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YES IN MY BACK YARD and
SONJA TRAUSS

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

11/21/2022
Clerk of the Court
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Deputy Clerk

SUPERIOR COURT – STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL JURISDICTION

YES IN MY BACK YARD, a California nonprofit corporation, and SONJA TRAUSS,

Petitioners and Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO BOARD OF SUPERVISORS, and DOES 1-25,

Respondents and Defendants.

FIFTH CHURCH OF CHRIST, SCIENTIST SAN FRANCISCO, FORGE DEVELOPMENT PARTNERS, LLC, TENDERLOIN HOUSING CLINIC, and PACIFIC BAY INN, INC.,

Real Parties in Interest.

Case Number: CPF-21-517-651

VERIFIED SECOND AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF

[CCP §§ 1094.5 & 1085; CCP § 1060; Gov. Code § 65589.5]

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Petitioners and plaintiffs YES IN MY BACK YARD and SONJA TRAUSS (collectively, "Petitioners") by and through their attorneys, Zacks, Freedman & Patterson, PC, file this second amended petition for writ of mandate against respondents and defendants CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO BOARD OF SUPERVISORS, and DOES 1-25 (collectively, "Respondents"), for their unlawful disapproval of a 316-unit housing development project in San Francisco – on blatantly pretextual, prohibited, and unsupported grounds – and to compel Respondents to comply with their duties under the Housing Accountability Act (Gov. Code § 65589.5) and approve code-compliant housing development projects, as further set forth below. Petitioners allege as follows:

PARTIES TO THE ACTION

1. Petitioner and Plaintiff Yes In My Back Yard ("YIMBY") is a § 501(c)(3) nonprofit corporation; YIMBY is the litigation affiliate of YIMBY Action, a § 501(c)(4) nonprofit corporation, whose membership cuts across socioeconomic lines, including members with very low, low, moderate, middle, and higher incomes ("YIMBY Members"). YIMBY's mission is to increase the accessibility and affordability of housing in California by enforcing state housing laws, including Gov. Code § 66300, and by advocating for increased access to housing for households of all income levels, including for YIMBY Members who reside in, or wish to reside in, the City and County of San Francisco. YIMBY has a direct and substantial interest in ensuring that Respondents' decisions are in conformity with the requirements of law, that those requirements are properly executed, and that Respondents' duties are enforced. YIMBY Members, as well as the general public, will be adversely affected by the acts described herein and are aggrieved by the acts, decisions, and omissions of Respondents as alleged in this Petition and Complaint. YIMBY brings this Petition and Complaint on its own behalf, on behalf of YIMBY Members, and on behalf of others affected by Respondents' failure to comply with state law as alleged herein.

2. Petitioner and Plaintiff Sonja Trauss ("Trauss") is a natural person and a resident of the State of California, and she is the founder and director of YIMBY. Trauss has a substantial interest in ensuring that Respondents' decisions are in conformity with the

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requirements of law, that those requirements are properly executed, and that the public duties of Respondents are enforced.

3. Respondent and Defendant City and County of San Francisco (the "City") is an incorporated municipality of the State of California.

4. Respondent and Defendant San Francisco Board of Supervisors (the "Board") is a policy making, legislative, and quasi-judicial municipal body, with the authority to hear appeals of certain housing development projects.

5. Petitioners are not aware of the identities of respondents/defendants DOES 1-25, who are responsible for the acts and omissions alleged herein and that caused damage to Petitioners; therefore Petitioners will amend this Petition and Complaint when the true identities of DOES 1-25 are ascertained.

6. Petitioners are informed and believe that at all times mentioned in this Petition and Complaint, all respondents/defendants were the agents or employees of their co-respondent/defendant, and in doing the things alleged in this Petition and Complaint, were acting within the course and scope of that agency and employment.

7. Real Party in Interest Fifth Church of Christ, Scientist San Francisco is a religious institution that owns the real property located at 450 O'Farrell Street in the Tenderloin neighborhood of San Francisco, which is the subject of this Petition.

8. Real Party in Interest Forge Development Partners, LLC is a California limited liability company with its principal place of business in San Francisco, California. Forge Development, LLC is the applicant for the subject project.

9. Real Parties in Interest Tenderloin Housing Clinic and Pacific Bay Inn, Inc. (collectively, "Appellants") are the appellants in the subject conditional use appeal (Board of Supervisors File No. 210858) who obtained the action challenged herein. Petitioners do not seek any relief against Appellants and name them as Real Parties in Interest herein solely to comply with statutory requirements, *inter alia* the joinder requirements of Civ. Code of Proc. § 389. (*See also Sierra Club, Inc. v. California Coastal Com.* (1979) 95 Cal.App.3d 495, 501.)

Appellants are free to disclaim any interest in this lawsuit, and are not required to participate. (*See Harris v. Alcoholic Bev. etc. Appeals Bd.* (1966) 245 Cal.App.2d 919, 923.)

JURISDICTION AND VENUE

10. San Francisco County Superior Court has initial jurisdiction of the matters alleged herein pursuant to Code of Civil Procedure § 1094.5, which authorizes the Court to issue a writ of mandate.

11. Venue is proper in this Court because the entire controversy occurred in San Francisco County, and Respondents are situated in San Francisco County. (Code Civ. Proc. §§ 394 & 395.)

12. This action is timely because it has been filed within 90 days from the effective date of a decision of a local agency's disapproval of a housing development project. (Gov. Code § 65589.5(m).)

13. Petitioners performed any and all conditions precedent to filing this action to the extent required by law.

STATEMENT OF FACTS

14. In enacting the Housing Accountability Act (HAA), the Legislature found and declared:

> California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives . . . despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels.

(Gov. Code § 65589.5(a)(2)(A)(J).)

15. To address this housing crisis, the HAA requires approval of proposed housing development projects that comply with "applicable, objective general plan and zoning standards and criteria, including design review standards." If a local agency proposes to disapprove a project, the local agency must make written findings, supported by a

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preponderance of the evidence in the record, that the housing development project would have a "specific, adverse impact upon the public health and safety," which is defined as a "significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions." (Gov. Code § 65589.5(j).)

16. The housing development project at issue here proposes to construct 316 new group housing dwelling units, 48 of which would be restricted as affordable housing, as well as a new church facility and retail space in a 13-story mixed-use building located at 450 O'Farrell Street in the Tenderloin neighborhood of San Francisco (the "Project").

17. The Project is a mixed-use development with more than two-thirds of the square footage designated for residential use (approximately 85%), and therefore qualifies as a "housing development project" that is protected by the HAA. (Gov. Code § 65589.5(h)(2)(B).)

18. The Project originally proposed 176 dwelling units with a mix of studios, one-, two-, and three-bedroom units in a similarly sized building. The City approved a Planned Unit Development/Conditional Use Authorization for the original project on September 13, 2018. On January 24, 2020, the applicant applied to amend the previous approval to replace the 176 dwelling units with 316 group housing units without significant changes to the proposed building envelope.

19. The City failed to provide the applicant with a written determination as to whether the application as submitted was complete within 30 days after receipt of the January 24, 2020 application as required by Gov. Code § 65943. Therefore, the application was deemed complete on February 25, 2020 pursuant to the Permit Streamlining Act. (*Id.*)

20. The City also failed to provide the applicant with written documentation identifying and explaining any reasons the City considered the Project inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision within 60 days after the application was deemed complete as required by Gov. Code § 65589.5(J)(2)(A)(ii). Therefore, the housing development Project was deemed code-compliant pursuant to the HAA on April 26, 2020. (*Id.*)On June 24, 2021, the San Francisco Planning Commission voted to approve the Project, finding the Project

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consistent with the General Plan and the Planning Code.

21. The Planning Commission specifically found that "Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization," and "the Project is consistent and does comply with said criteria."

22. Similarly, the Planning Commission found that "Section 304 establishes criteria and limitations for the authorization of Planned Unit Development (PUD)'s over and above those applicable to Conditional Uses," and the "Project is consistent with the relevant provisions of the Planning Code."

23. On July 21, 2021, the Pacific Bay Inn and the Tenderloin Housing Clinic appealed the Project to the Board of Supervisors, raising issues regarding the compatibility of the Project with the Tenderloin community and the "saturation" of group housing projects in the area.

24. On October 5, 2021, the Board of Supervisors held a hearing on the appeal (Board File No. 210858). During deliberations and after public comment had closed, Supervisor Haney explained that the original 2018 project "more closely conformed with the housing needs of the community" and that group housing, although allowed by the code, was not "necessary, desirable, and compatible" with the neighborhood. Supervisor Peskin described the Project as "tech dorms" that are "not what the community asked for." Supervisor Walton called the Project "anti-community" and "anti-family."

25. The Board voted to uphold the appeal and disapprove the Project, subject to the adoption of written findings in support of their action at some point in the future.

26. Several weeks after the Board's vote to disapprove a code-compliant housing development Project, the California Department of Housing and Community Development ("HCD") sent the City a "Letter of Inquiry and Technical Assistance" (attached hereto as **Exhibit A**).

27. HCD wrote that it had become aware of the City's disapproval of the Project, as well as another 495-unit housing project located at 469 Stevenson Street, and that "HCD is

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concerned that the City/County's actions are indicative of review processes that may be constraining the provision of housing in San Francisco. It is well known that California is experiencing a housing crisis, and the provision of housing remains of the utmost priority."

28. HCD noted that the two projects shared the same fate of "having prior Planning Commission approvals of significant housing projects being overturned by the BOS – without any documented findings." The letter explained that "HCD is concerned that this represents a larger trend in the City/County," and "[a]s a result, the cost of housing has skyrocketed, and San Francisco stands amongst the top two most expensive housing markets in the United States.

29. HCD requested the City adopt written findings within 30 days and advised that "HCD's investigation remains open, and HCD is continuing its review of these particular actions and of the City/County's practices with respect to housing review and approval generally."

30. Three weeks later, the Board of Supervisors held a hearing to adopt written findings to disapprove the Project (attached hereto as **Exhibit B**). The hearing was the first and only opportunity for members of the public to comment on the Board's proposed post-hoc findings.

31. According to the Board's post-hoc findings, the Project would "fail to meet the needs of the neighborhood, including the needs of families, due to the small size and lack of full kitchen facilities in the Project's group housing rooms," even though the Planning Code expressly authorizes group housing at the Project site as a principally permitted use, and the Code *requires* group housing projects to be small and without full kitchens.

32. The Board also found the lack of full kitchens would "present significant obstacles to healthy eating on a limited income," while at the same time finding that future tenants will "likely [have] relatively high incomes."

33. Due to their "likely" high incomes, the Board found that tenants would "likely rely heavily on food delivery services, creating more congestion from food delivery vehicles (e.g., GrubHub, Door Dash deliveries), leading to more pedestrian/vehicle collisions and

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increased pollution."

34. The Board also found that group housing projects "tend to have higher turnover of tenants," and that the "Tenderloin neighborhood is best served by long-term permanent residents, who are more likely to volunteer for and contribute to the community, advocate for community improvements, and serve as eyes on the street."

35. Finally, the Board determined the Project "would fail to serve the community, is not necessary and desirable for and is not compatible with the existing neighborhood and community" and moved to disapprove the Project.

36. Petitioners wrote a letter to the Board prior to the Board's adoption of the findings (attached hereto as **Exhibit C**). Petitioners' letter explained that the Board's proposed findings were inaccurate and embarrassing, and the Board's findings were "speculative and not supported by any data or modeling." Petitioners' letter also stated that the Board's findings regarding the behaviors of the class of persons who reside in group housing projects were "speculative, unsupported and frankly insulting to the thousands of residents of the Tenderloin who live in studio apartments and are active in the Tenderloin community."

37. Petitioners' letter also explained that a Conditional Use Authorization was not required to amend the original City approval to replace the 176 dwelling units with 316 group housing units. Petitioners' letter stated that "Nothing in the action of the Planning Commission affects the previously approved site plan and associated construction impacts, and group housing is a permitted use in this zoning district, requiring no Planning Commission or Board of Supervisors approval."

38. Real Parties in Interest Fifth Church of Christ, Scientist San Francisco and Forge Development Partners also submitted a letter to the Board prior to the Board's adoption of the findings (attached hereto as **Exhibit D**). Real Parties' letter also asserted that the Board's findings "consist of arbitrary opinion, clearly erroneous assertions, and contentions that are at odds with the record." The letter informed the Board that the "proposed findings could not lawfully support the disapproval of this Project even if it were not protected by state housing law."

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39. The Board's action clearly violates state housing law. The findings did not identify any applicable, objective general plan and zoning standards and criteria that the Project failed to meet. Rather, the Board disapproved the Project based on vague, subjective, and prohibited "neighborhood compatibility" grounds.

40. The Board did not identify any applicable objective, identified written public health or safety standards, policies, or conditions at all, nor did the Board find that the Project failed to meet any such health and safety standards.

41. The Board did not identify any significant, quantifiable, direct, and unavoidable health and safety impacts, apart from speculation that future tenants would "likely" order food delivery that could lead to traffic accidents.

42. Petitioners wrote several letters to the Board, and participated at multiple hearings, to explain that the City had an obligation under the HAA to approved the code-compliant housing development project at 450 O'Farrell Street and that the Board's findings were speculative and unsupported. The City ignored those obligations and disapproved the Project.

FIRST CAUSE OF ACTION
(Writ of Mandate – CCP § 1094.5 and/or § 1085 – Against All Respondents)

43. Petitioners incorporate here by reference the allegations contained in Paragraphs 1 through 42 of this Petition and Complaint.

44. Petitioners assert that the disapproval of the Project is invalid because Respondents abused their discretion by not proceeding in the manner required by law, issuing a decision unsupported by the findings, and issuing findings that are unsupported by the evidence.

45. Petitioners, YIMBY Members, and the public each have beneficial interests that have been, and will further be, severely injured and adversely affected if the disapproval of the Project is not set aside and invalidated, and if Respondents' decision is allowed to stand. Petitioners' interests include ensuring that Respondents comply with state laws that require the approval of code-compliant housing development projects in order to address the housing needs of San Francisco and California residents, and ensuring that Respondents' actions are in

conformity with the requirements of the HAA.

46. "The Legislature's intent in enacting [the HAA] in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled." (Gov't Code § 65589.5(a)(2)(K).)

47. The HAA must be construed broadly and "consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians." (Gov't Code § 65589(d).)

48. The HAA requires, inter alia:

> When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:
>
> (A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
>
> (B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.
>
> (Gov. Code § 65589.5(j)(1).)

49. The HAA provides that a housing development project shall be:

> deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a

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> reasonable person to conclude that the housing development project . . . is consistent, compliant, or in conformity.
>
> (Gov't Code § 65889.5(f)(4))

50. The Project "complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards," required to qualify for the requested land-use entitlements.

51. Even if there were any ambiguity regarding the applicability of the HAA to the Project, the HAA directs that it must be construed broadly and "consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians." (Gov't Code § 65589(d).) A broad interpretation of the HAA inexorably leads to the conclusion that it applies to the Project.

52. Respondents have not proceeded in a manner required by law in denying a 316-unit code-compliant housing development Project without making findings that the Project would have a specific, adverse impact upon the public health or safety as required by section 65589.5(j). In the context of the HAA, "specific, adverse impact" means "a significant, quantifiable, direct, and *unavoidable* impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."

53. The Board failed to make any such finding, much less one based on "objective, identified written public health or safety standards" or supported by a preponderance of the evidence. Even if such a finding could be made, it would only justify denial of the Project if the Board were to find there is "no feasible method to satisfactorily mitigate or avoid the adverse impact . . . other than the disapproval of the housing development." (Gov. Code § 65589.5(j)(1)(B).) The Board made no such finding, and nor could it.

54. Respondents' disapproval is not based on the required findings and, to the degree Respondents attempted to make such findings, the findings are unsupported by evidence in the record. Respondents disapproved the Project based solely on their subjective determination regarding what is "necessary, desirable, and compatible" with the neighborhood. This is a prohibited basis for the denial of a housing development project.

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55. Respondents bear the burden of proving that their actions complied with the HAA in all respects. (Gov't Code § 65589.6.) Respondents cannot satisfy this burden.

56. Petitioners are informed and believe and thereon allege that the Respondents' arbitrary and disparate treatment of this group housing Project demonstrates unfair and irrationally discriminatory action, including because the City approved a similarly sized housing project at this site, where the principal difference is this Project provides group housing units rather than larger dwelling units.

57. Respondents acted in bad faith by denying a Code-compliant project on a clearly pretextual and prohibited basis.

58. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of law to challenge the disapproval, and a writ of mandate under Code of Civil Procedure § 1094.5 and/or § 1085 is the prescribed remedy for violations of this type. Petitioners have performed all conditions precedent to the issuance of a writ of mandate.

SECOND CAUSE OF ACTION

(Declaratory Relief – Code Civ. Proc. § 1060 – Against All Respondents)

59. Petitioners incorporate here by reference the allegations contained in Paragraphs 1 through 58 of this Petition and Complaint. An actual controversy has arisen and now exists between Petitioners and Respondents concerning their obligations and duties under California statutory law, including but not limited to Respondents' policies and practices which operate to avoid their legal obligations and duties established by the state Housing Accountability Act (Gov. Code § 65589.5), such as failing to provide housing development project applicants with a written code-compliance determination, disapproving code-compliant housing development projects without making any findings related to "objective, identified written public health or safety standards," and treating all housing development project applications seeking authorization pursuant to the City's Planned Unit Development or Conditional Use Authorization code sections as categorically non-compliant projects that are not subject to the HAA. Petitioners are informed and believe, and on that basis allege, that Respondents have a formal written policy that ignores the City's duty to issue a written code-compliance

determination within the timeframes required by the HAA, and as a result have a pattern and practice of failing to provide timely compliance determinations. Petitioners further allege that Respondents' pattern and practice is to process housing development project applications seeking authorization pursuant to the City's Planned Unit Development or Conditional Use Authorization code sections without providing written documentation identifying and explaining any reasons the City considers a project non-compliant with any applicable, objective Planned Unit Development or Conditional Use Authorization standards and criteria within 60 days after an application is deemed complete, as required by the HAA.

Respondents' Policy, Pattern, and Practice of Failing to Make a Timely Compliance Determination

60. Petitioners allege that the City has a policy, pattern, and practice of failing to provide housing development project applicants with written documentation to explain whether the City considers a housing project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision within 60 days after an application was deemed complete as required by Gov. Code § 65589.5(J)(2)(A)(ii).

61. Petitioners have searched the City's permit record database, including the complete files for the projects described in allegations contained in Paragraphs 78-84 and 93-98, and have been unable to identify a single example of the City issuing a written code-compliance determination to a housing development project applicant to satisfy the HAA's requirements.

62. On September 27, 2017, Mayor Edwin M. Lee issued Executive Directive 17-02 to establish target approval timeframes for housing development projects. Executive Directive 17-02 required the Planning Department to develop a "Process Improvements Plan" to meet or exceed the entitlement approval timeframes, and also required the Planning Department to issue quarterly reports detailing the City's progress on all aspects of housing approvals and permitting.

63. The last quarterly report was published by the Planning Department on August

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9, 2019 (attached hereto as **Exhibit E**). In response to Executive Directive 17-02 "Process Improvements Plan" requirements, the report explains that the Planning Department has developed an official formal policy regarding the "series of time-certain review milestones that will increase the predictability of the application process."

64. The Planning Department's official "Process Improvements Plan" details the "target" deadline for the City to complete certain "Review Milestones" for housing development project application. The Department's "Process Improvements Plan" and "Review Milestones" have not been updated since August 2019, and remain the Department's official policy regarding the processing of housing development project applications. The Department's Project Application Information Sheet that explains the Department's application review process, which was last updated on January 21, 2022 (attached hereto as **Exhibit F**), confirms that the "Review Milestones" outlined in the August 2019 "Process Improvements Plan" remain current Department policy.

65. As a result, the Department's application processing policies developed in August 2019 do ***not*** include a written code-compliance determination within 60 days after an application is deemed complete as required by the HAA's code-compliance determination requirement, which took effect on January 1, 2020. In other words, the City has adopted and currently implements a formal written policy for processing housing development project applications that ignores the City's duty to issue a written code-compliance determination as required by the HAA.

66. The City has implemented a Preliminary Project Assessment ("PPA") process for housing development projects of ten or more units. The City requires an applicant to go through the PPA process *before* submitting a development project application.

67. The City's PPA informational packet (attached hereto as **Exhibit F**) explains that the PPA process is designed to provide "feedback and procedural instructions, and also allows staff to coordinate at the beginning in the development process." The informational packet notes that the "PPA application is not a development application."

68. The PPA process cannot possibly satisfy the City's duty to issue a written code-

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compliance determination within 60 days *after* a development application is deemed complete because the PPA process occurs *before* a development application is ever submitted. The stated purpose of the PPA process is to provide feedback and procedural instructions, not to explain whether the City considers a housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

69. The informational packet also explains that the City's mandatory PPA process is separate from the voluntary "preliminary application" process established in Gov. Code § 65941.1, also known as SB 330. The PPA informational packet states that "[p]ursuant to state law, housing development projects may submit a Preliminary Housing Development Application (SB 330) along with the PPA application. For more information please see Planning Director's Bulletin No. 7, and the Preliminary Housing Development (SB-330) Application available at sfplanning.org." As the City's informational packet makes clear, the PPA process is a local entitlement requirement, which is not intended to carry out the City's duties under state housing law.

70. According to the Planning Department's quarterly report, the City has established a 60-day "target" to issue a PPA application response letter. According to the City's own analysis, out of 38 total projects the City only met this 60-day target 63% percent of the time. Thus, even if the City's PPA process ***were*** intended to satisfy the HAA's written code-compliance determination requirement, the City has a pattern and practice of failing to timely respond within 60 days after a PPA application is submitted.

71. Moreover, the HAA requires a local government to provide a written code-compliance determination within 30 days for housing development projects that contain 150 or fewer units. (Gov. Code § 65589.5(J)(2)(A)(i).) The City's PPA "target" is 60 days regardless of the number of units.

72. The PPA process is also only applicable to housing development projects that propose ten units or more, while the HAA's written code-compliance determination requirement is applicable to ***any*** housing development project regardless of the number of

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units.

73. Even if the City's PPA process were intended to satisfy the HAA's code-compliance determination requirement, the PPA process would be a violation of the City's duties under the HAA because the PPA process is inconsistent with the HAA's timelines; is not applicable to all housing development projects; and the City has a pattern and practice of ignoring its own "target" timelines.

74. The "Process Improvements Plan" also includes a "Review Milestone" for the Department to issue a Plan Check Letter within 90 days of a development application being deemed complete. The stated purpose of the Plan Check Letter is to document "all Planning Code, environmental review, and design issues to be resolved in order to achieve a compliant project." Although the Plan Check Letter is not explicitly labeled as an HAA written code-compliance determination, the Plan Check Letter process could *potentially* operate as the functional equivalent, as the letter is intended to provide written documentation regarding code-compliance, so long as the Plan Check Letter complies with the HAA's requirements.

75. The Planning Department's written policy is to issue a Plan Check Letter within 90 days, not 30 or 60 days as required by the HAA. Moreover, according to the Planning Department's own analysis, out of 34 projects the City ***only met its unlawful 90-day deadline 53% of the time***.

76. Even if the City's Plan Check Letter were intended to satisfy the HAA's code-compliance determination requirement, the Plan Check Letter process would be a violation of the City's duties under the HAA because the Plan Check Letter process is inconsistent with the HAA's timelines, and the City has a pattern and practice of ignoring its own unlawful "target" timelines.

Respondents' Pattern and Practice of Disapproving Planned Unit Development and Conditional Use Authorization Housing Development Projects in Violation of the HAA

77. Petitioners further allege that Respondents' pattern and practice is to deny housing development project applications that comply with all applicable, objective Planned Unit Development or Conditional Use Authorization standards and criteria without making any

findings related to objective, identified written public health or safety standards, as required by the HAA.

78. In addition to the Board of Supervisors disapproval of the Conditional Use Authorization for the 316-unit housing development project at 450 O'Farrell Street explained in the allegations contained in Paragraphs 1 through 58 of this Petition and Complaint, the Board of Supervisors also disapproved a Conditional Use Authorization for a two-unit housing development project at 2785 San Bruno Avenue on September 20, 2016 without making public health and safety findings.

79. The Board of Supervisors also disapproved a Conditional Use Authorization for a 63-unit housing development project at 1052-1060 Folsom Street and 190-194 Russ Street on April 9, 2019 without making public health and safety findings.

80. The Board of Supervisors also disapproved a Conditional Use Authorization for a two-unit housing development project at 249 Texas Street on October 19, 2021 without making public health and safety findings.

81. The City Planning Commission also disapproved a Conditional Use Authorization for a 7-unit housing development project at 2214 Cayuga Avenue on April 29, 2021 by failing to take an action and voting to indefinitely continue consideration of the project without making public health and safety findings, or making any findings at all.

82. The City Planning Commission also disapproved a Conditional Use Authorization for a two-unit housing development project at 4300 17th Street on November 18, 2021 without making public health and safety findings.

83. The City Planning Commission also disapproved a Conditional Use Authorization for a 24-unit housing development project at 1324-1326 Powell Street on November 18, 2021 by failing to take an action and voting to indefinitely continue consideration of the project without making public health and safety findings, or making any findings at all. The City disapproved the project even after specifically finding that the project was code-compliant for purposes of the California Environmental Quality Act Class 32 In-Fill Exemption. (See **Exhibit I**.)

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84. The City Planning Commission also disapproved a Conditional Use Authorization for a 57-unit housing development project at 1010 Mission Street on September 26, 2022 without making public health and safety findings, or making any findings at all.

85. None of the findings for the above referenced disapprovals (attached hereto as Exhibit G) include any analysis of the City's duty to approve code-compliant housing developments project pursuant to the HAA, or even mention the requirements of the HAA at all.

Respondents' Policy That All Planned Unit Development and Conditional Use Authorization Housing Development Projects Are Not Code-Compliant

86. Petitioners are informed and believe, and on that basis allege, that Respondents have a formal written policy that ***any*** housing development project application processed pursuant to the City's Planned Unit Development or Conditional Use Authorization code sections are not subject to the HAA's requirements, and that Respondents believe they have no obligations or duties to process such housing development project applications consistent with the HAA's requirements to approve code-compliant housing development projects.

87. On December 30, 2019, the City Planning Director issued "Planning Director Bulletin No 7 – Housing Crisis Act of 2019 Project Review and Zoning Actions" (attached hereto as **Exhibit H**). Bulletin No. 7 "outlines how the Planning Department administers the provisions of the Housing Crisis Act of 2019," as well as the HAA. In other words, Bulletin No. 7 is a formal written policy regarding how the City implements its duties under the HAA and other state housing laws.

