



ENVIRONMENTAL IMPACT REPORT CERTIFICATION APPEAL

469 Stevenson Street Project

Date: September 27, 2021
To: Angela Calvillo, Clerk of the Board of Supervisors
From: Lisa Gibson, Environmental Review Officer – (628) 652-7571
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RE: **Planning Case No. 2017-014833ENV**
Appeal of Environmental Impact Report Certification for 469 Stevenson Street

Hearing Date: October 5, 2021
Attachment(s): A – Index of Analysis in the Final Environmental Impact Report (FEIR) Related to the Appellant’s Concerns and Referenced Comments, September 27, 2021

Project Sponsor: Tyler Kepler, BUILD, Inc. – (415) 551-7616
Appellant(s): Yerba Buena Neighborhood Consortium

Introduction

This memorandum and the attached documents are provided in response to the letter of appeal to the board of supervisors (the board) regarding the certification of a final environmental impact report (FEIR) under the California Environmental Quality Act (CEQA) for the 469 Stevenson Street project (proposed project). The FEIR was certified by the planning commission (commission) on July 29, 2021. The appeal to the board was filed on August 30, 2021 by the Brant-Hawley Law Group, on behalf of the Yerba Buena Neighborhood Consortium (Appellant).

Because the Appellant refers to comments provided on the draft environmental impact report (DEIR) that were responded to in the responses to comments (RTC) document, Attachment A in this appeal response includes an index identifying where in the FEIR the environmental concern is evaluated and where the response to comment is addressed. The FEIR consists of the DEIR (to which the initial study was attached) and the RTC document. These documents were provided to the clerk of the Board on September 16, 2021.

The decision before the board is whether to uphold the certification of the FEIR by the commission and deny the appeal, or to overturn the commission’s decision to certify the FEIR and return the project to the planning department (hereinafter department) for additional review.

Site Description and Existing Use

The project site is a through lot located at 469 Stevenson Street in the South of Market neighborhood (Assessor's Block 3704, Lot 45). The project site is approximately 28,790 square feet (0.66-acre) and currently developed as a public surface parking lot with 176 parking spaces. There are no existing onsite structures at the project site.

Project Description

The proposed project would demolish the existing surface parking lot and construct a new 27-story mixed-use building that is approximately 274 feet tall (with an additional 10 feet for rooftop mechanical equipment). The proposed project would total approximately 535,000 gross square feet and include 495 dwelling units, approximately 4,000 square feet of commercial retail use on the ground floor, and approximately 25,000 square feet of private and common open space. The proposed 495 dwelling units consisting of approximately 192 studios, 149 one-bedroom units, 96 two-bedroom units, 50 three-bedroom units, and 8 five-bedroom units would be available to rent. The proposed project would use the Individually Requested State Density Bonus Program and provide affordable housing units onsite.

The proposed project would provide three below grade parking levels with 166 vehicular parking spaces, 200 class 1 bicycle spaces, and two service delivery loading spaces. Additionally, one on-site freight loading space would be located on the ground floor. Twenty-seven class 2 bicycle parking spaces would be placed along Jessie Street.

The proposed project would require 55,850 cubic yards of excavation and is anticipated to be constructed on a mat foundation. No pile driving or piers are proposed or required. Project construction would span approximately 36 months.

Procedural Background

On August 22, 2018, BUILD, Inc. (project sponsor) filed an application for the proposed project with the department for a CEQA determination for the project described above. **Table 1. CEQA Procedural Background**, identifies the dates of the major CEQA milestones in the environmental review process for the proposed project.

Table 1. CEQA Procedural Background

Milestone	Date
Notice of preparation of an EIR and availability of an initial study publication	October 2, 2019
Notice of preparation of an EIR public scoping period	October 3, 2019, through November 1, 2019
DEIR publication and beginning of public comment period	March 11, 2020
Public hearing on the DEIR at the commission	April 16, 2020
Close of public comment period on the DEIR	May 11, 2020
Publication of the RTC document	May 26, 2021
FEIR certification hearing	July 29, 2021

Type of EIR

The department prepared a project-level EIR for the proposed project pursuant to CEQA Guidelines section 15161. A project-level EIR focuses on changes in the environment that would result from construction and operation of a specific project. The FEIR is also a focused EIR pursuant to CEQA Guidelines section 15063(c)(3). A focused EIR analyzes those topics that were found to have the potential to result in significant impacts that could not be reduced to a less than significant level with mitigation through scoping and preparation of an initial study, and therefore required further analysis in an EIR. As noted above, an initial study was prepared for the proposed project in accordance with CEQA Guidelines sections 15062 and 15082 and issued for public review on October 2, 2019. The initial study identified the topics for which the proposed project would result in less-than-significant impacts or impacts that could be reduced to less than significant with implementation of the mitigation measures identified in the initial study, and therefore do not require further analysis in this EIR.

