

File No. 130896

Committee Item No. _____
Board Item No. 25

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date NOVEMBER 5, 2013

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget Analyst Report
- Legislative Analyst Report
- Introduction Form (for hearings)
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Appeal of Mitigated Negative Declaration - 1050 Valencia Street
- Appellants' Brief
- Project Sponsor's Brief
- Planning Department's Response

Completed by: Joy Lamug

Date October 17, 2013

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

From: Caldeira, Rick
Sent: Tuesday, October 22, 2013 2:22 PM
To: BOS Legislation
Cc: Lamug, Joy
Subject: FW: 1050 Valencia Street Appeal –Supervisor Wiener's Request for a Continuance
Attachments: 1050 Valencia Street Consent to Continue Letter to BOS102213.pdf

For file.

From: Board of Supervisors
Sent: Tuesday, October 22, 2013 1:45 PM
To: Caldeira, Rick
Subject: FW: 1050 Valencia Street Appeal –Supervisor Wiener's Request for a Continuance

fyi

From: Stephen M. Williams [<mailto:smw@stevewilliamsllaw.com>]
Sent: Tuesday, October 22, 2013 12:44 PM
To: Chiu, David
Cc: Board of Supervisors; Power, Andres
Subject: 1050 Valencia Street Appeal –Supervisor Wiener's Request for a Continuance

President Chiu:

Attached is a letter on behalf of the Liberty Hill Neighborhood Association consenting to the continuance of the Appeal of the Final Mitigated negative Declaration issued for 1050 Valencia Street. If you have any questions or require anything further please let me know at your convenience.

Sincerely,

Stephen M. Williams

Stephen M. Williams
Law Offices of Stephen M. Williams
1934 Divisadero Street
San Francisco, CA 94115
Phone: (415) 292-3656
Fax: (415) 776-8047

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October 22, 2013

via e-mail and facsimile

David Chiu, President
San Francisco Board of Supervisors
City Hall, Room 234
San Francisco, CA 94102

Re: **1050 Valencia Street (AKA) 1 Hill Street; Appeal of Final Mitigated
Negative Declaration Agenda Items 58-61**
Hearing Date: October 22, 2013; Special Order 3:00pm
Supervisor Wiener's Request for a Continuance

President Chiu and Honorable Members of the Board of Supervisors:

This office represents the Appellant, Liberty Hill Neighborhood Association (LHNA) in the above-noted appeal that is on the Board's calendar for today.

Yesterday morning I received an e-mail from Andres Power, legislative aide to Supervisor Wiener advising LHNA that Supervisor Wiener was called away on a family emergency and will not attend today's Board meeting. Mr. Power requested that LHNA consent to continue the hearing on its appeal to November 5, 2013.

This will notify the Board that LHNA, as a courtesy to Supervisor Wiener, has no objection to the requested continuance. We reviewed this date and several others with the group and although a number of witnesses will not be able to attend, we agreed to consent to the requested continuance.

Sincerely,

Stephen M. Williams

CC: Clerk of the Board
Andres Power, Aide to Supervisor Wiener

Lamug, Joy

From: Power, Andres
Sent: Monday, October 21, 2013 11:11 AM
To: Lamug, Joy
Subject: FW: 1050 Valencia CEQA appeal

Hi Joy – here's an email from the project sponsor agreeing to a continuance to 11/5.

I'm still awaiting a response from the appellants. I'll forward it to you as soon as I get it.

Andres Power
Office of Supervisor Scott Wiener
(t) 415-554-6968

From: Andrew Junius [mailto:ajunius@reubenlaw.com]
Sent: Monday, October 21, 2013 10:42 AM
To: 'shizuohold'; Power, Andres; Stephen Antonaros
Cc: Melinda A. Sarjapur
Subject: RE: 1050 Valencia CEQA appeal

Thanks Mark.

Andrew J. Junius
REUBEN, JUNIUS & ROSE LLP
One Bush Street, Suite 600
San Francisco, CA 94104
T: 415-567-9000 C: 415-336-3796 Twitter@AJLandSF

From: shizuohold [mailto:shizuohold@yahoo.com]
Sent: Monday, October 21, 2013 10:41 AM
To: Andrew Junius; 'Power, Andres'; Stephen Antonaros
Cc: Melinda A. Sarjapur
Subject: Re: 1050 Valencia CEQA appeal

OK on Reshd

Sent from my MetroPCS 4G Android device

----- Original Message -----

From: Andrew Junius
Date: 10/21/2013 9:51 AM
To: 'Power, Andres'; Stephen Antonaros;
Cc: Rutherford Mark; Melinda A. Sarjapur;
Subject: RE: 1050 Valencia CEQA appeal

Andres - we have not been able to reach Mark yet, but Melinda and I are available.

Mark, please respond directly to Andres re this date; I am assuming it is the earliest it can be rescheduled to.

Andrew J. Junius

One Bush Street, Suite 600
San Francisco, CA 94104
T: 415-567-9000 C: 415-336-3796 Twitter@AJLandSF

-----Original Message-----

From: Power, Andres [<mailto:andres.power@sfgov.org>]
Sent: Monday, October 21, 2013 8:40 AM
To: Stephen Antonaros
Cc: Rutherford Mark; Melinda A. Sarjapur; Andrew Junius
Subject: RE: 1050 Valencia CEQA appeal
Importance: High

Hello,

Unfortunately, the Supervisor will be leaving this evening on a family emergency and will not be at the Board tomorrow. We will need to push the appeal hearing back by two weeks to 11/5. Please confirm ASAP that this date works for you all. My apologies for this last minute rescheduling.

Best,

Andres

Andres Power
Office of Supervisor Scott Wiener
(t) 415-554-6968

-----Original Message-----

From: Stephen Antonaros [<mailto:santonaros@sbcglobal.net>]
Sent: Thursday, October 03, 2013 10:00 AM
To: Power, Andres
Cc: Rutherford Mark; Melinda Sarjapur
Subject: 1050 Valencia CEQA appeal

Andres,

We will be keeping with the October 22 hearing date. Reuben and Junius will be representing Mark Rutherford. Melinda Sarjapur from their office is the contact.

We have not received any documents related to the appeal and therefore do not know who the appellants are. Do you have that information or can you find out?

Thanks

Stephen

Stephen Antonaros, ARCHITECT
2261 Market Street #324
San Francisco, California 94114
(415) 864-2261
www.antonaros.com



SAN FRANCISCO PLANNING DEPARTMENT

Affidavit of Receipt BOARD OF SUPERVISORS

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

I, Arthur Khoo, have received the attached document(s):
(please print name of clerk)

- Notification of Project Receiving Environmental Review (Neighborhood Notice)
- Notice of Scoping Meeting for an Environmental Impact Report
- Notice of Preparation of an Environmental Impact Report
- Preliminary Negative Declaration (PND)
- Final Negative Declaration (FND)
- Notice of Hearing on Appeal After Initial Evaluation of a Project
- Certificate of Determination of Exemption/Exclusion From Environmental Review
- Board of Supervisors Appeal Response Packet/Information (Supplemental).
- Other _____

on 10.29.2013 for Project File No. & Title 1308916 - 1050 Valencia St. MND
(Date)

NUMBER OF COPIES RECEIVED: 1

[Signature]

(Signature – Clerk of the Board or Deputy)

10/29/13

(Date)

Delivered by: Tania Sheinert

N:\MEA\Administrative\forms\Affidavit of Receipt - BOS.doc
Revised 02/10/05
GC: N:\FORMS GROUP\FINAL\Letterhead_Template_FINAL.doc



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: October 29, 2013
TO: Angela Calvillo, Clerk of the Board
FROM: Sarah B. Jones, Environmental Review Officer, Planning Department
RE: Supplemental Response, Appeal of Final Mitigated Negative Declaration for 1050 Valencia Street, Assessor's Block 3617, Lot 008, Planning Department Case No. 2007.1457E

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

HEARING DATE: November 5, 2013 (Continued from October 22, 2013)

Attached is a hard copy of the Planning Department's Supplemental Appeal Response to the Board of Supervisors regarding the appeal of the Final Mitigated Negative Declaration for **1050 Valencia Street**. We have also e-mailed you an electronic/pdf version of this Supplemental Appeal Response.

If you have any questions regarding this matter, please contact Tania Sheyner at 575-9127 or tania.sheyner@sfgov.org.

Thank you.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
OCT 29 PM 12:20
AK

**APPEAL OF FINAL MITIGATED NEGATIVE DECLARATION
1050 Valencia Street**

DATE: October 29, 2013
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Sarah B. Jones, Environmental Review Officer – (415) 575-9034
Tania Sheyner, Case Planner – (415) 575-9127
RE: File No. 130896, Planning Case No. 2007.1457E
Appeal of Final Mitigated Negative Declaration for 1050 Valencia Street
HEARING DATE: November 5, 2013 (Continued from October 22, 2013)
ATTACHMENTS: C – Historic Preservation Commission Motion No. 0068

PROJECT SPONSOR: Mark Rutherford, Shizuo Holdings Trust

APPELLANT: Stephen M. Williams, on behalf of the Liberty Hill Neighborhood Association and the surrounding residents and owners of properties in the immediate vicinity of the proposed development

INTRODUCTION:

This memorandum is a response (“Supplemental Appeal Response”) to the letter of appeal (“Supplemental Appeal Letter”) to the Board of Supervisors (the “Board”) regarding the Planning Department’s (the “Department”) issuance of a Final Mitigated Negative Declaration (“FMND”) under the California Environmental Quality Act (“CEQA Determination”) for a project at 1050 Valencia Street (the “project”). Department staff submitted an appeal response memorandum on October 11, 2013 (“Original Appeal Response”), addressing concerns raised in the original, September 13, 2013, Letter of Appeal (“Original Appeal Letter”).

Please refer to the Department’s original appeal response for a description of the process to approve the Mitigated Negative Declaration.

The decision before the Board is whether to uphold the Department’s decision to issue a FMND and deny the appeal, or to overturn the Department’s decision to issue a FMND and return the project to the Department staff for further environmental review.

SITE DESCRIPTION AND PRESENT USE:

Please refer to the Department's Original Appeal Response for a description of the project site and present use.

PROJECT DESCRIPTION:

Please refer to the Department's Original Appeal Response for a description of the proposed project.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES:

The Supplemental Appeal Letter repeats some of the Appellant's previous concerns stated in the Original Appeal Letter, among them that the project would be inappropriately scaled to its surroundings, that it would not relate well with the adjacent and nearby buildings, that it could result in parking impacts, and that the MND fails to address inconsistencies of the project with specific General Plan policies and objectives. The Department has already provided responses to these concerns (and others) in the Original Appeal Response and those responses are incorporated herein by reference. The concerns below are identified as "Issue 14" through "Issue 17" to reflect the numbering of the issues addressed in the Department's Original Appeal Response, which ended with Issue 13. Also, the attachment to this Supplemental Appeal Response (referred to below) is identified as "Attachment C" to continue the sequencing of the attachments to the Department's Original Appeal Response.

PROJECT DESCRIPTION

Issue 14: The Appellant asserts that the project description referenced in the Planning Department's Original Appeal Response is inaccurate. According to the Appellant, the project has changed from 16 dwelling units to 12 and has eliminated one originally proposed parking space. In addition, the Appellant alleges that the Original Appeal Response misstates relevant dates for the project and the application and also inaccurately represents both the existing and proposed building heights.

Response 14: The project description presented in the MND is complete and accurate, meets all CEQA requirements, and provides sufficient information upon which to base environmental analyses and conclusions.

The original project description provided in the PMND is based on the information provided by the project sponsor in the Environmental Review (EE) Application, dated December 21, 2007. During the course of the environmental review process, the project sponsor eliminated the initially proposed commercial loading space (contrary to the Appellant's assertion, this project change was, in fact, reflected in the September 23, 2010 amended PMND; see pp. 1, 11, 16, 20, and 34 through 36 of that document). The Appellant is correct that the proposed number of dwelling units has decreased from 16 to 12. This decrease is not reflected in the FMND because the project sponsor proposed it after the FMND was adopted. Minor project revisions often occur as projects undergo the entitlement process and such revisions do not require further CEQA review, provided that the changes do not exacerbate any of the environmental effects or trigger any new significant impacts discussed in the underlying CEQA document. In this case, a decrease of four dwelling units, and a corresponding decrease in the building's overall square footage (from approximately 14,800 square feet to approximately 10,300 square feet, an approximately 30 percent reduction) would not alter the conclusions of the MND and would actually

reduce the impacts associated with the number of dwelling units and residents (i.e., transportation, air quality, etc.). The proposed project, as approved by the Planning Department, is smaller as compared to what was analyzed in the MND, and would clearly not result in any additional or more severe impacts on the physical environment. Therefore, no subsequent analysis is required.

In addition, the MND reflects the fact that the project sponsor was originally seeking a modification of the rear yard requirement pursuant to *Planning Code* Section 134 by proposing a different open space configuration (open space within a roof deck and private residential decks) than what is required by the *Planning Code*. Subsequent to the issuance of the MND, the project sponsor eliminated the rood deck feature from the proposed project (in part to respond to the neighbors' concerns). Thus, the approved project fully complied with the *Planning Code* rear yard provisions and no modification of the code requirements was necessary.

The Appellant presents no evidence that the changes in the project description could substantially intensify any of the impacts discussed in the MND or trigger new impacts. The adopted FMND remains adequate for the purpose of understanding the environmental impacts of the proposed project and no additional analysis is required.

The Appellant is correct that the Department's Original Appeal Response did not state the date of the project sponsor's submittal of the Environmental Evaluation ("EE") Application for the proposed project (i.e., December 20, 2007). However, this date is identified in the September 30, 2010 Planning Commission motion adopting the FMND, which is included in Attachment A of the Original Appeal Response. The filing of the EE Application is a Department procedural requirement, which generally initiates the environmental review process. The inadvertent omission of the EE Application filing date in the Background section of the Original Appeal Response is not germane to the adequacy of the analysis or conclusions in the MND.

The Appellant is correct that the Original Appeal Response inaccurately states that the height of the existing building is 23 feet. Based on a survey of the project site by licensed land surveyors, the existing building height is approximately 19 feet, and not 12 feet as asserted by the Appellant.¹ While the height of the existing building as noted in the MND (12 feet) is approximately 7 feet lower than the actual height of the building (per the land survey), this difference does not render the Department's analysis "hopelessly flawed." The MND's analysis of Aesthetics, beginning on p. 23, accurately characterizes the existing building as one story in height and visible primarily at close range. Further, "[t]he existing building on the site is shorter than many of the surrounding buildings, is partially blocked by the trees on the adjacent sidewalks, and does not feature any unique visual characteristics that make it particularly noticeable. Therefore, it tends to blend in with the visually diverse surrounding urban environment." (See MND p. 25.) Thus, the MND sufficiently characterizes the baseline conditions at the project site to enable the reader to understand the height of the existing building relative to both its surroundings and to the proposed building.

¹ Peri Cosseboom Licensed Land Surveyors, *Survey of Assessor's Block 3617, Lot 8, March 2008*. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

In response to the Appellant's assertion that the height of the proposed project is incorrectly stated in the MND, the height of the project is presented consistent with how it is defined by the *Planning Code* and with how it is typically presented in environmental review documents. The MND does, in fact, disclose that the project would include rooftop features that would extend an additional 9 feet above the 55-foot roofline, such as the mechanical penthouse for the elevator overrun. (See pp. 1, 6, 9, 14, 15, and 25 of the MND). Based on the above, the MND accurately represents the height of the proposed project and no revisions are required.

Based on the above, the Appellant does not provide sufficient evidence to demonstrate that the Project Description in the Original Appeal Response and the MND are flawed to the extent that the analysis or conclusions of the MND are invalid; no additional CEQA review of the proposed project is required.

PROJECT SIZE AND SCALE

Issue 15: The Appellant alleges that the MND is inadequate because it failed to analyze the project's impacts related to size and scale.

Response 15: The MND adequately describes the scale of the proposed project and accurately determines that any impacts related to its size and scale would be less than significant.

The Department provided a comprehensive response to this concern in the Original Appeal Response, under Response 1. Under CEQA, "substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact." It is not "argument, speculation, unsubstantiated opinion or narrative (CEQA Statute Section (21080 (e))). The Appellant's assertion that the project is out of scale with the surrounding neighborhood is unsubstantiated. In stating that the project is too large for its parcel and does not relate to the surrounding buildings, the Appellant is commenting on the merits of the project and not on the adequacy or accuracy of the MND. The MND discusses the proposed project's size and scale as they relate to land use and aesthetic and cultural impacts and accurately concludes such impacts to be less than significant. The merits of the project are outside the scope of CEQA.

The Appellant asserts that the Historic Preservation Commission (HPC) requested "improved visuals to convey the context for the Project" and also found that the "proposed Project is out-of-scale with its surroundings and is concerned about the proposed density and is in need of greater setbacks from its neighboring structures." The Appellant references a May 28, 2010 Planning Department memorandum from the then Acting Preservation Coordinator to the members of the HPC that identifies concerns raised by the HPC at the May 19, 2010 hearing. At that hearing, the HPC continued the hearing on that item to June 16, pending additional information. The Appellant fails to disclose that several weeks later, on June 16, 2010, the HPC, in fact, reviewed the project and the additional information provided by staff and the project sponsor per the May 28, 2010 memorandum and determined that "[t]he historical resource evaluation and analysis of potential impacts pursuant to the CEQA appears adequate." (The vote was six votes in favor, no votes against, and one absence [recused], as indicated in HPC Motion No. 0068, included as Attachment C).² The only additional comment provided by the HPC as part of this motion is

² Historic Preservation Commission, Motion No. 0068, 1050 Valencia Street (hearing date June 16, 2010). See Attachment C of this Supplemental Appeal Response.

"2. The Commission encourages Project Sponsor and Architect to work with neighbors and Department staff to continue to develop the design in relation to neighborhood context." This comment indicates that the HPC may have had lingering concerns about the relationship of the project design to the neighborhood context, but that they ultimately agreed with the Department's conclusion that environmental impacts to historical resources did not rise to the level of significant under CEQA.

It is important to note that the Department's issuance of a MND for the proposed project indicates the Department's finding that the project would have no significant adverse environmental impacts pursuant to CEQA, which is *not* to say that the Department claims that the project would have *no* adverse environmental impacts whatsoever. In terms of size and scale, the proposed project would result in a physical environmental effect by replacing a one-story building with a five-story building that would be "larger in scale and visually prominent compared to some of its existing surroundings" (MND p. 27). The Department recognizes that some people, such as the parties to this appeal, perceive this proposed change to be decidedly negative. In reviewing the proposed project pursuant to CEQA, however, the Department found all project impacts would be less than significant.

For the above reasons, the Appellant does not provide any compelling evidence that the project's size and scale could result in a significant impact to the environment.

LOSS OF TRANSIT AND PARKING SINCE ADOPTION OF FMND

Issue 16: The Appellant asserts that the MND is inadequate because it fails to discuss changes to nearby transit facilities and parking that have occurred within the Valencia Street Neighborhood Commercial Transit (Valencia Street NCT) District since the adoption of the FMND.

Response 16: The MND fully discloses parking impacts that would result from the proposed project and correctly concludes that these impacts would be less than significant.

Both the Department's response to the appeal of the PMND to the Planning Commission (Response 11) and the Department's Original Appeal Response to the Board (Response 6) provide extensive evidence substantiating why the proposed project would not result in significant impacts with respect to parking. As noted by the Appellant, off-street parking for new dwelling units or commercial spaces is not required in the Valencia Street NCT District. To promote public transit, the Valencia Street NCT District provides parking maximums rather than parking minimums. The elimination of one nearby Muni bus line does not change the conclusion reached in the MND that the project would result in a less-than-significant impact with respect to parking shortfall. Moreover, the elimination of one nearby Muni line does not render the project area to be transit poor. Rather, as noted in the Original Appeal Response (Response 6), the project site continues to be served by other transit lines, including bus routes 14-Mission and 49-Van Ness/Mission along Mission Street (one block away), the metro J-Line (approximately three blocks away), and BART, with the closest station at 24th and Mission Streets (approximately four blocks away). In addition, the project site is located on a bicycle transit corridor and the project sponsor would provide adequate bicycle parking, as required by the Planning Code.

Regarding a change in circumstances, CEQA Guidelines Section 15162 provides guidance on what constitutes a significant impact. Specifically, this section states that, after a Negative Declaration has been adopted for a project, no subsequent Negative Declaration or other documentation shall be prepared for that project unless the lead agency determines that substantial changes have occurred with respect to the circumstances under which the project is undertaken that will require major revisions of the previous Negative Declaration. Such revisions must involve the discovery of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Substantial evidence in the light of the whole record must be presented to substantiate any assertions of new or more severe significant impacts. The elimination of a transit line and some on-street parking spaces alone does not constitute a substantial change resulting in new or more severe significant impacts.

As discussed in the MND on pp. 35 through 36, the proposed 16 dwelling units would not result in significant physical environmental effect related to a parking shortfall. The subsequent proposed reduction in the number of units to 12 would result in proportionally less demand for parking. Both the MND and the Original Appeal Response provide adequate evidence to substantiate a less-than-significant impact conclusion with respect to parking impacts and the Appellant provides no substantial evidence that such impacts would be significant.

The Appellant asserts that the proposed building would "occupy residential parking spaces on Hill Street" because there are 34 total public parking spaces on Hill Street and the proposed project would have a demand of 34 new parking spaces. Similar to what is already done by drivers throughout the city, future residents would either opt out of vehicle ownership (since no parking would be provided as part of the project) or would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. Again, the Appellant presents no evidence that a significant impact with respect to parking could occur. As appropriately concluded in the FMND, and supported by substantial evidence in the record, parking impacts would be less than significant, and no further analysis is required. The analysis presented in the MND, on pp. 35 through 38, takes into account other foreseeable projects at that time, including the Bartlett Street project noted by the Appellant, and concluded that cumulative impacts with respect to parking would likewise be less than significant.

CONSISTENCY WITH GENERAL PLAN OBJECTIVES AND POLICIES

Issue 17: The Appellant asserts that the MND is inadequate because it fails to discuss inconsistencies with various plans and policies of the General Plan.

Response 17: As required by CEQA, the MND focuses specifically on the physical effects of the proposed project.

The Department's Original Appeal Response provides a thorough response to this issue (see Response 13). To the extent that any inconsistencies with General Plans or policies would result in physical impacts, the MND analyzes such impacts. In fact, the MND accurately concludes that the proposed project would not result in any physical environmental impacts that cannot be reduced to a less-than-significant level.

Issues of General Plan consistency and merits of the proposed project are considered during the project entitlement process.

CONCLUSION

The Department conducted an in-depth and thorough analysis of the proposed project at 1050 Valencia Street, pursuant to CEQA Guidelines. The Appellant has not submitted any evidence that the project could result in any significant impacts under CEQA that cannot be reduced to a less-than-significant level. For the reasons stated in the Original Appeal Response, this Supplemental Appeal Response, and the MND, the Department finds that the MND fully complies with the requirements of CEQA and that the MND was appropriately prepared.

Attachment C:

Historic Preservation Commission Motion No. 0068



SAN FRANCISCO PLANNING DEPARTMENT

HISTORIC PRESERVATION COMMISSION Motion No. 0068

HEARING DATE: June 16, 2010 (cont. from May 19, 2010)

Date: May 13, 2010
Case No.: 2007.1457E
Project Title: 1050 Valencia Street
Zoning: Valencia Street Neighborhood Commercial Transit District
(Valencia Street NCT)
55-X Height and Bulk District
Mission Alcohol Beverage Control District
Block/Lot: 3617/008
Project Sponsor: Shizuo Holdings Trust, Mark Rutherford – (415) 368-7818
Project Contact: Stephen Antonaros, project architect – (415) 864-2261
Staff Contact: Jeremy Battis – (415) 575-9022
Jeremy.Battis@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE INTERIM PROCEDURES FOR PERMIT REVIEW IN THE EASTERN NEIGHBORHOODS PLAN AREA FOR THE CONSTRUCTION OF A NEW FIVE-STORY, 55-FOOT-HIGH, APPROXIMATELY 16,000-SQUARE-FOOT BUILDING CONTAINING 16 DWELLING UNITS OVER A GROUND-FLOOR FULL-SERVICE RESTAURANT WITH ONE OFF-STREET PARKING/LOADING SPACE AT 1050 VALENCIA STREET (ASSESSOR'S BLOCK 3617, LOT 008) WITHIN THE VALENCIA NEIGHBORHOOD NCT (NEIGHBORHOOD COMMERCIAL TRANSIT) DISTRICT AND A 55-X HEIGHT AND BULK DISTRICT.

PREAMBLE

1. On August 7, 2008, the San Francisco Planning Commission certified the Final Environmental Impact Report (FEIR) for the Eastern Neighborhoods Rezoning and Area Plans (Case No. 2004.0160E). The FEIR analyzed amendments to the Planning Code and Zoning Maps and to the Eastern Neighborhoods, an element of the San Francisco General Plan. The FEIR analysis assumed a development and activity level anticipated as a result adoption of the Eastern Neighborhoods Rezoning and Area Plans.
2. The FEIR provided Interim Permit Review Procedures for Historic Resources that would be in effect until the Historic Preservation Commission (HPC) adopts the forthcoming Historic Resources Survey. These procedures were developed to provide additional protection for potential historic resources within the Plan Area while the historic resources survey is being completed. Once the historic resources survey is endorsed and the Plan is amended to incorporate the results, these policies would expire and the Preservation Policies in the Area Plan would become effective.

Per the Interim procedures, there are two types of review. The first type is for projects that propose demolition or major alteration to a structure constructed prior to 1963 located within the Plan Area. These projects shall be forwarded to HPC for review and comment. Within 30 days after receiving

copies of the Environmental Evaluation application and supporting Historic Resources Evaluation (HRE) documents, the HPC members may forward comments directly to the Environmental Review Officer and Preservation Coordinator. No public hearing is required.

The second type of review is for projects that propose new construction or alteration within the Plan Area resulting in a structure that would exceed 55 feet in height, or a resulting height that exceeds by more than ten feet an adjacent building constructed prior to 1963. Such projects shall be forwarded to the HPC for review and comment during a regularly scheduled hearing. After such hearing, any HPC comment will be forwarded to the Planning Department for incorporation into the project's final submittal and in advance of any required final hearing before the Planning Commission.

3. On December 20, 2007, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, the Planning Department ("Department") received an Environmental Evaluation Application for the proposed project in evaluate whether the project might result in a significant environmental effect.
4. On June 16, 2010 (cont. from May 19, 2010), the Department presented the proposed project to the HPC. The proposed project would result in the construction of a new 55-foot-high building. That would exceed by more than ten feet the height of the adjacent buildings, both constructed prior to 1963. Hence, the HPC's comments would be forwarded to the Planning Department for incorporation into the project's final submittal and in advance of any required final hearing before the Planning Commission.

COMMENTS

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission has provided the following comments regarding the proposed project:

1. The historical resource evaluation and analysis of potential impacts pursuant to the CEQA appears adequate.
2. The Commission encourages Project Sponsor and Architect to work with neighbors and Department staff to continue to develop the design in relation to neighborhood context.

I hereby certify that the foregoing Motion was ADOPTED by the Historic Preservation Commission at its regularly scheduled meeting on June 16, 2010.

Linda D. Avery
Commission Secretary

AYES: Commissioners Buckley, Chase, Damkroger, Hasz, Matsuda, and Wolfram

NAYS: None

ABSENT: Commissioner Martinez (recused)

ADOPTED: June 16, 2010

October 15, 2013

David Chiu, President
and the members of the
Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689
Attn: Angela Calvillo, Clerk of the Board

By email to Board.of.Supervisors@sfgov.org

Re: Appeal of Permit Applications 201012277436 & 201012277437
1050-1058 Valencia Street (AKA 1 Hill Street)
Hearing Date: October 22, 2013

Dear members of the Board of Supervisors:

We are in support of this appeal, in opposition to this proposed project.

We are a coalition of merchants, neighbors and non-profits along the Calle 24 Cultural Corridor in the Mission District, between Mission St and Potrero Ave.

The proposed project is incompatible with the neighborhood. At a planned 55 feet high, it will be twice as tall as its neighboring buildings. It is planned to take up the entire 35 foot by 85 foot lot. The height, density and bulk of the proposed building are incompatible with the neighborhood and with historic character of its surroundings.

The character and integrity of the historic resources of the area will be seriously undermined and damaged by this development. The historic neighborhood that is the Liberty Hill Historic District will be inalterably negatively impacted by the inappropriate design and disproportionate scale of this proposed building. The same damage will be done to the Valencia Street row of vintage buildings.

Both the Liberty Hill Historic District and the vintage buildings on Valencia Street are designated as historic resources by the South Mission Historic Resources Survey. Both the Hill Street and Valencia Street streetscapes will be ruined by this incongruous multi-story, 55 foot structure towering over its neighbors.

This would be a visually overpowering building which would contrast severely with its surroundings, impairing the character of this historic area.

The address of this lot is 1050 Valencia Street. The developers claim that the nature of their plan is appropriate to the commercial nature of Valencia Street and zoning appropriate to a commercial area. However, they have proposed a building whose commercial activities, problems and impacts are **all on the single block of historic, residential Hill Street**. While claiming the commercial permissions of Valencia Street, they are proposing loading zones, trash pickup, commercial deliveries, and all of their multi-unit and commercial activities on Hill Street.



BOS-11
cpages

File 130896-130899

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Due to the overwhelming size and bulk of the proposed development, the building would cast shadows at the darkest times of the year on many of the surrounding buildings, and on both Hill and Valencia Streets.

The outdoor open space planned for this development will put mid-story communal party decks right up against the property lines, directly intruding on the neighbors' peace and tranquility and quiet enjoyment of their homes, including their bedrooms.

The Marsh, an iconic theatre, studio, performance and training space, has been a culturally significant anchor of the City and this neighborhood for decades. *The Marsh* will particularly suffer from the noise that will be generated by this proposed development. Programs and performances will be at the least disrupted, if not made impossible. The developer made specific commitments to the Planning Commission to mitigate many problems the Commissioners specifically directed them to address. The developer reneged on his promises to mitigate problems at the theater.

The building is sought to be constructed without parking for its tenants – either residential or commercial, and without parking for its commercial customers. According to Planning Department conclusions, this will add dozens of additional cars to the street. This impact on the physical environment has not been accommodated, and in fact it has gotten worse .

In the past few years, since this project was proposed, we have lost public transportation to the neighborhood, and we have lost even more parking spaces while the number of cars and amount of traffic have increased with the increased popularity of the neighborhood. In spite of the fact that the developer assured the neighbors that they would not occupy residential parking spaces on Hill Street, they will in fact likely take them all. About a half dozen “parklets” have reduced available parking; the development at 20th and Valencia Streets will be claiming another 20 formerly public parking spaces, and the plan for Bartlett Street has called for the elimination of as many as 40 parking spaces just around the corner.

Additionally, new developments have eliminated spaces for car share parking while adding more vehicles competing for parking spaces.

This neighborhood is falsely called “transit rich” but everyone knows that’s a bad joke. The area has lost ¾ of its public transportation. The 26 Valencia bus line is among those recent losses since the fiction was created that we are “well served” by public transit. Muni continues to operate at about a 50% on time rate.

For all of these reasons, I respectfully support this Appeal.

Very truly yours,



Erick Argüello

Founder and President

www.calle24sf.org

From: Board of Supervisors
Sent: Monday, October 21, 2013 2:37 PM
To: BOS-Supervisors; Lamug, Joy
Subject: Files 130896-130899: Case No. 2007.1457E, 1050 Valencia Street

From: Audrey Bower [mailto:abowersf@gmail.com]
Sent: Friday, October 18, 2013 11:25 AM
To: Board of Supervisors
Subject: Case No. 2007.1457E, 1050 Valencia Street

Dear President Chiu & Supervisors,

I am writing to urge you to **overturn** the Planning Commission's approval of the Final Mitigated Negative Declaration for the subject project. Some of the reasons for requiring a full, quantifiable environmental review of this disastrous development follow.

Negative Impact on Neighborhood

Liberty-Hill neighbors have been working for over 4 1/2 years to get a more compatible development on the corner of Hill and Valencia Streets than the proposed project. The neighbors have been supported by The Victorian Alliance, The Coalition for SF Neighborhoods, San Francisco Beautiful, many merchants along the Valencia Corridor and other SF residents. 340 local residents have signed a petition supporting our contention that this neighborhood would be adversely impacted by this structure. The Marsh Theatre also has a separate petition of arts organizations urging you to realize the extreme negative impact of the proposed structure.

This development is incompatible with and detrimental to this neighborhood and to the historic fabric and the cultural identity that has made this community strong and vibrant. At 55' high, it dwarfs all buildings around it. Its excessive bulk fills the entire 35' X 85' lot and is totally out of character with its surroundings. Fitting 12 units into this area creates an overly dense concentration. **THE DESIGN, AS PROPOSED, WILL CAUSE SIGNIFICANT NEGATIVE IMPACT**

This has always been a family neighborhood and this building is clearly not designed as such. Even though the building gets its zoning from Valencia Street, the majority of the structure is on Hill Street. The open space configuration is a clear indication that this building is not intended for children, as is the lack of any provision for parking (not even share cars), which makes it very challenging to raise a family in this City. There will be additional physical hazards generated by the congestion of services for the 12 units, a restaurant, and an additional business, with deliveries, loading and garbage pick ups contiguous with pedestrian traffic at the corner.

Negative Impact on Historical Resources

In addition to being on the border of the Liberty-Hill Historic District, the site at 1050 Valencia Street is surrounded by properties that have been designated as Historic Resources by The South Mission Historic Resources Survey, as are the majority of buildings facing this site on Valencia Street. This building is in the very center of an historic neighborhood of great value to all of San Francisco, a neighborhood that must be preserved, not destroyed.

The Historic Preservation Commission took issue with the size and the bulk of this design. They also faulted the lack of setback and the proposed materials.

The Eastern Neighborhoods' Plan specifically states that as neighborhoods change and develop, particular care must be taken to preserve and respect historic properties and areas. This tower is completely incongruous and disrespects everything in its vicinity with its disproportionate size.

Even SPUR is calling for more support and specific guidelines for historic protection under CEQA. Point number 18 of their recommendations calls for projects adjacent to landmarks, within view of historic areas, to be evaluated and guided with a resolve to preserve and protect these valuable parts of our architectural history.

Negative Impact on San Francisco

This project was initially presented as affordable rental units. Over the course of the various hearings, many folks supported the project based on the need for housing. A representative from the Mayor's Office on Housing testified several times. But now this building is to be condos! (The two 'Below Market' units are certainly not what can be considered affordable to this population). Building expensive condos in an area where longtime residents, small local businesses and the artistic community are leaving for more affordable locales is not acceptable.

All this is being done under the guidelines of the Eastern Neighborhoods Plan (ENP). The ENP is based on the concept of this neighborhood being "Transit Rich" while, in fact, the neighborhood has become "transportation poor". Valencia Street, a so-called transit rich corridor, has had both of its Muni lines eliminated. (Google buses are the only bus transport on Valencia Street and they do not serve the public). Both Muni lines have been eliminated from Guerrero Street. Mission Street has also had one line eliminated. THIS NEIGHBORHOOD HAS LOST 3/4 OF ITS PUBLIC TRANSPORTATION at the same time that 'Transportation First' has been the policy of SF.

The Eastern Neighborhoods Plan endorses buildings without parking based on the inflated and fictitious view of transit richness. Our street cannot support the additional cars that the Planning Department states will be added to our block. The greater neighborhood has lost or will lose almost 100 parking spaces due to the creation of "parklets", curb bump-outs and the Bartlett Street Plaza. The overflow of residents from nearby new buildings with inadequate parking, coupled with the booming Mission scene has already created a local parking crisis. The Bartlett Street Garage is full on weekends and maintains a 6 month to 2 year waiting list for spaces. These spaces are simply not affordable to many in our community, certainly not families and artists already

struggling with high rents. This most certainly impacts the livability of this neighborhood. Many people must have cars.

Conclusion

This building has significant negative impacts on our historic district and will be detrimental to the feel of our small historic street.

Negative impacts of this significance merit an overturn of the Planning Department's approval of the Negative Declaration, and call for a full environmental evaluation of the impacts of this development and, by extension, the cumulative impacts of such development.

Thank you for your consideration.

Respectfully yours,

Audrey Bower

22 Hill Street

10 Hill Street
San Francisco, CA 94110
October 17, 2013

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

Subject: Case No. 2007.1457E, 1050 Valencia Street

Dear Supervisor Chiu,

I urge you to overturn the Planning Commission's approval of the Final Mitigated Negative Declaration for the subject project. Some of the reasons for requiring a full, quantifiable environmental review of this disastrous development follow.

Negative Impact on Neighborhood

Liberty-Hill neighbors have been working for over 4 1/2 years to get a more compatible development on the corner of Hill and Valencia Streets than the proposed project. The neighbors have been supported by The Victorian Alliance, The Coalition for SF Neighborhoods, San Francisco Beautiful, many merchants along the Valencia Corridor and other SF residents. 340 local residents have signed a petition supporting our contention that this neighborhood would be adversely impacted by this structure. The Marsh Theatre also has a separate petition of arts organizations urging you to realize the extreme negative impact of the proposed structure.

This development is incompatible with and detrimental to this neighborhood and to the historic fabric and the cultural identity that has made this community strong and vibrant. At 55' high, it dwarfs all buildings around it. Its excessive bulk fills the entire 35' X 85' lot and is totally out of character with its surroundings. Fitting 12 units into this area creates an overly dense concentration. **THE DESIGN, AS PROPOSED, WILL CAUSE SIGNIFICANT NEGATIVE IMPACT.**

This has always been a family neighborhood and this building is clearly not

designed as such. Even though the building gets its zoning from Valencia Street, the majority of the structure is on Hill Street. The open space configuration is a clear indication that this building is not intended for children, as is the lack of any provision for parking (not even share cars), which makes it very challenging to raise a family in this City. There will be additional physical hazards generated by the congestion of services for the 12 units, a restaurant, and an additional business, with deliveries, loading and garbage pick ups contiguous with pedestrian traffic at the corner.

Negative Impact on Historical Resources

In addition to being on the border of the Liberty-Hill Historic District, the site at 1050 Valencia Street is surrounded by properties that have been designated as Historic Resources by The South Mission Historic Resources Survey, as are the majority of buildings facing this site on Valencia Street. This building is in the very center of an historic neighborhood of great value to all of San Francisco, a neighborhood that must be preserved, not destroyed.

The Historic Preservation Commission took issue with the size and the bulk of this design. They also faulted the lack of setback and the proposed materials. (Alan Martinez, a major figure in the South Mission Historic Resource Survey, had to reclude himself from the proceedings because he shares an architectural space with the designer of this development. It is doubtful that he would have supported a structure so disproportionate and disrespectful to this important historical part of the Mission if he did not have this conflict.)

The Eastern Neighborhoods' Plan specifically states that as neighborhoods change and develop, particular care must be taken to preserve and respect historic properties and areas. This tower is completely incongruous and disrespects everything in its vicinity with its disproportionate size.

Commissioner Katherine Moore, in her comments at our last Planning Commission hearing on September 9, 2012, said that there needed to be some mechanism to deal with situations such as this where a site is surrounded by historic streetscapes.

Now SPUR is calling for more support and specific guidelines for historic protection under CEQA. Point number 18 of their recommendations calls for projects adjacent to landmarks, within view of historic areas, to be evaluated and guided with a resolve to preserve and protect these valuable parts of our architectural history.

Negative Impact on San Francisco

This project was initially presented as affordable rental units. Over the course of the various hearings, many folks supported the project based on the need for housing. A representative from the Mayor's Office on Housing testified several times. But now this building is to be condos! (The two 'Below Market' units are certainly not what can be considered affordable to this population). Building expensive condos in an area where longtime residents, small local businesses and the artistic community are leaving for more affordable locales is not acceptable.

The pressure of this type of development on the existing rental market, both residential and commercial, is causing an exodus of not only artists, writers and musicians, but is also displacing much of the Latino population, the very people who have been key in making this neighborhood vibrant and desirable. Yet these are the people who have been in this community, living and working here before it was so trendy. We are losing so many of our longtime merchants who have been forced out because of exorbitant rents. Opportunistic developers are coming to this neighborhood and are being enabled to profit by displacing the people who have built this community.

All this is being done under the guidelines of the Eastern Neighborhoods Plan (ENP). The ENP is based on the concept of this neighborhood being "Transit Rich" while, in fact, the neighborhood has become "transportation poor". Valencia Street, a so-called transit rich corridor, has had both of its Muni lines eliminated. (Google buses are the only bus transport on Valencia Street and they do not serve the public). Both Muni lines have been eliminated from Guerrero Street. Mission Street has also had one line eliminated. THIS NEIGHBORHOOD HAS LOST 3/4 OF ITS PUBLIC TRANSPORTATION at the same time that 'Transportation First' has been the policy of SF.

The Eastern Neighborhoods Plan endorses buildings without parking based on the inflated and fictitious view of transit richness. Our street cannot support the additional cars that the Planning Department states will be added to our block. The greater neighborhood has lost or will lose almost 100 parking spaces due to the creation of "parklets", curb bump-outs and the Bartlett Street Plaza. The overflow of residents from nearby new buildings with inadequate parking, coupled with the booming Mission scene has already created a local parking crisis. The Bartlett Street Garage is full on weekends and maintains a 6 month to 2 year waiting list for spaces. These spaces are simply not affordable to many in our community, certainly not families and artists already struggling with high rents. This

most certainly impacts the livability of this neighborhood. Many people must have cars.

In fact the Project Sponsor has always driven to our meetings and to his property. The three proprietors of the current restaurant park their three big SUVs at the so-called loading zone. The architect also had parking saved for him for neighborhood meetings. Yet they allege that the impacts of parking are not significant. This smacks of base hypocrisy.

Conclusion

Do not reward the greed and selfishness of this damaging project. The developers have been told by the Historic Preservation Commission as well as the Planning Commission to work with the neighbors, yet they have maintained an intractable stance on constructing a building of incongruous height and offending bulk, mostly on Hill Street, while hiding behind the technicalities of the ENP and a cavalier approach to environmental and social impacts as "not significant".

Permitting a building that creates problems and destroys community is significant to the people who live and work here. Putting shadows over entire lots is significant. Turning a residential street into a service area for condos is significant.

Negative impacts of this significance merit an overturn of the Planning Department's approval of the Negative Declaration, and call for a full environmental evaluation of the impacts of this development and, by extension, the cumulative impacts of such development.

Thank you for your consideration.

Respectfully yours,

Risa Teitelbaum

October 18, 2013

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

Subject: Case No. 2007.1457E, 1050 Valencia Street,
AKA – “8 Washington on Valencia”

Dear Supervisor Chiu,

I join with my Mission area neighbors in urging you to overturn the Planning Commission's approval of the Final Mitigated Negative Declaration for the project at 1050 Valencia Street.

Developer Disregard and Negative Impact on Neighborhood

The neighbors of this project have been working for 5 years to provide input on this project. They offered suggestions early on that would result in a building that is compatible with Valencia Street and that would address the real needs of this neighborhood. **IMPORTANTLY**, the neighbors provided input would alter the building so that it would not undermined and degrade existing and successful uses, such as the Marsh.

The neighbors built a broad coalition of supporters like the Victorian Alliance, The Coalition for SF Neighborhoods, San Francisco Beautiful, many merchants along the Valencia Corridor, and many, many individual neighbors. 340 local residents signed a petition confirming that this neighborhood would be adversely impacted by the developer's proposed building. The Marsh Theatre also has a separate petition of arts organizations urging you to realize the extreme negative impact of the proposed structure.

This development is adversely affects the surrounding neighborhood and uses. It rends the historic fabric and the cultural identity that is the foundation the strong and vibrant community that currently exists. At 55' high, it would dwarf all buildings around it. Its excessive bulk fills the entire 35' X 85' lot and is totally out of character with its surroundings. Fitting 12 units into this area creates an overly dense concentration. It would stand as a constant and continuing reminder of the wave of development that disregards all community input and forces out the current residents. This project would stand as a monument to developer overreach and disregard for this community.

This area of San Francisco is enduring the most intensive wave of displacement that has occurred in generations. On Saturday the 12th, supporters gathered to protest these forces. It is absolutely true that San Francisco and the Mission need more housing and more services, those services should further the causes of inclusion and coexistence of the people who made have built this

neighborhood up. Unfortunately, this development has chosen a project that excludes community input and threatens its neighbors' very existence. The Marsh is a vibrant presence in this area. This project, as planned, would drive it out because the developer refuses to incorporate changes that could mitigate its impact.

Negative Impact on Historical Resources

In addition to being on the border of the Liberty-Hill Historic District, the site at 1050 Valencia Street is surrounded by properties that have been designated as Historic Resources by The South Mission Historic Resources Survey, as are the majority of buildings facing this site on Valencia Street. This building is in the very center of an historic neighborhood of great value to all of San Francisco, a neighborhood that must be preserved, not destroyed.

The developers have been told by the Historic Preservation Commission as well as the Planning Commission to work with the neighbors, yet they have maintained an intractable stance on constructing a building of incongruous height and offending bulk, mostly on Hill Street, while hiding behind the technicalities of the ENP and a cavalier approach to environmental and social impacts as "not significant".

The Historic Preservation Commission took issue with the size and the bulk of this design. The also faulted the lack of setback and the proposed materials. (Alan Martinez, a major figure in the South Mission Historic Resource Survey, had to reclude himself from the proceedings because he shares an architectural space with the designer of this development. It is doubtful that he would have supported a structure so disproportionate and disrespectful to this important historical part of the Mission if he did not have this conflict.)

The Eastern Neighborhoods' Plan specifically states that as neighborhoods change and develop, particular care must be taken to preserve and respect historic properties and areas. This tower is completely incongruous and disrespects everything in its vicinity with its disproportionate size.

Commissioner Katherine Moore, in her comments at our last Planning Commission hearing on September 9, 2012, said that there needed to be some mechanism to deal with situations such as this where a site is surrounded by historic streetscapes.

Now SPUR is calling for more support and specific guidelines for historic protection under CEQA. Point number 18 of their recommendations calls for projects adjacent to landmarks, within view of historic areas, to be evaluated and guided with a resolve to preserve and protect these valuable parts of our architectural history.

This project is the 8 Washington of the Mission. Please do not let a developer push a project through despite unified community opposition. Please support the neighbors.

Negative Impact on San Franciscans and Mission Residents

This project was initially presented as affordable rental units. Over the course of the various hearings, many people supported the project based on the need for housing. A representative

from the Mayor's Office on Housing testified several times. But now this building is to be condos! (The two 'Below Market' units are certainly not what can be considered affordable to this population). Building expensive condos in an area where longtime residents, small local businesses and the artistic community are leaving for more affordable locales is not acceptable.

The pressure of this type of development on the existing rental market, both residential and commercial, is causing an exodus of not only artists, writers, musicians, and MERCHANTS because of exorbitant rents.

Latinos in the Mission are targeted for displacement in this wave of gentrification. Encantada (the store), the Yanez family, La Rondalla, and countless working class families and individuals, all of whom contributed to this dynamic area, are eradicated. Opportunistic developers are coming to this neighborhood and are being enabled to profit by displacing the people who have built this community.

Conclusion

Please do not allow this project to proceed unamended.

It is my firm belief that a great project can be built in this location. Please support the Mission in its efforts to bring monied interests to the table.

Together we can keep San Francisco and the Mission a great place for all.

We, the neighbors of the Mission, beseech the Board of Supervisors to please support us in keeping our neighborhood for all of us.

Negative impacts of this significance merit an overturn of the Planning Department's approval of the Negative Declaration, and call for a full environmental evaluation of the impacts of this development and, by extension, the cumulative impacts of such development.

Thank you for your consideration.

Respectfully yours,



Alicia Gamez
57 Lapidge Street
San Francisco, CA 94110

BOARD of SUPERVISORS



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

September 19, 2013

Stephen M. Williams
Law Offices of Stephen M. Williams
On behalf of the Liberty Hill Neighborhood Association
1934 Divisadero Street
San Francisco, CA 94115

**Subject: Appeal of a Final Mitigated Negative Declaration for a Project Located at
1050 Valencia Street**

Dear Mr. Williams:

The Office of the Clerk of the Board is in receipt of a memorandum dated September 18, 2013, (copy attached) from the City Attorney's office regarding the timely filing of an appeal of a Final Mitigated Negative Declaration for a project located at 1050 Valencia Street.

The City Attorney has determined that the appeal was filed in a timely manner.

A hearing date has been scheduled on **Tuesday, October 22, 2013, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, Legislative Chamber, Room 250, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Pursuant to the Interim Procedures 7 and 9, please provide to the Clerk's Office by:

8 days prior to the hearing: any documentation which you may want available to the Board members prior to the hearing;

11 days prior to the hearing: names and addresses of interested parties to be notified of the hearing.

Please provide 1 electronic file and 18 hard copies of the documentation for distribution, and, if possible, names and addresses of interested parties to be notified in label format.

If you have any questions, please feel free to contact Legislative Deputy Director, Rick Caldeira at (415) 554-7711 or Legislation Clerk, Joy Lamug at (415) 554-7712.

Very truly yours,



Angela Calvillo
Clerk of the Board

c:

Project Sponsor, Shizuo Holdings Trust, 1001 Bridgeway, Suite 538, Sausalito, CA 94965
Jon Givner, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Robert Bryan, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Environmental Review Officer, Planning Department
AnMarie Rodgers, Planning Department
Nannie Turrell, Planning Department
Tina Tam, Planning Department
Jeremy Battis, Planning Department
Jonas Ionin, Acting Planning Commission Secretary
Cynthia Goldstein, Executive Director, Board of Appeals
Victor Pacheco, Board of Appeals



DENNIS J. HERRERA
City Attorney

MARLENA G. BYRNE
Deputy City Attorney

DIRECT DIAL: (415) 554-4620
E-MAIL: marlena.byrne@sfgov.org

MEMORANDUM

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Marlena G. Byrne *MGB*
Deputy City Attorney

DATE: September 18, 2013

RE: Appeal of a Final Mitigated Negative Declaration for a Project Located at 1050
Valencia Street

You have asked for our advice on the timeliness of an appeal to the Board of Supervisors, received by the Clerk's Office on September 12, 2013, of a Final Mitigated Negative Declaration issued under the California Environmental Quality Act ("CEQA") for a project located at 1050 Valencia Street. The appeal was filed by Stephen Williams, on behalf of the Liberty Hill Neighborhood Association. The proposed work involves demolition of an existing one-story commercial building and construction of a five-story mixed-use building within the Valencia St NCT (Neighborhood Commercial Transit) Zoning District and a 55-X Height and Bulk District ("proposed project").

The Appellant provided a copy of the Planning Commission's Motion No. 18185, dated September 30, 2010, upholding the Preliminary Mitigated Negative Declaration on appeal to that body. On September 6, 2012, at its regularly scheduled hearing, the Planning Commission took discretionary review and approved the proposed project with conditions. (Planning Commission DRA-0291.) We have been informed that the demolition and new construction permits have been appealed to the Board of Appeals and, thus, are not final.

Accordingly, it is our understanding that this appeal is ripe because an approval action has been taken for the proposed project by the Planning Commission. Additionally, the appeal is timely because the proposed project's building permits have not yet become final, and no building permits have issued for the proposed project.¹ We recommend you advise the parties that this appeal has been timely filed.

Please let me know if I may be of further assistance.

MGB

cc: Rick Caldeira, Deputy Director, Clerk of the Board
Joy Lamug, Board Clerk's Office
Erica Dayrit, Board Clerk's Office
Jon Givner, Deputy City Attorney

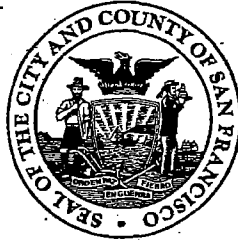
¹ Although amendments to Chapter 31 of the San Francisco Administrative Code have recently been adopted, which amendments set forth timelines and procedures for appeal of environmental documents, including final mitigated negative declarations, these new procedures have not yet become operative and, thus, are not applicable to these appeals. (See Board of Supervisors Ordinance No. 161-13.)

Memorandum

TO: Angela Calvillo
Clerk of the Board of Supervisors
DATE: September 18, 2013
PAGE: 2
RE: Appeal of a Final Mitigated Negative Declaration for a Project Located at 1050
Valencia Street

Kate Stacy, Deputy City Attorney
Robert Bryan, Deputy City Attorney
Cynthia Goldstein, Executive Director, Board of Appeals
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Environmental Review Officer, Planning Department
AnMarie Rodgers, Planning Department
Nannie Terrell, Planning Department
Tina Tam, Planning Department
Rich Sucre, Planning Department

BOARD of SUPERVISORS



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

September 13, 2013

To: Jon Givner
Deputy City Attorney

From: Rick Caldeira
Deputy Director

Subject: Appeal of Mitigated Negative Declaration - 1050 Valencia Street

An appeal of Mitigated Negative Declaration issued for property located at 1050 Valencia Street was filed with the Office of the Clerk of the Board on September 12, 2013, by Stephen M. Williams, on behalf of the Liberty Hill Neighborhood Association and the surrounding residents and owners of property in the immediate vicinity of the proposed development.

Pursuant to the Interim Procedures of Appeals for Negative Declaration and Categorical Exemptions No. 5, I am forwarding this appeal, with attached documents, to the City Attorney's Office to determine if they have been filed in a timely manner. The City Attorney's determination should be made within three (3) working days of receipt of this request.

If you have any questions, you can contact me at (415) 554-7711.

c:

Angela Calvillo, Clerk of the Board
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Acting Environmental Review Officer, Planning Department
AnMarie Rodgers, Manager of Legislative Affairs, Planning Department
Tina Tam, Senior Preservation Planner, Planning Department
Jeremy Battis, Planning Department
Cynthia Goldstein, Board of Appeals
Victor Pacheco, Board of Appeals



David Chiu, President
San Francisco Board of Supervisors
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94103

September 12, 2013

Re: **1050 Valencia Street (AKA #1 Hill Street); Case No. 2007.1457E**
Appeal of Mitigated Negative Declaration for the Proposed
Development at 1050 Valencia Street

Dear President Chiu and Members of the Board:

On behalf of the Liberty Hill Neighborhood Association (LHNA) and the surrounding residents and owners of property in the immediate vicinity of the proposed development at 1050 Valencia Street ("Project") I am writing to urge this Board to set aside the Mitigated Negative Declaration ("MND"—Attached as Exhibit 1) issued under the provisions of the California Environmental Quality Act ("CEQA") by the San Francisco Planning Commission. The low density, historic Victorian era neighborhood surrounding the site of the proposed out-of scale project at 1050 Valencia Street will be overwhelmed by the proposed project. The proposed project will create a significant impact on the surrounding neighborhood with its stark visual appearance.

LHNA has retained the services of a recognized environmental consulting expert, Richard Grasseti. Grasseti Environmental Consulting (GEC) was retained by LHNA to review and provide an analysis of the subject MND and to prepare a report of the MND's adequacy under CEQA. GEC's Report is attached as Exhibit 2 and is hereby fully incorporated into and made a part of this appeal. Mr. Grasseti's qualifications, experience and curriculum vitae are attached hereto as Exhibit 3.

The Project Violates Numerous Provisions of the General Plan and Violates CEQA Because it was Approved Without Adequate Review of Potential Significant Impacts

1. The Building is a Stark Modern Design in an older well established historic area and is adjacent to the Liberty Hill Historic District.
2. The Project is not designed with consideration for the prevailing design character and the visual effect on surroundings—this is not addressed in the MND.
3. The Project makes little attempt to "fit in" provides zero setbacks from smaller adjacent buildings and at a height in excess of 60 feet creates an overwhelming visual impact—this is not addressed in the MND.
4. The building is stark and disturbing and contrasts severely with its surroundings and will impair the character of the area—this is not addressed in the MND..
5. The Design and size do not respect the character of older development nearby.

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6. The building disrupts the current visual harmony of the neighborhood and does not attempt to transition between the old and the new.
7. The height, bulk and design of the building is out of touch with the existing character in the area and makes no attempt to relate to what is the prevailing pattern of the neighborhood—this is not addressed in the MND.
8. The building has an overwhelming and dominating appearance because it is so vastly out of scale with the neighborhood.
9. The building is incompatible and will have a detrimental effect on the livability and character of the residential properties surrounding it.
10. The bare conclusions reached by the MND that the proposed project would NOT alter the visual character of the project site and the immediate vicinity are unsupported by any facts or law or common sense.

The Planning and Zoning Law of California establishes the authority of most local government entities to regulate the use of land. (Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 518-519, fn. 18.) It commands the county to adopt "a comprehensive, long-term general plan for the physical development of the county" A general plan is "a statement of development policies and shall include a diagram . . . and text setting forth objectives, principles, standards, and plan proposals." It must include designated elements. A seismic safety element and a noise element have been required since January 1, 1971, and a safety element since January 1, 1976. (See Stats. 1971, ch. 1803, p. 3900; Stats. 1975, ch. 1104, p. 2677.)

The general plan is atop the hierarchy of local government law regulating land use. It has been aptly analogized to "a constitution for all future developments." (See O'Loane v. O'Rourke (1965) 231 Cal.App.2d 774.) The Legislature has endorsed this view in finding that "decisions involving the future growth of the state, most of which are made and will continue to be made at the local level, should be guided by an effective planning process, including the local general plan, and should proceed within the framework of officially approved statewide goals and policies directed to land use, population growth and distribution, development, open space, resource preservation and utilization, air and water quality, and other related physical, social and economic development factors."

Although use permits are not explicitly made subject to a general plan meeting the requirements of state law, that condition is necessarily to be implied from the hierarchical relationship of the land use laws. The validity of the permit process derives from compliance with this hierarchy of planning laws. These laws delimit the authority of the permit issuing agency to act and establish the measure of a valid permit. "Since consistency with the general plan is required, absence of a valid general plan, or valid relevant elements or components thereof, precludes enactment of zoning ordinances, and the like." (Citations omitted.) This is a specific application of the general rule: "[There] is

no agency discretion to promulgate a regulation which is inconsistent with the governing statute." (See *Woods v. Superior Court* (1981) 28 Cal.3d 668, 679.)

In this instance, the project does not comply with the General Plan and its mandate that new construction preserve existing neighborhoods and be "compatible" with existing development. No matter how many times the developer and the Dept state that "on balance" the General Plan is satisfied, it is simply not possible to plug a 64-foot tall modern glass and steel building next to Victorian structures and a Historic District and call it "compatible." The MND is wholly inadequate in that it fails to reconcile or even discuss and address these facts.

1. The Project Violates Numerous Provisions of the General Plan

This project violates the Urban Design Element of the General Plan and yet that fact has never been adequately addressed. The Dept and the developer offer no support or discussion of the Elements of the General Plan and the impacts of the project. The neighborhood, the Liberty Hill Historic District is one of the oldest in the City and virtually intact with many buildings dating from the 1870's-1890's. Before the project goes forward a complete Historic Resources Survey of the buildings adjacent to and just outside of the Historic District (as this site is) should be completed. The MND is inadequate and contains insufficient information to allow the decision makers to reach correct conclusions and findings regarding the project's impact on historical resources and the existing neighborhood. Cumulative impacts and the development of other sites are also completely unstudied based on completely incorrect information. The project would relax existing development standards creating new incentives for development of other near-by lots and thereby threatening known and potential historic resources in historically sensitive neighborhoods—that too has not been reviewed or discussed in the MND. The discussion of the applicable General Plan provisions of the MND (page 16-18) ignores the physical impact of the building and merely concludes that it complies with the letter of the new zoning provisions and therefore has no potential significant impact.

LAND USE IMPACTS

The MND offers nothing save bare conclusions that the proposed project will not violate the existing character of site and vicinity. This conclusion is completely unsupported by the facts and the obvious overwhelming impacts of the building in this modest Victorian neighborhood of two-three story buildings. The immediate neighboring homes, which are not considered or specifically discussed (the MND and the Dept analysis refers constantly to the apartment building more than a block away), are one and two stories tall. Similarly, the conclusion that the proposed project would not conflict with an adopted land use plan or policy a, the General Plan and its various Elements is completely unsupported. The conclusions are unsupported as drawings showing the neighboring buildings in scale are not included anywhere in the project materials. The developer and the Dept define the entire neighborhood only by the largest apartment building in the area and ignore the adjacent buildings and the immediate context.

There is no discussion of the specific policies of the Urban Design Element of the General Plan and how the proposed project satisfies the policies. The Application is devoid of any mention of single specific policy and provides only bare conclusions of "general compatibility." The Dept and the MND should discuss and illustrate how this "monster building" satisfies a majority of the land use objectives and policies to affirmatively demonstrate how the bare conclusions were reached. The conclusions appear erroneous because the project appears to violate, at some level, nearly every aspect of the Urban Design Element. The following principals and policies and objectives should be fully discussed and reconciled: It is insufficient for the purposes of CEQA to simply state conclusions without a deeper discussion of the elements of the General Plan.

**"OBJECTIVE 2
CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE,
CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.**

New development can enhance and preserve San Francisco's distinctive qualities if it is designed with consideration for the prevailing design character and the effect on surroundings.

To conserve important design character in historic or distinctive older areas, some uniformity of detail, scale, proportion, texture, materials, color and building form is necessary.	
A: Large buildings impair the character of older, small scale areas if no transition is made between small-scale and large-scale elements."	

This project does not meet these criteria. The present building "fits in" because it is essentially one story and creates a transition from the Victorian structures on Hill Street and to those historic resources on Valencia Street. The proposed building will define and overwhelm the existing neighborhood just by its sheer size.

"D: Visually strong buildings which contrast severely with their surroundings impair the character of the area."

There is no reconciliation of this policy and of the jarring visual impact of the proposed project. The MND concludes that the project presents no aesthetic impact. The project makes no attempt to "fit in" or to match the character of the neighborhood. Other principals and policies from the Urban Design Element should be discussed and reconciled with the project. The lack of any discussion and reference to the policies in the Urban Design Element makes the analysis in the MND completely inadequate. Other policies which need to be reconciled include the principal that:

“POLICY 2.6

Respect the character of older development nearby in the design of new buildings.

Similar care should be exercised in the design of new buildings to be constructed near historic landmarks and in older areas of established character. The new and old can stand next to one another with pleasing effects, but only if there is a similarity or successful transition in scale, building form and proportion. The detail, texture, color and materials of the old should be repeated or complemented by the new.

Often, as in the downtown area and many district centers, existing buildings provide strong facades that give continuous enclosure to the street space or to public plazas. This established character should also be respected. In some cases, formal height limits and other building controls may be required to assure that prevailing heights or building lines or the dominance of certain buildings and features will not be broken by new construction.”

The desirability and compatibility of the proposed project is not justified in any evidence or testimony. The Dept’s analysis is nearly devoid of any discussion of the potential impacts of a dramatic change in the building size for one lot in a historic neighborhood. There are no discussions any of these important and directly applicable policies.

There is no discussion in the Application of the principals noted above from the Urban Design element of the General Plan—merely a conclusion that the building is not disruptive and causes no incompatible impact—a bare conclusion not supported by the facts, any reasonable discussion or reconciliation of the principals and policies and appears erroneous. An in depth discussion is needed as to how the proposed building is sympathetic to the scale and form of the existing neighborhood so as to reconcile the erroneous conclusions.

Visual Harmony

POLICY 3.1

Promote harmony in the visual relationships and transitions between new and older buildings.

New buildings should be made sympathetic to the scale, form and proportion of older development. This can often be done by repeating existing building lines and surface treatment. Where new buildings reach exceptional height and bulk, large surfaces should be articulated and textured to reduce their apparent size and to reflect the pattern of older buildings.

Although contrasts and juxtapositions at the edges of districts of different scale are sometimes pleasing, the transitions between such districts should generally be gradual in

order to make the city's larger pattern visible and avoid overwhelming of the district of smaller scale. In transitions between districts and between properties, especially in areas of high intensity, the lower portions of buildings should be designed to promote easy circulation, good access to transit, good relationships among open spaces and maximum penetration of sunlight to the ground level.

POLICY 3.2

Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.

Large buildings are most consistent with the visual unity of the city when they are light in color. The characteristics of San Francisco's climate and the varied effects of sunlight through the day in clear and fog-filled skies make bright but subtle hues a life-giving element in the skyline. Prominent new buildings should reflect this pattern.

Buildings of unusual shape stand out in the skyline. They call attention to themselves and correspondingly reduce the visual significance of other features in the city pattern. Such buildings may also create a jarring disharmony that counteracts the traditional blending of regular rectilinear forms in the San Francisco skyline. Unusual shapes, especially in large buildings, should therefore be reserved for structures of broad public significance such as those providing community-wide services."

There is no discussion or reconciliation of these important design elements and principals in the MND. The MND also fails to adequately address the issue of height and bulk as set forth in the Urban Design Element. Given that the height and bulk issues are directly tied to the visual impacts and the issue of aesthetics, the MND should necessarily contain extensive discussions of the General Plan policies and elements which deal with such topics. The MND lacks any discussion of these issues as follows:

Height and Bulk

POLICY 3.4

Promote building forms that will respect and improve the integrity of open spaces and other public areas.

New buildings should not block significant views of public open spaces, especially large parks and the Bay. Buildings near these open spaces should permit visual access, and in some cases physical access, to them.

Buildings to the south, east and west of parks and plazas should be limited in height or effectively oriented so as not to prevent the penetration of sunlight to such parks and plazas. Larger squares and plazas will benefit, in addition, from uniform facade lines and cornice heights around them which will visually contain the open space.

Large buildings and developments should, where feasible, provide ground level open space on their sites, well situated for public access and for sunlight penetration. The location and dimensions of such open space should be carefully considered with respect to the placement of other buildings and open spaces in the area, and with respect to the siting and functioning of the building with which it is provided. Where separation of pedestrian and vehicular circulation levels is possible in provision of such open space, such separation should be considered.

POLICY 3.5

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

The height of new buildings should take into account the guidelines expressed in this Plan. These guidelines are intended to promote the objectives, principles and policies of the Plan, and especially to complement the established city pattern. They weigh and apply many factors affecting building height, recognizing the special nature of each topographic and development situation.

POLICY 3.6

Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

When buildings reach extreme bulk, by exceeding the prevailing height and prevailing horizontal dimensions of existing buildings in the area, especially at prominent and exposed locations, they can overwhelm other buildings, open spaces and the natural land forms, block views and disrupt the city's character. Such extremes in bulk should be avoided by establishment of maximum horizontal dimensions for new construction above the prevailing height of development in each area of the city.

The MND has no adequate discussion regarding the proposed placement of a tall, bulky building at the most prominent place in the neighborhood—the entrance to the Liberty Hill Historic District which will completely overwhelm and dominant the neighborhood. The MND should discuss and reconcile this important design principal and fully explain how the proposed project satisfies the General Plan and will not result in a significant impact. The proposed project far exceeds the prevailing pattern of the neighborhood. The conclusion of no significant impact is erroneous and must be reconciled in the MND by an in depth discussion of these guiding principles and policies. The complete lack of such discussions makes the MND inadequate.

The conclusions reached in the Land Use Section of the MND(page 20-21) are unsupported with facts and devoid of in-depth discussions of how the project satisfies the Urban Design Element of the General Plan

September 12, 2013

The bare conclusions reached by the MND that the proposed project would NOT alter the visual character of the project site and the immediate vicinity are unsupported by any facts or law. The MND lacks any serious discussions on the issue and does not adequately reconcile this conclusion with the numerous principals of the General Plan which seeks to guide such a proposed development.

The first object of the Urban Design Element singles out visual impacts and compatibility with existing neighborhoods as the most important "city pattern" to be preserved and protected. All proposed views of the project make it clear that the project will have a direct and overwhelming impact on views from City streets and for dozens of homes in the vicinity. An in-depth discussion of how the conclusions are reached of no significant impacts on views and reconciliation with the Urban Design Element should included in the application

San Francisco has an image and character in its city pattern which depends especially upon views, topography, streets, building form and major landscaping. This pattern gives an organization and sense of purpose to the city, denotes the extent and special nature of districts, and identifies and makes prominent the centers of human activity. The pattern also assists in orientation for travel on foot, by automobile and by public transportation. The city pattern should be recognized, protected and enhanced."

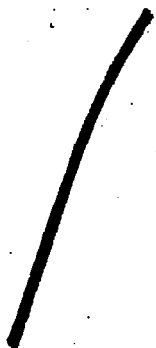
Placing a large out of scale building adjacent to an important Historic District is not reconciled or discussed in the MND. The conclusion that the project will have no significant impact because it generally fits in with buildings in the "larger project area" must be explained and appears completely erroneous. The surrounding blocks are all modest scale residential and commercial buildings. The "larger project area" should be defined and explained in detail. It should not include projects many blocks away at 411 Valencia Street, 700 Valencia Street , 736 Valencia and 3500 19th Street (page 22). None of these new developments can even be seen from the subject site. Meeting the new zoning is not a criteria for reconciling visual and ascetic impacts and that is all the MND provides.