88. Bulletin No. 7 explains that the Housing Crisis Act only applies to housing development projects that comply with applicable zoning standards. Bulletin No. 7 includes a list of the types of housing development projects that the City believes do not comply with applicable zoning standards, including "Projects seeking any exception to objective, quantifiable standards set forth in the Planning Code through Sec. 309 (DNX), Sec. 329 (ENX), Sec. 304 (PUD) or other review process" and "Projects that require a Conditional Use Authorization (CUA) for additional height, density, or floor area than what is principally

permitted in the Planning Code." Bulletin No. 7 confirms that the City has adopted a formal written policy that the HAA does not apply to Conditional Use Authorization and Planned Unit Development projects.

89. Despite Bulletin No. 7, the City routinely finds that Conditional Use Authorization and Planned Unit Development projects are, in fact, code-compliant.

90. For example, certain "in-fill development" projects are categorically exempt from the California Environmental Quality Act (CEQA), known as a Class 32 In-Fill Exemption. A project only qualifies for a Class 32 In-Fill Exemption upon a finding that the project is "consistent with the applicable general plan designation and all applicable general plan policies as well as with all applicable zoning designation and regulations."

91. A project must comply with ***all*** applicable general plan and zoning standards to qualify for a Class 32 In-Fill Exemption, while a project must only comply with applicable ***objective*** standards to fall within the HAA's protections. In other words, a project that qualifies for a Class-32 In-Fill Exemption based on compliance with ***all*** applicable standards, both subjective and objective, must necessarily qualify for the HAA's protections for projects that need only comply with ***objective*** standards.

92. In the last two years, the City has issued at least ten Class 32 In-Fill Development Exemptions for Conditional Use Authorization and Planned Unit Development projects (attached hereto as **Exhibit I**) that proposed "exceptions" to the principally permitted quantifiable Planning Code standards. In every single exemption, the City found that the Conditional Use Authorization and Planned Unit Development projects were consistent with all applicable general plan and zoning standards for purposes of CEQA.

93. For example, on December 8, 2020, the City filed a Class 32 In-Fill Development Exemption for a storage building at 2765 16th Street that required a Conditional Use Authorization to exceed the principally permitted numerical limit of 5,000 square feet of retail space. Despite this "exception," the City found the project consistent with all applicable code standards.

94. On August 23, 2021, the City filed a Class 32 In-Fill Development Exemption

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for a mixed-use project at 233 Geary Street that required a Conditional Use Authorization to exceed the principally permitted numerical limit of 5,000 square feet of retail space and a Downtown Project Authorization to reduce the quantifiable rear yard code requirement. Despite these code "exceptions," the City found the project consistent with all applicable code standards.

95. On September 13, 2021 the City filed a Class 32 In-Fill Development Exemption for a residential project at 1324-1326 Powell Street that required a Conditional Use Authorization to exceed the principally permitted height limit of 35 feet and to exceed the bulk limitations. Despite these code "exceptions," the City found the project consistent with all applicable code standards. The City later disapproved the project as explained in the allegations contained in Paragraph 83.

96. On May 6, 2021 the City filed a Class 32 In-Fill Development Exemption for a residential project at 0 Guttenberg Street that required a Conditional Use Authorization to exceed the principally permitted numerical limit of one dwelling unit per 1,5000 square feet of lot area and a Planned Unit Development to reduce the applicable quantifiable rear yard code requirement and modify the objective dwelling unit exposure code requirement. Despite these code "exceptions," the City found the project consistent with all applicable code standards.

97. On November 10, 2021 the City filed a Class 32 In-Fill Development Exemption for a new Buddhist religious temple at 1750 Van Ness Avenue that required a Conditional Use Authorization to exceed the principally permitted numerical limit of 6,000 square feet of non-residential space, exceed the principally permitted height limit of 50 feet, and modify the objective curb cut requirement on a transit-preferential street. Despite these code "exceptions," the City found the project consistent with all applicable code standards.

98. On December 23, 2021 the City filed a Class 32 In-Fill Development Exemption for a new performing arts school at 1950 Page Street that required a Conditional Use Authorization and Planned Unit Development approval to exceed the principally permitted numerical floor area limit, reduce the quantifiable front setback and rear yard requirements, and sought relief from the quantifiable dwelling unit exposure requirements. Despite these

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code "exceptions," the City found the project consistent with all applicable code standards.

99. Even though the City has repeatedly acknowledged that Conditional Use Authorization and Planned Unit Development projects ***are code-compliant*** for purposes of CEQA – even when such projects seek "exceptions" to objective, numerical standards for principally permitted projects – the City has adopted a formal written policy in Bulletin No. 7 that confirms the City treats Conditional Use Authorization and Planned Unit Development housing development projects as if they were ***not*** code-compliant for purposes of the HAA. This is despite the fact that HAA projects are only required to comply with a smaller subset of ***objective*** code standards, while CEQA's Class 32 Exemption requires projects to comply with ***all*** objective ***and*** subjective standards.

100. Petitioners allege that the City's formal written policy in Bulletin No. 7 is intended to evade the City's legal duty to approve housing development projects that comply with applicable, objective Conditional Use Authorization and Planned Unit Development standards as required by the HAA. The City has a pattern and practice of disapproving such housing development projects for unlawful, subjective "neighborhood compatibility" reasons, and without making any of the required public health and safety impact findings, as exemplified in the allegations contained in Paragraphs 77-81.

101. As set forth herein, Petitioners contend that Respondents' actions to disapprove code-compliant housing development projects that seek authorization pursuant to the City's Planned Unit Development or Conditional Use Authorization code sections are prohibited by the state Housing Accountability Act (Gov. Code § 65589.5) and represent a pattern or practice of the City's review of housing development projects that has caused San Francisco to be amongst the top two most expensive housing markets in the United States. Petitioners further contend that Respondents' actions are intended to evade their legal duties and deny Petitioners, YIMBY Members, and others similarly situated their rights under the Housing Accountability Act.

102. Petitioners are informed and believe, and on that basis allege, that Respondents contend in all respects to the contrary. A judicial determination and declaration as to the

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applicability of the HAA to housing development projects that seek authorization pursuant to the City's Planned Unit Development or Conditional Use Authorization code sections, and of the resulting legal obligations of Respondents, is therefore necessary and appropriate.

THIRD CAUSE OF ACTION

(Writ of Mandate – CCP § 1094.5 and/or § 1085 – Against All Respondents)

103. Petitioners incorporate here by reference the allegations contained in Paragraphs 1 through 102 of this Petition and Complaint.

104. Petitioners assert that the disapprovals are invalid, regardless of whether the HAA is applicable to the Project, because Respondents abused their discretion by not proceeding in the manner required by law, issuing a decision unsupported by the findings, and issuing findings that are unsupported by the evidence.

105. Respondents failed to proceed in a manner required by law by requiring a conditional use authorization for a project amendment that did not include any new conditional uses, and merely amended the project to include group housing units that are principally permitted at the Project site. The applicant submitted a new conditional use authorization application under protest, and Petitioners commented during the local process that nothing in the amendment affected the previously approved Project which would require Planning Commission or Board of Supervisors approval.

106. Planning Code § 303 establishes five criteria for a conditional use authorization and the Project meets all five criteria, as confirmed by the Planning Commission's findings in support of the Project, as well as by Respondents' own approval of the 2018 project. As Petitioners asserted in the letter they sent to Board prior to the Board's adoption of the findings, the Project amendment consists of the inclusion of group housing units, which are expressly authorized by the Planning Code as a principally permitted use, and does not affect the Project's compliance with the five criteria for a conditional use authorization.

107. Contrary to Respondents' disapproval, the Planning Code criteria for a conditional use authorization are met, and the Board abused its discretion in finding otherwise. The Board's disapproval of the Project is based on speculative findings regarding the "likely"

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class of persons who reside in group housing projects and assumptions regarding the "likely" behavior and tendencies of that class of persons. As Petitioners asserted in the letter they sent to Board prior to the Board's adoption of the findings, Respondents' speculative findings regarding the type of tenants who occupy group housing project are unsupported by the evidence.

108. Respondents' arbitrary and disparate treatment of this group-housing Project demonstrates unfair and irrationally discriminatory action, including because the City approved a similarly sized housing project at this site in 2018, where the principal difference is that this Project provides group housing units rather than larger dwelling units. As Petitioners asserted in the letter they sent to Board prior to the Board's adoption of the findings, Respondents' arbitrary and disparate treatment of group housing is insulting to the thousands of residents who occupy group housing units in the Tenderloin and is an abuse of discretion.

109. Respondents' disapproval is not based on the required findings or evidence in support of the findings. Respondents disregarded the findings and evidence necessary to support the disapproval and based the disapproval solely on the type of housing provided, which is a principally permitted use, the "likely" class of persons who reside in such housing, and the "likely" behaviors of those residents, which are not a relevant criterion when considering whether to approve a conditional use authorization.

110. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of law to challenge the disapproval, and a writ of mandate under Code of Civil Procedure § 1094.5 and/or § 1085 is the prescribed remedy for violations of this type.

WHEREFORE, Petitioners pray for relief as follows:

1. For a writ of mandate or other appropriate relief, including an injunction, declaration, and/or order, commanding Respondents to comply with the Housing Accountability Act with respect to the proposed Project at 450 O'Farrell Street and other similarly situated housing development projects, including, but not limited to, an order that the Project is deemed compliant with all "applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that

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the application was deemed complete" as a matter of law;

2. For declaratory relief, including an injunction, declaration, and/or order, commanding Respondents to comply with the requirements of the Housing Accountability Act with respect to housing development projects, including, but not limited to, a declaration that Respondents' housing development project application review timelines outlined in its "Process Improvements Plan" violate the Housing Accountability Act; an order that Respondents have a legal duty to provide a written compliance determination after a housing development application is deemed complete consistent with the timelines in Gov. Code § 65589.5(j)(2); a declaration that the City's policy to treat all Conditional Use Authorization and Planned Unit Development housing development projects as noncompliant without making individual compliance determinations violates state law; and an order that the City must make an individual compliance determination for all Conditional Use Authorization and Planned Unit Development housing development projects within the timelines in Gov. Code § 65589.5(j)(2) and based solely on applicable, objective Conditional Use Authorization and Planned Unit Development standards and criteria.

3. For an order overturning the Board's granting of the subject conditional use appeal (Board of Supervisors File No. 210858);

4. For an order commanding Respondents to approve the subject Project pursuant to Gov. Code § 65589.5(k)(1)(A)(ii);

5. For costs of suit herein;

6. For reasonable attorneys' fees under Code of Civil Procedure § 1021.5 and Gov. Code § 65589.5;

7. For fines and penalties to be assessed pursuant to Gov. Code § 65589.5(k) because Respondents acted in bad faith when they disapproved the Project; and

8. For any other relief that the Court deems just and proper.

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Dated: November 21, 2022

ZACKS, FREEDMAN & PATTERSON, PC

By: Ryan J. Patterson
Attorneys for Petitioners

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VERIFICATION

I, Sonja Trauss, declare as follows:

1. I am a natural person and a resident of the State of California. I am a petitioner in this action and the founder of petitioner Yes in My Back Yard ("YIMBY"). I am authorized to verify this Second Amended Petition for Writ of Mandate and Complaint for Declaratory Relief on behalf of YIMBY.

2. I have read the foregoing Second Amended Petition for Writ of Mandate and Complaint for Declaratory Relief and know its contents. The matters stated in the Second Amended Petition for Writ of Mandate and Complaint for Declaratory Relief are true of my own knowledge from having reviewed the Conditional Use Authorization appeal in San Francisco Board of Supervisors File No. 210858 for the proposed Project at 450 O'Farrell Street, San Francisco, CA.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 21, 2022

Sonja Trauss

Exhibit A

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

November 22, 2021

Kate Conner, LEED AP
Manager, Priority Projects and Process
Current Planning Division
City and County of San Francisco
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103

RE: San Francisco – Letter of Inquiry and Technical Support

Dear Kate Conner:

The purpose of this letter is to seek information on two projects – 469 Stevenson Street and 450-474 O'Farrell Street – and to provide technical assistance to the City and County of San Francisco (City/County). The California Department of Housing and Community Development (HCD) has become aware of the effective denial of these housing projects, and HCD is concerned that the City/County's actions are indicative of review processes that may be constraining the provision of housing in San Francisco. It is well known that California is experiencing a housing crisis, and the provision of housing remains of the utmost priority.

Project Descriptions

469 Stevenson Street
HCD understands the project proposed at 469 Stevenson Street is a mixed-use, 27-story high rise with 495 housing units, including 19 percent (89) affordable units – 11 percent of the units at 50 percent area median income (AMI), 4 percent of the units at 80 percent AMI, and 4 percent of the units at 110 percent AMI. The Planning Commission certified the final environmental impact report (FEIR) for the project on July 29, 2021, finding expressly that the "FEIR was prepared, publicized, and reviewed" in a manner that was consistent with "CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code" and that the FEIR is "adequate, accurate, and objective." In approving the project, the Planning Commission noted that the project would replace an underutilized site with high quality housing to serve a range of housing needs in the City/County in a manner that is consistent with the City/County's housing element and housing need. Despite prior approval and findings made by the Planning Commission, the Board of Supervisors (BOS) voted (8-3) on October 26, 2021, to overturn the Planning Commission's FEIR certification, and by extension approval of this critically needed

housing project in the City/County. The BOS cited various vague concerns about FEIR deficiencies, including seismic concerns, effects (e.g., shadowing) on historic resources, and gentrification. It appears that the BOS has tasked city planners to prepare a new environmental study and recirculate the EIR or portions of the EIR. ***To date, no written findings have been published or provided to the project applicant nor has any substantial evidence in support of these findings been identified.***

450-474 O'Farrell Street and 532 Jones Street
HCD understands the project proposed at 450-474 O'Farrell Street and 532 Jones Street (O'Farrell Project) is an amendment to a project approval obtained for this site in 2018. The envelope of the proposed building remains the same size and shape as the original approved project; the amendment to the Conditional Use Authorization (CUA) is for a reallocation of interior space. The original project included 176 housing units, and the proposed amendment includes 316 smaller housing units. The developer reports this model will yield more units that are "affordable by design" – in other words, not deed restricted, without need for any public financing, and available at naturally lower rents. HCD understands that 13.5 percent of the units (43 units) will be offered "below market rent" as required by the City/County. Despite prior approval by the Planning Commission, the BOS voted (11-0) on October 5, 2021, to overturn the Planning Commission's approval. ***To date, no written findings have been published nor provided to the project applicant.***

While these projects have sought different types of approval, they share the circumstance of having prior Planning Commission approvals of significant housing projects being overturned by the BOS – without any documented findings. HCD is concerned that this represents a larger trend in the City/County. As you know, California's housing production does not meet housing need. In the past ten years, housing production has averaged fewer than 80,000 new homes each year, far fewer than the 180,000 new homes needed. (Housing Crisis Act, Stats. 2019, ch. 654, § 2.) The Legislature has declared that housing availability is a priority of the highest order and that local and state governments have a responsibility to facilitate the development of housing for all economic segments of the community. (Gov. Code, § 65580.) As a result, the cost of housing has skyrocketed, and San Francisco stands amongst the top two most expensive housing markets in the United States.

For this reason, HCD requests that the City/County provide the written findings to HCD and each project applicant within 30 days, explaining the reasoning for and the evidence behind these decisions. While reasons for denial were discussed in public hearings, it is unclear what actions these project applicants are required to take to advance these projects. In the meantime, 811 potential housing units are in limbo.

Housing Crisis Act of 2019 – "5 Hearing Rule"

HCD is concerned about the significant delays in the approval of housing generally and in the City/County in particular. As you know, the Housing Crisis Act of 2019 recognized this as a concern and imposed a strict five-hearing rule for housing projects. (Gov. Code, § 65905.5.) Under that law, hearings include formal hearings, workshops, meetings, and continuances. (*Id*.at (a), (b)(2).)

Regarding the O'Farrell Project, the Planning Commission's report documents six hearings of the Planning Commission alone that meet this definition. The BOS appeal would be the seventh such meeting. Because the City's record notes that, "like the previous project, the revised project would not be obviously or substantially inconsistent with other local plans and policies or regional plans and policies" (Second Addendum to Environmental Impact Report, p. 11), HCD is concerned that the City/County may have violated the "5 Hearing Rule" in the Housing Crisis Act of 2019. (Gov. Code, § 65905.5.)

Housing Accountability Act

For the same reasons, HCD has significant concerns about the City's compliance with the Housing Accountability Act (HAA). Under Government Code section 65589.5, subdivision (j), a local government cannot disapprove or reduce the density of a housing development project that complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete unless it makes written findings supported by a preponderance of the evidence on the record that the project world have a specific, adverse impact upon the public health or safety and there is no feasible way to mitigate that impact. Disapproval means either the City/County votes on a proposed housing development project and the application is disapproved or the City/County fails to comply with the decision-making time period outlined in the Permit Streamlining Act. (Gov. Code, § 65950.) This includes denial of other required land use approvals or entitlements necessary for the issuance of a building permit. Regarding the O'Farrell Project, as noted above, while the BOS voted to disapprove the application, no written findings have yet to be made supporting that disapproval.

5th Cycle Housing Element

In the City/County's 5th Cycle Housing Element, the City/County committed to two key objectives with associated policies and programs. The Stevenson Project and O'Farrell Project each represent an opportunity for the City/County to take consistent action with its housing element commitments.

Below is an excerpt from the City/County's 5th Cycle Housing Element:

Objective 4: Foster a Housing Stock that meets the needs of all residents across lifecycles.

- *Policy 4.4: Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.*

The Stevenson Project includes 89 affordable units. Likewise, the O'Farrell Project commits 43 affordable units. The approval of these projects would demonstrate action consistent with Policy 4.4.

Below are additional excerpts from the City/County's 5th Cycle Housing Element:

Objective 10: Ensure a streamlined, yet thorough, and transparent decision-making process.

- *Policy 10.1: Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.*
- *Policy 10.2: Implement planning process improvements to both reduce undue project delays and provide clear information to support community review.*
- *Policy 10.3: Use best practices to reduce excessive time or redundancy in local application of CEQA.*
    - *Implementing Program 84: Planning shall continue to implement tools and processes that streamline CEQA compliance, thereby reducing the time required for production of environmental documents and CEQA processes. In addition to contracting with previously established pools of qualified consultants to produce necessary technical studies (e.g., transportation) and environmental documents (e.g., EIRs), Planning will continue to implement streamlined processes, including but not limited to: Community Plan Exemptions that tier from previously certified Community Plan EIR's; participate in the preparation of Preliminary Project Assessments that outline the anticipated requirements for CEQA compliance, including necessary technical studies; and implement recent and pending updates to the CEQA Guidelines that provide mechanisms for streamlining the environmental assessment of infill development projects.*
- *Strategies for Further Review: Planning should continue to examine how zoning regulations can be clarified, and design guidelines developed through community planning processes. Planning staff should adhere to such controls in reviewing and recommending approval of projects.*

Objective 10 and its associated policies and programs are critical for the development of housing. Developers and members of the public rely on transparent processing of projects. HCD will continue to monitor the Stevenson Project and its CEQA path forward, particularly for timeliness and redundancy of areas of study.

6th Cycle Housing Element

HCD understands that San Francisco is starting the process to update the 6th cycle housing element. Academic research continues to show that San Francisco's processing and entitlement timeframes and procedures exceed the norms for other jurisdictions of similar size and complexity and act as a constraint on the development

of housing[1]. As part of the housing element's analysis of potential and actual governmental constraints on housing pursuant to Government Code section 65583, subdivision (a)(5), it must describe and analyze the permit process from application to approvals, including a discussion on timeframe for each step in the process, impediments, and how it addresses state law application processing requirements such as those found in the Permit Streamlining Act and the HAA. The element must also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need and include program actions with metrics and milestones to remove or mitigate identified constraints.

HCD Inquiry

As stated above, HCD is concerned specifically that the Stevenson Project and O'Farrell Project that have been effectively denied without written findings as well as larger trends in the City/County's review of housing. HCD requests the City/County provide written findings for these BOS actions.

HCD has both the authority and duty to review any action or failure to act by a city, county, or city and county that it determines is inconsistent with an adopted housing element or Government Code section 65583 (Gov. Code, § 65585, subd. (i)) or in violation of the HAA. (Gov. Code, § 65585, subd. (j).) At this time, HCD's investigation remains open, and HCD is continuing its review of these particular actions and of the City/County's practices with respect to housing review and approval generally.

If you have questions or need additional information, please contact Kevin Hefner at Kevin.Hefner@hcd.ca.gov regarding the Stevenson Project and Divya Sen at Divya.Sen@hcd.ca.gov regarding the O'Farrell Project.

Sincerely,

Shannan West
Housing Accountability Unit Chief

CC: Lisa Gibson, Environmental Review Officer, City and County of San Francisco
Carly Grob, Senior Planning, City and County of San Francisco

[1] O'Neill, Moira and Biber, Eric and Gualco-Nelson, Giulia and Marantz, Nicholas, Examining Entitlement in California to Inform Policy and Process: Advancing Social Equity in Housing Development Patterns (September 18, 2021). Available at SSRN: https://ssrn.com/abstract=3956250 [ssrn.com]

Exhibit B

FILE NO. 211274 MOTION NO. M21-172

[Findings Related to Conditional Use Authorization - 450-474 O'Farrell Street and 532 Jones Street]

Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 20935, approving a Planned Unit Development and Conditional Use Authorization, identified as Planning Case No. 2013.1535CUA-02, for a proposed project located at 450-474 O'Farrell Street and 532 Jones Street.

WHEREAS, The proposed project ("Project") includes demolition of three buildings: 450 O'Farrell Street, 474 O'Farrell Street and 532 Jones Street; the merger of Lots 007, 009 and 011 in Assessor's Block 0317; and the construction of up to a 13-story mixed use building with ground floor commercial, a new church, and residential open space, up to 316 group housing rooms, and 136 Class 1 and 15 Class 2 bicycle parking spaces; the Project would construct a total of approximately 207,448 square feet (sf) of development, including 172,323 sf of residential space, 6,023 sf of restaurant/retail space, 9,924 sf for religious institutional use, and approximately 5,056 sf of residential open space; and

WHEREAS, The proposed Project is a Planned Unit Development that requires exceptions to Planning Code requirements, pursuant to Planning Code Section 304; as more fully detailed in Planning Commission Motion No. 20935, the Project sponsor applied for, and the Planning Commission approved, the following exceptions to the Planning Code: a modification of rear yard requirements set forth in Section 134(j), and a modification of off-street loading requirements set forth in Section 152; and

WHEREAS, As more fully detailed in Planning Commission Motion No. 20935, the Planning Code requires that the proposed Project obtain a Conditional Use Authorization pursuant to Planning Code, Section 303, and that the Planning Commission make certain

additional findings pursuant to Planning Code, Sections 249.5(c)(1), 253(b)(1), 263.7, 271(c) and 317, in order to approve the Project; pursuant to Motion No. 20935, the Planning Commission granted the required Conditional Use Authorization and made these required additional findings; and

WHEREAS, On June 24, 2021, the Planning Commission adopted Motion No. 20935, approving Planned Unit Development/Conditional Use Application No. 2013.1535CUA-02 for a revised project scope, subject to the conditions contained in Motion No. 20281, with the exception of Conditions 24, 25, 26 and 32 of Motion No. 20281, and with the following amended conditions: to remove parking and car share requirements; to require 136 Class 1 and 15 Class 2 bicycle parking spaces; to require 48 affordable units/rooms, including 43 group housing rooms and five replacement units/rooms to replace existing affordable units; to impose additional requirements related to the affordable units; to limit permissible kitchen facilities within group housing rooms; to require the Project sponsor to increase the number of larger units wherever feasible; to require provision of balconies to maximum projection on all sides except O'Farrell Street; to continue working with staff to increase the number of bicycle parking spaces; to convert the proposed ground-floor retail space to group housing units; and to work with staff to determine the feasibility of converting basement space to group housing units; and

WHEREAS, On July 21, 2021, Tenderloin Housing Clinic and Pacific Bay Inn, Inc. ("Appellants") filed a timely appeal of the Conditional Use Authorization by the Planning Commission; and

WHEREAS, On September 7, 2021, the Board continued its hearing of this appeal due to Rosh Hashanah, with the consent of both the Project sponsor and Appellants; and

WHEREAS, On September 28, 2021, the Board of Supervisors held a duly noticed public hearing on the appeal from the approval of the Conditional Use Authorization and

received public comment, and at the end of that hearing the President of the Board declared the public hearing closed and filed, and the Board of Supervisors continued until October 5, 2021, the proposed motions relating to the Conditional Use Authorization; and

WHEREAS, On October 5, 2021, the Board voted by a vote of 11-0 to conditionally disapprove the decision of the Planning Commission and deny issuance of the requested Conditional Use Authorization; and

WHEREAS, In deciding the appeal, the Board considered the entire written record before the Board and all the public comments made in support of and in opposition to the appeal; and

WHEREAS, The Tenderloin neighborhood has a high concentration of low-income families and insufficient housing to serve those families, and is a food desert; and

WHEREAS, The Planning Department's 2017 report titled Housing for Families with Children, on file with the Clerk of the Board of Supervisors in File No. 210858 and incorporated herein by reference, states that unit size and affordability are significant housing stock issues impacting families; that families need more affordable options and larger units to accommodate children and multiple generations of family members, as well as amenities such as open space, storage space, and onsite childcare; and that there is a mismatch between available units and residents who occupy them, and overcrowding in many units in San Francisco, a majority of which overcrowded units are occupied by families; and

WHEREAS, Appellant provided testimony that there is significant overcrowding of families in small units in the Tenderloin neighborhood; and

WHEREAS, The Project would fail to meet the needs of the neighborhood, including the needs of families, due to the small size and lack of full kitchen facilities in the Project's group housing rooms, given that families require space for children and multigenerational

family members, and need cooking and food storage facilities to provide healthy and affordable meals for family members; and

WHEREAS, The Department of Public Health's 2018 Assessment of Food Security, on file with the Clerk of the Board of Supervisors in File No. 210858 and incorporated herein by reference, found that a lack of cooking access, including lack of sinks, stoves, refrigerators and food storage, present significant obstacles to healthy eating on a limited income; that residents of District 6, in which the Project would be located, are most at risk for food insecurity and are the most reliant on government aid for food subsidies among San Francisco residents; and that without a complete kitchen, people are more likely to rely on expensive prepared meals and unhealthy snacks; and

WHEREAS, The Department of Public Health's 2013 Assessment of Food Security, incorporated herein by reference, found that almost 6500 housing units (15% of all housing units) in District 6 lack complete kitchens; and

WHEREAS, The Project sponsor's assertion that the microwaves and small refrigerators that would be allowed in the Project's group housing units would adequately serve families is incorrect, as shown by the above-cited reports; and

WHEREAS, Ordinance No. 72-21 was recently approved to prevent the removal of community kitchens in group housing, given the essential nature of kitchen facilities; and

WHEREAS, The Zoning Administrator's Interpretation of the definition of group housing, "Group housing with limited cooking facilities," issued in October 2005, allowed limited cooking facilities in group housing units based on an understanding that group housing units are not intended to be used as permanent housing; the Interpretation states, "Recent Department practice via Zoning Administrator determination letters has been to allow limited kitchen facilities in hotel rooms or suites in tourist hotels with stays of less than 32 consecutive days; these determinations were based on the proviso that the purpose of including kitchens

is not to create dwelling units for permanent residency but to provide hotel guests the option of making their own meals; likewise, the purpose of including limited kitchen facilities in group housing is not to create dwelling units for permanent residency, but to provide group housing residents the option of preparing their own meals."; and

WHEREAS, Given the Project units' lack of kitchens and food storage areas; area residents' limited access to groceries in the neighborhood; safety concerns voiced by members of the public at the September 28, 2021 public hearing; and the likely relatively high incomes of tenants who can afford the rents that the Project sponsor testified it expects to charge for units in the Project, residents of the Project would likely rely heavily on food delivery services, creating more congestion from food delivery vehicles (e.g., GrubHub, Door Dash deliveries), leading to more pedestrian/vehicle collisions and increased pollution from such vehicles; the San Francisco County Transportation Authority's TNC & Congestion report, on file with the Clerk of the Board of Supervisors in File No. 210858 and incorporated herein by reference, supports this conclusion, demonstrating that the Tenderloin neighborhood already has significant congestion caused by Transportation Network Company (TNC) services; and

WHEREAS, The high rents the Project sponsor testified it expects to charge for units in the Project will likely lead to high vacancy rates, and to the units being used as short-term or intermediate-length corporate rentals, which rely on high renter turnover and a transient client base, rather than as permanent housing; and

WHEREAS, The findings associated with the City's short-term rental regulations in Chapter 41A of the Administrative Code address the impacts of short-term rentals; and

WHEREAS, Group housing projects tend to have higher turnover of tenants than projects with family-sized units and full kitchens, which contributes to destabilization of the neighborhoods in which they are located; and

WHEREAS, The Project's concentration of small units would lead to a high volume of TNC use by residents, increasing congestion, pollution, and the risk of pedestrian/vehicle collisions; and

WHEREAS, The Walk San Francisco Annual Report Card analyzing 2016-2020 data, on file with the Clerk of the Board of Supervisors in File No. 210858 and incorporated herein by reference, shows that the Tenderloin neighborhood has high rates of pedestrian/vehicle collisions in San Francisco; and

WHEREAS, The Project would not promote density equity or geographic equity in the distribution of housing typologies; and

WHEREAS, The Department of Building Inspection's Annual Unit Usage Report, on file with the Clerk of the Board of Supervisors in File No. 210858 and incorporated herein by reference, demonstrates a high vacancy rate in group housing projects; and

WHEREAS, Appellants have provided evidence of a glut of similar small units without full kitchens in the Tenderloin/mid-Market area; the Panoramic development at 1321 Mission Street is an example of this glut, the Panoramic, which consists of efficiency units that do not have full kitchens, and that lack stoves, full-size refrigerators and adequate food storage and preparation space, has high vacancy rates and has been unsuccessful, and is being marketed for sale; and

WHEREAS, The Tenderloin neighborhood is best served by long-term permanent residents, who are more likely to volunteer for and contribute to the community, advocate for community improvements, and serve as eyes on the street; and

WHEREAS, For the reasons stated above, the Project would fail to serve the community, is not necessary and desirable for and is not compatible with the existing neighborhood and community; now, therefore, be it

MOVED, That based on the foregoing findings and the entire record in Board File No. 210858, the Board of Supervisors disapproved the decision of the Planning Commission by its Motion No. M21-138 and denied issuance of the Conditional Use Authorization.