CEQA Guidelines

The department prepared the FEIR in accordance with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code (Chapter 31). The purpose of an EIR is to disclose any potential impacts on the physical environment resulting from implementation of the proposed project and provide an opportunity for public review and comment. The FEIR is an informational document intended to inform public agency decision-makers and the public of the significant environmental effects of a project proposal, identify possible ways to minimize the significant effects, and describe feasible alternatives to the project to reduce or eliminate those significant effects before decision makers to decide to approve or deny the project. It is not the purpose of an EIR to recommend approval or denial of a project, and certification of an FEIR does not constitute a project approval of any kind.

Standards of Adequacy for an EIR and Grounds for Appeal

On July 29, 2021, the commission reviewed and considered the FEIR at a duly noticed public hearing. The commission found that the FEIR reflected the independent judgement and analysis of the City and County of San Francisco found that the FEIR was adequate, accurate and objective, and that the RTC contained no significant revisions to the DEIR. The commission certified the FEIR in compliance with the requirements of CEQA, the CEQA Guidelines, and Chapter 31.

The standards for adequacy of an EIR are set forth in CEQA Guidelines section 15151, which provides:

“An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.”

Under Chapter 31 section 31.16(c)(3), the grounds for appeal of an EIR:

“shall be limited to whether the EIR complies with CEQA, including whether it is adequate, accurate and objective, sufficient as an informational document, correct in its conclusions, and reflects the independent judgment and analysis of the City and whether the Planning Commission certification findings are correct.”

Section 31.16(b)(6) of Chapter 31 provides that in reviewing a CEQA decision on appeal, 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.”

CEQA Findings and Statement of Overriding Considerations

As described in CEQA Guidelines section 15093, if an EIR identifies significant effects for a proposed project, but the effects are not avoided or reduced to a less-than-significant level (i.e., significant and unavoidable impacts), a decision-maker that approves the project must find that any such unavoidable significant effects are acceptable due to overriding economic, legal, technological, social, or other policy considerations. This is known as a statement of overriding considerations. In making these findings, the decision-maker must balance the benefits of the proposed project against its unavoidable environmental effects.

The FEIR determined the proposed project would result in significant and unavoidable project-specific and cumulative shadow impacts on Mint Plaza. On July 29, 2021, following commission certification of the FEIR under commission Motion 20960, the commission adopted CEQA findings, including a statement of overriding consideration, in commission Motion 20961. The commission then approved the project in Motions 20962 and 20963.

Planning Department Responses

This response to the appeal of the 469 Stevenson Street FEIR certification addresses all concerns in the appeal and relevant attachments to the appeal letter. The documents submitted by the Appellant that include arguments in support of their appeal consist of a one-page letter (i.e., the August 27, 2021 letter from Susan Brandt-Hawley, on behalf of the Appellant, to the clerk of the board) and a two-page letter attached to the cover letter (i.e., the June 24, 2021 letter from the Appellant to the commission). This appeal response addresses the concerns raised in the August 27, 2021 and June 24, 2021 letters in the appeal filing.

The August 27, 2021 and June 24, 2021 letters in the appeal filing reference comments the Appellant, San Francisco Heritage, and commission vice president Kathrin Moore made on the DEIR, but the letters do not state that those DEIR comments should be considered as grounds for this appeal. The DEIR comments made by San Francisco Heritage and commission vice president Kathrin Moore raise similar concerns about the historic resource analysis in the FEIR as those made by the Appellant in their appeal letter. The comments pertain to the proposed project’s compatibility with the surrounding National Register landmarks and other historic buildings and historic districts in the project’s vicinity and compatibility with the Filipino Cultural Heritage District. Response 4, below, responds to the Appellant’s concerns about the historic resource analysis, in particular impacts on adjacent historic districts and cultural districts. In doing, the response also

addresses the concerns raised by San Francisco Heritage and commission vice president Kathrin Moore. San Francisco Heritage and commission vice president Kathrin Moore's comments are also fully responded to in the RTC document under Response CR-1 (RTC pp. 43 to 45).

This appeal response, therefore, does not respond to the Appellant's comments on the DEIR, which are responded to in the RTC document. For informational purposes, the department has provided an index of where those responses can be found in the FEIR as Attachment A. The index in Attachment A also includes the location of the department's analysis of topics that cover concerns raised by the Appellant in the appeal letter and comments on the DEIR made by San Francisco Heritage and commission vice president Kathrin Moore.