CONCLUSION

LHNA believes the Project, as currently conceived, is the wrong project for this area of San Francisco because it is completely at odds with existing neighborhood, it should have been rejected or modified. The MND fails to correctly review or reconcile the proposed project with the historic neighborhood in which it is to be located.

Sincerely,


Stephen M. Williams





SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion: M-18185

HEARING DATE: SEPTEMBER 30, 2010

Hearing Date: September 30, 2010
Case No.: 2007.1457E
Project Address: 1050 Valencia Street
Zoning: Valencia Street Neighborhood Commercial Transit District
(Valencia Street NCT)
55-X Height and Bulk District
Block/Lot: 3617/008
Project Sponsor: Shizuo Holdings Trust
1001 Bridgeway, Suite 538
Sausalito, CA 94965
Staff Contact: Jeremy Battis – (415) 575-9022
Jeremy.Battis@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE APPEAL OF THE PRELIMINARY MITIGATED NEGATIVE DECLARATION, FILE NUMBER 2007.1457E FOR THE PROPOSED DEVELOPMENT ("PROJECT") AT 1050 VALENCIA STREET.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby AFFIRMS the decision to issue a Mitigated Negative Declaration, based on the following findings:

1. On December 21, 2007, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, the Planning Department ("Department") received an Environmental Evaluation Application for the Project, in order that it might conduct an initial evaluation to determine whether the Project might have a significant impact on the environment.
2. On February 10, 2010, the Department determined that the Project, as proposed, could not have a significant effect on the environment, and accordingly, on that date issued a notice of availability that a Mitigated Negative Declaration would be issued for the Project, duly published in a newspaper of general circulation in the City, and the Mitigated Negative Declaration was posted in the Department offices, and distributed in accordance with law.
3. On March 11, 2010, an appeal of the decision to issue a Mitigated Negative Declaration was timely filed by Clint Mitchell and Risa Teitelbaum of Liberty Hill Neighborhood Association.
4. A staff memorandum, dated September 23, 2010, addresses and responds to all points raised by appellant in the appeal letter. That memorandum is attached as Exhibit A and staff's findings as to those points are incorporated by reference herein as the Commission's own findings. Copies of that memorandum have been delivered to the City Planning Commission, and a copy of that

memorandum is on file and available for public review at the San Francisco Planning Department, 1660 Mission Street, Suite 500.

5. On June 16, 2010, the Historic Preservation Commission reviewed the project in accordance with the Eastern Neighborhoods Area Plan Interim Permit Review Procedures for Historic Resources, and determined, in Motion No. 0068, that the Planning Department's CEQA analysis of potential impacts on historic resources appeared to be adequate.
6. On July 1, 2010, amendments were made to the Preliminary Mitigated Negative Declaration, adding the following text to describe revisions to the proposed project (elimination of on-site parking and loading space, setback of top floor from the building to the west). Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the Preliminary Mitigated Negative Declaration. The changes do not require "substantial revision" of the Preliminary Mitigated Negative Declaration, and therefore recirculation of the Preliminary Mitigated Negative Declaration would not be required.
7. On July 8, 2010, the Commission held a duly noticed and advertised public hearing on the appeal of the Preliminary Mitigated Negative Declaration, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.
8. At the July 8, 2010, the Commission directed that additional discussion and analysis concerning the Liberty-Hill Historic District be added to the document. On September 23, additional amendments were made to the Preliminary Mitigated Negative Declaration, adding the additional discussion and analysis concerning the Liberty-Hill Historic District, as directed by the Commission. Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the Preliminary Mitigated Negative Declaration. The changes do not require "substantial revision" of the Preliminary Mitigated Negative Declaration, and therefore recirculation of the Preliminary Mitigated Negative Declaration would not be required.
9. On September 30, 2010, the Commission held a second duly noticed and advertised public hearing on the appeal of the Preliminary Mitigated Negative Declaration, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.
10. All points raised in the appeal of the Preliminary Mitigated Negative Declaration at the July 8 and September 30, 2010, City Planning Commission hearings have been adequately addressed either in the Memorandum or orally at the public hearings.
11. After consideration of the points raised by appellant, both in writing and at the July 8, and September 30, 2010, hearings, the San Francisco Planning Department reaffirms its conclusion that the proposed project could not have a significant effect upon the environment.
12. In reviewing the Preliminary Mitigated Negative Declaration issued for the Project, the Planning Commission has had available for its review and consideration all information pertaining to the Project in the Planning Department's case file.
13. The Planning Commission finds that Planning Department's determination on the Mitigated Negative Declaration reflects the Department's independent judgment and analysis.

Motion No. M-18185
Hearing Date: September 30, 2010

Case No. 2007.1457E
1050 Valencia Street

The City Planning Commission HEREBY DOES FIND that the proposed Project, could not have a significant effect on the environment, as shown in the analysis of the Mitigated Negative Declaration, and HEREBY DOES AFFIRM the decision to issue a Mitigated Negative Declaration, as prepared by the San Francisco Planning Department.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission on September 30, 2010.

Linda Avery
Commission Secretary

AYES: Alioto, Miguel, Moore, Olague, Sugaya

NOES:

ABSENT: Borden

ADOPTED: September 30, 2010

2

Stephen M. Williams
Law Offices of Stephen M. Williams
1934 Divisadero Street
San Francisco, CA 94115

September 6, 2013

SUBJECT: REVIEW OF INITIAL STUDY FOR 1050-1058 VALENCIA STREET PROJECT

Dear Mr. Williams;

On behalf of your clients, The Liberty Hill neighborhood Association and other interested Liberty Hill residents and business owners, I have prepared this peer review of the adequacy of the preliminary Mitigated Negative Declaration (MND) with respect to California Environmental Quality Act (CEQA) requirements. My specific comments on the MND are presented below. The identified deficiencies indicate that the MND a superficial document that focuses on plan compliance rather than physical impacts. Because of the document's failure to adequately analyze impacts, it is not possible to determine the significance of those impacts, which is CEQA's express purpose of the Initial Study¹. Two topics stand out: 1) The MND fails to address parking, and 2) it fails to consider impacts to private views, shading, and light. The most recent appellate court decision on parking is particularly applicable to this MND (see Item 14, below).

Visual Impacts

The visual impacts assessment is incoherent and the discussion fails to support the conclusions of non-significance, as described below

- The MND (Figure 6) shows two of the elevations of the project but fails to include any photosimulations of how the project would look in the context of either the Hill Street or Valencia Street views. Absent these simulations, the project's impacts on visual quality/views from those public areas cannot be determined. Further, views of the project from the west and south cannot be determined, as the MND includes neither photosimulations nor façade elevations depicting those views. As documented in the Appeal of Permit Applications 20102277436 and 20102277437, pp. 7-8 and Exhibits 2 and

¹ The MND is, in fact, an Initial Study (IS) with an attached draft findings form (MND). The Initial Study is incorrectly referred to by the City as a MND.

3 (hereby incorporated by reference), the applicant's depictions of the proposed project appear to be incorrectly scaled and missing important features.

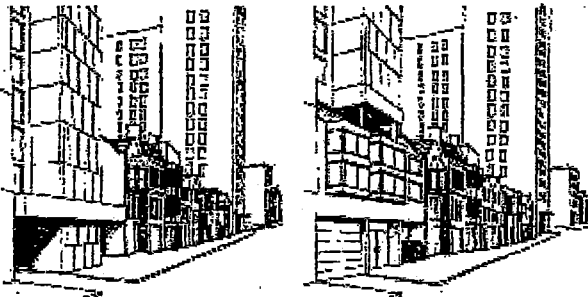



- The section notes that the existing building "tends to blend in" with its surroundings due to its small size, while the project would be much larger than the surrounding buildings. It relies on the existence of a few buildings of similar size to conclude that this project would have no visual impacts, which completely ignores the site-specific context (corner, adjacent to smaller buildings, replacing a one-story building and undeveloped land). The mere existence of other similarly tall buildings in the area is not evidence that the proposed project would not have a significant visual impact. The photosimulations necessary to determine this impact are conspicuously absent from the MND.
- The section states that the project would not constitute a significant visual impact because views "would be consistent with the diverse visual character of Valencia Street". Under this criterion, any non-matching project would be acceptable, due to its diversity. In addition to not making sense, this approach is in conflict with the design policy stating, "To conserve important design character in historic or distinctive older areas, some uniformity of detail, scale, proportion, texture, materials, color and building form is necessary."
- The discussion fails entirely to address the impacts of the size and style of the building.
- The section fails to assess view blockage resulting from the project, and focuses solely on views from public areas despite case law requiring private views to also be considered (Ocean View Estates v. Montecito Water District [116 Cal. App. 4th 396; 10 Cal. Rptr. 3d 451; 2004 Cal. App. LEXIS 247; 2004 Cal. Daily Op. Service 1842; 2004 Daily Journal DAR 2738]). Shading and light-blockage impacts of the project are evaluated only for public spaces and not for private residences. Yet physical effects to receptors may be more acute in a residence than in a park because of the high percentage of time that a resident spends in their home compared to a park. CEQA focuses on physical effects, not whether or not a space is public or private (see Ocean View Estates v. Montecito Water District decision). The conclusion that "the project's construction...would not increase the total amount of shading above levels that are common and generally accepted in urban areas" (p. 62) is unsupported by fact or analysis and, equally importantly, fails to evaluate the effects of this project on the nearby residents. In fact, the MND includes no analysis of the project's impacts of shading or light blockage on nearby residences.
- The section states that loss of private views and lighting impacts are not significant merely because they "are commonplace in densely developed urban neighborhoods and generally accepted as part of urban living". Under this logic, lighting and view blockage in the City would never be a significant impact, no matter their severity. This "analysis" fails to analyze the specific impacts of the project.

- The project seems to propose both a solar array on the roof (MND, p. 10) and a roof deck (unless the latter has been eliminated). These features should be depicted as they could affect views and/or be in conflict with one another.
- Contrary to the unsupported conclusion on p. 23, it is unclear how a modern building that is taller than all of its neighboring structures is, "compatible with the overall character of the Mission neighborhood". The "character of the Mission neighborhood" is never described. The one other 5-story structure mentioned is a block away and is the tallest structure in the immediate neighborhood. The proposed project is triple the height of the existing structure on the site, and would be twice the height of the adjacent structures.
- The Light and Glare discussion fails to address light and glare from the roof garden and/or balconies.
- The Cumulative Visual Impacts discussion (p. 27) fails to address the cumulative impacts of the trend toward larger modern buildings along Valencia Street in terms of the street's existing character.

In addition, the Initial Study (aka MND) fails to correctly or adequately assess the project's visual impacts in the context of its own planning documents, which, presumably, are used as an indicator of visual impact significance. Specifically:

- The project clearly conflicts with the SF General Plan Urban Design Element, Conservation, Fundamental Principal #4, Items A and B:

<p>To conserve important design character in historic or distinctive older areas, some uniformity of detail, scale, proportion, texture, materials, color and building form is necessary.</p>	
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<p>A: Large buildings impair the character of older, small scale areas if no transition is made between small-scale and large-scale elements.</p>	
<p>B: New blank facades introduced into areas of older, more detailed buildings detract from neighborhood character.</p>	
<p>C: New buildings using textured materials with human scaled proportions are less intrusive in older areas characterized by fine details and scale.</p>	
<p>D: Visually strong buildings which contrast severely with their surroundings impair the character of the area.</p>	

The project also conflicts with the Urban Design Element, Policy 3.1: Visual Harmony

POLICY 3.1

Promote harmony in the visual relationships and transitions between new and older buildings.

New buildings should be made sympathetic to the scale, form and proportion of older development. This can often be done by repeating existing building lines and surface treatment. Where new buildings reach exceptional height and bulk, large surfaces should be articulated and textured to reduce their apparent size and to reflect the pattern of older buildings.

Although contrasts and juxtapositions at the edges of districts of different scale are sometimes pleasing, the transitions between such districts should generally be gradual in order to make the city's larger pattern visible and avoid overwhelming of the district of smaller scale. In transitions between districts and between properties, especially in areas of high intensity, the lower portions of buildings should be designed to promote easy circulation, good access to transit, good relationships among open spaces and maximum penetration of sunlight to the ground level.

Therefore the unsupported policy compliance statements on pp. 17-18 of the MND are incorrect. This also means that the project may not comply with the City's Priority Policy's 2 and 7, as claimed on p. 18.

Historic Resources

The MND's discussion of the project's impacts to historic resources is similarly incoherent and unsupported by fact. Specifically:

- The second paragraph on p. 31e quotes the architectural case report as stating, "Most Liberty Hill buildings share unifying characteristics relating to scale, height, orientation, material, and extent of detailing." The third paragraph on that page goes on to state that on Hill Street "architecture takes the lead", and "Hill Street offers one of San Francisco's most complete visions of a city street of a century ago." Yet the project's long Hill Street frontage is not considered in that context, but rather in the context of a few outliers that don't contribute to the Historic District. (p. 31f, first full paragraph). This appears to be a biased analysis that ignores the clear importance of the street. Adding to this stilted "analysis" is the conclusion on p. 31i that, the project would create "a contrast with the scale of the buildings on Hill Street", and that such a contrast would be beneficial because it "would more definitively terminate the eastern boundary of the [historic] district. Under this "criteria" the larger and more incongruous a building is, the better it would be in terms of compatibility with the historic district. This is nonsensical.
- The third paragraph on p. 31e states that the project would be oriented towards Valencia Street. This is false – the project would have orientations and entrances on both Hill and Valencia Streets, but the longest façade would be on Hill Street. Therefore the MND's conclusion is false.

- On p. 31j the MND states that the project "...matches the varied development vocabulary contained in the historic district...", which it does not. In fact, the historic district is predicated on the concept of historic structures with "unifying characteristics", as quoted in from the MND in item 11, above. The proposed taller, modern structure would clearly be incongruous with these "unifying characteristics". The analysis fails on this point.

Parking

The MND's discussion of the project's impacts to parking fails to provide the requisite "substantial evidence" supporting its conclusions and traffic fails to comply with recent case law on this issue. Specifically:

- 1) : The MND (pp 35-36) states that, "San Francisco does not consider parking supply part of the physical environment" and "Parking deficits are considered to be social effects rather than impacts to the physical environment as defined by CEQA". Yet the most recent Appellate Court decision on the topic (Taxpayers for Accountable School Bond Spending v. San Diego USD (Cal. Ct. App. - April 25, 2013)) specifically states that vehicles, whether driven or parked, are "physical objects that occupy space when driven and when parked" so they "naturally must have some impact on the physical environment." The court also found that personal observations by local residents about parking could constitute substantial evidence that the project may have a significant impact on parking. Similarly, the court found that comment letters from residents about the traffic impacts were sufficient to support a fair argument the project may have a significant effect on traffic. Because the project may cause significant parking and traffic effects, the court held that the district must prepare an Environmental Impact Report.

Therefore, the MND's conclusion that "Parking deficits are considered to be social effects, rather than impacts to physical environment as defined by CEQA" (MND, p. 36) is false. The MND's failure to evaluate the project's effects on parking supply in the face of its acknowledgment that "Existing on-street parking adjacent to the project site appears to be at capacity" (MND p. 35) and the project's failure to provide even a single parking space constitutes an inadequate analysis of this impact. The MND claims that exacerbated parking shortages may even reduce parking demand and vehicular circulation effects overall (p. 36), however this claim is unsupported by any evidence in the document.

The parking "analysis" then concludes that truck-parking demand in the peak hour would be "less than one space", but fails to explain how a truck could fit into less than one space. Given the fact that the project would not include any truck loading spaces, truck parking would need to be assessed along with car parking.

Other Issues

Traffic. Removal of 5500 cy yds of soil (p. 11) will require loading of approximately 550 trucks - traffic impacts of those should be addressed, along with other construction traffic impacts. The IS should include a construction traffic management plan and other mitigation measures as appropriate. This issue is especially sensitive given the MND's acknowledgment that there currently is no surplus parking in the neighborhood.

Noise. The MND's conclusion (pp 41-42) that "...potential environmental impacts associated with locating sensitive receptors in an area that currently exceeds acceptable noise levels for residential uses would be less than significant," because "the proposed residential use would be considered an infill development....and is a principally permitted use within the applicable NCT zoning district" is an illogical mixing of apples and oranges. A noise impact to a resident is a physical effect that is not diminished by a site's zoning designation. High noise levels have physical and psychological effects to receptors. Changing a designation on a map does not alleviate any of those effects. The MND relies on soundproofing and double-pane windows to reduce the physical impact. However it is unclear if the building can be properly ventilated with the windows closed. If that is not possible, the physical impact to project residents would be significant.

In addition, the City's construction noise impact significance criteria of 5dBA Ldn is not protective of human health or safety, and does not guarantee a less-than-significant impact to adjacent and nearby land uses. The City provides no evidence that this criterion is supported by any fact or evidence. The criterion is time averaged, allowing for the possibility of numerous louder instantaneous noises. Please see the Berkeley Keep Jets Over the Bay v. Board of Port Commissioners (20020 decision re this issue. Specifically, there is no analysis whether construction noise may affect either nearby residents or the Marsh Theater, which is adjacent to the site. The MND must identify these impacts based on factual data and analysis, not mere plan compliance.

Air Quality and Greenhouse Gasses. The MND air quality analysis relies on the outdated 1999 BAAQMD significant thresholds. The project's air quality impacts should be reassessed using the 2010 thresholds, which had been stayed by a trial court for legal reasons that have since been overruled by the Appellate Court (California Building Industry Association v. Bay Area Air Quality Management District, August 13, 2013).

Similarly, the Greenhouse Gas analysis is based on an outdated approach, and should be re-evaluated using the 2010 BAAQMD standards or a similar current threshold.

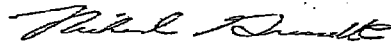
Hazardous Materials. Mitigation measures HAZ-1 is not worded so as to require implementation of any mitigation action. HAZ-1 is simply a requirement for future study, which is not permitted as mitigation under CEQA per the Sundstrom v. County of Mendocino decision (202 Cal.App.3d 296, 1988). Similarly Mitigation HAZ-3 requires preparation of a mitigation plan, but not implementation of that plan.

Mandatory Findings of Significance (p. 90). There is no analysis of cumulative impacts in this section and, other than in the visual impacts discussion, none elsewhere in the MND. Therefore the IS fails to comply with CEQA requirements to consider cumulative impacts.

Conclusions

In summary, the MND (Initial Study) fails to provide adequate analysis or factual information to support a finding that the project would not have a significant impact on the environment. The document fails to include the necessary photosimulations and traffic/parking studies to provide substantial evidence supporting its conclusions regarding those issues. It further fails to use appropriate significance thresholds and/or analytical standards in its analysis of impacts to historic resources, air quality, and noise. Please contact me at (510) 849-2354 if you have any questions regarding this analysis.

Sincerely;



Richard Grassetto
Principal

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GECO



Grassetti Environmental Consulting

Richard Grassetti

PRINCIPAL

Expertise

- CEQA/NEPA Environmental Assessment
- Project Management
- Geologic and Hydrologic Analysis

Principal Professional Responsibilities

Mr. Grassetti is an environmental planner with over 30 years of experience in environmental impact analysis, project management, and regulatory compliance. He is a recognized expert on California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) processes. He also has served as an expert witness on CEQA and planning issues. Mr. Grassetti regularly conducts peer review and QC/QA for all types of environmental impact analyses, and works frequently with public agencies, citizens groups, and applicants. He has managed the preparation of over 60 Federal and state environmental impact assessment documents, as well as numerous local agency planning and permitting documents. Mr. Grassetti also has prepared over 300 technical analyses for these documents. He has analyzed the environmental impacts of a wide range of projects including infrastructure improvements, ecological restoration projects, waste management projects, mixed-use developments, energy development, military base reuse projects, and recreational facilities. In addition to his consulting practice, Mr. Grassetti regularly conducts professional training workshops on NEPA and CEQA compliance, and is a lecturer at California State University, East Bay, where he teaches courses on environmental impact assessment.

Professional Services

- Management and preparation of all types of environmental impact assessment and documentation for public agencies, applicants, citizens groups, and attorneys
- Peer review of environmental documents for technical adequacy and regulatory compliance
- Expert witness services

GRASSETTI QUALIFICATIONS

- Assisting clients in Federal and state environmental impact assessment process compliance
- Preparation of technical analyses for impact assessments
- Preparation of project feasibility, opportunities, and constraints analyses, and mitigation monitoring and reporting plans

Education

University of Oregon, Eugene, Department of Geography, M.A., Geography (Emphasis on Fluvial Geomorphology and Water Resources Planning), 1981.

University of California, Berkeley, Department of Geography, B.A., Physical Geography, 1978.

Professional Experience

- | | |
|--------------|--|
| 1992-Present | Principal, GECO Environmental Consulting, Berkeley, CA |
| 1994-Present | Adjunct Professor, Department of Geography and Environmental Studies, California State University, East Bay, Hayward, CA |
| 1988-1992 | Environmental Group Co-Manager/
Senior Project Manager, LSA Associates, Inc. Richmond, CA |
| 1987-1988 | Independent Environmental Consultant, Berkeley, CA |
| 1986-1987 | Environmental/Urban Planner, City of Richmond, CA |
| 1982-1986 | Senior Technical Associate - Hydrology and Geology - Environmental Science Associates, Inc. San Francisco, CA |
| 1979-1981 | Graduate Teaching Fellow, Department of Geography, University of Oregon, Eugene, OR |

Professional and Certifications

Member and Past Chapter Director, Association of Affiliations Environmental Professionals, San Francisco Bay Chapter

Member, International Association for Impact Assessment

GRASSETTI QUALIFICATIONS

Publications and Presentations

Grassetti, R. *Understanding Environmental Impact Assessment – A Layperson's Guide to Environmental Impact Documents and Processes*. 2002 (Revised 2011)

Grassetti, R. *Round Up The Usual Suspects: Common Deficiencies in US and California Environmental Impact assessments*. Paper Presented at International Association for Impact Assessment Conference, Vancouver, Canada. May 2004.

Grassetti, R. *Developing a Citizens Handbook for Impact Assessment*. Paper Presented at International Association for Impact Assessment Conference, Marrakech, Morocco. June 2003

Grassetti, R. *CEQA and Sustainability*. Paper Presented at Association of Environmental Professionals Conference, Palm Springs, California. April 2002.

Grassetti, R. and M. Kent. *Certifying Green Development, an Incentive-Based Application of Environmental Impact Assessment*. Paper Presented at International Association for Impact Assessment Conference, Cartagena, Colombia. May 2001

Grassetti, Richard. *Report from the Headwaters: Promises and Failures of Strategic Environmental Assessment in Preserving California's Ancient Redwoods*. Paper Presented at International Association for Impact Assessment Conference, Glasgow, Scotland. June 1999.

Grassetti, R. A., N. Dennis, and R. Odland. *An Analytical Framework for Sustainable Development in EIA in the USA*. Paper Presented at International Association for Impact Assessment Conference, Christchurch, New Zealand. April 1998.

Grassetti, R. A. *Ethics, Public Policy, and the Environmental Professional*. Presentation at the Association of Environmental Professionals Annual Conference, San Diego. May 1992.

Grassetti, R. A. *Regulation and Development of Urban Area Wetlands in the United States: The San Francisco Bay Area Case Study*. Water Quality Bulletin, United Nations/World Health Organization Collaborating Centre on Surface and Ground Water Quality. April 1989.

Grassetti, R. A. *Cumulative Impacts Analysis, An Overview*. Journal of Pesticide Reform. Fall 1986.

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GRASSETTI QUALIFICATIONS

1986, 1987. Guest Lecturer, Environmental Studies Program,
University of California, Berkeley.

GRASSETTI QUALIFICATIONS

REPRESENTATIVE PROJECT EXPERIENCE

IMPACT ASSESSMENT REGULATORY COMPLIANCE SEMINARS

Mr. Grassetti has conducted numerous CEQA and NEPA compliance seminars for entities including:

- Alameda County Waste Management Authority
- San Francisco County Transportation Authority
- West Bay Sanitary District
- North Coast Resource Management, Inc.
- Element Power Company
- Tetra Tech Inc.
- Impact Sciences Inc.
- Northwest Environmental Training Center (over 10 workshops)
- California State University East Bay (14 years teaching Environmental Impact Assessment)

PREPARATION OF ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTS

Salt River Ecosystem Restoration Project EIR. GECO is managing preparation of an Environmental Impact Report for the restoration of a large area of former marsh and open channel near Ferndale in Humboldt County. The project includes creation of a new seven-mile-long river channel and a 400-acre wetland restoration. Major issues include biological resources, land use, hydrology/flooding, and construction impacts (noise, air quality, traffic). Client: Humboldt County Resource Conservation District.

Aramburu Island Shoreline Protection and Ecological Enhancement Project Initial Study. Mr. Grassetti is managing preparation of an Initial Study for a proposal by the Audubon Society to stabilize the shoreline and improve bird and seal habitat on the 34-acre Aramburu Island site in Marin County. Major issues include biological resources, hydrology/flooding, and construction impacts. Client: Wetlands and Water Resources.

Forward Landfill Expansion Project EIR. Mr. Grassetti is managing preparation of an EIR for a 170-acre expansion of the Forward Landfill in San Joaquin County. This is the third EIR that Mr. Grassetti, has prepared for this landfill over a period of 15 years. Major issues include air quality, health and safety, biological resources, and traffic. Client: San Joaquin County Community Development Department.

San Francisco PUC WSIP Projects. Mr. Grassetti assisted in the preparation of the San Francisco Public Utility Commission's Water Supply Improvement Project Program EIR, as well as two other CEQA documents for smaller projects under that program. Major

GRASSETTI QUALIFICATIONS

issues include hydrology, water supply, and fisheries. Client: Water Resources Engineering/Orion Associates.

Parsons Slough Project CEQA Review: Mr. Grassetti is managing preparation of an expanded Initial Study for a tidal sill (dam) project to reduce scour in Parsons Slough, an arm of the ecologically sensitive Elkhorn Slough. This IS may lead to either an EIR or Mitigated Negative Declaration. Major issues include fisheries, marine mammals, water quality, aesthetics, and construction issues (noise). Client: Vinnedge Consulting/Elkhorn Slough National Estuary Reserve.

Hamilton Wetlands/Todds Road CEQA Review. Mr. Grassetti managed preparation of the CEQA Initial Study for an alternative access road for truck traffic to the Hamilton Wetlands Restoration Project to reduce the project's potential noise impacts. Major issues included noise, biological resources, and cultural resources. Client: California State Coastal Conservancy.

San Francisco Bay Water Trail Program EIR. Mr. Grassetti assisted in the preparation of the EIR for a "water trail" for small non-motorized boats throughout San Francisco Bay. The project involves designation of 115 access sites as well as policies for stewardship and education. Major issues include disturbance of birds, marine mammals, water quality, historic resources, and wetlands. Client: California State Coastal Conservancy.

Dutch Slough Restoration Project/Oakley Community Park EIR. Mr. Grassetti managed preparation of the EIR for a 1400-acre wetland restoration and 80-acre community park on former diked lands in Oakley. Major issues include fisheries, water quality, historic architectural resources, and wetlands. Client: California State Coastal Conservancy.

Vineyard RV Park Expansion Initial Study. Mr. Grassetti managed preparation of the Initial Study for an expansion of a mobile home park in Solano County near Vacaville. Major issues included flooding, biological resources, and traffic. Client: Vineyard RV Park.

Pinole Creek Restoration Project Initial Study. Mr. Grassetti prepared the CEQA Initial Study for a 2.5-mile long creek restoration project in the City of Pinole. Major issues included biological resources, flooding, and water quality. Client: City of Pinole.

Knobcone Subdivision Initial Study. Mr. Grassetti managed preparation of an Initial Study for a 5-unit subdivision in Richmond. Major issues include geologic hazards and biological resources. Client: City of Richmond.

Baxter Creek Restoration Project CEQA Consulting. Mr. Grassetti assisted City of El Cerrito staff in the preparation of an Initial Study for the proposed Baxter Creek Restoration Project. Client: City of El Cerrito.

GRASSETTI QUALIFICATIONS

West of Fairview Subdivision Supplemental EIR. Mr. Grasseti managed preparation of a Supplemental EIR for a 700-unit residential development in Hollister. Major issues include traffic, biology, and utility services. Client: City of Hollister.

American Canyon Initial Studies. Mr. Grasseti managed preparation of two initial studies for commercial and warehouse projects in the City of American Canyon. Major issues include traffic, biological resources, and geology. Client: City of American Canyon.

Hampton Road Subdivision EIR. Mr. Grasseti managed preparation of a focused EIR for a 10-unit subdivision in the San Lorenzo area of Alameda County. Major issues include historic resources. Client: Philip Chen.

Pelandale-McHenry Specific Plan. Mr. Grasseti prepared the Specific Plan for an 80-acre residential/commercial development in Modesto. Major issues included land use, traffic, and provision of adequate infrastructure. Client: Meritage Homes

Monte Cresta Roadway Extension Initial Study. Mr. Grasseti prepared an Initial Study/Negative declaration for a roadway extension in San Juan Hills area of the City of Belmont. Major issues included slope stability and growth inducement. Client: City of Belmont

Bethel Island Water Supply Project. Mr. Grasseti prepared an Initial Study for a proposed new water supply system for the community of Bethel Island in Contra Costa County. Major issues included growth inducement, archaeological resources, and biological resources. Client: Bethel Island Municipal Improvement District.

San Francisco Bay Estuary Invasive Spartina Control Project EIR/EIS and Addendum. Mr. Grasseti managed preparation of the programmatic EIR/EIS on a plan to control invasive cordgrasses throughout the San Francisco Bay. Major issues included endangered species, visual resources, water quality, and human health and safety. Mr. Grasseti subsequently prepared an addendum for the addition of a new herbicide to the Spartina Control Program. Client: California State Coastal Conservancy.

Aptos Sanitary Sewer Replacement Project Initial Study. Mr. Grasseti prepared an Initial Study for the replacement of a storm-damaged sanitary sewer pipeline in Santa Cruz County. Major issues included cultural resources and biological resources. Client: Harris and Associates.

Eastern Dublin Specific Plan Supplemental EIR. Mr. Grasseti managed preparation of a Supplemental EIR for an 1100-acre mixed-use project in the City of Dublin. Major issues included traffic, biological resources, public services, noise, and air quality. Clients: Shea Homes and Braddock and Logan Services.

Consolidated Forward Landfill Project EIR Update. Mr. Grasseti managed preparation of an EIR for the expansion and consolidation of the Forward Landfill and

GRASSETTI QUALIFICATIONS

the Austin Road Landfill near Stockton, CA. Major issues include toxics, water quality, traffic, biological resources, and air quality. Client: San Joaquin County Community Development Department.

Pleasanton IKEA Initial Study. Mr. Grassetto prepared a Draft Initial Study for a proposed new 300,000 sq. ft. IKEA store in Pleasanton. Major issues included biology, traffic, and visual resources. Client: IKEA Corporation.

Central Contra Costa Household Hazardous Waste Facility Studies: Mr. Grassetto assisted Central Contra Costa Sanitary District staff in the preparation of a Planning Study and subsequent CEQA Initial Study on feasibility, siting, and environmental issues associated with the development of a Household Hazardous Waste collection program and facility in Central Contra Costa County. Client: Central Contra Costa Sanitary District.

Southwest Richmond Flood Control Project IS. Mr. Grassetto prepared the Initial Study and Mitigated Negative Declaration for a proposed flood control project in the City of Richmond. Client: City of Richmond.

Wickland Oil Martinez Tank Farm Expansion Project EIR Management. Mr. Grassetto served as an extension of City of Martinez Planning Department staff to manage all aspects of the preparation of the CEQA review for a 2,000,000-barrel expansion at Wickland's Martinez oil storage terminal. We prepared the NOP, RFP, assisted in consultant selection, and managed the consultant preparing the EIR on this project. Client: City of Martinez.

Austin Road Landfill Expansion Project EIR Update. Mr. Grassetto prepared an Initial Study and Supplemental EIR updating a 1994 EIR for the expansion of the Austin Road Landfill near Stockton, CA. Major issues include water quality, traffic, biological resources, and air quality. Client: San Joaquin County Community Development Department.

Wayside Road Sewer Expansion Initial Study. Mr. Grassetto prepared an Initial Study and Mitigated Negative Declaration for a proposed new sewer system in the Wayside Road area of Portola Valley. Client: West Bay Sanitary District

Los Trancos Woods Sewer Expansion Initial Study. Mr. Grassetto prepared an Initial Study and Mitigated Negative Declaration for a proposed new sewer system in the Los Trancos Woods area of Portola Valley. Client: West Bay Sanitary District

Arastradero Road Sewer Expansion Initial Study. Mr. Grassetto prepared an Initial Study and Mitigated Negative Declaration for a proposed new sewer system in the Arastradero Road area of Portola Valley. Client: West Bay Sanitary District

Lower Orinda Pumping Station Initial Study/Negative Declaration. Mr. Grassetto prepared an Initial Study/Negative Declaration for renovating or relocating a

GRASSETTI QUALIFICATIONS

wastewater pumping plant in Orinda, CA. Client: Central Contra Costa Sanitary District.

Shell Martinez Breakout Tanks Project Initial Study. Mr. Grassetto prepared an Initial Study for two proposed new wastewater storage tanks at Shell's Martinez Manufacturing Complex. Major issues included air quality, odors, and visual impacts. Client: City of Martinez.

Shell Martinez Biotreater Facility Initial Study. Mr. Grassetto prepared the Initial Study/Negative Declaration for a proposed new biotreater facility for Shell's Martinez Manufacturing Complex wastewater treatment plant. Major issues included water quality, wetlands, growth-inducement, and cumulative impacts. Client: City of Martinez.

Vallejo Solar Power Plant Initial Study. Mr. Grassetto prepared a CEQA Initial Study/Negative Declaration for a proposed photovoltaic array intended to power a water pumping plant in the City of Vallejo. Major issues included land use compatibility and visual quality. Client: City of Vallejo.

Ranch on Silver Creek CEQA Consulting. Mr. Grassetto prepared the Mitigation Monitoring and Reporting Program and other CEQA compliance tasks for a large residential/golf course project in San Jose. Client: Sycamore Associates.

Morgan Hill Ranch Initial Study Analyses. Mr. Grassetto prepared the Hydrology, Geology, and Hazardous Materials analyses for the Morgan Hill Ranch Mixed Use Project Initial Study. Client: Wagstaff and Associates.

East Bay MUD Water Conservation Study. Mr. Grassetto conducted the field portion of a major water conservation survey for the East Bay MUD service area. Client: Water Resource Engineering.

East Bay MUD Pipeline CEQA Analyses. Mr. Grassetto prepared technical analyses for two EIRs regarding proposed new East Bay MUD pipeline in Sacramento, San Joaquin, and Calaveras Counties. Client: Uribe & Associates.

Sunnyvale Landfill Power Plant CEQA Initial Study. Mr. Grassetto prepared an Initial Study for a proposed landfill gas-fueled power plant at the Sunnyvale Landfill in Santa Clara County. Recommendations for mitigation and further environmental review were prepared. Client: 3E Engineering.

Fremont Redevelopment Project Hydrologic Analysis. Mr. Grassetto prepared the hydrology section for an environmental impact report for four redevelopment projects in Fremont. Client: Wagstaff and Associates.

GRASSETTI QUALIFICATIONS

Ostrom Road Landfill Hydrologic Analysis. Mr. Grassetti prepared the hydrology section for an environmental impact report on the proposed vertical expansion of an existing Class-II landfill in Yuba County. Client: ESA Associates.

Pinole Portion of the Bay Trail Hydrologic, Geologic, and CEQA QA/QC Analyses. Mr. Grassetti prepared the hydrologic and geologic analyses for a CEQA Initial Study on a half-mile segment of the Bay Trail in the City of Pinole. Mr. Grassetti also provided CEQA process consulting services on this project. Client: Placemakers.

Kennedy Park Master Plan Hydrologic and CEQA QA/QC Analyses. Mr. Grassetti prepared the hydrologic analyses for an environmental impact report on a proposed park master plan in the City of Napa. Client: Placemakers.

U.S. Navy Bay Area Base Closure and Re-Use Environmental Studies. Mr. Grassetti assisted in the NEPA/CEQA review process for US Navy Base Closures and Re-Use for the San Francisco Bay Area. Work tasks include CEQA compliance overview, internal peer review, quality control reviews, and preparation of technical analyses. Specific projects are summarized below:

Mare Island Naval Shipyard EIR/EIS Studies. Mr. Grassetti prepared the hydrology section of the EIR/EIS on the shipyard closure and reuse program, conducted a peer review of the geology section, and conducted QA/QC review of the entire EIR/EIS. Client: Tetra Tech, Inc.

Oak Knoll Naval Medical Center EIR/EIS Studies. Mr. Grassetti conducted a CEQA/NEPA quality control and peer review of the EIS/EIR prepared for disposal and reuse of the Oak Knoll Naval Medical Center EIS/EIR in the City of Oakland. Client: Tetra Tech, Inc.

NAS Alameda EIR/EIS Studies. Mr. Grassetti prepared the hydrology section of EIR/EIS on reuse of the Naval Air Station, conducted a peer review of the geology section, and conducted QA/QC review of the entire EIR/EIS. Client: Tetra Tech, Inc.

Naval Station Treasure Island EIR/EIS Studies. Mr. Grassetti prepared the hydrology section of the EIR/EIS on reuse of Naval Station Treasure Island, conducted a peer review of the geology section, and conducted QA/QC review of the entire EIR/EIS. Client: Tetra Tech, Inc.

Hunters Point Naval Shipyard EIR/EIS. Mr. Grassetti assisted in the responses to comments and peer review of the EIR/EIS for the Hunters Point Naval Shipyard in San Francisco. Client: Uribe and Associates.

Naval Fuel Depot Point Molate. Mr. Grassetti conducted overall internal peer reviews of several drafts of the EIR/EIS for reuse of the former Naval Fuel Depot

GRASSETTI QUALIFICATIONS

Point Molate in Richmond, CA. In addition, he prepared the Noise, Socioeconomics, and Cultural Resources sections of the EIS/EIR. Client: Uribe and Associates.

GRASSETTI QUALIFICATIONS

CEQA/NEPA PEER REVIEW AND EXPERT WITNESS CONSULTING PROJECTS

Jackson State Forest CEQA Review. Mr. Grassetti prepared a detailed analysis of the CEQA adequacy of the California Department of Forestry's EIR on a new management plan for the 40,000 acre Jackson State Forest. Major issues included forestry practices, water quality, and biological resources. Client: Dharma Cloud Foundation

Los Angeles Airport Arrival Enhancement Project Environmental Assessment NEPA Peer Review. Mr. Grassetti prepared a peer review and expert declarations regarding the adequacy of the NEPA Environmental Assessment for rerouting of flight paths for aircraft arriving at Los Angeles International Airport. Major issues included adequacy of assessment of noise effects on traditional cultural practices of the Morongo Band of Mission Indians. Client: Law Offices of Alexander & Karshmer.

St Mary's College High School Master Plan Peer Reviews. Mr. Grassetti conducted peer reviews of two Initial Studies for proposed expansions of a high school. Major issues included noise and traffic. Client: Peralta Perk Neighborhood Association.

Lawson's Landing EIR Peer Review. Mr. Grassetti conducted detailed peer reviews of numerous CEQA documents for the proposed master plan for the Lawson's Landing mobile home park and campground in Marin County. Client: Environmental Action Committee of West Marin.

Coaches Field Initial Study Peer Review. Mr. Grassetti conducted a peer review of a proposed lighted ballfield project in the City of Piedmont. Mr. Grassetti's review resulted in the Initial Study being withdrawn and an EIR being prepared. Client: Private Party.

Metropolitan Oakland International Airport Development Plan Environmental Impact Report CEQA Review. Mr. Grassetti performed a critical review and assisted in the preparation of comments and ultimately successful litigation regarding the proposed expansion of Metropolitan Oakland International Airport. Major issues included noise, cumulative impacts, and alternatives selection/analyses. Client: Law Office of John Shordike.

San Francisco International Airport Environmental Liaison Office Consulting. MR. GRASSETTI conducted various internal peer review tasks associated with environmental studies being prepared for SFIA's proposed runway expansion. Client: LSA Associates, Inc.

El Cerrito Lumber Yard CEQA Peer Review. Mr. Grassetti conducted an internal peer review for an Initial Study on a controversial parcel in the City of El Cerrito. Client: City of El Cerrito.

Sausalito Marina CEQA Critique. Mr. Grassetti prepared a peer review and critique of an EIR for a proposed new marina in Sausalito. Client: Confidential

GRASSETTI QUALIFICATIONS

Sausalito Police and Fire Station CEQA Critique. Mr. Grassetto prepared a peer review and critique of an EIR for a proposed new public safety building in Sausalito. Client: Confidential

Napa Verison Tower CEQA Critique. Mr. Grassetto conducted a peer review and critique for a cellular telephone tower in the City of Napa. Client: Confidential.

Morongo Mining Projects Environmental Reviews. Mr. Grassetto provided CEQA, NEPA, and technical consulting to the Morongo Band of Mission Indians regarding two aggregate mines adjacent to their reservation in Riverside County, CA. Client: Law Office of Alexander & Karshmer.

Napa Skateboard Park Peer Review. Mr. Grassetto conducted a peer review and critique for a neighborhood association on a proposed skateboard park in the City of Napa. Client: Confidential.

Headwaters Forest Project EIR/EIS Review. Mr. Grassetto conducted an expert review of the CEQA and NEPA adequacy and technical validity of EIR/EIS on the Headwaters Forest Habitat Conservation Plan, Sustained Yield Plan, and land purchase. Clients: Environmental Law Foundation; Environmental Protection and Information Center, and Sierra Club.

Global Photon Fiber-Optic Cable EIR Peer Review. Mr. Grassetto assisted in a third-party peer review of an EIR on a proposed offshore fiber-optics cable. Client: Tetra Tech, Inc., and California State Lands Commission.

Coachella Valley Water Management Plan CEQA Peer Review. Mr. Grassetto assisted a consortium of Coachella Valley Indian Tribes in reviewing CEQA documents on the Coachella Valley Water Management Plan. Client: Consortium of Coachella Valley Tribes.

Salton Sea Enhanced Evaporation System Initial Study/Environmental Assessment Peer Review. Mr. Grassetto reviewed the draft IS/EA for a spray project to evaporate excess return flow water from the Salton Sea. Client: Morongo Band of Mission Indians.

Santa Rosa Home Depot CEQA Peer Review: Mr. Grassetto conducted a peer review and provided expert testimony regarding the adequacy of the Environmental Impact Report and associated technical studies for a proposed Home Depot shopping center in Santa Rosa. Client: Redwood Empire Merchants Association.

Mitsubishi Mine CEQA Litigation Review. Mr. Grassetto conducted a review of legal briefs regarding the adequacy of CEQA analyses for a proposed mine expansion in San Bernardino County. Client: Law Offices of Thomas Mauriello.

Alamo Gate Permitting Review. Mr. Grassetto performed a critical review and prepared expert testimony and correspondence regarding the adequacy of CEQA and land use

GRASSETTI QUALIFICATIONS

permitting and studies for a proposed gate on Las Trampas Road, which would preclude vehicular access to a regional park staging area. Client: Las Trampas Trails Advocates.

Cambria Condominiums Environmental and Planning Review. Mr. Grassetto prepared expert reviews of the potential environmental effects and Local Coastal Plan compliance of a proposed condominium development in Cambria, San Luis Obispo County. Client: Law Office of Vern Kalshan.

Mariposa County Planning Policy Reviews. Mr. Grassetto conducted a review of proposed alterations to the Mariposa County General Plan for CEQA compliance. Client: Dr. Barton Brown.

Gregory Canyon Landfill Environmental Processing Review. Mr. Grassetto was retained to review the environmental permitting and CEQA analyses for the proposed Gregory Canyon Landfill in northern San Diego County. Procedural issues include landfill siting requirements and CEQA process compliance. Technical issues include cultural resources, hydrology, endangered species, traffic, and health and safety. Client: Law Offices of Alexander & Karshmer and Pala Band of Mission Indians.

Otay Ranch Development CEQA Review. Mr. Grassetto prepared an expert review of the Environmental Impact Report for the 23,000-acre Otay Ranch project in San Diego County in connection with ongoing litigation. Major issues were CEQA compliance, compliance with the California planning process, biological impacts, cumulative impacts, and alternatives. Client: Law Offices of Charles Stevens Crandall.

Punta Estrella Chip Mill Environmental Report Compliance Review. Mr. Grassetto prepared a review of a proponent's environmental report for a proposed wood chip mill in Costa Rica to determine compliance of documentation with U.S. environmental standards and policies. Major compliance issues included US Clean Air Act and Clean Water Act standards, NEPA standards, and adequacy of overall impacts analysis. Client: Scientific Certification Systems.

Carroll Canyon Burn Facility CEQA Compliance Review. Mr. Grassetto prepared a CEQA process review for a proposed Negative Declaration on a planned contaminated-earth burning facility in the City of San Diego. Client: Law Offices of William Mackerzie.

Monterey Bay Marine Lab CEQA Compliance Review: Mr. Grassetto assisted attorneys in review of a CEQA Negative Declaration, NEPA Environmental Assessment, and associated documents for the relocation of the Monterey Bay Marine Laboratory. Issues included the effectiveness of mitigation to cultural and biological resources, the appropriateness of the Negative Declaration versus an EIR, and other CEQA issues. Client: Law Offices of Alexander & Karshmer.

Monterey Ground Water Ordinances CEQA Compliance Review. Mr. Grassetto provided expert CEQA consulting services to attorneys regarding the appropriateness of Monterey

GRASSETTI QUALIFICATIONS

County's CEQA processing of proposed ground water ordinances. Client: Salinas Valley Water Coalition.

Jamestown Whistlestop CEQA Adequacy Review. Mr. Grassetto performed an expert review and assisted in successful litigation regarding an Initial Study for a proposed mini mall in Jamestown, Tuolumne County. Client: Law Offices of Thomas Mauriello.

Sunrise Hills Environmental Impact Report Peer Review. Mr. Grassetto performed a critical review of the applicability of the EIR for a proposed 200-unit residential development in Sonora, Tuolumne County. Major issues include grading, erosion, water quality, biological impacts, and visual quality. Client: Sylva Corporation.

Sonora Crossroads Shopping Center Environmental Impact Report Review. Mr. Grassetto performed a review of an EIR for a major new shopping center in Sonora, Tuolumne County. Major issues included geologic and hydrologic impacts. Findings were presented to the Sonora City Council, and pre-litigation assistance was provided. Client: Citizens for Well Planned Development.

Blue Oaks Residential Development CEQA Studies Review and Critique. Mr. Grassetto performed several tasks related to a proposed residential development in western Tuolumne County. Tasks included review of County CEQA procedure, review of Initial Study, review of Draft EIR, and coordination with attorneys. Client: Western Tuolumne County Citizens Action Group.

Yosemite Junction Project CEQA Review. Mr. Grassetto prepared a review and critique of a proposed Negative Declaration for a 40-unit outlet mall in Tuolumne County, California. The Negative Declaration was subsequently denied and the project application rescinded. Client: Sylva Corporation.

Sonora Mining Corporation CEQA Review/Expert Witness Services. Mr. Grassetto conducted a review and critique of CEQA compliance for the proposed expansion of Sonora Mining Corporation's Jamestown Gold Mine in Tuolumne County, California. Client: Law Office of Alexander Henson.

Save Our Forests and Rangelands Expert Review and Witness Services. Mr. Grassetto provided expert review, consulting services, and expert witness testimony on CEQA issues for a successful legal challenge to an EIR and Area Plan for 200,000 acres in the Central Mountain Sub-region of San Diego County. Client: Law Offices of Milberg, Weiss, Bershad, Specthrie, & Lerach.

CASE NUMBER:
For Staff Use only

APPLICATION FOR Board of Supervisors Appeal Fee Waiver

1. Applicant and Project Information

APPLICANT NAME: Stephen Williams		
APPLICANT ADDRESS: 1934 Divisadero Street San Francisco, CA 94115		TELEPHONE: (415) 292-3656
		EMAIL: stiw@stevewilliamsllaw.com
NEIGHBORHOOD ORGANIZATION NAME: Liberty Hill Neighborhood Association		
NEIGHBORHOOD ORGANIZATION ADDRESS: 3288 21st Street San Francisco, CA 94110		TELEPHONE: ()
		EMAIL: libertyhillneighborhood.com
PROJECT ADDRESS: 1050 Valencia Street		
PLANNING CASE NO.:	BUILDING PERMIT APPLICATION NO.:	DATE OF DECISION (IF ANY):
2007.1457E	201012277437	Sept. 30, 2010

2. Required Criteria for Granting Waiver

(All must be satisfied; please attach supporting materials)

- The appellant is a member of the stated neighborhood organization and is authorized to file the appeal on behalf of the organization. Authorization may take the form of a letter signed by the President or other officer of the organization.
- The appellant is appealing on behalf of an organization that is registered with the Planning Department and that appears on the Department's current list of neighborhood organizations.
- The appellant is appealing on behalf of an organization that has been in existence at least 24 months prior to the submittal of the fee waiver request. Existence may be established by evidence including that relating to the organization's activities at that time such as meeting minutes, resolutions, publications and rosters.
- The appellant is appealing on behalf of a neighborhood organization that is affected by the project and that is the subject of the appeal.

For Department Use Only

Application received by Planning Department:

By: _____

Date: _____

Submission Checklist:

- APPELLANT AUTHORIZATION
- CURRENT ORGANIZATION REGISTRATION
- MINIMUM ORGANIZATION AGE
- PROJECT IMPACT ON ORGANIZATION

- WAIVER APPROVED WAIVER DENIED



**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)
1650 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.*

LIBERTY HILL
NEIGHBORHOOD ASSOCIATION

September 12, 2013

To Whom It May Concern:

This will confirm that Liberty Hill Neighborhood Association has retained the Law Office of STEPHEN M. WILLIAMS to represent its interests in an appeal of the Preliminary Mitigated Negative Declaration granted to the proposed project at 1050 Valencia Street. The LHNA originally appealed the PMND before the Planning Department concerning the proposed project and now wishes to appeal that determination to the Board of Supervisors . We hereby authorize STEPHEN WILLIAMS to pursue and complete said appeal for the proposed project.

Sincerely,



Peter Heinecke
Vice-President



David Chiu, President
San Francisco Board of Supervisors
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94103

October 15, 2013

Re: 1050 Valencia Street (AKA #1 Hill Street); Case No. 2007.1457E
Appeal of Mitigated Negative Declaration for the Proposed Development at 1050
Valencia Street. Hearing Date: October 22, 2013—Special Order 3:00pm

Dear President Chiu and Members of the Board:

Introduction

My office represents the Liberty Hill Neighborhood Association (LHNA) and the surrounding residents and owners of property in the immediate vicinity of the proposed development at 1050 Valencia Street ("Project"). The Board should be aware that more than 400 direct neighbors signed a petition opposing the Project as presently configured. I am writing to urge this Board to set aside the Mitigated Negative Declaration ("MND") and require a detailed Environmental Impact Report be prepared to fully and accurately address the potential impacts of the proposed Project and the new information and changed circumstances at the site.

What should be crystal clear to the Board from even a cursory review of the documentary evidence now before it for this specific appeal is that both the MND and the Department Response dated October 14, 2013 ("Dept Response") *objectively* fail to correctly describe the proposed Project--the most basic and fundamental requirement of CEQA, or to fully analyze the potential significant impacts of the Project. Further, the Valencia/Mission neighborhood is undergoing rapid development changes and the MND has failed to consider the changed circumstances that have occurred in the three years since it was drafted. For example, this zoned *Transit District* has since lost its transit when MUNI closed the 26 Valencia line. This fact is not mentioned in the MND. Because of these errors and omissions, the MND and the Department's response to this Appeal have not and cannot accurately, objectively or adequately assess the potential impacts of the proposed Project.

The Dept Response and the MND are Riddled with Objective Factual Errors

The Dept Response to the LHNA appeal perfectly demonstrates the on-going issue the local residents have had with the Project and the Department's enthusiastic endorsement of the Project-- no matter how it is modified and regardless of the impacts on the neighborhood. The MND and the Dept Response to the LHNA appeal betray what has been an on-going issue for the LHNA and the surrounding neighborhood residents--the Department does not understand or present an accurate description or picture of the Project, does not understand (or care about) the neighborhood or the residents and has utterly failed to meet its obligations under CEQA.

The Department claims that it is not making any "subjective" determinations related to the Project, merely presenting an "accurate and complete" analysis of the Project and its potential

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impacts. (Dept. Response, p.5) However, as set forth in detail below, the Department is objectively incorrect on many crucial issues involving the Project and its characteristics. The Department's conclusions are based on the faulty and false data and, accordingly, the analysis and its conclusions are equally untrustworthy.

The Department is Wrong on the Project Description, Wrong on the Height of the Existing Building at the Site and Wrong on the Height of the Proposed Project

A project is defined as "...the whole of an action, which has the potential for resulting in a...physical change in the environment..." CEQA Guidelines Section 15378 (a). The project description is the defining element or starting point for every CEQA environmental document, whether it is an Environmental Impact Report (EIR) or Negative Declaration (ND). A project description is a brief summary of the proposed project and its potential consequences in sufficient detail as to describe the project being contemplated and provide the focus for the environmental review. The project description provides the analytical foundation for the entire Environmental Review. It is therefore essential that an application have an accurate, well-conceived, stable and finite project description.

The project description should describe all the basic characteristics of the project, including location, need for the project, project objectives, technical and environmental characteristics, project size (gross square feet and assignable square feet), design, population effects, project phasing, and required permits. An accurate and objective description of the surrounding area and potential impacts to the vicinity are also critical.

Much of the most basic information presented to the Board of Supervisors in the Dept Response to the LHNA appeal is wildly *inaccurate*. The Project Description presented by the Dept Response (Dept. Response, page 2) is completely incorrect on numerous points. For example, the Project is not sixteen (16) units as stated therein; in fact, it is twelve (12) units. The Dept is using old data from a previous project that had parking and other characteristics no longer present in the Project. The Dept Response also misstates relevant dates for the Project and the application---the Dept cites only dates beginning in 2010. As indicated by the environmental case number (2007.1457E) the subject environmental application was made nearly six years ago on December 20, 2007, for the proposed Project in order to evaluate whether the Project might result in a significant environmental effect---the application is attached hereto as Exhibit 1.

The Project Description in the Dept Response is also oddly incorrect on the heights of the existing and proposed structures. Astoundingly, the Department gets wrong the height of the current structure at the site and the height of the proposed Project---the Dept analysis and Response is hopelessly flawed. In the Project Description, the Dept identifies the height of the current one-story building at the site to be demolished as twenty-three feet (23') in height (Dept Response, p.2) That figure is mysteriously pulled from mid-air, the actual height of the existing building is twelve feet (12'). See, Exhibit 2 attached hereto.

Further, the *actual* height of the proposed Project is not correctly stated or analyzed in the Dept Response or the MND. The Project is not fifty-five feet (55') in height but closer to seventy feet (70') in actual height. What the Department presents and analyses is the height as measured

under the definition and methodology of the Planning Code. The height of a building as measured under the Planning Code is not the "real world" or actual height of the proposed Project. Different planning codes throughout the State of California measure height in different manners and with differing criteria. Some measure to the top of the roof, some measure to the top of the parapet, some include roof top features such as stair or elevator penthouses while some use an average grade level or measure to the highest point on the roof or parapet. The measurement of height under the Planning Code may vary by topography or the zoning district in which the building or project is located. The California State Building Code also measures heights of buildings in a different manner. Attached hereto and marked as Exhibit 3 is a brief analysis and comparison of Building Code height limits compared to Planning and Zoning Codes height limits.

In this instance, although the proposed building will have only five (5) occupied floors, it will be taller than "five stories." Although not discussed in the MND or revealed in any part of the analysis, the actual, real life proposed height of the building is sixty 60'+ feet at the top of the parapet, and approximately 69- 70' feet at the roof top elevator penthouse. Therefore, the building will "read" or appear to the public as a six- or seven- story building. The elevator penthouses and other rooftop features are not depicted in any rendering provided by the developers but will be readily visible from Hill Street and other vantages in the neighborhood. This "real life" impact should have been discussed in the MND. Repeatedly describing the proposed Project exclusively as fifty-five (55') tall, without a further explanation or discussion is simply not accurate.

This fact is plainly evident in the architect's drawings which vaguely depict the proposed building at its real life height of sixty plus feet (60+'). Attached hereto and marked as Exhibit 4 are enlarged excerpts from the architectural drawings for the Project which clearly show the proposed Project exceeds the described height in the MND by at least 10%-15%. The Planners, Architect and the environmental consulting firm that authored the MND may all understand that as measured under the Planning Code the "height" of a structure does not include the parapet or roof top features but, the MND is meant to be a public information document and is meant to alert the public to real life potential impacts from a proposed project. The visual impacts of the proposed Project are not accurately or thoroughly discussed in the MND.

The Developer has long attempted to obscure the actual size of the proposed development when compared to its surroundings. Attached hereto and marked as Exhibit 5 is the Developer's graphic depiction contrasted with a current photo. The Developer's graphic is obviously inaccurate and out of scale. When one compares the depiction to the streetlight at the corner or to the Marsh Theatre, it is easy to see that the building will be approximately 10' feet taller than shown. The Neighborhood graphic prepared for use at the Planning Commission is far more accurate than the Developer's out-of-scale and undersized depiction (See, Exhibit 6). At the corner, the Project will be 30' taller than the Marsh. As noted above, the Plans do not call out the full height of the building, but stop short of the parapet approximately 5' feet (See Exhibit 4). The actual height of the building at the corner of Hill and Valencia Streets will be 60' feet to the top of the parapet and not 55' feet and then 69-70' to the top of the roof top features. None of these crucial facts is discussed in the MND. The MND has not provided the public and decision-

makers with needed or accurate facts by which to judge the Project and the conclusions reached in the MND.

Finally, another critical fact omitted from the MND is the fact that the Subject Lot is too small for this proposed building. The Subject Lot is the *smallest* on the entire block face on Valencia and is in fact smaller than many of the surrounding residential lots, most of which have single-family homes---and, if the proposed Project is built as proposed it will be the smallest lot with the largest building. As shown in the attached Assessor's Map (Exhibit 7) this lot is far too small for a 17,000 square foot building of twelve (12) units and is not compatible with the existing neighborhood in terms of density and FAR (Although the floor area ratio is not directly applicable to the Project, it is a good measure of the relative density of the Project).

The Project is out-of-scale with the neighborhood and that fact has never been fully or accurately analyzed in the environmental process. The Dept's response actually falsely claims that the Historic Preservation Commission "supported" the Project (Dept Response, p. 9). In fact, the Historic Preservation Commission specifically requested "improved visuals to convey the context for the Project" and also found that the, "proposed Project is out-of-scale with its surroundings and is concerned about the proposed density and is in need of greater setbacks from its neighboring structures." Attached hereto as Exhibit 8, is a copy of a Memorandum of Comments from the Historic Preservation Commission.

The MND Fails to Note or Discuss Changed Factual Circumstances and that the Valencia Street Neighborhood Transit District LOST its Transit During the Pendency of the Project---Major Revisions are Needed for Environmental Review

The subject lot was recently rezoned under the Planning Department's Eastern Neighborhoods Plan as part of the Mission Area Plan. In fact, the Developer filed the Environmental Application in anticipation of the zoning change in 2007 and waited for the zoning change to take place before moving the Project forward. As the Environmental Application (Exhibit 1) states, it was filed in accordance with the anticipated new NCT zoning change. As part of the Plan, the Valencia Street corridor was rezoned as the Valencia Street Neighborhood Commercial *Transit* District. That new Planning Code Section states as follows:

SEC. 726.1 Valencia Street Neighborhood Commercial Transit District.

The Valencia Street Commercial Transit District is located near the center of San Francisco in the Mission District. It lies along Valencia Street between 14th and Cesar Chavez (Army) Street, and includes a portion of 16th Street extending west toward Dolores Street. The commercial area provides a limited selection of convenience goods for the residents of sections of the Mission and Dolores Heights. Valencia Street also serves a wider trade area with its retail and wholesale home furnishings and appliance outlets. The commercial district also has several automobile-related businesses. Eating and drinking establishments contribute to the street's mixed-use character and activity in the evening hours. A number of upper-story professional and business offices are located in the district, some in converted residential units.

The Valencia Street District has a pattern of large lots and businesses, as well as a sizable number of upper-story residential units. Controls are designed to permit

moderate-scale buildings and uses, protecting rear yards above the ground story and at residential levels. New neighborhood-serving commercial development is encouraged mainly at the ground story. While offices and general retail sales uses may locate at the second story of new buildings under certain circumstances, most commercial uses are prohibited above the second story. In order to protect the balance and variety of retail uses and the livability of adjacent uses and areas, most eating and drinking and entertainment uses at the ground story are limited. Continuous retail frontage is promoted by prohibiting drive-up facilities, some automobile uses, and new nonretail commercial uses. Parking is not required, and any new parking is required to be set back or below ground. Active, pedestrian-oriented ground floor uses are required.

Housing development in new buildings is encouraged above the ground story. Housing density is not controlled by the size of the lot but by requirements to supply a high percentage of larger units and by physical envelope controls. Existing residential units are protected by prohibitions on upper-story conversions and limitations on demolitions, mergers, and subdivisions. Given the area's central location and accessibility to the City's transit network, accessory parking for residential uses is not required.

The Developer waited for this specific zoning change to take place and the Project fully embraces all of the provisions of the Valencia Street Neighborhood Commercial *Transit* District and its provisions to eliminate automobiles from the development equation. The building is proposed to be constructed without parking for its tenants – either residential or commercial, and without parking for its commercial customers and without a loading area. According to the MND conclusions, this will add dozens of additional cars to the street but because of the “transit rich” nature of the area, the impacts are judged as less than significant, because the MND concluded that “the Project area is *well-served by public transit*,” and is a “*transit rich area*.” (Dept Response page 11).

The MND and the Dept Response have failed to take note of the drastic changes, which have occurred in the area pertaining to the availability of transit and parking. This neighborhood is falsely called “transit rich” because the facts and circumstances have changed since the Project was proposed. The area has lost its public transportation. The 26 Valencia bus line is among those recent losses since the fiction was created that the area is “well served” by public transit. Transit is not available and is unreliable for working people. In June of 2013, MUNI was operating at a less than 50% on-time rate. <http://www.sfexaminer.com/sanfrancisco/report-on-munis-light-rail-trains-is-latest-bad-news-for-agency/Content?oid=2350167> To rely on that record of extremely poor performance in asserting that this neighborhood is transit-rich and will not be disadvantaged by reduced availability of parking is an insult to the residents and to this Board. In fact, the Valencia Street MUNI Transit Line was scrapped during the pendency of this Project. A local MUNI blogger posted a mock obituary for the death of the 26-Valencia line after it was discontinued.

MUNI Obituary: The 26-Valencia
BY CALIFORNIA BEAT DECEMBER 2, 2009



Photo by SF Streetsblog

(Editor's Note: On Dec. 5, MUNI will implement a series of service changes that will significantly reduce and cut back bus, trolley coach and streetcar service on more than half of the system's routes. Some of those changes include entire cancellations of routes. Some of those routes have been in service for generations. This week, the California Beat offers obituaries for those doomed transit routes that will be eliminated on Dec. 5. It's a glimpse back at the legacy that the transit line left behind, and how it helped shaped San Francisco to what it looks like today.)

26-Valencia

MUNI Motor Coach Route

Start of Service: 1892

End of Service: Dec. 4, 2009

The Dept Response and the MND assertions regarding transit are without basis in fact and merely parrot false past assumptions. In the past few years, since this Project was proposed, the area has lost public transportation to the neighborhood and the transit, which still serves the area, has performed less and less reliably. This potential impact on the physical environment from the proposed Project has not been reviewed or accommodated, and in fact the transit and parking situation in the area has deteriorated since the MND was written.

In addition to the transit reductions and eliminations, there have also been drastic changes to the availability of public parking in the vicinity. A new wave of "Parklets" sponsored by the Department of Public Works have eliminated more than two dozen parking spaces within two blocks of the proposed Project. With other mixed use developments on Valencia and the

proposal for a new development on Bartlett Street just two blocks away, the immediate vicinity will lose as many as 75 additional parking spaces, just in the time since the MND was written. The MND and the Response do not contemplate, mention or assess these facts in any manner. These are changed circumstances which have occurred since the MND was drafted and these changed circumstances mandate that major revisions be done to the environmental review. See, *Cal. Public Resources Code Section 21166*. This is information that was not available and could not have been known when the MND was written but now must be assessed under CEQA.

The conclusions and statements in the MND and the Dept Response are rendered facially and factually inaccurate with these changes in the Project area and the MND omits numerous crucial recent developments regarding parking and traffic. Further, the developer's bad faith is evident here. He assured the neighbors at a public meeting that the proposed building would not occupy residential parking spaces on Hill Street, it will in fact take them all--there are thirty-four total public parking spaces on Hill Street-- the Project is estimated to require thirty-four (34) new parking spaces.

There are General Design Principals to "Respect" Older Adjacent and Nearby Buildings – The MND Does Not Identify or Reconcile Conflicts With Policies Meant to Mitigate Environmental Impacts

In addition to the policies and design principals to avoid incompatible mass and bulk, preserve rear yards and mid-block open space and to avoid impacts on neighbors, there are also general policy principles from the General Plan and from the new Mission Area Plan that are not being applied and are not reconciled or discussed in the MND or the Dept Response. The MND and the Dept Response fail to offer any explanation how the bold conclusion was reached that, "on balance, the Project is consistent with the General Plan." While the MND is not required to provide a "comprehensive analysis" of the Project's consistency with the General Plan and the Mission Area Plan, CEQA does require the identification and discussion of conflicts with these controlling plans and policies.

The MND and the Dept Response is devoid of a required discussion of these policies.

POLICY 3.1

Promote harmony in the visual relationships and transitions between new and older buildings.

"New buildings should be made sympathetic to the scale, form and proportion of older development. This can often be done by repeating existing building lines and surface treatment. Where new buildings reach exceptional height and bulk, large surfaces should be articulated and textured to reduce their apparent size and to reflect the pattern of older buildings.

Although contrasts and juxtapositions at the edges of districts of different scale are sometimes pleasing, the transitions between such districts should generally be gradual in order to make the city's larger pattern visible and avoid overwhelming of the district of smaller scale. In transitions between districts and between properties, especially in areas of high intensity, the lower portions of buildings should be designed to promote easy circulation, good access to transit, good relationships among open spaces and maximum penetration of sunlight to the ground level."

POLICY 3.2.12

Encourage new building design that respects the character of nearby older development.

“New buildings adjacent to or with the potential to visually impact historic contexts or structures should be designed to complement the character and scale of their environs. The new and old can stand next to one another with pleasing effects, but only if there is a successful transition in scale, building form and proportion, detail, and materials. Other policies of this plan not specifically focused on preservation—reestablishment and respect for the historic city fabric of streets, ways of building, height and bulk controls and the like—are also vital actions to respect and enhance the area’s historic qualities.”

POLICY 3.5

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

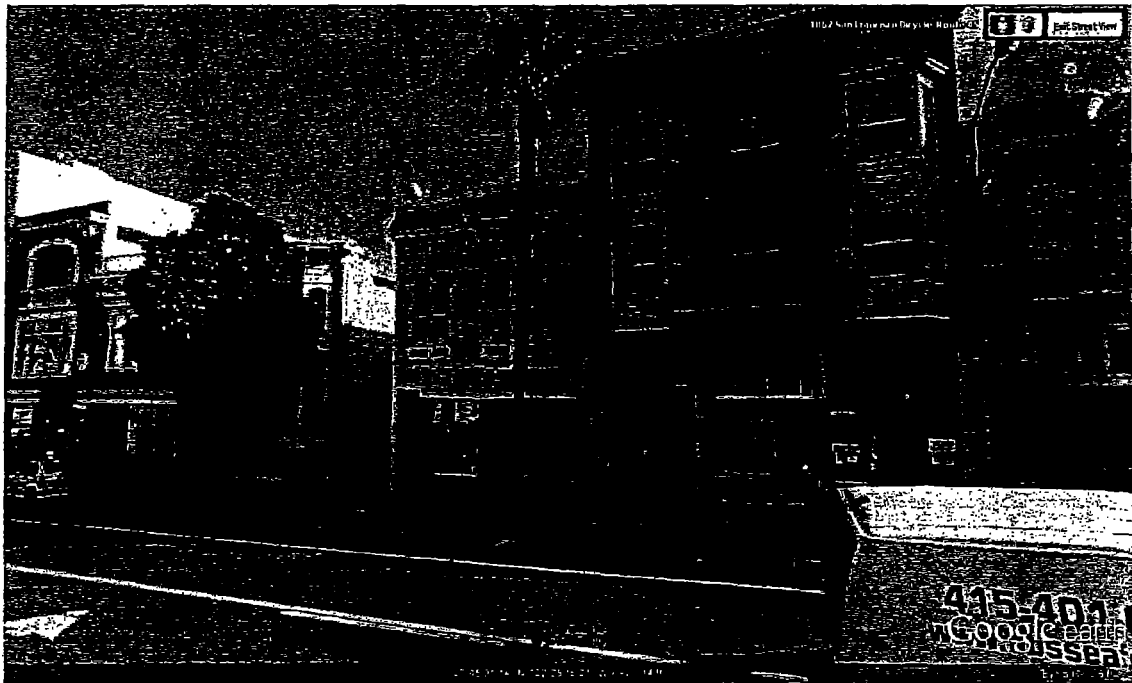
“The height of new buildings should take into account the guidelines expressed in this Plan. These guidelines are intended to promote the objectives, principles and policies of the Plan, and especially to complement the established city pattern. They weigh and apply many factors affecting building height, recognizing the special nature of each topographic and development situation.”