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City and County of San Francisco
Tails
Motion: M21-172

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 211274 **Date Passed:** December 14, 2021

Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 20935, approving a Planned Unit Development and Conditional Use Authorization, identified as Planning Case No. 2013.1535CUA-02, for a proposed project located at 450-474 O'Farrell Street and 532 Jones Street.

December 14, 2021 Board of Supervisors - APPROVED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 211274

I hereby certify that the foregoing Motion was APPROVED on 12/14/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Exhibit C

YIMBY Law

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hello@yimbylaw.org

YIMBY LAW

12/13/2021

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place - City Hall, Room 244
San Francisco, CA 94102

Board.of.Supervisors@sfgov.org
Via Email

Re:

Item 42, File No. 42. 211274 [Findings Related to Conditional Use Authorization - 450-474 O'Farrell Street and 532 Jones Street]
Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 20935, approving a Planned Unit Development and Conditional Use Authorization, identified as Planning Case No. 2013.1535CUA-02, for a proposed project located at 450-474 O'Farrell Street and 532 Jones Street.

Dear San Francisco Board of Supervisors,

YIMBY Law submits this letter to discourage you from adopting the above referenced findings. As we have informed you previously, the Housing Accountability Act (HAA) only permits cities to evaluate proposed housing development using objective findings, and does not permit cities to disapprove projects or approve them at a lower density based on subjective findings. All of the findings you will be considering today are subjective or don't reference an "applicable, objective general plan and zoning standards [or] criteria". In addition, some of the findings are inaccurate and some of them, frankly, are embarrassing.

The San Francisco zoning code permits up to 13 stories at 450 O'Farrell with a conditional use permit. Fortunately for the cause of abundant housing, and unfortunately for local discretion, San Francisco's criteria for receiving a conditional use permit are all subjective. Correspondingly, as mentioned above, none of the findings are objective or reference objective criteria required for receiving a conditional use permit.

If San Francisco would like to continue to use the Conditional Use process to allow different outcomes for different types of projects, the Board of Supervisors must pass ordinances creating objective criteria for receiving Conditional Use permits.

The first several findings on pages 3 and 4 attempt to justify denying the CU for 13 stories based on the fact that the proposed units are small and don't have full kitchens. However, there is no existing zoning plan standard or criteria requiring a minimum unit size or a full kitchen in order to receive a Conditional Use permit. Therefore, this finding can't be used as a justification for denying the Conditional Use permit.

In addition, the reasoning in this section is weak. In San Francisco 38% of adults, and 60% of all renters, live with roommates (this does not include married couples).[1] These adults share 2,3 and 4 bedroom apartments with each other. At least some of them would prefer to live alone. Insofar as the future residents of the proposed studio apartments at 450 O'Farrell would be moving out of roommate situations (or not entering into them in the first place), these studios would, in fact, be meeting the city's need for more larger units.

The Board of Supervisors is also going to be voting on findings to delay almost 500 apartments at 469 Stevenson today, all of which have full kitchens, and most of which have 2 or more bedrooms. It is hard for the public to understand why the SF Board of Supervisors would deny this Conditional Use permit because the proposed housing units are too small, and also vote to delay - possibly fatally- another proposed project that has larger units, *on the same day.* If the purpose of adopting these findings is to encourage larger apartments with full kitchens, then why would the Board also vote to frustrate a project that actually has larger apartments with full kitchens?

The next type of finding, on page 5, starting on line 5 is that the CU should be denied because the residents will cause traffic by ordering food delivery. There is also a finding on page 6, line 1 that small units will cause a lot of TNC use. Again, there is no objective standard for the CU regarding traffic, or rates of food delivery, or rates of TNC use so this finding cannot be used to justify reducing the density of the proposed project. Moreover, this line of reasoning is speculative and not supported by any data or modeling.

The most embarrassing finding is on page 6, lines 13 to 18. It is so astonishing, we will copy it here.

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[1] https://sf.curbed.com/2017/12/18/16791954/san-francisco-roommates-double-households-rent-data

> WHEREAS, Appellants have provided evidence of a glut of similar small units without full kitchens in the Tenderloin/mid-Market area; the Panoramic development at 1321 Mission Street is an example of this glut, the Panoramic, which consists of efficiency units that do not have full kitchens, and that lack stoves, full-size refrigerators and adequate food storage and preparation space, has high vacancy rates and has been unsuccessful, and is being marketed for sale;

The Board surely recalls that just weeks ago, on Oct 19, it approved the purchase of the Panoramic, to be used as housing for formerly homeless individuals and families.[2]

If the proposed housing at 450 O'Farrell project wound up in the same position as the Panoramic - available for San Francisco to buy and use as low income housing - this would be a great benefit to San Francisco, and is a compelling reason to **approve** the conditional use permit.

The last finding, on page 6 line 19, that residents of this project won't be "long term permanent residents" and will therefore be unlikely to "volunteer for and contribute to the community, advocate for community improvements, and serve as eyes on the street" is speculative, unsupported and frankly insulting to the thousands of residents of the Tenderloin who live in studio apartments and are active in the Tenderloin community.

The project proposed at 450 O'Farrell Street would demolish three existing buildings and construct a mixed use building up to 13-stories on O'Farrell and Shannon Streets and up to 4-stories on Jones Street. The project currently includes 316 group housing rooms with a maximum of 632 group housing beds; 48 of the rooms are designated to be rented at below-market rates.

The project was entitled by the Planning Commission at their September 13, 2018 meeting, and a revised application was approved again at their June 24, 2021 hearing with Conditions as amended to include: 1. Increase the number of larger group housing units, wherever feasible; 2. Provide balconies to maximum projection on all sides except O'Farrell Street; 3. Continue working with Staff to increase the number of bicycle parking spaces, up to 200; 4. Convert the ground-floor retail space to group housing units; and 5. Work with Staff to analyze the feasibility of converting the basement to additional group housing units.

An appeal letter was filed by the Tenderloin Housing Clinic and Pacific Bay Inn, Inc. on

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[2] https://hoodline.com/2021/10/supes-approve-panoramic-apartments-for-homeless-housing-despite-community-pushback/

July 21, 2021. The Appeal Letter challenges previous actions that were not part of the June 24, 2021 action by the Planning Commission. Specifically, the appeal is based on objections to alleged construction impacts and the authorization for group housing at this site. None of the reasons stated as the basis for the appeal concern the items modified by the Planning Commission action. Nothing in the action of the Planning Commission affects the previously approved site plan and associated construction impacts, and group housing is a permitted use in this zoning district, requiring no Planning Commission or Board of Supervisors approval.

The amended Conditional Use Authorization which was approved by the Planning Commission falls well within the bounds of the General Plan. Even expanding our view to the project's previous approvals, including specific items within the Planned Unit Development, nothing proposed or adopted is outside the scope of the city's general plan to conclude that the project is not protected by the Housing Accountability Act. As the project is subject to protection under the HAA, the City is limited both in the actions it may take on the project and the number of hearings the project may be subjected to.

Conclusion

This project must be treated as any other project would be under the HAA. This means that the Board of Supervisor's discretion is limited in this case. The project does not pose a threat to public health and safety and complies with every objective General Plan standard. Not only was this project approved by Planning Commission on June 34, 2021, it has already been entitled previously, with very similar characteristics, on September 13, 2018.

The Board of Supervisors should NOT adopt these findings. If these findings are not adopted, the Planning Commission's approval will stand, and San Francisco will avoid a costly lawsuit.

Yimby Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,



Sonja Trauss

YIMBY Law, 57 Post St, Suite 908, San Francisco, CA 94104

Exhibit D

Holland & Knight

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December 14, 2021

Via email: cityattorney@sfcityatty.org
David Chiu
City Attorney
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Via email: Board.of.Supervisors@sfgov.org
Angela Calvillo
Clerk of the Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Re: **450-474 O'Farrell Street/532 Jones Street Project Application**
Case No. 2013.1535EIA-02

Dear Mr. Chiu and Ms. Calvillo:

Please ensure that this correspondence and its attachments are included in the record of proceedings for the above-captioned matter and are provided to the members of the Board of Supervisors for the December 14 hearing on this matter.

Holland & Knight LLP has been retained to represent Fifth Church of Christ, Scientist and Forge Development Partners (the "Applicants") to protect their rights under California housing law for the 450-474 O'Farrell Street/532 Jones Street Project.[1] As we described in our many prior communications in the record, the Project is fully protected under numerous state housing laws, including but not limited to the Housing Accountability Act ("HAA"), the Housing Crisis Act (also known as SB 330), and the Permit Streamlining Act. As you are aware, the California Department of Housing and Development ("HCD") wrote to the City and County of San Francisco ("City") on November 22 to express HCD's concern that disapproving this Project would violate state housing law.

Despite this clear warning from the state agency delegated by the Legislature with "primary responsibility for development and implementation of housing policy," Cal. Health & Safety Code § 50152, the draft findings to disapprove this Project take the approach of completely disregarding HCD's concerns and disapproving the Project in direct violation of state housing law. Leading experts in housing law agree. Christopher Elmendorf, Martin Luther King, Jr.

[1] The Applicant is also represented by David Cincotta as well as Storzer & Associates, P.C. in connection with the Religious Land Use and Institutionalized Persons Act (RLUIPA) and other federal laws. This letter focuses on violations of California housing law, but the Applicant also reserves its right to enforce RLUIPA and other federal laws.

Professor of Law at UC Davis School of Law puts it flatly: ***"[a] vote to pass the O'Farrell motion is a vote to violate the Housing Accountability Act.***" (see attachments).

We have only had a limited opportunity to review the draft resolution, which was posted for the first time little more than one business day before the Board was scheduled to vote on it. However, even on initial review it is clear that the findings in that resolution would not suffice even under the traditional legal standard that is typically deferential to cities. But this Project, of course, is *not* subject to the normal legal standard. As a housing development project, the Project is subject to the HAA, which two different divisions of the First District Court of Appeal have held must be interpreted *without* deference to local governments, and instead interpreted to give "the fullest possible weight to the interest of, and the approval and provision of, housing." California Renters Legal Advoc. & Educ. Fund v. City of San Mateo (2021) 68 Cal. App. 5th 820, 854 (*quoting* Gov. Code § 65589.5(a)(2)(L)); Ruegg & Ellsworth v. City of Berkeley (2021) 63 Cal. App. 5th 277, 296, *reh'g denied* (May 19, 2021), *review denied* (July 28, 2021). The gravamen of the HAA is to require cites to advance code-compliant housing developments such as the Project on the basis of the objective standards in a city's current code – and to prohibit those projects from being denied for the type of subjective considerations and arbitrary policy preferences described in the draft resolution.

The City knows this Project is fully code-compliant, which is why it is apparently considering new regulations that might regulate "group housing" differently. *See* "Exclusive: New Peskin ordinance would clarify group housing definition," S.F. BUSINESS TIMES (Dec. 13, 2021) (see attachments). As the City acknowledges, however, "[c]urrent projects already proposed in the pipeline are not affected by this." Ibid.; *see also* Gov. Code § 65589.5(j) (HAA only permits application of objective standards "in effect at the time that the application was deemed complete"). These Applicants have invested heavily in developing a Project in full compliance with all State and City legal requirements as they exist today – which the HAA, among other laws, requires the City to honor. The Board of Supervisors apparently plan to disapprove this fully code-compliant Project because some Board members would prefer that the code be different than it is. This would be mockery of basic principles of land use and planning. In combination with the other facts in the record, it is also a "bad faith" disapproval of housing, subjecting the City to enhanced fines of $50,000 per home, and an order directing the approval of the Project. Gov. Code § 65589.5(k), (*l*).

We strongly urge the Board not to take the unlawful act of disapproving these much-needed new homes at a time of a devastating housing supply crisis.

I. The Findings Are Arbitrary and Capricious and Unsupported by Substantial Evidence.

Even under the ordinary legal standard that applies outside of the context of state housing law, a local agency's decision is unlawful if the decision is arbitrary, capricious, or unsupported by substantial evidence. *See* Code Civ. Proc. § 1094.5(c); *see also* Ruegg & Ellsworth v. City of Berkeley (2021) 63 Cal. App. 5th 277, 298, *reh'g denied* (May 19, 2021), *review denied* (July 28, 2021). Most of the draft findings consist of *post hoc* rationalizations that were not articulated by the Board members when they voted to disapprove the Project in October. As we explained in

our prior letter, these *post hoc* rationalizations will not be considered in judicial proceedings challenging the Board's decision. But even putting this aside, the draft findings before the Board do not rescue the Board's decision from being arbitrary and capricious, and neither do the draft findings provide any substantial evidence to support the disapproval of this housing development. The findings consist of arbitrary opinion, clearly erroneous assertions, and contentions that are at odds with the record. Most importantly, other completely indistinguishable "group housing" development projects have been approved in the immediate vicinity without ever being subject to the objections that have prompted the Board to disapprove this Project (see, e.g. the 468 Turk Street and 300 De Haro Steet project files, which are on file with the City and hereby incorporated by reference) (see attachments). The Board's decision to disapprove this particular group housing development instead of others can only be described as arbitrary and capricious decision-making.

To begin with, the draft findings refer to Pacific Bay Inn, Inc. (who appealed on CEQA issues) and Tenderloin Housing Clinic (who appealed on non-CEQA grounds) as the "Appellants" who challenged the Planning Commission's approval of the Project. But the draft resolution does not disclose the fact that – as was stated in the hearing – Pacific Bay Inn, Inc. withdrew its appeal before the hearing, and that only Tenderloin Housing Clinic's appeal was before the Board when the Board voted to grant it.

The draft resolution cites a 2017 "Housing for Families with Children" report that was produced at the October 5 hearing only after public comment had closed, and was never presented to the Applicants. But this report only supports approval of the Project. The report identifies the requirements and components that development should provide to meet neighborhood needs – such as two bedrooms of an average size of 850 sf or less, to avoid larger units that are "too expensive." The Project as proposed *meets and exceeds* all of these Planning Commission-identified criteria in the report.

The draft resolution inaccurately claims that the Department of Building Inspection Annual Unit Usage Report ("AUUR") shows a high vacancy rate in group housing projects. The AUUR provides information collected from residential hotels under the San Francisco Residential Hotel Unit Conversion and Demolition Ordinance. Those residential hotels have none of the support programs, design features, open space elements, and amenities of the proposed Project. Additionally, the draft resolution relies on the Appellant having "provided testimony that there is significant overcrowding of families in small units in the Tenderloin neighborhood," but cites no evidence beyond this assertion. The "overcrowding" referred to are illegal practices, which the law specifically forbids from occurring in the Project. As shown in the materials before the Board, "group occupancy" has a lower restricted density for maximum occupancy than a non-group occupancy project of similar area. Most importantly, it is shocking that the City, at a time of an extreme housing supply crisis, would suggest that it would be appropriate to not create *any* homes at the Project site, out of a concern about overcrowded homes nearby. Increasing the supply of available housing, of course, could only assist with overcrowded conditions.

The findings go on to cite the "small size and lack of full kitchen facilities," and lack of food storage, despite the Project's undisputed compliance with all related code and state law requirements that the City and state have established as necessary to ensure adequate service for

children and families. The Project application materials show that cooking facilities are provided in each and every unit, in a manner used in housing projects around the world and throughout the City. The Project has sinks, refrigerators, cooktops, multi-phase convection ovens, dishwashers, garbage disposals, and all code-required food storage. The appliances provided for each unit are suitable for the preparation of a multi-course meal including a 12 pound turkey. As part of the Applicants' commitment to aggressive implementation of social equity programs, the Applicants' partner, Project Access, will also provide extensive on-site social services to the residents, including after school and day programs for the children of residents – in addition to the open space, dedicated storage, and other services not normally found in traditional multifamily housing. Project Access provides program that "connect, engage and empower" residents to "cultivate strong communities." Project Access also provides training, classes and hands on experience for residents to support their healthy life thru nutrition. Under State and City codes, the Project is only required to provide one group kitchen, but the Project will provide *six*, distributed throughout the Project. This Project will provide 322 cooking facilities and meets all codes and zoning requirements. Nothing in the draft resolution findings supports a finding that the Project will be inadequate to support families.

Furthermore, in the "most walkable large city in the [United States]," in the Tenderloin, a San Francisco neighborhood with a Walk Score of 100, a Transit Score of 100, and a Bike Score of 91, the draft resolution asserts, with no factual basis, that because of the unit sizes, the Project will lead to high volume use of Uber and Lyft Transportation Network Company ("TNC") services and food delivery services, which would lead to increased congestion and associated pedestrian-vehicle collisions and air pollution. Although the draft resolution references the Walk San Francisco Annual Report Card for the Tenderloin 2016-2020, the resolution fails to note that the Annual Report Card shows that O'Farrell corridor has the least overall number of injury crashes in the Tenderloin. The draft resolution also does not identify that the City concluded that the Project would have a less than significant impact on transit and transportation. Second Addendum to Environmental Impact Report., p. 22. Nor does the draft resolution acknowledge the City's Transit-First Policy statement that reduction of "traffic congestion depends on the adequacy of regional public transportation." San Francisco Charter Sec. 8A.115(a)(9) Instead, the draft resolution seeks to address erroneous assertions about traffic congestion, traffic safety and air pollution from TNCs and food delivery vehicles by prohibiting housing.

Although the draft resolution states that the Tenderloin neighborhood is best served by long-term permanent residents, the Board carelessly dismisses the Fifth Church of Christ, Scientist long-term residency and community service. The Church has occupied this site for 100 years. An active member of the community and advocate for services and benefits for the Tenderloin neighborhood since inception, its mission is to improve the life of the community and specifically the immediate neighborhood. In addition to its partnership with Project Access, the Church works with its immediate neighbors and Simon Bertang, Executive Director, Tenderloin Community Benefit District, to bring program and services to the Tenderloin neighborhood. The draft resolution blindly ignores the Church and others in the community who, with demonstrated long-term commitment to and service in the Tenderloin, provided public comment on how the Project could benefit the neighborhood.

Finally, and perhaps most remarkable of all, the proposed resolution would seek to justify disapproval of the Project out of a concern for "a glut of similar small units" in nearby projects, citing "the Panoramic development at 1321 Mission Street" as an example which the draft resolution claims has not been successful. Nothing in the law supports a city's decision to prevent a lawfully permitted use on the grounds that the city believes the use will not be marketable. The Applicants, of course, are the ones with the vested financial interest in the Project's success, and are the ones bearing the risk that the Project will succeed financially. But in any event, the example of the Panoramic is inapt. The Panoramic was master-leased to two schools as student housing, and suffered financially, like many other student housing development when the schools closed during the pandemic. The fact that the Panoramic did not succeed as student housing does not support the contention that this Project will not succeed. A different, more comparable project, on Twelfth Street, is performing well. But even accepting *arguendo* that the Board has some concern about whether the Project's units will be marketable, this does not justify halting the construction of the Project. After all, although the draft resolution notes that the Panoramic has been "is being marketed for sale," it does not disclose that *the City itself is the entity that bought the Panoramic* (among other former hotels), and that the City plans to use the units to meet part of the City's homeless and affordable housing needs (see attachments). If this Project were to meet a similar fate as the Panoramic, the City would find itself in a position of being able to acquire homes to use to meet the City's needs for a small fraction of the cost it would have to pay to develop them itself. At a time California is spending billions to provide homeless services, it borders on farcical for the City to justify blocking the development of new homes on the grounds that it thinks the Applicants might later find themselves wanting to sell them.

For the foregoing reasons, among others, the proposed findings could not lawfully support the disapproval of this Project even if it were not protected by state housing law.

II. Disapproving the Project Would Violate State Housing Law.

As set forth *supra*, the draft resolution would not suffice as legal justification to disapprove the Project even if the Legislature had never enacted the HAA. But by enacting the HAA, the Legislature has imposed "'a substantial limitation" on the government's discretion to deny a permit." N. Pacifica, LLC. v. City of Pacifica, 234 F. Supp. 2d 1053, 1059 (N.D. Cal. 2002), *aff'd*, 526 F.3d 478 (9th Cir. 2008) (*quotation omitted*). The City's compliance with the HAA is judged under a standard that does not defer to localities but instead interprets the law to the fullest extent to promote the approval of housing. California Renters, 68 Cal. App. 5th at 854. And there can be no reasonable dispute that the City will violate the HAA if it proceeds to disapprove the Project.

As HCD noted in its letter:

> […] HCD has significant concerns about the City's compliance with the Housing Accountability Act (HAA). Under Government Code section 65589.5, subdivision (j), a local government cannot disapprove or reduce the density of a housing development project that complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the

> application was deemed complete unless it makes written findings supported by a preponderance of the evidence on the record that the project world have a specific, adverse impact upon the public health or safety and there is no feasible way to mitigate that impact. Disapproval means either the City/County votes on a proposed housing development project and the application is disapproved or the City/County fails to comply with the decision-making time period outlined in the Permit Streamlining Act. (Gov. Code, § 65950.)

Throughout the proceedings, up to and including Board's vote to disapprove the Project, it has always been undisputed that the Project is a housing development project as defined in the HAA that is protected under Gov. Code §65589.5 (j). The Board voted to disapprove the Project in October with that understanding. The new findings before the Board also do not dispute this.[2] The HAA "deems a project consistent with applicable objective standards 'if there is substantial evidence that would allow a reasonable person to conclude'" that the project complies. California Renters, 68 Cal.App.5th at 894 (quoting Gov. Code § 65589.5(f)(4)).

The Project complies with all objective standards not just as a matter of fact but also as a matter of law. The application was deemed complete on February 28, 2020 under the Permit Streamlining Act, and the City did not provide written documentation identifying inconsistencies with any objective standards within the mandatory 60-day deadline, and so the Project is now deemed to satisfy the standards as a matter of law. See Gov. Code § 65589.5(j)(2); *cf.* Ruegg & Ellsworth, 63 Cal. App. 5th 277, 327 (enforcing nearly identical "deemed to satisfy" requirement in Gov. Code § 65913.4); *see also* Order Granting Consolidated Petitions for Writ of Mandate, 40 Main Street Offices LLC v. City of Los Altos, No. 19-CV-349645 (Santa Clara Cty. Super. Ct. Apr. 27, 2020) (attached). It therefore cannot be disputed now that the Project is a "housing development project" that complies with objective standards.