The letter of appeal does not provide any evidence that the conclusions in the FEIR are not supported by substantial evidence, the standard required for EIRs pursuant to CEQA Guidelines section 15064. Nor has the Appellant provided evidence to support their claims that the analysis of the proposed project's significant impacts, cumulative impacts, mitigation measures, project alternatives, historic resources, shadow, and seismic, geotechnical, and dewatering impacts are deficient. Thus, no response to these claims is warranted. However, for informational purposes the department has provided the following responses.

Response 1: The project's CEQA findings and statement of overriding considerations, approval of a downtown project authorization, and approval of a conditional use authorization are outside of the scope of this CEQA appeal.

The letter of appeal includes an attachment that contains some arguments that are not germane to the CEQA appeal before the board because they raise issues unrelated to CEQA. The June 24, 2021 letter from the Yerba Buena Neighborhood Consortium to the commission objects to the CEQA findings and approval of a downtown project authorization and a conditional use authorization for the proposed project.

CEQA Guidelines section 21151(c) states:

"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body..."

While CEQA section 21151(c) provides for appeal to the board of the certification of the FEIR by the commission, it does not permit appeal of any project approval actions. Chapter 31 establishes the types of environmental review decisions that may be appealed, as well as the grounds for such an appeal. Section 31.16(a) of Chapter 31 establishes that: (1) certification of a FEIR by the commission; (2) adoption of a negative declaration by the first decision-making body; and (3) determination by the department, or any other authorized city department, that a project is exempt from CEQA are the only environmental review decisions that may be appealed to the board.

Thus, the commission's statement of overriding considerations and findings are not environmental determinations subject to appeal under Chapter 31. Project approvals are also not environmental review decisions subject to appeal under Chapter 31.

Response 2: The FEIR analysis of the project’s significant impacts, cumulative impacts, mitigation measures, and project alternatives are adequate, accurate, objective, and sufficient as an informational document pursuant to the requirements of CEQA, the CEQA Guidelines, and Chapter 31.

The Appellant claims the FEIR inadequately analyzed the proposed project’s significant impacts, cumulative impacts, mitigation measures, and project alternatives. However, the Appellant has not specified in what way the analysis of these topics in the FEIR is inadequate and incomplete and not supported by substantial evidence. Furthermore, the Appellant has not provided any evidence to support their claims. Therefore, the EIR’s analysis is correct in its conclusions and the following is provided for informational purposes.

Project Impacts

The Appellant broadly claims the FEIR is inadequate in its analysis of the proposed project’s impacts to historic districts, shadow, and seismic/geotechnical/dewatering impacts. The FEIR provides a robust analysis of the proposed project’s impact on these resource topics. Nevertheless, a discussion of the proposed project’s historic resource, shadow, and seismic, geotechnical, and dewatering impacts is provided below under responses 4, 5, and 6, respectively.

Cumulative Project Impacts

The FEIR considers the potential for cumulative impacts in accordance with CEQA and the CEQA Guidelines (DEIR pp. 4-4 to 4-9). CEQA Guidelines section 15130(b)(1) provides for two approaches to a cumulative impact analysis. The analysis may be based on a list of reasonably foreseeable future projects that could produce closely related impacts and combine with those of a proposed project, or a summary of projections contained in a general plan or related planning document can be used to determine cumulative impacts. Depending on the environmental topic analyzed, the analyses in the FEIR employ a list-based approach (e.g., historic resources, shadow) or projections-based approach (e.g., population and housing). The FEIR analyzed the potential cumulative impacts of the proposed project under each resource topic, and the analysis is supported by substantial evidence.

Mitigation Measures

CEQA Guidelines section 15126.4 governs the identification of mitigation measures in an EIR and states:

- An EIR shall describe feasible measures which could minimize significant adverse impacts;
- Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments;
- Mitigation measures are not required for effects which are not found to be significant; and
- Mitigation measures must be consistent with all applicable constitutional requirements, including: (1) there must be an essential nexus (i.e., connection) between the mitigation measure and a legitimate governmental interest, and (2) the mitigation measure must be “roughly proportional” to the impacts of the project.

Mitigation measures can only be imposed upon a project when the analysis finds, based on substantial evidence, that the project would have a significant physical environmental impact. Furthermore, as provided in CEQA Guidelines section 15126.4(a)(4)(b), the mitigation measure must be “roughly proportional to the impacts of the project.” **Table 2. Significant Impacts and Mitigation Measures**, below, provides a list of the proposed project’s significant impacts and accompanying mitigation measures identified in the FEIR. All impacts, except for shadow impacts, would be less than significant after mitigation.