POLICY 3.6

Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

“When buildings reach extreme bulk, by exceeding the prevailing height and prevailing horizontal dimensions of existing buildings in the area, especially at prominent and exposed locations, they can overwhelm other buildings, open spaces and the natural landforms, block views and disrupt the city’s character. Such extremes in bulk should be avoided by establishment of maximum horizontal dimensions for new construction above the prevailing height of development in each area of the city.”

The proposed Project is designed as if it sits all alone on the block. It seemingly ignores the historic buildings which surround it and it does nothing to “complement” or transition with the development on the block which has been present for 100+ years. It is NOT compatible with the built environment and makes no effort to “fit in.” There are no setbacks and the bare minimum rear yard is the only setback provided on the entire Project. It presents a stark contrast in height and design to the Liberty Hill Historic District and even to the surrounding buildings on Valencia Street ---which are nearly all also Victorian-era buildings Below is a photo of the buildings *directly across Valencia Street* from the proposed Project.



The proposed structure dwarfs neighboring buildings and no design considerations are in place for adjacent buildings. On the contrary, the developer started out by proposing a project that violated the code and offered no rear yards or space around it hoping to use the variance procedure to remove all safeguards for the surrounding buildings....and then “gave up” square footage—“compromised” so that the proposed Project was approved at nearly the maximum size and bulk under the Planning Code. The proposed massive structure is pushed directly against the adjacent buildings without setbacks or “stepping up” and violates the underlying policies which mandate that new development, “promote, protect, and maintain a scale of development which is appropriate to each district and compatible with adjacent buildings, new construction or significant enlargement of existing buildings...” These facts and the visual impact of this new loft-like structure are not adequately discussed in the MND.

The proposed Project will dwarf the historic Marsh Theater and offers no setback or transition.



Above is the corner as it appears today. Further, the Developer's depiction of the Project is not accurate. The Developer has presented materials that do not correctly show the proposed building. It will be far out of scale with its surroundings. The MND does not provide any visual simulations or depictions of the proposed Project and relies exclusively on materials supplied by the Developer and the opinion of the authors of the MND.

This Project violates all of the "protective clauses" afforded the neighbors under the Mission Area Plan yet grants the bonus to the developers of a near maximum envelope without setbacks or transitions. The proposed Project is inconsistent with numerous aspects of the Mission Area Plan of the City's General Plan. The Mission Area Plan was adopted as part of the Eastern Neighborhoods Plan and includes numerous policies designed to ensure that new development in the Mission does not destroy the character of existing neighborhoods or damage historic resources. Specific inconsistencies not discussed in the MND or the Dept Response include:

POLICY 1.2.1: *"Ensure that in-fill housing development is compatible with its surroundings":* The proposed Project is an in-fill development on an underutilized lot in a well-established neighborhood. The proposed six-story development will tower over the surrounding 2 and 3 story buildings in the area and is architecturally incompatible with the surrounding buildings. Importantly, this incompatibility is not something that can be expected to recede over time as further development occurs. Most of the buildings in the area have historical significance, so the scale and character of the neighborhood is relatively fixed. Therefore, it is incumbent upon the developer of an in-fill project to ensure that the project is compatible with the existing neighborhood.

POLICY 1.2.3: *"In general, where residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix*

requirements.” The Project sits at the very edge of the Mission Area plan and abuts a relatively low density residential neighborhood. It is therefore appropriate to limit the bulk and density of the project to be compatible with its surroundings.

POLICY 1.5.2: *“Reduce potential land use conflicts by carefully considering the location and design of both noise generating uses and sensitive uses in the Mission.”* The Project features a combination of dense residential development, small units, and decks that are likely to result in significant noise being generated by activities on the decks. Unfortunately, the decks abutt the Marsh Theatre – an important and longstanding cultural resource in the Mission – and the noise from the decks has the potential to disrupt performances at the Marsh. Lower density and a more thoughtfully designed open space could limit this impact.

VALENCIA CORRIDOR ZONING POLICY: *“Along small streets and alleys encourage low to medium density residential, in scale with these smaller spaces.”* The proposed Project has 85 feet of frontage on Hill Street. Hill Street is the quintessential “small street” that the Mission Area Plan is intended to protect it is merely 64’ wide. Hill Street consists largely of single family residences, duplexes and a few small apartment buildings. The proposed Project is larger, taller and contains much greater residential density than any building on Hill Street (or any building in its immediate vicinity on Valencia Street for that matter).

POLICY 3.1.4: *“Heights should also reflect the importance of key streets in the city’s overall urban pattern, such as Mission and Valencia streets, while respecting the lower scale development that typifies much of the established residential areas throughout the Plan Area.”* The proposed Project will be two to three stories taller than the existing, established residential neighborhood that it abuts on Hill Street. Furthermore, it will be 2 to 3 stories taller than most of the surrounding buildings on Valencia St (including several historic residential buildings). As such, the building fails to reflect the urban pattern on Valencia Street and fails to respect the established Liberty-Hill Historic District residential neighborhood.

POLICY 3.1.6 *“New buildings should epitomize the best in contemporary architecture, but should do so with full awareness of, and respect for, the height, mass, articulation and materials of the best of the older buildings that surrounds them.”* The proposed design for a 5+ story monolith shows no awareness of or respect for the height, mass, articulation and materials of the many fine historic buildings that surround it. Furthermore, the generic, cookie-cutter design of the Project can be fairly said to epitomize the worst aspects of contemporary architecture.

Planning Code Priority Policies

The proposed Project is inconsistent with at least three of the City’s eight Priority Policies. These policies and the Project’s inconsistencies with them are described below (emphasis added):

PRIORITY POLICY #2: *“That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhood.”* The proposed Project will have an 85-foot frontage at the base of Hill Street. Hill Street is a small residential street that includes single family residences, duplexes and a few small apartment buildings. The proposed Project is two stories taller than any building on Hill

David Chiu, President
San Francisco Board of Supervisors

October 15, 2013
1050-1058 Valencia Street

Street and has at least double the units of any building on the street. The Project's tiny, dense units are inconsistent with the larger, more family-friendly housing that predominates on Hill St. In short, the size, bulk, density and likely use of the proposed Project are all inconsistent with the character of the existing neighborhood.

PRIORITY POLICY #4 "*That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking*". The proposed Project consists of 12 small units containing a total of 20 bedrooms. As the units are clearly designed to be shared by unrelated individuals (as opposed to being designed for families), that means 20 or more additional cars could be added to the neighborhood. Despite the scarcity of parking in the neighborhood, the Project does not provide for any car parking. While the Project does provide for some bicycle parking, it is unreasonable to expect that all or even the majority of the tenants will rely solely on non-auto means of transportation. Indeed, the Mitigated Negative Declaration for the Project predicted that it would generate 157 additional car trips each day and require 34 parking spaces during the time of peak demand. Those additional cars will exacerbate an already difficult parking situation in the neighborhood.

PRIORITY POLICY #5 "*That landmarks and historic buildings be preserved.*" The proposed Project is situated at the edge of the Liberty Hill Historic District and is surrounded by historic buildings. Yet the Project makes no attempt to relate to its historic surroundings in terms of either scale or architectural style. Instead, the sponsor is proposing to build a generic apartment building that will tower over the surrounding historic buildings. While it is understood that a new building at this location will not be built in classic Victorian style, the historic essence of the area would be much better preserved by a much smaller building that was designed to complement its historical surroundings.

Conclusion

The LHNA respectfully requests that the Board of Supervisors grant this appeal and require that an Environmental Impact Report be prepared for this Project. Alternatively, LHNA requests that the MND be revised as set forth above.

Very Truly Yours,


Stephen M. Williams
(On behalf of the Liberty Hill Neighborhood Association)



Environmental Evaluation Application

Owner / Agent Information

Property Owner: SHIZUOHOLD HOLDINGS Telephone No.: (415) 368-7818
 Contact Person: MARK RUTHERFORD ^{TRUST} Fax No.: (415) 753-0190
 Address: 1001 BRIDGEWAY #538 Email Address: SHIZUOHOLD@YAHOO.COM
S AUSAUTO, CA 94965

Project Contact: STEPHEN ANTONAROS Telephone No.: (415) 864-2261
 Contact Person: _____ Fax No.: (415)
 Address: 2261 MARICER ST. #324 Email Address: STEPHEN@ANTONAROS.COM
94114

CEQA Consultant: N/A Telephone No.: SANTONAROS@
 Contact Person: _____ Fax No.: SBC@10101.net
 Address: _____ Email Address: _____

Site Information

Site Address(es): 1050 VALENCIA
 Nearest Cross Streets: HILL
 Assessor's Block(s)/Lot(s): 3617 ; 008 Zoning District(s): Valencia NED → NCT
 Site Square Footage: 3315 Height/Bulk District(s): 50' → 55'
 Present or Previous Use of the Site: _____

Project Description Please Check All That Apply:

Addition Change of Use ^{New} Construction Lot Split/Subdivision
 Alteration Demolition Zoning Change Other

Please Describe Proposed Use: NEW MIXED USE BUILDING

Estimated Construction Cost: _____
Documentation supporting this estimate may be requested \$2,000,000.00 Project Schedule: 2010 ~

Previous Environmental Review: _____ Case No.: _____

Building Permit Application
 Number(s), if applicable: _____

Written Project Description: Please include location; existing height, use, gross square footage, and number of off-street parking spaces; and proposed height, use, gross square footage, and number of off-street parking spaces. Attach additional sheet(s) if necessary.

(For Staff Use Only) Case No. _____

PROJECT SUMMARY TABLE

Please provide information on existing site conditions and proposed uses. You may round numbers. If you are not sure of the eventual size of the project, provide MAXIMUM estimates.

Category Gross Square Footage (GSF)	Existing Uses	Existing Uses To Be Retained	Net New Construction &/or Addition	Project Totals
Residential	∅	-	25,000	25,000
Retail	1,600	1,600	400	2,000
Office	∅	-	-	-
Industrial	∅	-	-	-
Parking	1000	-	-320	680
Other (Specify Use) BLOG STORAGE	∅	-	2,400	2800
TOTAL GSF	2,600	1,600	27,880	30,480
Dwelling Units	∅	-	16	16
Hotel Rooms	∅	-	-	-
Parking Spaces	2	0	0	
Loading Spaces	1	1	0	1
Number of Buildings	01	0	1	1
Height of Building(s)	20	0	55'	55'
Number of Stories	1	-	5	5

If there are features of your project not included in this table, please describe below. Attach separate sheets if needed.

ENVIRONMENTAL ISSUES

Please respond to all questions below taking care to provide all the required information. If not applicable to your project, explain why. Attach separate sheets if needed.

- 1) Would the proposed project require any variances, special authorizations, or changes to the San Francisco Planning Code or Zoning Maps? If so, please describe.
THE PROPOSED BUILDING IS DESIGNED IN ACCORDANCE WITH THE NOT ZONING PROPOSED FOR VALENCIA STREET, UNDER THE RE-ZONING THE PROJECT IS APPROVABLE PER PLANNING CODE.
- 2) List or describe any other related permits and other public approvals required for this project, including those required by city, regional, state, and federal agencies:
- BUILDING PERMIT, SHORING & EXCAVATING PERMIT, STREET IMPROVEMENT PLAN REQUIRED, SUBDIVISION REQUIRED
- 3) Would the proposed project displace any existing housing or business use? If so, please describe. *NO RESIDENTIAL DISPLACEMENT WOULD RESULT EXISTING SHORT-TERM BUSINESS WOULD NEED TO RE-LOCATE*
- 4) Is the proposed project related to a larger project, a series of projects, or any anticipated incremental development? If so, please describe.
PROJECT PROPOSED IS NOT RELATED TO ANY OTHER PROJECT.
- 5) Would the proposed project change the pattern, scale or character of the general area of the project? If so, please describe. *SINCE THE EXISTING ONE-STORY BLDG WILL BE REPLACED WITH A FIVE-STORY BUILDING THERE WILL BE CHANGE OF SCALE OR CHARACTER TO THE GENERAL AREA. THE NEW BLDG WILL PRESENT A HIGHER DENSITY SCALE AND CHARACTER.*
- 6) Would the proposed project exceed any of the thresholds specified in the *Transportation Impact Analysis Guidelines for Environmental Review*? If so, please describe. You may request a determination of whether your proposed project requires a Transportation Study by the Department's Transportation Section (contact Bill Wycko at (415)-575-9048).
If a Transportation Study is required, two separate fees are necessary to cover Planning Department management and review of consultant-prepared transportation studies: 1) check payable to the San Francisco Planning Department (see EE Application Fee Schedule) and 2) check payable to MTA Department of Parking and Traffic for \$400.00.
THE PROJECT WOULD NOT EXCEED THE THRESHOLDS SPECIFIED IN THE "TIGER".
- 7) Are any designated landmarks or rated historic buildings on the project site, or is the site within a historic district? If so, please describe.
THERE ARE NO AFFECTED HISTORICAL BLDGS ON THE PROJECT SITE.

- 8) Would the proposed project exceed 40 feet in height as defined by the Planning Code (via new construction or additions)? If so, please explain and submit a Shadow Study Application, available online and at the Planning Information Counter at 1660 Mission Street. *THE NEW BUILDING WILL EXCEED 40' IN HEIGHT, IT WILL BE 55' IN HEIGHT PER THE NEW ZONING CONTROLS. A SHADOW STUDY APPLICATION WILL BE SUBMITTED LATER.*
- 9) Would the proposed project change the scenic views or vistas from existing residential areas or public lands, or roads? If so, please describe. *NO SCENIC VIEWS OR VISTAS WILL BE CHANGED BY THE PROPOSED PROJECT,*
- 10) Would the proposed project remove trees located on private or public property? If so please submit a plot plan showing the location, diameter, height, common name, and botanic name of each such tree. Please also submit a Tree Disclosure Statement as part of the environmental application submittal. The form is available online and at the Planning Information Counter at 1660 Mission Street. *NO TREES ARE LOCATED ON THE PROPERTY NOW, THEREFORE NO TREES WILL BE RELOCATED*
- 11) Is the site on filled land? Is the grade of the project site: (a) level or only slightly sloped, or (b) steeply sloped? Please explain and, if steeply sloped, provide a Geotechnical or Soils Report. *THE PROJECT SITE IS LEVEL AND IS NOT ON FILLED LAND.*
- 12) To your knowledge have any hazardous materials, including toxic substances, flammables, or explosives, ever been present on the site? If so, please attach a Phase I Environmental Site Assessment or hazardous material technical report and any additional related reports that are available. *NO TOXICS, HAZ. MAT. OR FLAMMABLES HAVE BEEN PRESENT ON THE SITE TO MY KNOWLEDGE*
- 13) Would construction of the proposed project involve any soils-disturbing activities? If so, please describe, including depth of any excavation and cubic yards of any soil to be removed, and type of foundation system proposed for the project. *SITE SOIL WILL BE EXCAVATED AS PART OF THE PROPOSED PROJECT, TO A DEPTH OF APPROX. 10' FOR THE FULL 39' x 85' LOT AREA, THEREFORE APPROX 1300 CU. YDS WILL BE REMOVED, MAT FOUNDATION.*
- 14) Would the proposed project change any existing features of any bays, tidelands, beaches, or hills, or substantially alter ground contours? *NO FEATURES SUCH AS BAYS, TIDELANDS, BEACHES OR HILLS WILL BE ALTERED UNDER THE PROPOSED PROJECT.*

- 15) Please estimate the project's daily volume of water use, wastewater generation, and describe the type of stormwater handling. Would the proposed project substantially change the demand for municipal services (police, fire, water, sewage, etc.) or produce significant amounts of solid waste or litter? If so, please explain. *BASED ON 25 gals/dwelling unit/day and anywhere from 500-500 gals/day for the retail (restaurant) the daily vol. is estimated at 500-700 gal/day. Stormwater will be tied to sewer.*
- 16) Would the proposed project generate any nuisance odors? Would the proposed project substantially change dust, ash, smoke, fumes, or odors in the project vicinity? If so, please explain. *THE PROJECT WILL NOT PRODUCE SIGNIFICANT AMOUNTS OF LITTER/WASTE AND THE PROJECT WILL NOT SUBSTANTIALLY CHANGE DEMAND FOR MUNI SERVICES,*
- 17) *THE PROJECT WOULD NOT GENERATE ANY NUISANCE ODORS, DUST, ASH OR SMOKE,*
 Would the proposed project employ any noise reduction measures for building occupants? Would the proposed project substantially change existing noise or vibration levels in the project vicinity? If so, please explain. *THE NEW DWELLING UNITS WILL BE DESIGNED TO ACHIEVE HIGH (LUXURY) STC RATINGS BETWEEN UNITS AND TO THE OUTDOORS. ALL MECHANICAL EQUIPMENT NEEDED BY THE RETAIL WILL BE LOCATED ON THE ROOF OR IN BASEMENT TO MINIMIZE NOISE.*
- 18) Would the project drain directly to natural waters (stream, bay, etc.)? Would the proposed project substantially change ocean, bay, lake, stream, or groundwater quality or quantity, or alter the existing drainage patterns? If so, please explain. *THE PROJECT WILL NOT DRAIN DIRECTLY TO NATURAL WATERS AND WILL NOT SUBSTANTIALLY CHANGE ANY, NOR WILL IT ALTER DRAINAGE PATTERNS*
- 19) Would the proposed project substantially increase fossil fuel consumption (electricity, oil, natural gas, etc.)? If so, please explain. *MANY ENERGY CONSERVATION SYSTEMS WILL BE EMPLOYED TO HELP REDUCE ENERGY CONSUMPTION. THE PROJECT WILL NOT SUBSTANTIALLY INCREASE FOSSIL FUEL CONSUMPTION*

PRIORITY GENERAL PLAN POLICIES

Proposition M was adopted by the voters on November 4, 1986. It requires the City to find that proposed projects and demolitions are consistent with the eight priority policies set forth in Section 101.1 of the City Planning Code. The eight policies are listed below. Please state how the project is consistent or inconsistent with each policy as it relates to the physical environmental issues. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. If not applicable to your project, explain why. Attach separate sheets if needed.

- 1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced; SINCE THE PROJECT PROPOSES NEW NEIGHBORHOOD SERVING RETAIL USES THIS POLICY WILL BE MET
- 2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods; THE CONSTRUCTION OF A NEW CONFORMING NCT VARENA MIXED USE BUILDING WILL HELP CONSERVE AND ENHANCE THE CULTURAL + ECONOMIC DIVERSITY OF THE NEIGHBORHOOD.
- 3) That the City's supply of affordable housing be preserved and enhanced; THE PROJECT WILL CONTRIBUTE A PORTION OF THE NEW RESIDENTIAL UNITS TO ADD TO THE SUPPLY OF AFFORDABLE HOUSING.
- 4) That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking; SINCE THE NEW 16 UNIT BLDG PROPOSES NO NEW PARKING MUNI WILL BE SUPPORTED AND COMMUTER TRAFFIC REDUCED.
- 5) 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; SINCE THE PROJECT IS NOT IN AN INDUSTRIAL SECTOR THIS POLICY DOES NOT APPLY
- 6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake; THE NEW BUILDING WILL COMPLY WITH THE MOST CURRENT SEISMIC SAFETY STANDARDS
- 7) That landmarks and historic buildings be preserved; and NO LANDMARKS OR HISTORIC BUILDINGS ARE INVOLVED IN THE PROPOSED PROJECT
- 8) That our parks and open space and their access to sunlight and vistas be protected from development. NO PARK OR OPEN SPACE ARE AFFECTED BY THE PROPOSED PROJECT

Environmental Evaluation Application Checklist

Please submit all materials shown below. The staff planner assigned to the project will contact you if additional information is required in order for environmental review to proceed.

Submit These Materials With Application	Check Box to Indicate That Materials Are Provided
Application with all blanks filled in, plus a photocopy of the completed application	<input checked="" type="checkbox"/>
Public Notification Materials (To be submitted when a planner is assigned)	
Parcel map showing block and lot numbers within a 300-foot radius of the project site boundaries	<input type="checkbox"/>
Two sets of address labels of all property owners within a 300-foot radius of project site and directly adjacent property occupants, including those across the street	<input type="checkbox"/>
Photocopy of address labels	<input type="checkbox"/>
Two Sets of Project Drawings on 8.5" x 11", 11" x 17", or reduced size Site Plan, Floor Plans, Elevations, and Sections	<input type="checkbox"/>
Two Sets of Photographs of the project site and adjacent properties, including those across the street, with viewpoints labeled	<input checked="" type="checkbox"/>
Check payable to San Francisco Planning Department (see EE Application Fee Schedule)	<input checked="" type="checkbox"/>
Application signed by owner or agent	<input checked="" type="checkbox"/>
Letter from property owner(s) authorizing agent to sign Application	<input checked="" type="checkbox"/>
Tree Disclosure Statement, if required (see page 3 of this application packet)	<input type="checkbox"/>
Special Studies, if available or required (see pages 2 - 4 of this application packet) Examples include Phase I Site Assessments and Geotechnical Reports	<input type="checkbox"/>

Applicant's Affidavit - I certify the accuracy of the following declarations:

- a. The undersigned is the owner or authorized agent of the owner(s) of this property.
- b. The information presented and all attached exhibits required for this initial evaluation are true and correct to the best of my knowledge.
- c. I understand that other applications and information may be required.

Signed: _____

Stephen Antonaros

Agent or Owner

Date: _____

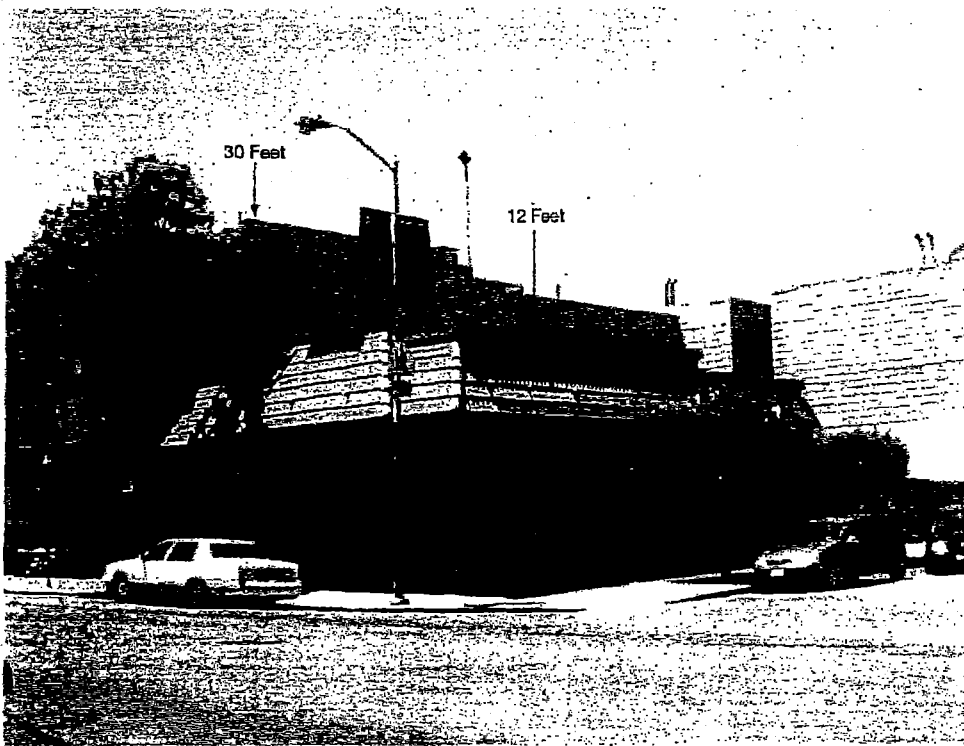
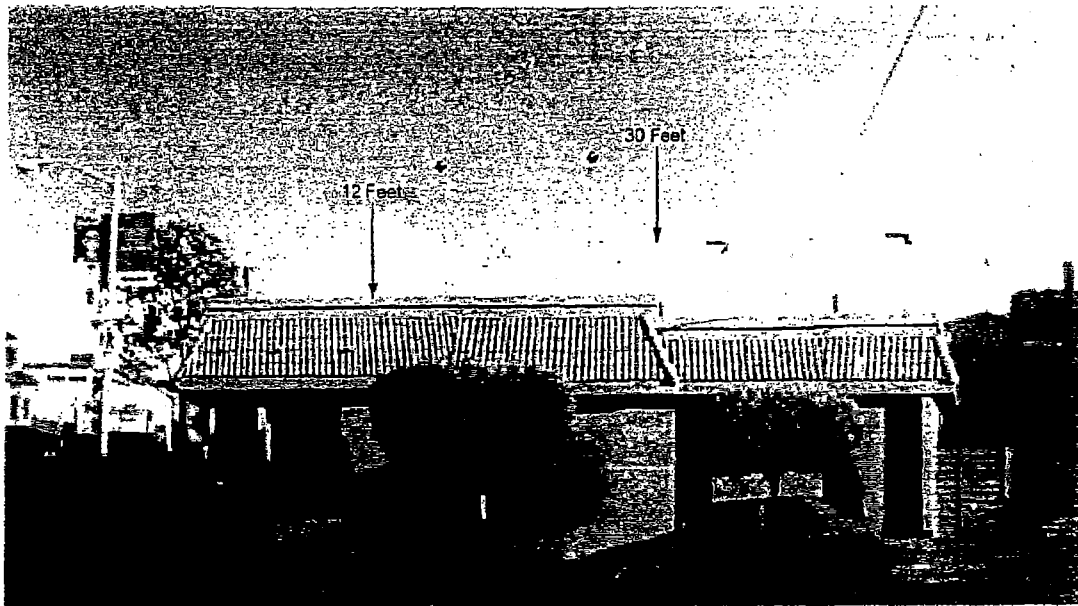
12/20/2007

Print full name of applicant: _____

STEPHEN ANTONAROS

(For Staff Use Only) Case No. _____

2



1051 Van Buren Street

3

Building Code Height Limits vs. Planning/Zoning Code Height Limits

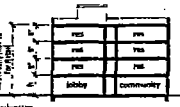
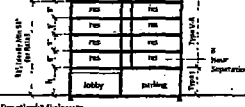
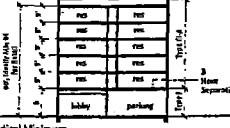
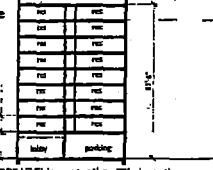
This Chart is a general summary of 2010 California Building Code (CBC) requirements related to building heights for the three main construction types commonly used for residential construction in the Bay Area. Also included is a discussion of recommended height limits for Planning and Zoning Codes so that they dovetail with the CBC requirements. It follows that Planning or Zoning height limits below—or just above—what is allowed by the CBC are not practical in that they tend to reduce

the cost-effectiveness of the selected construction type. For example, for a Type V-A building on-grade and where it is desired to promote community or retail use of the ground floor, a height limit of 30' would not allow three floors. At the other end of the spectrum, for Type I, a height limit of 100' would practically not be used as the cost to exceed the mid-rise limit would not be justified by the additional story or two allowed.

Notes

1. The following is a general summary only. It is not a comprehensive analysis of any specific site, nor does it take into account local modifications or other requirements, such as those relating to building area, bulk, sunlight access, setbacks, etc.

2. Building height is defined in the Building Code as the vertical distance from grade plane to the average height of the highest roof surface. This generally does not include uninhabited roof structures such as equipment and elevator structures, etc. Note that for Building Code purposes, height is not measured to a parapet. Planning Codes on the other hand, may typically measure height to the top of parapet or other prominent feature.

Type V-A On Grade	Type V-A On Podium	Type III-A On Podium	Type I Mid Rise & High Rise
<p>One-hour rated, light frame (wood or metal) construction</p> <p>For R.2 buildings (apartments), when equipped throughout with an approved automatic sprinkler system, the maximum building height is 60' and no greater than four stories.</p>	<p>One-hour rated, light frame (wood or metal) construction; concrete (Type I) podium.</p> <p>For R.2 buildings (apartments), when equipped throughout with an approved automatic sprinkler system, the maximum building height is no greater than five stories, four stories of Type V-A over one story of Type I construction.</p>	<p>One & two-hour rated, light frame (wood or metal) construction; concrete (Type I) podium</p> <p>Type III A construction differs from Type V primarily in that all exterior bearing walls must be of two-hour construction and non-combustible materials. More critically, when compared to Type V A (and when equipped throughout with an approved automatic sprinkler system) and the first level is of Type I construction, an additional story is allowed and the building height limit rises to 75', though that height is probably not achievable with typical floor-to-floor heights.</p>	<p>Type I construction is structural steel or concrete. For all practical purposes, for residential buildings in the Bay Area, concrete is used even for high-rise buildings. Besides lower cost, concrete allows for a smaller floor-to-floor distance, allowing extra floors to be squeezed under Zoning and Building Code limits.</p>
<p>60' max ht. for Type V-A</p> 	<p>Note: For R Occupancies over a Type I parking garage ONLY (entry lobby excluded), it is possible to count only the number of stories above the podium against the allowed story limits, but the height limit remains. No retail or other habitable space would be allowed under this scenario.</p> 	<p>75' max ht. for Type III-A</p> 	<p>Mid-Rise: Unless you consider residential ceiling heights of less than 8', nine stories is the most that can fit under the 75' limit (see below). Some adjustment between the ground floor and upper floor heights can be made depending on structural slab thickness, first floor uses, and other factors.</p> <p>High-Rise: The CBC classifies all buildings above the 75' limit (see below) to be high-rise, triggering additional and costly requirements.</p> <p>75' Mid Rise Limit*</p> 
<p>Grade Plane</p> <p>h = 9' Practical Minimum h = 11' (Shown) Practical Minimum with decent height for first floor lobby, community functions h = 15' Practical Minimum for Retail (12' ceiling w/ 2' mech. plenum plus 2' nominal structure)</p>	<p>h = 9' Practical Minimum h = 11' (Shown) Practical Minimum with decent height for first floor lobby, community functions h = 15' Practical Minimum for Retail (12' ceiling w/ 2' mech. plenum plus 2' nominal structure)</p>	<p>h = 9' Practical Minimum h = 11' (Shown) Practical Minimum with decent height for first floor lobby, community functions h = 15' Practical Minimum for Retail (12' ceiling w/ 2' mech. plenum plus 2' nominal structure)</p>	<p>*When any FLOOR LEVEL is greater than 75' above the LOWEST** point of Fire Department access, the building becomes a "High-Rise".</p> <p>**If the lot is sloping, this will affect the total allowed height.</p>

Zoning Height Recommendations

If public/retail use programmed for ground floor, then Zoning Height should be MIN 42' (45'+ is better) exclusive of roof structures/parapet

If public/retail use programmed for ground floor, then Zoning Height should be MIN 51' (55'+ is better, to max allowed 60' best) exclusive of roof structures/parapet

If public/retail use programmed for ground floor, then Zoning Height should be MIN 60' (63'+ is better) exclusive of roof structures/parapet

Mid-Rise: Zoning Height should be a minimum of 84'+.

High-Rise: See the discussion in the Introductory paragraph. Once the mid-rise limit is breached, a Zoning Height limit allowing only a few stories above mid-rise does not make much sense.

Note: Increasing the ground floor to 20' allows for two floors of parking but would probably cut a residential floor off the project to stay within the mid-rise limit.

Prepared for EBHO by Mayes Architecture w/contribution from Pyatak Architects

4



The Full Height of the Project is Closer to 60' feet. The Plans Do Not Call Out the Full Height as Measured to the Top of Parapet

0099

31'-2"

22'-6"

66.88

the wine cellar

cafe

55'-0"

15'-0"

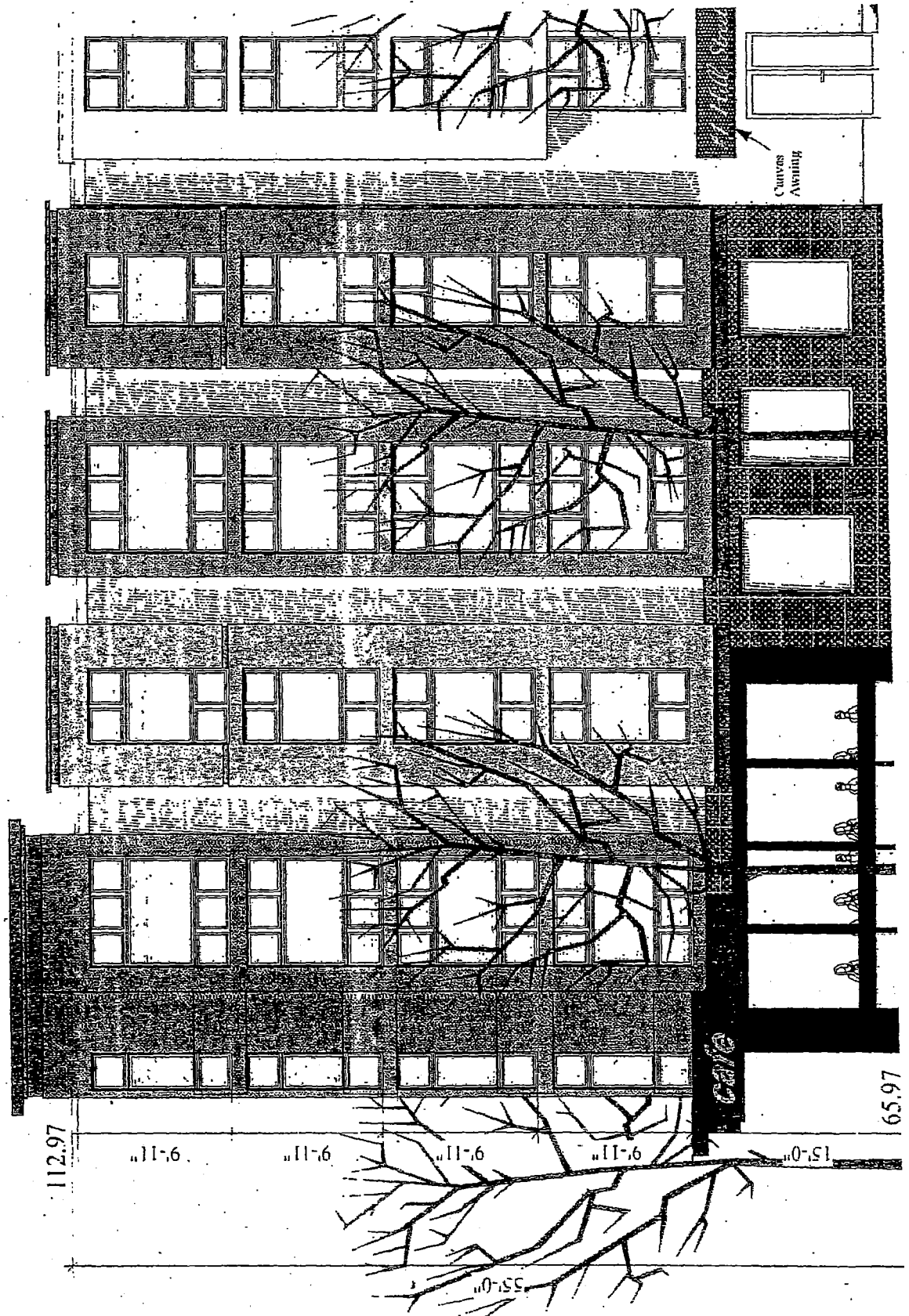
65.97

A
A1

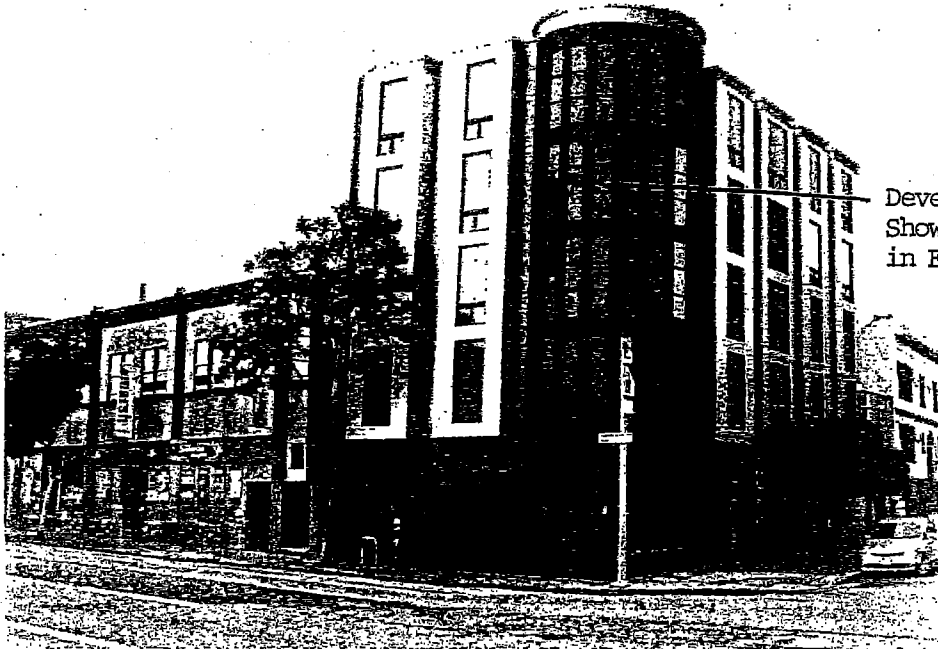
East Elevation from VALENCIA

Scale: 1/8" = 1'-0"

The Plans do Not show the Full Height and do Not Depict the Penthouses



5



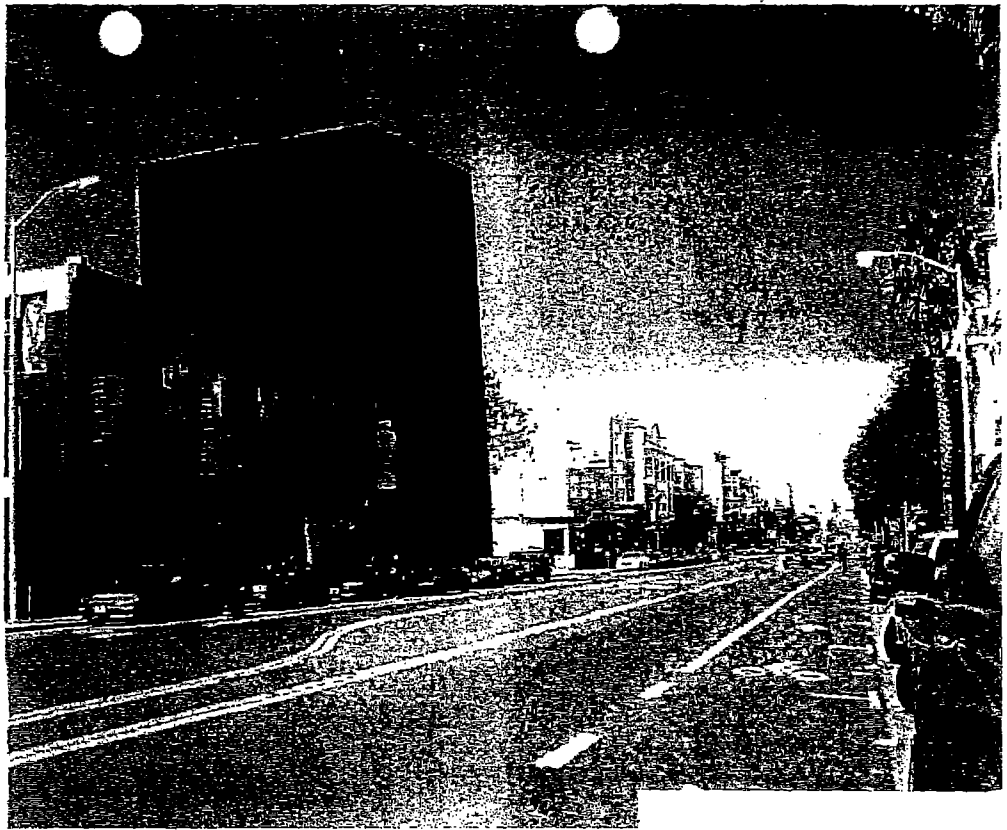
Developer's Graphic Shows Street Light in Excess of 40'

The Developer has Long Argued That The Neighbors' Depiction of the Size of the Project is inaccurate. In Fact, as may be Seen from the Developers' Graphic, this Depiction is out of Scale and Depicts the Project as Much Smaller Than it Will be.....The Street Light Serves as a Reference Point in Both Photos.

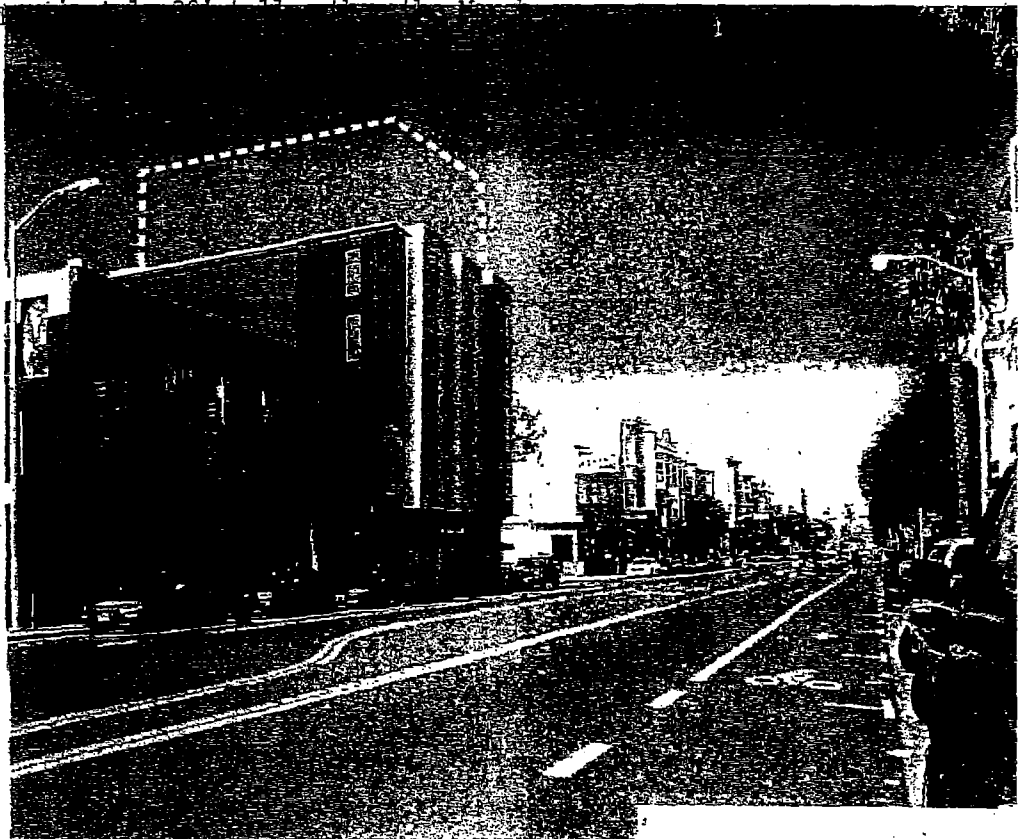


Compare Height of Street Light and of the Marsh. The Above Depiction is Not Accurate and Shows Project at Least 10' too Short

6



The Neighborhood Graphic is Closer to Actual Size. The Project will be
Approximately 200' High.



Not Correct. Does Not Show Full Height and Omits Penthouses.

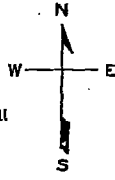
7

6606

MISSION BLK. 74

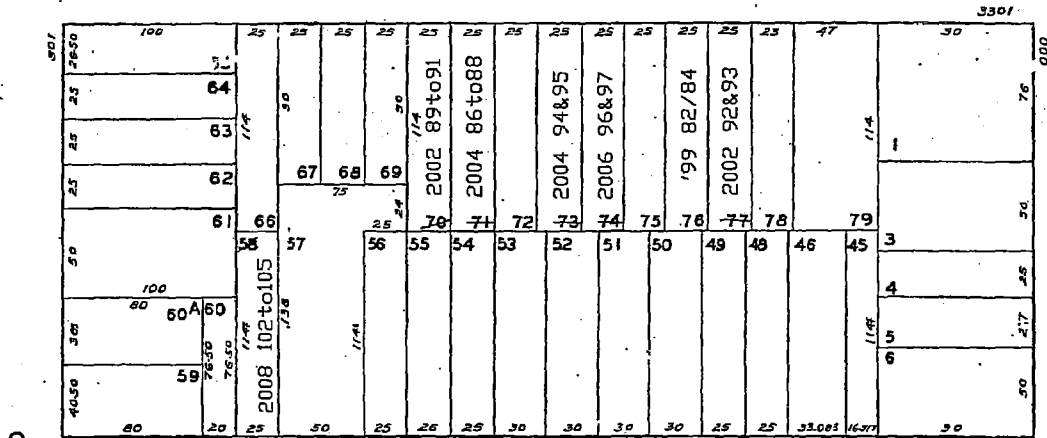
LOTS MERGED

Lot 2 INTO LOT 1 - 1943
Lot 47 * * * 46 - *
Lot 7 * * * 6 - 1949
lot 76 into lots 82/84 for 1999 roll
lot 77 into lots 92&93 for 2002 roll
lot 73 into lots 94&95 for 2004 roll
lot 71 into lots 86/88 for 2004 roll
lot 74 into lots 96&97 for 2006 roll
lot 13 into lots 98&99 for 2007 roll
lot 58 into lots 102 to 105 for 2008 roll



REVISED 171
Revised '99
Revised 2002
Revised 2004
Revised 2006
Revised 2007
Revised 2008

21ST

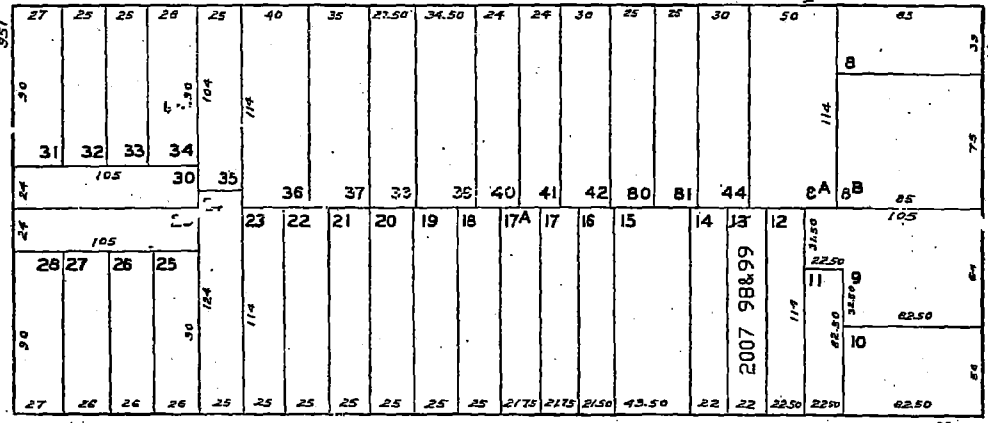


GUERRERO

HILL The Subject Lot is the Smallest on its block on Valencia Street and Smaller than Many Residential Lots with

VALENCIA

Single fam family homes



22ND

3355-3359 21ST ST.
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
86	3355	35.35
87	3357	32.24
88	3359	32.41

3333-3337 21ST ST.
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
82	3333	34
83	3335	36
84	3337	30

3329-3331 21ST ST.
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
92	3329	50.00
93	3331	50.00

3361-3363 21ST ST.
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
89	3361A	29
90	3361	34
91	3363	37

3347-3347A 21ST ST.
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
84	3347	65.4
95	3347A	34.6

3343-3345 21ST ST.
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
96	3343	25
97	3345	75

3322-3322A 22ND ST.
A CONDOMINIUM

LOT	UNIT	% COMM. AREA
98	3322	53.5
99	3322A	46.5

8



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: May 28, 2010
TO: Historic Preservation Commission
FROM: Tim Frye, Acting Preservation Coordinator, (415) 575-6822
CC: Jeremy Battis, Major Environmental Analysis
Pilar LaValley, Preservation Technical Specialist
Stephen Antonaros, Architect
RE: Additional Information required by the Historic Preservation Commission for the project at 1050 Valencia Street.

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

As required by the Eastern Neighborhoods Interim Procedures, the Historic Preservation Commission (HPC) reviewed the proposed project at 1050 Valencia Street at their May 19, 2010 hearing. The proposed project involves the demolition of the existing building and construction of a new five-story, 55-foot-high, approximately 16,000-sq ft building containing 16 dwelling units over ground-floor full-service restaurant. The site has one off-street parking/loading space, which would remain.

The HPC continued this project to their regularly scheduled hearing on June 16, 2010 pending the receipt of the information listed below.

1. The HPC would like improved visuals to convey the context for the project, including the existing streetscapes for the blocks on which the project is proposed as well as those across the street.
2. At this time, the HPC feels that the proposed project is out of scale with its surroundings and is concerned about the proposed density and is in need of greater setbacks from its neighboring structures.
3. The HPC would also welcome more information on the proposed materials and believes they should be compatible with the neighborhood.

REUBEN, JUNIUS & ROSE, LLP

October 15, 2013

Honorable David Chiu, President
Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

BOS-11, CA-2
File 130 896 - 130899
page

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
OCT 15 AM 11:31

**Re: 1050-1058 Valencia Street – Project Sponsor’s Opposition to Appeal of
CEQA Determination
Hearing Date: October 22, 2013
Our File No.: 8310.01**

Dear President Chiu and Supervisors:

This office represents Shizuo Holdings Trust, the project sponsor (“Sponsor”) of a project to construct a five-story mixed use residential-over-commercial building (the “Project”) at 1050-1058 Valencia Street (the “Property”). We are writing to respond to the appeal of the project’s Mitigated Negative Declaration (“MND”), filed on behalf of the Liberty Hill Neighborhood Association (“LHNA” or “Appellants”) on September 12, 2013. This appeal is meritless, and should be rejected.

A. Summary

Appellants fail to raise any substantial evidence that the Project could have a significant impact on the environment. The Project’s MND is the result of years of thoughtful and detailed analysis by the Planning Department, as well as the independent review of the Planning Commission and Historic Preservation Commission. The MND contains ample evidence to support the Planning Department’s independent judgment that the Project:

- Will not cause significant impacts with respect to its scale or architectural design;
- Will not cause significant impacts to public views or scenic vistas;
- Will not cause substantial light or glare impacts;
- Will not impair the livability or character of the neighborhood;
- Will not significantly impact any historic resources;
- Will not generate significant impacts to parking, loading, traffic and circulation, noise, air quality, or shadow;

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin
Sheryl Reuben¹ | David Silverman | Thomas Tunny | Jay F. Drake | John Kevin
Lindsay M. Petrone | Melinda A. Sarjapur | Kenda H. McIntosh | Jared Eigerman^{2,3} | John McInerney III²

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

www.reubenlaw.com

- Will result in less-than-significant impacts to hazardous materials with the implementation of approved mitigation measures; and
- Will be consistent with the General Plan.

The MND fully complies with the requirements of CEQA. We therefore respectfully request that the Board deny this appeal and allow the Project to proceed.

B. The Project

This appeal is concerned solely with the adequacy of the California Environmental Quality Act ("CEQA") document, and not the merits of the underlying Project. However, a basic description of the Project is provided here to lend context to the detailed analysis contained in the MND.

The Project provides an opportunity for smart infill development in a centrally-located and transit-rich area of the City. The Project will demolish the existing non-historic, one-story restaurant building at the southwest corner of Valencia and Hill Streets, built in 1970. In its place, the Project will construct a new five-story mixed-use building with dwelling units located over a ground-floor and basement restaurant. The building will be 55-feet tall to the roofline along Valencia Street, with an additional 9 feet of rooftop features that that are exempt from the height limit, such as stair and elevator penthouses. The entire building would be set back approximately 21 feet from the rear lot line on Hill Street, above the second floor. No off-street parking or loading spaces are required in the Valencia Street NCT Zoning District and none would be provided as part of the Project.

This Project is similar in size and character to other development along the Valencia Street corridor, which features a variety of architectural styles and heights and contains a number of multi-story residential-over-retail buildings. The Project is also in conformity with the massing principally permitted in its 55-X Height and Bulk District.

C. Project History

The Project's MND has received extensive review by the Planning Department, Planning Commission, and Historic Preservation Commission.

On December 21, 2007, the Sponsor filed an Environmental Evaluation Application for the Project with the Planning Department. Following more than two years of in-depth review and analysis, on February 10, 2010 the Planning Department issued a notice of availability that a Preliminary Mitigated Negative Declaration ("PMND") would be issued for the Project, finding that the Project could not have a significant effect on the environment.

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

REUBEN, JUNIUS & ROSE, LLP

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On March 22, 2010, members of the LHNA appealed issuance of the Project's MND to the Planning Commission, alleging nearly identical concerns to those raised in the current appeal. In June 2010, the Historic Preservation Commission also reviewed the Project pursuant to the Eastern Neighborhoods Area Plan Interim Permit Review Procedures for Historic Resources, and found that the Planning Department's CEQA analysis of potential impacts to historic resources was adequate.

On July 8, 2010, the Planning commission held a noticed public hearing to discuss the appeal of the PMND, and directed that additional discussion and analysis concerning the Liberty Hill Historic District be added to the document. The document was subsequently revised in September 2010, to include an even more detailed discussion of the Project's relationship to the Liberty Hill Historic District. A Planning staff memorandum, dated September 23, 2010, addressed and responded to all of the points raised by the LHNA in its previous appeal, and determined that the LHNA had failed to raise any substantial evidence supporting a fair argument that a significant environmental effect could occur as a result of the Project. Accordingly, on September 30th, 2010, the Planning Commission affirmed the Department's decision to issue the PMND.

On September 12, 2013, Appellants filed the current appeal of the Project's MND to the Board of Supervisors. The issues raised on the current appeal are nearly identical to those raised in the LHNA's previous appeal of the PMND to the Planning Commission.

D. Standard of Review Under CEQA

In reviewing the validity of a Negative Declaration, the test is whether "substantial evidence" exists to support the Negative Declaration. (Public Resources Code sections 21168, 21168.5.) As recently stated by the court in Calbeach Advocates v. City of Solana Beach (2002) 103 Cal.App.4th 529, 535-536:

'Substantial evidence' . . . means enough relevant information and reasonable inference from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made is to be determined by examining the entire record. Mere uncorroborated opinion or rumor does not constitute substantial evidence.

To constitute substantial evidence, statements made by members of the public must be supported by adequate factual foundation. If this foundation is not established, the agency must disregard the comments. (Gabric v. City of Rancho Palo Verdes (1977) 73 Cal.App.3rd 183, 199.) Substantial evidence means facts, reasonable assumptions predicated on facts, and expert opinion supported by facts. (*Cal. Pub. Res. Code Sec. 21080(e) and 21082.2(c).*)

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

REUBEN, JUNIUS & ROSE, LLP

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Argument, speculation, unsubstantiated opinion or narrative, clearly inaccurate or erroneous evidence, and evidence of social or economic impacts that do not contribute to, and are not caused by, physical impacts on the environment do not constitute substantial evidence. (*Id.*) The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the project may have a significant effect on the environment. (Public Resources Code section 21082.2(b).) Appellants have failed to submit any substantial evidence in support of their appeal, and therefore their claims must be rejected as meritless.

E. Appellants Fail to Show Substantial Evidence of Significant Impacts

Appellants ask that the Project's heavily-vetted MND be set aside due to an alleged failure to adequately review visual impacts, impacts on the nearby historic district, and impacts to the character of the surrounding neighborhood. Appellants also allege potential impacts to parking, traffic, noise, air quality, and hazardous materials. These allegations are nearly identical to those made by the LHNA in its 2010 appeal of the MND to the Planning Commission. Similar to the previous appeal, the LHNA has failed to provide any substantial evidence of the existence of significant impacts generated by the Project, and instead relies on speculative statements and unsubstantiated opinions related to the merits of the Project's design and context within the surrounding neighborhood.

The MND contains detailed analysis of the Project's potential environmental impacts, including discussion of each of the elements raised by the LHNA. Issuance of the MND was the result of the Planning Department's independent judgment and analysis, supported by substantial evidence, that the Project could not have a significant impact on the environment.

A brief discussion of the adequacy of the MND with regard to some of Appellants' specific allegations is provided below. A more in-depth discussion of the analysis contained in the Project's MND is provided in the October 14, 2013 memorandum, submitted by Sarah B. Jones and Tania Sheyner of the Planning Department, to the Board, in response to the current appeal.

1. Historic Resources

Appellants allege that the MND fails to adequately review the potential impacts of the Project on the nearby Liberty Hill Historic District. However, pages 31 through 31j and 312 of the MND specifically address the Project's proximity to and potential impacts upon on the Liberty Hill Historic District and conclude that the project would have a less-than-significant impact on the District. This conclusion is supported by the fact that the Project would be located outside of the boundaries of the Liberty Hill Historic District. The Historic Preservation Commission also independently reviewed the Project in accordance with the

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

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Eastern Neighborhoods Area Plan Interim Permit Review Procedures for Historic Resources, and determined that the Planning Department's CEQA analysis of the potential impacts of the Project on historic resources was adequate. Appellants fail to provide any substantial evidence to the contrary.

2. *Neighborhood Character*

Appellants allege that the MND does not adequately discuss the impact of the Project's design on the character of the surrounding neighborhood. However, the MND expressly discusses the Project's character with regard to its proposed land uses, aesthetics, height, bulk, and architectural design. The MND also analyzes the context of the Project within its immediate neighborhood as well as the surrounding Valencia Street NCT Zoning District. The MND notes that the Project would result in a more intensified land use than currently exists at the site, and would be taller than the neighboring structures along Valencia and Hill Street. However, on the basis of substantial evidence referenced in the MND regarding the overall land use and development scheme of the surrounding community, the Planning Department concluded that the Project would not have a significant impact to neighborhood character. Issues related to building design and aesthetics are subjective, and vary among individuals. Appellants' personal opinions regarding the merits of the Project's design or its visual relationship to other buildings in the vicinity do not create substantial evidence of significant impacts to the environment under CEQA, and are not relevant to this appeal.

3. *View and Light Blockage*

Appellants have provided a letter from Grasetti Environmental Consulting ("Grasetti"), alleging that the MND is inadequate because it does not consider impacts to private views, shading and light. Grasetti cites a 2004 California Court of Appeal decision to support the premise that CEQA requires an evaluation of a project's physical light and air impacts to private residences. However, the reduction of sunlight or views to private residences does not constitute a significant impact under CEQA. (*see Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 586 ["Obstruction of a few private vies in a project's immediate vicinity is not generally regarded as a significant environmental impact."]; *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 492-493 ["[u]nder CEQA, the question is whether a project will affect the environment of persons in general, not whether the project will affect particular persons"]; and *Id.* at 492 ["California landowners do not have a right of access to air, light and view over adjoining property."]) The MND analyzes potential shadow impacts of the Project on surrounding properties on pages 61-62, and appropriately concludes that reduction of sunlight on private residences would not constitute a significant impact under CEQA. Likewise, the MND discusses the Project's potential impacts on scenic vistas and view on pages 23 through 27; concluding that

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-367-9000
fax: 415-399-9480

REUBEN, JUNIUS & ROSE, LLP

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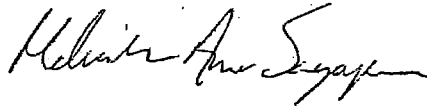
the Project will not create significant impacts in this area. Appellants have failed to raise any substantial evidence to the contrary.

F. Conclusion

The Project has been fully analyzed by the Planning Department, which determined, based on substantial evidence, that it could not have a significant effect on the environment. Appellants have failed to offer any substantial evidence of adverse environmental impacts generated by the Project, and instead are attempting to rehash issues already analyzed in the MND and addressed by the Planning Commission during the 2010 appeal. We therefore respectfully request that the appeal be denied.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Melinda Sarjapur

cc: Supervisor John Avalos
Supervisor London Breed
Supervisor David Campos
Supervisor Malia Cohen
Supervisor Mark Farrell
Supervisor Jane Kim
Supervisor Eric Mar
Supervisor Katy Tang
Supervisor Scott Wiener
Supervisor Norman Yee
Angela Calvillo – Clerk of the Board
Mark Rutherford – Shizuo Holdings Trust
Stephen Antonaros – Project Architect
Sara B. Jones – Planning Department
Tania Sheyner – Planning Department
Andrew J. Junius – Reuben Junius & Rose, LLP

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

REUBEN, JUNIUS & ROSE, LLP

www.reubentlaw.com



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: October 11, 2013
TO: Angela Calvillo, Clerk of the Board
FROM: Sarah B. Jones, Environmental Review Officer, Planning Department
RE: Appeal of Final Mitigated Negative Declaration for 1050 Valencia Street, Assessor's Block 3617, Lot 008, Planning Department Case No. 2007.1457E

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

HEARING DATE: October 22, 2013

Attached are three hard copies of the Planning Department's Appeal Response to the Board of Supervisors regarding the appeal of the Final Mitigated Negative Declaration for 1050 Valencia Street. We have also e-mailed you and Joy Lamug an electronic/pdf version of the Appeal Response.

If you have any questions regarding this matter, please contact Tania Sheyner at 575-9127 or tania.sheyner@sfgov.org.

Thank you.

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**SAN FRANCISCO
PLANNING DEPARTMENT**

MEMO

**APPEAL OF FINAL MITIGATED NEGATIVE DECLARATION
1050 Valencia Street**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

415.558.6489

415.558.6377

2013 OCT 11 PM 12:10
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PLANNING DEPARTMENT
SAN FRANCISCO

DATE: October 14, 2013
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Sarah B. Jones, Environmental Review Officer – (415) 575-9034
Tania Sheyner, Case Planner – (415) 575-9127
RE: File No. 130896, Planning Case No. 2007.1457E
Appeal of Final Mitigated Negative Declaration for 1050 Valencia Street
HEARING DATE: October 22, 2013
ATTACHMENTS: A – Planning Department Response to Appeal of Preliminary Mitigated
Negative Declaration, Dated September 23, 2010
B – Final Mitigated Negative Declaration, Dated October 5, 2010 (Less the Initial
Study, Dated September 23, 2010, Already Included in Attachment A)

PROJECT SPONSOR: Mark Rutherford, Shizuo Holdings Trust

APPELLANT: Stephen M. Williams, on behalf of the Liberty Hill Neighborhood Association
and the surrounding residents and owners of properties in the immediate
vicinity of the proposed development

INTRODUCTION:

This memorandum and the attached documents (“Final Mitigated Negative Declaration [FMND] Appeal Packet”) are a response to the letter of appeal to the Board of Supervisors (the “Board”) regarding the Planning Department’s (the “Department”) issuance of a FMND under the California Environmental Quality Act (“CEQA Determination”) for a project at 1050 Valencia Street (the “project”).

The Preliminary Mitigated Negative Declaration (“PMND”) for the proposed project, which was initially published on February 10, 2010, was the subject of two appeal hearings before the Planning Commission (“Commission”).¹ At the first appeal hearing, which was held on July 8, 2010, the Commission directed

¹ Throughout this document, the term “PMND” refers to the PMND cover page (which states the Planning Department’s finding that the proposed project would not result in any significant impacts on the environment that could not be mitigated to a less-than-significant level) together with the Initial Study checklist.

Memo

that additional discussion and analysis concerning the Liberty-Hill Historic District be added to the PMND. The amended PMND, which was published on September 23, 2010, contained this requested discussion. These amendments to the PMND did not include new, undisclosed environmental impacts and did not change the conclusions reached in the PMND and were not considered "substantial revisions" of the PMND. At the second appeal hearing, held on September 30, 2010, the Commission considered points raised in the appeal of the PMND at the July 8 and September 30, 2010 hearings and voted to approve Motion No. 18185 (five votes in favor, none against, one commissioner absent), which affirmed the Planning Department's decision to issue a Mitigated Negative Declaration for the proposed project and reaffirmed that the proposed project could not have a significant effect on the environment. (See PMND Appeal Packet in Attachment A.) The PMND was appealed to the Planning Commission by the same Appellant that filed the FMND appeal with the Board of Supervisors.

The decision before the Board is whether to uphold the Department's decision to issue a FMND and deny the appeal, or to overturn the Department's decision to issue a FMND and return the project to the Department staff for further environmental review.

SITE DESCRIPTION AND PRESENT USE:

The project site is located in the Mission District neighborhood, on a block bounded by 21st Street to the north, Valencia Street to the east, Guerrero Street to the west, and 22nd Street to the south. The project site is located at the southwest corner of Valencia Street and Hill Street in San Francisco, in an area that contains a mix of commercial and residential uses. The site consists of Lot 8 on Assessor's Block 3617. Lot 8 is approximately 3,315 square feet (sf), and contains a 1,670-sf, 23-foot-high, one-story commercial building constructed in 1970, in use as a full-service restaurant. The project site includes one off-street parking/loading space.

The property is within the Valencia Street NCT (Valencia Street Neighborhood Commercial Transit District) Use District and a 55-X Height and Bulk District.

PROJECT DESCRIPTION:

The proposed project involves the demolition of an existing 1,670-square-foot, 23-foot-high, one-story commercial building constructed in 1970, in use as a full-service restaurant, and construction of a new 17,000-sf, 55-foot-high, five-story, mixed-use building containing 16 dwelling units over a 3,500-sf ground-floor and basement-level full-service restaurant. The project involves excavating a portion of the site up to approximately ten feet below ground surface to accommodate the proposed basement level. The existing off-street parking/loading space would be eliminated. The proposed project would require a rear-yard modification by the Zoning Administrator to eliminate the rear yard requirement. No off-street parking or loading is required in the Valencia Street NCT, and none would be provided.

BACKGROUND:

Below is a summary of the key events related to the project's environmental review and entitlement process:

On December 29, 2010, project sponsor's representative Stephen Antonaros filed Building Permit Application Nos. 2010.12.27.7436 and 2010.12.27.7437 proposing demolition of the existing one-story commercial building and construction of a five-story mixed-use building.

On June 4, 2012, the Liberty Hill Neighborhood Association (hereinafter "Discretionary Review (DR) Requestor") filed an application with the Department for Discretionary Review (2012.0723D) of Building Permit Application Nos. 2010.12.27.7436 & 2010.12.27.7437.

On February 10, 2010, the Department published a PMND for the Project and distributed it for public review.

On March 11, 2010 the Liberty Hill Neighborhood Association filed a letter appealing the PMND. A Department memorandum, dated September 23, 2010, addresses and responds to all points raised by Appellant in the appeal letter. That memorandum is attached as Attachment B and staff's findings as to those points are incorporated by reference herein as the Commission's own findings. Copies of that memorandum were delivered to the Planning Commission and were made available for public review.

On June 16, 2010, the Historic Preservation Commission reviewed the project in accordance with the Eastern Neighborhoods Area Plan Interim Permit Review Procedures for Historic Resources, and determined, in Motion No. 0068, that the Planning Department's CEQA analysis of potential impacts on historic resources appeared to be adequate.

On July 1, 2010, the Department amended the PMND to reflect revisions to the proposed project, including elimination of the on-site parking and loading space and setback of the top floor from the building to the west. Such amendments did not include new, undisclosed environmental impacts and do not change the conclusions reached in the PMND. The changes did not require "substantial revision" of the PMND, and therefore recirculation of the PMND was not required.

On July 8, 2010, the Planning Commission held a duly noticed and advertised public hearing on the appeal of the PMND, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.

At the July 8, 2010, the Planning Commission directed the Department to add discussion and analysis concerning the Liberty-Hill Historic District to the PMND.

On September 23, 2010, the Department amended the PMND to include additional discussion and analysis concerning the Liberty-Hill Historic District. Such amendments did not include new, undisclosed environmental impacts and did not change the conclusions reached in the PMND.

On September 30, 2010, the Planning Commission reviewed and considered the amended MND and found that the contents of said report and the procedures through which the MND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public

Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). On September 30, 2010, the Planning Commission found that the proposed project could not have a significant effect on the environment and affirmed the decision to issue an MND, as prepared by the Planning Department.

On October 5, 2010, the Planning Department adopted the FMND for the proposed project. No additional revisions were made to the amended version of the Initial Study (dated September 23, 2010) that was reviewed and considered by the Planning Commission on September 23, 2010. (See FMND cover page in Attachment B.)