In light of this, there is no question about whether disapproving the Project would violate the HAA. The proposed findings make no attempt to argue that the Project fails to meet any "objective" standard. The findings would disapprove the Project on the grounds it "would fail to

[2] The draft resolution noted that "exceptions to Planning Code requirements" available through the Conditional Use Authorization process were previously granted for rear yard and off-street loading requirements. But as HCD noted, "[t]he envelope of the proposed building remains the same size and shape as the original approved project; the amendment to the Conditional Use Authorization (CUA) is for a reallocation of interior space." The application currently before the Board seeks no exceptions from any objective code requirements. The Project's rear yard and off-street-loading aspects were approved in the prior CUA, and the City has already issued a site development permit to allow the development of the building with its approved yard and off-street loading components. (See 450 O'Farrell Site Permit No. 2 on file with the City and hereby incorporated by reference). Nothing in the application before the Board relates to the rear yard or off-street loading aspects of the Project, and nothing in the Board's comments – or in the draft resolution – even remotely suggest that the Board's disapproval has anything to do with these already-approved Project components. Regardless, even these previously approved aspects of the Project do not conflict with any of the City's objective standards, because the city's code specifically permits the rear yard and off-street loading components as permitted development features pursuant to the Conditional Use Authorization process. Nearly all uses and developments in the City trigger discretionary approval or review or some kind, but case law is clear that this fact does not make those uses ineligible for the HAA's protections. *See, e.g.*, California Renters, 68 Cal.App.5th at 831 (HAA applied despite the fact that development was permitted only subject to discretionary Site Plan and Architectural Review permit process).

serve the community, is not necessary and desirable for and is not compatible with the existing neighborhood and community." These are inarguably subjective criteria which are not lawful grounds to disapprove a housing development project. *See* California Renters, 68 Cal. App. 5th at 840. The findings also do not even attempt to argue that expressing this type of opinion meets the City's burden of proof to produce a preponderance of the evidence showing an unavoidable violation of objective public health or safety standards. Gov. Code § 65589.5(a)(3). A finding of public health or safety impacts must be a "significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." Gov. Code § 65589.5(j)(1)(A). A city is required to further affirmatively prove that there are no feasible means of addressing such "public health" and "safety" impacts other than rejecting or reducing the size of the Project. Gov. Code § 65589.5(j)(1)(B). Unsurprisingly, the State Legislature recently emphasized its expectation that this type of "public health or safety" condition would "arise infrequently." Gov. Code § 65589.5(a)(3). Here, there is no evidence – much less the required preponderance of the evidence – that this Project could cause any unavoidable public health or safety impact. Nothing in the draft findings cite any "identified written public health or safety standards, policies, or conditions" related to overcrowding, traffic impacts, group housing or any other concern – to say nothing of meeting the City's burden of proof to prove that there are no other feasible means to address those concerns without disapproving the Project.

Lest there be any doubt, the project for which the Applicants previously sought approval in the prior CUA is not financeable and cannot proceed. A vote to disapprove this Project cannot be mis-characterized as a request for the Applicants to build some other project. Denying the current application would deny a "required land use approval[] or entitlement[] necessary for the issuance of a building permit," Gov. Code § 65589.5(h)(6)(A), and thereby disapprove the Project in violation of the HAA, and finally deny all housing opportunities for this site.

We also note that there is also nothing in the findings responsive to HCD accurately noting that the City violated the "five hearing" limit in the Housing Crisis Act and Permit Streamlining Act. Gov. Code § 65905.5(a). In total, the draft findings that the City promised would be responsive to HCD's concerns have taken the approach of ignoring HCD's letter entirely. This approach does not suggest that the City is merely making a good-faith error in attempting to accord with the law. To the contrary, it demonstrates that the City is proceeding with a "bad faith" disapproval of housing. *See* Gov. Code § 65589.5(k), (*l*); *see also* 40 Main Street Offices LLC, *supra.*

III. Conclusion

It is clear the proceeding to disapprove the Project would violate state housing law. As noted above, this letter focuses on state housing law issues, but the Applicants also reserve their rights to enforce other laws such as the Religious Land Use and Institutionalized Persons Act and fair housing laws. We note as well that unlawfully disapproving this project would subject the City not only to relief in mandamus, attorneys' fees and fines pursuant to Gov. Code § 65589.5, but also to liability in the form of monetary damages or compensation for violation of the Applicants' constitutional rights pursuant to, *inter alia*, 42 U.S.C. § 1983, for *inter alia*, deprivation of the Applicant's due process-protected property rights, violation of equal

protection, inverse condemnation, and uncompensated taking of property. *See, e.g.*, N. Pacifica, LLC, 234 F. Supp. 2d at 1059.

Once again, we respectfully request that the Board turn back from its current course, work to address any legitimate concerns about the Project with the Applicants, and not proceed to unlawfully disapprove this much-needed housing.

Sincerely yours,

HOLLAND & KNIGHT LLP

/s/ Daniel R. Golub

Daniel R. Golub
Partner
West Coast Land Use &
Environmental Law Practice Group

/s/ Letitia Moore

Letitia Moore
Partner
West Coast Land Use &
Environmental Law Practice Group

cc: Divya Sen, Department of Housing & Community Development (Divya.Sen@hcd.ca.gov)
California Attorney General Rob Bonta (housing@doj.ca.gov)
State Senator Scott Wiener (senator.wiener@senate.ca.gov)
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Exhibit E

San Francisco Planning

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SAN FRANCISCO, CA 94103
SFPLANNING.ORG / 415.575.9010

August 9, 2019

Mayor London N. Breed
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Executive Directive 17-02: Keeping up the Pace of Housing Production**
Tracking Report: Quarter 2, 2019

Executive Directive 17-02, issued September 27, 2017, established target approval timeframes for housing projects and directed the Planning Department to develop a Process Improvements Plan to meet or exceed these timeframes. The Directive also called for regular reporting to your office on the Department's implementation of these process improvements and our progress in speeding approvals. This memo comprises the second of these regular updates, and includes the following:

A. **Process Improvements Status Report**: A summary of progress on process improvement efforts as of the second quarter of 2019. This report shows that nearly all the improvements called for in the Department's plan have been implemented or are currently under development.
B. **Project Review Timeframes Report**: A quantitative performance report on project review timeframes for projects filed since implementation of the consolidated review process in June 2018. This report demonstrates the Department is meeting required timeframes for most projects at each stage of review, and reflects continued improvement over the past six months.
C. **Target Approval Timeframes Summary:** A summary of project status and compliance with Executive Directive approval timeframes for projects filed since implementation of the consolidated review process in June 2018. As of the second quarter of 2019, all projects subject to the new process have been approved within the required timeframes, and no delays have yet been reported.

I am pleased to share this progress and look forward to discussing these efforts with your office further. The Department welcomes any additional guidance on the structure and contents of future reports and on our overall process improvement efforts.

Sincerely,

John Rahaim
Planning Director

cc (via electronic mail):

Sean Elsbernd, Chief of Staff
Ken Rich, Director of Development
Andres Power, Policy Director
Jeff Buckley, Senior Policy Advisor
Judson True, Director of Housing Delivery
Theodore Conrad, Office of Economic & Workforce Development

A. Process Improvements Status Report

The Department issued a Process Improvements Plan on December 1, 2017, which included dozens of improvements in every aspect of the Department's operations. As of June 2019, nearly all the improvement measures included in the Plan have been implemented or are under development, and this report indicates continued progress since the last status report in January. The summary provided on the following pages lists the status of the most impactful of these measures, as well as several additional measures that have been undertaken by the Department since the Plan was published, including the following particularly noteworthy efforts:

- **Target Approval Dates for housing projects.** Beginning in February 2019, housing projects have been assigned a "Target Approval Date" and scheduled for an approval hearing 6 to 22 months in advance, depending on the applicable Executive Directive timeframe, once the project description has been deemed stable. Projects that are not ready for approval by the specific date are to be included in a regular Project Status Report to the Planning Commission indicating the reason for the delay, and projects will be rescheduled accordingly. As discussed in the following section, all approved projects that filed since June 2018 have met the target timeframes, and no delay reports have yet been issued.

- **Historic Resource Assessment (HRA).** Effective January 1, 2019 the Department launched a 12-month pilot program that allows prospective applicants to seek a preliminary determination of a property's historic resource classification before a full Project Application and plans are submitted. The purpose of the HRA is to provide greater certainty in the development process by conducting this review in advance; identify and allow for the incorporation of preservation considerations into a project's design; and provide a faster and less costly means to seek reclassification of properties that have been identified as potential resources.

  As of June 2019, the Department has received a total of 42 HRA applications, and has issued response letters for 27 properties. The average response time was 61 days, just above the target timeframe of 60 days for the pilot program, and 60 percent of responses were issued within the timeframe. All but two of the HRAs (93 percent) have resulted in a "Category C – No Historic Resource Present" determination; one has resulted in a "Category A – Historic Resource Present" determination; and in only one case the Department was not able to determine the status based on the information provided and the property remained classified as "Category B – Unknown / Age Eligible." These results indicate that the new process is successfully providing early certainty to prospective applicants where the historic resource status is unknown.

- **Standard Environmental Conditions of Approval for selected CEQA topics.** The Department has initiated an effort to replace project-by-project evaluation of required mitigation measures with Standard Environmental Conditions of Approval for several environmental topics, including Air Quality, Biological Resources, Paleontology, Historic Resources, Noise, and Transportation. This will significantly improve the transparency and predictability of the environmental review process, and allow for more projects to be

evaluated for eligibility under existing CEQA exemptions, reducing typical review timeframes by several months. As of June 2019, Conditions are being drafted for the first sub-set of topic areas with the goal of presenting the first Conditions documents to the Planning Commission by the end of the year for approval.

- **Online submittal for development applications.** In May 2019, the Department's Administration and Division launched a major modernization effort to streamline and enhance the way that development applications and associated plans are submitted and reviewed. Online submittal and payment is now available for all types of development entitlement applications (e.g., Conditional Use Authorization, Variance, etc). This improvement is intended to expedite and reduce the cost of the application process, support consistent and timely application and plan set review, facilitate collaboration with project sponsors and more seamless interagency plan review, and improve the Department's reporting capabilities.

- **Online tools: Travel Demand Estimator, Business Zoning Check, Impact Fee Calculator.** This spring, the Department launched a number of web-based technology tools to expedite environmental and planning review, and enhance public information regarding the planning process. In February, Environmental Planning launched an online Travel Demand Estimator tool that combined multiple static database files into an interactive portal to generate project specific travel demand estimates for the purpose of transportation analysis, typically one of the most robust and time-intensive areas of environmental review. This tool provides a resource to both staff and environmental consultants to expedite review of project alternatives, as well as to the general public and researchers.

  In April, Current Planning launched a Business Zoning Check tool on the Department website that allows prospective developers, homeowners, and small business owners to identify where in San Francisco certain projects may be permitted, and under what conditions. This tool offers a compliment to the Planning Information Center by providing basic site and zoning information to potential applicants before seeking detailed direction from Department staff.

  Finally, in April the Administration Division launched an internal web-based tool to calculate development impact fees assessments for new projects and generate a detailed summary report. This will be a resource for staff to improve consistency and accuracy in calculating the City's many complex fee types, and to project applicants by providing greater transparency in the how the fees are applied.

Executive Directive: Keeping Up the Pace of Housing Production

Summary and Status of Planning Department Process Improvements Plan, July 2019

A Application and Intake Procedures

🔄 Indicates status update since last summary (Jan. 2019)

	TASK	STATUS
A.1	Streamline Preliminary Project Assessment (PPA)	*Effective April 2018*
A.2	Consolidate environmental and project review via Project Application	*Effective June 2018*
A.3	Revise plan submittal and intake requirements	*Effective June 2018*
A.4	Uniform public notification procedures	
	» Consistent mailing and poster requirements; Online Notice	*Effective Jan. 2019 (BF 180423)*[1]
	» Apply uniform requirements to 311/312 building permit notices	*TBD (not in BF 180423)*[1]
	» Notification materials redesign and streamlining	🔄 *Initiated Summer 2019*

B Routine Projects and Permits

	TASK	STATUS
B.1	Enhance capacity for Over-the-Counter (OTC) approvals at PIC counter	
	» Expand or add dedicated PIC shifts for: Preservation, Design, ADUs	*Effective April 2018, ongoing*
	» Streamline CEQA Categorical Exemption process for OTC approvals	*Effective January 2018*
	» Improve public information materials	*Ongoing*
B.2	Expand permits that can be approved same-day at PIC counter	
	» Minor alterations to Historic structures	*Effective Aug. 2018 (BF 180423)*[1]
	» Limited Rear Yard Additions, and related minor alterations	*TBD (not in BF 180423)*[1]
B.3	Accessory Dwelling Units and Unit Legalization approvals	
	» Assign ADU core staff at key agencies (DBI, SFFD, Public Works, Planning, SFPUC)	*Effective October 2018*
	» Offer combined interagency Pre-Application meetings	*Effective September 2018*
	» Expedited plan review, preliminary approval OTC by appointment	*Effective August 2018*
	» Provide interagency plan review and combined Plan Check Letter	*Effective October 2018*
	» Provide parallel processing with DBI and Planning for ADU permits	*Effective August 2018*

C Environmental Planning, Historic Preservation, and Design Review

	TASK	STATUS
Environmental Review		
C.1.1	Standard Conditions of Approval for selected CEQA topics	🔄 *Fall 2019 / Spring 2020*
C.1.2	Streamline review process for selected CEQA topics:	
	» Two-tier transportation review: streamlined review for most projects	*Effective August 2018*
	» Launch web-based travel demand tool	🔄 *Effective February 2019*
	» Streamline wind and shadow review	*TBD*
C.1.3	Streamline use of technical studies and environmental consultants	*Effective July 2018*
C.1.4	Expand and streamline environmental review exemptions	
	» Replace narrative "certificate" documents with checklists for Exemptions.	*Effective January 2018*
Historic Preservation Review		

C.2.1	Revise Preservation review procedures:	
	» Historic Resource Assessment (HRA) for pre-project determination	*Effective Jan. 2019 (pilot)*
	» Revise Preservation Bulletin No. 16	*TBD*
C.2.2	Complete a citywide historic preservation survey	*Ongoing*
C.2.3	Reassess Historic Preservation staffing at PIC counter:	
	» Enhanced service hours by Preservation specialists	*Effective April 2018*
	» Revise PIC review procedures for non-Preservation specialists	*Summer 2019*
Design Review		
C.3.1	Identify Design Guidelines to be codified or standardized	*Initiate Spring 2020*
C.3.2	Enhance staffing of Design Advisory teams, add Design staff at PIC	*Effective June 2018*
C.3.3	Adopt Urban Design Guidelines (UDGs) and develop UDGs matrix	*Effective May 2018*
C.3.4	Streamline Residential Design Guidelines (RDGs) with RDGs matrix	*Effective June 2018*
C.3.5	Update Residential Design Guidelines (RDGs) ,develop an RDGs matrix	*Effective Aug. 2018*

D Planning Code and Commission Policies

	TASK	STATUS
D.1	Advanced Planning Commission scheduling for housing projects	*Effective February 2019*
D.2	Streamline staffing and timeframe for Discretionary Review (DR) cases	*Effective June 2018*
D.3	Reduce requirements for Conditional Use and other entitlement hearings	
	» Eliminate Commission hearings for 100% Affordable Housing Bonus	*Effective Aug. 2018 (BF 180423)*[1]
	» Replace CU hearing for HOME-SF with a design review hearing	*Effective Mar. 2019 (BF 180456)*[2]
	» Identify additional approvals to be consolidated or eliminated	*TBD*
D.4.1	Update the Planning Code for consistent definitions and procedures	*Ongoing*
D.4.2	Ongoing Planning Code reorganization	
	» Article 8 (Chinatown Districts)	*Pending BF 190594*
	» Article 8 (Mixed Use Districts)	*Initiate Fall 2019*
D.5	Planning Code revisions to streamline housing review	
	» Eliminate “Costa-Hawkins letters” for Inclusionary projects	*Effective Mar. 2018 (BF 171193)*[3]
	» Reduce the need for Variances for large downtown projects	*Effective Aug. 2018 (BF 180423)*[1]
	» Expand administrative approval for 100% Affordable projects	*Effective Aug. 2018 (BF 180423)*[1]
	» Expand approval options for ADUs in buildable area	*Effective Sept. 2018 (BF 180268)*[4]
	» Provide administrative approval of “no waiver” ADUs	*Effective June 2019 (BF 181156)*[5]

E Administration and Technology

	TASK	STATUS
E.1.1	Online submittal and payment for all development application types	*Effective May 2019*
E.1.2	Electronic Document Review (EDR) for Planning review	*Initiated Feb. 2019*
E.1.3	Electronic Document Management System (EDMS)	*Effective Summer 2017*
E.1.4	Develop a web-based Impact Fee Calculator for staff	*Launch in Spring 2019*
E.1.5	In-House processing of public notification mailing lists	*Effective April 2018*
E.1.6	Property Information Map (PIM) enhancements	*Redesigned Dec. 2018*
E.1.7	Develop business zoning check online tool	*Effective April 2019*

NOTES:
(1) BF 180423: Mayor’s Process Improvements Ordinance (Mayor Breed), approved July 2018
(2) BF 180456: HOME-SF and 100% Affordable Housing Bonus Program (Tang, Safai), approved August 2018
(3) BF 171193: Inclusionary Affordable Housing Program (Peskin, Kim), approved February 2018
(4) BF 180268: Accessory Dwelling Units (Tang, Kim, Brown), approved August 2018
(5) BF 181156: Accessory Dwelling Units in New Construction (Safai), introduced November 2018

B. Project Review Timeframes Report

In June 2018, the Department implemented a consolidated environmental and project review process under a single Project Application. This represents the foundation of the Department's process improvements strategy by collecting all necessary information for project review at once and enhancing the Department's ability to enforce submittal standards, issue consolidated Plan Check Letters in a timely manner, and ensure housing projects are prioritized for approval within target timeframes. The Department also streamlined the Preliminary Project Assessment (PPA) process to provide clearer direction to applicants, and reduced the target timeframe for PPAs to 60 days, down from 90 days. Taken together, these changes provide a faster, clearer, and more predictable review path from preliminary design to final approval.

- **Preliminary Project Assessment (PPA):** The PPA provides initial feedback from the Planning Department regarding Planning Code compliance, entitlement options, environmental review, and design. PPAs must be submitted for all projects greater than 10 units or 10,000 square feet of non-residential space before any application for development or environmental review can be initiated.

- **Notice of Incomplete Application (NIA):** Project Applications are reviewed for basic completeness (including required documents, plans, and supplemental applications) within 30 days. Projects will either be deemed Accepted or provided with a NIA letter with instructions on how to provide a complete application within this timeframe.

- **Plan Check Letter (PCL):** Project Applications will be reviewed within 90 days of being deemed Accepted, and a letter will be issued documenting all Planning Code, environmental review, and design issues to be resolved in order to achieve a compliant project. Once satisfactory revisions and missing information has been provided, the project will be deemed to have a "Stable Project Description."

- **Target Approval Date:** Once the Project Description is stable, the project will be scheduled on the Target Hearing Calendar for a date that is within the applicable Executive Directive approval timeframe, and all necessary environmental and entitlement review will be completed within this timeframe.

More detail is provided in the attached Project Intake, Environmental Review, and Approval Process flowchart.

The below table reports the Department's performance against the review timeframes outlined above for all Project Applications received since June 4, 2018 when the consolidated review process came into effect (or after April 2, 2018 for PPAs).

Project Review Timeframes: Project Applications Filed, June 2018 – June 2019

Review Milestones	Performance Target	Number of Projects (total units)	Average Performance	Percent Meeting Target
Preliminary Project Application (PPA)	Issue PPA in **60 days**	38 (3,931)	62 days	63% of projects
Notice of Incomplete Application (NIA)	Issue first NIA, or mark Accepted, in **30 days**	68 (2,915)	18 days	90% of projects
Plan Check Letter (PCL)	Issue first PCL in **90 days**	34 (1,408)	79 days	53% of projects[1]

NOTE: Does not include Accessory Dwelling Unit (ADU) or Unit Legalization projects. Per the Mayor's August 2018 Executive Directive on ADUs, these projects are subject to a separate expedited interagency review process.

In the first year of implementation the Department has, on average, exceeded or nearly met the performance target for each of these project review milestones. Nearly two-thirds of projects are receiving PPA feedback within 60 days, and 90 percent are either accepted or issued an NIA within 30 days after an application is submitted. More than half of all projects are receiving a consolidated PCL letter within 90 days.

These results show improvement from the last report issued in January 2019, when the average response time for PPAs was slightly higher at 63 days, and less than 80 percent of NIA letters and fewer than half of projects were receiving a PCL letter within the target timeframe.

Department staff have committed to the new consolidated review process, and are working collaboratively across divisions to identify and resolve implementation issues on a daily basis. The Department anticipates that the various process improvement efforts that have been adopted or are underway will significantly improve performance on these review milestones, and that the response time and quality of submittals from applicants will continue to improve as these new procedures and expectations become more familiar within the development community.

[1]Reflects the number of PCL letters issued within time, out of all letters that have been issued as well as all projects that have been accepted for more than 90 days and where no letter has been issued. By comparison, the "Average Performance" days simply reflects the average response time for letters that have been issued.

C. **Target Approval Timeframes Summary**

This section summarizes the status, as of June 2019, of residential projects that have been filed since the consolidated review process came into effect in June 2018. Compliance with the Executive Directive timeframes is noted below this summary.

Project Status	Projects	% of Total	Units	% of Total
Submitted, pending review	2	3%	13	<1%
Accepted or NIA issued, pending Plan Check Letter	27	42%	905	40%
Plan Check Letter issued, pending Stable Description	21	32%	556	24%
Project Description Stable, pending approval	4	6%	150	6%
Approved	11	17%	695	30%
Total	**65**		**2,318**	

Of the approved projects that filed under the consolidated review process, **all 11 projects (comprising 695 units) have been approved within the Executive Directive timeframes.** Accordingly, the Department has not yet had to report any delays to the Planning Commission. All four of the stable projects that have not yet been approved have been assigned Target Approval Dates in 2020, and the Department will issue a Project Status Report to the Planning Commission for any of these projects that are delayed.

Among the 21 projects where a Plan Check Letter has been issued to the project applicant, but the project has not yet been deemed Stable, the average time elapsed since the letter was issued is just under seven months. This means that the Department has given consolidated comments to the applicant regarding Planning Code conformity, environmental review, design review, and outstanding required information but has not yet received a sufficient response to proceed with review, or the project has been modified to an extent that requires further review and revised direction.

The remaining projects are currently under review by Planning Department staff; the Department continues to make every effort to provide prompt and comprehensive guidance to these projects, as outlined above, and will provide an updated status in future reports.

San Francisco Planning

Project Intake, Environmental Review & Approval Process

This flowchart provides an overview of Planning Department's project review and approval procedures for projects with two or more housing units.

LEGEND

- Process Milestone
- CP - Current Planning
- EP - Environmental Planning
- PS - Project Sponsor

EIR - environmental impact report
NIA - Notice of Incomplete Application
PD - project description
PPA - preliminary project assessment
SOW - scope of work
SDAT - streets design advisory team
RDAT - residential design advisory team
UDAT - urban design advisory team

1 Preliminary Project Assessment

60 DAYS

- PS: Files PPA application, pays fees.
- CP: Conducts preliminary plan check, SDAT, UDAT, manages the overall PPA process, consolidates and issues PPA letter.
- EP: PPA/intake planner assigned, conducts environmental screening, completes EP PPA Checklist.
- CP Planner Tech issues PPA letter.

2 Project Application Acceptance

30 DAYS

- PS: Files Project Application, pays fees, submits additional materials, and hires environmental consultants, if needed.
- CP: Planner Tech saves Project Application and Plans in PRJ record, creates NIA in M-Files, reviews materials for completeness, consults with quadrant Planner IV, and creates SFPermit record with 'submitted' status.
- EP: PPA/intake planner reviews environmental materials for completeness.
- CP Planner Tech issues NIA letter, if additional materials are needed.
- PS: Sponsor submits additional materials.
- If CP Planner Tech deems application complete, status changed to 'accepted' in SFPermit and status emailed to sponsor.

3 Preliminary Application Review

90 DAYS

- PS: Provides additional information, as needed.
- CP: Current planner assigned. Conducts comprehensive plan check, including SDAT, UDAT, and RDAT. Coordinates Plan Check Letter with EP.
- EP: Environmental coordinator and supervisor assigned. Environmental coordinator confirms need for technical studies, technical planners are assigned, SOWs for some technical topics are reviewed and approved.
- CP Planner issues Plan Check Letter based on preliminary review.

4 Proposed Project Refinement

30 DAYS

- PS: Refines project based on Plan Check Letter(s).
- CP: Confirms comments from Plan Check Letter(s) have been incorporated.
- EP: Confirms comments from Plan Check Letter(s) have been incorporated.
- EP and CP planners deem project description stable. EP planner inputs type of environmental document; CP planner consults with Commission Affairs for target hearing date and inputs target hearing date into SFPermit.

5 Project Analysis

6 TO 22 MONTHS

CP

- Conducts detailed plan check, design review, starts drafting staff report.*
- Ensures public outreach has been conducted.
- Keeps interested parties abreast of project status.

EP

- Reviews project description.*
- Conducts scoping of environmental review document, technical studies.
- Conducts environmental noticing.
- Manages preparation and review cycles of technical studies and environmental documents.
- Manages publication of draft environmental document and public comment process (if applicable).
- For EIRs, prepares and attends hearing on draft EIR and manages preparation and review cycles of response to comments document.
- Confirms all environmental fees are paid
- Project is ready for EIR certification and/or approval hearings.

*If the PD changes, hearing schedule may change.
- Could it alter environmental impact conclusions?
- Does it require a new environmental technical study?
- Would it require a new entitlement?
- Does it result in significant redesign of massing?

Go to Project Coordination to confirm hearing date change.

CP EP

CP and EP planners coordinate on the following:

- project description changes, including updates to SFPermit data
  - Section 148 (Wind)
  - Section 295 (Shadow)
  - Schedule/confirm hearing date with Commission Affairs
  - Project team changes (internal/external)
  - Newly identified impacts
  - Record requests
  - Pre-approval hearings (i.e., Recreation and Park Department; Historic Preservation Commission; Architectural Review Committee)

6 Hearing Preparation Tasks

- CP: Finalizes staff report, CEQA findings (if required), conducts required noticing, attends entitlement hearing.
- EP: Prepares for and attends EIR Certification hearing, if applicable.

Possible Hearings

- Rec Park Capital Committee/Full Commission
- Historic Preservation Commission
- Other Commissions (Port, MTA, etc.)
- BOS Land Use Committee/Full Board

7 Closeout Actions

- CP: Finalizes updates to project description and data tables in SFPermit per final action. Emails sponsor with upcoming major milestones (required now, site permit, each addendum).
- EP: Prepares FEIR, if needed, closes out ENV record.

Version // November 28, 2018

Exhibit F

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
www.sfplanning.org

PROJECT APPLICATION

INFORMATIONAL PACKET

Planning Department staff are available to advise you in the preparation of this application. For questions, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Español: Si desea ayuda sobre cómo llenar esta solicitud en español, por favor llame al 628.652.7550. Tenga en cuenta que el Departamento de Planificación requerirá al menos un día hábil para responder.

中文：如果您希望獲得使用中文填寫這份申請表的幫助，請致電628.652.7550。請注意，規劃部門需要至少一個工作日來回應。

Filipino: Kung gusto mo ng tulong sa pagkumpleto ng application na ito sa Filipino, paki tawagan ang 628.652.7550. Paki tandaan na mangangailangan ang Planning Department ng hindi kukulangin sa isang araw na pantrabaho para makasagot.