Table 2. Significant Impacts and Mitigation Measures

Topic	Mitigation
Cultural Resources	
Impact CR-3: The proposed project could result in a substantial adverse change in the significance of an archeological resource.	Mitigation Measure M-CR-3: Archeological Testing
Impact CR-4: The project could disturb human remains, including those interred outside of formal cemeteries.	
Impact C-CR-1: The proposed project, in combination with reasonably foreseeable projects in the vicinity, could result in a cumulatively considerable contribution to a significant cumulative impact related to cultural resources.	
Tribal Cultural Resources	
Impact TCR-1: Project-related activities could cause a substantial adverse change in the significance of a tribal cultural resource, as defined in Public Resources Code section 21074.	Mitigation Measure M-TCR-1: Tribal Cultural Resources Interpretive Program
Impact C-TCR-1: The proposed project, in combination with reasonably foreseeable future projects, could result in a cumulatively considerable contribution to a cumulative tribal cultural resources impact.	
Noise	
Impact NO-1: Construction of the proposed project would result in a temporary or periodic increase in ambient noise levels.	Mitigation Measure M-NO-1: Construction Noise
Impact C-NO-1: Construction of the proposed project, in combination with reasonably foreseeable projects, would result in a significant cumulative impact related to noise and the project’s contribution would be cumulatively considerable.	
Impact NO-2: The proposed project would generate noise levels in excess of standards established in the local general plan or noise ordinance and could	Mitigation Measure M-NO-2: HVAC and Mechanical Equipment Exterior Noise

Topic	Mitigation
result in a substantial permanent increase in ambient noise levels in the project vicinity.	
Air Quality	
Impact AQ-3: Construction and operation of the proposed project would generate toxic air contaminants, including DPM, at levels that would expose sensitive receptors to substantial pollutant concentrations.	Mitigation Measure M-AQ-3a: Off-road Construction Equipment Emissions Minimization Mitigation Measure M-AQ-3b: Diesel Backup Generator Specifications.
Impact C-AQ-1: The proposed project during construction and operations, in combination with reasonably foreseeable projects, would result in significant health risk impacts to sensitive receptors.	
Shadow	
Impact SD-1: The proposed project could create new shadow that could substantially and adversely affect the use and enjoyment of publicly accessible open spaces.	No feasible mitigation
Impact C-SD-1: The proposed project, in combination with reasonably foreseeable projects, could create new shadow that could substantially and adversely affect the use and enjoyment of publicly accessible open spaces.	

The FEIR identifies all feasible mitigation measures to reduce the proposed project’s significant impacts. The mitigation measures identified in the FEIR are feasible, fully enforceable, and consistent with all applicable constitutional requirements.

EIR Alternatives

CEQA Guidelines section 15126.6(a) requires the identification of alternatives in an EIR. Section 15126.6(a) requires lead agencies to identify enough alternatives necessary to permit a reasoned choice by decision makers and shall be limited to alternatives that would avoid or substantially lessen any of the significant effects of the project. An EIR need not consider every conceivable alternative to a project but instead “must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.” CEQA also requires the evaluation of a No Project Alternative (CEQA Guidelines section 15126.6[e]).

The FEIR analyzed a reasonable range of alternatives (Section 6.0, Project Alternatives, DEIR pp. 6-1 to 6-33 and Response AL-1, RTC pp. 61 to 62 and pg. 63). The FEIR analyzed a No Project Alternative, a Planning Code Compliant Alternative, and a No Residential Parking, Tower Only Alternative. In addition to the required No Project Alternative, the Planning Code Compliant Alternative was developed to reduce the proposed project’s significant and unavoidable shadow impacts while still meeting most of the project sponsor’s basic objectives. The No Residential Parking, Tower Only Alternative was developed to reduce the proposed

project's less-than-significant with mitigation air quality impacts. The potential impacts of each alternative were analyzed in the FEIR, and the analysis is supported by substantial evidence.

For the reasons stated above, and in the DEIR and RTC documents, the FEIR meets the standards of adequacy of an EIR, as set forth in CEQA Guidelines section 15151. Furthermore, the Appellant has not provided facts or other substantial evidence necessary to support their claim that the FEIR did not adequately analyze the proposed project's significant impacts, cumulative impacts, mitigation measures, or alternatives or to support their argument that certification of the FEIR should be overturned.

Response 3: The FEIR appropriately analyzed the proposed project's impact under the individually requested state density bonus.

The Appellant states that the FEIR's analysis of the proposed project's impacts under the individually requested state density bonus is inadequate. However, the Appellant has not specified how the analysis is inadequate or why it is not supported by substantial evidence. Furthermore, the Appellant has not provided any facts or other evidence to support their claims. Therefore, the EIR's analysis is correct in its conclusions and there is no substantial evidence to suggest otherwise. The following is provided for informational purposes.