On June 4, 2012, the Liberty Hill Neighborhood Association filed an application with the Planning Department for Discretionary Review of Building Permit Applications for the proposed project.

On September 6, 2012, the San Francisco Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the Discretionary Review Application for the proposed project. The Commission approved the building permits, subject to specific conditions as outlined in Discretionary Review Action DRA-0291.

On September 12, 2013, Stephen M. Williams, on behalf of the Liberty Hill Neighborhood Association and the surrounding residents and owners of properties in the immediate vicinity of the proposed development, filed an appeal of the FMND to the Board of Supervisors. (An appeal of the building permits was also brought before the Board of Appeals at the September 18, 2013 hearing by two different parties, Alicia Gamez and The Marsh Theater. However, this appeal has been tabled by the Board of Appeals pending the outcome of the appeal of the FMND to the Board of Supervisors.)

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES:

The issues raised in the September 12, 2013 Appeal Letter are summarized below, followed by the Department's responses. Most of these issues were raised by the Appellant during the appeal of the PMND to the Planning Commission and were responded to in the Department's memorandum and attached documents sent to the Planning Commission ("PMND Appeal Packet"). The PMND Appeal Packet is included as Attachment A. Those responses are incorporated herein by reference. The version of the PMND referenced hereafter is the latest amended version, adopted on October 5, 2010. As noted above, no additional revisions were made to the amended version of the PMND (dated September 23, 2010) that was reviewed and considered by the Planning Commission on September 30, 2010 and officially adopted by the Planning Department on October 5, 2010.

PROPOSED PROJECT SCALE AND ARCHITECTURAL DESIGN

Issue 1: The Appellant asserts that visual impacts related to the proposed project's scale and architectural design are inadequately addressed in the MND. According to the Appellant, the proposed project would exceed the prevailing height and bulk of the existing buildings in the surrounding area, would block views, and would disrupt the current visual harmony of the neighborhood. The Appellant

maintains that MND's discussion of aesthetic impacts with respect to proposed scale and architectural design is inaccurate and misleading and that specific impacts of the project are not discussed.

Response 1: The MND presents an accurate and complete analysis of the proposed project's scale in relation to both aesthetic and land use impacts, and appropriately characterizes such impacts as less than significant. This concern was already raised and addressed in the appeal of the PMND to the Planning Commission and much of the following discussion is a restatement of what was presented in the Department's response to that appeal. As discussed in the Project Description section of the MND, on p. 14, the proposed building would be approximately 55 feet in height, with an additional 9 feet to the top of the mechanical penthouse (a portion of the fifth story would be set back about 21 feet from the eastern façade). As analyzed in the Aesthetics section of the MND, on p. 26, the proposed building would be taller than most buildings in the project vicinity, including the two-story adjacent building along Valencia Street and the three-story adjacent buildings along Hill Street. However, the change in the proposed scale and the building's proposed design would not rise to the level of significance in terms of visual impacts under CEQA, which are analyzed according to specific criteria, as provided on p. 23 of the MND. The MND acknowledges that the proposed project "would be larger in scale and visually prominent" compared to some nearby development. However, as stated on p. 27 of the MND, "A new larger visual element, by altering the existing character or quality of a site or of its surroundings, does not in and of itself constitute a significant impact" and that, because "the new structure would be visually similar to other uses in the project vicinity in terms of its building materials, massing, and height," no significant impact would result.

Moreover, the height of the proposed project would be consistent with the applicable height and bulk controls specified in the Planning Code. The Valencia Street NCT controls permit moderate-scale buildings and encourage commercial development at the ground story and housing development above the ground story. The proposed building would be consistent with this pattern. Furthermore, the proposed building would not be out of scale with the overall character of the Valencia Street NCT, which contains a range of building styles and heights and allows larger buildings (including other multi-story residential-over-retail buildings) on block corners. Building heights on Valencia Street were established through the Eastern Neighborhoods Rezoning and Area Plans, and the associated programmatic EIR prepared did not find any significant impacts on visual resources or land use associated with the 55-foot height limit on Valencia Street.

Judgments with regard to visual quality are somewhat subjective in nature, and may differ from person to person, and from viewpoint to viewpoint. The MND analyzes the environmental impacts of the proposed project, per CEQA requirements, but does not make any determinations regarding the merits of the proposed development. Issues related to building design are subjective and the design in itself would not result in a demonstrable adverse effect under CEQA.

Some of the Appellant's concerns regarding height and bulk (i.e., scale) and architectural design of the proposed building relate to the merits of the project and not the adequacy of the MND. Project merits are appropriately considered by decision makers at the time of project approval, which is not the subject of this MND appeal.

As part of the Discretionary Review process, the Planning Department's Urban Design Advisory Team (UDAT) provided design review for the proposed project.² The UDAT found that the overall massing, form and scale would be appropriate given the underlying zoning and height/bulk limits and that the proposed project would be consistent with the mixed scale and height of nearby properties.

For the reasons outlined above, and as accurately concluded in the MND, the proposed project would not result in significant impacts under CEQA with respect to its scale or architectural design.

With respect to the Appellant's other similar concerns, impacts to views are addressed within Response 3, impacts to the neighborhood character are addressed within Response 4, and to the Liberty-Hill Historic District are addressed within Response 5.

IMPACTS TO VIEWS

Issue 2: The Appellant alleges that the MND does not contain visual simulations or analysis of impacts on private views and, therefore, impacts to views cannot be determined.

Response 2: The MND includes a comprehensive analysis of impacts to views that would result from the proposed project and appropriately characterizes those impacts as less than significant. The proposed project would have a significant effect on scenic vistas if it would substantially degrade important public view corridors or obstruct scenic views from public areas viewable by a substantial number of people. The MND addresses these CEQA criteria by analyzing the changes that would occur to views if the project is implemented.

The MND accurately discloses, on pp. 23, and 25 through 27, that views of the existing one-story building on the site would be replaced by views of a taller contemporary structure, and that the proposed building, at 55 feet in height, would be taller than most buildings in the project vicinity (p. 26). The MND also states that the new building would have the potential to block views of shorter buildings in the project area from public sidewalks and streets. However, as concluded in the MND, these existing views are not considered scenic, but rather are typical of the Mission District neighborhood (they do not offer views of the Bay, important landmarks, or larger areas of parkland, which are characteristics that often define scenic views). Moreover, such impacts would be apparent only from about one to two blocks surrounding the site. As discussed on p. 26 of the MND, open spaces near the project site include the Mission Playground, the Alioto Mini-Park, the Jose Coronado Playground, and the Mission Dolores Park. The project site is not visible from any of these public parks due to intervening buildings. Therefore, based on the above, under CEQA, these impacts were accurately determined to be less than significant.

Visual simulations are sometimes employed to illustrate to the Department, to the public, and to the decision-makers what a proposed project would look like in views of and through the project site. They are required if necessary to determine if a proposed project would result in significant impacts associated with the significance criteria in the Department's Initial Study checklist. Based on a review of architectural plans and elevations of the proposed project and photos of the site and the vicinity submitted by the project sponsor; a visit to the project site conducted by Department staff; and familiarity with the neighborhood, the Department had sufficient information to conclude that the project would be

² San Francisco Planning Department, *Discretionary Review Staff Report*, September 6, 2012. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

of a relatively modest scale and would not drastically change the views experienced through and near the project site to a degree that would constitute a significant impact under CEQA. The project would be of relatively modest scale and would not have the potential to drastically change the views experienced through and near the project site. Further, addition of a residential building that is within the range of building types and scales already present in the neighborhood would not substantially alter the prevailing visual character of the neighborhood. In this case, based on all other information available, and without the use of visual simulations, the Department conclusively determined such impacts to be less than significant.

The City does not consider the effects here, on private views in one building, to be significant environmental effects under CEQA. Nevertheless, the effects are discussed for informational purposes in the MND, on p. 26, where it is stated that the proposed project would block or partially block existing northerly and easterly views and sunlight access currently available to some tenants of the adjacent two-story mixed-use building to the south of the site on Valencia Street and the three-story residential building to the west of the site on Hill Street. Some reduced views from private properties would be an unavoidable consequence of the proposed project and would be an undesirable change for those individuals affected. Nonetheless, the change in views would not exceed that commonly expected in an urban setting, and the loss of those private views would not constitute a significant impact under CEQA.

Based on the above, the MND is accurate and complete in its determination that the proposed project's impacts on views would be less than significant.

IMPACTS OF LIGHT AND GLARE

Issue 3: The Appellant asserts that the MND is inadequate because it fails to address light and glare impacts, including new light from the proposed roof garden and/or balconies, and light and glare impacts to private properties.

Response 3: The project's light and glare impacts are analyzed on p. 27 of the MND and are accurately characterized as being less than significant. Under CEQA, the proposed project would have a significant effect if it would create a new source of substantial light or glare which would adversely affect day or nighttime views in the area or which would substantially impact other people or properties. The MND notes that the project site would be more noticeable at night than under existing conditions because the project would introduce additional lighting to the site, which would be visible through windows and at building entries. Exterior lighting at building entryways would be positioned to minimize glare, and lighting would not be in excess of that commonly found in urban areas. The project would comply with Planning Commission Resolution 9212, which prohibits the use of mirrored or reflective glass. Based on this, the MND concludes that environmental effects of light and glare due to the project would be less than significant.

The Appellant states that the light and glare discussion in the MND fails to address light and glare from the roof garden and/or balconies. Although the MND does not specifically analyze the light and glare that would be generated by these building elements, such impacts similarly would be accurately characterized as being more noticeable than under existing conditions, but not in excess of that commonly found in

urban areas. Moreover, the rooftop garden is no longer proposed as part of the project. Regardless, balconies and rooftop gardens exist throughout the City and their lighting is within the expected illumination levels in an urban area. The MND's conclusion that impacts related to light and glare would be less than significant is correct, and the Appellant has presented no evidence to the contrary.

IMPACTS ON NEIGHBORHOOD CHARACTER

Issue 4: The Appellant asserts that the project would impair the livability and character of the surrounding area and that the MND fails to address this impact. The Appellant maintains that the MND fails to consider or discuss the immediately neighboring homes, which are one and two stories tall, and instead defines the neighborhood by only the tallest buildings.

Response 4: The MND presents an accurate and complete analysis of the proposed project's impact on the neighborhood character, as required under CEQA, and correctly concludes that this impact would be less than significant. This concern was already raised and addressed in the appeal of the PMND to the Planning Commission and much of the following discussion is a restatement of what was presented in the Department's response to that appeal.

The proposed building's impact on the character of the vicinity is discussed on pp. 21 through 22 of the MND. As stated, "the proposed uses are principally permitted [within the Valencia Street NCT] and would be compatible with existing uses on adjacent and surrounding properties. Although the proposed project would result in a more intensified land use than currently exists on the site, it would not introduce a new or incompatible land use to the area."

The character of the proposed building would not be new to the neighborhood. While it would be larger than most buildings on the project block, and larger than the buildings along Hill Street, at five stories it would still be consistent with the character of the Valencia Street corridor.

The Appellant has provided no evidence to support the assertion that a mixed-use building within a dense, mixed residential and commercial area of San Francisco would impair the livability or character of the neighborhood.

In the staff report that was prepared for Discretionary Review hearing, the Department found that the proposed project appropriately addresses the neighborhood context by providing the residential entry along Hill Street and the commercial entry along Valencia Street.³ As a mixed-use building on a corner lot, the proposed project addresses both the mixed-use context along Valencia Street with the new ground-floor retail and landscape elements, as well as the finer grain residential context along Hill Street.

HISTORIC RESOURCE IMPACTS

Issue 5: The Appellant asserts that the design of the proposed project is incompatible with the surrounding neighborhood, which contains the Liberty-Hill Historic District. The Appellant requests

³ *Ibid.*

that a complete historic resources survey of the buildings adjacent to and just outside of the historic district be completed.

Response 5: The MND accurately concluded that the existing building is not an historic resource, either individually or as part of a district, and that impact on historic resources would be less than significant. Further, the proposed project would not have an impact upon the nearby Liberty-Hill Historic District, as documented in the MND as well as the background Historic Resource Evaluation Response (HRER) that was prepared for the proposed project.⁴ This concern was already raised and addressed in the appeal of the PMND to the Planning Commission and much of the following discussion is a restatement of what was presented in the Department's response to that appeal.

The MND, on pages 31 through 31j and 32, discusses the proposed project's impacts on the Liberty-Hill Historic District. The MND concludes that, although the project site is located in proximity to the District, it is outside of the District's boundaries and would not substantially affect, in an adverse manner, any characteristics that are unique to the district. This conclusion was reaffirmed by a Planning Department Preservation Specialist and was supported by the Historic Preservation Commission (HPC), which held a hearing on June 16, 2010, to review the proposed project, in accordance with the Eastern Neighborhoods Area Plan Interim Permit Review Procedures for Historic Resources. At that hearing, the HPC determined that the Planning Department's CEQA analysis of potential impacts on historic resources was adequate.

The project site and the immediately adjacent properties are not located within an identified or potential historic district. The HRER states that the physical separation of the proposed building from the Liberty-Hill Historic District by one parcel (at 15-21 Hill Street) would provide a "physical break and buffer between the historic district and project site such that the proposed project would not result in a direct physical impact to the district." In addition, "while the proposed project will be taller than immediately adjacent properties and will be visible from the historic district, the overall mass and scale is compatible with the surrounding architectural fabric, both historic and non-historic, and with the existing development pattern of Valencia Street."

As described in Appendix F of Article 10, the significance of the district lies in the fact that it "encompasses a significant representation of nineteenth century middle class housing and developmental practices," as a very early "suburb" that developed between the 1860s and just after the turn of the nineteenth century and "contains examples of all architectural styles prevalent during the developmental period." Hill Street, in particular, presents "an architectural set piece," with continuous rows of bay windows on either side of the street, and "offers one of San Francisco's most complete visions of a city street of [more than] a century ago." The proposed project would not alter the extant "suburban" characteristics of either the district as a whole or the project block of Hill Street in particular, in that the project would leave intact the entirety of development both within the Liberty-Hill Historic District and

⁴ LaValley, Pilar, San Francisco Planning Department. *Negative Declaration Appeal Response, Historic Resource Evaluation Response, 1050 Valencia Street (HRER)*, April 23, 2010. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

on the project block of Hill Street. The proposed project would not alter any of the distinctive architectural characteristics of the buildings on Hill Street and, while it would more definitively terminate the eastern boundary of the district just west of Valencia Street, the project would not interfere with the composition of Hill Street as "an architectural set piece." All of the individual elements on Hill Street would remain in place. Moreover, by creating contrast with the scale of the buildings on Hill Street, the project would reinforce the feeling of a remnant suburban residential enclave, distinct from the nearby Valencia Street commercial corridor, which is characteristic of most of the district.

Based on the foregoing, it can be concluded that the proposed project would not "demolish or materially alter, in an adverse manner, those physical characteristics" of the Liberty-Hill Historic District that account for its inclusion in Article 10 of the Planning Code. Therefore, as concluded in the MND as amended, the proposed project would have a less-than-significant impact on historic architectural resources, both individually and cumulatively. To the extent that the Appellant's concerns relate to aesthetics or neighborhood character, these issues are addressed above in Responses 1 and 4.

PARKING AND LOADING

Issue 6: The Appellant asserts that the MND fails to address parking impacts and requests that additional parking analysis be conducted. The Appellant contends that because a recent Appellate Court decision on the topic (*Taxpayers for Accountable School Bond Spending v. San Diego Unified School District*, 215 Cal.App.4th 1013 (2013)) has led to a revision in how parking impacts are analyzed, additional analysis of parking impacts should be conducted for the proposed project. The Appellant further states that the analysis of truck parking presented in the MND is insufficient.

Response 6: Parking and loading impacts are adequately considered in the MND and no further analysis of parking impacts is required. Moreover, this concern was already raised and addressed in the appeal of the PMND to the Planning Commission and much of the following discussion is a restatement of what was presented in the Department's response to that appeal.

The Appellant is incorrect in stating that the MND failed to evaluate the project's effects on parking supply. In fact, the parking impacts of the proposed project are analyzed on pp. 35 through 37 of the MND, consistent with CEQA requirements that were in effect at the time that the MND was adopted (September 23, 2010). As stated on p. 35, "[b]ased on the *SF Guidelines*, peak parking demand, which would occur in the evening and at night, would be about 34 spaces, resulting in a shortfall of about 34 spaces, since none would be provided. Parking is generally limited in the Mission District neighborhood and near the project site. Existing on-street parking adjacent to the project site and along Valencia and Hill Streets appears to be at capacity. Both sides of the Valencia Street are metered, while both sides of Hill Street are limited to 2-hour parking (between the hours of 9 a.m. and 8 p.m.) without an S Zone residential parking permit."

While potential parking impacts associated with the new residential and increased restaurant uses at the project site could be noticeable to the neighbors, as stated in the MND, at the time the MND was adopted, parking deficits in San Francisco were regarded as social effects rather than impacts to the physical

environment as defined by CEQA. Since the adoption of the MND, there have been some changes to how parking impacts are addressed in San Francisco, as described below.

Since parking conditions are not static (as parking supply and demand varies from day to day, from day tonight, from month to month, etc.), the availability of parking spaces (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel. While parking conditions change over time, a substantial deficit in parking caused by a project that creates hazardous conditions or significant delays to traffic, transit, bicycles or pedestrians could adversely affect the physical environment. Whether a deficit in parking creates such conditions will depend on the magnitude of the shortfall and the ability of drivers to change travel patterns or switch to other travel modes. If a substantial deficit in parking caused by a project creates hazardous conditions or significant delays in travel, such a condition could also result in secondary physical environmental impacts (e.g., air quality or noise impacts caused by congestion), depending on the project and its setting.

The absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service or other modes (walking and biking), would be in keeping with the City's "Transit First" policy and numerous San Francisco General Plan Policies, including those in the Transportation Element. The City's Transit First Policy, established in the City's Charter Article 8A, Section 8A.115, provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation."

The transportation analysis accounts for potential secondary effects, such as cars circling and looking for a parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. The secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area, and thus choose to reach their destination by other modes (i.e. walking, biking, transit, taxi). If this occurs, any secondary environmental impacts that may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assignments used in the transportation analysis, as well as in the associated air quality

As noted above, the proposed project would have an unmet parking demand of 34 spaces. Although no off-street parking spaces would be provided and there would be a parking deficit of 34 spaces, such deficit would not result in a significant impact. The project area is well served by public transit and it is reasonable to expect that some residents of the new units might opt out of vehicle ownership, since a garage would not be provided as part of the offered living accommodation. As noted in the MND on p. 37, off-street parking is not required in the Valencia Street NCT use district in which the project site is located. To promote public transit, the Valencia Street NCT provides parking maximums rather than parking minimums. In addition, the proposed project is within a transit-rich area, as evidenced by its proximity to the Muni J-Line (approximately three blocks away), the BART station at 24th and Mission

(approximately four blocks away), and the bus routes (14-Mission and 49-Van Ness/Mission) along Mission Street (one block away). Further, Valencia Street is a well-recognized bicycle-friendly transit corridor.

In terms of parking for restaurant patrons, the project area already contains many businesses that generate trips into the neighborhood, including the existing Sugoi Sushi Restaurant. Various garages and parking lots exist throughout the neighborhood to provide temporary customer parking to the area's visitors. Any increases in clientele that would be generated by a larger restaurant on the site would not be substantial enough to be noticeable over the existing numbers of customers who frequent the restaurant, particularly given the existing parking demand along Valencia Street. The parking and transportation analysis recognizes the existing use on the site.

The Department is required to consider the physical environmental impacts that could result from implementation of the project. The Appellate Court decision mentioned by the Appellant addressed the analysis of physical impacts associated with a parking shortage. While potential parking impacts associated with the new residential and increased restaurant uses at the project site could be noticeable to the neighbors, as stated in the MND, the parking analysis concluded that no significant physical environmental impacts would result from the parking deficit. Therefore, parking impacts would be less than significant. This conclusion was appropriately noted and supported in the FMND, and no further analysis is required.

The Appellant is incorrect in stating that analysis of truck parking presented in the MND is insufficient because the project would not include any truck loading spaces and because the analysis "fails to explain how a truck could fit into less than one space." The project's loading impacts are, in fact, discussed on pp. 36 through 37 of the MND. As stated on p. 36, "[l]oading demand for the proposed project would be about eight truck stops per day, based on the Planning Department Guidelines; peak hourly demand would be less than one space." By "less than one space," the MND means that, based on the transportation calculations prepared for the project, during the peak hours, there would not always be a vehicle requiring use of a loading space (in other words, on average less than one truck space would be in demand at any given time). This does not mean, as noted by the Appellant, that a truck would be required to fit into a loading space that is smaller than a typical loading space. Moreover, as concluded on page 37 of the MND, *Planning Code* Section 152 does not require any loading spaces for retail establishments under 10,000 square feet or for apartment buildings under 100,000 square feet, and the project would be consistent with this section of the *Planning Code*. In the event that two or more loading vehicles need to access the site at the same time, one or more would either park on Valencia Street or Hill Street or possibly double park on Hill Street. Such occasional double-parking would not be expected to significantly impede traffic or cause safety concerns. Based on the above, the MND accurately and completely analyzed the proposed project's impacts on parking and loading, and correctly concluded that such impacts would be less than significant.

TRAFFIC AND CIRCULATION

Issue 7: The Appellant requests that traffic impacts associated with the removal of soil be analyzed, and that the MND include a construction traffic management plan and "other mitigation measures." The Appellant maintains that the MND should address the impact of removal of 5,500 cubic yard of soil, which would require loading of approximately 550 trucks. The Appellant also suggests that the construction analysis should consider parking impacts.

Response 7: The Appellant does not provide any substantial evidence of a significant environmental impact with respect to construction-phase traffic and circulation. Construction impacts with respect to traffic and circulation are addressed on p. 37 of the MND. As discussed, temporary and intermittent transportation impacts would result from truck movements to and from the project site. Truck movements during periods of peak traffic flow would have greater potential to create conflicts than during non-peak hours because of the greater numbers of vehicles on the streets during the peak hour that would have to maneuver around queued trucks. This is a temporary impact that would occur during the 18-month construction period and is not considered to be significant. The MND adequately addressed construction-phase traffic and circulation impacts and no further environmental analysis is required.

The Appellant does not present any specific reasons that the project would require additional measures beyond the City's established procedures for construction traffic. As noted on MND p. 37, "[a]ny temporary sidewalk closure proposed during construction would be subject to review and approval by the Interdepartmental Staff Committee on Traffic and Transportation and the Department of Public Works (DPW)" and "a revocable encroachment permit from DPW would be required if materials storage and/or project staging is necessary within the rights-of-way of any surrounding streets. No project-specific mitigation measures specific to traffic and circulation would be required for the proposed project, since the transportation impacts of the project would be less than significant and CEQA only requires mitigation measures to reduce significant impacts.

The Appellant is incorrect in his assertion that approximately 550 truck trips would be required to off-haul the excavated soil. According to the project engineer, up to approximately 1,250 cubic yards of soil excavation is required for the proposed project. This corresponds to approximately 1,800 tons of materials to be excavated and off-hauled from the project site. Considering an end-dump truck capacity of 18 tons, approximately 100 truck loadings would be required.⁵

In response to the Applicant's request that construction analysis also consider parking impacts, as discussed on MND p. 37, "[d]uring project construction, the approximately ten construction workers would rely on on-street parking in the project vicinity. Temporary parking demand from construction workers' vehicles and impacts on local intersections from construction worker traffic would occur in proportion to the number of construction workers who would use automobiles, but would not be

5 Anoush Zebarjadian, *CSE Structural Engineers, Inc., Memorandum to Mr. Mark Rutherford*, October 8, 2013. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E

expected to substantially affect parking conditions in the project vicinity." As stated above, in the Response 6, the Department is required to consider the physical environmental impacts that could result from implementation of the project. Any physical environmental impacts related to a temporary parking shortage for construction workers would be less than significant and do not require further evaluation.

NOISE

Issue 8: The Appellant challenges the MND's conclusions regarding the noise impacts from construction and from the addition of sensitive receptors on the project site. The Appellant states that MND concludes that such impacts would be less than significant because "the proposed residential uses would be considered in-fill development...and is a principally permitted use within the applicable NCT zoning district." The Appellant states that the MND relies on soundproofing and double-pane windows to reduce the physical impacts, but that it is "unclear if the building can be properly ventilated with the windows closed." If that is not possible, the physical impact to project residents could be significant. The Appellant also contends that the MND contains no analysis of construction noise, particularly how it would affect Marsh Theater.

Response 8: The proposed project's noise impacts, including impacts of introducing sensitive noise receptors on the project site, as well as impacts related to construction noise, are discussed in sufficient detail on pp. 38 through 43 of the MND to definitively conclude that they would be less than significant. The Appellant misrepresents the supporting evidences presented in the MND that lead it to conclude that noise impacts related to siting of sensitive receptors on the project site would be less than significant. This conclusion is not based on the fact that "the proposed residential uses would be considered in-fill development...and [are] a principally permitted use within the applicable NCT zoning district." This assertion is incorrect. On p. 40, the MND accurately disclosed that "the proposed project would locate new residential units—considered to be 'sensitive receptors'—in an environment with noise levels above those considered normally acceptable for residential uses. As such, the proposed project would be required to incorporate noise insulation features to ensure that indoor noise levels would be reduced by at least 25 decibels, thereby resulting in indoor noise levels that would not exceed 45 decibels (L_{dn}), the prescribed maximum level for residential uses. Thus, the proposed project would comply with the prescribed maximum interior noise level of 45 dBA (L_{dn}). According to the project architect, the project would incorporate noise insulation features including double-paned windows and insulated walls. Double-paned windows (when closed) typically offer 25 to 30 dBA noise reduction or more, meaning that the Building Code interior noise level would be met with windows closed. In addition, 'z-ducts'—which allow for passive ventilation while acting as noise baffles to minimize the passage of exterior noise—would be incorporated into each unit's exterior wall. This would allow for ventilation with windows closed, thereby reducing exterior noise that would otherwise enter a unit. DBI would review project plans for compliance with Title 24 noise standards and would not issue building permits until compliance is achieved." The Appellant has provided no evidence to support the assertion that the common and typical features identified in the MND would be inadequate to address sound levels or ventilate the building.

In response to the Appellant's assertion that no evidence is presented to support the City's 5 dBA significance criterion and that it does not guarantee a less-than-significant impact to adjacent and nearby land uses, this is, in fact, not a CEQA significance threshold, but a threshold of the San Francisco Noise Ordinance (Article 29 of the Police Code) for when early-morning and late-night construction activities are prohibited. As noted above, construction noise would be regulated by the Noise Ordinance, which prohibits construction work between 8:00 p.m. and 7:00 a.m. if noise would exceed the ambient noise level by 5 dBA at the project property line. By complying with the regulations set forth in the Noise Ordinance, the project would avoid significant noise impacts to the nearby residential properties.

As stated on p. 41, during the construction period, demolition, excavation, and building construction would temporarily increase noise in the project vicinity. Construction levels would fluctuate depending on construction phase, equipment type and duration of use, distance between noise source and listener, and presence or absence of barriers. Impacts would generally be limited to the period during which new foundations and exterior structural and façade elements would be constructed. Construction noise is regulated by the Noise Ordinance, which requires that noise levels from individual pieces of construction equipment, other than impact tools, not exceed 80 dBA at a distance of 100 feet from the source.

The Appellant states that no analysis is presented in how the construction of the project would affect the Marsh Theater. Although the MND does not specifically analyze construction impacts on the Marsh Theater, such impacts are encompassed within the characterization of the overall construction-phase noise impacts, which are discussed on pp. 41 through 42 and are appropriately concluded to be less than significant. Moreover, this concern was already raised and addressed in the appeal of the PMND to the Planning Commission. As stated in Response 19 on p. 19 of the Department's PMND Response (Exhibit A to Draft Motion), The Marsh, which is located adjacent to the project site on Valencia Street, would experience an increase in ambient noise levels (and possibly some vibration) during project construction. According to The Marsh's website, with some exceptions, most theater performances occur in the evenings.⁶ Most construction would also be expected to end by 5 p.m. While the construction of the proposed project may result in a temporary disturbance to some weekday daytime shows, this would not be considered significant, since it would occur occasionally and for a temporary period of time. With regard to operational noise, the portion of the proposed building adjacent to The Marsh would contain mostly circulation space (not living space), and therefore would generally not be occupied. This space would serve as a buffer between The Marsh building's northern wall and the occupied space within the proposed building. Based on other similar conditions in San Francisco, there is no evidence that residential uses adjacent to theaters result in significant noise impacts as evaluated under CEQA.

In addition, based on the Discretionary Review of the proposed project, the project sponsor would be required to limit the hours of construction to 7am to 6pm on Monday to Friday, 7am to 1pm on Saturday, and no construction activities would occur on Sundays. Moreover, the Commission encouraged the

⁶ The Marsh Box Office, <http://www.themarsh.org/index.html>, accessed on October 1, 2013.

project sponsor to conduct additional outreach with the adjacent neighbor, the Marsh Theater, and to address issues associated with drainage, ventilation, light and sound attenuation.⁷

AIR QUALITY AND GREENHOUSE GAS EMISSIONS

Issues 9: The Appellant asserts that the MND relied on outdated 1999 BAAQMD significance thresholds with respect to air quality impacts, which should be reassessed using 2010 thresholds. Similarly, the Appellant states that the analysis of greenhouse gas (GHG) emissions relied on an outdated approach and should be reevaluated.

Response 9: The MND accurately analyzed the proposed project's impacts on air quality and greenhouse gas emissions, appropriately concluded such impacts would be less than significant, and provided sufficient supporting evidence to substantiate this conclusion.

As stated on the BAAQMD website, the District's CEQA Guidelines are developed to assist local jurisdictions and lead agencies in complying with the requirements of CEQA regarding potentially adverse impacts to air quality. To guide the analysis of air quality impacts for the proposed project, the MND appropriately relied on the December 1999 version of the *BAAQMD CEQA Guidelines*, as this was the most current version of the guidelines available at the time of the preparation of the PMND (the next and most current version of the Guidelines was adopted in May 2011).

The Appellant asserts that a reexamination of the environmental impacts is required pursuant to more recent BAAQMD thresholds. However, CEQA Guidelines Section 15162 states that, after an adoption of an MND, no subsequent analysis shall be prepared for that project unless the lead agency determines that substantial changes occurred with respect to the circumstances under which the project is undertaken that would alter the MND's conclusions regarding the significance of impacts or feasibility of mitigation measures.

BAAQMD, in its May 2011 Guidelines, developed screening criteria to analyze construction and operational criteria air pollutants. If a proposed project meets the screening criteria, then construction and operations of the proposed project would result in less-than-significant criteria air pollutant impacts. A project that exceeds the screening criteria may require a detailed air quality assessment to determine whether criteria air pollutant emissions would exceed significance thresholds. The BAAQMD's Guidelines note that the screening levels are generally representative of new development on greenfield⁸ sites without any form of mitigation measures taken into consideration. In addition, the screening criteria do not account for project design features, attributes, or local development requirements that could also result in lower emissions. The proposed project would be well below the criteria air pollutant screening

⁷ San Francisco Planning Department, *Discretionary Review Action DRA-0291, September 20, 2012*. This document is on file in Case File No. 2007.0457 and available for public review at the Planning Department, 1650 Mission Street, Suite 400.

⁸ A greenfield site refers to agricultural or forest land or an undeveloped site earmarked for commercial, residential, or industrial projects.

size for low-rise apartment buildings or non-high-rise condominiums, as identified in the BAAQMD's Guidelines. These screening sizes are 451 dwelling units for operational criteria and 240 dwelling units for construction criteria, both of which the proposed project would be well below. Based on this screening, quantification of construction-related and operational criteria air pollutant emissions is not required and the proposed project would result in a less-than-significant criteria air pollutant impact.

Air quality impacts of the proposed project were analyzed appropriately at the time of completion of the MND, and the revised BAAQMD Guidelines do not constitute a change in the circumstances of the project or its surroundings that would warrant reconsideration of the MND.

The MND addresses greenhouse gas (GHG) emissions on pp. 48 through 59. As stated on page 59, given that: (1) the project would not contribute significantly to global climate change such that it would impede the State's ability to meet its GHG reduction targets under AB 32, or impede San Francisco's ability to meet its GHG reduction targets under the Greenhouse Gas Reduction Ordinance (and would not exceed the BAAQMD's proposed significance threshold); (2) San Francisco has implemented programs to reduce GHG emissions specific to new construction; and (3) current and probable future state and local GHG reduction measures will likely reduce a project's contribution to climate change, the project would not contribute significantly, either individually or cumulatively, to global climate change. The Appellant presents no evidence that the proposed project could result in significant impacts with respect to GHG emissions.

HAZARDOUS MATERIALS

Issue 10: The Appellant asserts that Mitigation Measure HAZ-1, Geophysical Survey and Phase II Subsurface Investigation, is a requirement for a future study and is, therefore, not permitted as a CEQA mitigation measure. The Appellant also contends that Mitigation Measure HAZ-3, Hazardous Materials – Testing for and Handling of Contaminated Soil, requires preparation but not implementation of a mitigation plan.

Response 10: The MND applies appropriate mitigation measures to reduce potential impacts related to hazardous materials to a less-than-significant level.

As discussed in Hazards and Hazardous Materials section of the MND (pages 78 through 88), Mitigation Measures HAZ-1 through HAZ-4 would be required as part of project approval to ensure that potential subsurface contamination does not present a risk to future building occupants, construction workers, or the public, including the surrounding community. *Mitigation Measure HAZ-1, Geophysical Survey and Phase II Subsurface Investigation*, would require conducting a geophysical survey and a Phase II Environmental Site Assessment subsurface investigation to determine if any underground storage tanks remain at the site and to determine the extent of sub-surface contamination, if any, associated with the site's prior uses. *Mitigation Measure HAZ-2, Underground Storage Tanks*, would require that proper permits be obtained for removal of any undiscovered or remaining underground storage tanks (USTs) and that any potential contamination from the UST be investigated and remediated. *Mitigation Measure HAZ-3, Testing for and Handling of Contaminated Soil*, outlines procedures for conducting the testing and handling of

contaminated soils, preparing and conducting the Site Mitigation Plan (SMP), and coordinating with DPH for review and approval of the site's closure/certification report. *Mitigation Measure HAZ-4, Decontamination of Vehicles*, would require the decontamination of all truck and excavation and soil handling equipment in the event that DPH determines that soils on the project site are contaminated.

With respect to Mitigation Measure HAZ-1, the San Francisco Department of Public Health, Environmental Health Section, Hazardous Waste Unit (EHS-HWU) approved the workplan for the preparation of a Phase II Subsurface Investigation, which has been incorporated into this mitigation measure. As noted on p. 81 of the MND, "compliance with Mitigation Measure HAZ-1 (as well as all other mitigation measures in this document), as written, would be required as part of project implementation, should the proposed project be approved." Contrary to the Appellant's claim that this is "simply a requirement for further study," in fact, this is a condition of approval of the proposed project, along with all other mitigation measures included in the MND. CEQA states that "[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments" (CEQA Guidelines Section 15126.4(a)(2)). Mitigation Measure HAZ-1 is enforced through the adoption of the MND, which would be a condition approval of the proposed project and therefore is not considered a "requirement for further study."

This mitigation measure is adequate and would not be considered "deferral" under CEQA, as is suggested by the Appellant. In many cases, neither the full extent of a project's impacts with respect to hazardous materials nor the precise details of the needed mitigation can be known until the post-approval stage of the project development. CEQA allows mitigation measures to be more general (rather than specific) when, for instance, full information and technical design necessary to develop those measures is not immediately available. Under CEQA, some aspects of mitigation measures can be general, provided they include specific future actions that would need to be accomplished, specific performance standards that must be met, and methodologies for meeting those standards (CEQA Guidelines Section 15126.4(a)(B)). Mitigation Measure HAZ-1 specifies future actions that would need to be accomplished, as well as performance standards and methods for accomplishing them, and is, therefore, considered adequate and appropriate for reducing a significant hazardous materials impact to a less-than-significant level. It is noted that, subsequent to the adoption of the FMND for the proposed project, the project sponsor prepared the Site Mitigation Plan and DPH EHS-HWU approved this plan.^{9,10}

The Appellant also contends that Mitigation Measure HAZ-3 requires preparation but not implementation of a mitigation plan. As stated on p. 84 of the MND, Step 4 of this mitigation measure is "Preparation of Closure/Certification Report" and it clearly states that "[a]fter excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification

9 John Carver Consulting, *Site Mitigation Plan for 1058 Valencia Street (1050-1060 Valencia Street), San Francisco* California, June 17, 2013. This document is on file in Case File No. 2007.0457 and available for public review at the Planning Department, 1650 Mission Street, Suite 400.

10 Scott Nakamura, REHS, Department of Public Health, *Memorandum to Mark Rutherford Re: Development 1058 Valencia Street (1050-1060 Valencia Street), San Francisco, California, EHS-HWU Site Number: 734*, June 28, 2013. This document is on file in Case File No. 2007.0457 and available for public review at the Planning Department, 1650 Mission Street, Suite 400.

report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing lead-contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures." The implementation of the SMP is clearly required as part of this step.

As noted in the MND, these mitigation measures would be required as part of project approval and would ensure that impacts related to potential subsurface contamination at the site are minimized. It is also noted that, as of August 24, 2013, remediation of any subsurface contamination is required by ordinance under the authority provided in Health Code Article 22A (the Maher Ordinance), which is administered by the Department of Public Health (DPH). Similarly to the mitigation measures included in the MND, the Maher Ordinance requires the project sponsor to retain the services of a qualified professional to prepare a Phase I Environmental Site Assessment (ESA) that meets the requirements of Health Code Section 22.A.6. The Phase I would determine the potential for site contamination and level of exposure risk associated with the project. Based on that information, soil and/or groundwater sampling and analysis, as well as remediation of any site contamination, may be required. These steps are required to be completed prior to the issuance of any building permit. Therefore, the mitigation measures included in the MND are now required by law, and would ensure that remediation of any subsurface soil contamination occurs, resulting in a less than significant impact with respect to hazardous materials.

SHADOW IMPACTS

Issue 11: The Appellant asserts that the MND fails to address shadow impacts, particularly shading of private spaces (i.e., nearby residences).

Response 11: The MND is accurate and adequate with respect to its analysis and conclusions regarding shadow impacts. Shadow impacts of the proposed project are analyzed on pp. 61 through 62 of the MND. As stated on p. 62, the proposed project would add new shading to surrounding properties but would not increase the total amount of shading above levels that are common and generally accepted in urban areas. The Planning Department conducted an analysis, summarized in a memo issued on September 16, 2009, in which it determined that proposed project would not result in adverse shadow impacts, as defined under Proposition K and Section 295 of the San Francisco Planning Code.

It is anticipated that much of the new shading caused by the proposed project, particularly during days and times when shadows are longest (such as winter mornings), would fall on areas already in shade from other surrounding buildings. According to the Planning Department's Shadow Analysis Work Sheet, maximum shadow, which would occur on December 21 at 8:22 a.m. and 3:54 p.m., would reach 409 feet west and east, respectively, reaching about mid-block west along Hill Street, and across Valencia Street to the east (due to topography, the shading would not reach the top of the Hill Street hill). Any new shading on private properties would be temporary and would not constitute a significant impact.

Furthermore, under CEQA, the reduction of sunlight on private residences would not constitute a significant impact on the environment. The City's Initial Study checklist addresses shadow on public

open spaces by new structures, but does not provide protection of sunlight for private properties. Thus, while some additional shading may be of concern to affected neighbors, shadowing of private residences is not considered to be an environmental impact under CEQA within the dense urban setting of San Francisco.

CUMULATIVE IMPACTS

Issue 12: The Appellant asserts that the MND fails to adequately analyze cumulative impacts for topics other than visual quality. The Appellant also maintains that cumulative historic resource impacts associated with other nearby developments were not studied and that the project would relax existing development standards, creating new incentives for development of other near-by lots and threatening known and potential historic resources in historical sensitive neighborhoods.

Response 12: The MND adequately evaluates the potential for the project to combine with past, present and reasonably foreseeable future projects in its evaluation of cumulative impacts for all environmental issues. The MND conservatively evaluates the project's potential to result in cumulative impacts associated with foreseeable growth by analyzing the project's impacts in conjunction with other known projects for which the Planning Department had development applications on file at the time of the preparation of the PMND or that were reasonably foreseeable at that time. As listed on p. 22 of the MND, the cumulative projects considered as part of the environmental analysis included 411 Valencia Street (a 6-story mixed-use building with 24 residential units, 1,330 square feet of residential space, and 16 off-street parking spaces); 700 Valencia Street (a 5-story building over basement with 9 residential units, 1,740 sq ft of ground floor commercial space, and 9 parking spaces); 736 Valencia Street (a 5-story building with 8 residential units, approximately 750 sq ft of retail space and 8 parking spaces); and 3500 19th Street (a 5-story building with 17 residential units, approximately 2,800 square feet of retail space and 17 parking spaces).

Based on analysis of the proposed project in combination with these projects, the MND found no cumulatively considerable project impacts. Analysis of cumulative impacts is included at the end of the discussion of several environmental topics, such as land use, aesthetics and transportation, or as part of the discussion of project-specific impacts, for other environmental topics, including population and housing, cultural resources, and air quality. The Appellant speculates that the project would result in cumulatively considerable impacts without providing evidence to substantiate these allegations. The MND's analysis of project-specific and cumulative impacts is adequate for the purposes of environmental review.

The Appellant provides no specific evidence to show how the proposed project would incentivize other developments of similar size throughout the neighborhood and/or threaten other potential historic resources in the neighborhood. Each proposed project is subject to its own environmental review process and is analyzed individually in terms of its effects on the physical environment. The analysis provided in the MND applies only to the project site and would not relax development standards or otherwise alter Planning Code provisions on other parcels in the project site vicinity. The allegation that the development

would foreseeably and substantially influence development in the area or directly lead to the construction of other similarly sized projects is speculative and without basis.

CONSISTENCY WITH GENERAL PLAN OBJECTIVES AND POLICIES

Issue 13: The Appellant alleges that the MND is inadequate because it fails to analyze project consistency with various General Plan objectives and policies. The Appellant calls out design-related General Plan objectives and policies, and disagrees with the Planning Department's finding that the proposed project is, on balance, consistent with the General Plan. The Appellant further contends that the MND is inadequate because it failed to include a discussion of specific Urban Design Element policies and how the project would satisfy those policies and that the MND generally ignores physical impacts of the project by concluding that it complies with the letter of the new zoning provisions and therefore has no potential significant impacts.

Response 13: CEQA requires identification of conflicts with plans, policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect, not a comprehensive analysis of a project's consistency with the General Plan. The MND properly and fully addressed any potential conflicts with plans, policies, and regulations that would result in physical impacts.

The San Francisco General Plan, which provides general policies and objectives to guide land use decisions, contains some policies that relate to physical environmental issues. CEQA directs lead agencies to evaluate whether a project would conflict with a General Plan based on the following criterion: "Would the project conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (included, but not limited to the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?" [emphasis added]. The role of the MND is not to illustrate how a project complies with the General Plan, but to identify possible conflicts that could result in substantial adverse physical effects.

The project would not conflict with the General Plan objectives and policies listed above to the extent that it would cause significant physical effects. The MND assessment of land use, aesthetics, historical resources and other environmental impacts take into account the project's relationship with these pertinent General Plan policies.

CEQA focuses on physical environmental impacts. As stated in CEQA Guidelines Section 15002(g), a significant effect on the environment is defined as "a substantial adverse change in the physical conditions which exist in the area affected by the proposed project." The "effects" analyzed in an MND must involve physical changes (CEQA Guidelines Section 15358(b)). Therefore, an MND is not intended to evaluate policy aspects of a proposed project, such as consistency with the General Plan, except insofar as the project's relationship to this plan may implicate physical effects on the environment. To the degree that the proposed project has the potential to conflict with plan or policies adopted specifically for the purposes of avoiding or mitigating environmental effects, such potential conflicts have been considered within Section E of the MND (Evaluation of Environmental Effects), and where physical effects are identified, these effects have been mitigated to the degree feasible. The Planning Department maintains

that, for purposes of environmental analysis, the MND meets the requirements as set forth by CEQA Guidelines Section 15124 with respect to how consistency with plans and policies, including those included in the General Plan, should be addressed.

The Appellant's assertion that the MND is legally deficient because it fails to analyze and mitigate the project's inconsistencies with specific policies of the General Plan is inaccurate and misleading. Consistent with CEQA Guidelines Section 15126.4, the MND identifies mitigation measures for each impact determined to be potentially significant based on the criteria specific to each resource topic listed in each subsection of Section E. In accordance with CEQA Guidelines Section 15370, the mitigation measures either avoid an impact altogether or reduce the impact to a less-than-significant level by limiting the degree or magnitude of an action or its implementation. Therefore, all potential impacts were adequately addressed in the CEQA documents, and a supplemental environmental review is not warranted.

CONCLUSION

For the reasons stated above as well as in the September 23, 2010 PMND appeal packet and in the October 5, 2010 FMND, the CEQA Determination complies with the requirements of CEQA and the project would not result in a significant effect on the environment because mitigation measures have been agreed to by the project sponsor and a Mitigated Negative Declaration was appropriately prepared. Therefore, staff recommends that the Board of Supervisors adopt the motion to uphold the FMND and deny the appeal of the CEQA Determination.

Attachment A:

**Planning Department Response to Appeal of Preliminary
Mitigated Negative Declaration, Dated September 23, 2010**



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: September 23, 2010
TO: San Francisco Planning Commission
FROM: Jeremy Battis, Planning Department, MEA
RE: Appeal of Preliminary Mitigated Negative Declaration for
1050 Valencia Street, Assessor's Block 3617, Lot 008,
Planning Department Case No. 2007.1457E

HEARING DATE: September 30, 2010

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

An appeal has been received concerning a preliminary mitigated negative declaration for the following project:

Case No. 2007.1457E - 1050 Valencia Street: The proposed project involves the demolition of an existing 1,670-square foot (sq ft), 23-foot-high, one-story commercial building constructed in 1970, in use as a full-service restaurant, and construction of a new 17,000-sq ft, 55-foot-high, five-story, mixed-use building containing 16 dwelling units over a 3,500 sq ft ground-floor and basement level full-service restaurant. The existing building has one off-street parking/loading space, which would be eliminated. The project site is within the block bounded by Valencia Street to the east, 21st Street to the north, Guerrero Street to the west, and 22nd Street to the south at the southwest corner of Valencia and Hill Street, a midblock street in the Mission District neighborhood. The proposed project would require a rear yard modification by the Zoning Administrator to eliminate the rear yard requirement.

This matter is calendared for public hearing on September 30, 2010. Enclosed are the appeal letter(s), the staff response(s), the amended mitigated negative declaration, and the draft motion.

This matter was heard by the Commission on July 8, 2010. At that meeting, the Commission directed that additional discussion and analysis concerning the Liberty-Hill Historic District be added to the mitigated negative declaration, and the amended mitigated negative declaration attached hereto includes this additional discussion and analysis regarding the historic district. Some of this material has also been summarized in Exhibit A to the draft Motion, the Planning Department Response to the Appeal Letter. No other substantive changes have been made to the department staff response to the appeal since the July 8 hearing.

If you have any questions related to this project's environmental evaluation, please contact me at (415) 575-9022 or Jeremy.Battis@sfgov.org.

Thank you.

Memo

2393

6641



SAN FRANCISCO PLANNING DEPARTMENT

Appeal of Preliminary Mitigated Negative Declaration Executive Summary

HEARING DATE: SEPTEMBER 30, 2010

Date: September 23, 2010
Case No.: 2007.1457E
Project Address: 1050 Valencia Street
Zoning: Valencia Street Neighborhood Commercial Transit District
(Valencia Street NCT)
55-X Height and Bulk District
Block/Lot: 3617/008
Project Sponsor: Shizuo Holdings Trust
Staff Contact: Jeremy Battis – (415) 575-9022
Jeremy.Battis@sfgov.org

1650 Mission St.
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San Francisco,
CA 94103-2479

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Fax:
415.558.6409

Planning
Information:
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PROPOSED COMMISSION ACTION:

Consider whether to uphold staff's decision to prepare a Mitigated Negative Declaration (MND) under the California Environmental Quality Act (CEQA), or whether to overturn that decision and require the preparation of an Environmental Impact Report due to specified potential significant environmental effects of the proposed project.

PROJECT DESCRIPTION:

The proposed project involves the demolition of an existing 1,670-square foot (sq ft), 23-foot-high, one-story commercial building constructed in 1970, in use as a full-service restaurant, and construction of a new 17,000-sq ft, 55-foot-high, five-story, mixed-use building containing 16 dwelling units over a 3,500 sq ft ground-floor and basement level full-service restaurant. The existing building has one off-street parking/loading space, which would be eliminated. The project site is within the block bounded by Valencia Street to the east, 21st Street to the north, Guerrero Street to the west, and 22nd Street to the south at the southwest corner of Valencia and Hill Street, a midblock street in the Mission District neighborhood. The proposed project would require a rear yard modification by the Zoning Administrator to eliminate the rear yard requirement.

ISSUES:

The Planning Department published a Preliminary Mitigated Negative Declaration (PMND) on February 10, 2010, and received an appeal letter from Liberty Hill Neighborhood Association on March 12, 2010 appealing the determination to issue a MND. The appeal letter states that the PMND fails to adequately address the following issues:

1. Public noticing was not carried out as required.
2. The PMND fails to adequately address the potential impacts on the character of Hill Street and the Liberty Hill Historic neighborhood and focuses on Valencia Street even though the majority of the building façade will be on Hill Street.

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3. The PMND falsely states that the proposed project would not conflict with any environmental plan or policy, whereas the project would require a variance to eliminate the rear yard setback and open space requirements.
4. The discussion of the aesthetic impact of the Project is inaccurate and misleading and specific impacts of the project are not discussed in terms of their aesthetic effects on the abutting historic district.
5. The PMND does not adequately address the effects of the proposed project's bulk and height on the visual character of the historic Victorian neighborhood, and the project design conflicts with 2004 Housing Element policies that call for using new housing to enhance the neighborhood vitality and policies that call for promoting well designed housing.
6. The PMND project description is incomplete, in that only two of four building elevations are depicted, the adjacent structures are drawn out of scale, fenestration is not included, and the project roof deck is not shown on the Hill Street elevation.
7. The building design does not reference the Victorian streetscape on Hill Street nor share any attributes with the vintage buildings on Valencia Street and the building should be redesigned to reflect and encompass the distinct character of this community.
8. The PMND discusses the impact of the Project entirely in the context of citywide policies rather than in a site-specific manner. The Project's longest façade will be on Hill Street, a residential street consisting primarily of single family homes, with a few duplexes and small apartment buildings. Placing a 16-unit building on this street will substantially change the density of this area.
9. The proposed project will adversely affect historic resources in the neighborhood and will have a direct and powerful impact on Hill Street and Liberty Hill Historic District.
10. The PMND does not adequately analyze how the proposed project will affect the cultural resources in the vicinity, such as the cultural venues along Valencia Street in the Mission District.
11. The PMND inaccurately states that the impact on parking is not something to be considered in an environmental impact report and thereby ignores the collateral effects of lack of parking in the neighborhood.
12. The PMND asserts that the Project will not have any impact on traffic by making some rather simplistic, unsupported assumptions regarding the number of vehicle trips that will be generated by the project, and also fails to address the impacts that lack of parking have on traffic flow and pedestrian safety as drivers vainly search for places to park.
13. The PMND does not adequately examine the noise impact of the proposed project, particularly in regard to the proposed roof decks, increased traffic, and a larger

restaurant ventilation system, which would be at bedroom-level height of the houses on Hill Street.

14. The PMND fails to state that the proposed project would result in substantial shading of the nearby parcels with adjacent properties being cast in shadow up to half of each day.
15. The proposed project would result in impacts related to hazardous materials due to presence of contaminated soil beneath the site and the possibility for that soil to migrate offsite into the nearby homes, and an EIR should be required to document these impacts.
16. Further analysis is required to evaluate whether the impervious structure would raise the near-term effects of liquefaction on adjacent properties.
17. The rear yard of the existing building is being used for a trash area, not open space, and state law requires that trash areas be enclosed.

One other comment letter was received from Stephanie Weisman, the Artistic Director and Founder of The Marsh, a community theater located at 1062 Valencia Street. Ms. Weisman's concerns were related to possible disruption to service such as power, sewage, water and electric during the construction period; sound bleed onto the adjacent property during project operational phase; shading of the proposed project onto The Marsh building, and increase in parking needs created by the proposed building.

All of the issues raised in the Appeal Letter and the additional comment letter have been addressed in the attached materials, which include:

1. A draft Motion upholding the decision to issue a MND;
2. Exhibit A to draft Motion, Planning Department Response to the Appeal Letter;
3. Appeal Letter;
4. PMND and Initial Study, as amended, with deletions shown in strikethrough and additions shown in underline.

This matter was heard by the Commission on July 8, 2010. At that meeting, the Commission directed that additional discussion and analysis concerning the Liberty-Hill Historic District be added to the mitigated negative declaration, and the amended mitigated negative declaration attached hereto includes this includes additional discussion and analysis regarding the historic district. Some of this material has also been summarized in Exhibit A to the draft Motion, the Planning Department Response to the Appeal Letter. No other substantive changes have been made to the department staff response to the appeal since the July 8 hearing.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt the motion to uphold the PMND. No substantial evidence supporting a fair argument that a significant environmental effect may occur as a result of the project has been presented that would warrant preparation of an Environmental Impact Report. By upholding the PMND (as recommended), the Planning Commission would not prejudice or restrict its ability to consider whether the proposed project's uses or design is appropriate for the neighborhood.



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion

HEARING DATE: SEPTEMBER 30, 2010

Hearing Date: September 30, 2010
Case No.: 2007.1457E
Project Address: 1050 Valencia Street
Zoning: Valencia Street Neighborhood Commercial Transit District
(Valencia Street NCT)
55-X Height and Bulk District
Block/Lot: 3617/008
Project Sponsor: Shizuo Holdings Trust
1001 Bridgeway, Suite 538
Sausalito, CA 94965
Staff Contact: Jeremy Battis - (415) 575-9022
Jeremy.Battis@sfgov.org

1650 Mission St.
Suite 400
San Francisco, CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE APPEAL OF THE PRELIMINARY MITIGATED NEGATIVE DECLARATION, FILE NUMBER 2007.1457E FOR THE PROPOSED DEVELOPMENT ("PROJECT") AT 1050 VALENCIA STREET.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby AFFIRMS the decision to issue a Mitigated Negative Declaration, based on the following findings:

1. On December 21, 2007, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code, the Planning Department ("Department") received an Environmental Evaluation Application for the Project, in order that it might conduct an initial evaluation to determine whether the Project might have a significant impact on the environment.
2. On February 10, 2010, the Department determined that the Project, as proposed, could not have a significant effect on the environment, and accordingly, on that date issued a notice of availability that a Mitigated Negative Declaration would be issued for the Project, duly published in a newspaper of general circulation in the City, and the Mitigated Negative Declaration was posted in the Department offices, and distributed in accordance with law.
3. On March 11, 2010, an appeal of the decision to issue a Mitigated Negative Declaration was timely filed by Clint Mitchell and Risa Teitelbaum of Liberty Hill Neighborhood Association.
4. A staff memorandum, dated September 23, 2010, addresses and responds to all points raised by appellant in the appeal letter. That memorandum is attached as Exhibit A and staff's findings as to those points are incorporated by reference herein as the Commission's own findings. Copies of that memorandum have been delivered to the City Planning

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Commission, and a copy of that memorandum is on file and available for public review at the San Francisco Planning Department, 1660 Mission Street, Suite 500.

5. On June 16, 2010, the Historic Preservation Commission reviewed the project in accordance with the Eastern Neighborhoods Area Plan Interim Permit Review Procedures for Historic Resources, and determined, in Motion No. 0068, that the Planning Department's CEQA analysis of potential impacts on historic resources appeared to be adequate.
6. On July 1, 2010, amendments were made to the Preliminary Mitigated Negative Declaration, adding the following text to describe revisions to the proposed project (elimination of on-site parking and loading space, setback of top floor from the building to the west). Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the Preliminary Mitigated Negative Declaration. The changes do not require "substantial revision" of the Preliminary Mitigated Negative Declaration, and therefore recirculation of the Preliminary Mitigated Negative Declaration would not be required.
7. On July 8, 2010, the Commission held a duly noticed and advertised public hearing on the appeal of the Preliminary Mitigated Negative Declaration, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.
8. At the July 8, 2010, the Commission directed that additional discussion and analysis concerning the Liberty-Hill Historic District be added to the document. On September 23, additional amendments were made to the Preliminary Mitigated Negative Declaration, adding the additional discussion and analysis concerning the Liberty-Hill Historic District, as directed by the Commission. Such amendments do not include new, undisclosed environmental impacts and do not change the conclusions reached in the Preliminary Mitigated Negative Declaration. The changes do not require "substantial revision" of the Preliminary Mitigated Negative Declaration, and therefore recirculation of the Preliminary Mitigated Negative Declaration would not be required.
9. On September 30, 2010, the Commission held a second duly noticed and advertised public hearing on the appeal of the Preliminary Mitigated Negative Declaration, at which testimony on the merits of the appeal, both in favor of and in opposition to, was received.
10. All points raised in the appeal of the Preliminary Mitigated Negative Declaration at the July 8 and September 30, 2010, City Planning Commission hearings have been adequately addressed either in the Memorandum or orally at the public hearings.
11. After consideration of the points raised by appellant, both in writing and at the July 8, and September 30, 2010, hearings, the San Francisco Planning Department reaffirms its conclusion that the proposed project could not have a significant effect upon the environment.
12. In reviewing the Preliminary Mitigated Negative Declaration issued for the Project, the Planning Commission has had available for its review and consideration all information pertaining to the Project in the Planning Department's case file.

Motion No. _____
Hearing Date: September 30, 2010

Case No. 2007.1457E
1050 Valencia Street

13. The Planning Commission finds that Planning Department's determination on the Mitigated Negative Declaration reflects the Department's independent judgment and analysis.

The City Planning Commission HEREBY DOES FIND that the proposed Project, could not have a significant effect on the environment, as shown in the analysis of the Mitigated Negative Declaration, and HEREBY DOES AFFIRM the decision to issue a Mitigated Negative Declaration, as prepared by the San Francisco Planning Department.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission on September 30, 2010.

Linda Avery
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: [Date]



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

Exhibit A to Draft Motion Planning Department Response to Appeal of Preliminary Mitigated Negative Declaration

CASE NO. 2007.1457E - 1050 VALENCIA STREET PUBLISHED ON FEBRUARY 10, 2010

BACKGROUND

An environmental evaluation application (2007.1457E) for the proposed project at 1050 Valencia Street (Assessor's Block 3617, Lot 008) was filed on behalf of Shizuo Holdings Trust on December 20, 2007 for a proposal to demolish an existing 1,670-square foot (sq ft), 23-foot-high, one-story commercial building constructed in 1970, in use as a full-service restaurant, and construct in its place a new 17,000-sq ft, 55-foot-high, five-story, mixed-use building containing 16 dwelling units over a 3,500 sq ft ground-floor and basement level full-service restaurant. The project site is within the Valencia Street NCT (Neighborhood Commercial Transit District) Use District, and is within a 55-X Height and Bulk District. The project would require a rear yard modification by the Zoning Administrator to eliminate the rear yard requirement.

A Preliminary Mitigated Negative Declaration (PMND) was published on February 10, 2010. On March 11, 2010 the Liberty Hill Neighborhood Association filed a letter appealing the PMND. The concerns listed below are summarized from the appeal letter, copies of which are included within this appeal packet. The concerns are listed in the order presented in the appeal letter.

Appeal submitted by Liberty Hill Neighborhood Association on March 11, 2010

CONCERN 1: PUBLIC NOTICING.

Public noticing was not carried out as required.

RESPONSE TO CONCERN 1: On September 29, 2008, a Notification of Project Receiving Environmental Review was mailed out to the neighboring properties (owners of properties within 300 feet of the project site) and other interested parties, notifying them that a PMND was being prepared for the proposed project. Noticing occurred again on February 10, 2010, when the Notice of Availability that a Mitigated Negative Declaration would be issued for the Project was duly published in a newspaper of general circulation in the City, and the Mitigated Negative Declaration was posted in the Department offices, and distributed in accordance with law. The only project application filed by the project sponsor thus far has been the Environmental Evaluation Application; thus, no additional notification for this project has occurred. No comment letters or phone calls regarding this project were received during the public comment period.

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

CONCERN 2: NEIGHBORHOOD CHARACTER.

The PMND fails to adequately address the potential impacts on the character of Hill Street and the Liberty Hill Historic neighborhood. The discussion focuses too narrowly on Valencia Street even though the majority of the building façade will be on Hill Street.

RESPONSE TO CONCERN 2: As stated in the PMND and pointed out by the appellant, the proposed project would be developed on a corner parcel located at the intersection of Valencia and Hill Streets. This parcel is located within the Valencia Street Neighborhood Commercial Transit District (Valencia Street NCT), a commercial corridor zoning district that contains all of the lots facing Valencia Street, including corner lots. The Valencia Street NCT zoning controls allow a variety of building types and architectural styles and allow buildings at corner parcels that are taller and larger, and that typically have larger areas than parcels located on the residential streets such as Hill Street, where the height limit is 40 feet. As discussed in the Project Setting section of the PMND, the project site area's mixed-use character includes a variety of uses and a number of relatively large structures containing ground floor retail with multiple dwelling units above.

The building's impacts on the character of the vicinity are discussed on pages 21 to 22 of the PMND. As stated, "the proposed uses are principally permitted [within the Valencia Street NCT] and would be compatible with existing uses on adjacent and surrounding properties. Although the proposed project would result in a more intensified land use than currently exists on the site, it would not introduce a new or incompatible land use to the area."

While it is true that the proposed building would have its longest façade along Hill Street, the building's primary façade (and the restaurant sign) currently faces and would continue to face Valencia Street. Valencia Street has a number of other larger corner buildings that have their secondary facades along blocks that are in residential zoning districts except for the corner parcels, including buildings on the corners of Valencia Street and Liberty Street as well as Valencia Street and 22nd Street. These buildings do not impair the use of any residentially zoned address in any demonstrable manner. Furthermore, along Valencia Street most buildings contain commercial uses on the ground level with residential units above. The character of the building being proposed for the project site would not be new to the neighborhood. While it would be larger than most buildings on the project block, and larger than the buildings along Hill Street, at five stories it would still be consistent with the character of the Valencia Street corridor. The PMND appropriately acknowledges that along Hill Street, land uses are residential and are in the form of single-family homes and multi-unit apartment buildings, most within the two- to three-story range. For example, in the discussion of

the Setting, on pages 12 – 13, the PMND describes land uses in the vicinity: “Along the east-west oriented streets (such as Hill Street, 20th, 21st, 22nd Streets) the land uses are predominantly residential. Common buildings in the area include many three-story Victorian-era two- and three-family structures, larger Victorian- and Edwardian-era multifamily buildings with ground floor retail or restaurant use, early 20th century, approximately 20-foot-high masonry garage buildings typically still in use for automotive repair, and one- and two-story mid- to late-20th century commercial buildings of non-distinctive architectural character, and more recently constructed contemporary mixed-use buildings with residential uses above ground floor commercial uses.” On page 26, in the analysis of aesthetics, the PMND states, “The proposed building, at 55 feet in height, would be taller than most buildings in the project vicinity, including the two-story adjacent building along Valencia Street and the three-story adjacent buildings along Hill Street.” And on page 31, in the discussion of historical resources, the PMND presents the following text concerning the Liberty Hill Historic District (with a citation to *Planning Code* Article 10):

The project site is located in close proximity to (one parcel from) the City-designated Liberty-Hill Historic District, roughly bounded by Mission, Dolores, 20th and 22nd Streets. The district is considered to be “one of the earliest residential ‘suburbs’ to be developed in San Francisco” and contains a range of housing types, from the architecturally uniform two-story Italianate “workingman’s cottages” along Lexington and San Carlos Streets to the distinctive Stick and Italianate style homes found along Hill and Liberty Streets and Queen Anne homes that line Fair Oaks Street, which vary in facade and setback. Some of the structures within the district were designed by locally well-known architects, including Albert Pissis, the Newsom brothers, Charles Shaner, William H. Toepke, Charles Havens, and Charles J. Rousseau.^[footnote omitted]

CONCERN 3: CONFLICTS WITH PLANS AND POLICIES.

The PMND falsely states that the proposed project would not conflict with any environmental plan or policy. The Project is requesting a variance to eliminate the rear yard set-back and open space requirements. The PMND does not address or justify the project’s violation of land use and environmental policies.

RESPONSE TO CONCERN 3: A variance request is a discretionary approval process afforded by the Planning Code that allows for some flexibility with respect to how the Planning Code provisions are implemented to reflect individual site conditions. Variances are considered following a detailed review by the Planning Department’s assigned neighborhood planning staff, a process that would be required for the proposed project. Approval or disapproval of a variance would be made separate

from the environmental review process. As stated in the PMND, the proposed project would not conflict with any adopted plans or policies.

CONCERN 4: AESTHETICS.

The discussion of the aesthetic impact of the Project is inaccurate and misleading and specific impacts of the project are not discussed. Because the Project abuts an Historic District, aesthetic concerns should be paramount, but the PMND discusses them in a cursory manner at best.

RESPONSE TO CONCERN 4: The PMND discusses visual quality and historical resources under separate sections (E.2 and E.4, respectively). In terms of visual quality, the following environmental evaluation checklist items are used to address visual impacts:

- The project's potential to have a substantial adverse effect on a scenic vista;
- The project's potential to damage scenic resources, including, but not limited to, trees, rock outcroppings, and other features of the built or natural environment which contribute to a scenic public setting;
- The project's potential to substantially degrade the existing visual character or quality of the site and its surroundings; and
- The project's potential to create a new source of substantial light or glare which would adversely affect day or nighttime views in the area or which would substantially impact other people or properties.

The PMND addresses these criteria by discussing the changes to views that would occur if the project is implemented. Specifically, the PMND discloses that views with the proposed building would differ from what is currently seen on the site. The PMND states that the proposed building, at 55 feet in height, would be taller than most buildings in the project vicinity. It also discusses the fact that the new building would have the potential to block views of shorter buildings in the project area from public sidewalks and streets. It considers the visual character of the project site and how that character would change if the proposed project were to be constructed. The PMND also addresses the blockage of private views due to construction of the proposed structure on the project site and determines this impact to be less than significant.

The Planning Department's Neighborhood Planning Division would review and comment on the specifics of the proposed building design, such as exterior cladding materials, window materials, etc., prior to approval of the building permit. As discussed in the PMND, issues related to building design are subjective and the design in itself would not result in a demonstrable adverse effect.

Additionally, the PMND acknowledges that the proposed project “would be larger in scale and visually prominent” compared to some nearby development. However, as stated on p. 27 of the PMND, “A new larger visual element, by altering the existing character or quality of a site or of its surroundings, does not in and of itself constitute a significant impact” and that, because “the new structure would be visually similar to other uses in the project vicinity in terms of its building materials, massing, and height,” no significant impact would result. As mentioned throughout this document, the project area contains a range of building sizes and architectural styles, including buildings up to five stories in height. Within this context, the proposed project would not constitute a significant visual impact.

The appellant’s concern regarding the project’s proximity to the Liberty Hill Historic District is addressed below within Response to Concern 9.

CONCERN 5: BULK AND HEIGHT/DESIGN.

The bulk and height of the proposed building will impact the visual character of the neighborhood. The building will be over twice the height of the adjacent structure with no open space, and the character of the building does not fit with the historic Victorian neighborhood character. The design of the proposed building conflicts with 2004 Housing Element policies that call for using new housing to enhance the neighborhood vitality and policies that call for promoting well designed housing.

RESPONSE TO CONCERN 5: As discussed in the PMND, the proposed project, at an approximate height of 55 feet (with an additional nine feet to the top of the mechanical penthouse), would be taller than the neighboring structures along Valencia and Hill Streets. However, this height would be consistent with the applicable height and bulk controls specified in the Planning Code. Furthermore, the proposed building would not be out of scale with the overall character of Valencia Street, which contains a range of building styles and heights. Although the building would have its northern façade facing Hill Street within the corner project site, the building would be oriented to front onto Valencia Street. The project would be taller than the structures on Hill Street but would be consistent with the existing pattern of development, as evidenced by taller, larger buildings on Valencia Street in comparison to smaller buildings on Hill Street and other residential streets. About ten other larger (three- to seven- story) multi-unit buildings exist within three blocks of the project site. The proposed building would be taller than the immediately adjacent structures, which is disclosed on page 26 of the PMND. The Valencia Street NCT controls permit moderate-scale buildings and encourage

commercial development at the ground story and housing development above the ground story and the proposed building would be consistent with this pattern.