WHAT IS A PROJECT APPLICATION?

A Project Application is the primary means by which the Planning Department collects information necessary to conduct environmental evaluation and determine Planning Code compliance and conformity with the General Plan for a proposed development project.

In order for the Planning Department to consider a Project Application accepted, the application must be accompanied by all required supporting materials (e.g. plan sets, letters of authorization, etc.) and all relevant supplemental applications. For projects that are required to submit a Project Application, project review will not begin unless a complete Project Application has been submitted and accepted by the Planning Department.

WHEN IS A PROJECT APPLICATION NECESSARY?

Any project that is not eligible for same-day approval at the Planning Counter must submit a Project Application. This includes any Building Permit Application that requires an intake for Planning Department review, including for environmental evaluation, and any application for a development entitlement.

Building Permit Applications that require intake by the Planning Department for review are those that require neighborhood notification pursuant to Zoning Administrator Bulletin No. 4 , or that require environmental evaluation.

Environmental evaluation refers to projects subject to the California Environmental Quality Act (CEQA); these are primarily actions that require a discretionary decision by the City and are defined as a project pursuant to CEQA Guidelines Sections 15060(e) and 15378. All projects submitting a Project Application must complete the Environmental Evaluation Screening Form section and provide any necessary technical studies or supplemental applications as indicated in the screening form.

Development entitlements refer to any approval action by the Planning Commission, Historic Preservation Commission, or Zoning Administrator that is required by the Planning Code before a project may secure a Building Permit. Examples include a Conditional Use Authorization, Downtown Project Authorization, or Variance.

HOW DOES THE PROCESS WORK?

Preliminary Project Assessment (PPA)
This step only applies to projects that propose a) 10 or more new dwelling units; b) creation or expansion of any group housing use; and/or c) construction of a new non-residential building or addition of 10,000 square feet or more. For more information, see the PPA Informational Packet.

1. If applicable, a Preliminary Project Assessment (PPA) application must be submitted and the PPA letter must be issued before any Development Application (including for Environmental Evaluation) will be accepted.
2. Within 60 days of receiving a complete PPA application, Planning will issue a PPA letter identifying key planning code compliance, environmental review, policy, and design considerations for the proposed project. Applicants may request one follow-up meeting with Planning staff.
3. Once a PPA letter has been issued, applicants may file a Project Application for the project. The project should reflect the guidance provided in the PPA to the extent possible. Please note that PPA letters are valid for 18 months after issuance. Applicants seeking to submit a Project Application more than 18 months after PPA issuance will likely be required to submit a new PPA application.

Project Application Review and Approval

1. Within 30 days, Planning will determine whether a Project Application submittal is complete or incomplete. Incomplete applications will be held until all required materials are provided. Once an application is complete, the application will be deemed Accepted.
2. Within 90 days of the accepted date, Planning will issue a first Plan Check Letter identifying the specific outstanding Planning Code and environmental review issues with the project, and any other required materials or applications.
3. Once the requested applicant provides all materials, additional applications, and project modifications, Planning will determine whether this response to the first Plan Check Letter is complete or incomplete within 30 days.
4. Once a complete response has been received, the project will have a Stable Project Description. For **Housing Projects** only (those adding two or more net new units) will be assigned a Target Hearing Date within 6 to 22 months, depending on the level of environmental review.
   Note that the 6 month time frame applies to a project for which no CEQA review is required; 9 months for a Categorical Exemption or other exemption; 12 months for a Negative Declaration (ND), Mitigated Negative Declaration (MND), or Community Plan Evaluation (CPE); 18 months for an Environmental Impact Report (EIR); or 22 months for a complex EIR.
5. All other required hearings for the project (e.g. Historic Preservation Commission, Recreation and Parks Commission), environmental review, and any requested project modifications will be completed prior to the Target Hearing Date, at which time – or sooner if possible – the project may be approved or disapproved by the Planning Commission or Planning Department.

WHO MAY SUBMIT A PROJECT APPLICATION?

Only the property owner or a party designated as the owner's agent may submit a Project Application for work on that property. [A letter of agent authorization from the owner must be attached.]

HOW IS A PROJECT APPLICATION SUBMITTED?

The Project Application may be downloaded here.

Entitlement Applications (e.g. Conditional Use Authorization, Variance):
For projects that require an entitlement action by the Planning Department, please submit a Project Application and any required supplemental applications online at sfplanning.org, under Project Application. For questions about intake, please call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Building Permit Applications:
All building permit application submittals are managed by the Department of Building Inspection. For projects that require Planning Department review of a Building Permit Application, please submit a complete signed Project Application along with the Building Permit Application for intake at https://sfdbi.org/inhousereview.

BEFORE YOU APPLY

The Pre-Application Process

The following types of projects require a Pre-Application Meeting, provided that the scope of work is subject to Planning Code Section 311 Notification. When requested, Pre-Application meeting must occur prior to filing the first Planning entitlement application (i.e. Conditional Use Authorization, Variance, Building Permit).

- Projects subject to 311 Notification;
- New Construction;
- Any vertical addition of 7 feet or more;
- Any horizontal addition of 10 feet or more;
- Decks over 10 feet above grade or within the required rear yard;
- All Formula Retail uses subject to a Conditional Use Authorization;
- Community Business Priority Processing (CB3P); and
- Projects in PDR-1-B Districts subject to Section 313.

Please refer to the Pre-Application Meeting Instruction Packet available at www.sfplanning.org or at the Planning Counter at the Permit Center, 49 South Van Ness Avenue, for further details.

PLAN SUBMITTAL INSTRUCTIONS

Please provide the following materials with the Project Application:

Authorization: If the applicant in this case is the authorized agent of the property owner, rather than the owner, a letter signed by the owner and creating or acknowledging that agency must be attached and is included in the Project Application.

Drawings: The application must be accompanied by plans sufficient for proper determination of the case. In most cases a site plan will be required, accurately showing existing and proposed structures on both the subject property and on immediately adjoining properties, open spaces, curbs, sidewalks, driveways, color curbs, transit facilities, parking areas, trees, and land contours where relevant. Certain projects will require a streetscape plan accurately showing tree wells, width of adjacent right-of-way, sidewalk utilities and poles, paving material, and site furnishings such as benches, and bike racks that are required by Planning Code. If a new electrical power transformer(s) is required by PG&E to provide power to proposed structures on the subject property, please show the location of electrical transformers on the plans.
Typically, floor plans will also be required. Drawings of building elevations must be provided when exterior changes are proposed. All landscaping should be clearly shown on the plans. Certain types of the entitlements have additional special requirements under the Code and may require additional information to be submitted with the application; the Department staff will assist in determining what materials are required. A north arrow and scale shall be shown on each plan, and the scale should be 1/8"=1'-0" for site plans, 1/8" = 1' 0" for floor plans, and 1/4" = 1' 0" for elevations and plans showing layout of parking and loading. For additional information, please see the Plan Submittal Guidelines available at www. sfplanning.org under the Publications page of the Resource Section of the website.

Photographs: Include photographs showing the subject and surrounding properties.

Response to PPA comments: If the subject property has been issued a PPA letter, please include a narrative of how the project addressed or did not address each of the comments contained within the letter. Please provide rationale for why any comments were not addressed.

FEES

Please refer to the Planning Department Fee Schedule available at **www.sfplanning.org**. For questions related to the Fee Schedule, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

Environmental Evaluation
All Project Applications must include an Environmental Evaluation Screening Form. This form will determine if further environmental review is necessary. With the Project Application, include any necessary environmental supplementals, technical studies, and/or other information required based on your project and the requirements outlined in the screening form. If your project received a PPA letter from the Planning Department, also address all necessary information specified in the Environmental Planning section of that letter. A separate fee may be required for further environmental review.

Planning Commission Hearing Material
This timeline includes a deadline for project sponsors to submit material to staff to be included in the Commission packet. If the Sponsor does not submit the necessary material by the deadline, the project will be continued to a later hearing date.

- Three weeks prior to hearing: Project Sponsor submits draft project graphics (plans, renderings, etc) to project planner.
- Two weeks prior to hearing: Project planner submits Draft staff report (must include draft attachments) to Team Leader for review.
- Ten days prior to hearing (5 p.m. on Monday): Deadline for submittal of all other sponsor material and public comment to be included in Commission packets
- One week prior to hearing: Project planner delivers complete Commission packets to the Commission Secretary.

To file your Project Application, please either:

Entitlement Applications (e.g. Conditional Use Authorization, Variance):
For projects that require an entitlement action by the Planning Department, please submit a Project Application and any required supplemental applications online at sfplanning.org, under Project Application. For questions about intake, please call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Building Permit Applications:
All building permit application submittals are managed by the Department of Building Inspection. For projects that require Planning Department review of a Building Permit Application, please submit a complete signed Project Application along with the Building Permit Application for intake at https://sfdbi.org/inhousereview.

Exhibit G

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
www.sfplanning.org

PRELIMINARY PROJECT ASSESSMENT

INFORMATIONAL PACKET

For questions, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

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WHAT IS A PRELIMINARY PROJECT ASSESSMENT?

The Preliminary Project Assessment (PPA) is a preliminary process that evaluates moderate to large projects before development applications are filed. This early review of the project provides sponsors with feedback and procedural instructions, and also allows staff to coordinate at the beginning in the development process. The PPA application is not a development application, and issuance of a PPA letter is not a development approval or denial. For any project that requires a PPA, no development application, including for Environmental Evaluation (EE) will be accepted until after the PPA letter has been issued.

WHEN IS A PRELIMINARY PROJECT ASSESSMENT REQUIRED?

A PPA is required for any project that includes:

- creation of 10 or more dwelling units*, and/or
- creation or expansion of any group housing use of 10,000 square feet or more; and/or
- construction of a new non-residential building or non-residential addition of 10,000 square feet or more.

**For ADU projects, only proposal of 25 or more new ADUs will require a PPA.*

The Department may also request a PPA review for other complex projects.

HOW DOES THE PROCESS WORK?

PPA applications must be submitted via electronically through San Francisco Planning's Public Portal, with the required materials. Once the application is deemed completed, you will receive an email notification regarding an electronic payment (see Fee Schedule and/or Calculator online). The application will not be accepted by mail, messenger or at the Planning Department reception desk. The Department will issue a PPA letter to the applicant within 60 days. Revising or submitting new materials may result in a restart of the 60-day review period. The letter includes procedural requirements (applications, approvals, etc.) and general comments on design and other significant issues. The letter is valid for a period of 18 months. Sponsors may elect to schedule one project review meeting with Department staff within 30 days of the issuance of the PPA letter.

No development application, including an Environmental Evaluation ("EE") application, will be accepted prior to the issuance of the PPA letter. To the extent appropriate, any development application filed subsequent to the PPA letter issuance should be amended to address input from the PPA letter.

Housing Crisis Act of 2019
Pursuant to state law, housing development projects may submit a Preliminary Housing Development Application (SB 330) along with the PPA application. For more information please see Planning Director's Bulletin No. 7, and the Preliminary Housing Development (SD-330) Application available at sfplanning.org.

WHO MAY APPLY FOR A PRELIMINARY PROJECT ASSESSMENT?

Any property owner or authorized agent of a property owner may file a PPA application.

If requesting a density bonus under the State Density Bonus Law, provide both the Project Description and Project Summary Table for both the base (Planning Code-compliant) project and the bonus project. Note that the Planning Department will not review requests for specific incentives or concessions as part of the PPA process.

SUBMITTAL INSTRUCTIONS

To submit a Preliminary Project Assessment Application, please provide the following materials with the application:

1. Please submit a Preliminary Project Assessment Application, and complete all requested information as applicable. Incomplete applications will be held by the Department until all missing information has been provided.

   Note: The Department will only respond to one (1) project description per PPA. If there are project variants proposed, a separate PPA will be required for each variant. However, if the project is requesting a density bonus under the State Density Bonus Law, provide both the Project Description and Project Summary Table for both the base (Planning Code-compliant) project and the bonus project. Note that the Planning Department will not be reviewing requests for specific incentives or concessions as part of the PPA process.

   Note: If the project is subject to Planning Code Section 169, a draft Transportation Demand Management Plan must be provided as a part of the PPA submittal. However, a formal TDM Plan Application or fee is not required at this time.

2. If the applicant in this case is the authorized agent of the property owner, rather than the owner, a letter signed by the owner and creating or acknowledging that agency must be attached and included in the application for the PPA.

3. In all cases, as part of the electronic submission, the application must be accompanied by plans formatted to print at 11" x 17", sufficient for proper PPA review. A site plan is required, showing accurately the subject lot and adjacent lots, and existing and proposed structures on both the subject property and on immediately adjoining properties, open spaces, curb lines, driveways, parking areas, trees, and land contours where relevant. Specific to the subject property, existing and proposed driveways, curb cuts, and sidewalk widths should be dimensioned. Drawings of building elevations must be provided, even if they lack facade details. Anticipated location of electrical transformer(s) should be included as well. The site plan must include a scale, north arrow and street name(s).

4. Payment for the required intake fee amount. (See Fee Schedule and/or Calculator).

Electronic payment is preferred. Non-electronic forms of payment are also accepted. For questions related to the Fee Schedule or fee payment, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org.

5. Optional design review materials:

   It is recommended that the application also include a design or concept narrative statement, so that the Department's design review staff have an understanding of the design intent at the time of initial review.

   Basic 3D representations of the project are also helpful. The Department staff can assist in determining what plans are required. The plans must be dimensioned or include an accurate scale, and should also include a north arrow and a legend for relevant symbols and/or notes.

   Any photographs that would be helpful in understanding the site context or reviewing the PPA application.

   Conceptual Streetscape Plan showing dimensioned width of right-of-way and sidewalk along all project frontages. Plan should illustrate additional features beyond baseline and may include, bike racks, benches, street trees, etc.

   All plans and other exhibits submitted with this application will be retained as part of the permanent public record in this PPA.

FEES

Please refer to the Planning Department Fee Schedule available at sfplanning.org**.** For questions related to the Fee Schedule, you can call the Planning counter at 628.652.7300 or email pic@sfgov.org where planners are able to assist you.

Fees will be determined based on the estimated construction costs. Should the cost of staff time exceed the initial fee paid, an additional fee for time and materials may be billed upon completion of the hearing process or permit approval. Additional fees may also be collected for preparation and recordation of any documents with the San Francisco Assessor-Recorder's office and for monitoring compliance with any conditions of approval.

To file your Preliminary Project Assessment application, please complete the application and submit through San Francisco Planning's Public Portal with all required materials. Once the application is deemed complete, you will receive an email requiring an electronic payment. Applications will not be accepted by mail, messenger or at the Planning Department reception desk.

An incomplete application will not be accepted.

No Development Application or Environmental Evaluation Application will be accepted concurrently with the PPA.

Exhibit H

FILE NO. 161048 MOTION NO. M16-139

[Adoption of Findings Related to Conditional Use Authorization - 2785 San Bruno Avenue Project]

Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 19702, regarding the Conditional Use Authorization identified as Planning Case No. 2014-003173CUA for a proposed project located at 2785 San Bruno Avenue.

WHEREAS, On August 15, 2016, Stephen M. Williams filed a timely appeal protesting the approval by the Planning Commission of an application for a Conditional Use Authorization identified as Planning Case No. 2014-003173CUA (Motion No. 19702), authorizing the demolition of a one-story single family dwelling with an unauthorized residential unit on property located at 2785 San Bruno Avenue; and

WHEREAS, On September 20, 2016, the Board of Supervisors held a duly noticed public hearing on the appeal from the approval of the Conditional Use Authorization; and

WHEREAS, Following the conclusion of the public hearing that day, the Board voted to disapprove the decision of the Planning Commission and denied the issuance of the requested Conditional Use Application by a vote of 11-0, in Board of Supervisors Motion No. M16-129; and

WHEREAS, In deciding the appeal, the Board reviewed and considered the entire written record before the Board and all the public comments made in support of and in opposition to the appeal; now, therefore, be it

MOVED, That the Board finds that, as provided in Planning Code Section 317, San Francisco faces a continuing shortage of affordable housing; there is a high ratio of rental to ownership tenure among the City's residents; the General Plan recognizes that existing

housing is the greatest stock of rental and financially accessible residential units, and is a resource in need of protection; and, be it

FURTHER MOVED, That the Board finds that the rear unit of the existing site at 2785 San Bruno Avenue is an unauthorized rental unit, and based on the evidence presented to the Board, including the testimony of the Acting Director of the Rent Board, the Board concludes that the unit is a covered unit under the Rent Stabilization and Arbitration Ordinance Administrative Code Chapter 37 (the "Rent Ordinance") and, as such, may be subject to the Rent Ordinance's rent control provisions; and, be it

FURTHER MOVED, That the Board finds that because of the unauthorized unit, the proposed project would result in the demolition of two residential units of housing that may be subject to the rent control provisions of the Rent Ordinance, and would replace those units with new residential units that would not be subject to rent control; and, be it

FURTHER MOVED, That the Board finds that the because of State law restrictions on the ability of local jurisdictions to impose rent control on units in new buildings, the number of rent controlled units in the City is irrevocably diminishing; and, be it

FURTHER MOVED, That the Board finds that the units that would be demolished as a result of the proposed project would be permanently removed from the City's rent-controlled housing stock; and, be it

FURTHER MOVED, That the Board finds that Planning Code Section 317 establishes criteria for the Board to consider in reviewing applications to demolish or convert residential buildings, and those criteria on balance support denial of the requested Conditional Use Application; and, be it

FURTHER MOVED, The following criteria listed in Section 317 militate against the proposed project:

- The project could remove rental units subject to the Rent Ordinance, as described above;
- The proposed project would not conserve existing housing to preserve cultural and economic neighborhood diversity, for the reasons described in the Planning Commission's Motion No. 19702;
- The proposed project would not conserve neighborhood character to preserve neighborhood cultural and economic diversity by potentially removing rent-controlled units from the neighborhood;
- The proposed project would not protect the relative affordability of existing housing, for the reasons described in the Planning Commission's Motion No. 19702;
- The proposed project would not increase the number of permanently affordable units governed by Planning Code, Section 415, for the reasons described in the Planning Commission's Motion No. 19702; and
- The proposed project would not create new supportive housing, for the reasons described in the Planning Commission's Motion No. 19702; and, be it

FURTHER MOVED, That for the foregoing reasons, the Board finds that the proposed project is not necessary or desirable for, or compatible with, the neighborhood or the community, as required for a Conditional Use Authorization under Planning Code Section 303; and, be it

FURTHER MOVED, That the Board finds that the potential loss of residential units subject to rent control is an adverse impact in contravention of the policies set forth in the Housing Element of the General Plan, and in Planning Code Section 317; and, be it

FURTHER MOVED, That based on the foregoing findings and the entire record in Board File No. 160918, the Board of Supervisors disapproved the decision of the Planning Commission by its Motion 19702, and denied the issuance of Conditional Use Authorization.

City and County of San Francisco
Tails
Motion: M16-139

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 161048 **Date Passed:** October 04, 2016

Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 19702, regarding the Conditional Use Authorization identified as Planning Case No. 2014-003173CUA for a proposed project located at 2785 San Bruno Avenue.

October 04, 2016 Board of Supervisors - APPROVED

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

File No. 161048

I hereby certify that the foregoing Motion was APPROVED on 10/4/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

FILE NO. 190449

AMENDED IN BOARD
4/30/2019

MOTION NO. M19-086

[Adoption of Findings Related to Conditional Use Authorization - 1052-1060 Folsom Street and 190-194 Russ Street]

Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 20361, regarding the Conditional Use Authorization identified as Planning Case No. 2016.004905CUA, for a proposed project at 1052-1060 Folsom Street and 190-194 Russ Street.

WHEREAS, On December 20, 2018, the Planning Commission adopted Motion No. 20361, approving a Conditional Use Authorization identified as Planning Case No. 2016.004905CUA for a proposed project located at 1052-1060 Folsom Street and 190-194 Russ Street, Assessor's Parcel Block No. 3731, Lot Nos. 021, 023, and 087, including the development of a lot greater than 10,000 square feet, merger of lots that result in a street frontage greater than 50 feet, and the demolition of four existing dwelling units for the project involving the demolition of five exiting buildings, merger of three lots, and the construction of a seven-story mixed-use building containing 2,832 square feet of ground floor commercial retail use and 55,887 square feet of residential use for 63 dwelling units, and a ground floor garage with access from a new driveway on Russ Street, within the SoMa NCT (Neighborhood Commercial Transit) and RED (Residential, Enclave) Zoning Districts, and SoMa Youth and Family Special Use District, a 65-X height and bulk district; and

WHEREAS, On January 22, 2019, Sue Hestor, on behalf of the South of Market Community Action Network, filed a timely appeal protesting the approval by the Planning Commission; and

WHEREAS, On February 12, 2019, at the request of the appellant and project sponsor and with their joint consent, the Board of Supervisors, after hearing public comment, continued the hearing on the appeal until April 9, 2019; and

WHEREAS, On April 9, 2019, the Board of Supervisors held a duly noticed public hearing on the appeal from the approval of the Conditional Use Authorization; and

WHEREAS, Following the conclusion of the public hearing that day, the Board voted by a vote of 10-0 to conditionally disapprove the decision of the Planning Commission and deny the issuance of the requested Conditional Use Authorization; and

WHEREAS, In deciding the appeal, the Board reviewed and considered the entire written record before the Board and all the public comments made in support of and in opposition to the appeal; and

WHEREAS, The Planning Commission did not have the benefit of a complete shadow study in the record before it at the time that it issued its findings in support of the Conditional Use Authorization, a fact confirmed by Planning Department staff at the Planning Commission hearing on December 20, 2018; now, therefore, be it

MOVED, That the Board finds that the proposed project will not be necessary or desirable for, and compatible with, the neighborhood or the community; and, be it

FURTHER MOVED, That the Board finds that the proposed project will cast a new shadow on Victoria Manolo Draves Park (the "Park"), affecting the neighboring community's regular use of the Park; and, be it

FURTHER MOVED, That the Board finds that although the Planning Commission has determined the shadow impact does not require disapproval of the issuance of a building permit under Planning Code Section 295, the record presented at the April 9 hearing demonstrates that the shadow will have an effect on the neighborhood making the project neither necessary or desirable for, nor compatible with, the neighborhood or the community; and, be it

FURTHER MOVED, That because of the project's impacts on the neighborhood and the community's use of the Park, the size and shape of the proposed building is inconsistent

with and detrimental to the health, safety, convenience or general welfare of people working and living in the area; and, be it

FURTHER MOVED, That the mass of the building is not compatible with the scale of the surrounding district, and especially the other buildings in the vicinity of the Park; and, be it

FURTHER MOVED, That based on the foregoing findings and the entire record in Board File No. 190097 and the accompanying Board File No. 190093, the Board of Supervisors disapproved the decision of the Planning Commission by its Motion No. 20361 and denied the issuance of Conditional Use Authorization.

City and County of San Francisco
Tails
Motion: M19-086

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 190449 **Date Passed:** April 30, 2019

Motion adopting findings in support of the Board of Supervisors' disapproval of the decision of the Planning Commission by its Motion No. 20361, regarding the Conditional Use Authorization identified as Planning Case No. 2016.004905CUA, for a proposed project at 1052-1060 Folsom Street and 190-194 Russ Street.

April 30, 2019 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Stefani, Walton and Yee
Excused: 1 - Safai

April 30, 2019 Board of Supervisors - APPROVED AS AMENDED

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Stefani, Walton and Yee
Excused: 1 - Safai

File No. 190449

I hereby certify that the foregoing Motion was APPROVED AS AMENDED on 4/30/2019 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

FILE NO. 211275 MOTION NO. M21-173

[Findings Related to Conditional Use Authorization - 249 Texas Street]

Motion adopting findings in support of the Board of Supervisors' decision to disapprove a Conditional Use Authorization, identified as Planning Case No. 2020-003223CUA, for a proposed project at 249 Texas Street.

WHEREAS, On June 3, 2021, the Planning Commission approved a Conditional Use Authorization identified as Planning Case No. 2020-003223CUA, by its Motion No. 20930, to demolish the existing 3,908 square-foot three-story single-family dwelling with an unauthorized dwelling unit and construct a new three-story 4,864 square-foot residential building containing two dwelling units above a garage with two off-street parking spaces, within the RH-2 (Residential House, Two-Family) Zoning District and a 40-X Height and Bulk District, for a proposed project located at 249 Texas Street ("Proposed Project"); and

WHEREAS, On July 6, 2021, Sasha Gala and Kathleen Roberts-Block filed a timely appeal protesting the Planning Commission's approval by Motion No. 20930 of the application for a Conditional Use Authorization for the Proposed Project; and

WHEREAS, On October 19, 2021, the Board of Supervisors ("Board") held a duly noticed public hearing on the appeal from the approval of the Conditional Use Authorization; and

WHEREAS, Following the conclusion of the public hearing that day, the Board voted to conditionally disapprove the decision of the Planning Commission and to disapprove the issuance of the requested Conditional Use Authorization by a vote of 11-0; and

WHEREAS, In deciding the appeal, the Board reviewed and considered the entire written record before the Board, which is on file with the Clerk of the Board of Supervisors in

File No. 210791, and all the public comments made in support of and in opposition to the appeal; now, therefore, be it

MOVED, That the Board finds that:

(1) The property that is proposed to be demolished is a partially remodeled building, which includes an upper unit with two bedrooms and a lower unit with three rooms used as bedrooms and a separate front entrance; and

(2) There is indisputable evidence of renter history in both units; and

(3) The two units are subject to rent control, and are therefore affordable to low-income and working families; and

(4) The Proposed Project would replace two affordable, family-sized units with a luxury four-bedroom unit, and a studio apartment that does not include the same number of bedrooms as the demolished unit that it will replace, and that lacks a separate entrance from the street; and

(5) Although the Project Sponsor has agreed to subject both units to the City's rent control laws, the Project Sponsor has stated their intention to occupy the top unit and make the lower unit available to a relative;

(6) Sixty-two percent of San Francisco's residents are renters; and, be it

FURTHER MOVED, That the Board finds that based on the forgoing findings and the entire record in Board File No. 210791, the Proposed Project will remove two family-sized, affordable units from the rental market, and therefore will not provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community, as required by Planning Code, Section 303; and be it

FURTHER MOVED, That the Board finds that based on the forgoing findings and the entire record in Board File No. 210791, the Proposed Project does not meet the standard for residential demolition under Planning Code, Section 317 because it would:

(1) Convert rental housing to owner-occupied housing;

(2) Fail to protect the relative affordability of existing housing by removing two affordable units from the rental market;

(3) Decrease the number of family-sized units on-site by replacing a three-bedroom unit with a studio unit; and

(4) Decrease the number of on-site bedrooms in the lower unit, from three to zero; and, be it

FURTHER MOVED, That based on the forging findings and the entire record in Board File No. 210791, the Board disapproved the decision of the Planning Commission by its Motion No. 20930 and denied issuance of the Conditional Use Authorization.