As disclosed in the FEIR (Initial Study pp. 13 and 55 and DEIR pp. 1-1, 2-1, 2-11, 2-50, and 2-51), the proposed project is seeking approval under the Individually Requested State Density Bonus program. The project description analyzed in the FEIR is for the development program proposed by the project sponsor under the state density bonus (Section 2.0, Project Description, DEIR pp. 2-1 and 2-11.), and includes the total number of residential dwelling units and building height that would be allowed should the commission approve the state density bonus and other project approvals (DEIR pg. 2-51). Furthermore, the analysis of each resource topic considers the project sponsor's proposal under the state density bonus.

Response 4: The FEIR appropriately analyzed the proposed project's impact on historic resources in consideration of the existing environmental setting and including impacts on adjacent historic resources and districts.

The Appellant argues the FEIR's analysis of the proposed project's impact on historic resources is inadequate, specifically citing the analysis of the proposed project's existing environmental setting and impacts on adjacent historic resources. However, the Appellant has not stated in what way the analysis of historic resources in the FEIR is not supported by substantial evidence. Furthermore, the Appellant has not provided any facts or other evidence to support their claims. Therefore, the EIR's analysis is correct in its conclusions and no further response is warranted. Nevertheless, the following is provided for informational purposes.

CEQA Guidelines section 15125(a) directs that an EIR must describe the physical environmental conditions in the vicinity of the project site as they exist at the time of the notice of preparation is published. Section 15125(a) provides that:

“The description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives. The purpose of

this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts.”

The FEIR includes a description of the proposed project's environmental setting (DEIR pp. 4-1 to 4-9 and Response ESI-1, RTC on pp 33 to 34) and identifies adjacent historic resources (i.e., individual resources and historic districts) and cultural districts in the vicinity of the project site (Section E.3, Cultural Resources, Figure 19, Initial Study pg. 89, Response CR-1, RTC pp. 43 to 45, and Attachment E to the RTC). In addition, each of the other environmental topics discussed in the initial study and the draft EIR contains a description of the existing physical conditions of the project site and surroundings as it relates to the topic being analyzed. Thus, contrary to the Appellant's claims, the FEIR includes a comprehensive and adequate description of the proposed project's environmental setting.

The Appellant asserts the FEIR does not include an adequate analysis of the proposed project's impacts on the identified adjacent historic resources. The Appellant does not provide evidence that the department's analysis and determination that the proposed project would not materially impair a historic resource, as defined by CEQA Guidelines section 15064.5(b), is not supported by substantial evidence. Pursuant to section 15064.5(b), the significance of a historic resource is materially impaired when a project:

- Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or
- Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
- Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

Contrary to the Appellant's claim, the FEIR includes a robust analysis of the proposed project's historic resource impact. As described in the FEIR, the project site is not within a historic district, but is adjacent to four historic districts. While the project site is adjacent to the California Register-eligible PG&E City Beautiful Substations Discontinuous Thematic Historic District, the industrial nature of the historic resource is such that its setting would not be impacted by the proposed project. Furthermore, the nature of a discontinuous district is such that the contributing buildings do not necessarily relate to the surrounding setting nor are they composed of a cohesive grouping of buildings that are related geographically, but rather share a common history that is specific to those individual buildings.

Other adjacent historic districts include the National Register-listed Market Street Theater and Loft Historic District and the National and California-Register eligible Sixth Street Lodging House Historic District. Both historic districts have boundaries and significance that is tied closely to their linear composition that is reflected in the boundary justification for each district. The Market Street Theater and Loft Historic District

only encompasses buildings that face Market Street on both sides, and the district is therefore directed away from the project site. For the same reason, the Sixth Street Lodging House Historic District only includes lodging houses that face 6th Street. The other identified historic district is the article 11 Mint-Mission Conservation District that has contributing buildings that either face Mission Street or are sufficiently separated from the project site by the PG&E substation. These districts have boundaries that are closely drawn to exclude the immediate surrounding neighborhood because of the mixed nature of the neighborhood that includes buildings and structures of varying heights. In summary, contributors to these historic districts have primary elevations that front onto streets away from the proposed project (i.e., they front Market Street, Mission Street, or 6th Street) or are sufficiently distanced from the project site such that their setting would not be adversely impacted (i.e., some contributors to the article 11 Mint-Mission Conservation District). For these reasons the FEIR concludes the proposed project would not materially alter in an adverse manner the physical characteristics of the adjacent historical resources such that their historical significance would be affected nor combine with cumulative projects to result in a significant cumulative impact (Section E.3, Cultural Resources, Initial Study, pp.87 and 97).