The PMND analyses the impacts of the proposed project as proposed. The appellant's concern regarding the bulk and height of the proposed building is a comment on the merits of the project and not on the adequacy of the PMND in addressing its environmental impacts:

Density concerns brought up by the appellant are addressed below, within Response to Concern 8.

The proposed project's impacts to the nearby Liberty Hill Historic District are addressed below, within Response to Concern 9.

CONCERN 6: PROJECT DESCRIPTION FIGURES.

The project description is incomplete. While all 4 elevations are visible from public right of way, only 2 elevations are shown in the document. The adjacent structures are drawn out of scale to the structure. Adjacent building window fenestration must be represented in order to make adequate study of the scale of the project. The roof deck is not shown on Hill Street elevation.

RESPONSE TO CONCERN 6: The elevations presented in the PMND (Figure 6) are those that would be most easily and most commonly be perceived from the adjacent public right of ways. Since the project site is located on the corner of Valencia and Hill Streets, and the proposed building would face these two streets, the PMND includes elevation views from these vantage points. The PMND provides adequate information regarding the project for the purposes of environmental review.

The structures adjacent to the project site are customarily illustrated conceptually (without fenestration shown) to provide the reader with a general sense of the scale of the project surroundings. In general, the provided illustrations are not meant to be literal representations of the proposed project, but to provide a general sense of what the project will look like from these two selected vantage points. Following the publication of the PMND, the project architect recently prepared a set of more detailed drawings reflecting some changes that have been made to the project design (i.e., elimination of on-site parking and loading space, setback of top floor from the building to the west). The updated plans are included in the revised PMND.

Regarding the appellant's comment concerning the elevation's representation of the proposed roof deck, the roof deck would be located directly on top of the roof, and the elevations drawings in Figure 6 of the PMND are clearly labeled to show the "Glass Parapet Surrounding Roof Deck."

CONCERN 7: ARCHITECTURAL DESIGN.

The building design does not reference the Victorian streetscape on Hill Street nor share any attributes with the vintage buildings on Valencia Street. The proposed building is more than twice as tall as the building surrounding it and would be a generic, characterless building that might be appropriate in an anonymous downtown business district, but is incongruous and offensive at this site. The building should be redesigned to reflect and encompass the distinct character of this community.

RESPONSE TO CONCERN 7: As discussed in the Cultural Resources section of the PMND, although the project parcel is located in proximity to the Liberty Hill Historic District, it is outside of its boundaries and, thus is not required to comply with any historic district design guidelines. Furthermore, specific design features have not been finalized, as the building's architectural features may change pending Planning Department's review and comment on the specifics of the design (such as exterior cladding materials, window materials, etc.).

Also, as discussed throughout this document, the Valencia Street corridor, as well as the neighborhood in general, contains a range of building types, heights and architectural styles, including historic and contemporary designs. Therefore, the proposed building, in terms of its architectural character, would not appear inconsistent within this overall neighborhood context. There are other multi-story residential-over-retail buildings in the project vicinity, particularly on corner lots. Thus the proposed development would not introduce any new larger scale massing or height and would be generally compatible with the surrounding context. It is also recognized that judgments with regard to visual quality are somewhat subjective in nature, and may differ from person to person, and from viewpoint to viewpoint. The PMND analyzes the environmental impacts of the proposed project, per CEQA requirements, but does not make any determinations regarding the merits of the proposed development.

CONCERN 8: DENSITY.

The PMND discusses the impact of the Project entirely in the context of citywide policies rather than in a site-specific manner. The Project's longest façade will be on Hill Street, a residential street consisting primarily of

single family homes, with a few duplexes and small apartment buildings. Placing a 16 unit building on this street will substantially change the density of this area.

RESPONSE TO CONCERN 8: Allowable density on the project site is established through the applicable zoning district, which is Valencia NCT. It is outside the scope of the PMND to consider the appropriateness of the zoning for the project site. Both site-specific and citywide (cumulative) impacts of the project are discussed throughout the PMND. The issue of density is discussed on page 15, which states that the Valencia Street NCT zoning district does not have any residential density limits. Density is also discussed on page 17, which states that Policy 1.1 of the 2004 Housing Element encourages higher residential density in areas adjacent to downtown and locating housing in areas well served by transit. The project site is located in an area that is well served by public transit. Therefore, the density level proposed by the project would be consistent with Planning Code and General Plan requirements and would not result in a significant adverse effect on the environment. Moreover, the PMND found that effects related to the density of development, including transportation, air quality, and noise impacts, would be less than significant. The PMND states that the 2004 Housing Element also calls for allowable densities in established residential areas to be set at levels that will promote compatibility with prevailing neighborhood scale and character. Although density and development along Hill Street is less than that along Valencia Street, this is an existing condition, and the project would not substantially change the overall density of the parcels that front onto Valencia Street.

Finally, the density of the project vicinity that would result from project implementation would not exceed levels that are common and accepted in moderate-density neighborhood of San Francisco. Therefore, the proposed project would not result in density that would adversely affect the existing neighborhood.

CONCERN 9: HISTORIC RESOURCES.

The proposed project will adversely impact historic resources in the neighborhood and will have a direct and powerful impact on Hill Street and Liberty Hill Historic District. The project will be a dominating presence on the corner of Valencia and Hill Streets and will clash with the historic buildings across the street and one parcel from the site.

RESPONSE TO CONCERN 9: The PMND, on pages 31 through 31j and 32, discusses the proposed project's impacts on the Liberty-Hill Historic District. The PMND concludes that, although the project

site is located in proximity to the District, it is outside of the District's boundaries, and would not substantially affect, in an adverse manner, any characteristics that are unique to the district. This conclusion was reaffirmed by a Planning Department Preservation Specialist,¹ and was supported by the Historic Preservation Commission (HPC), which held a hearing on June 16, 2010, to review the proposed project, in accordance with the Eastern Neighborhoods Area Plan Interim Permit Review Procedures for Historic Resources. At that hearing, the HPC determined that the Planning Department's CEQA analysis of potential impacts on historic resources appeared to be adequate.

The subject parcel and the immediately adjacent properties are not located within an identified or potential historic district. The Preservation Memorandum further states that the physical separation of the proposed building from the Liberty Hill Historic District by one parcel (at 15-21 Hill Street) would provide a "physical break and buffer between the historic district and project site such that the proposed project would not result in a direct physical impact to the district." In addition, "while the proposed project will be taller than immediately adjacent properties and will be visible from the historic district, the overall mass and scale is compatible with the surrounding architectural fabric, both historic and non-historic, and with the existing development pattern of Valencia Street."

Under CEQA, a project would have a significant Cultural Resources impact if it would "cause a substantial adverse change in the significance of a historical resource," such as "demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." Material impairment means that the resource—in this case, the Liberty Hill Historic District—would result in an adverse change in the physical characteristics that account for the District's listing as a local historic district. As noted in the PMND, the district represents "one of the earliest residential 'suburbs' to be developed in San Francisco," and contains a range of housing types. According to Planning Code Article 10, Appendix F, commercial uses are not common in the residential portions of the district; rather, almost all businesses are located on Valencia Street. The proposed project would continue this pattern, by including a ground-floor restaurant space. The project would not alter the composition of the residential concentration along Hill Street nor would it affect the arrangement of residential and commercial uses that characterize the district. Therefore, according to the Preservation Memorandum, "it does not appear that the proposed project would alter the immediate surroundings of the district such that the significance of the district would be materially impaired. Therefore, the proposed project would result in no adverse effect to off-site historical resources."

Moreover, as described in Appendix F of Article 10, the significance of the district lies in the fact that it “encompasses a significant representation of nineteenth century middle class housing and developmental practices,” as a very early “suburb” that developed between the 1860s and just after the turn of the nineteenth century and “contains examples of all architectural styles prevalent during the developmental period.” Hill Street, in particular, presents “an architectural set piece,” with continuous rows of bay windows on either side of the street, and “offers one of San Francisco’s most complete visions of a city street of [more than] a century ago.” The proposed project would not alter the extant “suburban” characteristics of either the district as a whole or the project block of Hill Street in particular, in that the project would leave intact the entirety of development both within the Liberty-Hill Historic District and on the project block of Hill Street. The proposed project would not alter any of the distinctive architectural characteristics of the buildings on Hill Street and, while it would more definitively terminate the eastern boundary of the district just west of Valencia Street, the project would not interfere with the composition of Hill Street as “an architectural set piece.” All of the individual elements on Hill Street would remain in place. Moreover, by creating contrast with the scale of the buildings on Hill Street, the project would reinforce the feeling of a remnant suburban residential enclave, distinct from the nearby Valencia Street commercial corridor, that is characteristic of most of the district.

Although the project would be larger than many of the buildings along Hill Street, the existing pattern in the area allows for and includes larger corner lots with more massive buildings as compared to mid-block buildings (such as residential buildings along Hill Street). According to the Preservation Memorandum, the proposed building, which is of a contemporary architectural design, would not detract from the historic character of the nearby Liberty Hill Historic District, nor would it create a false sense of history, since buildings in the project vicinity (including buildings within the Liberty Hill Historic District) vary in size, massing, and architectural style. Due to the variety of building types and styles within and in the vicinity of the historic district, the proposed structure would not be expected to be incompatible with the older historic buildings directly across the street and adjacent to the project site. For the above reasons, the proposed project would not significantly affect the historic nature of the Liberty Hill Historic District.

Based on the foregoing, it can be concluded that the proposed project would not “demolish[] or materially alter[], in an adverse manner, those physical characteristics” of the Liberty-Hill Historic District that account for its inclusion in Article 10 of the Planning Code. Therefore, as concluded in the

PMND as amended, proposed project would have a less-than-significant impact on historic architectural resources, either individually or cumulatively.

CONCERN 10: IMPACT ON SURROUNDING CULTURAL VENUES.

Furthermore, the project will have an impact on the cultural resources in the vicinity, such as the cultural venues along Valencia Street in the Mission District. The scale and architectural character of the proposed project will undermine the offbeat, hip, and bohemian character of this neighborhood.

RESPONSE TO CONCERN 10: In terms of uses, commercial uses (in the form of the existing restaurant) already exist on the project site and residential uses predominate throughout the project area (including Hill Street). Therefore, the types of uses that would exist on the project site would not introduce a new use to the project area, but would represent a relatively small expansion of an existing and common use. The Department recognizes that Hill Street is a residential street with less pedestrian activity than is generated on Valencia Street. However, compared to existing conditions, the proposed project would not result in substantially more noise due to existing regulations already in place that control and limit excessive noise and other types of disruption. The proposed project's noise impacts are discussed further below, within Response to Concern 13.

In terms of impacts to cultural venues, the proposed project would not have any demonstrable impacts on visitors' ability to continue patronizing the various cultural venues in the project area, such as Artists' Television Access, Modern Times Bookstore, art galleries along Valencia Street, The Marsh, or the creative learning center at 826 Valencia Street. This is because the proposed project would be of modest scale, relative to the streetscape of Valencia Street, and would not result in significant effects with respect to noise, pedestrian or vehicle traffic, or result in any other impacts that would discourage visitors to the neighborhood.

In terms of building style, the new structure would be of a contemporary design. The existing Spork structure is also of a contemporary design, as are other structures on the block and throughout the neighborhood. The appellants' concern regarding the proposed project's possible impacts on the vibrancy and cultural vitality of the neighborhood is one that relates to the merits of the project, not its environmental impacts or the adequacy of the PMND.

CONCERN 11: PARKING.

The PMND inaccurately states that the impact on parking is not something to be considered in an environmental impact report. Not only does this misstate the legal requirement for analysis, it also ignores the collateral effects of lack of parking in a neighborhood. Parking in the neighborhood is always difficult and the proposed project would have a terrible impact on the quality of life for the neighborhood due to increased demand for parking and double parking along Hill Street. The premise that lack of parking would force building occupants to utilize public transportation is not supported by analysis and contradicts common sense. Lack of parking would also increase traffic in the area as drivers search for parking. Also, the proposed project would take away two existing parking spaces on Hill Street by modifying the sidewalk with a bulb-out that would intrude on the Liberty Hill Historic District.

RESPONSE TO CONCERN 11: Parking impacts of the proposed project are analyzed on pages 35 through 37 of the PMND. While potential parking impacts associated with the new residential and increased restaurant uses at the project site could be noticeable to the neighbors, as stated in the PMND, parking deficits are considered to be social effects rather than impacts to the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. As stated on page 35 of the PMND, under California Public Resources Code Section 21060.5, "environment" means "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, and objects of historic or aesthetic significance." San Francisco does not consider parking supply part of the permanent physical environment. Parking conditions are not static, as parking supply and demand vary from day to day, from day to night, from month to month, etc. Hence, the availability of parking (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel. Furthermore, the City's Transit First Policy, established in City Charter Section 16.102, provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation."

With regard to the appellant's concern about double parking on Hill Street, Hill Street on the project block, at 38 feet, is wider than many other residential streets and alleys in the project vicinity (wider than two standard lanes). While occasional double parking currently occurs and would continue to occur in the future, observations indicate that this existing activity does not, and would not be expected to in the future, substantially impede the flow of traffic to the degree that a significant impact would occur; since most vehicles have and would have adequate room to circumnavigate any double-parked vehicles. Double-parking is discouraged citywide through citation by the Department of Parking and Traffic, and the same enforcement mechanisms would apply to the proposed project.

The project area is well served by public transit and it is reasonable to expect that some residents of the new units might opt out of vehicle ownership, since a garage would not be provided as part of the offered living accommodation. The estimate that demand for 34 parking spaces² would be generated by the proposed project can be considered conservative, consistent with Planning Department Transportation Impact Analysis Guidelines for Environmental Review (October 2002). As noted in the PMND, off-street parking is not required in the Valencia Street NCT use district in which the project site is located.

In terms of parking for restaurant patrons, the project area already contains many businesses that generate trips into the neighborhood, including the existing Spork Restaurant. Various garages and parking lots exist throughout the neighborhood to provide temporary customer parking to the area's visitors. Furthermore, the Spork Restaurant currently has a sign on the door that states the following "Parking – a great place to park is the Mission Bartlett Parking Garage around the corner at 3255 21st Street." Any increases in clientele that would be generated by the larger Spork Restaurant would not be substantial enough to be noticeable over the existing numbers of customers who frequent the restaurant, particularly given the existing parking demand along Valencia Street. The parking and transportation analysis recognizes the existing use on the site.

Secondary environmental impacts of parking deficits, including increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion, are addressed throughout the PMND. As stated on page 36, "the transportation analysis accounts for potential secondary effects, such as cars circling and looking for parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. Moreover, the secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts which may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assumptions used in the transportation analysis, as well as in the associated air quality, noise and pedestrian safety analyses, reasonably addresses the potential secondary effects. These impacts would, therefore, be less than significant."

In terms of the appellant's concern that the proposed bulb-out would intrude on the Liberty Hill Historic district, the bulb-out would not be located within the Liberty Hill Historic District and, therefore, would have no adverse effect on the district. Additionally, the bulb-out would be consistent with San Francisco's Better Streets Plan, which aims to "create a unified set of standards, guidelines,

and implementation strategies to govern how the City designs, builds, and maintains its pedestrian environment.”

CONCERN 12: TRAFFIC.

The PMND asserts that the Project will not have any impact on traffic by making some rather simplistic assumptions regarding the number of vehicle trips that will be generated by the project. No support is given for these estimates. In addition, the PMND does not address the impacts that lack of parking have on traffic flow and pedestrian safety as drivers vainly search for places to park. If this project is allowed to proceed we will have a traffic nightmare with double parking as people will have to unload their groceries and whatever they are bringing home because they will have to roam far and wide to find parking. Seniors will be forced to carry their items from a distance when they are unable to find parking close to their home.

RESPONSE TO CONCERN 12: To estimate additional vehicle trips that would be generated by the proposed project, the PMND relied on Planning Department Transportation Impact Analysis Guidelines for Environmental Review (October 2002). This is a standard protocol that is used for San Francisco environmental review documents. As noted in footnote 14 on page 34, a Trip Generation Spreadsheet that documents these calculations is available for review at the Planning Department as part of Case File No. 2007.1457E.

CONCERN 13: NOISE.

The PMND does not adequately examine the noise impact of the proposed Project. Additional noise would result from the roof decks of the proposed building, which would be at bedroom level height of the houses on Hill Street and would serve as a living room and entertainment space for the building's residents. Increased noise pollution will also result from an additional 34 cars looking for parking as well as the location of the service entrance along Hill Street which will be used for deliveries, garbage pick-up and the like. A larger restaurant and new residential uses would also increase the noise level in the project area. HVAC would also add to the noise levels in the area, as would the construction of the project.

RESPONSE TO CONCERN 13: The proposed project's noise impacts, including impacts related specifically to construction and traffic increases, are discussed on pages 38 through 43 of the PMND. In response to the appellant's concern that operational noise on the proposed roof deck would reverberate throughout the neighborhood, the new structure would be subject to the San Francisco Noise Ordinance (Article 29 of the San Francisco Police Code), which regulates unwanted, excessive, and avoidable noise, including noise emitted by waste disposal trucks, construction-related noise, and HVAC-related noise, as a matter of public health and safety. Any excessive noise on the roof decks

would, therefore, be controlled as a matter of course through citywide enforcement measures that are already in place. No evidence is presented by the appellant to substantiate the claim that the rooftop would be used excessively by the building's residents due to the size of the apartments. Outdoor decks and patios, including rooftop decks, are common throughout San Francisco. As stated in the PMND, noise from the project would not be expected to exceed typical levels in an urban area. Lastly, noise attenuates with distance, and any incremental noise increases that would be generated by residents using the rooftop deck would reduce in volume the further the residents are located from the source and would not be easily discernible from background noise, which includes existing traffic noise along Valencia and Guerrero Streets.

The addition of a maximum of 23 vehicles per hour (p.m. peak-hour trip generation) to the neighborhood would not result in a noticeable increase in the ambient noise level in the project vicinity, since a doubling in traffic levels is typically required to be able to detect an increase in ambient noise levels, which would not occur in this case. This is documented on page 42 of the PMND.

Any noise impacts associated with deliveries to the restaurant as well as garbage pick-ups would not be noticeably perceptible over the noise levels associated with existing operations, since these types of services are currently provided to the project site.

As noted above, construction noise would be regulated by the *Noise Ordinance*, which prohibits construction work between 8:00 p.m. and 7:00 a.m. if noise would exceed the ambient noise level by five dBA at the project property line. By complying with the regulations set forth in the *Noise Ordinance*, the project would avoid significant noise impacts to the nearby residential properties. According to the project architect, construction activity would not be expected to occur after 5 p.m. on most days.

CONCERN 14: SHADOW.

The proposed project would result in substantial shading of the nearby parcels with adjacent properties being cast in shadow up to 1/2 of each day. Residual effects of the increased shadows will significantly alter residential sunlight, increase heating costs for surrounding buildings, damage wooden structures, which are the majority in the surrounding neighborhood due to lack of water burn-off during rainy season, and damage yard and street landscaping.

RESPONSE TO CONCERN 14: Shadow impacts of the proposed project are analyzed on pages 61-62 of the PMND. As stated on page 62, the proposed project would add new shading to surrounding properties but would not increase the total amount of shading above levels that are common and generally accepted in urban areas. The Planning Department conducted an analysis, summarized in a memo issued on September 16, 2009, in which it determined that proposed project would not result in adverse shadow impacts, as defined under Proposition K and Section 295 of the San Francisco Planning Code.

It is anticipated that much of the new shading caused by the proposed project, particularly during days and times when shadows are longest (such as winter mornings), would fall on areas already in shade from other surrounding buildings. According to the Planning Department's Shadow Analysis Work Sheet, maximum shadow, which would occur on December 21 at 8:22 a.m. and 3:54 p.m., would reach 409 feet west and east, respectively, reaching about mid-block west along Hill Street, and across Valencia Street to the east (due to topography, the shading would not reach the top of the Hill Street hill). Any new shading on private properties would be temporary and would not constitute a significant impact.

Just as the sun moves across the sky, accordingly, the new shadows would move across the ground, resulting in shading on any single building or parcel for short durations of time, typically between approximately 15 minutes and one hour.

Furthermore, under CEQA, the reduction of sunlight on private residences would not constitute a significant impact on the environment. Section 295 (Proposition K) protects public open spaces from shadowing by new structures, but does not provide protection of sunlight for private properties. Thus, while some additional shading may be of concern to affected neighbors, shadowing of private residences is not considered to be an environmental impact under CEQA within the dense urban setting of San Francisco.

CONCERN 15: HAZARDOUS MATERIALS.

The proposed project would result in impacts related to hazardous materials due to presence of contaminated soil beneath the site and the possibility for that soil to migrate offsite into the nearby homes. Thorough soil testing, mandated by a full EIR, should be done to explore residual hazardous materials left from the site's prior use as a gas station. Further, the project would generate dust containing hazardous particles that would blow through the shipboard sidings of stick Victorian houses of the type that line Hill Street and local residents will suffer. Locals will also suffer due to construction staging and idling from trucks.

RESPONSE TO CONCERN 15: As discussed in Hazards and Hazardous Materials section of the PMND (pages 78 through 88), mitigation measures would be required as part of project approval to ensure that potential subsurface contamination does not present a risk to future building occupants, construction workers, or the public, including the surrounding community. As noted in the PMND, these mitigation measures have been coordinated with and approved by the San Francisco Department of Public Health, Environmental Health Section, Hazardous Waste Unit and would reduce potential adverse impacts from subsurface contamination to a less-than-significant level. They include conducting a geophysical survey and a Phase II subsurface investigation to determine if any underground storage tanks remain at the site and to determine the extent of sub-surface contamination, if any, associated with the site's prior uses. They also include measures by which the sponsor would be required to obtain permits from the San Francisco DPH Hazardous Materials Unified Program Agency (HMUPA), Fire Department, and Municipal Transportation Agency and specific measures for testing and handling of contaminated soils. These mitigation measures would be required as part of project approval and would ensure that impacts related to potential subsurface contamination at the site are minimized.

In terms of dust control, as discussed on pages 44 and 45 of the PMND, construction-related air quality emissions, including dust (whether it contains hazardous particles or not), are regulated by the Construction Dust Control Ordinance (Ordinance 176-08, effective July 30, 2008). Compliance with the Construction Dust Control Ordinance, which is intended to minimize dust at the property line in order to protect residences in the area, would minimize the likelihood for any dust to migrate offsite and enter into the surrounding properties. Compliance with this ordinance would reduce these impacts to less than significant. No circumstances exist at the project site that would suggest that this already required measure would be insufficient or would require more stringent measures to address dust.

CONCERN 16: LIQUEFACTION.

This impervious structure would raise the near term effects of liquefaction on adjacent properties. Without an independent geo-technical and structural review, the neighbors face an increase risk of foundation movement due to the increase in sub surface water pressure. Inadequate information was presented to the preparer of this report to determine these effects.

RESPONSE TO CONCERN 16: A site-specific geotechnical investigation was prepared for the proposed project and is referenced in the PMND (footnote 55 on page 71). As noted on page 72 of the PMND, the project site is located within a seismic hazard zone for liquefaction, as mapped by the California Division of Mines and Geology for the City and County of San Francisco in 2000. However, based on the site-specific geotechnical investigation, earth materials encountered beneath the site were sufficiently dense and/or contained enough plastic fines to render the potential for liquefaction to occur as low. Therefore, as standard industry practices would be incorporated into the final design and construction of the project, the project would not result in any significant impacts related to liquefaction.

CONCERN 17: TRASH AREAS.

The rear yard of the existing building is being used for a trash area, which is not the open space that was intended by the drafters of the legislation. California Uniform Retail Food Facilities Law requires that trash areas be enclosed. Runoff water from trash can wash down cannot be left to run out to the street.

RESPONSE TO CONCERN 17: Designated trash and recycling areas for the proposed building are shown in PMND plans (Figure 5 on page 8) and would be enclosed within the proposed building. Final size and configuration of trash areas would be required to comply with all applicable codes and regulations (including the California Uniform Retail Food Facilities Law), and not be expected to result in any significant impacts related to their size or placement.

In addition to the appeal described above, one other comment letter was received on the PMND. This letter, which is attached, raises several issues with regard to the analyses contained in the PMND.

Comment letter submitted by Stephanie Weisman, Artistic Director/Founder of The March, on March 11, 2010

CONCERN 18: UTILITY DISRUPTIONS.

The project would result in possible disruption to service such as power, sewage, water and electric during the construction period.

RESPONSE TO CONCERN 18: The construction of the proposed project would not be expected to result in any disruptions to the existing utility infrastructure, including power, sewage, water, and electric services. All standard construction regulations and protocols would be followed.

CONCERN 19: CONSTRUCTION NOISE IMPACTS ON THE MARSH

Project construction would result in sound bleed onto the adjacent property. Project operation would result in sound bleed from the proposed apartments, roof deck, and balconies onto the adjacent property.

RESPONSE TO CONCERN 19: As stated in the PMND, construction of the project would be expected to last about 18 months and construction activities would be prohibited between the hours of 8:00 p.m. and 7:00 a.m. if it noise would exceed the ambient noise level by five dBA at the project property line.

As stated on page 41, during the construction period, demolition, excavation, and building construction would temporarily increase noise in the project vicinity. Construction levels would fluctuate depending on construction phase, equipment type and duration of use, distance between noise source and listener, and presence or absence of barriers. Impacts would generally be limited to the period during which new foundations and exterior structural and façade elements would be constructed. Construction noise is regulated by the San Francisco Noise Ordinance (Article 29 of the *Police Code*), which requires that noise levels from individual pieces of construction equipment, other than impact tools, not exceed 80 dBA at a distance of 100 feet from the source.

The Marsh, located adjacent to the project site on Valencia Street, would experience an increase in ambient noise levels (and possibly some vibration) during project construction. According to The Marsh's website, with some exceptions, most theater performances occur in the evenings. Most construction would also be expected to end by 5 p.m. To the extent feasible, the project sponsor should coordinate with The Marsh management to avoid noise-emitting construction activities during daytime shows. While the construction of the proposed project may result in a temporary disturbance to some weekday daytime shows, this would not be considered significant, since it would occur occasionally and for a temporary period of time. With regard to operational noise, the portion of the proposed building adjacent to The Marsh would contain mostly circulation space (not living space), and therefore would generally not be occupied. This space would serve as a buffer between The Marsh building's northern wall and the occupied space within the proposed building.

CONCERN 20: SHADOW ON THE MARSH.

The Marsh will be in the shadow of the proposed building. The proposed building will eliminate all sunlight and air flow from Hill Street side, as well as signage from that direction.

RESPONSE TO CONCERN 20: The proposed project's shadow impacts are addressed above, within Response to Concern 14. The proposed project would not result in any substantial effects on air circulation since it would not obstruct any air The Marsh building currently receives through its doors and windows. In terms of signage, while blocking or shading of signage may be an inconvenience to the neighboring property (The Marsh), this would not be considered a significant impact under CEQA.

CONCERN 21: PARKING.

Parking is already a problem in the area and we are concerned with an increase in parking needs created by the proposed building.

RESPONSE TO CONCERN 21: The proposed project's impacts to parking supply are addressed above, within Response to Concern 11.

¹ LaValley, Pilar, San Francisco Planning Department. *Negative Declaration Appeal Response, Historic Resource Evaluation, 1050 Valencia Street (Preservation Memorandum)*, April 23, 2010. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

² This count includes 21 parking spaces for the residences and 13 parking spaces for the restaurant.

LIBERTY HILL

NEIGHBORHOOD ASSOCIATION

March 11, 2010

San Francisco Planning Department
1650 Mission Street
Suite 400
San Francisco, CA
94103-2414

ATTN: Jeremy D. Battis

FROM: Liberty Hill Neighborhood Association

SUBJECT: Case No. 2007.1457E
1050 Valencia Street

RECEIVED

MAR 12 2010

CITY & COUNTY OF S.F.
DEPT. OF CITY PLANNING
PIC

Dear Planning Commission:

We are writing with regard to the Preliminary Mitigated Negative Declaration ("PMND") issued with respect to the above referenced case which concerns the construction of a five plus story building with 16 residential units and a restaurant space at 1050 Valencia St. (the "Project").

It is the position of the Liberty Hill Neighborhood Association that a full, thorough, exhaustive investigation and critical analysis is imperative for the proposed building at 1050 Valencia Street. Most importantly a full and careful Environmental Impact Report (EIR) must be completed. We are therefore appealing the decision that there would be no significant effect of the project. Our investigation into the statements and conclusions made in the Preliminary Mitigated Negative Declaration reveal many erroneous conclusions, false and misleading statements, incomplete evaluations, and missing documentation including diagrams and analyses. These deficiencies (which are detailed below) require that a full Environmental Impact Report be prepared.

In addition, we believe that the PMND is flawed because it was not prepared in accordance with the procedures required by law. One of the critical components of a PMND is the solicitation of comments from the neighborhood. The sponsor of the project, Shizuo Holdings Trust (the "Sponsor") did not take this basic step. We have not been able to identify anyone in the required area who received notification that the PMND was being prepared. Therefore, it appears that the legally mandated procedures necessary to produce a valid PMND were not followed and that the PMND is not legally sufficient and is wholly invalid.

As discussed in detail in the attached memorandum, it is the position of the Liberty Hill Neighborhood Association that the overwhelming size of the proposed 1050 Valencia project,

when compared to anything nearby has enough significant local environmental impact to require a full report.

We strenuously oppose the short-cutting of a full Environmental Impact Report (EIR) with a preliminary Mitigated Negative Impact Declaration. This declaration is totally inadequate in addressing the concerns and problems we see with the Project.

The attached memorandum details some, but not all, of our concerns that lead us to the conclusion that a full Environmental Impact Report is necessary if the Planning Commission is to impartially assess the effect the proposed five story, 16 - unit structure will have on the character of the Valencia Street corridor and on The Liberty Hill Historic District into which it intrudes. A critical analysis of many, but not all, of the so-called findings in the Negative Declaration is detailed on the following pages.

Enclosed please find the required \$500 check payable to the Planning Department to appeal the determination of no effect in the PMND. As the Liberty Hill Neighborhood Association is a neighborhood association that has been in existence well in excess of 2 years, we will be seeking reimbursement of this amount.

Please contact the Liberty Hill Neighborhood Association with any questions regarding this appeal.

Respectfully Submitted,

Liberty Hill Neighborhood Association



Clint Mitchell - President



Risa Teitelbaum - Committee Chair

Clint Mitchell
34 Hill Street
San Francisco, CA 94110
clintsf@pacbell.net
415-203-9470

Risa Teitelbaum
10 Hill Street
San Francisco, CA 94110
risat@pacbell.net
415-596-8859

**NEGATIVE ENVIRONMENTAL IMPACTS OF
THE PROPOSED DEVELOPMENT AT
1050 VALENCIA STREET**

The following paragraphs analyze Section E of the PMND and demonstrate that the analysis of environmental impacts contained in that section are inaccurate, misleading and inadequate. These are all highly significant issues that need to be thoroughly analyzed in order for the Project to be properly evaluated by the City. As the Sponsor has failed to provide such analysis, an environmental impact report is required.

I. Land Use Planning

The PMND's discussion of the impact of the project on land use and land planning issues is narrowly focused and fails to address some of the most obvious impacts the Project will have on the surrounding area and fails to justify the Project's clear contravention of existing land use policies.

Existing Character in the Vicinity

Despite statements to the contrary in the PMND, the Project would have severe and irreversible impacts on the existing community particularly Hill Street and the Liberty Hill Historic Neighborhood. The area consists largely of single family homes, with some duplexes and a few small apartment buildings. Many of the homes are of historical significance. The 16 unit project is fundamentally inconsistent with the character of the neighborhood.

The PMND attempts to ignore the effects the Project would have on the community by solely describing its impact on the Valencia Street neighborhood. However, the way the Project is situated it would have significant impact on Hill Street and the rest of the Liberty Hill neighborhood. In Section E.1.c of the PMND no attention is paid to the impact of the Project on Hill Street or any part of the neighborhood other than Valencia Street. It is absurd to develop a corner lot and only examine the impact the project will have on one street.

Throughout the PMND, the Sponsor asserts that the Project faces Valencia Street, but that is clearly not the case. Though the address is on Valencia Street, its longest facade is on Hill Street, most of its bay windows face onto Hill Street, all of the services will be accessed on Hill Street, and much of the negative impact will occur on Hill Street. To pretend that the Project impacts Valencia Street only is highly disingenuous. The negative impacts are primarily on one small, completely residential block of the Liberty Hill Historic District.

The failure of the PMND to analyze the impact the Project will have on all affected areas is a significant and material deficiency that highlights the need for a complete and thorough environmental impact report.

Land Use Policy

The PMND falsely states that the proposed project would not conflict with any environmental plan or policy. However, the Project is requesting a variance to eliminate the rear yard set-back and open space requirements. These requirements are essential land use and environment policies. That Section E.1.b PMND does not even to bother to address or justify its clear violation of these policies is further evidence of the need for an environmental impact report.

3

2. Aesthetics.

The discussion of the aesthetic impact of the Project is inaccurate and misleading. Because the Project abuts an Historic District, aesthetic concerns should be paramount, but the PMND discusses them in a cursory manner at best.

Visual Character

Section E.2.C of the PMND spends just one paragraph discussing the impact of the Project on the visual character of the neighborhood. This paragraph is circular and conclusory. Essentially, it states that because the Project ostensibly complies with zoning for the area that there is no impact on the visual character of the neighborhood. That is an absurd argument to make. Zoning regulations are inherently broad brush; the whole purpose of the PMND is to discuss the specific impacts the Project will have. As the Project abuts an Historic District, visual character is of critical importance. The failure of the PMND to even attempt to analyze the Project's impact on the visual character of the neighborhood is a significant and material flaw that again highlights the need for a complete environmental impact report.

4

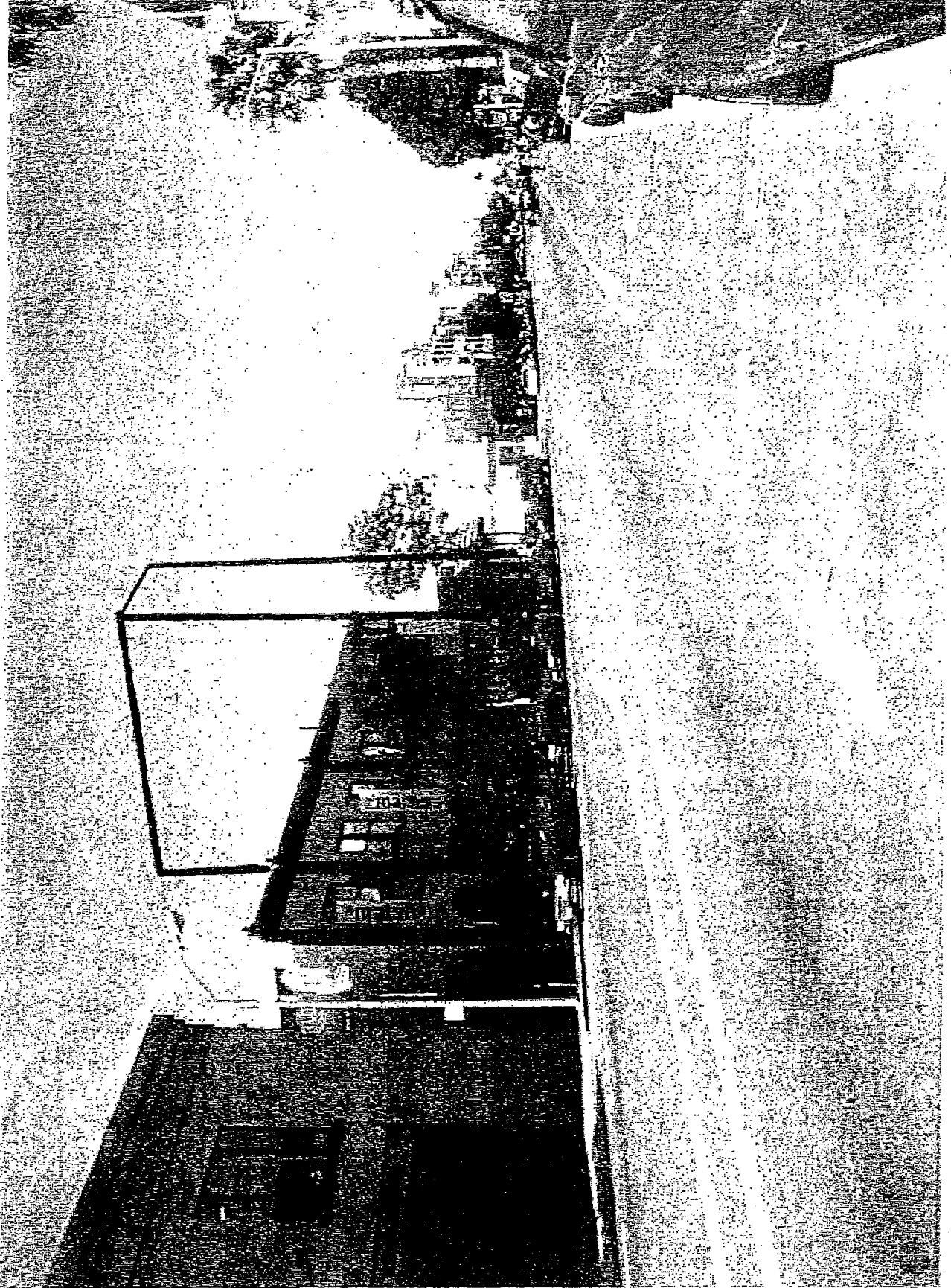
Our specific concerns with the Project's impact on the visual character of the neighborhood are described below.

To quote from the PMND report:

"Density/design/quality of life policies in the 2004 Housing Element include Policy 11.1, a new policy which calls for using new housing as a means to enhance neighborhood vitality and diversity, and Policy 11.5, which promotes well-designed housing that enhances existing neighborhood character. The corresponding policy in the 1990 Residence Element calls for housing that conserves existing neighborhood character. PMND Page 17."

5

This is clearly not being applied to a building that is over twice the height of the adjacent structure with no open space. Additionally the lack of fenestration, the over sized "bay" windows, do not fit with the historic Victorian neighborhood character. *Additionally the density of housing is approximately 6 times the neighborhood average for the number of people per square foot of lot size.*



Vallejo in Street

Quoting from page 8 of the report.

"The Valencia Street NCT controls are designed to permit moderate-scale buildings and uses and to preserve rear yards above the ground story and at stories having residential use."

Clearly the bulk and height of the building have been designed to maximize the size of the project, eliminating rather than preserving rear yard space. This project does not meet this planning criterion.

The project description is incomplete. Only 2 of the elevations are drawn for this application. All 4 elevations are visible from the public right of way. The adjacent structures are drawn out of scale to the structure. Adjacent building window fenestration must be represented in order to make adequate study of the scale of the project. The roof deck is not shown on Hill Street elevation.

San Francisco is known nationally and internationally for its beauty and the unique character of its architecture. The establishment of Historic Districts and Master Plans was a way in which we as a city preserve our unique character and integrity, creating an environment that is pleasing to visit and a delight in which to live. This proposed 1050 Valencia building is offensive to all criteria that can be applied in the name of "Aesthetics"! Not only does it not reference the Victorian streetscape on Hill Street where it intrudes but it also does not share any attributes with the vintage buildings on Valencia Street. It is more than twice as tall as the building surrounding it, the steel balconies that hang over Hill Street destroy the graceful lines of the block and its steel and glass structure stand out like a sore thumb.

In an age when great architects are designing wonderful buildings something more definitive should be built on the Valencia Street corridor especially when it is a portal of the Liberty Hill Historic District. This very generic, characterless building might be appropriate in an anonymous downtown business district, but is incongruous and offensive at this site. It needs to be redesigned to reflect and encompass the distinct character of this community. The residents of this neighborhood deserve better than this very mundane and thoughtless bulk of an edifice.

The adverse effects of this dismal design on the business corridor along Valencia Street cannot be overemphasized. The boutique identity of the unique, charming community restaurants and shops that help define and serve our community would be juxtaposed with this totally out of place steel and glass structure. Instead of building on neighborhood identity, it would destroy the charm that has been building in this part of the Mission over the years. This building would, with its massive height and inappropriate materials, assault the fabric of connection between the residential and commercial communities. Certainly we can do better. We couldn't do worse.

3. Population and Housing

The PMND discusses the impact of the Project entirely in the context of citywide policies rather than in a site-specific manner. As noted before, the Project's longest façade will be on Hill Street, a residential street consisting primarily of single family homes, with a few duplexes and

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(contd.)

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small apartment buildings. Placing a 16 unit building on this street will substantially change the density of this area. This impact needs to be thoroughly analyzed and addressed in an environmental impact report.

8
(cont'd.)

4. Cultural Resources

The PMND ignores or downplays the significant negative impacts the Project would have on the cultural resources of the neighborhood. As discussed below, we believe that these impacts need the type of thorough analysis provided by an environmental impact report, not the glib and fallacious reasoning of the PMND.

Historic Resources

The PMND spends multiple paragraphs discussing the importance of the Liberty Hill Historic District but then dismisses any possible impact because 1) the Project is not in the district and 2) the project is oriented towards Valencia Street. This reasoning is specious, unconvincing and fundamentally false.

The Project as proposed will be a dominating presence on the corner of Valencia and Hill Streets. It will fundamentally clash with the many older historic buildings directly across the street and just one parcel up the street. To claim that a buffer provided by the street and a single parcel somehow entirely eliminates any possible impact on the historic district is just not credible.

Furthermore, as discussed above, the Project is not oriented towards Valencia Street. Its longest facade and its driveway are located on Hill Street. Almost all of its bay windows face out onto Hill Street. Because the Project is so completely different in scale and character than any building on Hill Street, its impact there will be substantially greater than on Valencia Street. It is absurd that the Sponsors are trying to pretend that the Project will not have a direct and powerful impact on Hill Street and the rest of the Liberty Hill Historic District. All commercial and residential services will disrupt this small street, exactly as the Kentucky Fried Chicken on this site did for decades, with noise and disruption at all hours of the day and night.

The Liberty Hill Historic District was established in 1984 as one of the first historic districts in San Francisco. It was initiated by two home owners on Guerrero Street who, having gotten their vintage Victorian homes on the National Registry for Historic Homes, felt that it was important to preserve the neighborhood to have a meaningful and cohesive place in our heritage. We were enthusiastically supported by all branches of city government. This incongruous proposed building will bring to reality all the worst fears of those who worked so hard to and have continued to preserve and protect this vital piece of San Francisco.

As the Sponsors have chosen to draft the PMND so that it discusses the impact of the Project only on Valencia Street and not on other streets in the neighborhood, a complete environmental impact report is required to provide the information necessary to properly evaluate the project.

Cultural Resources

The PMND does not address at all the impact the Project will have on the important cultural resources in the vicinity.

Residents and visitors alike are attracted to the variety of cultural venues on Valencia Street in the Mission District, whether it's a presentation at The Intersection for the Arts, a screening at Artists' Television Access, a book signing at Modern Times, visiting the art galleries that are proliferating on Valencia Street corridor, a performance piece at The Marsh, or taking their children to the David Egger's international renowned creative learning center, 826 Valencia. This attraction owes a large part to the character of this neighborhood which is somewhat off-beat, hip, or bohemian in nature. This tall, block-like building undermines the present dynamic with its 'downtown urban' identity. At present, the architecture is more humanly scaled and provides the nurturing environment that breeds and enhances creativity.

10

Our cultural institutions are very dependent intellectually, creatively, and emotionally on the 'atmospheric' support of the neighborhood and the environment. The 'Street Cred' and the sense of place that is The Mission" is undermined by this massive institutional (and very tall) structure. The arts thrive in a district that reflects the human qualities that are shared with the bonds of community and nature. This building severs both.

See attached letter from 1050 Valencia's next door neighbor, Stephanie Weisman, founder and Artistic director of The Marsh which describes the negative impact the project will have on this significant cultural resource.

5. Transportation and Circulation

The PMND fails to adequately address the enormous negative impact the Project will have transportation and circulation in the neighborhood. The PMND's analysis is characterized by simplistic assumptions and a refusal to even admit that there will be real environmental impacts from their failure to provide parking to residents of the Project. The appropriate remedy for this lack of analysis is a full environmental impact report.

Parking

The PMND inaccurately states that the impact on parking is not something to be considered in an environmental impact report. Not only does this misstate the legal requirement for analysis, it also ignores the collateral effects of lack of parking in a neighborhood.

Parking in our district is always very difficult at the best of times. It is usual for residents to spend evenings driving around and around trying to find an open parking space. The idea of a five story building with sixteen units and a restaurant fifty percent larger than the current restaurant (Spork) with no provision for parking for cars will have a terrible impact on the quality of life for the Neighborhood. The projects listed on page 22 of the PMND created 50 new parking spaces. The 1050 Valencia project creates zero and takes away two existing spaces!

11

The premise of the Sponsors, as stated in the Preliminary Negative Declaration that by not having any parking the occupants of their proposed building will be "forced" to utilize public transportation is not supported by any analysis and contradicts common sense. Indeed, the PMND states that they will add approximately 34 cars to the neighborhood. As there are no lots or garages in the area with available parking spaces, all of these cars will need to be parked on the street. The addition of that many cars to the neighborhood will have a severe and negative environmental impact. Not only will residents and visitors have much more difficulty finding parking but there will be much greater traffic in the area as drivers search for parking.

11
(cont'd.)

On top of this the builders of 1050 Valencia also propose to remove two parking spaces on Hill Street by modifying the sidewalk with a bulb-out that would totally intrude on the Liberty Hill Historic district, by modifying the street line on the south side of Hill Street. We would suggest instead of a bulb-out that the two parking spaces in front of the project should be handicapped accessible.

Traffic

The PMND asserts that the Project will not have any impact on traffic by making some rather simplistic assumptions regarding the number of vehicle trips that will be generated by the project. No support is given for these estimates. In addition, the PMND does not address the impact lack of parking has on traffic flow and pedestrian safety as drivers vainly search for places to park.

If this project is allowed to proceed we will have a traffic nightmare with double parking as people will have to unload their groceries and whatever they are bringing home because they will have to roam far and wide to find parking. Seniors will be forced to carry their items from a distance when they are unable to find parking close to their home. As residents, we strenuously object to our landmark street of Victorians homes being converted in a service alley for a 16 unit apartment building at 1050 Valencia Street. These negative impacts are not addressed by the PMND and require a full environmental impact report.

12

6. Noise

The PMND does not adequately examine the noise impact of the proposed Project.

Hill Street has managed to maintain a quiet residential quality which the residents want to maintain and to this end we request an EIR be conducted to look extensively at the noise issues that would accompany the building of a five-story apartment building particularly regarding the proposed roof deck and the requested variance to eliminate the requirement for 25 percent open space.

13

The height of the proposed building at 1050 Valencia will put its roof deck at bedroom level height of the houses on the top half of Hill Street. Voices carry outside. A good example of this is the house at 977-981 Guerrero Street (at the top of Hill) that has a roof deck and the voices are loud and clear coming down the street plus the sound reverberates off adjacent building walls creating a stereo effect. Given the small size of the units (studios and one bedrooms) it is obvious

that the proposed roof deck will serve as an open air living room and entertainment space for the buildings perspective residents. This problem will be amplified further if a variance is granted to eliminate the twenty-five percent open space required by code that would serve as a natural barrier to the noise pollution that would be part and parcel of a crowded residential building such as the one currently proposed.

Increased noise pollution will also result from the addition of 34 cars cruising the neighborhood looking for parking as well as the location of the service entrance along Hill Street which will be used for deliveries, garbage pick-up and the like. Trash collection is a noisy operation.

Increasing the size of the restaurant by 50 percent and the residential density on lower Hill Street by a minimum of 100 percent will produce an unacceptable level of constant noise. The original KFC was built to an old building code. Current code requires much more powerful HVAC equipment that is much noisier. Additionally, the existing equipment is 30 feet front adjacent buildings. Current plans indicate that new restaurant equipment will blow grease laden exhaust fumes into the open space, directly at the adjacent property. We request that an independent acoustician be retained to study the near term effects and provide proposal for mitigation so that noise measured at the property line does not exceed code.

We are also concerned with the lack of evaluation of the construction noise and its effect on our neighborhood (See letter from The Marsh). This is a tight construction site and we would like to see a plan for reducing the noise from the idling trucks and construction machinery. We would like a detailed statement as to start and finish times and a ban on stationing construction materials and waiting trucks on Hill Street.

Further, the construction will necessitate excavation and drilling. The noise resulting from this should be evaluated and its effect known both to the residents of Hill Street and the surrounding Valencia corridor.

The foregoing issues were not examined in the PMND and need to be analyzed in a full environmental impact report.

7. Wind and Shadow

Light and Glare.

Section E.2.D of the PMND fails to examine the substantial impact the building would have on light in the surrounding area. These impacts need to be examined in a complete environmental impact report.

If 1050 Valencia is built as planned Hill Street will endure westerly shadows extending well beyond 1/2 the block, or at least 7 residential lots, for up to 6 hrs/day and up to the full block at the shadow's maximum length. Adjacent properties will be cast in shadow up to 1/2 of each day. Estimates based on measurements provided the Shadow Analysis Work Sheet submitted to the Planning Department:

- Using East/West maximum shadow measurements 378/409 from the report.
- Estimated length to ½ the block - west edge of 49 Hill St. apartment building = 208 feet, or roughly ½ maximum shadow length (compensates for seasonal fluctuation)

Considering that westerly shadows are cast ½ of each day, the block midpoint will be shadowed for approximately ½ of that time or ¼ of each day. Residual effects of the increased shadows will significantly alter residential sunlight, increase heating costs for surrounding buildings, damage wooden structures, which are the majority in the surrounding neighborhood due to lack of water burn-off during rainy season, and damage yard and street landscaping.

14
(cont'd.)

The Valencia Street area surrounding 1050 Valencia, if it is built as proposed, would see shadows similar to the Financial District. The proposed building cries out for a full EIR that would legitimately address this issue.

While it is the city's contention that only parks and public spaces are to be considered in their assessment of shadowing, this is of utmost concern to the homeowners and business in proximity to the building site who are so negatively impacted, whose homes and buildings will be degraded.

8. Hazardous Materials, Foundation and Excavation

The Planning Department report clearly identifies the previous site uses as having high probability of residual hazardous materials in site soils, including gasoline storage tanks left over when the corner was occupied by a gas station. Only the thorough soil testing that is mandated by a full EIR will support a finding of "no significant effect" to the environment.

Further, the report ingenuously uses a "global" (e.g., San Francisco) perspective, rather than a community one, in regard to project generated pollution. When hazardous soil is excavated it blows through the shipboard sidings of stick Victorian houses of the type that line Hill Street and local residents suffer. When streets and walkways become construction storage sites for at least 18 months, the locals suffer. When delivery trucks idle for hours because the project is off schedule, the neighborhood environment is degraded.

15

The scale of the Project, because of the high potential for hazardous material being released coupled with the lack of explicit delineation of environmental mitigation measures, make a full EIR necessary.

Foundation and Excavation

The proposed project goes underground by 17 feet. This impervious structure would raise the near term effects of liquefaction on adjacent properties. Without an independent geo-technical and structural review the neighbors face an increase risk of foundation movement due to the increase in sub surface water pressure. Inadequate information was presented to the preparer of this report to determine these effects.

16

The rear yard is being used for a trash area. This is not the open space that was intended by the drafters of the legislation. The current restaurant, which the developer admits is smaller than the new one, has twice the trash area of the proposed.

CUFEL (California UNIFORM Retail Food Facilities Law) requires that trash areas be enclosed. Additionally the trash area must be enclosed so that a connection to the sanitary sewer or grease intercept can be made. Runoff water from trash can wash down cannot be left to run out to the street.

This is a poor precedent to be setting in the neighborhood. There are a half a dozen other lots that will follow. In fact many of the existing historic buildings that currently exist will be more profitable if they are torn down. The purpose of the planning code is not to increase economic pressure to demolish historic structures in the neighborhoods and replace them with cookie cutter south of market structures.

17

From: Stephanie Weisman Artistic Director/Founder of The Marsh
To Whom It May Concern:

As a cultural anchor to the upper Valencia Corridor since 1990, we at The Marsh are concerned about the impact of the proposed development at Hill and Valencia. We own our current location, next to it at 1062 Valencia where we have been doing business since 1992. The Marsh presents events seven days a week between the hours of 9 am and 11 pm every day. This includes nearly 400 shows annually on our two stages, daily classes for youth and adults, and a box office/café that is also open daily.

We are concerned with disruption of any of our services including power, sewage, water and electric, during the construction period. As a nonprofit theater, our financial resources are limited and any interruption of our performances, classes or services due to construction issues will be devastating. Additionally, due to the nature of our programming and services, we cannot tolerate sound bleed from the construction.

18

If the project goes forward as designed, with the development up against our building, any sound bleed from the apartments, roof deck and balconies will impact our ability to present live performances and events. That means it impacts our ability to survive.

19

The projected building will also impact the quality of our space as it puts us in the shadow of the five floor development eliminating all sunlight and air flow from the Hill Street side as well as potential signage from that direction.

20

Parking is already a problem in the area and we are concerned with an increase in parking needs created by the proposed building.

21

This building is taller than any building on our block. Does this make architectural sense for our community? The Mission Creek marsh has already been destroyed. Please do not impact the Valencia Corridor's "urban" Marsh with an overgrown behemoth of a development that dwarfs and suck the life out of its neighborhood.

Stephanie Weisman
Artistic Director/Founder
The Marsh
1062 Valencia Street
San Francisco, CA 94110
(415) 282-6024
www.themarsh.org



Hill Street 2007



SAN FRANCISCO PLANNING DEPARTMENT

Revisions from Preliminary Mitigated Negative Declaration shown by Double Underlining and ~~Strikethrough~~

Mitigated Negative Declaration (Amended September 23, 2010)

Date of PMND: February 10, 2010
Case No.: 2007.1457E
Project Title: 1050 Valencia Street
Zoning: Valencia Street Neighborhood Commercial Transit District
 (Valencia Street NCT)
 55-X Height and Bulk District
 Mission Alcoholic Beverage Special Use Subdistrict
Block/Lot: 3617/008
Lot Size: 3,315 square feet
Project Sponsor: Shizuo Holdings Trust
Contact: Mark Rutherford – (415) 368-7818
Lead Agency: San Francisco Planning Department
Staff Contact: Jeremy Battis – (415) 575-9022
Jeremy.Battis@sfgov.org

1655 Mission St.
 Suite 400
 San Francisco,
 CA 94103-2479

Reception:
 415.558.6378

Fax:
 415.558.6409

Planting
 Information:
 415.558.6377

PROJECT DESCRIPTION:

The proposed project involves the demolition of an existing 1,670-square foot (sq ft), 23-foot-high, one-story commercial building constructed in 1970, in use as a full-service restaurant, and construction of a new 17,000-sq ft, 55-foot-high, five-story, mixed-use building containing 16 dwelling units over a 3,500 sq ft ground-floor and basement level full-service restaurant. ~~The existing building has one off-street parking/loading space, accessed from Hill Street, which would not change.~~ No parking or loading spaces would be provided. The project site is within the block bounded by Valencia Street to the east, 21st Street to the north, Guerrero Street to the west, and 22nd Street to the south at the southwest corner of Valencia and Hill Street, a midblock street in the Mission District neighborhood.

The proposed project would require a rear yard modification by the Zoning Administrator to eliminate the rear yard requirement.

FINDING:

This project could not have a significant effect on the environment. This finding is based upon the criteria of the Guidelines of the State Secretary for Resources, Sections 15064 (Determining Significant Effect), 15065 (Mandatory Findings of Significance), and 15070 (Decision to prepare a Negative Declaration), and the following reasons as documented in the Initial Evaluation (Initial Study) for the project, which is attached.

Mitigation measures are included in this project to avoid potentially significant environmental effects (incorporated within the relevant subsections of Section E, Evaluation of Environmental Effects).

cc: Mark Rutherford, Project Sponsor
 Bevan Dufty, Supervisor, District 8
 Distribution List

Bulletin Board
 Master Decision File

www.sfplanning.org

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LIST OF ACRONYMS

5-Yr WWCIIP	5-Year Wastewater Capital Improvement Program
AB 32	Assembly Bill 32: California Global Warming Solutions Act of 2006
BAAQMD	Bay Area Air Quality Management District
bgs	Below Ground Surface
CARB	California Air Resources Board
CDMG	California Division of Mines and Geology
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CO	Carbon Monoxide
CO ₂ E	Carbon Dioxide Equivalents
Corps	U.S. Army Corps of Engineers
dBA	A-weighted Decibel(s)
DBI	Department of Building Inspection
DPH	San Francisco Department of Public Health
DPW	Department of Public Works
ERO	Environmental Review Officer
ESA	Environmental Science Associate
FEMA	Federal Emergency Management Agency
FIRMs	Flood Insurance Rate Maps
GHGs	Greenhouse Gases
HEPA	High Efficiency Particulate Air Filter
HUD	Department of Housing and Urban Development
ISCOTT	Interdepartmental Staff Committee on Traffic and Transportation
LEED®	Leadership in Energy and Environmental Design
LOS	Level of Service
LUFT	Leaking Underground Fuel Tank
MEA	Major Environmental Analysis
MRZ-4	Mineral Resource Zone 4
MSL	Mean Sea Level
NCD	Neighborhood Commercial District
NCT	Neighborhood Commercial Transit District

NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NOx	Nitrous Oxide
NPDES	National Pollutant Discharge Elimination System
OPR	Governor's Office of Planning and Research
OSHA	Occupational Safety and Health Administration
PM	Particulate Matter
PV	Solar Photovoltaic
ROG	Reactive Organic Gases
SFFD	San Francisco Fire Department
SFHA	Special Flood Hazard Area
SFMTA	San Francisco Municipal Transportation Agency
SFPUC	San Francisco Public Utilities Commission
SMP	Site Mitigation Plan
SOx	Sulfur Oxides
SUD	Special Use District
TACs	Toxic Air Contaminants
UST	Underground Storage Tank

INITIAL STUDY

Case No. 2007.1457E – 1050 Valencia Street Project

A. PROJECT DESCRIPTION

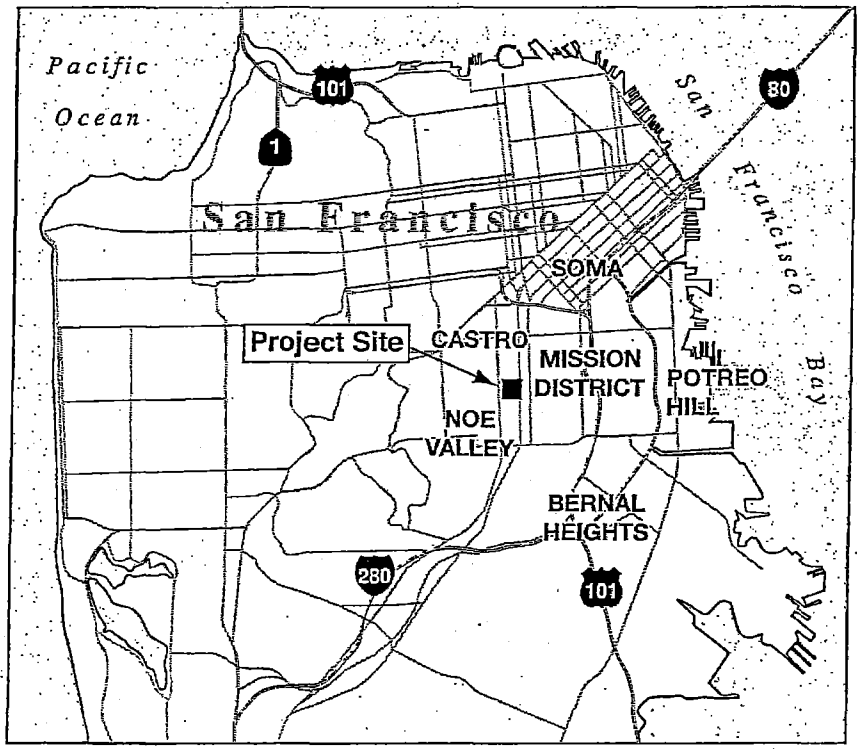
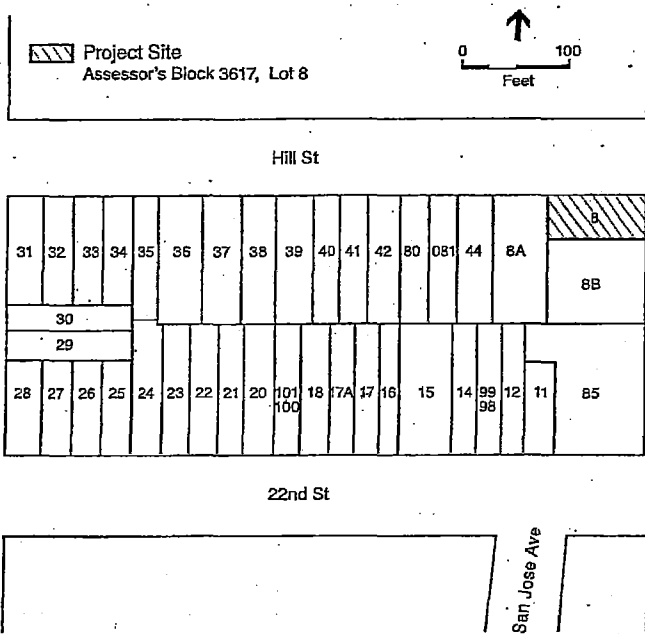
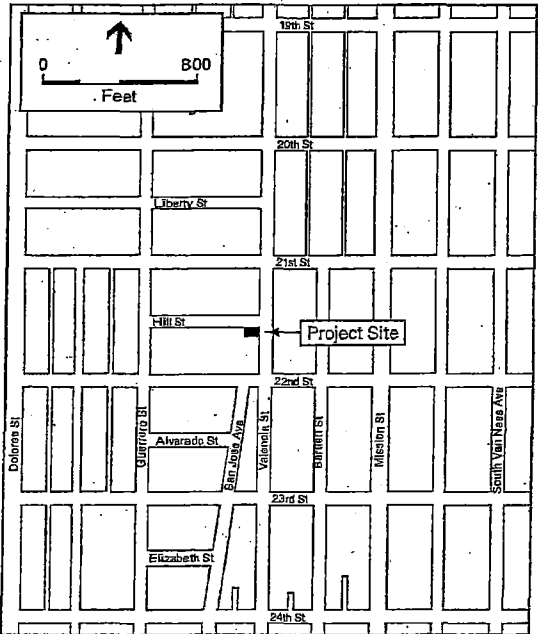
Summary

The 3,315-square-foot project site (Assessors Block 3617, Lot 008) is located at 1050 Valencia Street, in San Francisco's Mission District neighborhood. The proposed project would demolish an existing one-story commercial building at the southwest corner of the intersection of Valencia and Hill Streets and construct a five-story mixed-use building in its place, consisting of an approximately 3,500-square-foot retail space (intended for restaurant uses) on the ground floor and part of the basement and 16 dwelling units above. In addition to retail and residential uses, the project would also include approximately ~~1,460~~ 1,350 square feet of common open space for residents and ~~640~~ 680 additional square feet of open space in the form of private residential decks. ~~One commercial loading space, accessible from Hill Street, would also be provided. No parking or loading spaces would be provided as part of the project.~~ The proposed mixed-use structure would be five stories tall, reaching a height of approximately 55 feet above grade to the roofline (along Valencia Street), with an additional 9 feet to the top of the rooftop features (exempt from the height limits for this zoning district).

The project site is currently occupied by a 1,670-square-foot, one-story, approximately 12-foot-tall building and one off-street parking/loading space. The building was constructed in 1970 and is of a contemporary commercial architectural style, consisting of a shingled roof, concrete block construction, and aluminum frame commercial windows.

Project Location

The approximately 3,315-square-foot project site (Assessor's Block 3617, Lot 008) is at the southwest corner of Valencia Street and Hill Street in San Francisco, on a block bounded by 21st Street to the north, Valencia Street to the east, Guerrero Street to the west, and 22nd Street to the south (see Figure 1). According to the project sponsor, the existing full-service restaurant "Spork" moved into the building in mid-2006, prior to which a Kentucky Fried Chicken franchise existed on the property. Adjacent to the existing building, one mature street tree is located along the Valencia Street frontage, with two additional trees along the Hill Street frontage.



SOURCE: ESA; San Francisco Planning Department 1050 Valencia Street . 209044
Figure 1
Project Location

The project site is located within the Valencia Street Neighborhood Commercial Transit District (Valencia Street NCT) (formerly the Valencia Street Neighborhood Commercial District, or NCD), a new zoning designation that became effective January 2009 with adoption of the Eastern Neighborhoods Area Plan. The Valencia Street NCT is situated approximately along Valencia Street between 14th and Cesar Chavez Streets, extending to Dolores Street and including a portion of 16th Street. It is designated to provide a mix of convenience goods to the residents of the Mission District and Dolores Heights neighborhoods as well as a variety of durable goods (such as wholesale home furnishings and appliances) to wider areas of the city. Consistent with the zoning objectives of the district, the land uses, lots, and buildings sizes within the Valencia Street NCT are also mixed, and include commercial, retail and entertainment establishments, among others. The Valencia Street NCT controls are designed to permit moderate-scale buildings and uses and to preserve rear yards above the ground story and at stories having residential use. The Valencia NCT controls encourage neighborhood-serving commercial uses on the ground level and residential uses above.¹ The project site is also located within the Mission Alcoholic Beverage Special Use District (SUD) and the 55-X Height and Bulk District (55-foot maximum height, no bulk limits).

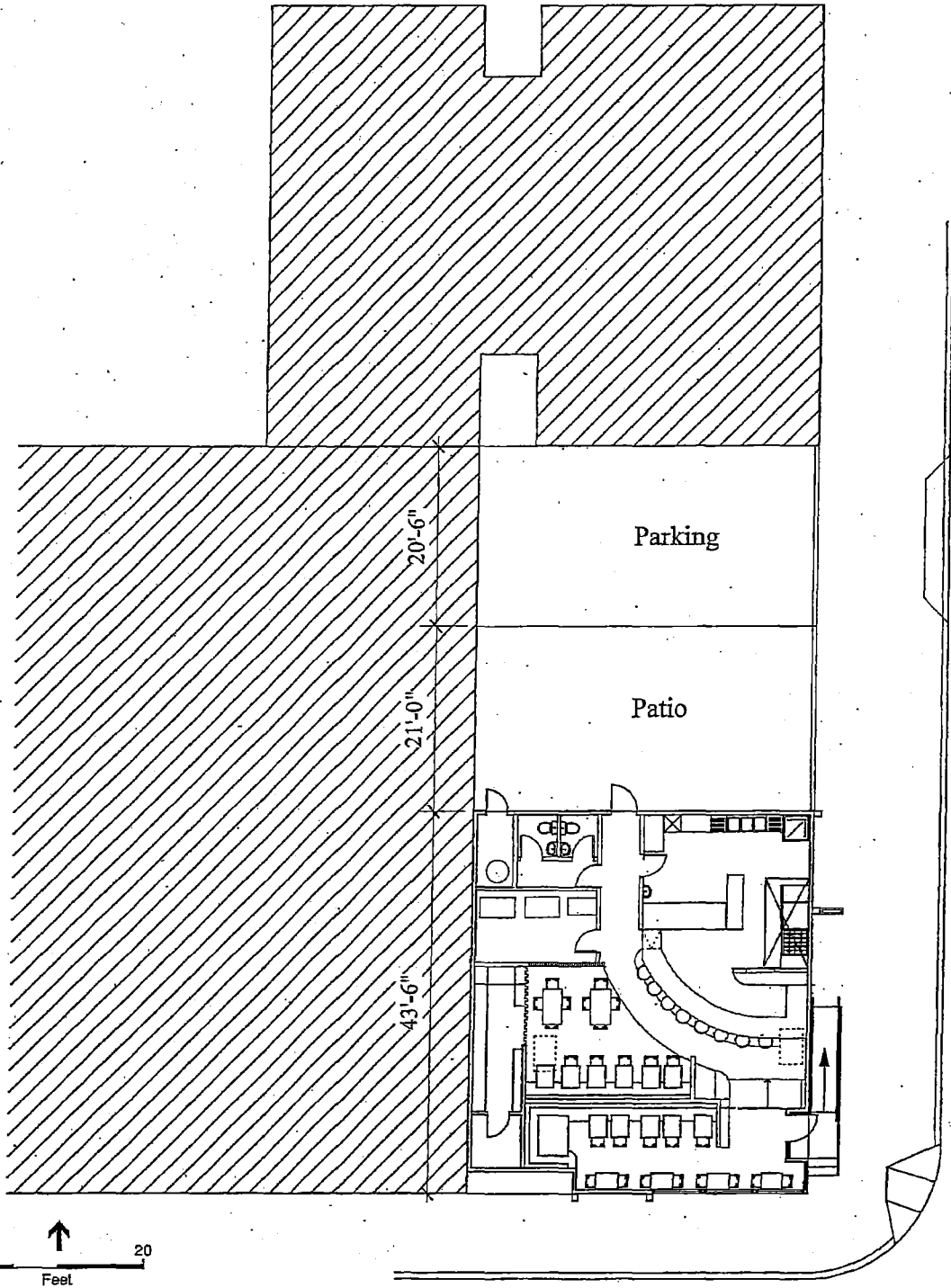
Surrounding the project site, land uses are representative of the Valencia Street NCT and along Valencia Street consist primarily of neighborhood-serving commercial (including office and retail) uses on the ground level with residential units above. Along Hill Street, land uses are residential and are in the form of single-family homes and multi-unit apartment buildings, most within the two- to three-story range.

