



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Appeal of Planning Case No. 2011.1356E Central South of Market Area Plan

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DATE: August 29, 2018

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FROM: Lisa M. Gibson, Environmental Review Officer – (415) 575-9032
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RE: BOS File No. 180651, Planning Department Case No. 2011.1356E –
 Appeal of the Certification of the Environmental Impact Report
 “EIR” for the Central South of Market Plan

HEARING DATE: September 4, 2018

PROJECT SPONSOR: San Francisco Planning Department and legislative sponsors
 Supervisor Kim and the Mayor’s Office

APPELLANT: John Elberling on behalf of the Yerba Buena Neighborhood
 Consortium

INTRODUCTION:

This memorandum is a response (“Supplemental Appeal Response”) to a supplemental letter of appeal (“Supplemental Appeal Letter”) dated July 25, 2018 submitted by the Appellant, John Elberling on behalf of the Yerba Buena Neighborhood Consortium, to the Board of Supervisors (the “Board”) regarding the Planning Commission’s certification of the Environmental Impact Report (“EIR”) for the Central South of Market (“Central SoMa”) Area Plan under the California Environmental Quality Act (“CEQA Determination”).¹ Planning Department staff submitted an appeal response memorandum on July 9, 2018

¹ Phillip H. Babich, on behalf One Vassar LLC, also filed a supplemental appeal letter on July 6, 2018. This letter identifies Central SoMa as a transit rich area stating that it is an ideal location for growth in San Francisco and that the City and County of San Francisco should consider heights exceeding or comparable to those provided in the Rincon Hill for the plan area. The letter contends that the One Vassar site is an ideal location for the increased density planned for the Central SoMa area. The letter does not include information or evidence that the EIR is not adequate, accurate, objective, or sufficient as an informational document. The considerations identified by the Appellant are considered comments on the merits of the Central SoMa Plan and therefore, are not addressed in this supplemental appeal response.

**RECEIVED AFTER THE EIGHT-DAY DEADLINE,
 BY NOON, PURSUANT TO ADMIN. CODE,
 SECTION 31.16(b)(5)
 (Note: Pursuant to California Government Code, Section
 65009(b)(2), information received at, or prior to, the public
 hearing will be included as part of the official file.)**

(“Original Appeal Response”), addressing concerns raised in four appeal letters. The Original Appeal Response and the Supplemental Appeal Letter are available in BOS file No. 180651.² The Planning Department (“Department”) has prepared an EIR for the Central SoMa Plan in accordance with CEQA, as established under the Public Resources Code Section 21000 *et seq.*, the *CEQA Guidelines* (California Code of Regulations, Title 14, Section 15000 *et seq.*), and local CEQA procedures under Chapter 31 of the *San Francisco Administrative Code*. The purpose of the EIR is to disclose any potential impacts on the physical environment resulting from implementation of the proposed project, and allow a time for public review and comment, before decision makers decide to approve or deny the project.

The decision before the Board is whether to uphold the Commission’s certification that the EIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the *San Francisco Administrative Code*.

PROJECT DESCRIPTION:

Please refer to the Department’s Original Appeal Response, dated July 9, 2018, for a description of the Project.

APPELLANT’S ISSUES:

The Appellant claims that the Central SoMa Plan EIR failed to meet the requirements of CEQA, alleging that the Department did not adequately analyze seismic safety and public services impacts (including cumulative public services impacts).

PLANNING DEPARTMENT RESPONSE:

This supplemental appeal response addresses specific concerns identified in the Supplemental Appeal Letter, dated July 25, 2018, filed by John Elberling on behalf of the Yerba Buena Neighborhood Consortium.

Supplemental Response 1: The Central SoMa Plan Initial Study adequately evaluated seismic safety impacts.

CEQA Requirement

With regards to seismic safety, Appendix G of the CEQA Guidelines (Initial Study checklist) requires identification of whether a project would:

- 1) expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving the following circumstances: rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure (including liquefaction), or landslides; or
- 2) be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

² [San Francisco Board of Supervisors File No. 180651](#)

Central SoMa Plan EIR Seismic Safety Analysis

Pursuant to Appendix G of the CEQA Guidelines, the Central SoMa Plan Initial Study evaluated the impacts of the Plan on seismic safety in the "Geology and Soils" section and finds all impacts to be less than significant. As stated in the Initial Study (p. 140):

Although the Plan area would be subject to very strong to violent ground shaking in the event of a major earthquake, individual development projects would not expose people or structures to substantial adverse effects related to ground shaking because they would be designed and constructed in accordance with the most current San Francisco Building Code, which incorporates California Building Code requirements.

The Central SoMa Responses to Comments ("RTC") Response GE-1 (pp. RTC-350-RTC-353) further responds to comments received on the Draft EIR pertaining to earthquake risks and liquefaction and settlement. As explained in this response, the San Francisco Department of Building Inspection ("DBI") has issued Administrative Bulletin 082 and 083 addressing seismic stability of new construction as well as Information Sheets S-05 and S-018 regarding geotechnical requirements of new construction.

Building Code Section 1803, Geotechnical Investigations, specifies the circumstances under which a site-specific geotechnical report is required. The building plans would be reviewed by DBI for conformance with the recommendations in the site-specific geotechnical report prior to the issuance of building permits. The geotechnical report would assess the nature and severity of liquefaction and other geologic hazards onsite for individual projects and recommend site-specific project design and construction features that would reduce the identified hazards to an acceptable risk level. DBI would ensure that the geotechnical and seismic recommendations of the site-specific investigation would be consistent with current Building Code requirements through their review of the building permit application submittals.

The Appellant asserts that the hundreds of older existing buildings throughout the Central SoMa Plan Area would expose existing and future residents, workers, and visitors in the Central SoMa Plan Area to substantial adverse effects during an earthquake. CEQA does not require an agency to consider the effects of existing environmental conditions on a proposed project's future users or residents except where a project or its residents may exacerbate existing environmental hazards.³ As stated in the Initial Study and Response GE-1 in the Central SoMa RTC, all new development is required to comply with the most current San Francisco Building Code, which incorporates California Building Code requirements and would reduce seismic risks to an acceptable level. The Appellant provides no substantial evidence or new information that the Central SoMa Plan or new residents/workers would affect the existing seismic stability of the Plan Area. In the absence of any evidence that the Central SoMa Plan would exacerbate the existing seismic risks of the Plan Area, the EIR adequately and accurately addresses seismic risks resulting from implementation of the Central SoMa Plan.

³ *California Building Indus. Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 387-388.

Supplemental Response 2: As previously detailed in the Department’s July 9, 2018 Original Appeal Response, the Central SoMa Plan Initial Study adequately evaluated plan-level and cumulative environmental impacts resulting from the need for new public services.

CEQA Requirement

Appendix G of the CEQA Guidelines (Initial Study checklist) requires identification of whether a project would result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities. As stated in Response PS-2 on p. RTC-336, “It is not necessary for an EIR to evaluate the adequacy of public services, either individually or cumulatively, or to ensure that adequate services are provided. Rather, CEQA is concerned with the physical impacts of a project on the environment.” Therefore, contrary to the Appellant’s claim, the Public Services questions in Appendix G of the CEQA Guidelines do not require the city to plan for adequate public services (including services related to the homeless population) as part of a proposed project, but rather, to evaluate the physical environmental effects of constructing new governmental facilities that may be needed as a result of a proposed project. The Appellant has provided no evidence that new public service facilities would be required, or that any such facilities would have significant environmental effects not already disclosed in the EIR.

Central SoMa Plan Initial Study Public Services Analysis

The Department fully responded to the Appellant’s original appeal letter regarding the plan-level and cumulative public services analysis in the Central SoMa Plan EIR in the Original Appeal Response (pp. 33-34). The Appellant’s Supplemental Appeal Letter states that the EIR does not discuss two specific public services concerns: street and sidewalk cleaning and short-term homelessness and sheltering. The Appellant has not provided substantial evidence or new information that the Central SoMa Plan would result in the need for additional street and sidewalk cleaning or increase the number of homeless requiring shelter. Furthermore, the Appellant provides no information that, should such additional public services be required, the implementation of those services would result in significant physical environmental impacts.

The Appellant also incorrectly asserts that “the potential development of the former Hall of Justice City property directly adjacent to the Plan Area with new Public Services facilities should have been evaluated.” The project cited by the Appellant appears to be the Hall of Justice Rehabilitation and Detention Facility Project at 850 Bryant. The Department already evaluated this project in a Mitigated Negative Declaration (Planning Department Case Number 2014.0198E)⁴. This project is included as part of the cumulative impact analysis for the Central SoMa Plan EIR.

CONCLUSION:

The Department appropriately analyzed the physical environmental impacts of the Central SoMa Plan. The Appellant has not raised any new issues germane to the CEQA review for the Central SoMa Plan EIR and has not provided any substantial evidence to refute the conclusions of the Department with respect to the project’s physical environmental effects under CEQA.

⁴ San Francisco Planning Department. May 2015. 805 Bryant Street – Hall of Justice Rehabilitation and Detention Facility Project. Available at: http://sfmea.sfplanning.org/2014.0198E_850%20Bryant%20FMND.pdf

For the reasons stated in the Original Appeal Response, and in this Supplemental Appeal Response, the Commission's certification of the EIR complies with the requirements of CEQA, the CEQA Guidelines, and Chapter 31 of the *San Francisco Administrative Code*. The Department, therefore, recommends that the Board uphold the Commission's decision to certify the EIR and deny the appeal.