In addition to the historic resources described above, the project site is within the Filipino Cultural Heritage District, known as the SoMa Pilipinas Cultural Heritage District. As discussed in the FEIR (Response CR-1, RTC pp. 43 to 44), the SoMa Pilipinas Cultural Heritage District is not a historic district, and thus is not a historic resource as defined by CEQA. This is because the SoMa Pilipinas Cultural Heritage District has not been locally designated, listed, or determined eligible for listing in national or state registers through a formal survey by a consultant or department staff member meeting the Secretary of the Interior's Professional Standards. In addition, the Board's resolution establishing the SoMa Pilipinas Cultural Heritage District does not include a statement of significance addressing eligibility for listing in either the California or National registers, nor was the SoMa Pilipinas Cultural Heritage District adopted as a historic district by the San Francisco Historic Preservation Commission. While properties within the SoMa Pilipinas Cultural Heritage District may qualify as historic resources, the SoMa Pilipinas Cultural Heritage District is not an identified historic district for the purposes of CEQA review. Nevertheless, as discussed in the FEIR, the historic resources analysis in the FEIR considers whether a property is significant for association with cultural events or trends, such as those associated with the SoMa Pilipinas Cultural Heritage District. No significant historical association with the SoMa Pilipinas community was identified for the project site. Thus, the FEIR considered the SoMa Pilipinas Cultural Heritage District in its determination that the proposed project would result in a less than significant impact to historic resources.

Response 5: The FEIR appropriately analyzed the proposed project's shadow impacts.

The Appellant argues the FEIR's analysis of the proposed project's shadow impacts is inadequate, yet the appeal letter fails to demonstrate that the FEIR's shadow impact analysis is not supported by substantial evidence. Contrary to the Appellant's claim, the FEIR includes a complete analysis of the proposed project's shadow impact based on a project-specific shadow study that evaluated the project's individual and cumulative shadow impacts prepared by a shadow consultant (Section 4.4., Shadow, DEIR pp. 4-83 to 4-102). Therefore, the EIR's analysis is correct in its conclusions and no further response is warranted. However, the following is provided for informational purposes.

The FEIR analyzed the potential for the proposed project to shade the following publicly accessible open spaces: UN Plaza, Boedecker Park, Hallidie Plaza, Mint Plaza, the Westfield roof terrace, and the

Intercontinental roof terrace. The analysis found that of those publicly accessible open spaces, the project only has the potential to shade UN Plaza and Mint Plaza (Section 4.4, Shadow, DEIR pg. 4-83).

As discussed in the FEIR, the proposed project would increase net new square foot hours of shadow on UN Plaza by 0.003 percent above current levels, from 37.048 percent to 37.051 percent. This net new shadow would be present for up to 22 minutes in the early morning between approximately May 4th through August 8th. This was determined to be a less than significant project-level impact (Section 4.4., Shadow, DEIR pp. 4-93 to 4-94). Under cumulative conditions, maximum quantitative net new cumulative shadow on UN Plaza would shade plaza hardscape areas starting at 7:25 a.m. and lasting for approximately 2.5 hours. This was determined to be a significant cumulative impact, but the proposed project's contribution to that cumulative impact (0.003 percent above current levels in the early morning for a short duration) was determined to not be cumulatively considerable and cumulative shadow impacts of the proposed project were determined to be less than significant (Section 4.4., Shadow, DEIR pp. 4-100 to 4-101).

The FEIR analyzed potential shadow impacts on Mint Plaza and found the proposed project would result in a significant and unavoidable impact on that publicly accessible open space under project-level and cumulative conditions. The proposed project would increase square foot hours of shadow on Mint Plaza by 0.56 percent above current levels from 68.82 percent to 69.38 percent. The longest duration of net new shadow would occur on February 15th and October 25th starting just prior to 2 p.m. and lasting approximately 90 minutes. This net new shadow would fall on Mint Plaza's seating wall, non-fixed seating areas and landscaped planters. This was determined to be a significant and unavoidable project-level impact (Section 4.4., Shadow, DEIR pp. 4-94 to 4-95). Under cumulative conditions, the days of maximum net new shadow on Mint Plaza would be the same as those under existing plus project conditions (i.e., February 15th and October 25th). This is because the only other cumulative project with the potential to shade Mint Plaza, 921 Howard Street, would not shade Mint Plaza on the same days as the proposed project. Even though both projects would shade Mint Plaza on different days, they would each contribute net new shadow on Mint Plaza. Thus, the cumulative shadow impact was found to be significant and the proposed project's contribution to that cumulative impact was determined to be significant (Section 4.4., Shadow, DEIR pp. 4-101 to 4-102).

The FEIR also included an analysis of the proposed project's net new shadow on Mary Plaza (Response SD-1, RTC pg. 54) and the open interior courtyard of the Mint Building (Response CR-1, RTC pg. 45). Mary Plaza is a privately owned public open space proposed as part of the 5M Project and is not subject to planning code section 295. Nevertheless, a shadow fan analysis was prepared to show the estimated shading on Mary Plaza resulting from the project. Per the shadow fan analysis, the project would not cast shadow on Mary Plaza during the four representative days when shadows are likely to be longest and largest. This is because intervening buildings would likely block much, if not all, of the project's shadow from reaching Mary Plaza, and any net new project shadow on Mary Plaza would occur for a relatively short duration toward the end of the day. As such, annual net new shadow on Mary Plaza resulting from the project would be limited. Analysis of new shadow on the Mint Building's open interior courtyard shows that the courtyard is substantially shaded by existing buildings, including the Mint Building itself, and that the proposed project would result in no net new shadow on the Mint Building's open interior courtyard.

The FEIR determined there was no feasible mitigation to reduce the project's significant shadow impact on Mint Plaza. The only modification that would reduce the proposed project's shadow on Mint Plaza would be

a reduction in building height or a change in building mass. Such modifications would reduce the development program of the proposed project and would be substantially similar to the Planning Code Compliant alternative analyzed in the FEIR (Section 6.2, Alternative Analysis, DEIR pp. 6-9 to 6-20 and Response AL-1, RTC pp. 61 to 62). Therefore, there is no feasible mitigation to reduce project-level and cumulative shadow impact to a less-than-significant level and the project's shadow impact would be significant and unavoidable.

Response 6: The FEIR appropriately analyzed the proposed project's seismic, geotechnical, and dewatering impact.

The Appellant claims the analysis of "seismic/geotechnical/dewatering impacts" in the FEIR is inadequate. The Appellant fails to demonstrate that the FEIR's conclusions are not supported by substantial evidence. Contrary to the Appellant's claim, the FEIR includes a thorough analysis of the proposed project's geotechnical impacts. Therefore, the EIR's analysis is correct in its conclusions and no further response is warranted. However, the following is provided for informational purposes.

As discussed in the FEIR (Section E.15, Geology and Soils, Initial Study beginning on pg. 185), a preliminary geotechnical study was prepared to develop preliminary conclusions and recommendations for the type of foundation required for the proposed project based on existing subsurface conditions. Per the preliminary geotechnical report, the project is anticipated to be constructed on a mat foundation and no pile driving or piers are proposed or required.

The proposed project would be required to comply with the Seismic Hazards Mapping Act and the mandatory provisions of the California Building Code and San Francisco Building Code. Compliance with these mandatory provisions requires a geotechnical report to evaluate and address the potential for liquefaction and failure-prone soils at the project site, and to address impacts from seismic ground shaking. The geotechnical report includes recommendations pertaining to the shoring and dewatering systems for the proposed project to prevent impacts on adjacent properties. The proposed project is required to comply with the building department's Interim Guidelines and Procedures for Structural, Geotechnical, and Seismic Hazard Engineering Design Review for New Tall Buildings found in Information Sheet S-18. Compliance would require a peer review of the design-level geotechnical study by an engineering design review team to determine the adequacy of the building's foundation and structural design to support construction of the proposed project's building. Additionally, these guidelines require the proposed project to implement a monitoring program to evaluate settlement at the project site during a 10-year period once the certificate of final completion and occupancy is issued (Section E.15, Geology and Soils, Initial Study pg. 189 and Response GEO-1, RTC pg. 59). The FEIR also addresses the effects of temporary dewatering on groundwater and water quality (Section E.15, Geology and Soils, Initial Study pg. 191 and Section E.16, Hydrology and Water, Initial Study pg. 196).

Conclusion

For the reasons provided in this appeal response, the FEIR complies with the requirements of CEQA and the CEQA Guidelines, and provides an adequate, accurate, and objective analysis of the potential impacts of the proposed project. The Appellant has not demonstrated that the commission's certification of the FEIR was not supported by substantial evidence in the record. Therefore, the department respectfully recommends that the board uphold the commission's certification of the FEIR and deny the appeal.