The closest freeway to the project site is Highway-101 with on- and off-ramps located one and one half miles from the project site.

Existing Building

As noted above, the project site is currently developed with a single, one-story commercial (restaurant) structure that is approximately 12 feet in height and approximately 1,670 square feet (see Figures 2 and 3). The building was constructed in 1970, and is of a contemporary commercial architectural style, consisting of a painted stucco façade with a ceramic-clad mansard roof and non-operable aluminum

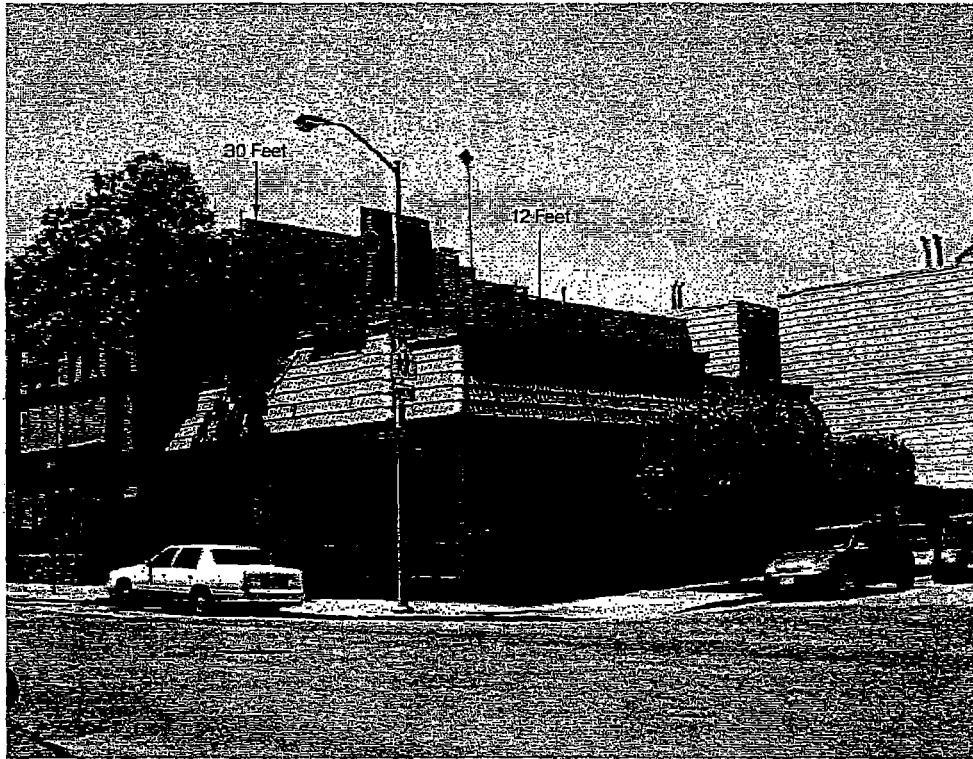
¹ *Planning Code* Section 726.1, Valencia Street Neighborhood Commercial Transit District



SOURCE: Stephen Antonaros Architect

1050 Valencia Street, 209044

Figure 2
Existing Site Plan



SOURCE: ESA

1050 Valencia Street . 209044
Figure 3
Photos of Existing Building

frame commercial windows (that appear to be fixed). One off-street parking /loading space is accessed from a single driveway on Hill Street. The building contains the Spork Restaurant, which employs a total of approximately 20 staff.

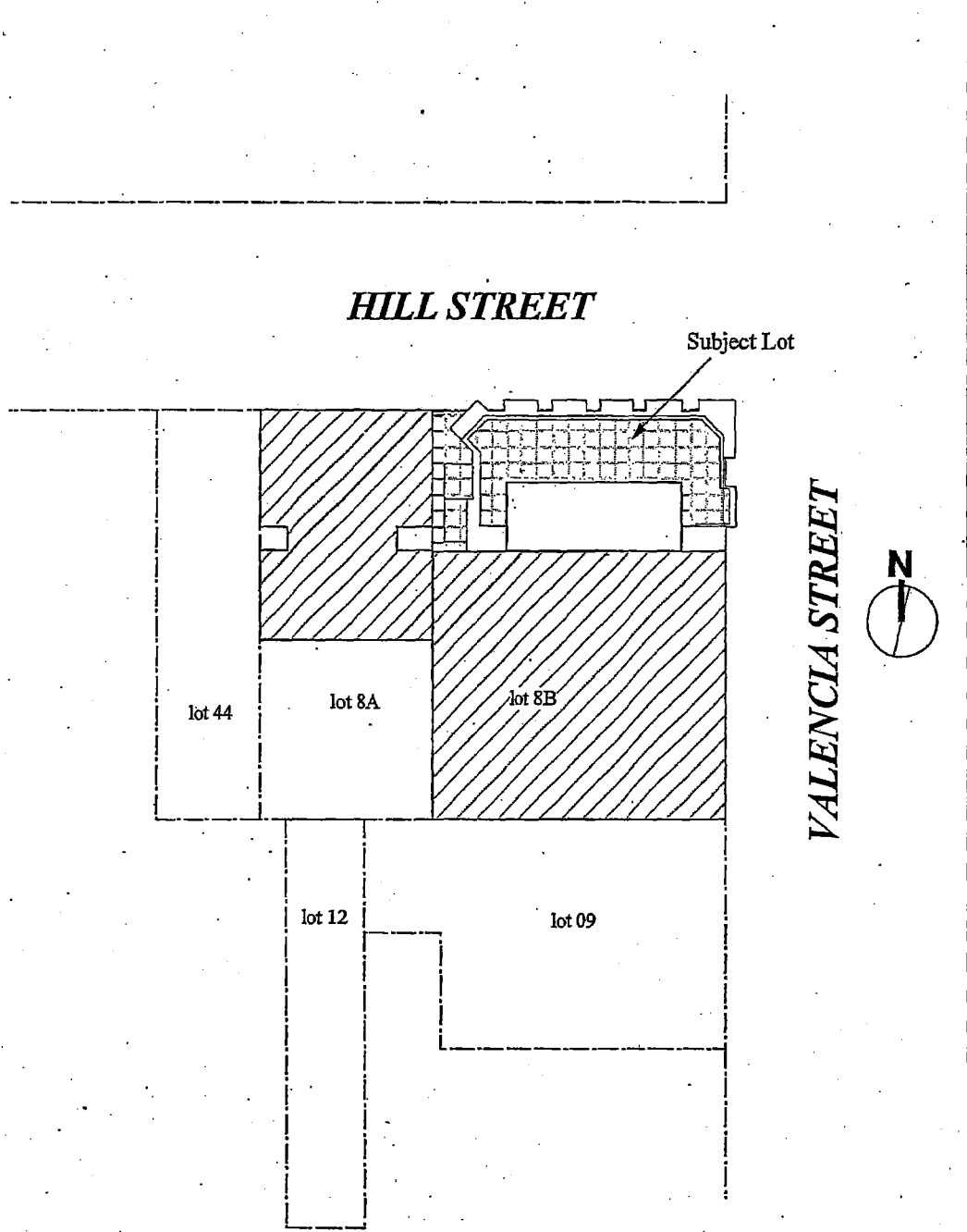
Proposed Project

Shizuo Holdings Trust (project sponsor) proposes to demolish the existing one-story building on the site and construct in its place an approximately ~~16,000~~ 14,800-square-foot, five-story mixed-use structure that would cover the entire lot (see Figure 4). The ground floor of the structure and a portion of the basement would contain a 3,500-square-foot commercial space (assumed to be in the form of a restaurant) with floors two through five containing a total of 16 residential units. The residential unit mix would consist of eight studios and eight two-bedroom units, with two of each type of unit on every residential floor. A ~~1,460~~ 1,152-square-foot rooftop deck would provide common open space to the residents. In addition, four of the dwelling units would have private decks, which would encompass a total of ~~640~~ 680 square feet (combined). The rooftop deck would be accessible only to building residents. The proposed structure would be approximately 55 feet in height to the roof, with rooftop features, including the mechanical penthouse for the elevator overrun, extending an additional nine feet above the roofline. See Table 1, below and Figures 4 through 6.

TABLE 1
PROJECT CHARACTERISTICS

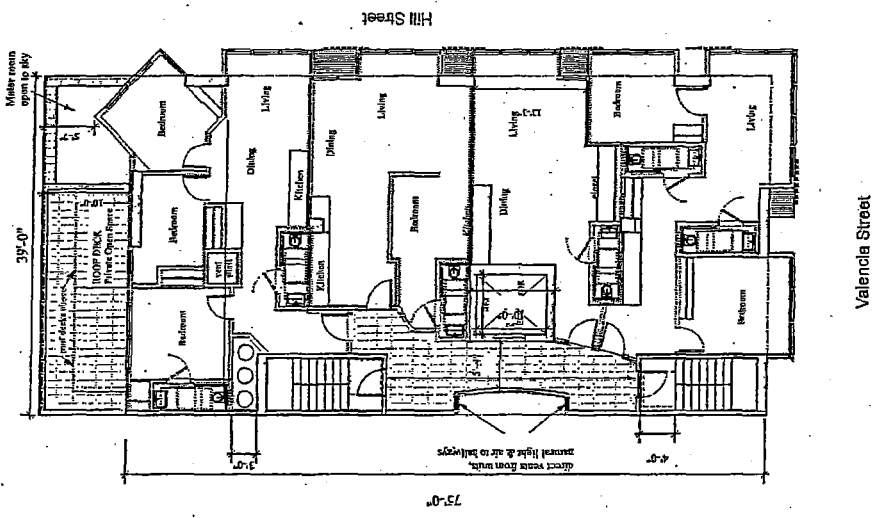
Use	Area (square feet)
Retail (restaurant)	3,500
Residential Uses	<u>9,830</u> 10,400
Basement 1,500	
Total	<u>14,830</u> 16,040 (not including rooftop deck)
Open Space (total)	<u>1,832</u> 2,100
Dwelling Units	16 total
Studios 8	
Two-bedroom units	8
Height of Building (max.)	55 feet to rooftop, plus 9 feet for elevator overrun
Number of Stories (max.)	5 plus rooftop terrace

SOURCE: Stephen Antonaros Architects

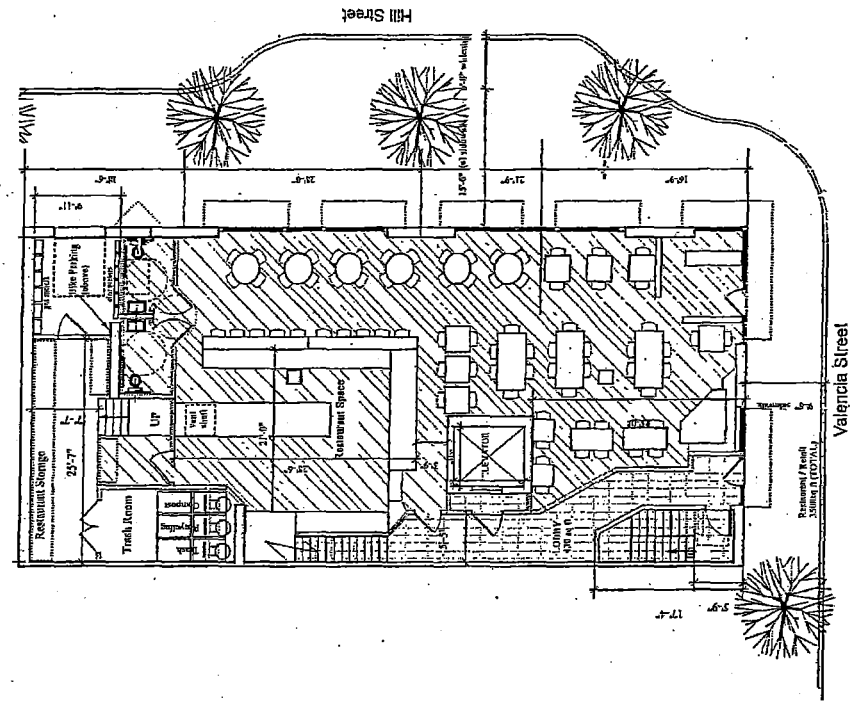


1050 Valencia Street . 209044

Figure 4
Proposed Building Footprint within
the Context of Surrounding Lots
and Adjacent Buildings



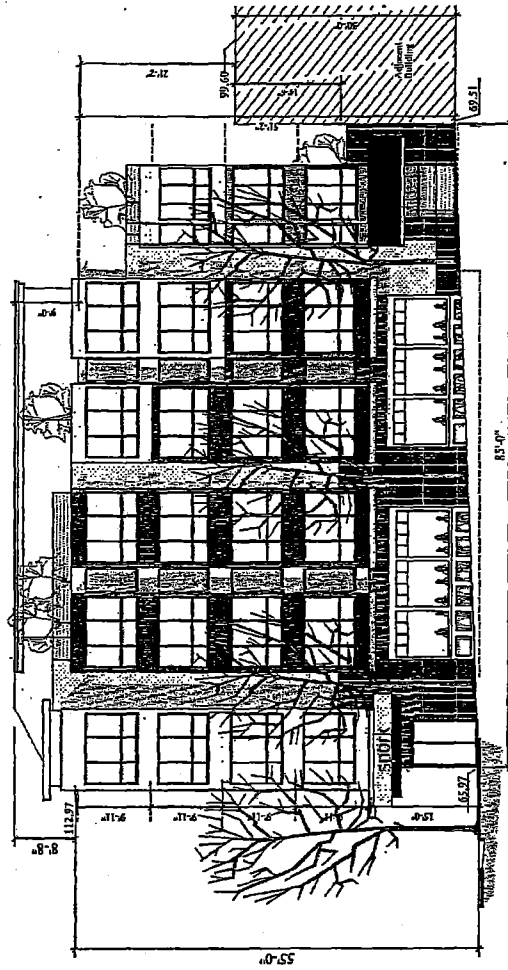
Typical Floor Plan



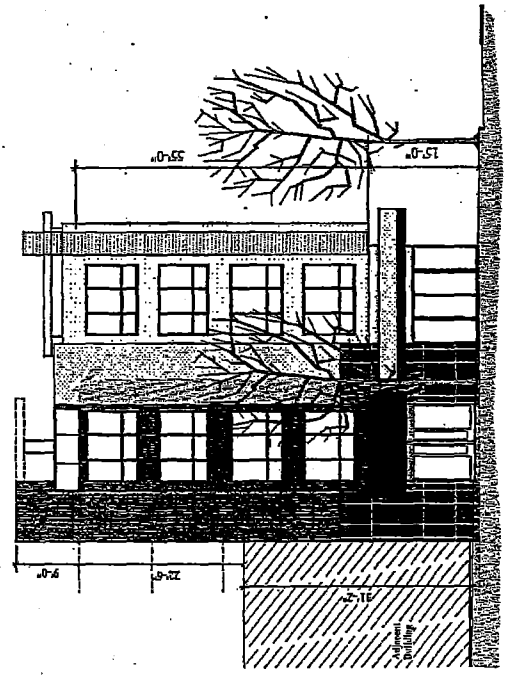
Ground Floor Plan

1050 Valencia Street . 209044.
Figure 5
 Project Floor Plans

SOURCE: Stephen Antonaros Architect



Hill Street Elevation



Valencia Street Elevation

9

The main entrance to the building for restaurant patrons would be provided ~~at the corner of~~ along Valencia ~~and Hill~~ Streets. A residential entrance would be provided to the south of the restaurant entrance at the southeastern corner of the building, also on Valencia Street, and would lead into a small lobby with a residential elevator. ~~Vehicular entrance would be provided via an existing curb cut on Hill Street.~~ As part of the project, the sponsor is also proposing to widen a portion of the sidewalk along Hill Street by about six feet by extending the bulbout into the existing parking lane. This proposal would result in the loss of two on-street parking spaces. The project sponsor would apply for a sidewalk widening permit with the Department of Public Works and the Municipal Transportation Agency.

During the construction phase of the proposed project, the existing restaurant on the project site would be temporarily relocated to another (yet undecided) location. At the completion of the project, Spork Restaurant would have the option to reoccupy the new space, an option that Spork's owners have indicated they intend to exercise.² At project completion, Spork would increase the number of employees in the new building by about 10, resulting at total of 30 employees in the new restaurant.

The sponsor intends to pursue a LEED® (Leadership in Energy and Environmental Design) certification for this project under the LEED® for New Construction program. LEED® is a nationally recognized standard for high performance "green" buildings. The LEED® green building certification is administered by the US Green Building Council and incorporates sustainable design concepts across four key areas of human and environmental health: sustainable site development, energy efficiency, materials selection, and indoor environmental quality (in addition to innovative strategies to achieve further sustainability). The proposed project would include the following features that would enable it to meet LEED® certification: a solar array on the roof, LED lighting in retail and residential areas, heat pump/fan coils as the heating source in residential units, water harvesting and vegetation on the roof, recycled finish materials, and recycled lumber and fly ash concrete for the construction of the structure.³

² Rutherford, Mark, Shizuo Holdings Trust, letter, January 30, 2009. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

³ Antonaros, Stephen, project architect, personal communication with ESA, August 11, 2009.

Parking, Loading, and Bicycle Facilities

The existing property on the project site contains a total of one off-street parking/ loading space, which is accessed through a curb cut and driveway along Hill Street. The proposed project would provide ~~one off-street parking/loading space for use by the restaurant. The project eliminate these spaces and~~ would not provide any residential or restaurant vehicular parking spaces, nor any off-street loading spaces. Other than the proposed six-foot widening of the sidewalk along a portion Hill Street, no other street modifications would be required to accommodate the proposed project. The proposed project would provide 20 bicycle storage lockers in the basement, available to residents and restaurant employees.

During the construction phase of the proposed project, worker parking would occur off-site. No designated parking for construction workers would be provided and they would be expected to park at meters or along nearby non-metered streets.

Landscaping

Three existing mature Bay Laurel trees are located adjacent to the project site, although no trees currently exist on the site itself. One of the Laurels which is located along the site's Valencia Street frontage and two trees along the site's Hill Street frontage would be replaced as part of the proposed project. In addition, the sponsor proposes to plant two additional street trees along Hill Street, in accordance with Planning Code Section 240, and would also provide ornamental vegetation on the proposed Hill Street bulbout.

Foundation and Excavation

The project would excavate approximately 17 feet below the ground surface (bgs) for construction of the below-grade basement, and remove about 5,525 cubic yards of soil. The project sponsor proposes to install a mat foundation to support the proposed structure, which requires no pile driving during the construction.

Project Approvals and Schedule

The project sponsor is seeking modification of the Plan Code provision governing the configuration of rear yards (Planning Code Sec 134(e)) to provide open space in a configuration other than a rear yard

(i.e., roof deck). The project would also require demolition and building permits, which would require review and approval by the Planning Department and Department of Building Inspection.

Demolition of the existing structure on the site and the construction of the proposed project are estimated to take 18 months from ground breaking, which is anticipated to occur in mid-2012. The project would be constructed in one continuous phase, with all construction materials accommodated on site and on the adjacent Valencia and Hill Street sidewalks.

B. PROJECT SETTING

The project site is located near the center of San Francisco, in the Mission District neighborhood, within the Valencia NCT. The Valencia NCT lies approximately one mile east of U.S. Highway 101, along Valencia Street between 14th and Cesar Chavez Street, and includes a portion of 16th Street extending west toward Dolores Street. Within the Valencia NCT is an approximately mile-long corridor with active ground-floor commercial uses known as the "Valencia corridor," extending roughly from 15th Street to the north to 24th Street to the south. This area includes many retail, restaurant, and entertainment uses that in recent years have been replacing heavy commercial and light industrial uses. In March 1999, Valencia Street was converted from a four-lane, two-way arterial to a two-lane, two-way street with a center turn-lane median. In winter 2010, additional capital improvements such as new "bulb-outs" at corners, wider sidewalks, and removal of the center median to portions of Valencia Street were underway by the city to further encourage pedestrian and bicycle activity while calming traffic.⁴

Land uses in the surrounding neighborhood along Valencia Street and the nearby parallel Mission and Guerrero Streets (one block to the east and west, respectively) include restaurant, retail, small offices, residential, institutional, educational, recreational, and light industrial uses as well as mixed-use buildings generally with residential units above one or more of the noted non-residential uses. Along Valencia Street, the project block includes several restaurants, a print shop, an auto body shop, several boutique offices, a gym, a liquor store and a public administration building (the Social Security Office building). Along the east-west oriented streets (such as Hill Street, 20th, 21st, 22nd Streets) the land uses are predominantly residential. Common buildings in the area include many three-story Victorian-era two- and three-family structures, larger Victorian- and Edwardian-era multifamily buildings with

⁴ Source: <http://www.sfmta.com/cms/ocalm/34725.html>. Accessed on February 5, 2010.

ground floor retail or restaurant use, early 20th century, approximately 20-foot-high masonry garage buildings typically still in use for automotive repair, and one- and two-story mid- to late-20th century commercial buildings of non-distinctive architectural character, and more recently constructed contemporary mixed-use buildings with residential uses above ground floor commercial uses.

The peak of Bernal Hill is approximately one mile to the southeast of the project site, and Liberty Hill rises to the west. The Valencia retail district extends to the north and south of the site, approximately one half mile in either direction.

The Eastern Neighborhoods Area Plans and accompanying *Planning Code*, Zoning Map and *Administrative Code* changes, including the Mission Area Plan, became effective January 19, 2009, adopted by the Board of Supervisors and signed by the Mayor. The plans call for about half of existing industrial areas in four neighborhoods to transition to mixed use zones that encourage new housing. The remaining half would be reserved for "Production, Distribution and Repair" districts. The primary goals of the Mission Area Plan are to preserve diversity and vitality of the Mission neighborhood; increase the amount of affordable housing; preserve and enhance the existing Production, Distribution and Repair businesses; preserve and enhance the unique character of the Mission District neighborhood's distinct commercial areas; promote alternative means of transportation to reduce traffic and auto use; improve and develop additional community facilities and open space; and minimize displacement.

C. COMPATIBILITY WITH EXISTING ZONING AND PLANS

	Applicable Not	Applicable
Discuss any variances, special authorizations, or changes proposed to the Planning Code or Zoning Map, if applicable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Discuss any conflicts with any adopted plans and goals of the City or Region, if applicable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Discuss any approvals and/or permits from City departments other than the Planning Department or the Department of Building Inspection, or from Regional, State, or Federal Agencies.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Planning Code

The *San Francisco Planning Code (Planning Code)*, which incorporates by reference the city's Zoning Maps, governs permitted uses, densities and the configuration of buildings in San Francisco. Permits to construct new buildings (or to alter or demolish existing ones) may not be issued unless either the

proposed action conforms to the *Planning Code*, or an exception is granted pursuant to provisions of the *Planning Code*, or a reclassification of the site occurs.

Approval of the proposed project would result in a demolition of the existing one-story commercial building at the southwest corner of the intersection of Valencia and Hill Streets and construction a five-story mixed-use building consisting of an approximately 3,500-square-foot retail space on the ground floor and part of the basement and 16 dwelling units above. The proposed mixed-use structure would be five stories tall, reaching a height of approximately 55 feet above grade to the roofline (along Valencia Street), with an additional 9 feet to the top of the rooftop features. A portion of the fifth story would be set back about 21 feet from the eastern façade.

The project is located in the Valencia NCT District which was established on January 18, 2009, with the adoption of the Eastern Neighborhoods Plan by the Board of Supervisors under Ordinance No. 298-08. The requirements associated with the Valencia NCT District are described in Section 726 of the *Planning Code* with references to other applicable articles of the *Planning Code* as necessary (for example for provisions concerning parking, rear yards, street trees, etc.). Prior to January 18, 2009, the project site was subject to the zoning provisions of the former Valencia NC District. The Valencia Street NCT District is similar to the former Valencia NC District in that both permit moderate-scale buildings and uses, encourage commercial development at the ground floor, and encourage housing in new buildings above the ground level. Any resulting potential impacts of the proposed development and applicable *Planning Code* provision are discussed below under the relevant topic headings.

Uses

As noted above, the project site, at 1050 Valencia Street, is within the Valencia Street NCT District, a linear district that lies along Valencia Street between 14th and Cesar Chavez Streets and includes a portion of 16th Street extending toward Dolores Street. As noted above, the Valencia Street NCT provides a limited selection of convenience goods for the residents of Mission and Dolores Heights neighborhoods as well as wholesale furniture and appliance outlets for a wider region. It also contains a variety of eating and drinking establishments as well as professional and business offices. Residential units are common throughout the district and many are located above ground stories. Housing development in new buildings is encouraged above the ground story.

Within the Valencia NCT, commercial uses on the ground floor and residential uses above ground floor, as proposed by the project, are principally permitted.⁵ The Valencia Street NCT does not have any residential density requirements. The project, as proposed, would be consistent with the objectives and requirements of the Valencia Street NCT.

Height and Bulk

The project site is within a 55-X Height and Bulk District. This district allows a maximum building height of 55 feet, and has no bulk limit. The proposed project would be 55 feet high, measured from ground level to the top of the roof, with various rooftop elements, such as stair and elevator penthouses, that are exempt from the height limit, extending nine feet as allowable under Section 260 (b)(1)(A) of the *Planning Code*. Therefore, the proposed structure would comply with the 55-X Height and Bulk District.

Street Trees

Planning Code Section 143 requires that for every 20 feet of property frontage along each street, one 24-inch box tree be planted, with any remaining fraction of 10 feet or more of frontage requiring an additional tree. The proposed project would plant ~~one~~ two Brisbane box (a type of a *Eucalyptus* commonly planted as a street tree throughout San Francisco) trees along Hill Street to be in compliance with Section 143. Additional tree plantings along Valencia Street would not be possible, however, because the project site is located on a corner lot and no trees are permitted within 15 feet of the corner and also because the location of sidewalk fixtures would prohibit a tree planting along the Valencia Street frontage.

Rear Yard Requirements

Planning Code Section 134 requires a rear yard equivalent to 25 percent of total lot depth at all residential levels. The proposed project would provide open space within a roof deck and private residential decks, not within a rear yard. Therefore, the project applicant is requesting a modification of the rear yard requirement by the Zoning Administrator pursuant to *Planning Code* Section 134(e) to allow for open space in a configuration other than a rear yard.

⁵ *Planning Code* Sec. 726.1, Valencia Street Neighborhood Commercial Transit District.

Parking & Loading

According to *Planning Code* Section 726.1, off-street parking for residential or commercial uses in the Valencia Street NCT is not required, although for residential uses, 0.5 parking spaces per unit are principally permitted and up to 0.75 parking spaces per unit are permitted with a conditional use authorization. For restaurant uses, up to one parking space per each 200 square feet of occupied floor area is principally permitted. The proposed project would not provide any residential or commercial parking spaces and would provide one commercial parking/loading space, accessible via the Hill Street curb cut.

Plans and Policies

San Francisco General Plan

In addition to the *Planning Code* and its land use zoning requirements, the project site is subject to the *San Francisco General Plan (General Plan)*. The *General Plan* provides general policies and objectives to guide land use decisions. Section E, Evaluation of Environmental Effects, discusses conflicts between the proposed project and policies that relate to physical environmental issues. The Planning Commission will consider the compatibility of the proposed project with *General Plan* policies that do not relate to physical environmental issues as part of their approval or disapproval decision. Any potential conflicts identified as part of the process would not alter the physical environmental effects of the proposed project. The following discussion summarizes some of the *General Plan* policies applicable to the proposed project.

The San Francisco Planning Commission adopted an updated Housing Element of the *General Plan* in May 2004. The San Francisco Board of Supervisors approved the Housing Element in September 2004, and the State Department of Housing and Community Development certified the Element in October 2004. In June 2007, however, the First District Court of Appeals ruled that the City should have prepared an EIR on the updated Housing Element. Therefore this Initial Study refers to relevant policies of both the 2004 Housing Element and the 1990 Residence Element (the next most recent version).

The 2004 Housing Element of the *General Plan* "sets forth objectives, policies, and implementing programs to address the critical housing needs" of the City. The 2004 Element addresses the City's goals "of achieving decent, suitable, and affordable housing for current and future San Franciscans." The City intends to address the issues of housing production and affordability in part through a

Citywide Action Plan (CAP), which “explores comprehensively the issue of how to meet the need for housing and jobs in ways that capitalize upon and enhance the best qualities of San Francisco as a place.” CAP initiatives include (among others) the Better Neighborhoods Program and planning for the Downtown Neighborhoods; these initiatives do not include the project site.

The objectives of the 2004 Housing Element address new housing supply, housing retention, housing conditions, affordability, housing choice, homelessness, density/design/quality of life, and State and regional needs. With regard to housing production, Policy 1.1 of the 2004 Housing Element encourages higher residential density in areas adjacent to downtown and locating housing in areas well served by transit. This policy is similar to Policy 1.1 in the 1990 Residence Element; the 2004 Housing Element also calls for allowable densities in established residential areas to be set at levels that will promote compatibility with prevailing neighborhood scale and character.

Relevant housing affordability policies in the 2004 Housing Element include Policy 4.2, which calls for affordable units in larger housing projects. This policy is the same as Policy 7.2 in the 1990 Residence Element. Density/design/quality of life policies in the 2004 Housing Element include Policy 11.1, a new policy which calls for using new housing as a means to enhance neighborhood vitality and diversity, and Policy 11.5, which promotes well-designed housing that enhances existing neighborhood character. The corresponding policy in the 1990 Residence Element calls for housing that conserves existing neighborhood character.

The proposed project would contribute about 16 units to the City’s housing supply, thereby helping to meet City and regional housing needs. In addition, the proposed project would comply with the City’s Residential Inclusionary Affordable Housing Program requirements (*City Planning Code* Section 315, et seq.), either by including two below-market-rate (BMR) units on-site, by making an in-lieu payment, or by constructing three units off-site. Several Muni lines serve the project site. The project would include ground-floor commercial uses that could enhance the streetscape along Valencia Street. The project would increase the density of the project site and vicinity, as the proposed buildings would be taller than the existing uses on the project site.

The proposed project would conform to Objectives 1, 3, and 4 of the Urban Design Element. The proposed five-story structure would meet the existing height controls on the project site, would be

compatible with nearby height districts, and would not obstruct any public scenic views or vistas. The proposed building would complement the city pattern and improve the neighborhood environment.

The proposed project would be consistent with Objectives 1, 4, 11, and 24 of the Transportation Element. The project site is located in a higher density area of the city well served by public transit. The ground-floor commercial spaces would create a pedestrian-oriented building frontage. The proposed project would generally comply with Objective 1 of the Commerce and Industry Element. It would encourage economic growth through infill development, thereby, enhancing the area's livability by redeveloping an existing structure with a building that would include residential units above a ground-floor commercial (restaurant) space. The proposed project would comply with San Francisco's *Building Code*. As a result, it would minimize the risk to property from natural disasters and reduce the risk of social, cultural, or economic dislocations, thereby complying with Objective 2 of the Community Safety Element. The proposed project would be generally consistent with the Recreation and Open Space Element because it would not cause significant new shadow on public open spaces and it would plant street trees that would expand the urban forest.

Priority Policies

In November 1986, the voters of San Francisco approved Proposition M, the Accountable Planning Initiative, which added Section 101.1 to *Planning Code* to establish eight Priority Policies. These policies, and the sections of this Environmental Evaluation addressing the environmental issues associated with the policies, are: (1) preservation and enhancement of neighborhood-serving retail uses; (2) protection of neighborhood character (Question 1c, Land Use); (3) preservation and enhancement of affordable housing (Question 3b, Population and Housing, with regard to housing supply and displacement issues); (4) discouragement of commuter automobiles (Questions 5a, b, f, and g, Transportation and Circulation); (5) protection of industrial and service land uses from commercial office development and enhancement of resident employment and business ownership (Question 1c, Land Use); (6) maximization of earthquake preparedness (Questions 13 a-d, Geology, Soils, and Seismicity); (7) landmark and historic building preservation (Question 4a, Cultural Resources); and (8) protection of open space (Questions 8 a and b, Wind and Shadow, and Questions 9a and c, Recreation).

Prior to issuing a permit for any project which requires an Initial Study under the California Environmental Quality Act (CEQA), and prior to issuing a permit for any demolition, conversion, or change of use, and prior to taking any action which requires a finding of consistency with the *General*

Plan, the City is required to find that the proposed project or legislation is consistent with the Priority Policies. As noted above, the consistency of the proposed project with the environmental topics associated with the Priority Policies is discussed in the Evaluation of Environmental Effects, providing information for use in the case report for the proposed project. The case report and approval motions for the project will contain the Department's comprehensive project analysis and findings regarding consistency of the proposed project with the Priority Policies.

D. SUMMARY OF ENVIRONMENTAL EFFECTS

The proposed project could potentially affect the environmental factor(s) checked below, for which mitigation measures would be required to reduce potentially significant impacts to less than significant. The following pages present a more detailed checklist and discussion of each environmental factor.

- | | | |
|---|--|--|
| <input type="checkbox"/> Land Use | <input type="checkbox"/> Air Quality | <input type="checkbox"/> Hydrology and Water Quality |
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Recreation and Public Space | <input checked="" type="checkbox"/> Hazards/Hazardous Materials |
| <input type="checkbox"/> Population and Housing | <input type="checkbox"/> Utilities and Service Systems | <input type="checkbox"/> Mineral and Energy Resources |
| <input type="checkbox"/> Cultural and Paleontological Resources | <input type="checkbox"/> Public Services | <input type="checkbox"/> Agricultural Resources |
| <input type="checkbox"/> Transportation and Circulation | <input type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Mandatory Findings of Significance |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Geology, Soils and Seismicity | |

E. EVALUATION OF ENVIRONMENTAL EFFECTS

All items on the Initial Study Checklist that have been checked "Less than Significant Impact," "No Impact" or "Not Applicable" indicate that, upon evaluation, staff has determined that the proposed project could not have a significant adverse environmental effect relating to that topic. A discussion is included for those issues checked "Less than Significant Impact" and for most items checked with "No Impact" or "Not Applicable." For all of the items checked "Not Applicable" or "No Impact" without discussion, the conclusions regarding potential significant adverse environmental effects are based upon field observation, staff experience and expertise on similar projects, and/or standard reference material available within the Department, such as the Department's *Transportation Impact Analysis Guidelines for Environmental Review*, or the California Natural Diversity Data Base and maps, published by the California Department of Fish and Game. For each checklist item, the evaluation has considered the impacts of the proposed project both individually and cumulatively.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
1. LAND USE AND LAND USE PLANNING— Would the project:					
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial impact upon the existing character of the vicinity?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. **Established Community.** The 3,315-square-foot project site is located at the southwest corner of Valencia Street and Hill Street in San Francisco's Mission District neighborhood (see Figure 1). The project site is currently occupied by a 1,670-square-foot, one-story restaurant, an 800-square-foot patio, and one existing off-street loading/parking space. The site slopes slightly downward from the southwest to the northeast.

The proposed project would be developed on a corner lot, and would involve demolition of the existing building and its replacement with a larger five-story structure consisting of an approximately 3,500-square-foot retail space (intended for restaurant uses) on the ground floor and part of the basement and 16 dwelling units above. In addition to retail and residential uses, the project would also include approximately ~~1,460~~ 1,152 square feet of common open space for residents and ~~640~~ 680 additional square feet of open space in the form of private residential decks. ~~One commercial parking/loading space, accessible from Hill Street, would also be provided.~~ The proposed project would intensify the use of the project site, given that the existing building is only one story of commercial space with no dwelling units, but would not alter the general land use pattern of the immediate area, which includes two- to three-story single-family residences and multi-story flats and apartment buildings.

Land use impacts are considered to be significant if the proposed project would physically divide an established community. The proposed project would be incorporated within the established street plan and would not create an impediment to the passage of persons or vehicles. Accordingly, the proposed project would not disrupt or divide the physical arrangement of the neighborhood.

At present, numerous buildings with residential use above a ground restaurant exist along Valencia Street. The proposed project would establish a mixed-use structure within proximity to other similar mixed-use establishments, and would therefore not introduce an incompatible land use to the area. For these reasons, the proposed project would not be anticipated to divide an established community.

b. Consistency with Plans and Zoning. Land use impacts are also considered to be significant if the proposed project would conflict with any plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Environmental plans and policies are those, like the *Bay Area Air 2005 Ozone Strategy*, which directly address environmental issues and/or contain targets or standards, which must be met in order to preserve or improve characteristics of the City's physical environment. The proposed project would not obviously or substantially conflict with any such adopted environmental plan or policy. Furthermore, the proposed project would not conflict with the San Francisco *General Plan* policies that relate to physical environmental issues.

The project site is located within the Valencia Street Neighborhood Commercial Transit District (Valencia Street NCT) (formerly Valencia Street NCD) and Mission Alcoholic Beverage SUD, and within the 55-X Height and Bulk District (55-foot maximum height, no bulk limits). As previously discussed, land uses in the project area are mixed, and contain commercial, residential, institutional and light industrial uses. Within the project area, Valencia and Hill Street land uses include office and retail uses, light industrial and single- and multi-family residential buildings. The project would generally be consistent with the Valencia NCT, which considers eating and drinking establishments to "contribute to the street's mixed character" and contains "a sizable number of upper-story residential units" (*Planning Code* Section 726.1).

The project would also be generally compatible with the Mission Area Plan and accompanying *Planning Code*, *Zoning Map* and *Administrative Code* changes that occurred as part of the Eastern Neighborhoods Rezoning and Area Plans effort, which became effective on January 19, 2009, when it was adopted by the Board of Supervisors and signed by the Mayor.

c. Character. Finally, land use impacts are considered to be significant if the proposed project would have a substantial impact upon the existing character of the vicinity. The implementation of the proposed project would not be considered a significant impact because the site is within the Valencia NCT zoning district, where the proposed uses are principally permitted and would be compatible with

existing uses on adjacent and surrounding properties. Although the proposed project would result in a more intensified land use than currently exists on the site, it would not introduce a new or incompatible land use to the area. As discussed in the Project Setting section of this document, the project site area's mixed-use character includes a wide variety of uses and area includes a number of relatively large structures containing ground floor retail with multiple dwelling units above.

The proposed 16 unit building would not result in a significant impact for a number of reasons. As noted in *Planning Code* Section 726.1, Valencia-NCT, the district has a pattern of large lots and businesses, as well as a sizable number of upper-story residential units. The Valencia Street controls are designed to promote development that is compatible with the surrounding neighborhood. The zoning controls permit moderate-scale buildings and uses, protect rear yards above the ground story, and encourage commercial development at the ground story and housing development above the ground story. The proposed residential use and ground floor restaurant uses would be consistent with this pattern. The proposed project would not be substantially or demonstrably incompatible with the existing multi-family residential and commercial uses in the project area.

Currently, there are several proposed projects along the Valencia Street corridor in proximity to the project site. Specifically, the Planning Department is reviewing, or has recently completed review, of the following projects:

- 411 Valencia Street, Case File No. 2005.0888E – construction of a six-story mixed-use building, with 24 residential units, 1,330 square feet of residential space, and 16 off-street parking spaces;
- 700 Valencia Street, Case File No. 2005.0351E – construction of a five-story building over basement with nine residential units, 1,740 sq ft of ground floor commercial space and nine parking spaces;
- 736 Valencia Street, Case File No. 2005.0937E – construction of a five-story building with 8 residential units, approximately 750 sq ft of retail space and 8 parking spaces; and
- 3500 19th Street, Case File No. 2005.0490E – construction of a five-story building with 17 residential units, approximately 2,800 square feet of retail space and 17 parking spaces.

The above-described projects as well as the proposed project are all located in the Valencia NCT zoning district and within a 55-X Height and Bulk District. Additionally, the proposed projects are all within the parameters of the types of development permitted and encouraged by the zoning controls for the Valencia NCT (Section 726.1 of the *Planning Code*).

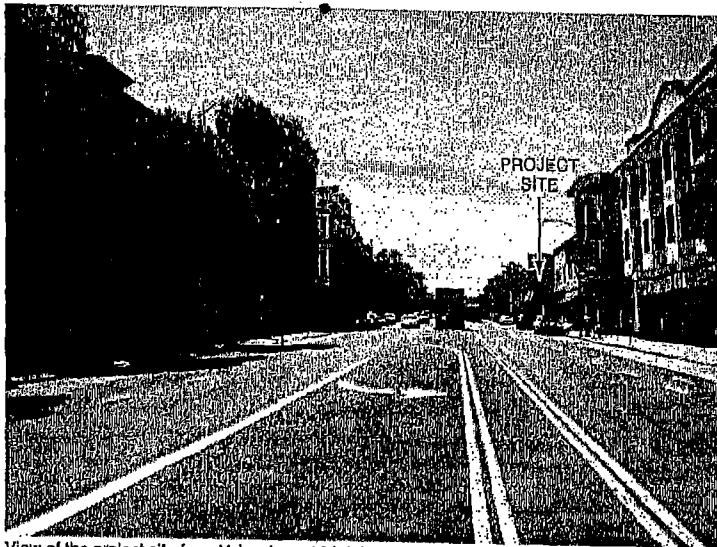
In conclusion, although the scale of the proposed building, including its bulk and massing, would be larger than the existing building that would be demolished, it would be similar in size to several other structures that exist in the project area, including the five-story mixed-use structure at 1043 Valencia Street (across Valencia Street from the project site). Moreover, in general, the proposed project would not constitute a change in land use patterns and would be compatible with the overall character of the Mission neighborhood. Thus this impact would also be considered less than significant.

Cumulative Land Use Impacts. The project would not result in any significant cumulative land use or planning impacts, since it would cause no change in the mix of land uses in the vicinity, and thus could not contribute to any overall change in neighborhood character or any overall conflict with applicable environmental plans. Furthermore, this project would not combine with other projects in the vicinity to physically divide an established community, conflict with applicable plans and policies adopted to avoid or mitigate environment effects, or change the existing character of the vicinity.

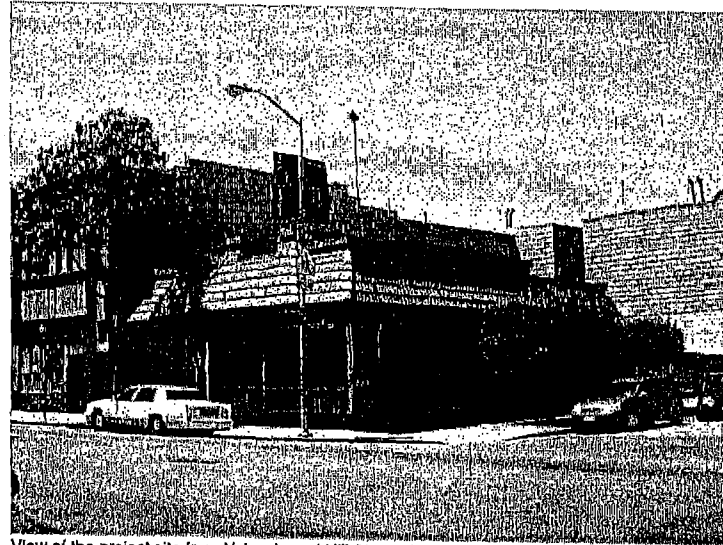
Given all of the above, the project would have a less than significant individual and cumulative land use impact.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
2. AESTHETICS—Would the project:					
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and other features of the built or natural environment which contribute to a scenic public setting?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area or which would substantially impact other people or properties?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

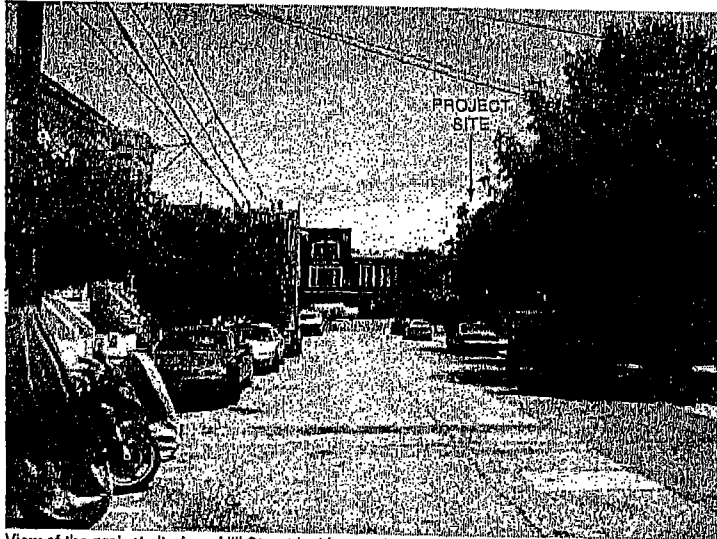
a. and b. Effects on Scenic Vista and Scenic Resources. Public views of the project site are primarily from Valencia and Hill Streets (see Figure 7). Because the existing building on the site is one story in height, it is generally visible only from a relatively close range. Longer-range views of the project site



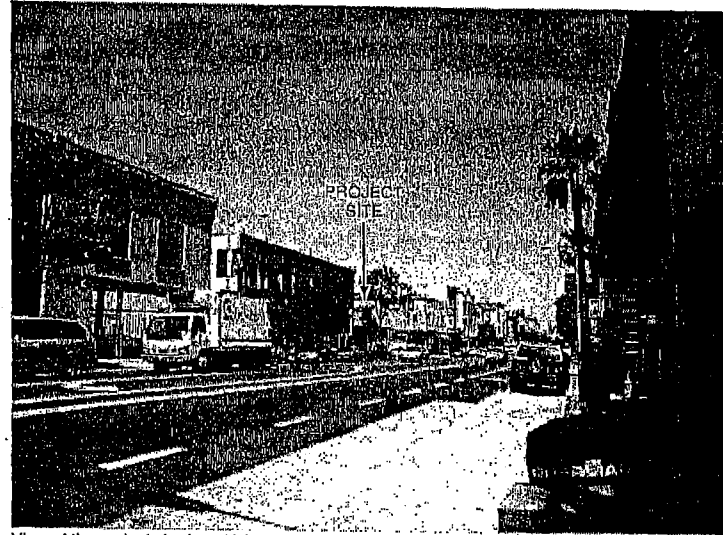
View of the project site from Valencia and 21st Streets looking south



View of the project site from Valencia and Hill Streets looking southwest



View of the project site from Hill Street looking east



View of the project site from Valencia and 22nd Streets looking north

SOURCE: ESA

1050 Valencia Street, 209044

Figure 7
Views of the Project Site

are mostly blocked by intervening buildings due to the dense, urban character of the area. Views of the project site from Valencia Street, to the north and south of the project site, at close proximity to the building, are of the existing building's painted stucco façade, large aluminum frame fixed windows, and the ceramic-clad mansard roof. Similar views are also available from Hill Street, to the north, in addition to the corrugated metal approximately 6-foot-high wall that separates the patio area from the Hill Street sidewalk. The existing building on the site is shorter than many of the surrounding buildings, is partially blocked by the trees on the adjacent sidewalks, and does not feature any unique visual characteristics that make it particularly noticeable. Therefore, it tends to blend in with the visually diverse surrounding urban environment.

The proposed project would replace views of the existing restaurant building on site with views of the proposed larger mixed-use structure. The proposed building would be built to lot lines on all four sides up to fifth story, at which point the building would set back from the eastern property line by about 21 feet, and The building would extend about 55 feet in height, with 9 additional feet to the top of the elevator penthouse. The relatively short-range views of the existing building would be replaced by views of the taller contemporary structure, containing a flat roof, repeating bays, and a projected eave over a recessed entryway on the corner of Valencia and Hill Streets (see Figure 6). On both the Valencia and Hill Street facades, the building would contain large aluminum-frame fixed and casement windows on residential levels and large aluminum-frame commercial windows on the ground floor. Views from Valencia Street would also include the residential entryway, while views from Hill Street would also include the larger "roll-up"-style door to the bicycle and storage/waste/recycling areas as well as the fifth story setback ~~proposed driveway and loading space~~. Although these views would differ from what is currently seen on the site, they would not constitute a significant visual impact as they would be consistent with the diverse visual character of Valencia Street, would fall within the range of architectural styles that predominate in the project area (light-industrial, contemporary office, and multiple residential styles) and would be apparent only from about one to two blocks surrounding the site. Thus, the proposed structure would not contribute to any potential cumulative degradation or obstruction of views from public areas. However, at five stories, the project would not be particularly noticeable in light of the assortment of heights found along Valencia Street and along some of the side streets in the neighborhood.

For instance, a five-story mixed-use structure already exists at 1043 Valencia Street (across Valencia Street from the project site) and a seven-story residential building exists on 21st Street between Valencia and Mission Streets (one and one half blocks northeast of the project site).

The proposed building, at 55 feet in height, would be taller than most buildings in the project vicinity, including the two-story adjacent building along Valencia Street and the three-story adjacent buildings along Hill Street. In addition, the proposed building has the potential to block views of shorter buildings in the project area from public sidewalks and streets. In general, however, these existing views are not considered scenic, but rather are typical of the Mission District neighborhood (see discussion of the Liberty Hill Historic District under Section E.4, *Cultural Resources*). Moreover, the project would fall within the allowable height requirements of the 55-X Height and Bulk District in which the project site is located. Therefore, although the project has the potential to obstruct views of some surrounding buildings and streets that are now observed from public areas, this impact would not be considered significant, as the proposed structure would be of moderate height not unlike several other buildings in the area. Hence, this impact would be less than significant.

As noted above under Land Use and Land Use Planning, open spaces near the project site include the Mission Playground, the Alioto Mini-Park, the Jose Coronado Playground, and the Mission Dolores Park. The project site is not visible from any of these public parks due to intervening buildings. Although the proposed building would be greater in height than most buildings in the project vicinity, it would not be expected to be visible from these locations. The project site may be visible in longer-range views from other publicly accessible spaces (such as Potrero Hill), but the project would not result in a significant adverse visual change as the proposed new building would blend into the densely built urban fabric of the area. Accordingly, the proposed project would not degrade or obstruct any scenic views or vistas now observed from a public area.

The proposed project would block or partially block existing northerly and easterly views and sunlight access currently available to some tenants of the adjacent two-story mixed-use building to the south of the site on Valencia Street and the three-story residential building to the west of the site on Hill Street. Both buildings have small windows above the ground story that provide natural light and views (in the case of the Hill Street building, these are provided via a light well). As noted above, the proposed structure would be constructed to lot lines and would be about 55 feet in height, potentially reducing the amount of light currently experienced at these two adjacent buildings and blocking some views. While loss of sunlight and views would be noticeable to the tenants/residents of these buildings, no rooms would lose their only source of light and this impact would not be considered a significant impact under CEQA, as such views and lighting conditions would be comparable to those that are

available elsewhere in the neighborhood, where most buildings are constructed to the property line. In an urban area, such as the project neighborhood, the loss of some existing private views and light is not generally considered a significant adverse effect on the environment because limited views and lighting are commonplace in densely developed urban neighborhoods and generally accepted as a part of urban living.

c. Visual Character. The project would conform to the site's 55-X Height and Bulk District controls and would be larger in scale and visually prominent compared to some of its existing surroundings; however buildings of this size and scale exist along Valencia and nearby streets. A new larger visual element, by altering the existing character or quality of a site or of its surroundings, does not in and of itself constitute a significant impact. While the proposed project would be visible to neighboring residents and workers, the new structure would be visually similar to other uses in the project vicinity in terms of its building materials, massing, and height. Therefore, the proposed project would not substantially degrade the existing visual character or quality of the site and its surroundings, nor would it contribute substantially to any potential cumulative negative aesthetic effect.

d. Substantial Light and Glare. The project site would be more noticeable at night than under existing conditions because the project would introduce more lighting to the site, which would be visible through windows and at building entries. Exterior lighting at building entryways would be positioned to minimize glare, and lighting would not be in excess of that commonly found in urban areas. The project would comply with Planning Commission Resolution 9212, which prohibits the use of mirrored or reflective glass. Therefore, environmental effects of light and glare due to the project would not be significant.

Cumulative Aesthetic Impacts. The project would not result in any significant cumulative aesthetic impacts because the new building would not be large enough to be seen from most locations outside the immediate vicinity. Moreover, as an infill project of relatively small scale in the context of San Francisco, the proposed new building would be consistent with the overall pattern of development in the area. In terms of other proposed projects along the Valencia Street corridor in close proximity to the project site (as described on page 22), the 1050 Valencia project would not be visible from locations several blocks away where these projects are proposed.

In light of the above discussion, effects on visual quality would not be significant.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
3. POPULATION AND HOUSING—					
Would the project:					
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing units or create demand for additional housing, necessitating the construction of replacement housing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people or employees, necessitating new construction elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

A one-story building currently exists on the project site, containing one business, Spork Restaurant, a full-service restaurant. The existing business employs a total of about 20 people. During the estimated 18-month construction phase of the project, the restaurant would be relocated to another (yet undecided) location. At the completion of the project, the restaurant would have the option to reoccupy the new space, an option that Spork proprietors have indicated they intend to exercise. The project sponsor estimates that Spork will employ approximately 30 staff at the proposed building once it is completed.

a. Population Growth. In general, a project would be considered growth-inducing if its implementation would result in substantial population increases and/or new development that might not occur if the project were not approved and implemented. The proposed project, an infill development consisting of commercial space on the ground floor with dwelling units above, would be located in an urbanized area and would not be expected to substantially alter existing development patterns in the Mission District neighborhood or in San Francisco as a whole. The proposed project would develop approximately 3,500 square feet of commercial space (although the net new commercial space would be approximately 1,830 square feet, as the project would replace the 1,670-square-foot restaurant that currently operates on the site) and 16 residential units to an already developed area. Located in an established urban neighborhood, the project would not necessitate or induce the extension of municipal infrastructure. The addition of eight new studio and eight new two-bedroom

residential units would increase the residential population on the site by approximately 28 persons.⁶ While potentially noticeable to immediately adjacent neighbors, this increase would not result in a substantial impact on the population of the City and County of San Francisco. The 2000 U.S. Census indicates that the population in the project vicinity is approximately 5,427 persons.⁷ The proposed project would increase the population near the project site by an estimated 0.5 percent, and the overall population of the City and County of San Francisco by less than 0.01 percent.⁸

In addition, the project's 3,500 square feet of retail (restaurant) space would generate approximately 30 employees (compared to approximately 20 employees currently employed by the existing restaurant), which, added to the proposed project's residential use, would result in an on-site population increase of about 38 people. The employment on the project site would not be of the type that would be anticipated to attract new employees to San Francisco. Therefore, it can be anticipated that most of the employees would live in San Francisco (or nearby communities), and that the project would thus not generate demand for new housing for the retail employees. In the context of the average household occupancy of the Mission District neighborhood, the proposed project would not be considered to result in a "substantial" population increase. In light of the above, the project would not be expected to induce a substantial amount of growth, either individually or cumulatively.

San Francisco consistently ranks as one of the most expensive housing markets in the United States. It is the central city in an attractive region known for its agreeable climate, open space, recreational opportunities, cultural amenities, diverse economy, and prominent educational institutions. As a regional employment center, San Francisco attracts people who want to live close to where they work. These factors continue to support strong housing demand in the City. New housing to relieve the market pressure is particularly difficult to provide in San Francisco because there is a finite amount of land available for residential use, and because land and development costs are high. The project would comply with the City's Inclusionary Housing Program (Planning Code Sec. 315 et. seq.), and therefore, would result in creation of affordable housing in addition to market-rate housing.

⁶ The project site is located in Census Tract 207, which is generally bounded by 17th Street to the north, 22nd Street to the south, Valencia Street to the east and Dolores Street to the west. The population calculation is based on Census 2000 data, which estimates 1.93 persons per household (1.81 per rental unit and 2.53 per owner-occupied unit) in Census Tract 207. It should be noted that this census tract has somewhat smaller households than the citywide average of 2.3 persons per household.

⁷ The population estimate is based on data from the 2000 Census for Census Tract 207.

⁸ This calculation is based on the estimated Census 2000 population of 776,733 persons in the City and County of San Francisco.

As noted above under Land Use and Land Use Planning, the City's shortage of affordable housing is an existing condition. The development of 16 market-rate residential units—including an affordable housing component as required by the Affordable Housing Program—on a former restaurant site in a mixed residential-commercial area and within a zoning district where housing is a principally permitted use would not contribute considerably to any adverse cumulative impact related to a citywide shortfall in affordable housing.

b. and c. Population and Housing Displacement. The proposed project would not displace any residents or housing units, since no residential uses or housing units currently exist on the project site. As noted above, the project would relocate approximately 20 people employed by the existing business on the site, Spork Restaurant, and the restaurant would have the option to reoccupy the new space. The project sponsor has indicated that, at project completion, the new space would employ approximately 30 staff, 10 more than currently employed by the existing restaurant. While the relocation of the 20 people may negatively impact those individuals, it would not be considered a permanent displacement or a significant impact for CEQA purposes.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
4. CULTURAL RESOURCES— Would the project:					
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5, including those resources listed in Article 10 or Article 11 of the San Francisco Planning Code?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. Historical Resources. The existing building on the site was constructed in 1970 and is designed in a contemporary commercial architectural style, consisting of a painted stucco façade with a ceramic-clad mansard roof and aluminum frame commercial windows (that appear to be fixed). One off-street parking/loading space is accessed from a single driveway on Hill Street. The building has one entrance, located on Hill Street, at the corner of Hill and Valencia Streets. The building is not listed in the

national, state, or local registers of historical resources, but is of a recognizable commercial design widely employed by the national fast food chain that operated a Kentucky Fried Chicken outlet at the site from approximately 1970 to 2006. Also, the existing building is not listed in Article 10 or Article 11 of the San Francisco Planning Code, and is not listed on any citywide historical resources survey. It should be noted that, although the project site is not within the Liberty-Hill Street Historic District, it is adjacent to the district (discussed in further detail below).

Based on information within the Phase I environmental site assessment conducted for the site, it is known that the project parcel contained a number of land uses prior to construction of the existing building. From 1925 until 1936, a three-story residential building occupied the project site. This building was demolished in 1936, and from at least 1950 until 1965, the property was occupied by an automotive service station, an auto repair shop, and a tire shop. As stated in the Phase I investigation, Sanborn Fire Insurance Maps from 1950 and 1965 indicate that west and south portions of the property were occupied by a structure labeled as "Auto Service" and "Tire Service" and the northern and northeastern portion of the site were labeled as "Gas & Oil." The service station structure was demolished in 1969. There is no evidence to suggest that the project site is associated with any historic event or notable persons, businesses, or organizations.

In light of the above and given the existing building's relatively recent construction date of 1970, it cannot be considered a historic resource. Because the existing building is not a historic resource, its proposed demolition would not result in a significant effect, individually or cumulatively.

Liberty-Hill Historic District. The project site is located in close proximity to (one parcel from) the City-designated Liberty-Hill Historic District, roughly bounded by Mission, Dolores, 20th and 22nd Streets. The district is considered to be "one of the earliest residential 'suburbs' to be developed in San Francisco" and contains a range of housing types, from the architecturally uniform two-story Italianate "workingman's cottages" along Lexington and San Carlos Streets to the distinctive Stick and Italianate style homes found along Hill and Liberty Streets and Queen Anne homes that line Fair Oaks Street, which vary in facade and setback. Some of the structures within the district were designed by locally well-known architects, including Albert Pissis, the Newsom brothers, Charles Shaner, William H. Toepke, Charles Havens, and Charles J. Rousseau.⁹

⁹ *Planning Code, Article 10, Preservation of Historical Architectural and Aesthetic Landmarks; Appendix F.*

The Liberty-Hill Historic District was so designated by the Board of Supervisors in 1985, in accordance with Article 10 of the *Planning Code*, and added to the *Code* as Appendix F of Article 10. According to Section 5 of Article 10, the district is significant "as an intact representation of nineteenth century middle class housing and developmental practices. It is one of the earliest residential 'suburbs' to be developed in San Francisco, with major development starting in the 1860s and continuing until the turn of the century. Since the fire following the 1906 earthquake was stopped at the Twentieth Street boundary of the District, the District contains examples of all architectural styles prevalent during the developmental period." Therefore, the district's period of significance—the era during which the important events that characterize the district occurred—is from the 1860s until the 1906 earthquake and fire. Section 5 states that the "suburban" quality of the district remains extant, "enhanced by extensive street tree plantings and the very low incidence of commercial establishments in the residential areas. The great majority of District businesses are on Valencia Street, an historic and unifying commercial corridor, as compared to the typical San Francisco pattern of a grocery store or saloon on nearly every corner."

According to the Landmarks Preservation Advisory Board (LPAB)^{9a,9b} case report for the district, the northern boundary of the historic district was placed at 20th Street because the fire that burned the northern portion of the Mission District after the 1906 Earthquake was stopped at 20th Street. The southern boundary, roughly along the north side of 22nd Street, is "the pueblo charter line of 1834, drawn by Ensign M. G. Vallejo, *commandante* of Yerba Buena, and authorized by Governor Jose Figueroa," according to the case report.^{9c} The western boundary, which generally excludes the lots on the eastern side of Dolores Street, "conforms to a natural topographic plateau, where changes occur in the scale of homes as well as the period of time when most were constructed," according to the case

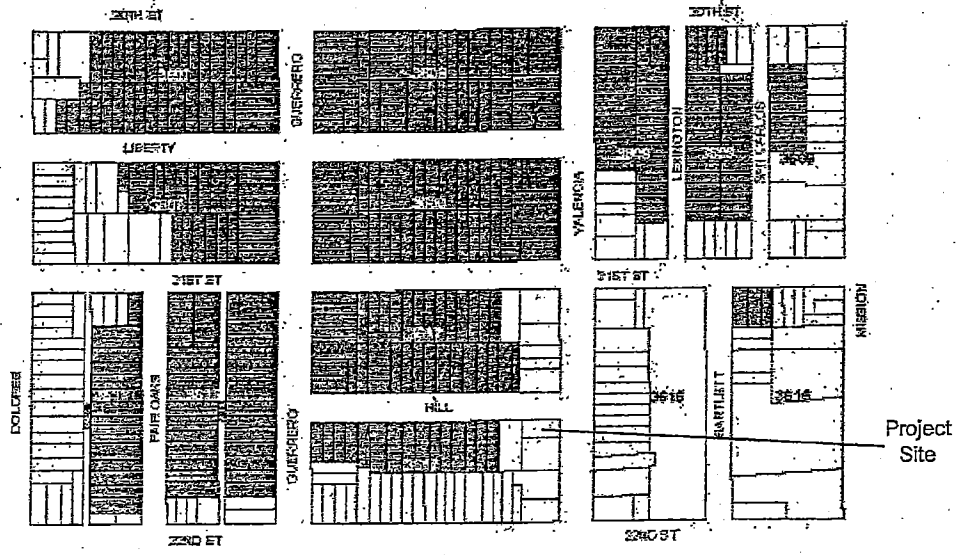
^{9a} The Landmarks Preservation Advisory Board was superseded in 2009 by the Historic Preservation Commission as a result of a Charter Amendment approved by San Francisco voters in November 2008.

^{9b} In addition to the LPAB case report, other sources relied upon for this narrative include: San Francisco Planning Department, *City Within a City, Historic Context Statement for San Francisco's Mission District, November 2007* (<http://www.sf-planning.org/modules/ShowDocument.aspx?documentid=5288>); Richard Brandi and Woody LaBounty (Western Neighborhoods Project), *San Francisco's Ocean View, Merced Heights, and Ingleside (OMI) Neighborhoods, 1862 – 1959*, historic context statement (<http://outsidelands.org/OMI-small-feb2010.pdf>); Langley's 1861 map of the City and County of San Francisco; James D. Phelan, *Historical Sketch of San Francisco*, in Daniel H. Burnham and Edward H. Bennett, *Report on a Plan for San Francisco, Presented to the Mayor and the Board of Supervisors by the Association for the Improvement and Adornment of San Francisco, 1905*.

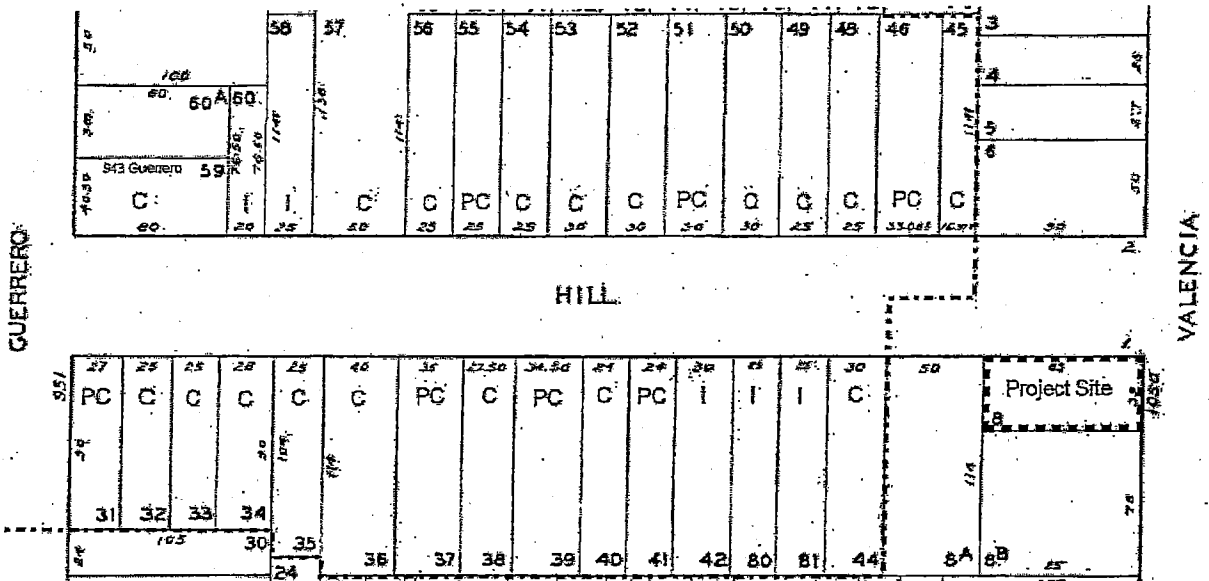
^{9c} The southern boundary of the historic district more closely approximates the City Charter line of 1851, as approved by the California legislature. The so-called Vallejo line, drawn to delineate the boundary between the Mission San Francisco (Dolores) and the secular Pueblo of Yerba Buena, was necessarily north of Mission Dolores, whereas the southern boundary of the historic district is south of Mission Dolores.

report. The eastern boundary extends nearly to Mission Street, to take in two blocks of "working-man's cottages" on Lexington and San Carlos Streets, between 20th and 21st Streets, that were built during the same era. Thus, although the historic district extends nearly two full blocks from north to south along Guerrero Street, from 20th to 22nd Streets, only the northerly block of Valencia Street, from 20th to 21st Streets (and not entirety of that block), is included within the district boundary (see Figure 8). This is apparently because of the easterly extension to capture the "working-man's cottages." Additionally, the block of Valencia Street between 20th and 21st Streets contains a greater percentage of pre-1906-earthquake buildings than does the block to the south.

According to the LPAB case report, "The history of the Liberty-Hill Historic District is a history of nineteenth century middle class San Francisco." Prior to the Mexican-American War (1846 - 48), what is now San Francisco was under Mexican rule, and much of the current land area of the City was divided into large ranchos that the Mexican government had granted, following its secularization of Mission lands in 1833, to early settlers in what was then the pueblo of Yerba Buena, and to soldiers of the local garrison, or Presidio. The area occupied by the Liberty-Hill Historic District, along with lands to the south and west, were granted to José Noé, a justice of the peace and the last Mexican *alcalde* (mayor) of Yerba Buena, as Rancho San Miguel. (Most of what is now the inner Mission District, however, was not granted to individuals, and remained in common use by all residents of the pueblo.) The 1848 Treaty of Guadalupe-Hidalgo outlined terms for an end to the war and included a large transfer of Mexican lands to the United States, including California and San Francisco. Although the treaty made assurances that the Mexican rancho grants would be respected, the lack of sufficient housing for the explosive population growth that occurred following the 1848 discovery of Gold in the Sierras led to squatters taking effective possession of portions of the local ranchos, and the City complicated matters in 1855 by awarding title to persons in physical possession of the land. Additionally, the legal process of confirming land titles was expensive, leading some rancho owners to sell off portions of their lands. One such sale was by Noé to brothers John and Robert Horner, in 1853, transferring the land that later became Noe Valley and Eureka Valley, extending west to Castro Street and east as far as Valencia Street (then the road to Mission San Jose). The land sold—which became known as Horner's Addition—included the project site and the portions of the Liberty-Hill Historic District west of Valencia Street. John Horner, a pioneer California farmer, suffered mightily in the financial panic of the 1850s, and the Horners subsequently sold much of their San Francisco property



Liberty-Hill Historic District



Project Block of Hill Street

- Key:
- C – Contributing Resource
 - PC – Potential Contributor
 - I – Incompatible Building
 - District Boundary

to "Homestead associations"^{9d} and real estate development companies. The San Francisco Homestead Union (one of whose founders was Washington Bartlett, the first *alcalde* of San Francisco under American rule) was an early and active developer in the historic district, beginning in the 1860s. Building slowed with a real estate downturn in the 1870s, but by 1900, the neighborhood was essentially built out. According to the LPAB case report, most of the houses on the project block of Hill Street were constructed between 1878 and 1887, with one built around 1894 and another, at the northeast corner of Hill and Guerrero Streets, dating to 1905. Two were built in the 1920s, after the district's period of significance, and three multi-family dwellings are from the modern era (1960s and later); two of these newer multi-family dwellings occupy a site that was occupied both before and after the 1906 earthquake and fire by a file manufacturing company and machine shop, with residential unit above, according to Sanborn Fire Insurance Maps dated 1900 and 1914, and previously by a blacksmith shop behind a residence, according to the 1889 Sanborn map.