City and County of San Francisco
Tails
Motion: M21-173

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 211275 **Date Passed:** December 14, 2021

Motion adopting findings in support of the Board of Supervisors' decision to disapprove a Conditional Use Authorization, identified as Planning Case No. 2020-003223CUA, for a proposed project at 249 Texas Street.

December 14, 2021 Board of Supervisors - APPROVED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 211275

I hereby certify that the foregoing Motion was APPROVED on 12/14/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

within a NC-3 (Neighborhood Commercial, Moderate Scale) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions
(Proposed for Continuance to May 13, 2021)

SPEAKERS: None
ACTION: Continued to May 13, 2021
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

1b. 2014.1058VAR (E. JARDINES: (628) 652-7531)
6424 3RD STREET/188 KEY AVENUE – northeast intersection of 3rd Street and Key Avenue, Lot 002 of Assessor's Block 5470 (District 10) – Request for a **Rear Yard Modification,** pursuant to Planning Code Sections 134 and 305 to allow a reconfigured rear yard on a corner lot within a NC-3 (Neighborhood Commercial, Moderate Scale) Zoning District and 40-X Height and Bulk District.
(Proposed for Continuance to May 13, 2021)

SPEAKERS: None
ACTION: ZA Continued to May 13, 2021

2. 2019-019822DRP (D. WINSLOW: (628) 652-7335)
4079 CESAR CHAVEZ STREET – between Noe and Sanchez Streets; Lot 029 in Assessor's Block 6580 (District 8) – Request for **Discretionary Review** of Building Permit Application no. 2019.1010.4179 to construct a vertical addition and horizontal front and rear additions to an existing 2,227 square foot, two-story, two-family residence. The project also includes extensive remodeling of the interior and the front façade. The project would add 1,590 gross square feet to the existing building which will result in a 2,277 square foot unit and a 1,548 square foot unit with no on-site parking within a RH-2 (Residential House, Two-Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Do Not Take Discretionary Review and Approve
(Continued from Regular hearing on April 15, 2021)
(Proposed for Continuance to May 20, 2021)

SPEAKERS: None
ACTION: Continued to May 20, 2021
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

3. 2016-012135CUA (G. PANTOJA: (628) 652-7380)
2214 CAYUGA AVENUE AND 3101 ALEMANY BOULEVARD – between Sickles Avenue and Regent Street; Lots 001 and 034 in Assessor's Block 7146 (District 11) – Request for a **Conditional Use Authorization** pursuant to Planning Code Sections 303, 317, and 710 for the demolition of an existing two-story, single family residence and the construction of four new four-story, 40-foot, residential buildings containing a total of seven dwelling units, approximately 15,196 square feet in area, and seven Class 1 bicycle parking spaces within a NC-1 (Neighborhood Commercial, Cluster) and 40-X Height and Bulk District. This action

constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions
(Continued from Regular hearing on February 25, 2021)
(Proposed for Indefinite Continuance)

SPEAKERS: None
ACTION: Continued Indefinitely
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

11. 2019-023105AHB (M. DITO: (628) 652-7358)
2800 GEARY BOULEVARD – northwest corner of Geary Boulevard and Wood Street, Lot 013 in Assessor's Block 1069 (District 2) – Request for **HOME-SF Authorization** pursuant to Planning Code Sections 206.3 and 328 to construct a 65-foot tall, six-story mixed-use project with 42 dwelling units and a ground floor commercial use within the Geary Boulevard Neighborhood Commercial (NCD) Zoning District and 40-X Height and Bulk District. The HOME-SF program requires 30% of onsite dwelling units to be affordable units, with purchase prices ranging 80% of the Area Median Income (AMI) to 130% of AMI. The remaining 70% of dwelling units will not be subject to AMI restrictions. The HOME-SF program permits the project to exceed the prescribed height limit by up to 20 feet, which allows for the proposed fifth and sixth stories, and for form-based density. The project is also requesting modifications, pursuant to Planning Code Section 206.3(d)(4), of the rear yard and exposure requirements. The project is also subject to the Transportation Demand Management Program, pursuant to Planning Code Section 169. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions

SPEAKERS: Michael Coholan – Supports continuance
ACTION: Continued to June 17, 2021
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

12. 2018-011249CUA-02 (A. PERRY: (628) 652-7430)
1567 CALIFORNIA STREET – southeast corner at the intersection of California and Polk Streets; Lots 014, 014A and 015 in Assessor's Block 0645 (District 3) – Request for a **Waiver from Height** (Section 260) pursuant to the Individually-Requested State Density Bonus Program to achieve a density bonus. On February 13, 2020, under Motion No. 20657, the Planning Commission granted a request for conditional use authorization, as well as four waivers and an incentive pursuant to the individually requested State Density Bonus Program to approve the proposed project at 1567 California Street. The approved Project would demolish the existing two-story commercial building and associated surface parking lot, and would construct an eight-story over-basement, approximately 80-foot tall mixed-use building including approximately 9,823 square feet of ground floor commercial space and 100 dwelling units. At the time of project approval, the Height and Bulk Map incorrectly identified approximately 22 parcels, including the subject property, as having a height limit of 80 feet. The correct height limit for these approximately 22 parcels, including the subject property, is 65 feet; therefore, an additional height waiver is required to allow the project to proceed. The design of the Project remains unchanged from the version previously

approved by the Planning Commission. No other changes are proposed to the Project or its prior approvals.
Preliminary Recommendation: Approve with Conditions
(Continued from Regular hearing on April 15, 2021)

SPEAKERS: Linda Chapman – Okay with continuance
Steve Vettel - Not okay with continuance
Andrew Perry – Response to questions
ACTION: Continued to May 13, 2021
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

16. 2013.0846DRP (D. WINSLOW: (628) 652-7335)
140-142 JASPER PLACE – between Union and Filbert Streets; Lot 032 in Assessor's Block 0103 (District 3) – Request for **Discretionary Review** of Building Permit No. 2014.0627.9672 for the construction of a third-floor vertical addition set back 12 feet from front building wall, reconfigure the rear wall, and retrofit the basement level to expand the lower unit of an existing three-story, two-family house within a RM-2 (Residential-Mixed, Moderate Density) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Do Not Take Discretionary Review and Approve
(Continued from Regular hearing on March 4, 2021)

SPEAKERS: None
ACTION: Continued to May 6, 2021
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

B. CONSENT CALENDAR

All matters listed hereunder constitute a Consent Calendar, are considered to be routine by the Planning Commission, and may be acted upon by a single roll call vote of the Commission. There will be no separate discussion of these items unless a member of the Commission, the public, or staff so requests, in which event the matter shall be removed from the Consent Calendar and considered as a separate item at this or a future hearing

4. 2021-000485CUA (S. CISNEROS: (628) 652-7363)
3910 24TH STREET – north side of 24th Street between Sanchez and Noe streets, Lot 006 in Assessor's Block 3654 (District 8) – Request for **Conditional Use Authorization** pursuant to Planning Code Sections 121.2, 303, and 728, to permit an approx. 3200 square foot use size and establish a Massage Use in an existing Personal Service Use (d.b.a. Cocoon Urban Day Spa) at the basement and first floor levels of the three-story, mixed use building within the 24th Street-Noe Valley NCD (Neighborhood Commercial District) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions

SPEAKERS: None
ACTION: Approved with Conditions
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION MOTION NO. 21037

HEARING DATE: NOVEMBER 18, 2021

Record No.:	**2019-013808CUA/VAR**
Project Address:	**4300 17th Street**
Zoning:	RH-2 (Residential House, Two-Family 40-X Height and Bulk District Corona Height Large Residence Special Use District
Block/Lot:	2626/014A
Project Sponsor:	Scott Pluta 4300 17th Street San Francisco, CA 94114
Property Owner:	Scott Pluta 4300 17th Street San Francisco, CA 94114
Staff Contact:	Jeff Horn – (628) 652-7633 jeffrey.horn@sfgov.org

ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 249.77(D)(1), 249.77(D)(4), AND 303(C) TO CONSTRUCT NEW 3,128 GROSS-SQUARE-FOOT THREE-STORY TWO-FAMILY DWELLING ON A NEW 1,458 SQUARE FOOT LOT. THE LOT WOULD BE CREATED THROUGH A SUBDIVISION OF AN EXISTING 2,916 SQUARE FOOT (36' X 81') CORNER LOT. AN ACCESSORY DWELLING UNIT WOULD BE ADDED AT THE GROUND FLOOR OF AN EXISTING 4,382 GROSS-SQUARE-FOOT THREE-STORY TWO-FAMILY DWELLING (4300 17TH STREET) THAT IS LOCATED ON THE REMAINING 1,458 SQUARE FEET OF THE ORIGINAL LOT LOCATED WITHIN THE CORONA HEIGHTS LARGE RESIDENCE SPECIAL USE DISTRICT, A RH-2 (RESIDENTIAL-HOUSE, TWO FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On November 4, 2019, Scott Pluta (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 249.77(D)(1), 249.77(D)(4), and 303(c) to construct a new 3,128 gross-square-foot three-story two-family dwelling on a new 1,458 square foot lot. The lot would be created through a subdivision of an existing 2,916 square foot (36' x 81') corner lot. An Accessory Dwelling Unit would be added at the ground floor of the existing 4,382 gross-square-foot three-story two-family dwelling (4300 17th Street) that is located on the remaining 1,458 square feet of the original lot located within the Corona Heights Large Residence Special Use District (SUD), a RH-2 (Residential-House, Two-Family) Zoning District and a 40-X Height and Bulk District.

On September 24, 2021, the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Common Sense Exemption under CEQA as described in the determination contained in the Planning Department files for this Project.

On November 19, 2020, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2019-013808CUA and after public comment and discussion, continued the item without a specific date. During the public hearing, the Commission provided guidance to the Sponsor to work with the Department to revise the Project to a scale and building typology that increases the density on the site but within a building that would be less impactful to the mid-block open space and maintains adjacent properties' access to light and air. After working with Department Staff on design proposals, the Sponsor submitted a revised proposal for a reduction in the Project's scope to construct a 3,128 gross-square-foot three-story two-family dwelling on the new 1,458 square foot lot.

On November 18, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2019-013808CUA. At the public hearing, the Commission made a Motion to disapprove the project and articulated amendments to be made to the Findings.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2019-013808CUA is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby does not authorize the Conditional Use requested in Application No. 2019-013808CUA, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. **The above recitals are accurate and constitute findings of this Commission.**

2. **Project Description.** The Project proposes to construct a new 3,128 gross-square-foot three-story two-family dwelling on a new 1,458 square foot lot. The building would contain a 1,139 square foot two-bedroom unit at the ground floor and a 1,570 square foot two-bedroom unit within the upper two floors. The new lot would be created through a subdivision of an existing 2,916 square foot (36' x 81') corner lot. An Accessory Dwelling Unit would be added at the ground floor of the existing 4,382 gross-square-foot three-story two-family dwelling (4300 17th Street) that is located on the remaining 1,458 square feet of the original lot.

3. **Site Description and Present Use.** The subject property is located on the northwest side of the intersection of 17th Street and Ord Street, within the Corona Heights neighborhood. The project is a 2,916 square foot corner lot with 36 feet of frontage on Ord Street and 81 feet of frontage on 17th Street. The lot

is developed with a three-story two-family dwelling, built in 1953 and vertically expanded in 1960. currently occupies the eastern half of the subject lot and has a depth of 40 feet, 6 inches, providing a rear yard equal to 50% of the lot's depth. The residential entrances to the building is locatet on 17th Street and a curb cut and one-car garage are located on Ord Street. At the ground floor, there is an office/storage area that has no internal connection to either dwelling unit.

4. **Surrounding Properties and Neighborhood.** The surrounding neighborhoods Corbett and Corona Heights consist of very steep slopes, both of individual lots and laterally along streets. The neighborhood developed over many decades (pre-1900s to 2000s, generally), in a mixture of architectural styles, and many buildings have undergone substantial alterations since their respective construction dates. West and upslope on 17th Street (adjacent to Applicant's backyard), is a three-story, two-unit condominium (4302-4304 17th St.), a five-story, two-unit condominium (4306-4308 17th St.), and a two-building, three-unit dwelling (4310 17th St.), respectively.

5. **Public Outreach and Comments.** To date, the Department has received a substantial total of comments/emails in support and in opposition to the Project, including letters of opposition from the Corbet Heights Neighbors. The support for the Project is centered on the addition of housing units and the addition of affordable units. The opposition to the Project is centered on projects non-compliance with the Planning Code and the Corona Heights Large Residence Special Use District. The Sponsor presented the project to the Corbet Heights Neighbors on October 26, 2020. As stated in the Sponsor's brief, the Sponsor has met individually with adjacent neighbors and members of Corbet Heights Neighbors.

6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

   A. Use. Planning Code Section 209.1 permits up to two dwelling units per lot in an RH-2 District.

   The project proposes to subdivide the existing lot into two lots within an RH-2 District. An existing 2-family dwelling is proposed to remain on one lot and a new 2-family dwelling proposed to be constructed on the new vacant lot.

   The project proposes an accessory dwelling unit within the existing structure at 4300 17th Street, an ADU that is allowed per Planning Code Section 207(c)(4) would not be included in a lot's density calculation. As proposed, both lots seek to maximize the permitted density within a RH-2 District on both lots.

   B. Lot Size. Planning Code Section 121 requires that the minimum lot area for any lot having its street frontage entirely within 125 feet of an intersection shall be 1,750 square feet.

   A Variance is being sought per Planning Code Section 121 to allow a subdivision of the existing lot to create two 1,458 square foot lots.

   C. Rear Yard. Planning Code Section 134 requires a minimum rear yard depth equal to 45% of the total depth of the lot on which the building is situated, except that rear yard requirements can be reduced to a line on the lot, parallel to the rear lot line, which is the average between the depths of the rear building walls of both adjacent properties in an RH-2 District.

The proposed subdivision will result in two new lots that would be developed in a manner that results in full coverage of the respective lots. A Variance from the rear yard requirement of Planning Code Section 134 is being sought for each lot.

D. Usable Open Space. Planning Code Section 135 requires at least 125 sq. ft. of usable open space per unit if private, or a ratio of 1.33 per unit if common in an RH-2 District.

With the loss of the existing rear yard, the existing structure at 4300 17th Street proposes to add a 500 square foot roof deck to provide common open space to the existing two units. For the new two-family dwelling, the upper unit includes a 336 square foot roof deck to provide private open space and the lower unit would have access to a common 310 square foot deck at a lower level roof deck located at the rear of the lot.

E. Bicycle Parking. Planning Code Section 155.2 requires one Class 1 Bicycle Parking space per dwelling unit, when there is an addition of a dwelling unit.

The Project will provide two Class 1 bicycle parking spaces within the rear yard of the new structure and three Class 1 spaces for the existing building at 4300 17th Street.

7. **Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the project complies with said criteria in that:

A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The use and scale of the Project is not compatible with the immediate neighborhood and the proposed project will not be in keeping with the existing housing and neighborhood character. The proposal would take one conforming corner lot and create two nonconforming lots that would each contain two units, and would result in two buildings that encroach into the required rear yard of both proposed lots with nearly full lot coverage, which includes creating non-complying conditions on a lot that is currently developed with a Code-compliant structure. The project is not necessary, desirable, and compatible with the surrounding neighborhood, and would be detrimental to persons or adjacent properties in the vicinity.

B. The proposed project will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety, or convenience of those residing or working the area, in that:

(1) Nature of proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures;

Development of the Project will eliminate all open space at the site by developing upon the subject property's rear yard with a three-story building, which would result in negative impacts to neighboring properties and the mid-block open space. Therefore, the proposed project will

be detrimental to the health, safety, convenience, or general welfare of persons residing in the vicinity of the project site.

(2) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Planning Code does not require parking or loading for residential units. The proposed use should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. The subject property is also in close proximity to several transit lines, located only approximately a 10-minute walk away from the Castro Street MUNI Station, and within a ½ mile of the 24, 33, 35, and 37 MUNI bus lines.

(3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust, and odor;

The Project will comply with all applicable regulations relating to construction noise and dust. It will not produce, nor include any permanent uses that generate substantial levels of noxious or offensive emissions, such as noise, dust, glare, or odor.

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

The proposal does not include loading or services areas, nor will it include atypical lighting or signage. The Project proposes to be developed with no front setback and will fully develop the existing lot's rear yard, which is adjacent to the public sidewalk due to the orientation of the lot. The project will provide additional street trees to contribute to the quality of the sidewalk area of 17th Street.

C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project does not comply with all relevant requirements and standards of the Planning Code and is not consistent with objectives and policies of the General Plan. Eliminating (by developing upon) the subject property's rear yard would have negative impacts to neighboring properties and established patterns of development. The project would take one conforming two-unit corner lot and create two nonconforming lots that would each contain two units, which would result in two buildings that encroach into the required rear yard of both proposed lots with nearly full lot coverage, resulting in noncomplying conditions on a lot that is currently developed with a Code-compliant structure. Further, the property is currently eligible to add a third unit as an Accessory Dwelling Unit, which would provide increased density in a manner that complies with provisions of the site's RH-2 District.

D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Use District.

The proposed use of two dwellings per lot would be consistent with the stated purpose of the RH-2

District for each of the proposed lots, but the proposed project would take one conforming two-unit corner lot and create two nonconforming lots that would each contain two units, which would result in two buildings that encroach into the required rear yard of their respective lots with nearly full lot coverage, and would create noncomplying conditions on a Code-compliant lot that is currently developed with a Code-compliant structure.

8. **Corona Heights Large Residence Special Use District (Planning Code Section 249.77).** The project is located within the boundaries of the Corona Heights Large Residence Special Use District (SUD). The SUD was adopted to protect and enhance existing neighborhood character, encourage new infill housing at compatible densities and scale, and provide for thorough assessment of proposed large-scale residences that could adversely impact the area and affordable housing opportunities. To meet these goals, the SUD requires Conditional Use Authorization for five (5) types of development. The proposed Project exceeds two of these development standards; thereby requiring Conditional Use Authorization pursuant to Planning Code Section 249.77(d)(1), for residential development of vacant property that will result in total gross floor area exceeding 3,000 square-feet and pursuant to Planning Code Section 249.77(d)(4) for residential development that results in less than 45% rear yard depth.

   In acting on any application for Conditional Use authorization within the SUD, the Commission shall consider the Conditional Use authorization requirements set forth in subsection 303(c) and, in addition, shall consider whether facts are presented to establish, based on the record before the Commission, one or more of the following:

   A. The proposed project promotes housing affordability by increasing housing supply.

      The property is currently developed with a two-family dwelling, and with the proposed subdivision, a two-family dwelling is proposed on the new lot. The project has potential to add an accessory dwelling unit within the existing building, resulting in a potential of three net new units at the site. Additionally, the project sponsor has stated an intent to voluntarily designate both of the project's proposed accessory dwelling units as on-site inclusionary housing units under Planning Code Section 415 et seq. and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual").

   B. The proposed project maintains affordability of any existing housing unit; or

      The project proposes no expansion or improvements to the two existing units on site. Due to the age of the building, both units are rent-controlled units.

   C. The proposed project is compatible with existing development.

      Development of the Project will eliminate all open space at the site by developing upon the subject property's rear yard with a three-story building, which would have negative impacts to neighboring properties and the mid-block open space. Therefore, the intensity of non-compliance that the proposal seeks to achieve a higher density at the site is not compatible with the existing development of the District.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1
Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Policy 1.10
Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking, and bicycling for the majority of daily trips.

OBJECTIVE 4
FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1
Develop new housing, and encourage the remodeling of existing housing, for families with children.

Policy 4.4
Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5
Ensure that new permanently affordable housing is located in all of the City's neighbor-hoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

The property is currently developed with a two-family dwelling on the project site, and with the proposed subdivision, a 2nd two-family dwelling is proposed on the new lot. The project has potential to add an accessory dwelling unit within the existing building, resulting in a potential of three net new units at the site. Additionally, the project sponsor has stated an intent to voluntarily designate the project's proposed accessory dwelling units as on-site inclusionary housing units under Planning Code Section 415 et seq. and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual").

OBJECTIVE 11
SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2
Ensure implementation of accepted design standards in project approvals.

Policy 11.3
Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4
Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6
Foster a sense of community through architectural design, using features that promote community interaction.

The proposed building has been designed to create a quality, two-unit structure fronting on 17th Street. Although the Project will reinforce the existing street pattern on 17th Street, as the building scale is appropriate for the subject block's street frontage, the overall increase in density proposed at the site would be achieved through a subdivision of the existing compliant corner lot into two substandard lots, and the proposed new building is designed in a manner that does not meet the required rear yard and would bring the non-compliant building into none compliance as well.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:
MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT, AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.3:
Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

The Project furthers this policy by creating housing in an area well-served by the City's public transit system. The Castro Street MUNI Station is less than a 10-minute walk from the project site, and several MUNI bus lines (24, 33, 35, and 37) all have stops within a quarter-mile of the site.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 4
IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE, AND OPPORTUNITY.

Policy 4.15
Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

The Project will eliminate all open space at the site by developing upon the subject property's rear yard with a three-story building, which would have negative impacts to neighboring properties and the mid-block open space. Therefore, the intensity of non-compliance that the proposal seeks would be detrimental to the adjacent properties and subject block.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project complies with said policies in that:

    A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

    The project site does not possess any neighborhood-serving retail uses. The Project has potential to provide three new dwelling units, which will enhance the nearby retail uses by providing new residents, who may patron and/or own these businesses.

    B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

    The Project furthers this policy by ensuring that the proposed development is compatible with the surrounding properties and neighborhood. The proposed building will be designed with regard to site-specific constraints and will create a quality, two-unit structure fronting on 17th Street. However, at the rear and site property lines, the project's height as a three-story structure would result in impacts to the access to light and air currently available to adjacent properties and the greater mid-lot open space.

    C. That the City's supply of affordable housing be preserved and enhanced.

    The property is currently developed with a two-family dwelling on the project site, and with the proposed subdivision, a 2nd two-family dwelling is proposed on the new lot. The project has potential to add an accessory dwelling within the existing building, resulting in three new units at the site. Additionally, the project sponsor has stated an intent to voluntarily designate the project's proposed accessory dwelling units as on-site inclusionary housing units under Planning Code Section 415 et seq. and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual").

D. That commuter traffic does not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project is located in an area well-served by the City's public transit systems. The Castro MUNI Rail Station and several MUNI bus lines are near the subject property; therefore, the Project will not overburden streets or neighborhood parking. MUNI transit service will not be overburdened as no change to the density on site is proposed.

E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project does not include commercial office development. The Project does provide new housing, which is a top priority for the City.

F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

G. That landmarks and historic buildings be preserved.

Currently, the Project Site does not contain any City Landmarks or historic buildings.

H. That our parks and open space and their access to sunlight and vistas be protected from development.

Although the Project does cast shadow on the adjacent public park, the adjacent public park (Ord & Corbett Park) is still afforded access to sunlight, which should not dramatically affect the use and enjoyment of this park. Since the Project is not more than 40-ft tall, additional study of the shadow impacts was not required per Planning Code Section 295.

11. The Project is not consistent with and would not promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would not contribute to the character and stability of the neighborhood and would not constitute a beneficial development.

12. The Commission hereby finds that approval of the Conditional Use Authorization would not promote the health, safety, and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **DISAPPROVES Conditional Use Authorization Application No. 2019-013808CUA.**

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this decision on the Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action, or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on November 18, 2021.

Jonas P. Ionin
Commission Secretary

AYES:	Imperial, Chan, Diamond, Moore
NAYS:	Tanner, Koppel
ABSENT:	Fung
ADOPTED:	November 18, 2021

SAN FRANCISCO
PLANNING COMMISSION

Meeting Minutes

Remote Hearing
via video and teleconferencing

Thursday, November 18, 2021
1:00 p.m.
Regular Meeting

COMMISSIONERS PRESENT: **Chan, Diamond, Fung, Imperial, Tanner, Moore, Koppel**
COMMISSIONERS ABSENT: **None**

THE MEETING WAS CALLED TO ORDER BY PRESIDENT KOPPEL AT 1:03 PM

STAFF IN ATTENDANCE: Aaron Starr, Audrey Merlone, Mat Snyder, Jenny Delumo, Kimberly Durandet, Xinyu Liang, Kevin Guy, Claudine Asbagh, Jeff Horn, Kalyani Agnihotri, Laura Ajello, David Winslow, Scott Sanchez, Corey Teague – Zoning Administrator, Rich Hillis – Planning Director, Jonas P. Ionin – Commission Secretary

SPEAKER KEY:

+ indicates a speaker in support of an item;
• indicates a speaker in opposition to an item; and
= indicates a neutral speaker or a speaker who did not indicate support or opposition.

A. CONSIDERATION OF ITEMS PROPOSED FOR CONTINUANCE

The Commission will consider a request for continuance to a later date. The Commission may choose to continue the item to the date proposed below, to continue the item to another date, or to hear the item on this calendar.

1. 2019-022510CRV (B. HICKS: (628) 652-7528)
240-250 CHURCH STREET – west side between Market Street and 15th Street; Lot 003 of Assessor's Block 3543 (District 8) – Request for **Adoption of Findings Related to State Density Bonus** pursuant to Planning Code Section 206.6 to allow the demolition of a one-story

limited restaurant (dba Thoroughbread Bakery) and construction of a seven-story, 74 feet 11 inches tall mixed-use building (measuring 28,974 gross square feet) with 24 dwelling units and a ground floor commercial space (dba Thoroughbread Bakery) with rear outdoor activity area within the Upper Market NCT (Neighborhood Commercial Transit) Zoning District and the 40-X Height and Bulk District. The Project seeks a waiver from the height limit (Section 250) pursuant to the State Density Bonus Law. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions
(Proposed for Continuance to December 2, 2021)

SPEAKERS: None
ACTION: Continued to December 2, 2021
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

2. 2016-000302DRP (D. WINSLOW: (628) 652-7335)
460 VALLEJO STREET – north side between Kearny and Montgomery Streets; Lot 020 in Assessor's Block 0133 (District 3) – Request for **Discretionary Review** of Building Permit no. 2019.0402.6906 for extensive interior alteration of the existing two (2) dwelling unit residence, building recladding removing stucco and replacing with wood siding, and an approximately one (1)-foot increase of the rear yard roof height to allow for the creation of a furnished roof deck above. Permit is submitted in partial abatement of Enforcement Case No. 2018-001495ENF for Planning Code violations for work without a permit. Current permit application legalizes building expansion at the rear, proposed fence less than ten (10)-feet high at rear yard, lightwell infills, a 100 square foot garden shed in rear yard, and restoration of roof deck to twelve (12)-foot front yard setback within a RH-3 (Residential House, Three-Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Take Discretionary Review and Approve
(Continued from Regular hearing on September 30, 2021)
(Proposed for Continuance to January 13, 2022)

SPEAKERS: None
ACTION: Continued to January 13, 2022
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

3. 2019-022419DRP (D. WINSLOW: (628) 652-7335)
312 UTAH STREET – west side between 16th and 17th Streets; 001A in Assessor's Block 3961 (District 10) - Request for **Discretionary Review** of Building Permit 2019.1121.7856 to construct a new four-story over basement, three-unit residential building within a RH-3 (Residential House, Three Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Take Discretionary Review and Approve with Modifications
(Proposed for Continuance to January 20, 2022)

SPEAKERS: None
ACTION: Continued to January 20, 2022

AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

4. 2019-014461CUA (C. ENCHILL: (628) 652-7551)
1324-1326 POWELL STREET – east side between Fisher Alley and Pacific Avenue; Lot 014A in Assessor's Block 0160 (District 3) – Request for **Conditional Use Authorization**, pursuant to Planning Code Section 254 and 303 to allow construction over 35 feet in height for a project that would construct a new eight-story, 84-ft 5-in tall, mixed-use building (approximately 27,160 square feet) with 24 dwelling units and making findings of eligibility for the individually requested State Density Bonus. The project would utilize the State Density Bonus law (California Government Code Sections 65915-65918) and receive four waivers for: site coverage (Planning Code Sec. 134.1), dwelling unit exposure (Planning Code Sec. 140), height limit (Planning Code Sec. 260), and bulk limits (Planning Code Sec. 270) requirements of the planning code. The project site is located within the CRNC (Chinatown Residential Neighborhood Commercial) Zoning District, Chinatown Planning Area, and 65-N Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions
(Continued from Regular hearing on September 30, 2021)
(Proposed for Indefinite Continuance)

SPEAKERS: None
ACTION: Continued Indefinitely
AYES: Tanner, Chan, Diamond, Fung, Imperial, Moore, Koppel

5. 2021-003142CUA (M. GIACOMUCCI: (628) 652-7414)
333 FREMONT STREET – north side between Folsom and Harrison Streets; Lot 331 in Assessor's Block 3747 (District 6) – Request for **Conditional Use Authorization** pursuant to Planning Code Sections 303 and 827, to install a new Macro Wireless Telecommunications Services Facility (for AT&T Mobility) at the rooftop of an existing residential building consisting of installation of twelve (12) panel antennas in four (4) sectors, and ancillary equipment as part of the AT&T Mobility Telecommunications Network. The subject property is located within the RH DTR (Rincon Hill Downtown Residential) Zoning District and 85/250-R Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions
(Continued from Regular hearing on August 26, 2021)
WITHDRAWN

SPEAKERS: None
ACTION: Withdrawn

15. 2019-022830AHB (C. MAY: (628) 652-7359)
3055 CLEMENT STREET – southeast corner of Clement Street and 32nd Avenue, Lot 043 of Assessor's Block 1463 (District 1) – Request for **HOME-SF Project Authorization**, pursuant to Planning Code Sections 206.3, 328, and 710, to allow the construction of a six-story, 62-foot tall residential building containing seven dwelling units totaling approximately 10,562 square feet above approximately 614 square feet of ground floor commercial space within a NC-1 Zoning District and 40-X Height and Bulk District. This action constitutes the Approval

Bruce Bowen – ADUs

F. REGULAR CALENDAR

The Commission Hearing Procedures provide for presentations by staff; when applicable, followed by a presentation of the project sponsor team; followed by public comment. Please be advised that the project sponsor team includes: the sponsor(s) or their designee, lawyers, architects, engineers, expediters, and/or other advisors.

11. 2021-008991CUA (A. WESTHOFF: (628) 652-7314)
200 RHODE ISLAND STREET – southwest corner of 15th Street; Lot 001 in Assessor's Block 3936 (District 6) – Request for **Conditional Use Authorization** pursuant to Planning Code Sections 210.3B, and 303 to establish a change of use of approximately 22,580 square feet of an existing Production, Distribution, and Repair use to an Office use on the third and fourth floors of the subject building, within a PDR-1-D (Production, Distribution & Repair-1-Design) Zoning District and 58-X and 68-X Height and Bulk Districts. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions

SPEAKERS: = Alex Westhoff – Staff report
+ John Kevlin – Project sponsor presentation
ACTION: Approved with Conditions
AYES: Ruiz, Diamond, Imperial, Koppel, Moore
MOTION: 21169

12a. 2020-005514DNX (R. SALGADO: (628) 652-7332)
1010V MISSION STREET – north side between 6th and 7th Streets; Lot 026 in Assessor's Block 3703 (District 6) – Request for **Downtown Project Authorization** pursuant to Planning Code Sections 210.2 and 309 to allow a project greater than 75 feet in height within a C-3 Zoning Districts with exceptions for a rear yard modification (Section 134); exposure (Section 140); and reduction of wind currents in a C-3 District (Section 148), within a C-3-G (Downtown-General) Zoning District and 160-F Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).
Preliminary Recommendation: Approve with Conditions

SPEAKERS: = Rebecca Salgado – Staff report
+ John Kevlin – Project sponsor presentation
- PJ Eugenio – Project does not support families, Central SoMa Plan
- Charm Consolacion – Unaffordable to low-income families
- Tetet Naval – Would set a bad standard for future projects
- Briana Barrientos – Does not serve low income and working class
- David Woo – Prohibition of market rate SROs
- Raquel Redondiez – We need housing that fits the community
- Gayle Romansanta – We do not need tiny expensive units
- Cristina Biba – Read Luisa Antonio's statement, impact to low-income families
- Speaker – Need family sized affordable housing

- Speaker – We need affordable housing not market rate SROs
- Sue Hestor – Racial equity
- Carolyn –1010 Mission Street is an existing address for the Bayanihan community
+ Jennifer Larocca – Will create permanent affordable homes
= Liz Watty – Response to comments and questions
= Rich Hillis – Response to comments and questions
= Kirsten Jensen – Response to comments and questions

ACTION: After a Motion to Continue to November 17, 2022 failed +2 -3 (Ruiz, Imperial, Moore against); a Motion to Disapprove failed +3 -2 (Diamond, Koppel against); and a Motion to Continue to December 1, 2022 failed +2 -3 (Ruiz, Imperial, Moore against). De facto Disapproved

MOTION: 21170

12b. 2020-005514CUA (R. SALGADO: (628) 652-7332)

1010V MISSION STREET – north side between 6th and 7th Streets; Lot 026 in Assessor's Block 3703 (District 6) – Request for **Conditional Use Authorization** pursuant to Planning Code Sections 124(f) and 303 to allow for additional square footage above the base floor area ratio limit, within a C-3-G (Downtown-General) Zoning District and 160-F Height and Bulk District. The project includes new construction on the subject lot, which currently serves as a surface parking lot, of a nine-story, approximately 80-foot-tall residential building containing 57 single room occupancy (SRO) dwelling units (approximately 20,046 square feet), and approximately 408 square feet of community space on the ground floor. The proposed project would include a total of approximately 2,250 square feet of common open space on the ground floor and on the roof.

Preliminary Recommendation: Approve with Conditions

SPEAKERS: Same as item 12a.

ACTION: After a Motion to Continue to November 17, 2022 failed +2 -3 (Ruiz, Imperial, Moore against); a Motion to Disapprove failed +3 -2 (Diamond, Koppel against); and a Motion to Continue to December 1, 2022 failed +2 -3 (Ruiz, Imperial, Moore against). De facto Disapproved

MOTION: 21171

13. 2021-002738CUA (J. HORN: (628) 652-7366)

485 DUNCAN STREET – southeast corner of Noe Street; Lot 027B in Assessor's Block 6602 (District 8) – Request for **Conditional Use Authorization** pursuant to Planning Code Sections 303 and 317 to allow the demolition of an existing 1,124 square-foot, one-story-over-garage one-family dwelling and to construct a new 4,726 gross-square-foot, three-story over two-basement two-family dwelling which includes a 3,313 square-foot, two-bedroom dwelling unit and a 1,413-square-foot two-bedroom dwelling unit, within a RH-2 (Residential, House: Two-Family) Zoning District and 40-X height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).

Preliminary Recommendation: Approve with Conditions

(Continued from a Canceled hearing on September 1, 2022)

SPEAKERS: = Jeff Horn – Staff report
+ John Kevlin – Project sponsor presentation
+ Inbar Berman – Project sponsor

Exhibit I

San Francisco Planning

PLANNING DIRECTOR
BULLETIN NO. 7
Housing Crisis Act of 2019 Project Review and Zoning Actions

This Bulletin outlines how the Planning Department administers the provisions of the Housing Crisis Act of 2019 during the statewide housing emergency period through January 1, 2025.

First Issued:
DECEMBER 2019

References:
Government Code Sections 65905.5, 65913.10, 66300 (Housing Crisis Act)
Government Code Sec. 65589.5 (Housing Accountability Act)
Government Code Sec. 65940-50 (Permit Streamlining Act)

INTRODUCTION

California Senate Bill 330, "The Housing Crisis Act of 2019," was signed into law by Governor Newsom on October 9, 2019 and became effective January 1, 2020. The bill establishes a statewide housing emergency to be in effect until January 1, 2025. This bulletin provides guidance on the application of the bill to the review and approval processes for housing development projects and zoning actions related to residential uses in San Francisco during the housing emergency period.

OVERVIEW

During the housing emergency period cities and localities in urban areas are generally prohibited from rezoning actions or imposing new development standards that would reduce the zoned capacity for housing, or adopting new design standards that are not objective. In these jurisdictions, the demolition of existing housing units is only permitted if replacement units are provided and the demolition of existing low-income units is only permitted if certain conditions related to affordability and tenant protections are met.

Additionally, all localities are subject to additional project review requirements and timelines with regard to applications for housing developments. These include a prohibition on applying new zoning regulations and development standards or listing the project as a local historic landmark after a project's application is submitted, except as provided. Housing developments that meet all applicable objective zoning standards may only be subject to a limited number of public hearings, including continuances and most appeal hearings. The Planning Department has determined that San Francisco is designated as an urban area in the 2010 census, and therefore is subject to all the provisions of the bill.

The bill does not establish any new ministerial approval programs, mandate any rezoning actions, prevent additional restrictions on short-term rentals or demolition of existing units, or supersede the California Coastal Act or California Environmental Quality Act (CEQA).

HOUSING DEVELOPMENT PROJECTS

As used throughout this bulletin, a "housing development project" refers to 1) a development project consisting of two or more residential units, 2) a mixed-use development project where at least two-thirds of the square footage comprises residential uses, or 3) transitional or supportive housing development projects.

ZONING ACTIONS AND DESIGN STANDARDS

Zoning Actions

The city is prohibited from taking any legislative action, including by voter initiative, that would reduce the zoned capacity of housing development below what was allowable as of January 1, 2018, including but not limited to:

- Reducing the maximum allowable height, density, or floor area ration (FAR)
- Imposing new or increased open space, lot size, setback or maximum lot coverage requirements
- Adopting or enforcing any moratorium or cap on housing approvals

However, such reductions may be permissible if the city concurrently increases the zoned capacity of housing elsewhere such that no net loss in residential capacity within the jurisdiction would result.

Design Standards

For housing development projects, the city may not apply new design standards that were adopted on or after January 1, 2020 unless these design standards meet the definition of objective standards provided in state law. Specifically, an objective standard involves no personal or subjective judgement on the part of the city, and is uniformly verifiable by reference to criteria that are available to the applicant at the time of application.

In San Francisco, all Design Guidelines that were adopted and in effect prior to January 1, 2020, including the Urban Design Guidelines, Residential Design Guidelines, and any special area or topic-based design guidelines, will continue to be applied to residential projects throughout the housing emergency period. Non-residential projects may be subject to any existing or future design guidelines or standards that may be adopted.

PROJECT REVIEW PROCESS

Permit Streamlining Act

The Permit Streamlining Act (Government Code Sec. 65920-64) continues to apply to housing development projects. During the housing emergency period, the required timeframe to approve or disapprove a housing development project for which an environmental impact report (EIR) is prepared is decreased by 30 days. The new timelines are as follows: 1) 90 days after certification of an EIR for a housing development project, or 2) 60 days after certification of an EIR for a housing development project in which at least 50 percent of the units are affordable to low-income households and that receive public financing. All other required review timeframes in the Permit Streamlining Act continue to apply unchanged during the housing emergency period.

Housing Accountability Act

The Housing Accountability Act (Government Code Sec. 65589.5) continues to apply to housing development projects, and the city continues to be very limited in the ability to deny or reduce the density of such projects that comply with applicable objective zoning and development standards in effect at the time a development application is determined to be complete. During the housing emergency period, these limitations are modified to apply to housing development projects that comply with the objective zoning and development standards in effect at the time a preliminary application is submitted, as described below.

Preliminary Applications

Requirements of State Law
The Housing Crisis Act establishes a new "preliminary application" under Government Code section 65941.1, which is separate and distinct from a development application. This preliminary application is required by state law to collect specific site and project information in order to determine the zoning, design, subdivision, and fee requirements that shall apply to a housing development project.

If an applicant submits a complete development application within 180 days of submitting a preliminary application, then the zoning, design, subdivision, and fee requirements in effect at the time the preliminary application was submitted shall remain in effect for the remainder of the entitlement and permitting process except under the following circumstances:

- The project does not commence construction within 30 months of the project's site permit being issued
- The project increases by more than 20 percent in the number of units or total square footage beyond the preliminary application, except as the project may be revised using the State Density Bonus
- The requirement is necessary to avoid an adverse impact to public health or safety as defined in state law
- The requirement is necessary to avoid or lessen an impact under CEQA
- Development impact fees, application and permit processing fees, capacity or connection fees, or other charges may be annually adjusted based on a published cost index

Implementation
For housing development projects that have not submitted a complete Project Application as of January 1, 2020, a preliminary housing development application may be submitted as an attachment to the Project Application. For housing development projects that require a Preliminary Project Assessment (PPA) application to be filed prior to submittal of a Project Application, the preliminary housing development application may be submitted as an attachment to the PPA application. A preliminary housing development application may also be submitted prior to either a Project Application of PPA application, provided that a Project Application is submitted within 180 days.

Housing development projects that submitted a complete Project Application prior to January 1, 2020 may submit a preliminary housing development application to the Planning Department at any time after that date. The zoning, design, subdivision, and fee requirements in effect on the date such preliminary application is submitted shall be applied except as listed above.

Historic Resource Determinations

Requirements of State Law
The Housing Crisis Act does not supersede, limit, or modify the requirements of CEQA. Accordingly, the Planning Department will continue to review the potential environmental impacts of proposed projects on historic and cultural resources, as required by CEQA, and may impose mitigation measures necessary to avoid or lessen such impacts or may be required to prepare an Environmental Impact Report (EIR), as appropriate, to examine potential impacts to historic resources.

However, the Act does require that any other determination or designation that the site of a proposed housing development is a historic site shall be made at the time the development application is deemed complete, and shall remain valid for the duration of the project review process, except in limited circumstances where any archeological, paleontological, or tribal cultural resources are subsequently discovered at the project site. This determination does not change the identification and analysis of historic resources that CEQA requires.

Implementation
Housing development projects that submitted a complete Project Application prior to January 1, 2020 may only be designated as an historic landmark or included in an historic conservation district pursuant to Article 10 or 11 or the Planning Code if the application to designate was submitted prior to 2020. Housing development projects that submit a complete Project Application after January 1, 2020 may only be designated if such designation is made prior to submittal of a complete Project Application.

Limited Public Hearings

Housing development projects that comply with applicable zoning standards shall be subject to a maximum of five public hearings to consider project approval by the city. These include informational hearings, hearings at which the project is continued to another date, sub-committee hearings, and appeal hearings. Public hearings required by CEQA, including those arising out of a timely appeal to a CEQA determination, shall not count toward the limit. The city must consider and either approve or disapprove the project at one of these five hearings, after which no further hearings may be held in connection with project approval.

The limit applies only to housing development projects that comply with all applicable zoning standards and are not seeking any exceptions or rezoning or other legislative actions.

Projects that comply with applicable zoning standards generally include:

- Projects for which a hearing is required due to lot size or scale of development through a Conditional Use Authorization (CUA), Sec. 309 (DNX), Sec. 329 (ENX) or other review process, and are not seeking any exceptions to objective, quantifiable standards set forth in the Planning Code
- Projects that qualify for and seek approval pursuant to the State Density Bonus Program
- Ministerial and as-of-right projects that may require a public hearing

Projects that do not comply with applicable zoning standards generally include:

- Projects seeking any exception to objective, quantifiable standards set forth in the Planning Code through Sec. 309 (DNX), Sec. 329 (ENX), Sec. 304 (PUD) or other review process
- Projects that require a Conditional Use Authorization (CUA) for additional height, density, or floor area than what is principally permitted in the Planning Code
- Projects seeking a Variance from Planning Code requirements
- Projects seeking establishment of a Special Use District (SUD), a General Plan Amendment, Planning Code amendment, or other zoning or height map amendment
- Projects that include approval of a Development Agreement

Implementation
Eligible projects that submitted a complete Project Application prior to January 1, 2020 will be subject to no more than five public hearings after January 1, 2020, regardless of any previous public hearings. Projects that submit a complete development application after January 1, 2020 shall be subject to a maximum of five public hearings.

To facilitate compliance, the Planning Department will indicate whether these provisions apply to a specific project, and the total number of previous hearings in department case reports and on Planning Commission agendas. To accommodate the possibility of a timely appeal to the Board of Appeals or Board of Supervisors, the number of Planning Commission and Historic Preservation Commission hearings will be limited.

REPLACEMENT HOUSING UNITS

Requirements of State Law

The Housing Crisis Act requires housing projects that will demolish existing residential units to replace those units, as specified. The following requirements shall only be applied to housing development projects that submit a complete development application after January 1, 2020.

Replacement of Existing Housing Units
No housing development project on a site where any existing residential units would be demolished, including any "protected" units as described below, may be approved unless the replacement project includes at least as many residential units as the existing residential building. Where the building on site was demolished within the past five years prior to development application, the replacement project shall provide at least the maximum number of units that were present during the five-year period.

Non-residential development projects are not subject to the Housing Accountability Act and may be approved, disapproved, or subject to conditions of approval in accordance with local requirements regarding the removal of existing residential units.

Replacement of "Protected" Units
Additionally, certain conditions must be applied to housing development projects that would demolish any existing "protected" units occupied by renter households, including units that are or were in the five years prior to development application: 1) affordable units deed-restricted to households earning below 80 percent of AMI, 2) subject to a local rent control program, 3) occupied by low-income households earning below 80 percent of AMI. Units vacated under the Ellis Act within 10 years prior to development application are also considered "protected" units.

Any housing development project that would demolish any protected units shall as a condition of approval provide replacement units of the same number of bedrooms, and at an affordable rent or sales price to households of the same or lower income category as that of the last household in occupancy in the past five years. Such rental units shall remain under the affordability restriction for a period of 55 years. The low-income categories defined in state law are: 1) "extremely low income" households earning up to 30% of AMI, 2) "very low income" households earning up to 50% of AMI, and 3) "lower income" households earning up to 80% of AMI.

Where the household income of current or previous occupants is not known, the replacement units shall be provided as affordable to low-income households (earning up to 80% of AMI) in an amount proportional to the number of low-income households present in the jurisdiction according to the most current data from the Comprehensive Housing Affordability Strategy (CHAS) database provided by the Department of Housing and Urban Development (HUD).

Where the existing units to be demolished are subject to a local rent control program and the last household in occupancy earned moderate or above moderate income, meaning those earning above 80 percent of AMI, the project shall provide either 1) replacement units affordable to low-income households (i.e. earning up to 80 percent of AMI) for a period of at least 55 years, or 2) replacement units that are subject to the local rent control program.

Relocation Assistance and Right of Return
Projects proposing the demolition of any protected units shall as a condition of approval provide all of the following to occupants of such protected units:

- A right of first refusal to a comparable unit in the replacement project that shall be provided at a rent or sale price affordable to households of the same or lower income category
- Relocation benefits pursuant to state or local law, whichever requires greater assistance
- Right to remain in the unit until six months before the start of construction

Implementation
The above requirements shall apply to any housing development project that submits a complete Project Application after January 1, 2020. Projects proposing to demolish, merge, or remove any existing unit shall remain subject to the provisions of Planning Code Sec. 317, and such projects shall be required to provide all necessary information regarding the occupancy, eviction, and household income history as part of a complete Project Application, and as may be verified during the project review process.

Manner of Replacement of Existing Units
Where multiple options are provided under state law as to the manner of replacement of any existing protected units, such determination shall be at the discretion of the Planning Commission.

Where the household income of current or previous occupants of protected units is not known, 48 percent of such units shall be replaced by units affordable to low-income households earning up to 80% of AMI for a period of 55 years. Pursuant to state law, this proportion reflects the most current data published by HUD on August 5, 2019 for the period 2012-2016. (huduser.gov/portal/datasets/cp.html).

Inclusionary Housing Program
The Housing Crisis Act allows for jurisdictions to apply locally adopted objective provisions that further restrict or condition the demolition of existing units, including if the local provision requires a greater number of low-income households to be provided. Pursuant to Planning Code Sec. 415, existing affordable units must be replaced in addition to compliance with the requirements of the Inclusionary Housing Program. This provision shall also apply to replacement protected units required by state law.

Relocation Payments
Where relocation benefits are required by state or local law, the amount of relocation payments to be provided shall be the applicable amount as published by the San Francisco Residential Rent Stabilization and Arbitration Board. Current relocation payment requirements and amounts can be found on the Rent Board website:
sfrb.org/forms-center.

CONTACT

For more information, please contact:

Kate Conner
415.575.6914
kate.conner@sfgov.org

Carly Grob
415.575.9138
carly.grob@sfgov.org

SAN FRANCISCO
PLANNING
DEPARTMENT

FOR MORE INFORMATION:
Call or visit the San Francisco Planning Department

Central Reception
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

TEL: **415.558.6378**
FAX: **415 558-6409**
WEB: **http://www.sfplanning.org**

Planning Information Center (PIC)
1660 Mission Street, First Floor
San Francisco CA 94103-2479

TEL: **415.558.6377**
Planning staff are available by phone and at the PIC counter. No appointment is necessary.

Exhibit J

San Francisco Planning
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

CEQA Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
1324-1326 POWELL ST		0160014A
Case No.		**Permit No.**
2019-014461ENV		
☐ **Addition/ Alteration**	■ **Demolition (requires HRE for Category B Building)**	■ **New Construction**

Project description for Planning Department approval.

Project revised 3/5/2021: The project site is currently developed with a two-story, 5,650 square foot commercial building. The site is bound by a courtyard and 12-story residential building to the east, a two-story residence to the south, Powell Street to the west, and Fisher Alley to the north. San Francisco Fire Department Station No. 2 is located directly across the project site on the opposite side of Fisher Alley. The proposed project would demolish the existing building on-site and construct a new 8-story (84-ft 5-in tall) mixed-use building with approximately 3,400 square feet of ground-floor commercial space and 18,300 square feet of residential. Project relies on the State Density Bonus to achieve an additional seven units over the 17-unit base density for a total of 24 dwelling units and elects four waivers from the Planning Code for site coverage, dwelling unit exposure, height, and bulk. The 24 dwelling units would be comprised of 11 studios, 7 one-bedroom units, 4 two-bedroom units, and 2 three-bedroom units. The proposed project would also include a basement level with 24 class 1 bicycle parking spaces, a laundry room, a storage room, and utility space. No vehicular parking is proposed. The rooftop level would contain 627 square feet of common open space. Interior facing dwelling units would also have a private
FULL PROJECT DESCRIPTION ATTACHED

STEP 1: EXEMPTION TYPE

The project has been determined to be exempt under the California Environmental Quality Act (CEQA).

☐	**Class 1 - Existing Facilities.** Interior and exterior alterations; additions under 10,000 sq. ft.
☐	**Class 3 - New Construction.** Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
■	**Class 32 - In-Fill Development.** New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.
☐	**Other** ____
☐	**Common Sense Exemption (CEQA Guidelines section 15061(b)(3)).** It can be seen with certainty that there is no possibility of a significant effect on the environment.

STEP 2: ENVIRONMENTAL SCREENING ASSESSMENT

TO BE COMPLETED BY PROJECT PLANNER

■	**Air Quality:** Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g. use of diesel construction equipment, backup diesel generators, heavy industry, diesel trucks, etc.)? (*refer to the Environmental*
■	**Hazardous Materials:** ☐ **Maher or** ☐ **Cortese** Is the project site located within the Maher area or on a site containing potential subsurface soil or groundwater contamination and would it involve ground disturbance of at least 50 cubic yards or a change of use from an industrial use to a residential or institutional use? Is the project site located on a Cortese site or would the project involve work on a site with an existing or former gas station, parking lot, auto repair, dry cleaners, or heavy manufacturing use, or a site with current or former underground storage tanks? *if Maher box is checked, note below whether the applicant has enrolled in or received a waiver from the San Francisco Department of Public Health (DPH) Maher program, or if Environmental Planning staff has determined that hazardous material effects would be less than significant.* **Note that a categorical exemption shall not be issued for a project located on the Cortese List**
☐	**Transportation:** Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities? Would the project involve the intensification of or a substantial increase in vehicle trips at the project site or elsewhere in the region due to autonomous vehicle or for-hire vehicle fleet maintenance, operations or
■	**Archeological Resources:** Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeology review is required.
☐	**Subdivision/Lot Line Adjustment:** Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (*refer to the Environmental Information tab on https://sfplanninggis.org/PIM/*) **If box is checked, Environmental Planning must issue the exemption.**
☐	**Average Slope of Parcel = or > 25%, or site is in Edgehill Slope Protection Area or Northwest Mt. Sutro Slope Protection Area:** Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, or (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area? (*refer to the Environmental Information tab on https://sfplanninggis.org/PIM/*) **If box is checked, a geotechnical report is likely required and Environmental Planning must issue the exemption.**
☐	**Seismic Hazard:** ☐ **Landslide or** ☐ **Liquefaction Hazard Zone:** Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area, or (4) grading performed at a site in the landslide hazard zone? *(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)* **If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.**

Comments and Planner Signature (*optional*): Ryan Shum

PLEASE SEE ATTACHED

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE

TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: *(refer to Property Information Map)*	
☐	**Category A:** Known Historical Resource. **GO TO STEP 5.**
☐	**Category B:** Potential Historical Resource (over 45 years of age). **GO TO STEP 4.**
■	**Category C:** Not a Historical Resource or Not Age Eligible (under 45 years of age). **GO TO STEP 6.**

STEP 4: PROPOSED WORK CHECKLIST

TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
☐	1. **Change of use and new construction.** Tenant improvements not included.
☐	2. **Regular maintenance or repair** to correct or repair deterioration, decay, or damage to building.
☐	3. **Window replacement** that meets the Department's *Window Replacement Standards*. Does not include storefront window alterations.
☐	4. **Garage work.** A new opening that meets the *Guidelines for Adding Garages and Curb Cuts*, and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
☐	5. **Deck, terrace construction, or fences** not visible from any immediately adjacent public right-of-way.
☐	6. **Mechanical equipment installation** that is not visible from any immediately adjacent public right-of-way.
☐	7. **Dormer installation** that meets the requirements for exemption from public notification under *Zoning Administrator Bulletin No. 3: Dormer Windows*.
☐	8. **Addition(s)** that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
☐	Project is not listed. **GO TO STEP 5.**
☐	Project **does not conform** to the scopes of work. **GO TO STEP 5**.
☐	Project involves **four or more** work descriptions. **GO TO STEP 5.**
☐	Project involves **less than four** work descriptions. **GO TO STEP 6.**

STEP 5: ADVANCED HISTORICAL REVIEW

TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
☐	1. **Reclassification of property status**. *(Attach HRER Part I)* ☐ Reclassify to Category A a. Per HRER b. Other *(specify)*: ☐ Reclassify to Category C *(No further historic review)*
☐	2. Project involves a **known historical resource (CEQA Category A)** as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
☐	3. **Interior alterations to publicly accessible spaces that do not** remove, alter, or obscure **character defining features**.
☐	4. **Window replacement** of original/historic windows that are not "in-kind" but are consistent with existing historic character.
☐	5. **Façade/storefront alterations** that do not remove, alter, or obscure character-defining features.

☐	6. **Raising the building** in a manner that does not remove, alter, or obscure character-defining features.
☐	7. **Restoration** based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
☐	8. **Work consistent** with the *Secretary of the Interior Standards for the Treatment of Historic Properties* (*Analysis required*):
☐	9. **Work compatible** with a historic district (Analysis required):
☐	10. **Work that would not materially impair** a historic resource (Attach HRER Part II).
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
☐	**Project can proceed with exemption review**. The project has been reviewed by the Preservation Planner and can proceed with exemption review. **GO TO STEP 6.**
Comments (*optional*):	
Preservation Planner Signature:	

STEP 6: EXEMPTION DETERMINATION

TO BE COMPLETED BY PROJECT PLANNER

■	**No further environmental review is required. The project is exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.**	
	Project Approval Action: Planning Commission Hearing	**Signature:** Charles Enchill 09/13/2021
	Supporting documents are available for review on the San Francisco Property Information Map, which can be accessed at https://sfplanninggis.org/PIM/. Individual files can be viewed by clicking on the Planning Applications link, clicking the "More Details" link under the project's environmental record number (ENV) and then clicking on the "Related Documents" link. Once signed or stamped and dated, this document constitutes an exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination to the Board of Supervisors can only be filed within 30 days of the project receiving the approval action.	

2020-0000056

F I L E D

SAN FRANCISCO County Clerk

December 8, 2020

by: Fallon Lim

Deputy County Clerk

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

CEQA CATEGORICAL EXEMPTION DETERMINATION

Property Information/Project Description

Project Address	Block/Lot(s)
2765 16th Street	3520/020A
Case No.	**Permit No.**
2020-006584ENV	

☒ **Addition Alteration** ☐ **Demolition** (requires HRE for Category B Building) ☒ **New Construction**

Project Description

The project site is approximately 20,800 square feet (assessor's block 3520/lot 020A) and is located on the block bounded by 16th Street on the north, Folsom Street to the west, 17th Street to the south, and Harrison Street to the east. The project site includes an existing PDR building used for storage. The proposed project is a request for a change in use of the existing building (20,800-square-foot wholesale storage building) for a health services clinic (dialysis clinic). The exterior of the building would remain largely intact, with minor modifications to the entry area to replace the roll up door with a storefront system and removal of a 3,000-square-foot interior mezzanine resulting in the creation of 17,160 sf of health service space for the dialysis clinic. The project would require Conditional Use Authorization to exceed 5,000 sf of retail in a PDR-1-G District.

STEP 1: Exemption Class

☐ **Class 1 - Existing Facilities.** Interior and exterior alterations; additions under 10,000 sq. ft.

☐ **Class 3 - New Construction.** Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.

POSTED DEC 08 2020

TO

☒ **Class 32 - In-Fill Development.** New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:

a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
b. The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.
c. The project site has no value as habitat for endangered rare or threatened species.
d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
e. The site can be adequately served by all required utilities and public services.

FOR ENVIRONMENTAL PLANNING USE ONLY

☐ **Class** _____

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

CEQA CATEGORICAL EXEMPTION DETERMINATION

Property Information/Project Description

Project Address	Block/Lot(s)
2765 16th Street	3520/020A
Case No.	**Permit No.**
2020-006584ENV	

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a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
b. The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.
c. The project site has no value as habitat for endangered rare or threatened species.
d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
e. The site can be adequately served by all required utilities and public services.

FOR ENVIRONMENTAL PLANNING USE ONLY

☐ **Class** _____

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

2021-0000043

F I L E D
SAN FRANCISCO County Clerk
August 27, 2021
by: Fallon Lim
Deputy County Clerk

POSTED AUG 27 2021 TO

NOTICE OF EXEMPTION

Final Approval Date:	**August 23, 2021**
Case No.:	**2020-005897ENV**
Project Title:	**233 Geary Street**
Zoning:	C-3-R-Downtown-Retail Zoning District
Height/Bulk:	80-130-F Height and Bulk District
Block/Lot:	0314/018-019
Lot Size:	18,906 square feet
Neighborhood:	Downtown
Lead Agency:	San Francisco Planning Department
Project Sponsor:	Tuija Catalano. Rueben, Junius and Rose 415-567-9000 tcatalano@ruebenlaw.com
Staff Contact:	David Young (628) 652-7494 David.L.young@sfgov.org

To: County Clerk, City and County of San Francisco
City Hall Room 168
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Pursuant to the California Environmental Quality Act (CEQA), the Guidelines of the Secretary for Resources, and San Francisco requirements, this Notice of Determination is transmitted to you for filing. At the end of the posting period, please return this Notice to the Staff Contact with a notation of the period it was posted.

Attached fee: $72 filing fee

Project Description

The proposed project site is located at the northeast corner of Geary and Stockton streets on a block bounded by Geary Street to the north, Stockton Street to the east, and O'Farrell and Powell streets to the south and west, respectively. The project site comprises two contiguous parcels totaling 18,906 square feet at the former Macys location on Union Square. The site includes assessor's block 0314/lots 018-020. The existing building on the site consists of 148,105 square feet of retail (basement 1 + floors 1-7), 31,552 square feet of office uses (floors 8-11), and 24,140 square feet of common space at the basement 2 level, level 11, and at the roof and mechanical penthouse levels. The building height would remain unchanged at approximately 153 feet to the roof level (179 feet in height inclusive of mechanical penthouse). The project proposes a change in use for the conversion of the existing office and retail department store (former Macys) building into a mixed-

use building with approximately 63,240 square feet of retail (floors 1-3 + basement floors), 81,460 square feet of office (floors 4-7 and 11), and 49,700 square feet of residential use with 21 dwelling units (floors 8 – 10). The project would fully preserve the washroom portion of the historic interior space and relocate it to the third floor. The roof level would include an approximately 5,300-square-foot roof terrace with a 10-foot trellis. The trellis would not increase the building height. The project would include 36 Class I, and 4 Class II bicycle parking spaces[1]. Entry access to the residential units; commercial and retail space would be from Stockton Street. All freight loading would take place at the two loading spaces at the sub-basement level. The project would require 18,215 cubic feet of temporary excavation for the footings, elevator pit, showers, and utilities and 16,392 cubic feet excavation for permanent foundation support totaling of 1,334 cubic yards of debris and material. Project duration is estimated at 18 months with construction beginning in late 2021.

Determination

The City and County of San Francisco decided to carry out or approve the entitlements for the project at a regular Planning Commission hearing on July 22, 2021. The project was officially approved on August 24, 2021 when no appeal of the section 15332 (class 32) in-fill development project exemption was filed during the 30-day appeal period. A copy of the documents may be examined at the Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco, CA, 94103 in file no. 2020-005897ENV and 2020-005897PRJ.

1. An Exemption from Environmental Review has been prepared pursuant to the provisions of CEQA under:

   ☐ Ministerial (Sec. 21080(b)(1); 15268)

   ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a))

   ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c))

   ☒ Categorical Exemption. State type and section number: Section 15332. Infill Development Projects.

   ☐ Statutory Exemption. State code number: _____

   ☐ Community Plan Exemption (Sec. 21083.3; 15183)

This project in its approved form has been determined to be exempt from environmental review because the project meets the requirements for a Class 32 - in-fill development
NOTE: This notice is being issued during the suspension of certain CEQA filing and posting requirements pursuant to executive orders N-54-20 and N-80-20, and its issuance complies with the alternative posting requirements stated in the orders. This notice also complies with local requirements under the March 23rd Fifth Supplement to the Mayoral Proclamation Declaring the Existence of a Local Emergency Dated February 25, 2020.

[1] San Francisco Planning Code Section 155.1(a): 1) – Class One spaces are "spaces in secure, weather-protected facilities intended for use as long-term, overnight, and work-day bicycle storage by dwelling unit residents, nonresidential occupants, and Employees"; and 2) Class Two spaces are "spaces located in a publicly-accessible, highly visible location intended for transient or short-term use by visitors, guests, and patrons to the building or use."

Rich Hillis
Planning Director

Jessica Range for
By Lisa Gibson
Environmental Review Officer

August 27, 2021
Date

cc: Tuija Catalano, Rueben, Junius and Rose
Supervisor Aaron Peskin, District 3
Jonathn Vimr, Current Planner

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

2021-0000016

F I L E D
SAN FRANCISCO County Clerk
May 6, 2021
by: Fallon Lim
Deputy County Clerk

NOTICE OF EXEMPTION

0 Guttenberg Street

POSTED MAY 06 2021
TO

Approval Date:	March 11, 2021
Case No.:	**2018-016721ENV**
Project Address:	**0 Guttenberg Street**
Zoning:	RH-1 (Residential-House, One Family) Use District
Height/Bulk:	40-X Height and Bulk District
Block/Lot:	6475/055
Lot Size:	36,369 square feet
Lead Agency:	San Francisco Planning Department
Project Sponsor:	Jayesh Patel, P & J Builders – (510) 290-0563, jayesh.patel@pandjbuildersllc.com
Staff Contact:	Jennifer McKellar – (628) 652-7563, jennifer.mckellar@sfgov.org .

To: County Clerk, City and County of San Francisco
City Hall Room 168
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Pursuant to the California Environmental Quality Act (CEQA), the Guidelines of the Secretary for Resources, and San Francisco requirements, this Notice of Exemption is transmitted to you for filing. At the end of the posting period, please return this Notice to the Staff Contact with a notation of the period it was posted.

Attached fee $71 filing fee

Project Description

The proposed project would construct three new two- to three-story (21- to 26-foot-tall) residential buildings totaling 32,214 square feet. The new buildings would include a total of 19 dwelling units with eleven three-bedroom units and eight two-bedroom units. The dwelling units would be accessed from Guttenberg Street by a new 30-foot-wide curb cut leading to a new approximately 267-foot-long, 20-foot-wide private driveway with approximately 5-foot-wide sidewalks on either side. A total of 29 unbundled vehicle parking spots and 19 bicycle parking spaces would be provided in ground-level parking garages in each building. Approximately 8,000 square feet of private open space would also be provided in the form of rear yards. Solar photovoltaic systems would be installed on the roofs of each building. Site grading would involve excavation to depths of three to 6.5 feet below ground surface. Trenching for utilities would involve excavation to a maximum depth of eight feet below ground surface. The proposed project would include approximately 370 cubic yards of soil export and import to construct the project.

Determination:

The City and County of San Francisco decided to carry out or approve the project on March 11, 2021 when the Planning Commission approved a conditional use authorization with conditions (Planning Commission Motion No. 20872). This approval constituted the Approval Action pursuant to Chapter 31 of the San Francisco

Administrative Code. A copy of the documents related to the environmental review and the approval action are online (https://sfplanninggis.org/Pim/) or at 49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103 as part of file nos. 2018-016721ENV, 2018-016721CUA, and 2018-016721VAR.

1. An Exemption from Environmental Review has been prepared pursuant to the provisions of CEQA under:

   ___ Ministerial (Sec. 21080(b)(1); 15268)

   ___ Declared Emergency (Sec. 21080(b)(3); 15269(a))

   ___ Emergency Project (Sec. 21080(b)(4); 15269(b)(c))

   _X_ Categorical Exemption. State type and section number: Class 32 (Sec. 15332)

   ___ Statutory Exemption. State code number: _____

   ___ Community Plan Evaluation (Sec. 21083.3; 15183)

2. This project in its approved form has been determined to be exempt from environmental review. The project meets the definition of a project that would be categorically exempt under a Class 32 determination because it is an infill development that meets the following criteria: it is consistent with the applicable general plan designation and policies and applicable zoning designation and regulations; it occurs within city limits on a project site less than 5 acres and is substantially surrounded by urban uses; it can be adequately served by all required utilities and public services; the project site has no value as habitat for endangered, rare or threatened species; and approval of the project would not result in any significant effects, including those related to traffic, noise, air quality, or water quality. Additionally, none of the exceptions listed in CEQA Guidelines section 15300.2, which would prohibit the use of a categorical exemption, apply to the project.

Rich Hillis
Planning Director

for Chelsea Fordham
By Lisa Gibson
Environmental Review Officer

April 26, 2021
Date

cc: Jayesh Patel, P & J Builders, LLC
Supervisor Ahsha Safaí, District 11

State of California - Department of Fish and Wildlife

2021 ENVIRONMENTAL FILING FEE CASH RECEIPT

DFW 753.5a (REV. 01/01/21) Previously DFG 753.5a

Print | StartOver | Save

RECEIPT NUMBER:
01 — 08/27/2021 — 43

STATE CLEARINGHOUSE NUMBER *(If applicable)*

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY	LEAD AGENCY EMAIL	DATE
SAN FRANCISCO PLANNING DEPARTMENT		08/27/2021

COUNTY/STATE AGENCY OF FILING	DOCUMENT NUMBER
Select County/State Agency	202100766608

PROJECT TITLE

233 GEARY STREET

PROJECT APPLICANT NAME	PROJECT APPLICANT EMAIL	PHONE NUMBER
DAVID YOUNG	david.l.young@sfgov.org	(628) 652-7494

PROJECT APPLICANT ADDRESS	CITY	STATE	ZIP CODE
49 S. VAN NESS AVE STE 1400	SAN FRANCISCO	CA	94103

PROJECT APPLICANT *(Check appropriate box)*

☑ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity

CHECK APPLICABLE FEES:

☐ Environmental Impact Report (EIR)	$3,445.25	$ 0.00
☐ Mitigated/Negative Declaration (MND)(ND)	$2,480.25	$ 0.00
☐ Certified Regulatory Program (CRP) document - payment due directly to CDFW	$1,171.25	$ 0.00

☑ Exempt from fee
- ☑ Notice of Exemption (attach)
- ☐ CDFW No Effect Determination (attach)

☐ Fee previously paid (attach previously issued cash receipt copy)

☐ Water Right Application or Petition Fee (State Water Resources Control Board only)	$850.00	$ 0.00
☑ County documentary handling fee		$ 72.00
☐ Other		$

PAYMENT METHOD:

☐ Cash ☐ Credit ☑ Check ☐ Other **TOTAL RECEIVED** $ 72.00

SIGNATURE	AGENCY OF FILING PRINTED NAME AND TITLE
X	FALLON LIM, DEPUTY COUNTY CLERK

ORIGINAL - PROJECT APPLICANT | COPY - CDFW/ASB | COPY - LEAD AGENCY | COPY - COUNTY CLERK | DFW 753.5a (Rev. 01012021)

2021-0000064

F I L E D
SAN FRANCISCO County Clerk
November 10, 2021
by: Mariedyne Argente
Deputy County Clerk

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

NOV 10 2021
POSTED
FOR

NOTICE OF EXEMPTION

Final Approval Date:	November 2, 2021
Case No.:	**2016-015987ENV**
Project Title:	**1750 Van Ness Avenue**
Zoning:	RC-4 Residential Commercial, High Density 80-D Height and Bulk District Van Ness Avenue Area Plan Van Ness Special Use District
Block/Lot:	0622/019
Lot Size:	13,195 square feet
Lead Agency:	San Francisco Planning Department
Project Sponsor:	American Buddhist Cultural Society, c/o Melinda Sarjapur, Reuben, Junius & Rose, LLP (415) 567-9000 msarjapur@reubenlaw.com
Staff Contact:	Lauren Bihl (628) 652-7498 lauren.bihl@sfgov.org

To: County Clerk, City and County of San Francisco
City Hall Room 168
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Pursuant to the California Environmental Quality Act (CEQA), the Guidelines of the Secretary for Resources, and San Francisco requirements, this Notice of Exemption is transmitted to you for filing. At the end of the posting period, please return this Notice to the Staff Contact with a notation of the period it was posted.

Attached fee: $72 filing fee

Project Description

The project includes the demolition of the existing 28,806 square-foot, two-story religious institutional building and the construction of a new six-story-over-basement religious institutional building (dba San Bao Temple) totaling approximately 40,687 gross square feet. On the ground floor, the project includes a retail bookstore and art gallery measuring approximately 1,185 square feet fronting Van Ness Avenue, and kitchen and dining facilities at the rear for communal dining offered services and events. On the second floor, a shrine

area with seating for up to 300 members, two classrooms, and a lecture hall will be provided. At the third floor, the project includes a classroom along the Van Ness Avenue frontage, a landscaped outdoor roof deck featuring a meditation garden, as well as an enclosed meditation room at the rear, directly above and open to the main shrine area. The project also provides three floors containing 30 private, no-cost efficiency dormitory rooms for short-term use by attendees of temple events, monastics, scholars, and visiting volunteers engaged in supportive activity for the temple. The project includes one below-grade level with seven (7) off-street vehicular parking spaces and 18 Class One bicycle parking spaces, accessed from an existing curb cut along Clay Street.

Determination

The City and County of San Francisco decided to carry out or approve the project on September 30, 2021 when the Planning Commission approved the Conditional Use Authorization for the project (Motion M-21004) and recommended approval of a Planning Code Amendment to the Board of Supervisors. The project was officially approved on November 2, 2021 when no appeal of the Class 32 categorical was filed during the 30-day appeal period. A copy of the documents may be examined at the Planning Department, 49 South Van Ness Avenue, Suite 1400, San Francisco, CA, 94103 in file no. 2016-015987ENV and 2016-015987CUA/PCA/VAR.

1. An Exemption from Environmental Review has been prepared pursuant to the provisions of CEQA under:

   ☐ Ministerial (Sec. 21080(b)(1); 15268)

   ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a))

   ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c))

   ☒ Categorical Exemption. State type and section number: Class 32

   ☐ Statutory Exemption. State code number: _____

   ☐ Community Plan Exemption (Sec. 21083.3; 15183)

2. This project in its approved form has been determined to be exempt from environmental review because the project meets the criteria for a class 32 exemption and will not have a significant effect on the environment.

This notice is being issued during the suspension of certain CEQA filing and posting requirements pursuant to executive orders N-54-20 and N-80-20, and its issuance complies with the alternative posting requirements stated in the orders. This notice also complies with local requirements under the March 23rd Fifth Supplement to the Mayoral Proclamation Declaring the Existence of a Local Emergency Dated February 25, 2020.

Rich Hillis
Planning Director

Rick Cooper , for

By Lisa Gibson
Environmental Review Officer

November 10, 2021

Date

cc: Melinda Sarjapur, Reuben, Junius & Rose, LLP
Supervisor Aaron Peskin, District 3

San Francisco Planning
49 South Van Ness Ave., 14th Floor
San Francisco, CA 94103
415.558.6378 www.sfplanning.org

2020-0000060

FILED
SAN FRANCISCO County Clerk
December 23, 2020

by: Fallon Lim
Deputy County Clerk

NOTICE OF EXEMPTION

POSTED DEC 23 2020 TO

Approval Date:	October 22, 2020
Case No.:	2014.0734ENV
Project Title:	1950 Page Street
Zoning:	RM-2 (Residential, Mixed, Moderate Density) Zoning District
Height/Bulk:	40-X Height and Bulk District
Block/Lot:	1227/010
Lot Size:	24,058 square feet
Lead Agency:	San Francisco Planning Department
Project Sponsor:	Institute for Arts and Culture, Inc. d.b.a. San Francisco Middle School of the Arts & San Francisco High School of the Arts c/o Sherry Zhang, Ph.D., Head of School 1970 Page Street, San Francisco, CA 94117
Staff Contact:	Wade Wietgrefe (628) 652-7565 Wade.Wietgrefe@sfgov.org

To: County Clerk, City and County of San Francisco
City Hall Room 168
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Pursuant to the California Environmental Quality Act (CEQA), the Guidelines of the Secretary for Resources, and San Francisco requirements, this Notice of Exemption is transmitted to you for filing. At the end of the posting period, please return this Notice to the Staff Contact with a notation of the period it was posted.

Attached fee: $71 filing fee

A. Project Description and Location:

The project would legalize and intensify an existing school use and construct a vertical addition with group housing to an existing building, among other building changes. The existing approximately 28-foot-tall, 31,126 gross square-foot building is located on a 24,063 square-foot site at 1950 Page Street in San Francisco, between Stanyan and Shrader Streets. The existing building was previously occupied by a community facility doing

business as the Ernest Ingold Clubhouse of the Boys & Girls Club of San Francisco. The existing building is currently occupied by the Institute for Arts and Culture, which the project would transform into the San Francisco High and Middle Schools of the Arts. The school has existing regular school year and summer (mid-June to early August) programs. The existing maximum daily occupancy is approximately 63 students and 26 faculty/staff during the weekday period between 2:30 and 5:00 pm. The existing building includes a first floor with three dance studios, a partial second floor, and a roof deck. The project would legalize the existing school use. In addition, the school would intensify their existing regular school year and summer programs. The proposed maximum daily occupancy would be approximately 250 students and 46 faculty/staff. The project would add a 12-foot vertical addition to the existing building, increasing the height to approximately 40 feet; and increase the size of the existing building by 23,540 square feet, resulting in a building size of 54,666 square feet. The project would remove one of the existing dance studios on the first floor and replace it with a garage consisting of seven off-street vehicular parking spaces and approximately 114 bicycle parking spaces. The garage would be accessed from an existing 26-foot-wide curb cut along Page Street. The project would construct an interior addition to the existing partial second floor and a new vertical addition for a new third floor and roof deck garden. The new third floor would include classrooms and seven units of group housing primarily intended for teachers or visiting students. The roof would include two separate locations for heating, ventilation, and air condition (HVAC) units. Each HVAC unit location would be located within a screened area with SoundGuard-brand panels, or the like, for compliance with noise limits in Article 29 of the Police Code. The project also includes a transportation management plan. The project sponsor would also apply to the SFMTA to extend the existing 65-foot-long passenger loading zone located on Page Street to approximately 162 feet, which would remove five parking spaces during the zone's hours.

B. Determination:

The City and County of San Francisco decided to carry out or approve the project on October 22, 2020, when the City's Planning Commission approved the Conditional Use Authorization for a Planned Unit Development (PUD) that would include PUD exceptions to the floor area ratio (Section 124), front setback (Section 132), rear yard (Section 134) and dwelling unit exposure (Section 140) requirements within the RM-2 Zoning District. (Motion No. M-20803). A copy of the documents related to the environmental review are online (https://sfplanninggis.org/Pim/) or at 49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103 as part of file no. 2014.0734ENV.

1. An Exemption from Environmental Review has been prepared pursuant to the provisions of CEQA under:

___Ministerial (Sec. 21080(b)(1); 15268)

___Declared Emergency (Sec. 21080(b)(3); 15269(a))

___Emergency Project (Statute Sec. 21080(b)(4); Guidelines Sec. 15269(c))

_X_ Categorical Exemption. Class 32, Infill Development Project (Guidelines Sec. 15332)

___ Statutory Exemption. State code number: _____

___Community Plan Exemption (Sec. 21083.3; 15183)

2. This project in its approved form has been determined to be exempt from environmental review. The project meets the definition of a project that would be categorically exempt under a Class 32 determination because it is an infill development project on an urban site no more than 5 acres in size meeting the conditions in CEQA Guidelines section 15332 related to general plan and zoning designations and regulations for the site. The site has no value as habitat for endangered, rare, or threatened species, and is adequately served by all required utilities and public services. In addition, the project would not result in significant environmental impacts related to traffic, noise, air quality, or water quality.

   Note: This notice is being issued during the suspension of certain CEQA filing and posting requirements pursuant to executive orders N-54-20 and N-80-20, and its issuance complies with the alternative posting requirements stated in the orders. This notice also complies with local requirements under the March 23rd Fifth Supplement to the Mayoral Proclamation Declaring the Existence of a Local Emergency Dated February 25, 2020.

Rich Hillis
Planning Director

Debra Dwyer for

By Lisa Gibson
Environmental Review Officer

December 14, 2020

Date

cc: Via email:
Sherry Zhang, Ph.D.
Larry Badiner, Badiner Urban Planning

ZACKS & FREEDMAN & PATTERSON, PC
601 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94111

PROOF OF SERVICE
Superior Court of California, County of San Francisco
Case No.: CPF-21-517651

I, Tiffany Stamper, declare that:

I am employed in the County of San Francisco, State of California. I am over the age of 18, and am not a party to this action. My business address is 601 Montgomery Street, Suite 400, San Francisco, California 94111.

On **November 21, 2022**, I served:

1) VERIFIED SECOND AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF

in said cause addressed as follows:

Forge Development Partners LLC Richard Hannum David Ericksen 155 Montgomery Street, Suite 300 San Francisco CA 94104 Email: richard@forgedevelopmentpartners.com dericksen@ccmslaw.com	Tenderloin Housing Clinic c/o Randy Shaw 710 Van Ness Ave San Francisco, CA 94102 Email: randy@thclinic.org
Fifth Church of Christ, Scientist in San Francisco Ela Strong P.O. Box 27275 San Francisco, CA 94127 Email: ourfifthchurch@gmail.com	Kathy Shin Audrey Pearson City and County of San Francisco 1 Dr. Carlton B. Goodlett Place City Hall, Room 234 San Francisco, CA 94102 kathy.shin@sfcityatty.org audrey.pearson@sfcityatty.org

/**XX**/ **(BY E-SERVICE)** I served the above documents through File & ServeXpress in accordance with the Court's Local Rule 2.11 requiring all documents be served upon interested parties via File & ServeXpress e-Service System.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **November 21, 2022**, at San Francisco, California.

TIFFANY STAMPER