ATTACHMENT A

Index of Analysis in the Final Environmental Impact Report (FEIR) Related to the Appellant’s Concerns and Referenced Comments September 27, 2021

The Yerba Buena Neighborhood Consortium (Appellant) raised concerns about the FEIR’s analysis of the 469 Steven Street project’s (proposed project) cumulative, historic resources, shadow, seismic, geotechnical and dewatering impacts, mitigation measures, and alternatives. The following table is an index of where the San Francisco Planning Department’s (department) analysis of these topics can be found in the FEIR. The FEIR consists of the initial study, draft EIR (DEIR), and responses to comments (RTC) on the DEIR. The table also includes concerns raised by San Francisco Heritage and San Francisco Planning Commission (commission) Vice President Kathrin Moore, which the Appellant referenced in their appeal letter.

Topic	Location of Analysis in the Initial Study or DEIR	DEIR Commentors	Location of Responses to DEIR Comments in the RTC Document ¹
State Density Bonus	<p>Disclosure that the analysis of the proposed project includes the project sponsor’s intention to use the Individually Requested State Density Bonus:</p> <p>Initial Study, pp. 13 and 55</p> <p>DEIR, pp. 1-1, 2-1, 2-11, 2-50, and 2-51</p>	<p>Yerba Buena Neighborhood Consortium</p> <p>Commission Vice President Kathrin Moore</p>	<p>Response PD-1: Project Design and Location, pp. 9 to 10</p> <p>Response PP-1: Plans and Policies, pp. 31 to 32</p> <p>Response AL-1: Alternative B, Reduced Density Alternative, pp. 61 to 62 and pg. 63</p> <p>Response GEC-1: Cumulative Impacts Analysis, pp. 71 to 73.</p> <p>Response ME-3: General Merits, pg. 77</p> <p>Response GC-2: Density Bonus, pg. 85</p>

Topic	Location of Analysis in the Initial Study or DEIR	DEIR Commentors	Location of Responses to DEIR Comments in the RTC Document ¹
Cumulative impacts	<p>A discussion of the overall approach to cumulative impacts analysis can be found in the DEIR, pp. 4-4 to 4-9</p> <p>A topic-by-topic analysis of cumulative impacts can be found in the Initial Study and DEIR</p>	Commission Vice President Kathrin Moore	<p>Response GEC-1: Cumulative Impacts Analysis, pp. 71 to 73.</p> <p>Response SD-3: Cumulative Shadow Analysis, pp. 56 to 57</p>
Mitigation measures	<p>An analysis of mitigation measures is provided under each applicable topic.</p> <p>See Table 2. Significant Impacts and Mitigation Measures in the appeal response memo for a list of the mitigation measures identified for the proposed project</p>	San Francisco Heritage	<p>The department did not receive general comments on the proposed project’s mitigation measures.</p> <p>San Francisco Heritage submitted a comment on the proposed project’s historic resources impacts and concerns about mitigation related to potential impacts. Their comment was addressed in Response CR-1: Impacts on Surrounding Historic Districts and Cultural Districts, pp. 43 to 45</p>
EIR alternatives	Section 6.0, Project Alternatives, of the DEIR, pp. 6-1 to 6-33	Yerba Buena Neighborhood Consortium	<p>Response AL-1: Alternative B, Reduced Density Alternative, pp. 61 to 62 and pg. 63</p> <p>Response AL-2: Alternative B, Reduced Density Alternative, Shadow Impacts, pg. 63</p>

Topic	Location of Analysis in the Initial Study or DEIR	DEIR Commentors	Location of Responses to DEIR Comments in the RTC Document ¹
Impacts to adjacent historic districts and cultural districts	Section E.3, Cultural Resources, of the Initial Study, pp. 85 to 91	San Francisco Heritage Commission Vice President Kathrin Moore	Response ESI-1: Existing and Surrounding Uses, pp. 33 to 34 Response CR-1: Impacts on Surrounding Historic Districts and Cultural Districts, pp. 43 to 45
Shadow impacts	Section 4.4, Shadow, of the DEIR, pp. 4-83 to 4-102	Yerba Buena Neighborhood Consortium Commission Vice President Kathrin Moore	Response SD-1: Shadow Impacts on Public Open Spaces, pp. 52 to 55 Response SD-2: Shadow Impacts on Sidewalks, pp. 55 to 56 Response SD-3: Cumulative Shadow Analysis, pp. 56 to 57 Response AL-2: Alternative B, Reduced Density Alternative, Shadow Impacts, pg. 63 Response GC-3: General Shadow and Transit Impacts, pg. 86
Seismic, geotechnical, and dewatering impacts	Section E.15, Geology and Soils, of the Initial Study, pp. 185 to 194 Section E.16, Hydrology and Water Quality, of the Initial Study, pp. 195 to 199	Yerba Buena Neighborhood Consortium	Response GEO-1: Geotechnical Analysis, pp. 58 to 59

¹Responses in the RTC document may include those made in response to other DEIR commentors but address concerns raised by the Appellant in their appeal letter.