As for the project site, according to the 1889 Sanborn map, the site was occupied, in part, by a three-story residential building (at the corner of Hill and Valencia Streets). To the south and west of this building were two- and three-story buildings of the Irving Institute, a girls' college preparatory school that occupied half of the Valencia Street frontage between Hill and 22nd Streets and the Hill Street frontage westward to the current historic district boundary. By 1900, according to the Sanborn map of that year, the school buildings had been converted to boarding and rooming houses, with the school having moved across the City. Thus, by the turn of the century, the project site and surrounding parcels were developed at greater density than the remainder of Hill Street that largely consisted of single-family dwellings. By 1914, the Sanborn map indicated that the former school buildings had been demolished and were replaced by a single-story retail building on Valencia Street, although the three-story building at the corner of Hill and Valencia remained. No new construction had occurred immediately to the west to replace the former rooming house.

As stated above, the Liberty-Hill Historic District is considered one of the earliest "suburban" areas of development in San Francisco, in that most of the homes were built when the area was an outlying neighborhood, some two miles from the main downtown portion of the City. The text in *Planning Code*

^{9d} Homestead associations, enabled by state legislation, were member organizations that purchased land with proceeds from monthly member dues and subdivided the land among the members. Although touted as a means of allowing workingmen to own property, they were also vehicles for speculation (Brandt and LaBounty, 2010; see note 9b).

Article 10, Appendix F, concerning the significance of the district, cited above on p. 31a, is taken from the LPAB case report. The case report continues, "The District is significant in its representation of San Francisco development modes of the period. The San Francisco Homestead Union, the earliest such organization in the City, owned and subdivided one block in the District in the 1860s. The Real Estate Associates (TREA), the largest builder of speculative housing in San Francisco in the 1870s, developed Lexington and San Carlos Streets as well as a number of other sites in the District. Still other blocks were purchased by real estate developers and sold lot by lot."

In terms of architecture, according to the case report, "Most Liberty-Hill buildings share unifying characteristics relating to scale, height, orientation, material and extent of detailing. Most of the buildings are moderate in size, with one to three units per building as a rule. Typical Liberty-Hill buildings are two stories high, often with an attic or basement. First floors are usually raised above the street level, allowing easy access to the basement or, as the case may be, the garage. ... Detailing is usually restrained and limited to elaborate doors, windows and cornices. Wood is the dominant construction material and rustic cove siding is the most common facade material. Individual buildings exhibit detailing typical of their own architectural style."

Hill Street, the case report says, offers the feeling of "an architectural set piece. Hill Street is much less dominated by street trees than are [other] blocks [in the district], although the flowering cherry trees put on quite a show when they are in bloom in the spring. As a result, architecture takes the lead. The strongest vision on Hill Street is of the bays - continuous rows of them on both sides of the street. Square bays and slanted bays are represented in profusion in a perfect merging of Italianate and San Francisco Stick. Hill Street offers one of San Francisco's most complete visions of a city street of a century ago" (the reference to "a century ago" having been made when the district was designated, in 1985) (see Figure 9).

In contrast, according to Planning Department preservation staff who reviewed the proposed project, "Development along Valencia Street is varied in terms of height and massing but there is a pattern of large lots, residential units above ground-floor businesses, and larger structures at corner lots. Within the Liberty-Hill Historic District, contributing buildings along Valencia Street, particularly corner buildings, are generally taller, more massive, and located on larger parcels than those at mid-block or

on the residential streets.”^{9e} As noted above, Sanborn Fire Insurance Maps indicate that a three-story residential building existing on the project site at the corner of Hill and Valencia Streets by 1889, with a three-story school building adjacent to the south on Valencia Street.

Of the 30 buildings within the district on the project block of Hill Street, the case report identifies 18 as Contributing Resources to the district, meaning that they are compatible with and enhance the district, and also retain sufficient integrity to convey the district’s important features. Another seven are Potential Contributors, generally meaning that they could be Contributors if incompatible changes are reversed or elements are removed. Five buildings are Incompatible; all of these were constructed after the district’s period of significance. Three of the Incompatible structures are on the project side of Hill Street, near the southeast corner of the historic district: these three multi-unit buildings were constructed in 1966 (41 Hill Street), 1970 (35 Hill Street), and 1987 (33 Hill Street), from west to east, and they visually separate the easternmost Contributing building on the south side of the block, at 25 Hill Street, from the great majority of the district Contributors. These buildings are shown on the map (Figure 8) and depicted in Figure 9. (The other two Incompatible buildings are single-family homes in the “San Francisco Marina” style built in the 1920s, and located near the west end of the block, on the opposite (north) side of the street (see Figure 8)).

CEQA Section 21084.1 states that “a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.” A “historical resource” is defined as one that is listed in, or determined eligible for listing in, the California Register of Historical Resources (California Register).^{9f} In addition, a resource that (i) is identified as significant in a local register of historical resources, such as Article 10 and Article 11 of the Planning Code and certain other surveys that have been adopted by the City,^{9g} or (ii) is deemed significant due to its identification in an historical resources survey meeting the requirements of Public Resources Code Section 5024.1(g), is presumed to be historically significant “unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant.” Finally, CEQA Section 21084.1 permits a lead agency to determine that a resource constitutes a historical

^{9e} Pilar LaValley, Planning Department Preservation Technical Specialist, *Negative Declaration Appeal Response, Historic Resources Evaluation*, April 23, 2010. This document is available for review at the Planning Department, 1650 Mission Street, Suite 400, in Case File No. 2007.1457E.

^{9f} Subsurface cultural (archeological) resources may also be historical resources if they are listed in, or determined eligible for listing in, the California Register.

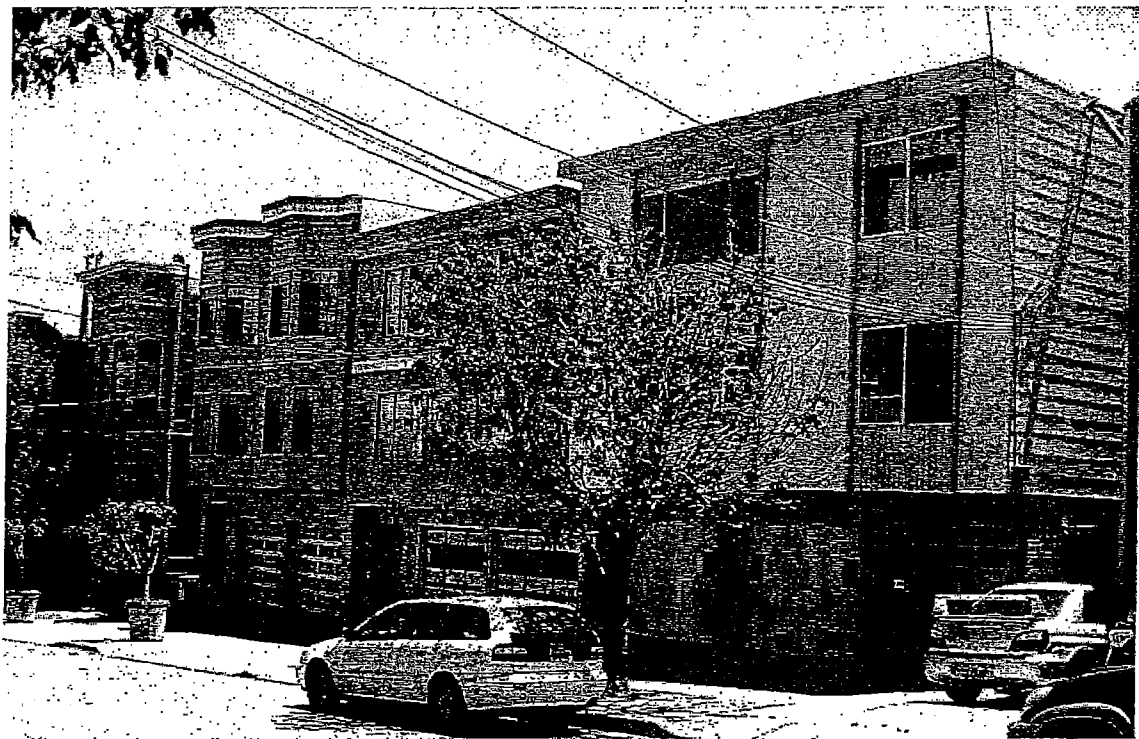
^{9g} These include surveys of Dogpatch, the Central Waterfront, and North Beach, and the 1968 book *Here Today*.



45-47 Hill Street
(Potential Contributor; c. 1894)

49 Hill Street
(Contributor; 1882)

53-55 Hill Street
(Potential Contributor; 1883)



25 Hill Street
(Contributor; 1885)

33 Hill Street
(Incompatible; 1987)

35 Hill Street
(Incompatible; 1970)

41 Hill Street
(Incompatible; 1966)

SOURCES: Environmental Science Associates, 2010; LPAB Case Report

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Figure 9
Photos of Historic District

resource even if the resource does not meet the foregoing criteria. A "substantial adverse change" is defined in Section 15064.5(b)(1) of the State CEQA Guidelines as "physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired."

The significance of an historical resource is "materially impaired," according to State CEQA Guidelines Section 15064(b)(2), when a project "demolishes or materially alters, in an adverse manner, those physical characteristics" of the resource that

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

Evaluation of the potential for proposed projects to affect historical resources is a two-step process: the first step is to determine whether the property is an "historical resource" as defined by State CEQA Guidelines Section 15064.5(a)(3), and, if it is an "historical resource," the second step is to evaluate whether the action or project proposed by the sponsor would cause a "substantial adverse change" to the "historical resource."^{9h} Because the Liberty-Hill Historic District is so designated in *Planning Code* Article 10, the district is considered a historical resource under CEQA. Therefore, the evaluation of potential adverse effects under CEQA must determine whether the proposed project would "demolish[] or materially alter[], in an adverse manner, those physical characteristics" of the Liberty-Hill Historic District that "account for its inclusion in a local register of historical resources"; that is, that account for the district's listing as a historic district under Article 10.

As stated above, the significance of the district lies in the fact that it "encompasses a significant representation of nineteenth century middle class housing and developmental practices," as a very early "suburb" that developed between the 1860s and just after the turn of the nineteenth century and

^{9h} San Francisco Preservation Bulletin No. 16, San Francisco Planning Department, "CEQA Review Procedures for Historic Resources," Draft, March 31, 2008. Available on-line at: <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=5340> pp. 1-2.

"contains examples of all architectural styles prevalent during the developmental period." Hill Street in particular, presents "an architectural set piece," with continuous rows of bay windows on either side of the street, and "offers one of San Francisco's most complete visions of a city street of [more than] a century ago."

Although it would be higher than existing buildings, the proposed building would not adversely affect the historic character of the Liberty-Hill Historic District because it would not impact any characteristics that are unique to the district (building types, locally renowned architects, etc.).¹⁰ The proposed project would not alter the extant "suburban" characteristics of either the district as a whole or the project block of Hill Street in particular, in that the project would leave intact the entirety of development both within the Liberty-Hill Historic District and on the project block of Hill Street. The proposed project would not alter any of the distinctive architectural characteristics of the buildings on Hill Street and, while it would more definitively terminate the eastern boundary of the district just west of Valencia Street, the project would not interfere with the composition of Hill Street as "an architectural set piece." All of the individual elements on Hill Street would remain in place. Moreover, by creating contrast with the scale of the buildings on Hill Street, the project would reinforce the feeling of a remnant suburban residential enclave, distinct from the nearby Valencia Street commercial corridor, that is characteristic of most of the district.

As described above, the existing structure on the project site is located outside the District's irregular boundary and is, therefore, by definition, not considered to be a Contributor or a Potential Contributor to the Liberty-Hill Historic District. The proposed five-story building would be oriented toward Valencia Street, although its longer facade would be on Hill Street. It would not have a direct or indirect physical impact on the adjacent historic district because, although it would be taller than adjacent buildings and would be visible from Hill Street within the historic district, "the overall mass and scale [of the project] is compatible with the surrounding architectural fabric, both historic and non-historic, and with the existing development pattern of Valencia Street," according to a review of the proposed project by Planning Department preservation staff.^{10a} As noted previously, the Planning Department staff review identified a pattern of "taller, more massive" buildings on Valencia Street within the historic district and, while the project site is outside the district, it would be consistent with this pattern along the portion of Valencia

¹⁰ W. Brad Brewster, Bay Area Group Manager, Cultural Resources, ESA, *Memorandum to San Francisco Planning Department, 1050 Valencia Street Structure - Historical Significance*, February 9, 2010. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

^{10a} Pilar LaValley, *Historic Resources Evaluation*, April 23, 2010 (see footnote 9e)

Street on the block to the north, which is within the historic district. As explained in the Planning Department historic review, "Since the district encompasses a portion of Valencia Street and classifies many of the existing, large, corner buildings therein as contributing resources, it appears that their mere size does not detract from the district." The Department's review continued, "The proposed project, while approximately one-story taller than the tallest building within the historic district, matches the varied development vocabulary contained in the historic district and Valencia Street corridor. The proposed project has a contemporary design that is compatible with the mixed variety of styles and buildings within the immediate neighborhood and does not create a false sense of history."^{10b} The proposed project would not diminish the visual quality of the project site and would be constructed of a massing and style that would be consistent with and relate to the many building styles and forms present along the Valencia Street corridor, outside the district. As noted above, three Incompatible buildings constructed between 1966 and 1987 separate the majority of the district Contributors on Hill Street from the project site. Between these three buildings and the project site is one Contributing Resource, at 25 Hill Street, as well as a 50-foot-wide parcel that is outside the district. Together, the three Incompatible buildings and the 50-foot lot create a 130-foot-wide barrier between the project site and most of the Contributing Resources, with the 25 Hill Street structure as the only Contributing Resource on the south side of Hill Street within the first 245 feet west of Valencia Street, and 160 feet west of the project site. This distance would substantially attenuate any indirect effect of the proposed project on the historic district. The Planning Department historical review concluded, "Given the physical separation between the historic district and subject property, and the fact that the historic district contains buildings with a wide range of heights, particularly along Valencia Street, it does not appear that the proposed project would alter the immediate surroundings of the district such that the significance of the district would be materially impaired. Therefore, the proposed project would result in no adverse effect to off-site historical resources."^{10c} Therefore Accordingly, it can be concluded that the proposed project would not "demolish[] or materially alter[] in an adverse manner, those physical characteristics" of the Liberty-Hill Historic District that account for its inclusion in Article 10 of the Planning Code, adversely impact the adjacent historic district or any contributing buildings

^{10b} Ibid.

^{10c} Ibid.

~~to the district.~~ The proposed project would have a less-than-significant impact on historic architectural resources, either individually or cumulatively.^{10d}

b. Archeological Resources. As noted above, the existing commercial building was constructed on the site in 1970, and previously uses include residential and industrial/light industrial operations. According to a geotechnical investigation¹¹ prepared for the project, the project site is underlain by five feet of fill, composed of loose, poorly graded sand with clay, gravel, and rock and brick fragments. Beneath the fill are loose and medium dense clayey sands, dense, poorly graded sands, and very dense brown clayey sands. The proposed project would be supported on a stiffened mat foundation and the structural engineer may opt to use drilled piers for shoring and underpinning.

To accommodate the below-grade basement level, the proposed project would result in excavation to a depth of up to 17 feet below grade. However, according to the Planning Department's preliminary archeological assessment,¹² no CEQA-significant archeological resources are expected within the project-affected soils. Therefore, this impact is considered to be less than significant.

^{10d} Subsequent to publication of the PMND, at its June 16, 2010, meeting, the Historic Preservation Commission determined that the Department's CEQA review appeared to be adequate.

¹¹ Earth Mechanics Consulting Engineers, Geotechnical Investigation. *Planned Development at 1050 Valencia Street, San Francisco, California*. May 8, 2008. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

¹² San Francisco Planning Department, *MEA Preliminary Archeological Review Checklist*, June 11, 2008. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

c. and d. Paleontological and Geological Resources and Human Remains. There are no known paleontological resources, human remains, or unique geologic features at the project site. The project site is underlain by engineered fill, which is not considered paleontologically sensitive or geologically unique. Therefore, the project would not be expected to result in any adverse effects on these resources.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
5. TR ANSPORTATION AND CIRCULATION—					
Would the project:					
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways (unless it is practical to achieve the standard through increased use of alternative transportation models)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels, obstructions to flight, or a change in location, that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Result in inadequate parking capacity that could not be accommodated by alternative solutions?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., conflict with policies promoting bus turnouts, bicycle racks, etc.) or cause a substantial increase in transit demand which cannot be accommodated by existing or proposed transit capacity or alternative travel modes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The project is not located within an airport land use plan area or in the vicinity of a private airstrip. Therefore, topic 5c is not applicable to the project.

The project site is located at the southwest corner of the intersection of Valencia and Hill Streets, on the block bounded by 21st Street to the north, Valencia Street to the east, Guerrero Street to the west, and 22nd Street to the south. Valencia Street, a two-way north-south roadway, has 82½ feet of right of way (building edge to building edge, including sidewalks), which includes one 10½-foot-wide lane in each

direction and a 14-foot-wide center median that facilitates turning maneuvers and serves as an unpermitted temporary loading and parking area, primarily on weekends. On either side of Valencia Street is a 5-foot-wide striped bicycle lane, and a 9-foot-wide, metered on-street parking zone. Intersecting Valencia Street at the project site is Hill Street, a two-way east-west roadway. This portion of Hill Street is approximately 34 feet wide, with permit parking on both sides of the street. Valencia Street is designated as a Secondary Arterial, a Neighborhood Commercial Street, and a citywide bicycle route in the San Francisco *General Plan*.¹³

a. and b. **Traffic and Level of Service.** Based on Planning Department Transportation Impact Analysis Guidelines for Environmental Review (October 2002) (*SF Guidelines*), the proposed project would generate a net addition of approximately 540 person-trips per day, about 157 daily vehicle trips, and approximately 23 vehicle trips in the p.m. peak hour as compared to those generated by the existing restaurant on the site.¹⁴ Under existing conditions, the nearest intersections, at 21st and Valencia and 22nd and Valencia, operate at levels of service (LOS) B and C,¹⁵ respectively, and the project trips would not be expected to result in any substantial increase in average vehicle delay or degradation of LOS.¹⁶

d. and e. **Traffic Hazards and Emergency Access.** As noted above, as part of the project, the sponsor is proposing to widen a portion of the sidewalk along Hill Street by about six feet by extending the bulbout into the existing parking lane. This change, however, is not expected to result in any increased traffic hazards. ~~Vehicle access to the single loading/parking space proposed by the project would be from Hill Street, which has relatively low traffic volumes. Likewise, Furthermore, emergency access to the project site~~ would not be impeded, and the project would be accessible from both Valencia and Hill Streets.

g. **Transit and Alternative Travel Modes.** The project would generate about 20 peak-hour transit trips, according to the *SF Guidelines*. These additional riders could easily be accommodated on the multiple

¹³ Secondary Arterials are primarily intra-district routes of varying capacity serving as collectors for the major thoroughfares; in some cases supplemental to the major arterial system. San Francisco *General Plan*, Transportation Element, Map 6, adopted July 1995.

¹⁴ ESA, Trip Generation Spreadsheet, 1050 Valencia, April 16, 2009. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

¹⁵ *Ibid.*

¹⁶ Level of service is a qualitative description of the operational performance of an intersection, based on the average delay per vehicle, ranging from LOS A (free flow or excellent conditions with short delays per vehicle) to LOS F (congested or overloaded conditions with extremely long delays per vehicle). Typically, LOS A through D are considered excellent to satisfactory service levels, LOS E is undesirable, and LOS F conditions are unacceptable.

Muni lines (49-Mission-Van Ness, 14-Mission, 14L-Mission Limited, 49-Mission-Van Ness, and 48-Quintara/24th Street) and BART lines that exist in the project vicinity. Trips by walking and other modes, such as bicycling, would be relatively limited in number (approximately 16 in the peak hour) and would be accommodated by existing street and sidewalk conditions.

Pedestrian and Bicycle Circulation. Pedestrian access to the residential component of the proposed project would be via a residential entrance on Valencia Street, while pedestrian access to the retail component would be from ~~the corner~~ a second entrance at on Valencia and Hill Streets. Sidewalks in the project area have adequate capacity and are not congested; therefore, no pedestrian impacts would be anticipated. The project would provide 20 bicycle parking spaces (all in the basement), which would exceed the requirement of *Planning Code* Sec. 155.5, which requires one Class 1 bicycle parking space per every two dwelling units. In the project vicinity, there are designated bicycle routes on Valencia Street (Class 2) and 22nd Street. As adequate bicycle access and parking would be provided within the project, bicycle impacts would not be significant.

The project's incremental contribution to traffic and transit ridership and to travel by other modes would be too small to make a considerable contribution to any potential cumulative effects, and therefore cumulative effects would be less-than-significant.

f. *Parking and Loading.* The project would not provide ~~one~~ any off-street commercial or residential parking or loading spaces, which, as mentioned above, would be accessible from Hill Street. ~~No parking spaces would be provided to accommodate residential uses.~~ Based on the *SF Guidelines*, peak parking demand, which would occur in the evening and at night, would be about 34 spaces, resulting in a shortfall of about 34 spaces, since none would be provided. Parking is generally limited in the Mission District neighborhood and near the project site. Existing on-street parking adjacent to the project site and along Valencia and Hill Streets appears to be at capacity. Both sides of the Valencia Street are metered, while both sides of Hill Street are limited to 2-hour parking (between the hours of 9 a.m. and 8 p.m.) without an S Zone residential parking permit.

Under *California Public Resources Code* Section 21060.5, "environment" means "the physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, and objects of historic or aesthetic significance." San Francisco does not consider parking supply part of the permanent physical environment. Parking conditions are not static,

as parking supply and demand vary from day to day, from day to night, from month to month, etc. Hence, the availability of parking (or lack thereof) is not a permanent physical condition, but changes over time as people change their modes and patterns of travel.

Parking deficits are considered to be social effects, rather than impacts to the physical environment as defined by CEQA. Under CEQA, a project's social impacts need not be treated as significant impacts on the environment. Environmental documents should, however, address the secondary physical impacts that could be triggered by a social impact (CEQA Guidelines Section 15131(1)). The social inconvenience of parking deficits, such as having to hunt for scarce parking spaces, is not an environmental impact, but there may be secondary physical environmental impacts, such as increased traffic congestion at intersections, air quality impacts, safety impacts, or noise impacts caused by congestion. In the experience of San Francisco transportation planners, however, the absence of a ready supply of parking spaces, combined with available alternatives to auto travel (e.g., transit service, taxis, bicycles or travel by foot) and a relatively dense pattern of urban development, induces many drivers to seek and find alternative parking facilities, shift to other modes of travel, or change their overall travel habits. Any such resulting shifts to transit service in particular, would be in keeping with the City's "Transit First" policy. The City's Transit First Policy, established in the City's Charter Section 16.102, provides that "parking policies for areas well served by public transit shall be designed to encourage travel by public transportation and alternative transportation."

The transportation analysis accounts for potential secondary effects, such as cars circling and looking for parking space in areas of limited parking supply, by assuming that all drivers would attempt to find parking at or near the project site and then seek parking farther away if convenient parking is unavailable. Moreover, the secondary effects of drivers searching for parking is typically offset by a reduction in vehicle trips due to others who are aware of constrained parking conditions in a given area. Hence, any secondary environmental impacts which may result from a shortfall in parking in the vicinity of the proposed project would be minor, and the traffic assignments used in the transportation analysis, as well as in the associated air quality, noise and pedestrian safety analyses, reasonably addresses the potential secondary effects. These impacts would, therefore, be less than significant.

Loading demand for the proposed project would be about eight truck stops per day, based on the Planning Department Guidelines; peak hourly demand would be less than one space. As noted above, the proposed project would not include one any loading spaces, ~~accessible via a curb cut and~~

~~driveway on Hill Street.~~ This would be consistent with *Planning Code* Section 152, which does not require any loading spaces for retail establishments under 10,000 square feet or for apartment buildings under 100,000 square feet. In the event that two or more loading vehicles need to access the site at the same time, one or more would either park on Valencia Street or Hill Street or possibly double park on Hill Street. Such occasional double-parking would not be expected to significantly impede traffic or cause safety concerns. Likewise, trash and recycling pickup would not adversely affect traffic.

Construction Impacts. Project construction would last approximately 18 months. During the construction period, temporary and intermittent transportation impacts would result from truck movements to and from the project site. Truck movements during periods of peak traffic flow would have greater potential to create conflicts than during non-peak hours because of the greater numbers of vehicles on the streets during the peak hour that would have to maneuver around queued trucks. Any temporary sidewalk closure proposed during construction would be subject to review and approval by the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT) and the Department of Public Works (DPW).

Any construction traffic occurring between 7:00 a.m. and 9:00 a.m. or between 4:00 p.m. and 6:00 p.m. would coincide with peak hour traffic and could impede traffic flow. To the extent possible, truck movements should be limited to the hours of 9:00 a.m. and 3:30 p.m. to minimize disruption of the general traffic flow on adjacent streets.

A revocable encroachment permit from DPW would be required if materials storage and/or project staging is necessary within the rights-of-way of any surrounding streets. No bus stop relocation would be necessary.

During project construction, the approximately ten construction workers would rely on on-street parking in the project vicinity. Temporary parking demand from construction workers' vehicles and impacts on local intersections from construction worker traffic would occur in proportion to the number of construction workers who would use automobiles, but would not be expected to substantially affect parking conditions in the project vicinity. This impact would be limited to the estimated 18-month construction period.

Cumulative Transportation and Circulation Impacts. In terms of other proposed projects along Valencia Street corridor in close proximity to the project site (as described on page 22), the

1050 Valencia project would not combine with these other nearby projects to result in significant impacts because the projects, in combination, would not generate sufficient traffic, transit ridership, or other trips to adversely affect transportation conditions. Furthermore, the trips generated by other nearby projects would be generated at different locations several blocks from the project site and, thus, only a portion of trips to and from the various projects (including the proposed project) would overlap.

Conclusion. In light of the above, the project would not result in a significant effect with regard to transportation.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
6. NOISE—Would the project:					
a) Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan area, or, where such a plan has not been adopted, in an area within two miles of a public airport or public use airport, would the project expose people residing or working in the area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project located in the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Be substantially impacted by existing noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The project site is not within an airport land use plan area, nor is it in the vicinity of a private airstrip. Therefore, topics 6e and 6f are not applicable.

Applicable Regulations. Noise in San Francisco is regulated by the following state and local statutes and documents:

- The San Francisco Noise Ordinance (Article 29 of the Police Code, as amended in November 2008), which outlines the City's policy to prohibit unnecessary, excessive, and offensive noises from all sources subject to police power. Sections 2907 and 2908 of Article 29, enforced by the Department of Building Inspection, regulate construction equipment and construction work at night, while Section 2909, enforced by the Department of Public Health, provides for limits on stationary-source noise from machinery and equipment.
- California's Building Standards Code (Title 24 of the California Code of Regulations, which at the local level is enforced by the Department of Building Inspection) establishes energy efficiency standards for residential and non-residential building. Title 24 also contains noise insulation standards that require new multi-unit and hotel/motel structures to meet an interior noise level not exceeding 45 dBA (Ldn) in any habitable room and, where such units are proposed in areas subject to outdoor noise levels in excess of than 60 dBA (Ldn), acoustical studies must be conducted that demonstrate that the design of the building will reduce interior noise to 45 dBA (Ldn) or less. If compliance with the required interior noise levels would only occur with windows closed, an alternative means of ventilation must be provided.
- The *San Francisco General Plan*, which contains Land Use Compatibility Guidelines for Community Noise in its Environmental Protection Element.¹⁷ These guidelines, which are similar to state guidelines promulgated by the Governor's Office of Planning and Research, indicate maximum acceptable noise levels for various newly developed land uses. For residential uses, the maximum "satisfactory" outside noise level without incorporating noise insulation into a project is 60 dBA (Ldn), while in areas where noise levels exceed 60 dBA, a detailed analysis of noise reduction requirements is typically necessary prior to final review and approval, and new construction or development of residential uses typically requires that noise insulation features be included in the design. Above noise levels of 65 dBA (Ldn), residential development is generally discouraged but, if permitted, noise insulation must be included in the design. The guidelines also indicate that commercial development such as retail establishments, movie theaters and restaurants, should be discouraged at noise levels above 77 dBA (Ldn).^{18,19}
- In addition, the EIR for the recently published *Eastern Neighborhoods Rezoning and Area Plan EIR* (Case No. 2004.0160E, Final EIR certified August 7, 2008), which covers the Mission District neighborhood in which the project site is located, contains mitigation measures intended to reduce potential conflicts between existing noise-generating uses and new sensitive receptors. One such measure requires the evaluation of the noise environment around any site where a noise-sensitive use is proposed, in advance of the first approval of such use, as well as conflicts

¹⁷ City and County of San Francisco, Planning Department, *San Francisco General Plan*, Environmental Protection Element, Policy 11.1.

¹⁸ Sound pressure is measured in decibels (dB), with zero dB corresponding roughly to the threshold of human hearing, and 120 dB to 140 dB corresponding to the threshold of pain. Because sound pressure can vary by over one trillion times within the range of human hearing, a logarithmic loudness scale is used to keep sound intensity numbers at a convenient and manageable level. Owing to the variation in sensitivity of the human ear to various frequencies, sound is "weighted" to emphasize frequencies to which the ear is more sensitive, in a method known as A-weighting and expressed in units of A-weighted decibels (dBA).

¹⁹ The residential guidelines are based on maintaining an interior noise level of interior noise standard of 45 dBA, Ldn, as required by the California Noise Insulation Standards in Title 24, Part 2 of the California Code of Regulations.

between new noise-generating uses and existing noise-sensitive uses, in order to reduce noise impacts of potentially incompatible uses to a less-than-significant level.

a., g. **Noise Conditions in the Project Area.** Ambient noise levels in the project vicinity are typical of noise levels found in San Francisco, which are dominated by vehicular traffic, including, cars, Muni buses, and emergency vehicles. Valencia Street, along the project's eastern façade, is a heavily traveled street, and generates moderate to high levels of traffic noise, while traffic noise along Hill Street is relatively mild. Observation indicates that surrounding land uses do not noticeably conduct noisy operations, with the exception that nighttime noise levels reflect Valencia Street as a nightlife destination. In general, the ambient noise level at sidewalk level in the project vicinity is approximately 70 dBA CNEL,²⁰ a noise level at which the proposed residential use is generally discouraged.²¹ Thus, the outdoor noise level at the project site exceeds the level prescribed in the General Plan and Title 24 for residential uses.

Noise Compatibility and Exposure of Persons to Ambient Noise. Based on modeling of traffic noise volumes conducted by the San Francisco Department of Public Health (DPH),²² the traffic noise level in the project area vicinity is generally between 65 dBA and 69 dBA. As noted above, noise measurement conducted over a 24-hour period in the project vicinity indicate that the overall noise level—including traffic and all other sources—is approximately 70 dBA, Ldn. Therefore, the proposed project would locate new residential units—considered to be “sensitive receptors”—in an environment with noise levels above those considered normally acceptable for residential uses. As such, the proposed project would be required to incorporate noise insulation features to ensure that indoor noise levels would be reduced by at least 25 decibels, thereby resulting in indoor noise levels that would not exceed 45 decibels (Ldn), the prescribed maximum level for residential uses. Thus, the proposed project would comply with the prescribed maximum interior noise level of 45 dBA (Ldn). According to the project architect, the project would incorporate noise insulation features including double-paned windows and insulated walls. Double-paned windows (when closed) typically offer 25 to 30 dBA noise reduction or more, meaning that the Building Code interior noise level would be met with windows

²⁰ A 24-hour noise measurement was conducted adjacent to the project site on January 12 and 13, 2010. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

²¹ City and County of San Francisco, Planning Department, *Eastern Neighborhoods Rezoning and Area Plans Final EIR, June 30, 2007*, Figure 19. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

²² Traffic noise map presented on DPH website: <http://www.sfdph.org/dph/EH/Noise/default.asp>.

closed. In addition, "z-ducts"—which allow for passive ventilation while acting as noise baffles to minimize the passage of exterior noise—would be incorporated into each unit's exterior wall. This would allow for ventilation with windows closed, thereby reducing exterior noise that would otherwise enter a unit. DBI would review project plans for compliance with Title 24 noise standards and would not issue building permits until compliance is achieved.

While the General Plan discourages siting new sensitive noise receptors in areas above 60 dBA, the proposed residential use would be considered an infill development that is in keeping with the existing surrounding uses and pattern of development and is a principally permitted use within the applicable NCT zoning district. Furthermore, as stated above, the project sponsor would incorporate building features that would reduce interior noise levels within the dwelling units. Given the above, potential environmental impacts associated with locating sensitive receptors in an area that currently exceeds acceptable ambient noise levels for residential uses would be less than significant.

The project's common outdoor use area (the rooftop deck) as well as private decks would be exposed to noise generated by traffic along Valencia Street. However, this impact would not be considered significant since all decks would be limited to project residents, who could choose not to use the decks during periods of excessive noise. Compliance with Title 24 standards and with the General Plan would ensure that effects from exposure to ambient noise would not result in significant impacts, either individually or cumulatively.

a. - d. Construction Noise. Demolition, excavation, and building construction would temporarily increase noise in the project vicinity. Construction equipment would generate noise and possibly vibrations that could be considered an annoyance by occupants of nearby properties. According to the project sponsor, the construction period would last approximately 18 months. Construction noise levels would fluctuate depending on construction phase, equipment type and duration of use, distance between noise source and listener, and presence or absence of barriers. Impacts would generally be limited to the period during which new foundations and exterior structural and facade elements would be constructed. Interior construction noise would be substantially reduced by exterior walls.

As noted above, construction noise is regulated by the San Francisco Noise Ordinance (Article 29 of the *Police Code*). The ordinance requires that noise levels from individual pieces of construction equipment, other than impact tools, not exceed 80 dBA at a distance of 100 feet from the source. Impact tools

(jackhammers, hoerammers, impact wrenches) must have both intake and exhaust muffled to the satisfaction of the Director of Public Works. Section 2908 of the Ordinance prohibits construction work between 8:00 p.m. and 7:00 a.m., if noise would exceed the ambient noise level by five dBA at the project property line, unless a special permit is authorized by the Director of Public Works or the Director of Building Inspection. The project must comply with regulations set forth in the Noise Ordinance.

The closest sensitive noise receptors to the project site that have the potential to be adversely affected by construction noise are residences adjacent to the project site as well as the City College of San Francisco Mission campus, located at Valencia and 22nd Street, about half of a block south of the project site. Construction activities (other than pile driving, which would not be employed during project construction) typically generate noise levels no greater than 90 dBA (for instance, for excavation) at 50 feet from the activity, while other activities, such as concrete work, are much less noisy. Closed windows typically can reduce daytime interior noise levels to an acceptable level. Therefore, for nearby sensitive receptors, although construction noise could be annoying at times, it would not be expected to exceed noise levels commonly experienced in an urban environment, and would not be considered significant. Moreover, no other construction projects are proposed in close enough proximity to the project site such that cumulative effects related to construction noise would be anticipated.²³

a., c. **Project-Generated Noise. Traffic Noise.** Generally, traffic must double in volume to produce a noticeable increase in average noise levels. Based on the transportation analysis prepared for the project (see Section 5, above), traffic volumes would not double on area streets as a result of the proposed project or expected cumulative traffic growth. Therefore, the proposed project would not cause a noticeable increase in the ambient noise level in the project vicinity (65.1-70.0 db), nor would the project contribute to any potential cumulative traffic noise effects.

Operational Noise. The project would include mechanical equipment that could produce operational noise, such as heating and ventilation systems and restaurant exhaust fans. These operations would be subject to the San Francisco Noise Ordinance, Article 29 of the *San Francisco Police Code*. As amended in

²³ To the extent that any components of the City's proposed Better Streets Plan may involve construction on or near Valencia Street, it is anticipated that the timing would be such that this construction would not overlap with the proposed project. Moreover, the improvements under the Better Streets Plan would result in relatively modest and short-term noise impacts consistent with work in the street right-of-way that commonly occurs from time to time.

November 2008, this section establishes a noise limit from mechanical sources, such as building equipment, of 5 dBA in excess of the ambient noise level at the property line. Compliance with Article 29, Section 2909, would minimize noise from building operations. Furthermore, an existing restaurant on the property currently uses mechanical equipment that would be similar to what would be used by the new restaurant, resulting in minimal change in noise levels due to restaurant equipment. Based on the above, the noise effects related to building operation would not be significant, nor would the building contribute a considerable increment to any cumulative noise impacts from mechanical equipment.

Cumulative Noise Impacts. As discussed above, cumulative noise impacts related to construction of or operation of the proposed project would be considered less than significant. In light of the above, noise-related effects would be less than significant.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
7. A IR QUALITY—					
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal, state, or regional ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The proposed project would be located within the San Francisco Bay Area Air Basin (Bay Area) which is designated as a nonattainment area for the state and federal ozone standards as well as the state particulate matter (PM-10 and PM-2.5) standards. The Bay Area is either in attainment or unclassified with respect to all other state and federal standards. As required by state and federal law, the 2001 Bay Area Ozone Attainment Plan and the 2005 Bay Area Ozone Strategy have been prepared to address

non-attainment of federal and state ozone standards. No plan for particulates has been prepared or is required under state air quality planning law.

The regional agency primarily responsible for developing the regional ozone plans is the Bay Area Air Quality Management District (BAAQMD). BAAQMD is also the agency with permit authority over most types of stationary sources in the San Francisco Bay Area. BAAQMD exercises permit authority through its Rules and Regulations. Both federal and state ozone plans rely heavily upon stationary source control measures set forth in BAAQMD's Rules and Regulations. The overall stationary source control program that is embodied by the BAAQMD Rules and Regulations has been developed such that new stationary sources can be allowed to operate in the Bay Area without obstructing the goals of the regional air quality plans.

a. – d. **Construction Air Quality Emissions.** Demolition, grading, and new construction activities would temporarily affect local air quality during the project's proposed 18-month construction schedule, causing temporary increases in particulate dust and other pollutants. Emissions generated from construction activities include dust (including PM-10 and PM-2.5)²⁴ primarily from "fugitive" sources, combustion emissions of criteria air pollutants (reactive organic gases [ROG], nitrogen oxides [NOx], carbon monoxide [CO], sulfur oxides [SOx], and PM-10) primarily from operation of construction equipment and worker vehicles, and evaporative emissions (ROG) from asphalt paving and architectural coating applications. The BAAQMD CEQA Guidelines recognize that construction equipment emits ozone precursors, but indicate that such emissions are included in the emission inventory that is the basis for regional air quality plans.²⁵ Therefore, construction emissions are not expected to impede attainment or maintenance of ozone standards in the Bay Area.

Project-related demolition, excavation, grading and other construction activities may cause wind-blown dust that could contribute particulate matter into the local atmosphere. Although there are federal standards for air pollutants and implementation of state and regional air quality control plans, air pollutants continue to have impacts on human health throughout the country. California has found that particulate matter exposure can cause health effects at lower levels than national standards. The

²⁴ Particles that are 10 microns or less in diameter and 2.5 microns or less in diameter, respectively.

²⁵ Bay Area Air Quality Management District, *BAAQMD CEQA Guidelines, Assessing the Air Quality Impacts of Projects and Plans*, December 1999.

current health burden of particulate matter demands that, where possible, public agencies take feasible available actions to reduce sources of particulate matter exposure. According to the California Air Resources Board, reducing ambient particulate matter from 1998–2000 levels to natural background concentrations in San Francisco would prevent over 200 premature deaths.

Dust can be an irritant causing watering eyes or irritation to the lungs, nose and throat. Demolition, excavation, grading and other construction activities can cause wind-blown dust to add to particulate matter in the local atmosphere. Depending on exposure, adverse health effects can occur due to this particulate matter in general and also due to specific contaminants such as lead or asbestos that may be constituents of soil.

In response, the San Francisco Board of Supervisors approved a series of amendments to the San Francisco Building and Health Codes generally referred hereto as the Construction Dust Control Ordinance (Ordinance 176-08, effective July 30, 2008) with the intent of reducing the quantity of dust generated during site preparation, demolition and construction work in order to protect the health of the general public and of onsite workers, minimize public nuisance complaints, and to avoid orders to stop work by the Department of Building Inspection (DBI).

The Ordinance requires that all site preparation work, demolition, or other construction activities within San Francisco that have the potential to create dust or to expose or disturb more than 10 cubic yards or 500 square feet of soil comply with specified dust control measures whether or not the activity requires a permit from DBI. The Director of DBI may waive this requirement for activities on sites less than one half-acre that are unlikely to result in any visible wind-blown dust.

The project sponsors and the contractor responsible for construction activities at the project site shall use the following practices to control construction dust on the site or other practices that result in equivalent dust control that are acceptable to the Director of DBI. Dust suppression activities may include watering all active construction areas sufficiently to prevent dust from becoming airborne; increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water must be used if required by Article 21, Section 1100 et seq. of the *San Francisco Public Works Code*. If not required, reclaimed water should be used whenever possible. Contractors shall provide as much water as necessary to control dust (without creating run-off in any area of land clearing, and/or earth movement). During excavation and dirt-moving activities, contractors shall wet

sweep or vacuum the streets, sidewalks, paths and intersections where work is in progress at the end of the workday. Inactive stockpiles (where no disturbance occurs for more than seven days) greater than 10 cubic yards or 500 square feet of excavated materials, backfill material, import material, gravel, sand, road base, and soil shall be covered with a polyethylene plastic tarp with a thickness of one-hundredths of one inch (or 10 mils), or equivalent, braced down, or use other equivalent soil stabilization techniques.

For project sites greater than one half-acre in size, the Ordinance requires that the project sponsor submit a Dust Control Plan for approval by the San Francisco Health Department. However, since the proposed project is less than one half-acre in size, no site-specific Dust Control Plan will be required.

The project sponsor would be required to designate an individual to monitor compliance with dust control requirements. These regulations and procedures set forth by the *San Francisco Building Code* would ensure that potential dust-related air quality impacts would be reduced to a level of insignificance.

The BAAQMD neither recommends quantified analysis of cumulative construction emissions nor provides thresholds of significance that could be used to assess cumulative construction emissions. The construction industry, in general, is an existing source of emissions within the Bay Area. Construction equipment operates at one site on a short-term basis and, when finished, moves on to a new construction site. Because construction activities would be temporary, the contribution to the cumulative context (which includes the proposed projects along Valencia Street corridor discussed on page 22) is so small as to be virtually immeasurable, and as all of the appropriate and feasible construction-related measures recommended by the BAAQMD would be implemented, the contribution of construction emissions associated with the proposed project would not be cumulatively considerable.²⁶ These impacts would therefore be considered less than significant.

Operational Air Quality Emissions. The project would be located in a region that experiences occasional violations of ozone and PM standards. Though the regional monitoring network no longer records violations of the carbon monoxide standard, congestion on busy roadways and intersections

²⁶ To the extent that any components of the City's proposed Better Streets Plan may involve construction on or near Valencia Street, it is anticipated that the timing would be such that this construction would not overlap with the proposed project. Moreover, such improvements would not result in substantial air quality impacts that could combine with project impacts to be cumulatively significant.

could lead to local carbon monoxide hotspots, particularly during peak traffic hours. According to the BAAQMD, local carbon monoxide hotspots can occur for projects in which: 1) vehicle emissions of CO would exceed 550 pounds per day, 2) project traffic would impact intersections or roadway links operating at Level of Service (LOS) D, E or F or would cause LOS to decline to D, E or F, 3) project traffic would increase traffic volumes on nearby roadways by 10 percent or more (unless the increase is less than 100 vehicles per hour), or 4) have roadways within 500 feet of the project site with traffic volumes of 100,000 vehicles per day or more. As the net increase in peak hour traffic generated by the project would be very minimal and well below 100 vehicles per hour (23 net new trips during the p.m. peak hour), none of the intersections in the vicinity of the project site meet any of the first three criteria. Moreover, the project's 23 net new p.m. peak-hour vehicle trips would not measurably affect CO concentrations. Hence further analysis of local carbon monoxide concentrations was not conducted and would not be required.

With respect to the operational-phase of the project, emissions would be generated primarily from motor vehicle trips to the project site and emissions from stationary equipment, to a lesser extent. The BAAQMD CEQA Guidelines consider a project's impact on the regional air quality to be significant if the ROG, NOx or PM-10 emissions exceed a significance threshold of 80 pounds per day. Generally, projects generating less than 2,000 trips per day are not expected to generate emissions that would exceed the BAAQMD significance thresholds (BAAQMD, 1999).

The proposed project site is currently occupied by a 1,670-square-foot restaurant. The proposed mixed-use building would result in a net increase of approximately 157 daily vehicle trips (as compared to the existing uses). The net increase of 157 vehicle trips per day would generate emissions that would be well below the BAAQMD significance thresholds. Therefore, the project would not significantly affect air quality in the region, conflict with, or obstruct implementation of the applicable Air Quality Attainment Plans. While project-related motor vehicle emissions would contribute incrementally to regional ozone and PM concentrations, the effect would not be cumulatively considerable.

Any stationary sources on site would be subject to the BAAQMD Rules and Regulations. Compliance with BAAQMD Rules and Regulations would ensure that the project would not conflict with or obstruct implementation of the applicable air quality plans.

Greenhouse Gases. Gases that trap heat in the atmosphere are referred to as greenhouse gases (GHGs), because they capture heat radiated from the sun as it is reflected back into the atmosphere, much like a greenhouse does. The accumulation of GHGs has been implicated in global climate change (also referred to as the “greenhouse effect” and “global warming”). Definitions of climate change vary between and across regulatory authorities and the scientific community, but in general can be described as the changing of the earth’s climate caused by natural fluctuations and anthropogenic activities that alter the global atmosphere.

Individual projects contribute to the cumulative effects of climate change by emitting GHGs during demolition, construction, and operational phases. The principal GHGs are carbon dioxide, methane, nitrous oxide, ozone, and water vapor. (Ozone—not directly emitted, but formed from other gases—in the troposphere, the lowest level of the earth’s atmosphere, also contributes to the retention of heat.) While the presence of the primary GHGs in the atmosphere are naturally occurring, carbon dioxide, methane, and nitrous oxide are largely emitted from human activities, accelerating the rate at which these compounds occur within the atmosphere. Carbon dioxide is the “reference gas” for climate change, meaning that emissions of GHGs are typically reported in “carbon dioxide-equivalents” measures (CO₂E), based on each gas’s heat absorption (or “global warming”) potential. Carbon dioxide is largely a by-product of fossil fuel combustion, whereas methane results from off-gassing associated with agricultural practices and landfills. Nitrous oxide is emitted in agricultural and industrial activities and during combustion of fossil fuel and solid waste. Other GHGs, with much greater heat-absorption potential, include hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, and are generated in certain industrial processes. There is international scientific consensus that human-caused increases in GHGs have and will continue to contribute to global warming, although there is uncertainty concerning the magnitude and rate of the warming. Some of the potential impacts in California of global warming may include loss in snow pack, sea level rise, more extreme heat days per year, more high ozone days, more large forest fires, and more drought years²⁷ Secondary effects are likely to include a global rise in sea level, impacts to agriculture, changes in disease vectors, and changes in habitat and biodiversity.

²⁷ California Air Resources Board (ARB) website (<http://www.arb.ca.gov/cc/ccei/meetings/120106workshop/intropres12106.pdf>). Accessed January 22, 2010.

The California Energy Commission (CEC) estimated that in 2004 California produced 500 million gross metric tons (about 550 million U.S. tons) of carbon dioxide-equivalent GHG emissions.²⁸ The CEC found that transportation is the source of 38 percent of the state's GHG emissions, followed by electricity generation (both in-state and out-of-state) at 23 percent and industry at 13 percent. In the Bay Area, fossil fuel consumption for transportation (on-road motor vehicles, off-highway mobile sources, and aircraft) is likewise the single largest source of the Bay Area's GHG emissions, accounting for more than 40 percent of the Bay Area's 102.6 million tons of GHG emissions in 2007. Industrial and commercial sources (including office and retail uses) were the second largest contributors of GHG emissions with about 34 percent of total emissions. Electricity production accounts almost 15 percent of the Bay Area's GHG emissions, followed by domestic sources (e.g., home water heaters, furnaces, etc.) at 6.6 percent. Oil refining currently accounts for approximately 14 percent of the total Bay Area GHG emissions.²⁹

Statewide Actions. In 2005, in recognition of California's vulnerability to the effects of climate change, Governor Schwarzenegger established Executive Order S-3-05, which sets forth a series of target dates by which statewide emission of GHGs would be progressively reduced, as follows: by 2010, reduce GHG emissions to 2000 levels; by 2020, reduce GHG emissions to 1990 levels; and by 2050, reduce GHG emissions to 80 percent below 1990 levels.³⁰

In 2006, California passed the California Global Warming Solutions Act of 2006 (Assembly Bill No. 32; California Health and Safety Code Division 25.5, Sections 38500, et seq., or AB 32), which requires the California Air Resources Board (CARB) to design and implement emission limits, regulations, and other measures, such that feasible and cost-effective statewide GHG emissions are reduced to 1990 levels by 2020 (representing a 25 percent reduction in emissions).

AB 32 establishes a timetable for the CARB to adopt emission limits, rules, and regulations designed to achieve the intent of the Act. On December 11, 2008, CARB approved a *Scoping Plan* to meet the 2020

²⁸ California Energy Commission, *Inventory of California Greenhouse Gas Emissions and Sinks: 1990 to 2004 -Final Staff Report*, publication # CEC-600-2006-013-SF, December 22, 2006; and January 23, 2007 update to that report. Available on the Internet at <http://www.arb.ca.gov/cc/inventory/inventory.htm>. Accessed January 22, 2010.

²⁹ BAAQMD, *Source Inventory of Bay Area Greenhouse Gas Emissions: Base Year 2007*, December 2008. Available on the internet at: http://www.baaqmd.gov/-/media/Files/Planning%20and%20Research/Emission%20Inventory/regionalinventory2007_003_000_000_000.ashx.

³⁰ California Air Resources Board (CARB), *Climate Change Scoping Plan: A Framework for Change*, December 2008. Available on the internet at: <http://www.arb.ca.gov/cc/scopingplan/document/scopingplandocument.htm>. Accessed December 11, 2008.

GHG reduction limits outlined in AB 32. In order to meet these goals, California must reduce its GHG emissions by 30 percent below projected 2020 business as usual emissions levels, or about 10 percent from today's levels (2008). The *Scoping Plan* estimates a reduction of 174 million metric tons (about 191 million U.S. tons) of CO₂E. Approximately one-third of the emissions reductions strategies fall within the transportation sector and include the following: California Light-Duty Vehicle GHG standards, the Low Carbon Fuel Standard, Heavy-Duty Vehicle GHG emission reductions and energy efficiency, and medium and heavy-duty vehicle hybridization, high speed rail, and efficiency improvements in goods movement. These measures are expected to reduce GHG emissions by 57.3 million metric tons (63 million U.S. tons) of CO₂E. Emissions from the electricity sector are expected to reduce another 49.7 million metric tons (55 million U.S. tons) of CO₂E. Reductions from the electricity sector include building and appliance energy efficiency and conservation, increased combined heat and power, solar water heating (AB 1470), the renewable energy portfolio standard (33% renewable energy by 2020), and the existing million solar roofs program. Other reductions are expected from industrial sources, agriculture, forestry, recycling and waste, water, and emissions reductions from cap-and-trade programs. Regional GHG targets are also expected to yield a reduction of 5 million metric tons (5.5 million U.S. tons) of CO₂E.³¹ Measures that could become effective during implementation pertain to construction-related equipment and building and appliance energy efficiency. Some proposed early action measures will require new legislation to implement, some will require subsidies, some have already been developed, and some will require additional effort to evaluate and quantify. Additionally, some emissions reductions strategies may require their own environmental review under CEQA or the National Environmental Policy Act (NEPA). Applicable early action measures that are ultimately adopted will become effective during implementation of the proposed project and the proposed project could be subject to these requirements, depending on the Project's timeline.

Local Actions. San Francisco has a history of environmental protection policies and programs aimed at improving the quality of life for San Francisco's residents and reducing impacts on the environment. The following plans, policies and legislation demonstrate San Francisco's continued commitment to environmental protection.

³¹ *Ibid.*

Transit First Policy. In 1973 San Francisco instituted the Transit First Policy which added Section 16.102 to the *City Charter* with the goal of reducing the City's reliance on freeways and meeting transportation needs by emphasizing mass transportation. The Transit First Policy gives priority to public transit investments; adopts street capacity and parking policies to discourage increased automobile traffic; and encourages the use of transit, bicycling and walking rather than use of single-occupant vehicles.

San Francisco Sustainability Plan. In July 1997 the Board of Supervisors approved the *Sustainability Plan* for the City of San Francisco establishing sustainable development as a fundamental goal of municipal public policy. The Sustainability Plan is divided into 15 topic areas, 10 that address specific environmental issues (air quality; biodiversity; energy, climate change and ozone depletion; food and agriculture; hazardous materials; human health; parks, open spaces, and streetscapes; solid waste; transportation; and water and wastewater), and five that are broader in scope and cover many issues (economy and economic development, environmental justice, municipal expenditures, public information and education, and risk management). Although the Sustainability Plan became official City policy in July 1997, the Board of Supervisors has not committed the City to perform all of the actions addressed in the plan. The Sustainability Plan serves as a blueprint, with many of its individual proposals requiring further development and public comment.

The Electricity Resource Plan (Revised December 2002). San Francisco adopted the *Electricity Resource Plan* to help address growing environmental health concerns in San Francisco's southeast community, home of two power plants. The plan presents a framework for assuring a reliable, affordable, and renewable source of energy for the future of San Francisco.

The Climate Action Plan for San Francisco. In February 2002, the San Francisco Board of Supervisors passed the Greenhouse Gas Emissions Reduction Resolution (Number 158-02) committing the City and County of San Francisco to a GHG emissions reduction goal of 20 percent below 1990 levels by the year 2012. In September 2004, the San Francisco Department of the Environment and the Public Utilities Commission published the *Climate Action Plan for San Francisco: Local Actions to Reduce Greenhouse Emissions*.³² The *Climate Action Plan* provides the context of climate change in San Francisco and examines strategies to meet the 20 percent GHG reduction target. Although the Board of Supervisors

³² San Francisco Department of the Environment and San Francisco Public Utilities Commission, *Climate Action Plan for San Francisco, Local Actions to Reduce Greenhouse Emissions*, September 2004.

has not formally committed the City to perform the actions addressed in the *Plan*, and many of the actions require further development and commitment of resources; the *Plan* serves as a blueprint for GHG emission reductions, and several actions have been implemented or are now in progress.

San Francisco Municipal Transportation Agency's Zero Emissions 2020 Plan. The SFMTA's *Zero Emissions 2020 Plan* focuses on the purchase of cleaner transit buses including hybrid diesel-electric buses. Under this plan hybrid buses will replace the oldest diesel buses, some dating back to 1988. The hybrid buses emit 95 percent less particulate matter (PM, or soot) than the buses they replace, they produce 40 percent less oxides of nitrogen (NO_x), and they reduce GHGs by 30 percent.

LEED® Silver for Municipal Buildings. In 2004, the City amended Chapter 7 of the *Environment Code*, requiring all new municipal construction and major renovation projects to achieve LEED® Silver Certification from the US Green Building Council.

Zero Waste. In 2004, the City of San Francisco committed to a goal of diverting 75 percent of its waste from landfills by 2010, with the ultimate goal of zero waste by 2020. San Francisco currently recovers 69 percent of discarded material.

Construction and Demolition Debris Recovery Ordinance. In 2006 the City of San Francisco adopted Ordinance No. 27-06, requiring all construction and demolition debris to be transported to a registered facility that can divert a minimum of 65 percent of the material from landfills. This ordinance applies to all construction, demolition and remodeling projects within the City.

Greenhouse Gas Reduction Ordinance. In May 2008, the City of San Francisco adopted an ordinance amending the *San Francisco Environment Code* to establish City GHG emission targets and departmental action plans, to authorize the Department of the Environment to coordinate efforts to meet these targets, and to make environmental findings. The ordinance establishes the following GHG emission reduction limits for San Francisco and the target dates to achieve them:

- Determine 1990 City GHG emissions by 2008, the baseline level with reference to which target reductions are set;
- Reduce GHG emissions by 25 percent below 1990 levels by 2017;
- Reduce GHG emissions by 40 percent below 1990 levels by 2025; and
- Reduce GHG emissions by 80 percent below 1990 levels by 2050.

The ordinance also specifies requirements for City departments to prepare departmental Climate Action Plans that assess, and report to the Department of the Environment, GHG emissions associated with their department's activities and activities regulated by them, and prepare recommendations to reduce emissions. As part of this, the San Francisco Planning Department is required to: (1) update and amend the City's applicable General Plan elements to include the emissions reduction limits set forth in this ordinance and policies to achieve those targets; (2) consider a project's impact on the City's GHG reduction limits specified in this ordinance as part of its review under CEQA; and (3) work with other City departments to enhance the "transit first" policy to encourage a shift to sustainable modes of transportation thereby reducing emissions and helping to achieve the targets set forth by this ordinance.

Go Solar SF. On July 1, 2008, the San Francisco Public Utilities Commission (SFPUC) launched their "GoSolarSF" program to San Francisco's businesses and residents, offering incentives in the form of a rebate program that could pay for approximately half the cost of installation of a solar power system, and more to those qualifying as low-income residents.

City of San Francisco's Green Building Ordinance. On August 4, 2008, Mayor Gavin Newsom signed into law San Francisco's Green Building Ordinance for newly constructed residential and commercial buildings and renovations to existing buildings. The ordinance specifically requires newly constructed commercial buildings over 5,000 square feet (sq. ft.), residential buildings over 75 feet in height, and renovations on buildings over 25,000 sq. ft. to be subject to an unprecedented level of LEED® and green building certifications, which makes San Francisco the city with the most stringent green building requirements in the nation. Cumulative benefits of this ordinance includes reducing CO₂ emissions by 60,000 tons, saving 220,000 megawatt hours of power, saving 100 million gallons of drinking water, reducing waste and storm water by 90 million gallons of water, reducing construction and demolition waste by 700 million pounds, increasing the valuations of recycled materials by \$200 million, reducing automobile trips by 540,000, and increasing green power generation by 37,000 megawatt hours.³³

The Green Building Ordinance also continues San Francisco's efforts to reduce the City's greenhouse gas emissions to 20 percent below 1990 levels by the year 2012, a goal outlined in the City's 2004

³³ These findings are contained within the final Green Building Ordinance, signed by the Mayor August 4, 2008.

Climate Action Plan. In addition, by reducing San Francisco's emissions, this ordinance also furthers the State's efforts to reduce greenhouse gas emissions statewide as mandated by the California Global Warming Solutions Act of 2006.

The City has also passed ordinances to reduce waste from retail and commercial operations and to require recycling and composting in residential and commercial buildings. Ordinance 295-06, the Food Waste Reduction Ordinance, prohibits the use of polystyrene foam disposable food service ware and requires biodegradable/compostable or recyclable food service ware by restaurants, retail food vendors, City Departments and City contractors. Ordinance 81-07, the Plastic Bag Reduction Ordinance, requires stores located within the City and County of San Francisco to use compostable plastic, recyclable paper and/or reusable checkout bags. Ordinance 100-09, the Mandatory Recycling and Composting Ordinance, requires everyone in San Francisco to separate their refuse into recyclables, compostables, and trash.

The San Francisco Planning Department and Department of Building Inspection have also developed a streamlining process for Solar Photovoltaic (PV) Permits and priority permitting mechanisms for projects pursuing LEED® Gold Certification.

The City's *Planning Code* reflects the latest smart growth policies and includes: electric vehicle refueling stations in city parking garages, bicycle storage facilities for commercial and office buildings, and zoning that is supportive of high density mixed-use infill development. The City's more recent area plans, such as Rincon Hill and the Market and Octavia Area Plan, provide transit-oriented development policies. At the same time there is also a community-wide focus on ensuring San Francisco's neighborhoods as "livable" neighborhoods, including the Better Streets Plan that would improve streetscape policies throughout the City, the Transit Effectiveness Plan, that aims to improve transit service, and the Bicycle Plan, all of which promote alternative transportation options. The City also provides incentives to City employees to use alternative commute modes and the City recently introduced legislation that would require almost all employers to have comparable programs.

Each of the policies and ordinances discussed above include measures that would decrease the amount of GHGs emitted into the atmosphere and decrease San Francisco's overall contribution to climate change.

Impacts. Although neither the BAAQMD nor any other agency has adopted significance criteria for evaluating a project's contribution to climate change,³⁴ the Governor's Office of Planning and Research (OPR) has asked the California Air Resources Board to "recommend a method for setting thresholds of significance to encourage consistency and uniformity in the CEQA analysis of GHG emissions" throughout the state because OPR has recognized that "the global nature of climate change warrants investigation of a statewide threshold for GHG emissions."³⁵ In the interim, on June 19, 2008, OPR released a Technical Advisory for addressing climate change through CEQA review. OPR's technical advisory offers informal guidance on the steps that lead agencies should take to address climate changes in their CEQA documents, in the absence of statewide thresholds. Pursuant to Senate Bill 97, OPR has developed, and the California Resources Agency has adopted amendments to the CEQA Guidelines to incorporate analysis of effects of GHG emissions.³⁶

The Guidelines revisions include a new section (Sec. 15064.4) specifically addressing the significance of GHG emissions. Section 15064.4 calls for a "good-faith effort" to "describe, calculate or estimate" GHG emissions; Section 15064.4 further states that the significance of GHG impacts should include consideration of the extent to which the project would increase or reduce greenhouse gas emissions; exceed a locally applicable threshold of significance; and comply with "regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions." The revisions also state that a project may be found to have a less-than-significant impact if it complies with an adopted plan that includes specific measures to sufficiently reduce GHG emissions (Sec. 15064(h)(3)).

³⁴ As of January 2010, BAAQMD is preparing an update to its *CEQA Guidelines* that propose a significance test for GHG emissions based on compliance with a qualified Climate Action Plan or annual emissions of 1,100 metric tons or 4.6 metric tons per "service population" (residents plus employees). (BAAQMD, *California Environmental Quality Act (CEQA) Air Quality Guidelines*, draft, December 2009. Available on the internet at: http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/Draft%20BAAQMD%20CEQA%20Guidelines_Dec%207%202009.ashx.) Reviewed January 7, 2010.

³⁵ Governor's Office of Planning and Research. Technical Advisory- CEQA and Climate Change: Addressing Climate Change to the California Environmental Quality Act (CEQA) Review. June 19, 2008. Available at the Office of Planning and Research's website at: <http://www.opr.ca.gov/ceqa/pdfs/june08-ceqa.pdf>. Accessed January 22, 2010.

³⁶ The California Natural Resources Agency issued a final version of the revised CEQA Guidelines on December 30, 2009. The new Guidelines will not become effective until reviewed by the state Office of Administrative Law, which is anticipated to approve the revised Guidelines for incorporation by the Secretary of State into the California Code of Regulations in April 2010.

The revised Guidelines, however, do not require or recommend an analysis methodology or a test for determining significance. Therefore, the following analysis is based on OPR's 2008 Technical Advisory, which recommends the following approach for analyzing GHG emissions:

- 1) Identify and quantify the project's GHG emissions;
- 2) Assess the significance of the impact on climate change; and
- 3) If the impact is found to be significant, identify alternatives and/ or mitigation measures that would reduce the impact to a less-than-significant level.

The following analysis is based on OPR's recommended approach for determining a project's contribution to and impact on climate change.

Identifying and quantifying a project's greenhouse gas emissions. OPR's technical advisory states that "the most common GHG that results from human activity is carbon dioxide, followed by methane and nitrous oxide." State law defines GHG to also include hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. These latter GHG compounds are usually emitted in industrial processes, and therefore not applicable to the proposed project. However, the GHG calculation does include emissions from CO₂, nitrous oxide, and methane, as recommended by OPR. The informal guidelines also advise that lead agencies should calculate, or estimate, emissions from vehicular traffic, energy consumption, water usage and construction activities. The calculation presented below includes CO₂E GHG emissions from the construction period, as well as annual CO₂E GHG emissions from increased vehicular traffic, energy consumption, as well as estimated GHG emissions from solid waste disposal. While San Francisco's population and businesses are expected to increase, overall projected water demand for San Francisco in 2030 is expected to decrease from current water demand due to improvements in plumbing code requirements and additional water conservation measures implemented by the San Francisco Public Utilities Commission (SFPUC).³⁷ Given the anticipated degree of water conservation, GHG emissions associated with the transport and treatment of water usage would similarly decrease through 2030, and therefore increased GHG emissions from water usage is not expected.

³⁷ The San Francisco Public Utilities Commission's (SFPUC) *City and County of San Francisco Retail Water Demands and Conservation Potential*, November 2004, documents the current and projected water demand given population and housing projections from Citywide Planning. This document is available at the SFPUC's website at: http://sfwater.org/detail.cfm/MC_ID/13/MSC_ID/165/C_ID/2281. Accessed July 28, 2008. The analysis provides projections of future (2030) water demand given anticipated water conservation measures from plumbing code changes, measures the SFPUC currently implements, and other measures the SFPUC anticipates on implementing. Conservation measures the SFPUC currently implements results in an overall reduction of 0.64 million gallons of water per day (mgd).

The proposed project would increase activity onsite by demolishing the existing one-story structure on the site and constructing a mixed-use building containing restaurant and residential uses. Therefore, the project would contribute to annual long-term increases in GHGs as a result of traffic increases (mobile sources) and operations associated with heating, energy use, water usage and wastewater treatment, and solid waste disposal (area sources). Construction of the project would emit approximately 227 tons of CO₂E.^{38,39} Direct project CO₂E emissions (including CO₂, methane, and nitrous oxide emissions) would include 213 tons of CO₂E/year from transportation and 33 tons of CO₂E/year from heating, for a total of 246 tons of CO₂E/year of project-emitted GHGs. The project would also indirectly result in GHG emissions from off-site electricity generation at power plants (approximately 51 tons of CO₂E/year) and from anaerobic decomposition of solid waste disposal at landfills, mostly in the form of methane (approximately 124 tons of CO₂E/year), for a GHG emissions total of approximately 421 tons of CO₂E/year. Annual emissions would represent less than one-thousandths of one percent (0.001 percent) of total Bay Area GHGs emitted in 2002.⁴⁰

The above calculations do not take into account reductions in GHG generation that would be anticipated as a result of the project's proposed US Green Building Council Leadership in Energy and Environmental Design (LEED) certification (see Project Description). Although the exact measures have not yet been determined, the project would incorporate best management practices and innovative technologies in sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality where feasible. As a result, GHG emissions would be anticipated to be lower than for a comparable non-LEED-certified building.

Assessing the significance of the impact on climate change. The project's incremental increases in GHG emissions associated with construction, traffic increases and heating, electricity use, and solid waste disposal would contribute to regional and global increases in GHG emissions and associated climate change effects.

³⁸ Construction emissions and annual emissions are not intended to be additive as they occur at different points in the project's lifecycle. Construction emissions are one-time emissions that occur prior to building occupancy. Annual emissions are incurred only after construction of the proposed project and are expected to occur annually for the life of the project.

³⁹ ESA, *1050 Valencia Street Project Greenhouse Gas Emissions Calculation*, July 9, 2009. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

⁴⁰ The Bay Area Air Quality Management District reported regional Bay Area GHGs emissions in 2002 at approximately 85 million CO₂E tons. Bay Area 2002 GHG emissions are used as the baseline for determining whether a project's contributions are significant as these are the most recent emissions inventory for the Bay Area.

