Showplace Square.	Conceptual - not currently funded.
Complete Streets	Green Connections	Wisconsin @ Jackson Playground	Green connection streetscape interventions Wisconsin Street between Jackson Playground and 16th Street.	Conceptual - not currently funded.
Complete Streets	Streetscape Projects	Cesar Chavez (East)		Conceptual - not currently funded.
Open Space	Open Space Rehab	Jackson Playground	Scope for the rehabilitation of Jackson Playground is currently being developed between Rec and Park, Friends of Jackson Playground, Live Oak School and other interested parties.	Planned: Planning underway. Funding actively being sought.
Open Space	Open Space New	Daggett Park	A new park on the former Daggett right-of-way.	Near Complete.
Open Space		Connecticut Friendship Garden Outdoor Classroom (CCG Recipient)	Creation of a community outdoor classroom at the Connecticut Street Friendship Garden immediately adjacent to Potrero Recreation Center.	Planned and underway.
Open Space	Open Space New	The Loop	A series of open space and streetscape interventions at the intersections of 17th Street and Highway 101 that would activate and enliven the underutilized space along and under the freeway.	Conceptual; actively seeking funding.
Open Space	Open Space New	Irwin Plaza	Plaza improvements at the intersection of 16th Street and Irwin.	Conceptual - not currently funded.

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Transit	Transit	New bus routing in Showplace/Potrero and Central Waterfront.		Community consultation underway.
Complete Streets	Streetscape Projects	8th Street Streetscape	Streetscape improvements on Eighth Street between Market and Harrison Streets. Elements include: The addition of an improved buffer separated bike lane "cycle track" using either parking or raised traffic islands; corner bulbs and bus bulbs at intersections reducing pedestrian crossing distances and	Planned: (update coming soon)
Complete Streets	Streetscape Projects	Ringold Alley	Streetscape improvements that include enhanced lighting, landscaping, paving, furnishings, and undergrounding utility lines.	Planned and underway. Construction to begin soon.
Complete Streets	Streetscape Projects	Western SOMA Gateway Treatments at highway off-ramps		Conceptual - not currently funded.
Open Space	Open Space New	12th Street Greening (Eagle Plaza adjacent)	Possible improvements between Folsom and Betrice that would include a "living streets" treatment that would include widened sidewalks, landscaping and some programmed uses.	Conceptual - not yet officially proposed
Open Space	Open Space New	12th Street Greening (Eagle Plaza)	Eagle Plaza envisions are share surface treatment between Betrice and Harrison, with a single south bound travel lanes, plaza plantings, seating, lighting and other amenities to allow the space to be used for both active and passive recreational use and for events.	Planned and underway through in-kind.
Complete Streets	Streetscape Projects	7th Street from Townsend to 16th Street	Conceptual placeholder for extending streetscaping and complete streets treatment for southern portion of 7th Street.	Conceptual - not currently funded. Awaiting RAB.
Complete Streets	Green Connections	GC Segments: Basic Signage and Wayfinding	General low-level low-cost interventions for all portions of identified "Green Connections" within Eastern Neighborhoods.	General placeholder
Complete Streets	Streetscape Projects	Infill Street Tree Planting		General placeholder
Complete Streets	Streetscape Projects	EN Streetscape Improvements through 2025		general placeholder
Complete Streets	Vision Zero	Walk First Long-Term, Comprehensive Improvements	All WalkFirst Phase 2 improvements in Eastern Neighborhoods.	Conceptual - not currently funded.
Open Space	Open Space - Other	Community Challenge Grant Projects		Ongoing. Third funding cycle recently opened.