The 2020 GHG emissions limit for California, as adopted by CARB in December of 2007 is approximately 427 million metric tons (470 million U.S. tons) of CO₂E. The project's annual contribution would be less than 0.0001 percent of this total 2020 emissions limit, and therefore the project would not generate sufficient emissions of GHGs to contribute considerably to the cumulative effects of GHG emissions such that it would impair the state's ability to implement AB32, nor would the project conflict with San Francisco's local actions to reduce GHG emissions.

OPR's guidance states that "Although climate change is ultimately a cumulative impact, not every individual project that emits GHGs must necessarily be found to contribute to a significant cumulative impact on the environment. CEQA authorizes reliance on previously approved plans and mitigation programs that have adequately analyzed and mitigated GHG emissions to a less than significant level as a means to avoid or substantially reduce the cumulative impact of a project." And, "In determining whether a proposed project's emissions are cumulatively considerable, the lead agency must consider the impact of the project when viewed in connection with the effects of "past, current and probable future projects."

As discussed previously, San Francisco has been actively pursuing cleaner energy, transportation and solid waste policies. Probable future greenhouse gas reductions will be realized by implementation of the City's Green Building Ordinance. Additionally, the recommendations outlined in the AB 32 *Scoping Plan* will likely realize major reductions in vehicle emissions.

Further, the State of California Attorney General's office has compiled a list of GHG reduction measures that could be applied to a diverse range of projects.⁴¹ The project would meet the intent of many of the GHG reduction measures identified by the Attorney General's office: (1) as infill development, the project would be constructed in an urban area with good transit access, reducing vehicle trips and vehicle miles traveled, and therefore the project's transportation-related GHG emissions would tend to be less relative to the same amount of population and employment growth elsewhere in the Bay Area, where transit service is generally less available than in the central city of San Francisco;⁴² (2) as new construction, the

⁴¹ State of California, Department of Justice, "The California Environmental Quality Act: Addressing Global Warming Impacts at the Local Agency Level." Updated 3/11/08. Available at: http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf. Accessed 04/11/2008

⁴² The California Air Pollution Control Officer's, CEQA and Climate Change (January 2008) white paper identifies infill development as yielding a "high" emissions reduction score (between 3-30%). This paper is available online at: <http://www.capcoa.org/CEQA/CAPCOA%20White%20Paper.pdf>. Accessed January 22, 2010.

project would be required to meet California Energy Efficiency Standards for Residential and Nonresidential Buildings, helping to reduce future energy demand as well as reduce the project's contribution to cumulative regional GHG emissions; (3) the project would also be required to comply with the Construction Demolition and Debris Recovery Ordinance, requiring at least 65 percent of all construction and demolition material to be diverted from landfills, as well as the Mandatory Recycling and Composting Ordinance; (4) the project would plant new trees, thereby potentially aiding in carbon sequestration;⁴³ and (5) the proposed project would achieve LEED® certification, which would further reduce its short- and long-term impact on global climate change.

Given that: (1) the project would not contribute significantly to global climate change such that would impede the State's ability to meet its GHG reduction targets under AB 32, or impede San Francisco's ability to meet its GHG reduction targets under the Greenhouse Gas Reduction Ordinance (and would not exceed the BAAQMD's proposed significance threshold); (2) San Francisco has implemented programs to reduce GHG emissions specific to new construction; and (3) current and probable future state and local GHG reduction measures will likely reduce a project's contribution to climate change, the project would not contribute significantly, either individually or cumulatively, to global climate change.

Roadway-Related Exposure to Toxic Air Contaminants. The California Air Resources Board (CARB) established its statewide comprehensive air toxics program in the early 1980s. CARB created California's program in response to the Toxic Air Contaminant Identification and Control Act (AB 1807, Tanner, 1983) to reduce exposure to air toxics. CARB identifies 244 substances as Toxic Air Contaminants (TACs) that are known or suspected to be emitted in California and have potential adverse health effects. Public health research consistently demonstrates that pollutant levels are significantly higher near freeways and busy roadways. Human health studies demonstrate that children living within 100 to 200 meters of freeways or busy roadways have poor lung function and more respiratory disease; both chronic and acute health effects may result from exposure to TACs. In 2005, CARB issued guidance on preventing roadway related air quality conflicts, suggesting localities "avoid siting new sensitive land uses within 500 feet of a freeway [or other] urban roads with volumes

⁴³ Carbon sequestration is the capture and long-term storage of carbon dioxide before it is emitted into the atmosphere.

of more than 100,000 vehicles/day.”⁴⁴ However, there are no existing federal or state regulations to protect sensitive land uses from roadway air pollutants.

The San Francisco Department of Public Health (DPH) has issued guidance for the identification and assessment of potential air quality hazards and methods for assessing the associated health risks.⁴⁵ Consistent with CARB guidance, DPH has identified that a potential public health hazard for sensitive land uses exists when such uses are located within a 150-meter (approximately 50-foot) radius of any boundary of a project site that experiences 100,000 vehicles per day. To this end, San Francisco added Article 38 of the San Francisco Health Code, approved November 25, 2008, which requires that, for new residential projects of 10 or more dwelling units located in proximity to high-traffic roadways, as mapped by DPH, an Air Quality Assessment be prepared to determine whether residents would be exposed to potentially unhealthful levels of PM_{2.5}. Through air quality modeling, an assessment is conducted to determine if the annual average concentration of PM_{2.5} from the roadway sources would exceed a concentration of 0.2 micrograms per cubic meter (annual average).⁴⁶ If this standard is exceeded, the project sponsor must install a filtered air supply system, with high-efficiency filters, designed to remove at least 80 percent of ambient PM_{2.5} from habitable areas of residential units.

The project site, at 1050 Valencia Street, is located within a dense urban environment. However, the maximum traffic volumes experienced on local streets near the project site are along Guerrero Street, which, at 26,905 vehicles per day, are still far below the 100,000 vehicles per day threshold. The closest roadway that experiences traffic volumes in excess of 100,000 vehicles per day is U.S. Highway 101,

⁴⁴ California Air Resources Board, *2005 Air Quality and Land Use Handbook: A Community Health Perspective*, <http://www.arb.ca.gov/ch/landuse.htm>, accessed September 8, 2008.

⁴⁵ San Francisco Department of Public Health, *Assessment and Mitigation of Air Pollutant Health Effects from Intra-urban Roadways: Guidance for Land Use Planning and Environmental Review*, May 6, 2008, http://dphwww.sfdph.org/phes/publications/Mitigating_Roadway_AQLU_Conflicts.pdf, accessed September 8, 2009.

⁴⁶ According to DPH, this threshold, or action level, of 0.2 micrograms per cubic meter represents about 8 – 10 percent of the range of ambient PM_{2.5} concentrations in San Francisco based on monitoring data, and is based on epidemiological research that indicates that such a concentration can result in an approximately 0.28 percent increase in non-injury mortality, or an increased mortality at a rate of approximately 20 “excess deaths” per year per one million population in San Francisco. “Excess deaths” (also referred to as premature mortality) refer to deaths that occur sooner than otherwise expected, absent the specific condition under evaluation; in this case, exposure to PM_{2.5}. (San Francisco Department of Public Health, Occupational and Environmental Health Section, Program on Health, Equity, and Sustainability, “Assessment and Mitigation of Air Pollutant Health Effects from Intra-urban Roadways: Guidance for Land Use Planning and Environmental Review, May 6, 2008. Twenty excess deaths per million based on San Francisco’s non-injury, non-homicide, non-suicide mortality rate of approximately 714 per 100,000. Although San Francisco’s population is less than one million, the presentation of excess deaths is commonly given as a rate per million population.)

located over 1,500 meters east of the project site. For these reasons, the project is not subject to the San Francisco Health Code provisions in Article 38 and this impact would be less than significant.

e. **Odors.** As a general matter, the types of land use development that pose potential odor problems include wastewater treatment plants, refineries, landfills, composting facilities and transfer stations. No such uses are currently located within the project vicinity, nor does the project propose uses that would generate objectionable odors. The residential uses are not expected to omit substantial odors and proposed restaurant uses would replace an existing restaurant on the site. Therefore, no noticeable new odors are expected to occur with the implementation of the proposed project.

In light of the above, effects related to air quality would not be significant.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
8. WIND AND SHADOW—Would the project:					
a) Alter wind in a manner that substantially affects public areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Create new shadow in a manner that substantially affects outdoor recreation facilities or other public areas?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. **Wind.** Wind impacts are generally caused by large building masses extending substantially above their surroundings, and by buildings oriented such that a large wall catches a prevailing wind, particularly if such a wall includes little or no articulation. The nature of development in the project vicinity is generally small-scale and the project would not result in adverse effects on ground-level winds. Additionally, the proposed project would plant one additional Brisbane box (a type of a *Eucalyptus*) tree along Hill Street, further reducing wind speeds in the project vicinity and regulating the immediate climate. Accordingly, the proposed project would result in a less-than-significant wind impact.

b. **Shadow.** Section 295 of the *Planning Code* was adopted in response to Proposition K (passed in November 1984) in order to protect public open spaces, under the jurisdiction of the Recreation and Park Commission, from shadowing by new and altered structures during the period between one hour

after sunrise and one hour before sunset, year round. Section 295 restricts new shade and shadow upon public spaces under the jurisdiction of the Recreation and Park Commission by any structure exceeding 40 feet in height unless the Planning Commission finds the shadow to be an insignificant effect. In a memo issued on September 16, 2009, the Planning Department determined that the proposed project would not result in adverse shadow impacts, as defined under Proposition K and Section 295 of the *San Francisco Planning Code*, negating the need for a detailed shadow fan analysis.⁴⁷

The closest public open spaces in the vicinity of the project site that falls under the jurisdiction of the Recreation and Park Department are the Mission Playground, located about two blocks north of the project site, the Alioto Mini-Park, located about four blocks northeast of the project site, the Jose Coronado Playground, located about five blocks east of the project site, and the Mission Dolores Park, located about five block northwest of the project site. The proposed building would not be tall enough to result in additional shading on any of these parks and open spaces. Because no Recreation and Park Department public open spaces would experience additional shading due to the proposed project, the project is not expected to result in a significant effect with regard to new shadow or contribute to any potential cumulative shading impacts on Recreation and Park Department property.

The proposed project would add new shade to surrounding properties because the proposed building would be larger in massing than the existing building and would cover the entire lot. However, the new shading that would result from the project's construction is expected to be limited in scope, and would not increase the total amount of shading above levels that are common and generally accepted in urban areas. The loss of sunlight on private property, because of the dense urban environment of San Francisco, is rarely considered by the Planning Department to be a significant impact on the environment under CEQA. Although patrons and residents of the mixed-use and residential buildings immediately adjacent to the site may regard the increase in shadow as an inconvenience, increased shadow as a result of the proposed project would not be considered a significant impact under CEQA.

⁴⁷ Copy of the memo addressing the project's ineligibility for review under Proposition K is available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
9. RECREATION AND PUBLIC SPACE—Would the project:					
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Physically degrade existing recreational resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. – c. **Parks and Recreational Facilities.** Recreation and Park Department properties in the project vicinity include the Mission Playground (an approximately 1.8-acre park located at 19th and Valencia Street, about two blocks north of the project site), the Alioto Mini-Park (an approximately 0.2-acre park located at 20th and Capp Streets, about four blocks northeast of the project site), the Jose Coronado Playground (an approximately 0.8-acre park located at 21st and Shotwell Streets, about five blocks east of the project site), and the Dolores Park (an approximately 13.4-acre park, located at 20th and Dolores Streets, about five block northwest of the project site). Combined, these facilities provide a wide range of facilities for recreational and passive uses, including tennis and basketball courts, soccer areas, an outdoor swimming pool, play structures, community gardens, walkways, picnic tables and grassy areas.

The proposed project would provide some recreational uses onsite for the residents, in the form of a rooftop terrace and private decks for some units. However, the project would not include any courtyards or rear yards (as noted above, the project would require a rear yard modification per Section 134(e) of the San Francisco *Planning Code*). Residents at the project site would be within walking distance of the above-noted parks and open spaces. Although the proposed project would introduce a new permanent population to the project site, the number of new residents projected would not substantially increase demand for or use of either neighborhood parks and recreational facilities (discussed above) or citywide facilities such as Golden Gate Park, such that substantial physical deterioration would be expected. The permanent residential population on the site and the incremental on-site daytime population growth that would result from the proposed commercial use would not require the construction of new recreational facilities or the expansion of existing facilities.

The project would have a less-than-significant effect on existing recreational facilities, and would not contribute substantially to cumulative effects.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
10. UTILITIES AND SERVICE SYSTEMS—Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supply available to serve the project from existing entitlements and resources, or require new or expanded water supply resources or entitlements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Result in a determination by the wastewater treatment provider that would serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project site is within an urban area that is served by utility service systems, including water, wastewater and storm water collection and treatment, and solid waste collection and disposal. The proposed project would add new daytime and temporary nighttime population to the site that would increase the demand for utilities and service systems on the site, but not in excess of amounts expected and provided for in the project area.

a. – c. and e. **Wastewater and Stormwater Services.** The project site is served by San Francisco's combined sewer system, which handles both sewage and stormwater runoff. The Southeast Water Pollution Control Plant (Southeast Plant) provides wastewater and stormwater treatment and management for the east side of the city, including the project site. No new sewer or stormwater facilities or construction would be needed to serve the proposed project. The proposed project would

meet the wastewater pre-treatment requirements of the San Francisco Public Utilities Commission, as required by the San Francisco Industrial Waste Ordinance in order to meet Regional Water Quality Control Board requirements.⁴⁸ The proposed project would add residential units and commercial uses to the project site, which would incrementally increase the demand for wastewater and stormwater treatment services, but not in excess of amounts expected and provided for in the project area.

The project site is currently covered with impervious surfaces and the proposed project would not create any additional impervious surfaces, resulting in little effect on the total storm water volume discharged through the combined sewer system. While the proposed project would add to sewage flows in the area, it would not cause collection treatment capacity of the sewer system in the City to be exceeded. In light of the above, the proposed project would not exceed wastewater treatment requirements of the Regional Water Quality Control Board and would not require the construction of new wastewater/storm water treatment facilities or expansion of existing ones. Therefore, the proposed project would result in a less-than-significant wastewater impact.

Furthermore, in 2005, the San Francisco Public Utilities Commission launched a citywide \$150 million 5-Year Wastewater Capital Improvement Program (5-Yr WWCIP) to improve the reliability and efficiency of San Francisco's combined wastewater and storm water system. It is anticipated that over the course of the next few years the 5-Yr WWCIP would help address the most critical needs of the City's aging wastewater system, improving the capacity of sewer mains, upgrading treatment facilities and reducing wastewater odors. The 5-Yr WWCIP is a parallel effort to the upcoming San Francisco Sewer System Master Plan, which would provide a long-term plan to address the entire wastewater system.⁴⁹ Therefore, the project would result in a less-than-significant impact to wastewater systems.

d. **Water Supply.** The proposed project would add residential units and commercial (restaurant) uses to the project site, which would increase the demand for water on the site, but not in excess of amounts expected and provided for in the project area. Although the proposed project would incrementally increase the demand for water in San Francisco, the estimated increase in demand could be

⁴⁸ City and County of San Francisco, Ordinance No. 19-92, San Francisco Municipal Code (Public Works), Part II, Chapter X, Article 4.1 (amended), January 13, 1992.

⁴⁹ San Francisco Public Utilities Commission, http://sfwater.org/msc_main.cfm/MC_ID/14/MSC_ID/119, accessed February 2, 2009.

accommodated within anticipated water use and supply for San Francisco.⁵⁰ The proposed project would also be designed to incorporate water-conserving measures, such as low-flush toilets and urinals, as required by the *California Building Code* Section 402.0(c). Since the proposed project's water demand could be accommodated by the existing and planned supply anticipated under the San Francisco Public Utility Commission's 2005 UWMP the proposed project would result in less-than-significant water service impacts.

f. **Solid Waste.** According to the California State Integrated Waste Management Act of 1989, San Francisco is required to adopt an integrated waste management plan, implement a program to reduce the amount of waste disposed, and have its waste diversion performance periodically reviewed by the Integrated Waste Management Board. Reports filed by the San Francisco Department of the Environment showed the City generated 1.88 million tons of waste material in 2002. Approximately 63 percent (1.18 million tons) was diverted through recycling, composting, reuse, and other efforts while 700,000 tons went to a landfill. The diversion percentage increased in 2002 from 52 percent in 2001.⁵¹ Additionally, the City has a goal to divert most (75 percent) of its solid waste (through recycling, composting, etc.) by 2010 and to divert all waste by 2020.⁵²

Solid waste from the project site would be collected by Sunset Scavenger Company and hauled to the Norcal transfer station near Candlestick Point, and recycled as feasible, with non-recyclables being disposed of at the Altamont Landfill in Alameda County, where it is required to meet federal, state and local solid waste regulations. The Altamont Landfill has a permitted maximum disposal of 6,000 tons per day and received about 1.34 million tons of waste in 2002. The total permitted capacity of the landfill is more than 124 million cubic yards; with this capacity, the landfill can operate until 2025.⁵³ Although the proposed project would incrementally increase total waste generation from the City, the increasing rate of diversion through recycling and other methods would result in a decreasing share of

⁵⁰ San Francisco Public Utility Commission, 2005 UWMP. The 2005 UWMP uses the San Francisco Planning Department's current long range growth projections – Land Use Allocation 2002 – an estimate of total growth expected in the City and County of San Francisco from 2000 – 2025. These projections have similar employment growth and approximately 15,000 higher household growth than ABAG Projections 2002.

⁵¹ City and County of San Francisco, Office of the Controller, Community Indicators Report, http://www.sfgov.org/wcm_controller/community_indicators/physicalenvironment/index.htm, accessed on September 14, 2009.

⁵² San Francisco Department of the Environment, http://www.sfenvironment.org/our_programs/overview.html?ssi=3, accessed March 3, 2008.

⁵³ California Integrated Waste Management Board, Active Landfill Profiles, Altamont Landfill, <http://www.ciwmb.ca.gov/Profiles/Facility/Landfill/LFPprofile1.asp?COID=3&FACID=01-AA-0009>, accessed December 6, 2007.

total waste that requires deposition into the landfill. As discussed previously, San Francisco Ordinance No. 27-06 requires a minimum of 65 percent of all construction and demolition debris to be recycled and diverted from landfills. Furthermore, the project would be required to comply with City's Ordinance 100-09, the Mandatory Recycling and Composting Ordinance, which requires everyone in San Francisco to separate their refuse into recyclables, compostables, and trash. Given this, and given the long-term capacity available at the Altamont Landfill, the solid waste generated by project construction and operation would not result in the landfill exceeding its permitted capacity, and the project would result in a less-than-significant solid waste generation impact.

For the reasons discussed above, utilities and service systems would not be adversely affected by the project, individually or cumulatively, and no significant impact would ensue.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
11. PUBLIC SERVICES—					
Would the project					
a) Result in substantial adverse physical impacts associated with the provision of, or the need for, new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any public services such as fire protection, police protection, schools, parks, or other services?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. Governmental Facilities and Services.

Fire Protection. The project site receives fire protection services from the San Francisco Fire Department (SFFD). Fire stations located nearby include Station 7, at 19th and Folsom Streets (approximately nine blocks northeast of the project site) and Station 11 at 26th and Church Streets (eight blocks southwest of the project site). The SFFD is made up of 1,629 uniformed firefighters, paramedics, officers, and inspectors. Although the proposed project would increase the number of calls received from the area or the level of regulatory oversight that must be provided as a result of the increased concentration of activity on site, the increase in responsibilities would not be substantial in light of existing demand for fire protection services.

Furthermore, the proposed project would be required to comply with all applicable building and fire codes, which establish requirements pertaining to fire protection systems, including, but not limited to, the provision of state-mandated smoke alarms, fire alarm and sprinkler systems, fire extinguishers, required number and location of egress with appropriate distance separation, and emergency response notification systems. Since the proposed project would be required to comply with all applicable building and fire codes, and the proposed project would result in an incremental increase in demand, it would not result in the need for new fire protection facilities, and would not result in significant impacts to the physical environment. Hence, the proposed project would have a less-than-significant impact on fire protection services.

Police Protection. The proposed project, being a more intensive use of the project site than currently exists, would incrementally increase police service calls in the project area. Police protection is provided by the Mission Police Station located at 17th and Valencia Streets, approximately five blocks north of the project site. Although the proposed project could increase the number of calls received from the area or the level of regulatory oversight that must be provided as a result of the increased concentration of activity on site, the increase in responsibilities would not be substantial in light of the existing demand for police and fire protection services. The Mission Station would be able to provide the necessary police services and crime prevention in the area. Meeting this additional service demand would not require the construction of new police facilities. Hence, the proposed project would have a less-than-significant impact on police services.

Schools. Nearby public schools include Cesar Chavez Elementary School (22nd and Shotwell Streets, six blocks from the site), George R. Moscone Elementary School (Harrison and 22rd Streets, about nine blocks from the site), Horace Mann Alternative Middle School (23rd and Bartlett Streets, about three blocks from the site), James Lick Middle School (25th and Noe Streets, nine blocks from the site) and Mission High School (18th and Dolores Streets, about six blocks from the site). The proposed project, a mix of commercial and residential uses, would incrementally increase the number of school-aged children that would attend public schools in the project area. However, this increase would not exceed the projected student capacities that are expected and provided for by the San Francisco Unified School District as well as private schools in the project area. Therefore, the implementation of the proposed project would not necessitate the need for new or physically altered schools.

In light of the above, public services would not be adversely affected by the project, individually or cumulatively, and no significant effect would ensue.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
12. BIOLOGICAL RESOURCES—					
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a. and d. Habitat and Wildlife. The project site does not provide habitat for any rare or endangered plant or animal species, and the proposed project would not affect or substantially diminish plant or animal habitats, including riparian or wetland habitat. The proposed project would not interfere with any resident or migratory species, nor affect any rare, threatened or endangered species. The proposed project would not interfere with species movement or migratory corridors. The proposed project would not conflict with any local policies or ordinances directed at protecting biological resources.

b. Riparian Habitat/Other Sensitive Natural Community. The proposed project is located in a developed area completely covered by impervious surfaces. The project area does not include riparian

habitat or other sensitive natural communities as defined by the California Department of Fish and Game and the United States Fish and Wildlife Service; therefore, criterion 12b is not applicable to the proposed project.

c. **Federally Protected Wetlands.** The project area does not contain any wetlands as defined by Section 404 of the Clean Water Act. Therefore this criterion is not applicable to the proposed project.

e. **Trees.** The San Francisco Board of Supervisors adopted legislation that amended the City's Urban Forestry Ordinance, *Public Works Code* Sections 801 et. seq., to require a permit from the Department of Public Works (DPW) to remove any protected trees. Protected trees include landmark trees, significant trees, or street trees located on private or public property anywhere within the territorial limits of the City and County of San Francisco. There are currently three Bay Laurel trees located on the sidewalks adjacent to the project site, one on Valencia Street and two on Hill Street. These trees would be replaced with the implementation of the proposed project. The project sponsor would also plant two additional Brisbane box (a type of a *Eucalyptus*) trees along Hill Street to be in compliance with Section 143 of the *Planning Code*, which requires that one 24-inch box tree be planted every 20 feet of property frontage along each street, with any remaining fraction of 10 feet or more of frontage requiring an additional tree. Any additional tree plantings along Valencia Street, however, would not be possible because the project site is located on a corner lot and no trees are permitted within 15 feet of the corner and also because the location of sidewalk fixtures would prohibit a tree planting along the Valencia Street frontage.

f. **Habitat Conservation Plans.** The proposed project does not fall within any local, regional or state habitat conservation plans. Therefore, criterion 12f is not applicable to the proposed project.

For the above reasons, the project would not result in any significant effects with regard to biological resources, nor would the project contribute to any potential cumulative effects to biological resources.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
13. GEOLOGY, SOILS, AND SEISMICITY— Would the project					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Change substantially the topography or any unique geologic or physical features of the site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. – d. **Seismic and Geologic Hazards.** The project site is not located in an Alquist-Priolo Special Studies Zone. No known active fault exists on or in the immediate vicinity of the site.⁵⁴ In a seismically active area, such as the San Francisco Bay area, the possibility exists for future faulting in areas where no faults previously existed. The geotechnical investigation performed for the project site concludes that the likelihood of ground rupture is low.⁵⁵ The closest active faults are the San Andreas Fault, approximately located about six miles southwest of the project site, and the Hayward Fault, about 12 miles east of the project site.

⁵⁴ California State Department of Conservation, Division of Mines and Geology (CDMG) *Cities and Counties Affected by Alquist-Priolo Earthquake Fault Zones as of May 1, 1998*, [http://www.consrv.ca.gov], November 16, 1998, and CDMG, *Fault Rupture Hazard Zones in California Alquist Priolo Earthquake Zoning Act, Special Publication 42*, Revised 1997.

⁵⁵ Earth Mechanics Consulting Engineers, Geotechnical Investigation. *Planned Development at 1050 Valencia Street, San Francisco, California*. May 8, 2008. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

The *San Francisco General Plan Community Safety Element* contains maps that show areas of the city subject to geologic hazards. The project site is located in an area subject to "very strong" groundshaking (Modified Mercalli Intensity VIII) from earthquakes along the Peninsula segment of the San Andreas Fault and the North and South segments of the Hayward Fault (Map 2 of the Community Safety Element).⁵⁶ Like the entire San Francisco Bay Area, the project site is subject to ground shaking in the event of an earthquake on regional fault lines.

According to the geotechnical investigation, the project site is located within a seismic hazard zone for liquefaction, as mapped by the California Division of Mines and Geology for the City and County of San Francisco in 2000. However, the report notes that the earth materials encountered in the boring conducted for the project below the groundwater table were sufficiently dense and/or contained enough plastic fines to render the potential for liquefaction to occur as low. Thus, the report concludes that the potential for liquefaction (or lateral spreading) with the proposed project would be low.

According to the maps prepared by the California Division of Mines and Geology for the City and County of San Francisco in 2000 (as referenced by the geotechnical investigation) and based on Map 5 of the Community Safety Element of the *General Plan*, the project site does not lie within an area subject to earthquake-induced landslides. The project site is also outside of the area subject to tsunami run-up (Maps 6 of the Community Safety Element) and is also not located within a reservoir inundation area.⁵⁷

The project site is at an elevation of 68 feet above Mean Sea Level (MSL)⁵⁸ and is gently sloped downward toward the northeast. The 3,315-square-foot lot currently contains an existing commercial building and an outdoor patio. The entire lot is covered by impervious surfaces and the proposed project would not significantly alter drainage patterns. Therefore, the proposed project would not result in a loss of top soil, nor result in substantial soil erosion on the project site or surrounding properties. While the project would include excavation for a proposed basement level and thus would change the topography of the site, no significant impact would ensue.

⁵⁶ Continued research has resulted in revisions to ABAG's earthquake hazard maps. Available on ABAG website (viewed June 11, 2009) at: <http://www.abag.ca.gov/bayarea/eqmaps/mapsba.html>. Based on the 2003 ABAG mapping, the shaking hazard potential at the project site is considered to be "violent" and could cause significant damage in the project vicinity. However, ABAG notes, "The damage, however, will not be uniform. Some buildings will experience substantially more damage than this overall level, and others will experience substantially less damage." Buildings that are expected to experience greater damage are older buildings that have not received seismic strengthening improvements.

⁵⁷ Association of Bay Area Governments, *Dam Inundation Areas for Dams and Reservoirs*, <http://www.abag.ca.gov/bayarea/eqmaps/damfailure/damfail.html>, accessed November 15, 2007.

⁵⁸ Elevations are on City of San Francisco Datum; as referenced in the geotechnical investigation.

As noted above, a site-specific geotechnical investigation has been performed for the site. The purpose of the geotechnical investigation was to explore subsurface conditions and develop recommendations regarding the geotechnical aspects of project design and construction. According to this report, the project site is underlain by five feet of fill, composed of loose, poorly graded sand with clay, gravel, and rock and brick fragments. Beneath the fill are clayey sands that are loose at a depth of about 6 feet, medium dense at a depth of about 16 feet, and medium dense to dense below about 20 feet. Beneath the clayey sands is a layer of dense, poorly graded sand, which was encountered at a depth of about 42 feet. Beneath this, a layer of very dense brown clayey sand encountered at the maximum depth explored, 43.5 feet.

The geotechnical investigation found no geotechnical factors at the site, which would prohibit the construction of the project as proposed. The report included recommendations to address standard geotechnical practices such as clearing, subgrade preparation, foundation design, and shoring options, which may be required to restrain the sides of the excavation and limit the movement of adjacent structures. The report recommended a mat foundation to support the proposed structure.

The final building plans would be reviewed by the Department of Building Inspection (DBI). In reviewing building plans, the DBI refers to a variety of information sources to determine existing hazards and assess requirements for mitigation. Sources reviewed include maps of Special Geologic Study Areas and known landslide areas in San Francisco as well as the building inspectors' working knowledge of areas of special geologic concern. Potential geologic hazards would be ameliorated during the DBI permit review process. To ensure compliance with all *San Francisco Building Code* provisions regarding structural safety, when DBI reviews the geotechnical report (if required) and building plans for a proposed project, it will determine the adequacy of necessary engineering and design features to reduce the potential damage to structures from groundshaking and liquefaction. Therefore, potential damage to structures from geologic hazards on the project site would be ameliorated through the DBI requirement for a geotechnical report and review of the building permit application. Any changes incorporated into the foundation design required to meet the *San Francisco Building Code* standards that are identified as a result of the DBI permit review process would constitute minor modifications of the project and would not require additional environmental analysis.

e. **Septic Tanks and Alternative Wastewater Disposal Systems.** The proposed project would connect to the City's sewer and stormwater collection and treatment system and would not use a septic waste disposal system. Therefore, criterion 13e is not applicable to the project site.

f. **Potential Change to Topography or unique geologic or physical site features.** The project site is located on a block that gently sloped downward toward the northeast. The project site itself is generally flat and has no unique topography. The proposed project would have no impact with respect to topographical features of the site.

In light of the above, the proposed project would not result in a significant impact related to geology, soils, and seismicity, either individually or cumulatively.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
14. HYDROLOGY AND WATER QUALITY—					
Would the project:					
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion of siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other authoritative flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a., b., and f. **Water Quality.** The proposed project would not substantially degrade water quality or contaminate a public water supply. Groundwater is not used as a drinking water supply in the City and County of San Francisco. The project site is completely covered with impervious surfaces and natural groundwater flow would continue under and around the site. Construction of the proposed project would not increase impervious surface coverage on the site nor reduce infiltration and groundwater recharge. Therefore, the proposed project would not substantially alter existing groundwater or surface flow conditions.

Over the construction period, there would be a potential for erosion and transportation of soil particles during site preparation, excavation, foundation pouring, and construction of the building shell. Once in surface water runoff, sediment and other pollutants could leave the construction site and ultimately be released into the San Francisco Bay. Stormwater runoff from project construction would drain into the combined sewer and stormwater system and be treated at the Southeast Water Pollution Control Plant prior to discharge into San Francisco Bay. Pursuant to the *San Francisco Building Code* and the City's National Pollutant Discharge Elimination System (NPDES) permit, the project sponsor would be required to implement measures to reduce potential erosion impacts. During project operation, all wastewater from the proposed project building, and storm water runoff from the project site, would be treated at the Southeast Water Pollution Control Plant. Treatment would be provided pursuant to the effluent discharge standards contained in the City's NPDES permit for the plant. During operation and construction, the proposed project would be required to comply with all local wastewater discharge and water quality requirements. Additionally pursuant to the project's proposed LEED® certification, the project would be required to meet the pre-requisite requirement of preparing and implementing an erosion and sedimentation control plan, the intent of which is to reduce pollution from construction activities by controlling soil erosion, sedimentation, and airborne dust generation. Therefore, the proposed project would not substantially degrade water quality.

Groundwater Resources. A geotechnical investigation was prepared for the proposed project.⁵⁹ Based on this report, groundwater was observed in the boring drilled on the site at a depth of about 30 feet below ground surface (bgs). To accommodate the proposed basement level, excavation to a maximum depth of 17 feet bgs is proposed, with an average depth of excavation proposed at 15 feet bgs. Hence, it is unlikely that any dewatering would be necessary at the project site to accommodate the proposed basement level. However, in the event that groundwater is encountered at the site during the construction of the proposed project (for instance due to seasonal variation, following rain, or following irrigation in the vicinity of the project site), the project would be subject to the requirements of the City's Industrial Waste Ordinance (Ordinance Number 199-77), requiring that groundwater meet specified water quality standards before it may be discharged into the sewer system. The Bureau of Environmental Regulation and Management of the San Francisco Public Utilities Commission must be notified of projects necessitating dewatering, and may require water analysis before discharge.

c.-e. Site Drainage. Because the proposed project would not change the amount of impervious surface area at the site, there would be no increase in the quantity and rate of stormwater runoff from the site that flows to the city's combined sewer system. The proposed project would alter drainage onsite, but site runoff would continue to drain to the city's combined storm and sanitary sewer system. Therefore, the project would not substantially alter drainage onsite. The foundation and portions of the building below grade would be water tight to avoid the need to permanently pump and discharge water. Because stormwater flows from the proposed project could be accommodated by the existing combined sewer system, and because there would not be an expected increase in stormwater flows, the proposed project would not significantly impact surface or ground water quality.

Development in the City and County of San Francisco must account for flooding potential. Areas located on fill or bay mud can subside to a point at which the sewers do not drain freely during a storm (and sometimes during dry weather) and there can be backups or flooding near these streets and sewers. The project site, however, is not underlain by fill or bay mud and does not fall within an area in the City prone to flooding during storms since, once implemented, the ground story of the new structure would be located above the hydraulic grade line/water level of the sewer.

⁵⁹ Earth Mechanics Consulting Engineers, Geotechnical Investigation. *Planned Development at 1050 Valencia Street, San Francisco, California*. May 8, 2008. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

g. – i. **Flood Hazards.** Flood risk assessment and some flood protection projects are conducted by federal agencies including the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers (Corps). The flood management agencies and cities implement the National Flood Insurance Program (NFIP) under the jurisdiction of FEMA and its Flood Insurance Administration. Currently, the City of San Francisco does not participate in the NFIP and no flood maps are published for the City. However, FEMA is preparing Flood Insurance Rate Maps (FIRMs) for the City and County of San Francisco for the first time. FIRMs identify areas that are subject to inundation during a flood having a one percent chance of occurrence in a given year (also known as a “base flood” or “100-year flood”). FEMA refers to the flood plain that is at risk from a flood of this magnitude as a special flood hazard area (“SFHA”).

Because FEMA has not previously published a FIRM for the City and County of San Francisco, there are no identified SFHAs within San Francisco’s geographic boundaries. FEMA has completed the initial phases of a study of the San Francisco Bay. On September 21, 2007, FEMA issued a preliminary FIRM of San Francisco for review and comment by the City. The City has submitted comments on the preliminary FIRM to FEMA. FEMA anticipates publishing a revised preliminary FIRM in 2010, after completing the more detailed analysis that Port and City staff requested in 2007. After reviewing comments and appeals related to the revised preliminary FIRM, FEMA will finalize the FIRM and publish it for flood insurance and floodplain management purposes.

FEMA has tentatively identified SFHAs along the City’s shoreline in and along the San Francisco Bay consisting of Zone A (in areas subject to inundation by tidal surge) and Zone V (areas of coastal flooding subject to wave hazards).⁶⁰ On June 10, 2008, legislation was introduced at the San Francisco Board of Supervisors to enact a floodplain management ordinance to govern new construction and substantial improvements in flood prone areas of San Francisco, and to authorize the City’s participation in NFIP upon passage of the ordinance. Specifically, the proposed floodplain management ordinance includes a requirement that any new construction or substantial improvement of structures in a designated flood zone must meet the flood damage minimization requirements in the ordinance. The NFIP regulations allow a local jurisdiction to issue variances to its floodplain management ordinance under certain narrow circumstances, without jeopardizing the local

⁶⁰ City and County of San Francisco, Office of the City Administrator, National Flood Insurance Program Flood Sheet, <http://sfgsa.org/index.aspx?page=828>. Accessed January 31, 2010.

jurisdiction's eligibility in the NFIP. However, the particular projects that are granted variances by the local jurisdiction may be deemed ineligible for federally-backed flood insurance by FEMA.

Once the Board of Supervisors adopts the Floodplain Management Ordinance, the Department of Public Works will publish flood maps for the City, and applicable City departments and agencies may begin implementation for new construction and substantial improvements in areas shown on the Interim Floodplain Map. According to the preliminary map, the proposed project is neither within Zone A nor Zone V.⁶¹ Therefore, the project would result in less than significant impacts related to development within a 100-year flood zone.

j. Seiche, Tsunami, Mudflow. As discussed in the section pertaining to geology and soils, above, the project site is not in an area subject to tsunami run-up, or reservoir inundation hazards (Maps 6, and 7 in the *General Plan Community Safety Element*). Therefore, the project is not expected to expose people or structures to risk from inundation by seiche, tsunami or mudflow.

In light of the above, effects related to water resources would not be significant, either individually or cumulatively.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
15. H HAZARDS AND HAZARDOUS MATERIALS					
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

⁶¹ Federal Emergency Management Agency, Preliminary Flood Insurance Rate Map, City and County of San Francisco, California, Panels 92A, 94A, 110A, 111A, 112A, 120A, 130A, 140A, 210A, 235A, and 255A, September 21, 2007, available on the Internet at http://www.sfgov.org/site/risk_management_index.asp?id=69690, accessed April 1, 2008.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

A Phase I Environmental Site Assessment has been prepared for the site.⁶² The potential for soil and groundwater contamination and hazardous building materials at the project site were assessed as part of this report, summarized below.

a. and c. On-Site Hazardous Materials Use and Emissions. The proposed project would involve the development of a mixed-use building containing restaurant and residential uses, the operation of which may involve relatively small quantities of hazardous materials for routine purposes. The development would likely handle common types of hazardous materials, such as cleaners, disinfectants, and chemical agents required to maintain the sanitation of the residential areas, and commercial bathrooms and food preparation areas. These commercial products are labeled to inform users of potential risks and to instruct them in appropriate handling procedures. For these reasons, cleaning agents used by future residents and retail employees would not pose a substantial public health or safety hazard related to hazardous materials to the surrounding areas or nearby schools.

b. c. and d. Hazardous Materials Sites List. The project site is currently used as a one-story full-service restaurant and is not included on the Department of Toxic Substances Control list of hazardous material sites in San Francisco. As described above in Section E4, page 30, under *Cultural Resources*,

⁶² DGC Associates, *Phase I Environmental Site Assessment, Spork Restaurant, 1050-1060 Valencia Street, San Francisco, California*, June 30, 2009. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

prior to the construction of the existing building on the project site, the project parcel contained several different structures and uses. From 1925 until 1936, a three-story residential building occupied the project site. This building was demolished in 1936, and from at least 1950 until 1965, the property was occupied by a gas station, an auto repair shop and a tire shop. As stated in the Phase I investigation, Sanborn Fire Insurance Maps from 1950 and 1965 indicate that west and south portions of the property were occupied by a structure labeled as "Auto Service" and "Tire Service" and the north and northeast portion of the site were labeled as "Gas & Oil." In 1969, the service station structure was demolished and in 1970, the building that currently exists on the property was constructed. The existing building on the site was occupied by a Kentucky Fried Chicken franchise restaurant until 2006, after which the Spork Restaurant occupied it.

As noted above, a Phase I investigation has been prepared for the site by DGC Associates in June of 2008. Based on historical uses at the project site (including a gasoline station and other auto-oriented uses), DGC recommended that a geophysical survey be conducted on the project site to determine if any underground storage tanks (USTs) or other subsurface features remain on the property. DGC also recommended a Phase II subsurface investigation and surveys for the presence of asbestos-containing materials (ACM) and lead paint to determine if the former uses at the property have negatively affected it.

The San Francisco Department of Public Health, Environmental Health Section, Hazardous Waste Unit (EHS-HWU) concurred with DOC's recommendations to conduct the geophysical survey, subsurface investigation and the ACM and lead paint surveys, in response to which, DOC prepared a workplan. EHS-HWU approved the workplan with additional conditions, which have been incorporated into Mitigation Measure HAZ-1, below. Compliance with Mitigation Measure HAZ-1 (as well as all other mitigation measures in this document), as written, would be required as part of project implementation, should the proposed project be approved. The subsurface investigation proposed in the workplan assumes that no USTs are present at the site, and states that if USTs are determined to be present, then additional subsurface testing would be undertaken at the time the USTs, if any, are removed. No records are available to determine whether an underground storage tank (UST) exists beneath the site. However, in light of the site's prior use as a gas station, there is a high probability that one or more USTs exist either beneath the site itself or beneath one of the adjacent sidewalks. Mitigation Measure HAZ-2, page 82, would be implemented in the event that one or more USTs is detected at the site to ensure that UST(s) are

removed in accordance with applicable regulations. Additionally, if required by EHS-HWU following discovery of one or more USTs and review of soil and groundwater testing results, Mitigation Measure HAZ-3, page 83, would be implemented to ensure proper handling of potentially contaminated soils.

Mitigation Measure HAZ-1: Geophysical Survey and Phase II Subsurface Investigation. A geophysical survey and a Phase II subsurface investigation shall be conducted at the site to determine if any USTs remain at the site and, assuming no USTs are detected, to determine the extent of sub-surface contamination associated with the former automotive service station. Both of these investigations shall be completed in conjunction with and as a condition of approval for the demolition of the existing building. They shall be carried out in accordance with the workplan prepared by GEOCON prescribed by EHS-HWU on September 2, 2008⁶³. The workplan is summarized as follows:

- The site will be divided into 5 foot grids and surveyed using ground penetrating radar within the site and along the sidewalks since early generation USTs may have been located beneath the sidewalks.
- Based on the geophysical survey, three soil and groundwater samples to 30 feet below ground surface shall be collected at the site, in addition to the soil samples that would occur should USTs be found and during UST removal. Two borings shall be collected in the gas station, auto repair and tire shop area. One boring (SB-1) shall be located in the presumed downgradient direction in order to intercept any contaminants.
- Following the purging of the groundwater, soil and grab groundwater samples are to be analyzed for total petroleum hydrocarbons (TPH) as gasoline, TPH-diesel, TPH-motor oil, benzene, toluene, ethylbenzene and xylenes and ethylene bromide and 1,2-dichloroethane.
- Soil samples shall be analyzed for the five Leaking Underground Fuel Tank (LUFT) metals (cadmium, chromium, lead, nickel, and zinc) to accommodate the presence of waste oil contamination and any metals that may have contaminated the site during previous uses or renovations.
- Additional sampling may be required in order to develop a site mitigation plan for the site.

As noted, no records are available to indicate whether a UST exists beneath the site. To ensure that any UST associated with prior uses at the site is removed in accordance with all rules and regulations governing the cleanup of potentially hazardous materials, should one or more USTs be detected during

⁶³ Department of Public Health, *Letter from Rajiv Bhatia to Mark Rutherford*, September 2, 2008. Available for public review at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, CA, as part of Case File No. 2007.1457E.

the geophysical survey or the subsequent subsurface, the following Mitigation Measure shall be implemented, in conjunction with and as a condition of approval for demolition of the existing building.

Mitigation Measure HAZ-2: Underground Storage Tanks. Permits from the San Francisco DPH Hazardous Materials Unified Program Agency (HMUPA), Fire Department (SFFD), and Municipal Transportation Agency (MTA; Streets and Sidewalks) shall be obtained for removal of any undiscovered or remaining underground storage tanks (USTs) (and related piping). HMUPA, SFFD (and possibly MTA) will make inspections prior to removal and only upon approval of the inspector may the USTs and related piping be removed from the ground. Appropriate soil and, if necessary, groundwater samples shall be taken at the direction of the HMUPA inspector and analyzed. Appropriate transportation and disposal of the UST shall be arranged.

Because the project site is under the regulatory authority of the SFDPH-Environmental Health Section-Local Oversight Program (LOP) for the investigation and clean up of leaking underground storage tanks, all analytical data will be forwarded to the LOP. A "Notice of Completion" will not be issued for any area of the project site where soils contamination is documented. Rather, a "Remedial Action Completion Certification" (aka "certificate of closure" or "case closure") will be issued upon the site being remediated to the satisfaction of the LOP with the concurrence of the Regional Water Quality Control Board. If the HMUPA inspector requires that an Unauthorized Release (Leak) Report submitted to LOP due to holes in previously undiscovered USTs or because of evident odor or visual contamination, or if analytical results indicate there are elevated levels of contamination, then site remediation may involve additional investigation and cleanup of the soil and groundwater as directed by the LOP. In order to receive a case closure for this site from the LOP, all pertinent investigation and remediation must be completed to the satisfaction of the LOP that any residual petroleum hydrocarbon contamination in the soil and/or groundwater will not pose a threat to the public health and safety, or the environment, including groundwater, as determined by the LOP and the Regional Water Quality Control Board. In addition for future site development, the site may be required to meet residential land use Environmental Screening Levels for soil and groundwater (Regional Water Quality Control Board, Region 2), and may require vapor sampling to ensure that residences will not be exposed to elevated vapor levels as to be determined by the LOP. The building permit cannot be issued until the project receives either case closure or the LOP allows conditional development of the site with ongoing investigation/remedial activities.

If required by EHS-HWU following discovery of one or more USTs and review of soil and groundwater testing results, Mitigation Measure HAZ-3 will be incorporated into the proposed project to ensure that any contaminated soils unearthed on the site as a result of the subsurface investigations are properly handled, hauled and discarded. Also, as part of this mitigation measure, a Site Mitigation Plan will be prepared.

Mitigation Measure HAZ-3: Hazardous Materials – Testing for and Handling of Contaminated Soil.

Step 1: Soil Testing. Prior to approval of a building permit for the project, the project sponsor shall hire a consultant to collect soil samples (borings) from areas on the site in which soil would be disturbed and test the soil samples for total lead and petroleum hydrocarbons. The consultant shall analyze the soil borings as discrete, not composite samples. The consultant shall prepare a report on the soil testing for lead and petroleum hydrocarbons that includes the results of the soil testing and a map that shows the locations of stockpiled soils from which the consultant collected the soil samples.

The project sponsor shall submit the report on the soil testing for lead and a fee of \$501 in the form of a check payable to the San Francisco Department of Public Health (DPH), to the Hazardous Waste Program, Department of Public Health, 1390 Market Street, Suite 210, San Francisco, California 94102. The fee of \$501 shall cover three hours of soil testing report review and administrative handling. If additional review is necessary, DPH shall bill the project sponsor for each additional hour of review over the first three hours, at a rate of \$167 per hour. These fees shall be charged pursuant to Section 31.47(c) of the San Francisco Administrative Code. DPH shall review the soil testing program to determine whether soils on the project site are contaminated with lead or petroleum hydrocarbons at or above potentially hazardous levels.

Step 2: Preparation of Site Mitigation Plan. Prior to beginning demolition and construction work, the project sponsor shall prepare a Site Mitigation Plan (SMP). The SMP shall include a discussion of the level of lead contamination of soils on the project site and mitigation measures for managing contaminated soils on the site, including but not limited to: 1) the alternatives for managing contaminated soils on the site (e.g., encapsulation, partial or complete removal, treatment, recycling for reuse, or a combination); 2) the preferred alternative for managing contaminated soils on the site and a brief justification; and 3) the specific practices to be used to handle, haul, and dispose of contaminated soils on the site. The SMP shall be submitted to the Department of Public Health (DPH) for review and approval. A copy of the SMP shall be submitted to the Planning Department to become part of the case file. Additionally, the DPH may require confirmatory samples for the project site.

Step 3: Handling, Hauling, and Disposal Contaminated Soils.

Specific Work Practices: The construction contractor shall be alert for the presence of contaminated soils during excavation and other construction activities on the site (detected through soil odor, color, and texture and results of on-site soil testing), and shall be prepared to handle, profile (i.e., characterize), and dispose of such soils appropriately (i.e., as dictated by local, state, and federal regulations, including OSHA work practices) when such soils are encountered on the site.

Dust Suppression: Soils exposed during excavation for site preparation and project construction activities shall be kept moist throughout the time they are exposed, both during and after work hours.

Surface Water Runoff Control: Where soils are stockpiled, visqueen shall be used to create an impermeable liner, both beneath and on top of the soils, with a berm to contain any potential surface water runoff from the soil stockpiles during inclement weather.

Soils Replacement: If necessary, clean fill or other suitable material(s) shall be used to bring portions of the project site, where lead-contaminated soils have been excavated and removed, up to construction grade.

Hauling and Disposal: Contaminated soils shall be hauled off the project site by waste hauling trucks appropriately certified with the State of California and adequately covered to prevent dispersion of the soils during transit, and shall be disposed of at the permitted hazardous waste disposal facility registered with the State of California.

Step 4: Preparation of Closure/Certification Report. After excavation and foundation construction activities are completed, the project sponsor shall prepare and submit a closure/certification report to DPH for review and approval. The closure/certification report shall include the mitigation measures in the SMP for handling and removing lead-contaminated soils from the project site, whether the construction contractor modified any of these mitigation measures, and how and why the construction contractor modified those mitigation measures.

Mitigation Measure HAZ-4, below, will be incorporated into the project to ensure that excavation and soil handling equipment are decontaminated following use and prior to removal from the site.

Mitigation Measure HAZ-4: Hazards (Decontamination of Vehicles). If the San Francisco Department of Public Health (DPH) determines that the soils on the project site are contaminated with contaminants at or above potentially hazardous levels, all trucks and excavation and soil handling equipment shall be decontaminated following use and prior to removal from the site. Gross contamination shall be first removed through brushing, wiping, or dry brooming. The vehicle or equipment shall then be washed clean (including tires). Prior to removal from the work site, all vehicles and equipment shall be inspected to ensure that contamination has been removed.

Hazardous Building Materials. As discussed above, DGC Associates prepared a Phase I investigation for the proposed project. Although asbestos or lead-based paint surveys were not conducted as part of this report, the report notes a potential for these materials to exist on the project site. While they are unlikely to pose a potentially significant impact, they are discussed below for informational purposes.

Asbestos. The Phase I investigation conducted for the proposed project notes that, given the age of the existing building on the site, there is a potential of encountering asbestos-containing materials during the proposed demolition activities. The materials that may contain asbestos include ceramic tile mastic throughout the building, 2' x 4' acoustical ceiling tiles, base board, wallboard and roofing materials. An ACM-sampling survey was not conducted as part of the Phase I investigation.

Section 19827.5 of the California Health and Safety Code requires that local agencies not issue demolition or alteration permits until an applicant has demonstrated compliance with the notification requirements under applicable Federal regulations regarding hazardous air pollutants, including asbestos. The Bay Area Air Quality Management District (BAAQMD) is vested by the California legislature with authority to regulate airborne pollutants, including asbestos, through both inspection and law enforcement, and is to be notified ten days in advance of any proposed demolition or abatement work.

Notification includes the names and addresses of operations and persons responsible; description and location of the structure to be demolished/alterd including size, age and prior use, and the approximate amount of friable asbestos; scheduled starting and completion dates of demolition or abatement; nature of planned work and methods to be employed; procedures to be employed to meet BAAQMD requirements; and the name and location of the waste disposal site to be used. The BAAQMD randomly inspects asbestos removal operations. In addition, the BAAQMD will inspect any removal operation when a complaint has been received.

The local office of the State Occupational Safety and Health Administration (OSHA) must be notified of asbestos abatement to be carried out. Asbestos abatement contractors must follow state regulations contained in 8CCR1529 and 8CCR341.6 through 341.14 where there is asbestos-related work involving 100 square feet, linear feet, or more of asbestos-containing material. Asbestos removal contractors must be certified as such by the Contractors Licensing Board of the State of California. The owner of the property where abatement is to occur must have a Hazardous Waste Generator Number assigned by and registered with the Office of the California Department of Health Services in Sacramento. The contractor and hauler of the material are required to file a Hazardous Waste Manifest which details the hauling of the material from the site and the disposal of it. Pursuant to California law, the DBI would not issue the required permit until the applicant has complied with the notice and abatement requirements described above.

These regulations and procedures, already established as part of the permit review process, would reduce potential impacts of asbestos to a less-than-significant level.

Lead-Based Paint. The Phase I investigation conducted for the project site notes that, based on the construction of the existing building in approximately 1970, eight years before the use of lead-based paint was banned, there is a potential of encountering lead within the existing structure. The interior of

the building was repainted in 2006. However lead may nevertheless be encountered within the layers of paint underneath the surface in the interior of the building. A lead-based paint survey was not conducted as part of the Phase I investigation. In the event that lead-based paint is found on the site, the project sponsor would be required to comply with Section 3423 of the San Francisco Building Code, which requires specific notification and work standards, and identifies prohibited work methods and penalties.

Section 3423 typically only applies to the exterior of all buildings or steel structures on which original construction was completed prior to 1979 (which are assumed to have lead-based paint on their surfaces, unless demonstrated otherwise through laboratory analysis), and to the interior of residential buildings, hotels, and childcare centers. The ordinance contains performance standards, including establishment of containment barriers, at least as effective at protecting human health and the environment as those in the federal Department of Housing and Urban Development (HUD) Guidelines (the most recent Guidelines for Evaluation and Control of Lead-Based Paint Hazards) and identifies prohibited practices that may not be used in disturbances or removal of lead-based paint. Any person performing work subject to the ordinance shall, to the maximum extent possible, protect the ground from contamination during exterior work; protect floors and other horizontal surfaces from work debris during interior work; and make all reasonable efforts to prevent migration of lead paint contaminants beyond containment barriers during the course of the work. Clean-up standards require the removal of visible work debris, including the use of a High Efficiency Particulate Air Filter (HEPA) vacuum following interior work.

The ordinance also includes notification requirements and requirements for signs. Prior to the commencement of work, the responsible party must provide written notice to the Director of the Department of Building Inspection (DBI), of the address and location of the project; the scope of work, including specific location; methods and tools to be used; the approximate age of the structure; anticipated job start and completion dates for the work; whether the building is residential or nonresidential, owner-occupied or rental property; the dates by which the responsible party has or will fulfill any tenant or adjacent property notification requirements; and the name, address, telephone number, and pager number of the party who will perform the work. (Further notice requirements include signs when containment of lead paint contaminants is required; requirements for signage when containment is required; notice to occupants; availability of pamphlets related to protection from lead in the home; and notice of Early Commencement of Work [Requested by Tenant].) The ordinance

contains provisions regarding inspection and sampling for compliance by DBI, and DBI enforcement. In addition, the ordinance describes penalties for non-compliance with the requirements of the ordinance.

These regulations and procedures in the San Francisco Building Code would ensure that potential impacts of lead-based paint due to demolition would be reduced to a less-than-significant level.

Other Hazardous Building Materials. Other potential hazardous building materials such as PCB-containing electrical equipment or fluorescent lights could pose health threats for construction workers if not properly disposed of. Implementation of Mitigation Measure HAZ-5 would reduce impacts of potential hazardous building materials to a less-than-significant level.

Mitigation Measure HAZ-5: Hazards (PCBs and Mercury). The project sponsor shall ensure that building and site surveys for PCB-containing equipment, hydraulic oils, waste oil collection drums, and fluorescent lights are performed prior to the start of demolition. Any hazardous materials so discovered would be abated according to federal, state, and local laws and regulations.

In light of the above, the potential impacts of hazardous building materials are considered less than significant.

g. and h. Fire Hazards and Emergency Response or Evacuation Plans. The implementation of the proposed project would introduce new restaurant employees and residents to the project site who, in turn, could result in congestion in the event of an emergency evacuation. San Francisco ensures fire safety primarily through provisions of the Building Code and the Fire Code. Existing and new buildings are required to meet standards contained in these codes. In addition, the final building plans for any new residential project greater than two units are reviewed by the San Francisco Fire Department (as well as the Department of Building Inspection), in order to ensure conformance with these provisions. The proposed project would conform to these standards, which (depending on the building type) may also include development of an emergency procedure manual and an exit drill plan. In this way, potential fire hazards would be mitigated during the permit review process.

In addition, the proposed project would be implemented in a developed area of San Francisco, where fire, medical, and police services are available and provided. The existing street grid provides ample access for emergency responders and egress for residents and workers, and the proposed project would neither directly nor indirectly alter that situation to any substantial degree. Moreover, the Fire

Department reviews building permits for multi-story structures. Therefore, the proposed project would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan and this impact would be less than significant.

e. and f. Airport Land Use Plan and Private Airstrips. The project site is not within an airport land use plan area, nor is it in the vicinity of a private airstrip. Therefore, topics 15e and 15f are not applicable to the proposed project.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
16. MINERAL AND ENERGY RESOURCES—Would the project:					
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Encourage activities which result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. and b. Mineral Resources. All land in San Francisco, including the project site, is designated Mineral Resource Zone 4 (MRZ-4) by the California Division of Mines and Geology (CDMG) under the Surface Mining and Reclamation Act of 1975 (CDMG, Open File Report 96-03 and Special Report 146 Parts I and II). This designation indicates that there is inadequate information available for assignment to any other MRZ and thus the site is not a designated area of significant mineral deposits. Since the project site is already developed, future evaluation or designation of the site would not affect or be affected by the proposed project. There are no operational mineral resource recovery sites in the project area whose operations or accessibility would be affected by the construction or operation of the proposed project.

c. Energy. New buildings in San Francisco are required to conform to energy conservation standards specified by the San Francisco Green Building Ordinance (SFGBO), which would require the project to meet various conservation standards. Specifically, the project would be required to achieve 25 GreenPoints, including meeting an energy standard of 15 percent more energy efficient than that required by Title 24, the California Building Code. Documentation showing compliance with the

SFGBO standards is submitted with the application for the building permit. The SFGBO and Title 24 are enforced by the Department of Building Inspection. Therefore, the proposed project would not cause a wasteful use of energy and the effects related to energy consumption would not be significant. In light of the above, effects related to energy consumption would not be considered significant. Additionally, under the project's LEED® certification components, the project would be required to reduce its energy use as compared to non-certified buildings.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
17. A AGRICULTURE RESOURCES					
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.					
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland of Statewide Importance, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a. - c. **Agricultural Use.** The project site is located within an urban area in the City and County of San Francisco. The California Department of Conservation's Farmland Mapping and Monitoring Program identifies the site as *Urban and Built-Up Land*, which is defined as "...land [that] is used for residential, industrial, commercial, institutional, public administrative purposes, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes." The project site does not contain agricultural uses and is not zoned for such uses. The proposed project would not involve any changes to the environment that could result in the conversion of farmland. Accordingly, this topic is not applicable to the proposed project.

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Not Applicable</i>
18. MANDATORY FINDINGS OF SIGNIFICANCE— Would the project:					
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have impacts that would be individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. – c. **Potential Impacts.** The proposed project has been found to have potentially significant environmental effects with regard to hazardous materials. Implementation of the Mitigation Measures described on pages 81–84 relating to pre-construction surveys and investigations would reduce these effects to a less-than-significant level. The proposed project would therefore not result in any significant environmental impacts.

F. NEIGHBORHOOD NOTICE

A notice of a Project Receiving Environmental Review was mailed on May 29, 2009, to the owners of properties within 300 feet of the project site and to interested neighborhood groups. No comment letters or phone calls regarding this project were received during the public comment period.

Following publication of the PMND, an appeal was filed. In response to the appeal, a Planning Department Preservation Technical Specialist confirmed the PMND's finding that the proposed project would result in a less-than-significant impact on the Liberty Hill Historic District (see Section E.4, Cultural Resources), and the Historic Preservation Commission found, at its meeting on June 16, 2010, that the Department's CEOA analysis appeared to be adequate.

G. DETERMINATION

On the basis of this initial study:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, no further environmental documentation is required.



Bill Wycko,
Environmental Review Officer

for

John Rahaim
Director of Planning

DATE February 9, 2010

H. LIST OF PREPARERS

REPORT AUTHORS

San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Environmental Review Officer: Bill Wycko
Senior Environmental Reviewer: Joy Navarrete
Environmental Coordinator: Jeremy D. Battis

ENVIRONMENTAL CONSULTANTS

Environmental Science Associates
225 Bush Street, Suite 1700
San Francisco, California 94104

Project Manager:	Karl Heisler
Deputy Project Manager:	Tania Sheyner, AICP, LEED AP
Staff:	Lisa Bautista
	Anthony Padilla
	Eric Schniewind
	Ron Teitel
	Nichole Yeto

PROJECT SPONSOR

Shizuo Holdings Trust
c/o Mark Rutherford
Shizuo Holdings Trust
1001 Bridgeway, Suite 538
Sausalito, CA 94965

PROJECT ARCHITECT

Stephen Antonaros, Architect
2261 Market Street #324
San Francisco, California 94114

Attachment B:

**Final Mitigated Negative Declaration, Dated October 5, 2010
(Less the Initial Study, Dated September 23, 2010, Already
Included in Attachment A)**



SAN FRANCISCO PLANNING DEPARTMENT

Revisions from Preliminary Mitigated Negative Declaration shown by Double Underlining and ~~Strikethrough~~

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fac:
415.558.6409

Planning
Information:
415.558.6377

Mitigated Negative Declaration

Date of PMND: February 10, 2010; amended September 23, 2010
Case No.: 2007.1457E
Project Title: 1050 Valencia Street
Zoning: Valencia Street Neighborhood Commercial Transit District
 (Valencia Street NCT)
 55-X Height and Bulk District
 Mission Alcoholic Beverage Special Use Subdistrict
Block/Lot: 3617/008
Lot Size: 3,315 square feet
Project Sponsor: Shizuo Holdings Trust
Contact: Mark Rutherford - (415) 368-7818
Lead Agency: San Francisco Planning Department
Staff Contact: Jeremy Battis - (415) 575-9022
Jeremy.Battis@sfgov.org

PROJECT DESCRIPTION:

The proposed project involves the demolition of an existing 1,670-square foot (sq ft), 23-foot-high, one-story commercial building constructed in 1970, in use as a full-service restaurant, and construction of a new 17,000-sq ft, 55-foot-high, five-story, mixed-use building containing 16 dwelling units over a 3,500 sq ft ground-floor and basement level full-service restaurant. ~~The existing building has one off street parking/loading space, accessed from Hill Street, which would not change. No parking or loading spaces would be provided.~~ The project site is within the block bounded by Valencia Street to the east, 21st Street to the north, Guerrero Street to the west, and 22nd Street to the south at the southwest corner of Valencia and Hill Street, a midblock street in the Mission District neighborhood.


The proposed project would require a rear yard modification by the Zoning Administrator to eliminate the rear yard requirement.

FINDING:

This project could not have a significant effect on the environment. This finding is based upon the criteria of the Guidelines of the State Secretary for Resources, Sections 15064 (Determining Significant Effect), 15065 (Mandatory Findings of Significance), and 15070 (Decision to prepare a Negative Declaration), and the following reasons as documented in the Initial Evaluation (Initial Study) for the project, which is attached. Mitigation measures are included in this project to avoid potentially significant environmental effects (incorporated within the relevant subsections of Section E, Evaluation of Environmental Effects).

In the independent judgment of the Planning Department, there is no substantial evidence that the project could have a significant effect on the environment.


BILL WYCKO
Environmental Review Officer


Date of Adoption of Final Mitigated
Negative Declaration

www.sfplanning.org

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TTD/TTY No. 5545227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Tuesday, October 22, 2013

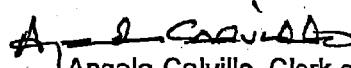
Time: 3:00 p.m.

Location: Legislative Chamber, Room 250, located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

Subject: File No. 130896. Hearing of persons interested in or objecting to the Planning Commission's approval of a Final Mitigated Negative Declaration (Case No. 2007.1457E) adopted and issued on September 30, 2010, for the proposed demolition of an existing one-story commercial building and construction of a five-story mixed-use building within the Valencia Street NCT (Neighborhood Commercial Transit) Zoning District and a 55-X Height and Bulk District on property located at 1050 Valencia Street, Assessor's Block No. 3617, Lot No. 008. (District 8) (Appellant: Stephen M. Williams, on behalf of the Liberty Hill Neighborhood Association) (Filed September 12, 2013).

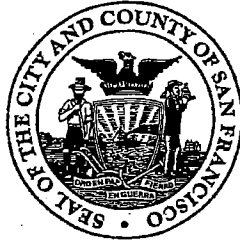
Pursuant to Government Code Section 65009, the following notice is hereby given: if you challenge, in court, the general plan amendments or planning code and zoning map amendments described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on Friday, October 18, 2013.


Angela Calvillo, Clerk of the Board

DATED: October 4, 2013
MAILED/POSTED: October 7, 2013

BOARD of SUPERVISORS



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

PROOF OF MAILING

Legislative File No. 130896

Description of Items:

Hearing of persons interested in or objecting to the Planning Commission's approval of a Final Mitigated Negative Declaration (Case No. 2007.1457E) adopted and issued on September 30, 2010, for the proposed demolition of an existing one-story commercial building and construction of a five-story mixed-use building within the Valencia Street NCT (Neighborhood Commercial Transit) Zoning District and a 55-X Height and Bulk District on property located at 1050 Valencia Street, Assessor's Block No. 3617, Lot No. 008. (District 8) (Appellant: Stephen M. Williams, on behalf of the Liberty Hill Neighborhood Association) (Filed September 12, 2013).

I, Erica Dayrit, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: October 7, 2013

Time: 8:50 a.m.

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature: 

Instructions: Upon completion, original must be filed in the above referenced file.

Lamug, Joy

From: Sheyner, Tania
Sent: Wednesday, October 02, 2013 1:40 PM
To: Lamug, Joy
Cc: Gibson, Lisa
Subject: Appeal of MND to BOS - 1050 Valencia Street - Distribution List
Attachments: 1050 Valencia_BOS Appeal Hearing Dist List.xlsx

Hello Joy –

Attached is a distribution list for the 1050 Valencia Street appeal hearing notice. Please feel free to contact me with any questions or concerns.

Thanks,
Tania

Tania Sheyner, AICP, LEED AP
Environmental Planner

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-575-9127 **Fax:** 415-558-6409
Email: Tania.Sheyner@sfgov.org
Web: www.sfplanning.org



Name	Title	Organization
Clint Mitchell	President	Liberty Hill Neighborhood Association
Risa Teitelbaum	Committee Chair	
Stephanie Weisman	Artistic Director/Founder	The Marsh
Elizabeth Zitrin		
Mike Maier		
John Barbey	Chairperson	Liberty Hill Residents Assn.
Jason Henderson	Vice Chairman	Market/Octavia Community Advisory Comm.
Tim Colen	Executive Director	San Francisco Housing Action Coalition
Robin Levitt		
Jonathan Meier		
Leonard Fisher		
Sue Lebeck		
David Bower and Sally L. Glaser		
Audrey Bower		
Matt Young		
Tura Sugden		
Vaughn Shields and Greg Elich		
John F. Levin		
Paula Braveman		
Kathryn M. Bowsher		
Peter Heinecke		
Anna Mazzetti		
Joseph Mazzetti		
Clyde Steiner		
Rebecca Prozan		

Address

34 Hill Street
10 Hill Street
1062 Valencia Street
34 Hill Street
20 Hill Street
50 Liberty Street
300 Buchanan Street; Apt. 503
95 Brady Street
225 Lily Street
1074 Valencia Street
10 Hill Street
20 Hill Street
868 Boyce Avenue
22 Hill Street
22 Hill Street
22A Hill Street
24 Hill Street
25 Hill Street
25 Hill Street
30 Hill Street
30 Hill Street
55 Hill Street
55 Hill Street
3357 21st Street
584 Castro Street, #660

City State Zip

San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94110-2313
San Francisco, CA 94110
San Francisco, CA
San Francisco, CA 94103
San Francisco, CA 94102
San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94110
Palo Alto, CA 94301
San Francisco, CA 94110
San Francisco, CA 94110
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San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94110
San Francisco, CA 94114

Email

clintsf@pacbell.net
risat@pacbell.net
eaz@zitrinlaw.com

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee:
- An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee:
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Clerk of the Board

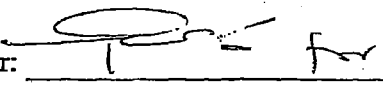
Subject:

Public Hearing - Appeal of Final Mitigated Negative Declaration - 1050 Valencia Street

The text is listed below or attached:

Hearing of persons interested in or objecting to the Planning Commission's approval of a Final Mitigated Negative Declaration (Case No. 2007.1457E) adopted and issued on September 30, 2010, for the proposed demolition of an existing one-story commercial building and construction of a five-story mixed-use building within the Valencia Street NCT (Neighborhood Commercial Transit) Zoning District and a 55-X Height and Bulk District on property located at 1050 Valencia Street, Assessor's Block No. 3617, Lot No. 008. (District 8) (Appellant: Stephen M. Williams, on behalf of the Liberty Hill Neighborhood Association) (Filed September 12, 2013).

130896

Signature Sponsoring Supervisor: 

For Clerk's Use Only:

