

# 1111 CALIFORNIA STREET MASONIC CENTER RENOVATION PROJECT



**CITY AND COUNTY OF SAN FRANCISCO  
PLANNING DEPARTMENT: CASE NO. 2011.0471E**

**STATE CLEARINGHOUSE NO: 2012102024**

**DRAFT EIR PUBLICATION DATE: APRIL 17, 2013**

**DRAFT EIR PUBLIC HEARING DATE: MAY 23, 2013**

**DRAFT EIR PUBLIC COMMENT PERIOD: APRIL 18, 2013 - JUNE 3, 2013**

**FINAL EIR CERTIFICATION HEARING DATE: NOVEMBER 14, 2013**



**SAN FRANCISCO  
PLANNING  
DEPARTMENT**





# SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: October 31, 2013

TO: **Members of the Planning Commission and Interested Parties**

FROM: Sarah B. Jones, Environmental Review Officer

Re: **Attached Responses to Comments on Draft Environmental Impact Report Case No. 2011.0471E - Masonic Center Renovation Project**

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Attached for your review please find a copy of the Responses to Comments document for the Draft Environmental Impact Report (EIR) for the above-referenced project. **This document, along with the Draft EIR, will be before the Planning Commission for Final EIR certification on November 14, 2013.** Please note that the public review period ended on June 3, 2013.

The Planning Commission does not conduct a hearing to receive comments on the Responses to Comments document, and no such hearing is required by the California Environmental Quality Act. Interested parties, however, may always write to Commission members or to the President of the Commission at 1650 Mission Street and express an opinion on the Comments and Responses document, or the Commission's decision to certify the completion of the Final EIR for this project.

Please note that if you receive the Responses to Comments document in addition to the Draft EIR, you technically have the Final EIR. If you have any questions concerning the Responses to Comments document or the environmental review process, please contact Brett Bollinger at 415-575-9024 or [brett.bollinger@sfgov.org](mailto:brett.bollinger@sfgov.org).

Thank you for your interest in this project and your consideration of this matter.



# 1111 CALIFORNIA STREET MASONIC CENTER RENOVATION PROJECT

## RESPONSES TO COMMENTS

**CITY AND COUNTY OF SAN FRANCISCO  
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**RESPONSES TO COMMENTS**

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## ATTACHMENTS

## Attachment A: Public Hearing Transcript Comments

Attachment B: Draft EIR Comment Letters

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# **1. INTRODUCTION**

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## **A. PURPOSE OF THIS RESPONSES TO COMMENTS DOCUMENT**

The purpose of this Responses to Comments (RTC) document is to present comments submitted on the Draft Environmental Impact Report (Draft EIR) for the proposed Masonic Center Renovation Project, to respond in writing to comments on environmental issues, and to revise the Draft EIR as necessary to provide additional clarity. Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21091 (d)(2)(A) and (B), the City has considered the comments received, evaluated the issues raised, and herein provides written responses that describe the disposition of each environmental issue that has been raised by the commenters. Comments were made in written form during the public comment period from April 18 to June 3, 2013, and as oral testimony received at the public hearing before the Planning Commission on the Draft EIR held on May 23, 2013. A complete transcript of proceedings from the public hearing on the Draft EIR and all written comments are included in their entirety. The Draft EIR together with this Responses to Comments document constitute the Final EIR for the proposed Masonic Center Renovation Project, in fulfillment of CEQA requirements and consistent with CEQA Guidelines Section 15132.

## **B. ENVIRONMENTAL REVIEW PROCESS**

The San Francisco Planning Department prepared the Draft EIR for the Masonic Center Renovation Project in accordance with CEQA, the CEQA Guidelines in Title 14 of the California Code of Regulations, and Chapter 31 of the San Francisco Administrative Code (Administrative Code). The Draft EIR was published on April 17, 2013. A public comment period was then held from April 18 to June 3, 2013, to solicit public comment on the adequacy and accuracy of information presented in the Draft EIR. The comments received during the public review period are the subject of this RTC document, which addresses all substantive written and oral comments on the Draft EIR.

Under CEQA Guidelines Section 15201, members of the public may comment on any aspect of the proposed project. Further, CEQA Guidelines Section 15204(a) states that the focus of public review should be “on the sufficiency of the Draft EIR in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated.” In addition, “when responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.” CEQA Guidelines Section 15088 specifies that the lead agency is required to respond to the comments

on the major environmental issues raised in the comments received during the public review period.

The San Francisco Planning Department distributed this Responses to Comments document for review to the Planning Commission as well as to neighborhood organizations and to persons who commented on the Draft EIR. The Draft EIR, together with this RTC document, will be presented to the Planning Commission at a hearing in accordance with Administrative Code Section 31.15. If the Planning Commission deems the EIR adequate with respect to accuracy, objectiveness, and completeness, it will certify the document as a Final Environmental Impact Report (Final EIR). The Final EIR will consist of the Draft EIR and this RTC document, which includes the comments received during the public review period, responses to the comments, and any revisions to the Draft EIR that result from public agency and public comments. The City decision-makers will consider the certified Final EIR, along with other information and the public process, to determine whether to approve, modify, or disapprove the proposed project, and to specify any applicable environmental conditions.

## **C. DOCUMENT ORGANIZATION**

This Responses to Comments document consists of the following chapters:

- Chapter 1, Introduction, discusses the purpose of the RTC document, the environmental review process for the Masonic Center Renovation Project Draft EIR, and the organization of the RTC document.
- Chapter 2, List of Persons Commenting, presents the names of persons who provided comments on the Draft EIR. The names of persons who spoke at the public hearing are presented first, in the order of the speakers, followed by the names of persons who submitted written comments, in the chronological order in which comments were received by the Planning Department.
- Chapter 3, Responses to Comments, presents the substantive comments excerpted verbatim from the public hearing transcript and comment letters. Comments appear as single-space text and similar comments are grouped together by topic area. Each comment begins with the commenter's name and, if applicable, title and affiliation; a designation as to whether the comment is from the public hearing transcript, a letter, or an email; the corresponding date; and a comment code. Comments are coded in the following way:
  - For public hearing comments, each substantive hearing comment from the transcript is identified by "PH" (for public hearing transcript), a number assigned to that commenter based on order of presentation at the hearing (for example, the first speaker is numbered as PH.1), and a sequential comment number.
  - For written comments, letters and emails are identified as either comments from organizations (designated by "O") or individuals (designated by "I"), and each letter or email is identified with a number denoting its chronological sequence within the group. Each individual comment within each written communication is bracketed

and numbered sequentially, followed by the commenter's last name (e.g., code "I.1.4-Smith" breaks down into "I" for "Individual," "1" for Letter 1, "4" for the fourth comment from Letter 1, and the author's last name). In cases where commenters submitted more than one letter or email, comment codes include a number indicating which of the author's letters or emails the comment is from (e.g., "I.3.5-Smith (2)" indicates that the comment comes from the second letter submitted by the author).

The comment excerpts in Chapter 3 tie in with the two RTC attachments.

Attachment A presents a complete transcript of the public hearing, and Attachment B presents copies of the letters and emails received by the Planning Department in their entirety. Comments are bracketed and coded in each attachment.

Following each comment or group of comments on a topic are the City's responses. Comments may be addressed by a single response, or by a specific targeted response to a particular comment where noted. The responses generally provide clarification of the Draft EIR text.

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## 2. LIST OF PERSONS COMMENTING

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Organizations and individuals submitted written comments (letters and e-mails) on the Masonic Center Renovation Project Draft EIR, which the City received during the public comment period from April 18 to June 3, 2013. In addition, the Planning Commission held a public hearing about the Draft EIR on May 23, 2013, and Commissioners and individuals made oral comments at that hearing. These commenters are listed below, along with the corresponding transcript and/or written communication designation used in Chapter 3, Responses to Comments, to denote each set of comments. The names of persons who spoke at the public hearing are presented first, in the order of the speakers. Written comments follow, organized into two groups: comments from organizations, and comments from individuals. Within the comments from individuals group, written comments are organized chronologically by the date of the communication. E-mail communications with the same date are organized by the time the communication was sent to the Planning Department.

### PUBLIC HEARING COMMENTS

The following persons made oral comments about the Draft EIR at the public hearing on May 23, 2013:

Designation	Commenter
PH.1	Linda Chapman
PH.2	Jim Miller
PH.3	Commissioner Michael Antonini, San Francisco Planning Commission

### WRITTEN COMMENTS

The following organizations and individuals submitted written comments about the Draft EIR during the public comment period of April 18 to June 3, 2013:

## 2. List of Persons Commenting

<b>Designation</b>	<b>Commenter</b>	<b>E-mail or Letter</b>	<b>Date of Written Comments</b>
<i><b>Organizations</b></i>			
O-CSFN	Hiroshi Fukuda, Chair, CSFN Land Use and Housing Committee	E-mail	June 3, 2013
<i><b>Individuals</b></i>			
I.1	Steven L. Vettel, Farella Braun +Martel LLP, on behalf of California Masonic Memorial Temple	Letter	April 24, 2013
I.2	Meredith Blau	E-mail	May 20, 2013
I.3	Dennis J. Hong	E-mail	May 28, 2013
I.4	Leonard Miller	E-mail	May 31, 2013
I.5	Linda Lamé	E-mail	June 3, 2013
I.6	Annette Gawenda	E-mail	June 3, 2013
I.7	Verna Shaheen	E-mail	June 3, 2013
I.8	Nancy Robison	E-mail	June 3, 2013
I.9	Berit Muh	E-mail	June 3, 2013
I.10	Linda Chapman (1)	E-mail	June 3, 2013
I.11	Linda Chapman (2)	E-mail	June 3, 2013
I.12	Linda Chapman (3)	E-mail	June 3, 2013
I.13	Linda Chapman (4)	E-mail	June 3, 2013
I.14	Linda Chapman (5)	E-mail	June 4, 2013

### 3. RESPONSES TO COMMENTS

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#### A. PROJECT DESCRIPTION

The comments and corresponding responses in this section cover topics in EIR Chapter 2, Project Description. These include topics related to:

- PD-1 - Project History and Definition
  - PD-2 - Environmental Review of 2012 Conditional Use Authorization
  - PD-3 - Historic Number of Events and Project Baseline Conditions
  - PD-4 - Project Objectives
  - PD-5 - Planning Commission Approvals
  - PD-6 - Type 47 Liquor License Approvals
  - PD-7 - Description of Commercial Kitchen and Food Preparation Area
  - PD-8 - Clarification of Assembly Space Capacity
- 

#### **Comment PD-1: Comments regarding project history and the definition of the proposed project analyzed in the EIR.**

This response addresses the following comments:

I.6.1-Gawenda	I.9.4-Muh	I.9.14-Muh
I.9.1-Muh	I.9.5-Muh	I.9.16-Muh
I.9.2-Muh	I.9.6-Muh	I.9.43-Muh
I.9.3-Muh	I.9.11-Muh	

*Annette Gawenda, E-mail, June 3, 2013 [I.6.1-Gawenda]*

I have lived on Bush Street since 1978 and have enjoyed MANY concerts and programs at the Masonic Auditorium up on California Street. I thought the proposed changes have been all settled with the number of concerts and seating arrangements that Live Nation has been proposing and secretly trying to get passed.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.1-Muh]*

I live in the Nob Hill neighborhood of San Francisco. I am writing to provide the San Francisco Planning Department ("Planning Department") with comments on the Draft Environmental Impact Report ("DEIR") for the Masonic Center, Case No. 2011.0471-E (the "Project"). For the reasons stated below, I believe the DEIR does not meet the requirements of California Environmental Quality Act ("CEQA").

#### **Project History**

As a resident of Nob Hill, I have watched closely the planning applications made by the Project sponsor over the years. As discussed below, many of the facts and potential significant environmental impacts identified in prior projects are directly relevant to the proposed Project,

yet those facts were inadequately discussed, mistakenly characterized or in some cases omitted from the analysis in the DEIR.

#### *2010 Project*

In 2010, the Project sponsor's first attempt at expanding the Masonic Center into a full-blown music and late night entertainment venue, came before the San Francisco Planning Commission. In that application, the Project sponsor sought approval of a conditional use authorization to change the existing nonconforming entertainment use to "other entertainment", pursuant to Planning Code sections 182(b)(1) and 728.48, and to add permanent food and beverage service for patrons of entertainment and assembly events, pursuant to Planning Code section 238(D). That action would have allowed the Project sponsor to vastly expand the number of live entertainment events annually, increase alcohol sales at all of those events, and expand the times for events at the Masonic Center, all in violation of the existing zoning in the Nob Hill Special Use District ("Nob Hill SUD") and the wishes of the neighborhood's residents and businesses. (the "2010 project").

The 2010 project contained most of the same physical attributes as the proposed Project (eight concession stands, removal of fixed seating, etc.), but the 2010 project proposed 3,500 patrons during general admission events, 95 live large entertainment events with a start time of not later than 7PM (with 70 allowed to be general admission without assigned seating), and up to five events allowed to end at 2AM with the permission of the San Francisco Police Department, Planning Department and Entertainment Commission.

After lengthy and time consuming hearings before the San Francisco Planning Commission and with its staff, the 2010 project was approved by the Planning Commission in Case No. 2008.1072C, Motion No. 18042 with conditions. (See Exhibit A).

The Planning Commission's Motion No. 18042 was appealed to the Board of Supervisors in April 2010. In May 2010, the Board of Supervisors disapproved the Planning Commission's Motion No. 18042 and approved the issuance of a conditional use authorization adopting the Planning Commission's conditions of Motion No. 18024, as amended by the Board (Motion No. M10-84, File No. 100588, May 18, 2010, attached as Exhibit B). The Board's made 11 amendments to the conditions of approval in the Planning Commission's Motion 18024 and added an additional four conditions of approval to that Motion. Chief among the Board's amendments were its decision to reduce the number of patrons to 3,300 and permit a maximum of 85 live large entertainment events annually, with up to three events ending at 1:00AM with prior approval. Four lawsuits challenging these decisions were filed by interested parties.

#### *2012 Project*

In January 2012, the Project sponsor applied for another conditional use authorization in its efforts to expand the number of shows at the Masonic Center, and allow for permanent and otherwise prohibited Type 47 liquor license approval in its effort to turn the Masonic Hall (and Nob Hill) into a full-blown music and late night entertainment district (the "2012 project"). The 2012 project sought approval of a conditional use authorization to continue the existing nonconforming assembly and entertainment use, and the existing food and beverage service uses at the Masonic Center pursuant to Planning Code Sections 185(e) and 303. As noted in the Departments hearing report, "no enlargement, intensification or extension of the existing nonconforming use" was to be permitted in order to minimize impacts to the surrounding neighborhood.

The Planning Commission approved the 2012 project with conditions (Case No. 2011.0471C, Motion 18520. (See Exhibit C).

The Planning Commission's conditions of approval included setting the maximum number of patrons per live entertainment event at 3,282 and setting an annual maximum of 68 live large entertainment events and an annual maximum of 219 events not involving live entertainment. (See Findings 33, 34, respectively, Motion 18520). The Planning Commission Motion 18520 was appealed to the Board of Supervisors in February 2012.

In April 2012, the Board of Supervisors, in its unanimous Motion M12-42, File 120185, voted to disapprove the decision of the Planning Commission's Motion 18520 and approved the conditional use as set forth in the Planning Commission Motion 18520 with amendments. (See Exhibit D, Motion M12-42). The Board of Supervisors amendment permitted 54 live large entertainment events and another 175 events not involving live entertainment at the Masonic Center. The Project sponsor did not seek authorization that would have allowed for a Type 47 liquor license or any intensification of use at the Masonic Center in its 2012 Project application. ***[Exhibits A, B, C and D referenced in this comment are shown at the end of Letter I.9 in Attachment B, Draft EIR Comment Letters, of this Responses to Comments document.]***

*Berit S. Muh, E-mail, June 3, 2013 [I.9.2-Muh]*

*The October 2012 Settlement*

In October 2012, I was made aware that the Nob Hill Coalition and the Nob Hill Association had agreed to settle all of its disputes with the Project sponsor, and that the Project sponsor had accepted the terms of the settlement proposed which incorporated all of the 2012 project conditions as approved by the Board and several additional conditions agreed upon by the settling parties, including the Project sponsor (the "2012 Settlement"). A synopsis of the key terms of the settlement agreement, as I understood it, follows:

1. The number of live large entertainment events limited at 54 annually;
2. Food and beverage serving stations, including bars, would be limited to four concession facilities open to the public and one concession facility in the VIP lounge;
3. Only two public serving stations would be open for events of 2,000 people or less;
4. No concession facilities, including bars, would be permitted in the auditorium;
5. A restriction would be placed on the venue prohibiting the venue from expanding or intensifying the approved use (i.e. 54 live large entertainment events) for 20 years;
6. The Project sponsor would contribute a total of \$300,000 in 2013 and 2014 to a Huntington Park non-profit for the improvement and maintenance of Huntington Park with additional contributions over time;
7. All deliveries and loaded would be conducted from the loading dock on Pine Street, except for sound and lighting equipment which was allowed to be delivered, if necessary, during limited periods from California Street;
8. Priority ticket rights would be granted to Nob Hill residents;
9. The Project sponsor would implement a School Music Program for District 3 schools;
10. Additional Security and Monitoring requirements were required. (See Exhibit E).

3. Responses to Comments  
A. Project Description

With those points in mind, and the satisfaction of knowing that the neighborhood had agreed upon the terms of the conditional use authorization and settlement, I was therefore shocked to see that the Project sponsor was now seeking approval for the vastly intensified, vastly enlarged proposed Project. After all of the promises made by the Project sponsor, all of the hearings attended, all of the conditions imposed by the Planning Commission and Board of Supervisors limiting the number of patrons and number of live large events (and taking actions that would have prohibited a Type 47 liquor license), and the 2012 Settlement, it appears now that the Project sponsor is seeking to evade the past, ignore the Board and the neighborhood, and bring a full-blown live large music and entertainment district to this RM-4 district in violation of all of the zoning for the site. The DEIR should not be used to environmentally clear the proposed enlarged Project that runs counter to the 2012 Settlement (and 2012 CU approval) especially since the DEIR fails to adequately describe 2012 Settlement and the Project's environmental impacts from that baseline. ***[Exhibit E referenced in this comment is shown at the end of Letter I.9 in Attachment B, Draft EIR Comment Letters, of this Responses to Comments document.]***

*Berit S. Muh, E-mail, June 3, 2013 [I.9.3-Muh]*

***Proposed Project***

The Project sponsor's current scheme seeks conditional use authorization to change the authorized nonconforming assembly and entertainment use to a conditionally permitted "Other Entertainment" use (Planning Code Section 182(b)(1)) and for intensification of that conditional use (Planning Code Section 723.48) or alternatively, the Project sponsor's request for amendments to the Nob Hill SUD (Section 2 38 of the San Francisco Planning Code) to authorize the intensification of a large, nonconforming assembly and entertainment use within the Nob Hill SUD. The proposed Project seeks to environmentally clear a significantly more intense proposed Project, with a substantial increase in the number of live large entertainment events annually, that would, in most likelihood, allow for a Type 47 liquor license. The DEIR, however, does not adequately address all of the prior actions and potentially significant environmental impacts from the much larger and substantially more intense proposed Project.

*Berit S. Muh, E-mail, June 3, 2013 [I-9.4-Muh]*

**The intensification proposed is extraordinary.**

Now, the Project sponsor seeks to increase the number of live large entertainment events from 54 to 95, a whopping 76% increase. This gigantic increase in live large entertainment events is compounded by the Project sponsor's proposal to also increase the number of other large events from an existing annual maximum of 220 large events to an annual maximum of 315 such events, a 43% increase in the number of large events. Imagine what the Nob Hill residential and historically significant SUD will look like when there is a large entertainment event occurring more than six days and nights per week!

A summary of the 2010 Project, the 2012 Project, the 2012 Settlement, and the proposed Project is shown in the following chart.

2010 Project	2012 Project	2012 Settlement	Proposed Project
85 Live Large Entertainment Events	54 Live Large Entertainment Events	54 Live Large Entertainment Events	95 Live Large Entertainment Events (76% Increase)

3. Responses to Comments  
A. Project Description

*** Events Not Involving Live Entertainment (No limitation)	176 Large Events Not Involving Live Entertainment	176 Large Events Not Involving Live Entertainment (with no expansion for 20 years)	220 Large Events Not Involving Live Entertainment (26% Increase)
Upgraded Kitchen (Approval would potentially permit Type 47 liquor license)	No Upgraded Kitchen (Approval did not include possibility of a Type 47 liquor license)	No Upgraded Kitchen (Approval did not include possibility of a Type 47 liquor license)	Upgraded Kitchen (Approval would potentially permit Type 47 liquor license)
8 Concession Stands	5 Concession Stands	5 Concession Stands- None in auditorium	8 Concession Stands
RM-4 and Nob Hill SUD	RM-4 and Nob Hill SUD	RM-4 and Nob Hill SUD	RM-4 and Nob Hill SUD
Close proximity to 4 historic structures, 1 school, 1 public park, 6 institutions, 4 hotels, and 7 residential buildings	Close proximity to 4 historic structures, 1 school, 1 public park 6 institutions, 4 hotels, and 7 residential buildings	Close proximity to 4 historic structures, 1 school, 1 public park 6 institutions, 4 hotels, and 7 residential buildings	Close proximity to 4 historic structures, 1 school, 1 public park, 6 institutions, 4 hotels, and 7 residential buildings
3,500 Patrons	3,166 Patrons	3,166 Patrons	3,300 Patrons

Clearly, the proposed Project represents a scheme to significantly intensify the Masonic Center and the impacts from that massive intensification will be significant.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.5-Muh]*

One would hope that the City's public process, including Board of Supervisor's approvals involving the 2010 and 2012 projects, and the 2012 Settlement, all of which accomplish most of the Project sponsor's objectives, and were reached with the consent of the Project sponsor, the neighbors, and other City agencies, would be respected as final. Unfortunately, the Project sponsor insists on ignoring the prior results that sought to protect the environment and the neighborhood in the vicinity of the Project and intends instead to intensify the nonconforming use in this RM-4 district.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.6-Muh]*

Fortunately, the DEIR is so riddled with defects that this practical argument for denial of the DEIR, when it comes before the Commission and Board of Supervisors, is not the only argument available. Rather, for the reasons stated herein, the DEIR does not meet the requirements of CEQA.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.11-Muh]*

Moreover, when the 2010 and 2012 projects came before the Planning Department, Planning Commission and Board of Supervisors each time there were important conditions attached to those smaller projects, conditions which work most closely as appropriate mitigation measures for the intensification of use proposed by the proposed Project. The DEIR should analyze and address all of the prior conditions of approval from the 2010 and 2012 projects and all of those conditions of approval should be incorporated into the DEIR as mitigation measures to address the impacts from the Project.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.14-Muh]*

Table S.1 and the DEIR fails to incorporate other important conditions of approval from the 2010 and 2012 project approvals, including failing to impose all of the previously approved conditions governing the consequence for the Project sponsor's failures to satisfy the conditions (i.e. mitigation measures) that have already been approved for the Project.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.16-Muh]*

**The DEIR Inadequately Analyzes The April 2012 CU Authorization and 2012 Settlement**

In April 2012, after years of public process and governmental hearings and approvals, the Board of Supervisors approved the April 2012 CU authorization which at that time satisfied the Project sponsor's objectives and represented its request for zoning authorization. Shortly thereafter, the parties, I believe, agreed on the 2012 Settlement.

As a local resident, not involved in the April 2012 CU authorization or the 2012 Settlement, I believed then, and continue to believe now, that the April 2012 CU authorization and the 2012 Settlement were intended to set the parameters for the uses at the Masonic Center. It was my understanding that the Project sponsor was willing to live with the terms of the April 2012 CU authorization and 2012 Settlement, including the number of events permitted, liquor license restrictions imposed, mitigations required, and the other conditions of approval required to allow for the continued operation of the site as a non-conforming use in the Nob Hill SUD.

Now, for the first time through reading the DEIR, I became aware that the Project sponsor doesn't believe that its objectives can be met without violating the terms of the April 2012 CU authorization and the 2012 Settlement. The Project sponsor is seeking to ignore the April 2012 CU authorization and 2012 Settlement without substantial justification and without complying with the requirements of CEQA in order to vastly intensify the use at the Masonic Center by having almost daily large entertainment events and at least one live large entertainment event weekly in this RM-4 residential neighborhood in violation of the Project sponsor's prior statements, the Board's prior decisions and the neighborhood's prior opposition.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.43]*

**The DEIR Does Not Adequately Address Mitigation Measures** As stated throughout this letter, the 2010 and 2012 project approvals contained lengthy and detailed conditions of approval that are at odds with the proposed Project. The DEIR concludes, not on the basis of any rigorous analysis, that the proposed Project will have less than significant impacts on the environment. Yet, the Board of Supervisors imposed numerous conditions of approval on the prior project that are not all incorporated into the mitigation measures and improvement measures discussed in the DEIR. The DEIR should analyze and incorporate the conditions of approval from the prior projects.

**Response PD-1**

A number of the comments provide a partially accurate chronology of past proposals, approval actions, and litigation, leading to the proposed Masonic Center Renovation Project that is described on pp. 2.1-2.29 and analyzed in the Draft EIR. The comments refer variously to a “2010 Project,” a “2012 Project,” and a “2012 Settlement Agreement” proposal; the relationship of each of these items to the proposed project analyzed in the Draft EIR analysis is clarified below.

The comments appear to assume that existing conditions of approval under the April 2012 CU authorization would be superseded under the proposed project, rather than continuing to govern future operations of the Masonic Center if the proposed project is approved. The comment refers to an “October 2012 Settlement” which the commenter presumes should form the baseline from which to describe the proposed project’s environmental impacts. The comments express support for the program and conditions under the April 2012 CU authorization (referred to in the comment as the “2012 Project”) and for the terms of an “October 2012 Settlement” proposal.

EIR Chapter 1, Introduction, Section B. Project History and Background, on pp. 1.2-1.4, accurately describes the relevant historic background of the proposed project beginning with construction of the Masonic Center in the 1950s; its “legal nonconforming use” designation in the 1960s; the 2010 Conditional Use authorization (for intensified use) and subsequent legal challenge; and the April 2012 CU authorization (to continue the existing legal nonconforming use indefinitely without intensification of use).

When the comments refer to a “2010 Project,” the reference is to a proposed renovation project that has elements similar to the proposed project, for which the sponsor requested a Conditional Use authorization in 2010. As described in the Project History and Background section in EIR Chapter 1, the April 28, 2011 Writ of Mandate and Statement of Decision issued by the Superior Court voided the 2010 CU authorization, which also voided the 2010 Conditions of Approval. As such, the project addressed in the 2010 CU authorization is not considered as a “prior project” for consideration in the EIR, but does provide a chronological context of the proposed renovation project that is analyzed in the Draft EIR.

Comments incorrectly refer to a “2012 Project,” by which is meant the April 2012 CU authorization approving extension of the nonconforming use status without an intensification of uses at the Masonic Center Auditorium under Planning Code Section 185(b), as described in the Project History and Background section of EIR Chapter 1. The Planning Department determined that the 2012 CU authorization was not a project subject to environmental review under CEQA Guidelines Sections 15060(c)(2) and 15378. Refer to Response PD-2, below, for a further clarification of the April 2012 CU authorization and to Response PD-3 for a discussion of the

Draft EIR baseline and application of the 2012 Conditions of Approval to the proposed project. The proposed renovation project would result is an intensification of uses above the existing operating conditions imposed by the 2012 CU authorization. The environmental effects of the increased maximum number of attendees, increased maximum number and frequency of large events, and increased food and beverage services, including a permanent license to serve alcohol, are analyzed in the Draft EIR.

According to the project sponsor, a settlement agreement was executed by the Masonic Center, Live Nation, the Nob Hill Coalition, and the Nob Hill Association in early 2013. On June 12, 2013, the project sponsor amended the Conditional Use application for the proposed project; according to the project sponsor, the amended CU application is consistent with the terms of the settlement agreement.<sup>1</sup> The amended CU application contains all of the conditions of approval imposed by the April 2012 CU authorization. The amended program that the project sponsor has submitted for approval by the Planning Commission is analyzed in the Draft EIR as Alternative C: Reduced Number of Live Entertainment Events and Concession Areas Alternative, on EIR pp. 6.12-6.18. This alternative would reduce the total number of large live entertainment events from 95 per year under the proposed project analyzed in the Draft EIR, to 79 per year with the alternative. Except for the elimination of three of the proposed concession areas, Alternative C would have the same physical features as the proposed project. In addition, all of the conditions of approval imposed by the April 2012 CU authorization would continue to apply to Alternative C and to the proposed project unless modified as part of the approval process.

The comments refer to an “October 2012 Settlement” and maintains that the EIR fails to describe the “October 2012 Settlement” and to analyze the project’s environmental impacts from that baseline. According to the project sponsor, there was no final settlement agreement in 2012. In any event, such a settlement proposal would not establish the baseline physical conditions for determining significant effects of the EIR renovation project for the existing Masonic Auditorium. Refer to the Response PD-3, below, which defines and explains the baseline used for the Draft EIR analysis.

Comments that express support for the conditions imposed by the April 2012 CU authorization and opposition to the proposed project pertain to the merits of the proposed project; Response GC-3, in Section 3.K, General Comments, RTC pp. 3.K.6-3.K.7, addresses such comments. To the extent that this comment addresses the general adequacy of the Draft EIR, please see Response GC-2, pp. 3.K.5-3.K.6.

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<sup>1</sup> Application for Conditional Use Authorization, 1111 California Street, Planning Department Case No. 2011.0471C, submitted June 12, 2013.

**Comment PD-2: Comments related to environmental review of the April 2012 Conditional Use authorization which continued the existing nonconforming use status of the Masonic Center.**

This response addresses the following comments:

PH.1.2-Chapman	I.10.2-Chapman (1)	I.14.3-Chapman (5)
I.4.10-Miller	I.10.3-Chapman (1)	I.14.5-Chapman (5)
I.10.1-Chapman (1)		

*Linda Chapman, Public Hearing Transcript, May 23, 2013 [PH.1.2-Chapman]*

And I will mention that I had a 13-page appeal in here on the neg dec that went in for CSFN, authored by me with my address; and most of this addresses what I thought should be in the EIR. And then the document for the appeal to the Board of Supervisors last year and the document to you, which included, you know, some relevant things, none of which, as far as I can see, got addressed.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.10-Miller]*

The EIR keeps referring to the “April 2012 CU”. By the sa[m]e token as the Court’s voiding of the 2010 CU, the April 2012 CU is voided, too, as it was done w/o EE. Although the CMMT entered into a covenant to follow the 35 conditions of that approval, the motion is null & void.

*Linda Chapman, E-mail, June 3, 2013 [I.10.1-Chapman (1)]*

In 2011- 2012, the Department processed a Conditional Use application (reference case 2011.0147C) in advance of the environmental review required to respond to a court order for CEQA compliance.

Reversing the order to issue environmental actions **after** authorizing a Conditional Use for the same or similar project had consequences-that contributed to an incomplete and inaccurate DEIR.

*Linda Chapman, E-mail, June 3, 2013 [I.10.2-Chapman (1)]*

The Superior Court rejected Categorical Exemptions alleged for this project, and nullified the Conditional Use approved in 2010. A court order should trigger at least the level of review for the 2012 decision (“Phase 1” of this Conditional Use) that CEQA Guidelines required without that Categorical Exemption.

The Department evaded the court intention for accurate environmental assessment of Masonic changes-- by dividing one project (subject of the court ruling) into phases processed like separate projects. The Conditional Use that was decided in 2012 evaded environmental review--after the court rejected a CatEx.

A project approved in 2012 deferred environmental review-- when that C.U. was alleged to be “temporary.” The next phase was already proposed, continuing and expanding the 2012 project. “Phase 2” was expected to modify the Conditional Use procedure for the same program to reclassify and intensify the project site that was initially approved in 2010. The scope of “Phase 2” was known; but “two projects” for the same site were analyzed as having no cumulative impacts.

A project was bifurcated for purpose of authorizing a Conditional Use to operate in 2012-- while removing it from court ordered environmental review. Approving “Phase 1” created the DEIR’s alleged “baseline” (new conditions are used to deny significant impacts for “Phase 2”). It further

prejudiced analysis by claiming the 2012 variant of 2011.0147E is a “project alternative” that the DEIR uses to assess impacts of the full project.

Activities that existed for “Phase 1” were largely discounted by the flawed assessment for “Phase 2”. But the CEQA mandated process was ignored for “Phase 1” to trigger notices, Initial Study, and at a minimum the appealable Negative Declaration.

The bifurcated Conditional Use actions are one project. The court ordered environmental review for impacts of the Masonic Center project—not the impacts from a 2013 change order.

Absent a timely environmental review for the Conditional Use project that was heard in 2012-- data submitted by the public for 2011 and 2012 C.U. hearings should be added to comments for consideration in the 2013 EIR. Detailed data (to include zoning changes and type and number of events) were made part of the 2011-2012 record. I have asked to incorporate with the DEIR comments some data from the 2011- 2012 file (when an environmental file was not open for comments).

I have copies of some submissions offered for the C.U. record that show changing intensity, history of allowed land use and actual events (delivered by Nob Hill Association, Amy Harmer, Donald Humphreys). Now that my copies are marked and attachments possibly not intact, I asked Kevin Guy to facilitate access to previous C.U. files to copy data for the DEIR comments. Access was not arranged; since the Department has the research for the Conditional Use file that preceded environmental review, I ask to incorporate the historic data showing the level of large entertainment events occurring before and after the zoning revisions[.]

*Linda Chapman, E-mail, June 3, 2013 [I.10.3-Chapman (1)]*

**Please incorporate my submissions for the previous decisions that raised environmental concerns about this project. I previously forwarded the memos to the environmental planner after discovering that I was omitted from the 2012 environmental notices. I am providing edited copies.**

**Attached is some Muni and Police Code information that I previously submitted.**

***[The attachment referenced in this comment is shown at the end of Letter I.10 in Attachment B, Draft EIR Comment Letters, of this Responses to Comments document.]***

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.3-Chapman (5)]*

The Coalition for San Francisco Neighborhoods voted to appeal the original denial of Environmental Review, then opposed the Conditional Use applications.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.5-Chapman (5)]*

1. I submit that no rationale but political expedience can account for decisions to approve a Conditional Use in 2012—with no environmental review. The Superior Court rejected a CatEx determination and reversed 2010 Conditional Use approval, expecting the city to comply with CEQA for environmental review and the Planning Code rules for zoning determinations. Could our city officials explain this response?

2. The minimum CEQA requirement was an Initial Study supporting a determination to issue a Negative Declaration or EIR—**before** a Conditional Use decision. After C.U. approval, the Initial Study looks like an empty gesture. I submit that a hearing on Conditional Use authorization could not lawfully proceed without the Initial Study Determination, and the Planning Commission action could be void.

3. It is puzzling to see a Draft EIR prepared **after the 2012 C.U. approval**. In the process that was reversed by a court order, considerable effort was expended to avoid CEQA, by professionals who must understand its plain English Guidelines. After the court ordered environmental review, the Conditional Use application was split into phases-- for one C.U. to be approved with no environmental review, while a second C.U. application waited for an Environmental Impact Report. What's wrong with this picture? Seems like a question to refer to the judge. The "temporary" C.U. lets the project sponsor continue to operate on a scale incompatible with the neighborhood, while neighbors report adverse impacts—as if the judge hadn't nullified the 2010 C.U.

4. The Commission did not receive the state mandated environmental evaluation to inform a 2012 decision on the Conditional Use. In 2013, a Draft EIR treated a new C.U. from 2012 as a "baseline"-- historic condition to evaluate impacts of the new application to intensify commercial activities. The EIR treated the C.U. approved in 2012 as if this commercial use hadn't been part of the project when the court ordered environmental review-- and as if approving "two projects" could have no cumulative impacts.

### **Response PD-2**

The comments incorrectly state that approval of the April 3, 2012 Conditional Use authorization (April 2012 CU authorization) required prior environmental review under CEQA. As discussed on p. 1.3 of the EIR, in August 2011 the sponsor submitted an application for CU authorization (2011.0147C) pursuant to Planning Code Section 185(b) for the sole purpose of continuing existing nonconforming assembly and entertainment uses and food and beverage services at the Masonic Center without intensification of uses. Under Section 185(b), the legal nonconforming status of a Type I construction building located in a residential zoning district, such as the Masonic Center, expires after 50 years unless the Planning Commission extends the nonconforming status for continued use by approving a conditional use authorization. The Planning Department determined that the 2012 CU authorization was not a project subject to environmental review because continued operation of the existing uses at the Masonic Center would not result in a direct or reasonably foreseeable indirect physical change in the environment (see CEQA Guidelines Sections 15060(c)(2)) and 15378 (a).<sup>2</sup> Therefore, approval of the April 2012 CU authorization did not require submittal of an Environmental Evaluation and completion of environmental review.

Comments stating that the Coalition for San Francisco Neighborhoods voted to appeal the original denial of environmental review do not provide sufficient information for response. The Planning Department's decision not to conduct environmental review prior to the 2012 CU authorization was challenged by the Nob Hill Association, which filed a petition for a Writ of Mandate in the San Francisco Superior Court in 2012, alleging that the 2012 CU authorization was unlawfully granted because the City did not first conduct environmental review. The case

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<sup>2</sup> Planning Commission Motion 18520, pp.1-2.

was never heard by the court, and in February 2013, the Nob Hill Association dismissed the case with prejudice. No other cases were filed challenging the 2012 CU approval within the 180-day statute of limitations period. Therefore, the City's determination that environmental review of the April 2012 CU authorization was not required can no longer be legally challenged and is final.

Comments stating that the April 2012 CU authorization and the proposed project analyzed in the Draft EIR constitute two projects, a bifurcated or a two-phase project that has resulted in a flawed assessment of the proposed project analyzed in the Draft EIR, are inaccurate. Approval of the April 2012 CU authorization did not approve a "project" subject to CEQA. The Commission's approval was a discretionary action that is separate and distinct from the CU authorization that the sponsor is seeking to implement the proposed renovation project described in the Draft EIR. Approval of the April 2012 CU authorization continued the existing status of the Masonic Center as a nonconforming assembly and entertainment use with food and beverage services for an indefinite period of time; as such, the April 2012 CU authorization is not a temporary, interim, or phased approval of the proposed project as stated in the comments.

The April 2012 CU authorization allows for the continuation of *existing* uses and operation at the Masonic Center without intensification. As discussed on EIR pp. 4.A.2-4.A.3, the conditions imposed by the April 2012 CU authorization establish the baseline for the analysis of potential environmental impacts that would result from implementation of the proposed renovation project, which does propose an intensification of use. Refer to Response PD-3, below, for further discussion of the baseline conditions analyzed in the Draft EIR.

The EIR analyzes a range of feasible alternatives as required by CEQA Section 15126.6(a). As noted above in Response PD-1, subsequent to publication of the Draft EIR, the project sponsor submitted a revised CU authorization application for approval of Alternative C: Reduced Number of Large Live Entertainment Events and Concession Areas as the preferred project. The evaluation of Alternative C on EIR pp. 6.12-6.18 compares the impacts of the now preferred project to the proposed project analyzed in the EIR.

Comments related to detailed data submitted by members of the public on the CU application that was submitted in 2011 and for the 2012 CU authorization hearings do not provide comments on the adequacy or accuracy of the EIR content and analysis and do not require a response. Those comments are part of the City's record and have already been considered by decision-makers during their deliberations on the April 2012 CU authorization. The project sponsor submitted detailed data concerning the historic number and types of events to the Planning Department as part of the 2011 CU application. That information was used as the basis for determining the number of events approved in the 2012 CU authorization, as amended by the Board of Supervisors. Refer to Response PD-3, below, concerning the historic number of events held at the Masonic Center.

Comments referring to attachments that include Muni and Police Code information have been considered in Responses TR-2 and TR-5 in Section 3.D, Transportation and Circulation, on RTC pp. 3.D.7-3.D.8 and pp. 3.D.12-3.D.13, respectively.

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**Comment PD-3: Comments pertaining to the number of historical events used to establish the baseline setting conditions for the proposed project.**

This response addresses the following comments:

PH.1.5-Chapman	I.4.3-Miller	I.14.8-Chapman (5)
PH.2.1-Miller	I.4.4-Miller	I.14.12-Chapman (5)
PH.2.3-Miller	I.4.9-Miller	I.14.19 and I.14.20-Chapman (5)
I.4.1-Miller		

*Linda Chapman, Public Hearing Transcript, May 23, 2013 [PH.1.5-Chapman]*

I've lived in the neighborhood since '69. Even in the '70s, when we were not talking about alcohol being involved or, you know, hordes of young people coming to concerts, the whole place would block up with traffic. You know, the whole hill would block up and all the way down to Van Ness. But there were so few events that were large like that at night; and there was no alcohol involved, to speak of, maybe a little bit of wine on some on them. And there was a great deal of information turned in previously, last year, about the number of events historically, like eight large entertainment events with live entertainment per year in '94, or 12 or whatever. Big contrast with what's proposed here.

*Jim Miller, Public Hearing Transcript, May 23, 2013 [PH.2.1-Miller]*

I would like to give some public comment about the EIR. This talks about a total of 230 large events per year and a maximum of 54 live entertainment events...On page 1.3 of the EIR. In point of fact, it's more like 15. Evidence from 1994 to 2002 shows a low of 8 events and a high of 20 events, with an average of 15 per year.

*Jim Miller, Public Hearing Transcript, May 23, 2013 [PH.2.3-Miller]*

Evidence of the 1978 activity levels have already been submitted.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.1-Miller]*

The EIR says that the case involves a total of 230 large events per year with a maximum of 54 large live-entertainment events per year (p. 1.3 of the EIR). It should be more like 15 large events per year. Evidence from 1994 - 2002 indicates that there were a low of 8 events & a high of 20 (w/ an average of 15).

*Leonard James Miller, E-mail, May 31, 2013 [I.4.3-Miller]*

There are not nearly the number of events that the applicant says there are -- & the modest increase in the numbers of attendees is false, too. Especially when one considers the FREQUENCY of the events -- ones which have the propensity to aggravate neighbors.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.4-Miller]*

The numbers of events between 2005 & 2008 didn't fare much better -- an average of 31.5 large evening events (including live evening entertainment events, ethnic / cultural performances

[foreign language], lectures, benefit performances, & amateur talent performances). This is about half of what the applicant said was the current number of nighttime large events at the CMMT.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.9-Miller]*

The EIR is written in such a way that no single event crosses the threshold for environmental impact, it's the frequency of events that has the propensity to bother neighbors.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.8-Chapman (5)]*

9. For impacts to be accurately assessed, the subject for review must be properly framed. Impacts to assess are not a change from 2012 activities-- but comparing recent years to the traffic impacts from a few large shows a year when the Masonic Center operated closer to its approved use.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.12-Chapman (5)]*

13. If the principal change is identified as auditorium capacity, or the change in events from a year ago, this framing will understate impacts.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.19 and I.14.20-Chapman (5)]*

17. The EIR treated existing impacts—and even the 2012 Conditional Use approval as a baseline: it should analyze cumulative impacts for existing-plus-proposed business. “Normal” (when used by a regulatory agency) implies “legal” and “common.” Circumstances did not create “reasonable expectations” in the neighborhood for events assuming proportions of a gainful business, and entertainment outstripping public assembly that could have less community impact (such as graduation and naturalization ceremonies)[.]

### **Response PD-3**

As discussed on EIR pp. 1.3-1.4 and on p. 4.A.2, the April 2012 CU authorization imposed a maximum limit of 54 large live entertainment events and 176 large non-live entertainment events per year, for a maximum total of 230 large events per year. This maximum limit was based on an analysis of the Masonic Center's historic use pattern by the Planning Department and noted in Planning Commission Motion 18500, which states on p. 4 that “Conditions of approval are proposed to maintain the historic level of operating intensity...” The maximum number of large events in Condition No. 34 was slightly reduced by the Board of Supervisors on appeal (note that neither the Planning Commission's findings nor any other conditions of approval were revised by the Board of Supervisors). This historic average annual number of events, as set out in the April 2012 CU authorization, was used to establish the baseline conditions for determining the environmental effects of the proposed project.

CEQA Guidelines Section 15125(a) states that “the environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” Pages 4.A.1-4.A.2 of the EIR state:

For the proposed project, existing conditions are generally defined as the conditions imposed by the April 2012 CU authorization, and that existed at the time that the NOP EIR was published. Existing conditions serve as the baseline

for the analysis of potential environmental impacts that would result from implementation of the proposed renovation project, presented under the Impacts and Mitigation Measures subsection.

The City determined that the maximum number of events imposed by the April 2012 CU authorization was the appropriate baseline for analyzing impacts of the proposed project because this number was more representative of historic operating levels prior to leasing of the Center by Live Nation, when event bookings were curtailed in anticipation of construction activities. Since 2008, there have been about 66 events at the Center per year, on average, which did not accurately approximate the historic use pattern of events held at the Masonic Center.

This determination was made at the time the Notice of Preparation was published, is described in the Notice of Preparation/Initial Study (NOP/IS), and is supported by substantial evidence of historic use patterns provided by the project sponsor. Refer to EIR Appendix A, Notice of Preparation / Initial Study. Page 13 of the NOP/IS states: “For purposes of environmental review, the baseline number of events for existing conditions is the maximum total number of large events imposed by the April 2012 CU authorization.” A report detailing all events held at the Masonic Center during the period of 2002-2007 was submitted by California Masonic Memorial Temple and is available for public review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, as part of Case File No. 2011.0471E.

Pages 2.13-2.14 of the EIR provide a detailed discussion of the existing use pattern and historic number of events:

Historical Number of Events in the Auditorium

The April 2012 CU authorization considered the historical number of events held in the Masonic Auditorium to determine the number of events that were approved for continuation of the Masonic Center as a nonconforming use.

Between 2002 and 2007, the Masonic Center operated with an average of about 229 total event-days per year. (The 229 historical average number of events closely approximates the 230 events per year approved by the April 2012 CU authorization.) This period (2002-2007) is the most-recent representative period of operations, because bookings were curtailed in 2008 in anticipation of the proposed interior renovation of the Auditorium and the leasing of the Center to a professional operator (Live Nation).

Table 2.1: Average Number of Events by Type and Time of Day (2002-2007), on EIR p. 2.14, presents a breakdown of the 229 average total number of events between Live Entertainment and Non-Live Entertainment events for three time periods (daytime, nighttime, and all day). On average, most of the annual events held at the Center each year between 2002 and 2007 were non-live entertainment events (about 76 percent). These events also comprised the highest number of daytime and all-day events held at the Center (63 percent).

The City determined that the historic average of 229 total events per year, which was used to establish the maximum number of events imposed by the April 2012 CU authorization, was the appropriate representative baseline for analyzing impacts of the proposed project because that total is based on detailed event information of the number and type of events between 2002 and 2007, as discussed on EIR pp. 2.13-2.14. Observations about the number and types of events held in the 1970s are not representative of more recent historic use and therefore would be less appropriate for use in the EIR, even if they could be supported by data.

Refer to Response LU-3 in Section 3.C, Land Use and Land Use Planning, RTC pp. 3.C.15-3.C.18, for a discussion of the effects of the proposed increased number and frequency of events at the Masonic Center on Nob Hill residents.

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**Comment PD-4: Comments stating that the project objectives are not accurately stated and, in some instances, are not supported in the EIR discussion.**

This response addresses the following comments:

I.9.17-Muh

I.9.18-Muh

I.9.19-Muh

*Berit S. Muh, E-mail, June 3, 2013 [I.9.17-Muh]*

**The Project Description And Objectives Are Inadequate.** The Project description attempts to hide the true rationale for the proposed Project through all sorts of neutral words and phrases. The true Project description should reflect the Project sponsor's objectives which are to get more revenue from more patrons from more live large entertainment events and more large entertainment events, where more patrons can drink more liquor from more VIP lounges with more general admission attendance.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.18-Muh]*

The DEIR also fails to describe the Project adequately. Among other reasons, it fails accurately to describe the number, nature and size of future events and fails to describe the real reasons behind this proposed Project. The Project sponsor's objective is to increase the number and size of live entertainment events and, through a change in the zoning, obtain a Type 47liquor license for the Project solely to maximize revenue at the expense of the neighborhood and in contravention of years of planning and good faith negotiations. The DEIR has limited the Project description by ignoring those key points in an effort to undercut the public's review of the proposed Project. The DEIR and Project sponsor should accurately describe the Project for what it is-a major intensification of use in a RM-4 district that seeks to ignore all of the planning laws and citizen's involvement in the past.

Simply put, the stated objectives completely ignore the facts of what has been said in the past and what has occurred with the Project's earlier iterations both before the Planning Commission and the Board of Supervisors. The proposed Project presents no new features of the Project description or Project objectives that could be used to support the proposed Project in light of the Board of Supervisor's and Project sponsor's agreements made in the April 2012 CU authorization.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.19-Muh]*

Moreover, in an expression of how far the DEIR is willing to go to ignore the facts, there is no other reference in the DEIR as to how the Project objective of “supporting economic vitality of other hotels in the vicinity” is met by the proposed Project. And, there is no acknowledgement that even without the proposed Project, the Project sponsor has already been able to attract full time professional management to operate the Project site in a professional and successful manner. Clearly, the proposed Project is not necessary to meet either of those Project objectives as one is completely ignored in the DEIR and the other has already occurred without the proposed Project being approved.

#### **Response PD-4**

EIR Chapter 2, Project Description, pp. 2.2-2.3, lists the six objectives of the project sponsor, California Masonic Memorial Temple (CMMT), for the proposed Masonic Center Renovation Project. CEQA Guidelines Section 15124(b) requires that the EIR project description provide a statement of the project objectives which should include the underlying purpose of the project. The overall purpose of the objectives is to identify a range of reasonable alternatives which would feasibly attain most of the basic project objects but would avoid or substantially lessen any of the significant effects of the proposed project (CEQA Guidelines Section 15126.6(a)). The San Francisco Planning Department Environmental Review Guidelines also state that the project objectives should not be so narrowly defined as to preclude the analysis of a reasonable range of alternatives. Neither CEQA nor the Planning Department require analysis or supporting rationale for the statement of project objectives.

The number, nature, and size of future events under the proposed project are accurately described on EIR pp. 2.23-2.26. If implemented, the renovation project would intensify uses at the existing Masonic Center, as the comment states, by increasing the maximum number of event attendees by up to a maximum increase of 134 persons from existing conditions when there are general admission, standing only events on the Auditorium main floor; by increasing the annual limit on the number of large (over 250 attendees) events (both live entertainment and non-live entertainment) by 85 additional events per year; and by increasing the number of portable food and beverage concession areas and related alcohol sales.

All of the objectives listed in the EIR directly or indirectly support intensifying the existing assembly and entertainment uses as well as existing food and beverage service at the Masonic Center. Objective 1 on p. 2.2 of the EIR forthrightly states that the primary objective of the proposed project is to increase the revenue generated by the Center. Revenue-generating uses would also be supported by improving food and beverage service, and obtaining a permanent Type 47 liquor license (Objective 4 on p. 2.4). Objective 1 also states that the purpose of the project is to increase the number of events in order to increase the income (and revenues) generated by the Center to support the charitable endeavors of the CMMT.

As stated on EIR p. 2.23, the overall intent of the proposed renovation project is to make the Masonic Center a more attractive, flexible venue for performers and audience members, meeting planners, event destination companies, and corporations, which, in turn, would enable the Center to attract more live entertainment and other events. In 2009 CMMT retained Live Nation, a professional venue operator and entertainment promoter, to manage, operate, promote, and book all assembly and entertainment events at the Masonic Center. The Center's Auditorium, conference/exhibition space, and banquet facilities are outdated in comparison to other similar venues that are managed and operated by full-time professional management companies. According to the project sponsor, Live Nation was hired with the expectation that in the near future the existing 55-year old Masonic Center would be renovated and that it would manage and operate a modernized state-of-the-art venue that would accommodate a variety of contemporary performers, artists, organizations, institutions, corporations and individuals. Without the proposed renovations, the Masonic Center would continue to be a dated facility that would not provide the conditions that would be likely to retain a full-time professional management company such as Live Nation on a long-term basis. According to the project sponsor, without the proposed renovations, the Masonic Center would not provide modernized meeting and assembly space that would complement the operations of the nearby Huntington, Mark Hopkins, Fairmont, Mark Hopkins, Renaissance Stanford Court, and Ritz Carlton Hotels, thus enhancing the economic viability of the Nob Hill hotels.

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#### **Comment PD-5: Comments related to the Planning Code Approvals**

This response addresses the following comments:

I.1.1-Vettel

I.4.11-Miller

*Steven L. Vettel, Letter, April 24, 2013 [I.1.1-Vettel]*

I am writing on behalf of the project sponsor, California Masonic Memorial Temple, to provide one comment on the Draft EIR for 1111 California Street Masonic [C]enter Renovation Project.

On April 9, 2013, the California Court of Appeal issued its decision in Appeal No. 132779, *Nob Hill Association v. City and County of San Francisco*. A copy of the Court's Opinion is enclosed. The Opinion granted the appeals of the City and County of San Francisco and of my client and reversed the San Francisco Superior Court's judgment and writ of mandate in Case No. 510365. That judgment and writ is discussed in the DEIR on Pages 2.28 (footnote 27), 3.3, and 4.B.8.

Because the Court of Appeal has reversed the Superior Court judgment, no amendment of the Nob Hill Special Use District or any other rezoning or Planning Code amendment is required prior to project approvals. Accordingly, the possible Board of Supervisors action listed on page 2.28 under Project Approvals is no longer necessary.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.11-Miller]*

The EIR offers 3 remedies for expansion of the NCU to allow an outside for-profit developer in.

(1) amend the NCU statutes of the Planning Code.

(2) amend the Nob Hill SUD.

(3) create a new SUD in which an NCU is allowed to take on a for-profit developer.

It looks as though the EIR is correct in this matter.

#### **Response PD-5**

The comment stating that the Draft EIR appears to be correct in disclosing three options for a legislative amendment that would allow for the expansion of an existing nonconforming use in the Nob Hill Special Use District (SUD) broadly summarizes the approval actions described on EIR pp. 1.3, 2.3, 2.28, 3.3, and 4.B.8. This comment does not raise any matter that requires a response, and is acknowledged.

As described in the comments above, on April 19, 2013, the California Court of Appeal issued a decision that reversed a San Francisco Superior Court Statement of Decision and Writ of Mandate requiring a legislative amendment before the Planning Commission could consider approval of the proposed project. As a result of this decision, approval of the proposed project will no longer require a legislative amendment to the Nob Hill SUD (Section 238 of the San Francisco Planning Code) to authorize the intensification of a large nonconforming assembly and entertainment use within the Nob Hill SUD, as discussed on EIR pp. 1.3, 2.3, 2.28, 3.3, and 4.B.8. Instead, the project sponsor will only be required to seek approval of a conditional use authorization for change of the nonconforming assembly and entertainment use to conditionally permit an “Other Entertainment” use and intensification of Other Entertainment use under Planning Code Sections 182(b)(1)) and 723.48, respectively, and installation of permanent food and beverage service in the Nob Hill SUD under Planning Code Section 238(d)), as stated on EIR p. 2.28.

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#### **Comment PD-6: Comments related to Type 47 Liquor License Approvals.**

This response addresses the following comments:

I.9.22-Muh

I.9.23-Muh

I.9.28-Muh

*Berit S. Muh, E-mail, June 3, 2013 [I.9.22-Muh]*

Additionally, the Project Description is inadequate under the requirements of CEQA in the following areas:...

3. The section entitled “Proposed Food and Beverage Concession Operations” states that “Three additional portable food and beverage concession areas are proposed ... for a total of up to eight concession areas ...each with several points of sale.” The proposed authorization for portable food and beverage concessions are not consistent with Nob Hill SUD, nor is the Type 47 liquor license request consistent with the ABC regulations governing approval of a Type 47 liquor

license or prior San Francisco Police Department decisions involving the Project. The DEIR Project description is not accurate on these points.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.23-Muh]*

Additionally, the Project Description is inadequate under the requirements of CEQA in the following areas:...

4. The section entitled “Project Approvals” fails to state that the SF Police Department will be asked to place conditions on the liquor license request pursuant to Planning Code Section 1298.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.28-Muh]*

*D. The San Francisco Police Department Will Again Have To Participate In The Application For A Type 47 Liquor License.* It is my understanding that the San Francisco Police Department participated in the earlier applications by the Project sponsor and during at least one such application, the Department opposed the Project sponsor’s request for a Type 47 liquor license. (See testimony of Captain Anna Brown, 2010 Planning Commission hearing on 2010 project). The DEIR fails to adequately or accurately analyze the Police Department’s role in the application process and the facts surrounding the Police Department’s involvement with the Project sponsor’s prior applications. The Police Department’s prior actions involving the 2010 and 2012 projects should have been analyzed and addressed in the DEIR.

*E. The State ABC Rules Prohibit The Request For A Type 47 Liquor License.* According to the Department’s property information for the Project site, the California Alcohol and Beverage Commission (“ABC”) denied an earlier permit request by the sponsor for a Type 47 liquor license (Case Number MB0901125). The basis for that fact presumably had to do with, among other things, the fact that the Project is not a “bona fide eating place” and facts provided to the ABC by the San Francisco Police Department. The facts involving the ABC permit disapproval are relevant to the proposed Project and its potential impacts on public safety, pedestrian safety, and impacts on the surrounding vicinity, and should have been addressed in the DEIR.

#### **Response PD-6**

These comments state that a Type 47 liquor license does not comply with the zoning regulations of the Nob Hill SUD and that the Draft EIR does not discuss the role of the Police Department in the review of the application for a liquor license, prior actions by the California Department of Alcoholic Beverage Control (ABC) and the Police Department on an earlier application for a liquor license, or the proposed project’s potential impacts on the neighborhood if a new liquor license is issued.

As stated on EIR p. 2.28, “required approval actions for the proposed renovation project may include, but are not limited to, the following ...” ABC is listed, because it is the agency responsible for issuing or denying liquor licenses. Other government agencies, including the Planning Department and the Police Department, provide their recommendations to ABC. These other government agencies were involved in the review of the earlier application for a liquor license, and Police Department Captain Anna Brown did testify at a hearing in 2010 concerning the previously proposed project. The Planning Department and Police Department will be involved in the review of the current application for a liquor license. However, the final authority

to issue or deny a liquor license rests with ABC. For these reasons, it is not necessary for the EIR to list the other government agencies that are involved in reviewing the current application for a liquor license.

Prior actions by ABC and the Police Department are relevant to the consideration of the current application for a liquor license, but they are not physical environmental effects of the proposed project that are required to be analyzed in the EIR. Prior actions by government agencies, public testimony, and other information may be considered by the decision-makers in rendering a decision on the current application for a liquor license. In addition, the decision-makers may consider information contained in the EIR, but the purpose of the EIR is not to make a recommendation on whether the proposed project, including the application for a liquor license, should be approved or denied. As discussed on EIR pp. 1.1 and 1.2, “an EIR is an informational document intended to inform public agency decision-makers and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.” The potential environmental effects of the proposed project are discussed in the EIR as follows: impacts on neighborhood character are discussed in Section 4.B, Land Use and Land Use Planning; impacts on pedestrian safety are discussed in Section 4.C, Transportation and Circulation; impacts related to noise are discussed in Section 4.D, Noise; and impacts related to public safety are discussed in Section 4.E, Public Services.

For a discussion of whether a Type 47 liquor license complies with the zoning regulations of the Nob Hill SUD, please see Response LU-2 in Section 3.C, Land Use and Land Use Planning, on RTC pp. 3.C.10-3.C.11.

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**Comment PD-7: Comments requesting more detailed description of the food preparation area in Auditorium concourse area, and the ground-floor commercial kitchen.**

This response addresses the following comments:

I.9.9-Muh

I.9.21-Muh

*Berit S. Muh, E-mail, June 3, 2013 [I.9.9-Muh]*

On page 2.9, the DEIR states that the concourse area contains a “small” food preparation area, two portable food and beverage areas ...” The food preparation area should not be described as “small” (or for that matter, “large” or “medium sized”), but instead should be described by its actual square footage and other physical features. In fact, Figure 2.4 seems to indicate that the “former catering kitchen” is now the same size as the “new commercial kitchen”

*Berit S. Muh, E-mail, June 3, 2013 [I.9.21-Muh]*

Additionally, the Project Description is inadequate under the requirements of CEQA in the following areas:...

2. In the subsection entitled “Project Characteristics”, paragraph 1, the DEIR fails to describe the proposed renovation for the kitchen and bar areas.

**Response PD-7**

The sentence on EIR p. 2.9 highlighted in one of the comments refers to the food preparation area located at the southwest corner of the Auditorium concourse which is shown in Figure 2.5 on EIR p. 2.20. This area contains approximately 290 square feet and is used to assemble, stage and/or warm light food and snacks that are served at the portable food and beverage areas at the north and south ends of the Auditorium concourse.

The comment correctly notes that the square footage of the existing ground-floor catering kitchen would not change with the proposed project. As shown in Table 2.2: Existing and Proposed Uses after Renovation, by Floor Area, on EIR p. 2.17, the existing catering kitchen contains approximately 1,700 square feet which would not change with the upgraded commercial kitchen proposed under the project. The major difference between the existing catering kitchen and the proposed commercial kitchen is that the commercial kitchen would provide on-site cooking facilities whereas the existing catering kitchen does not have cooking facilities.

The existing catering kitchen provides facilities to assemble, stage and warm (e.g., microwave) food that has already been cooked and/or prepared and is brought in by an outside catering vendor. The existing catering kitchen does not contain a stove or other equipment to cook food on site.

Page 2.17 of the EIR states: “On the ground-floor level, the existing 1,700-sq.-ft. catering kitchen would be upgraded to a commercial kitchen where food would be prepared for the food and beverage concession areas and banquet functions. The upgraded kitchen facility would be operated by a single food and beverage concessionaire.”

The existing kitchen would be renovated to provide on-site cooking and food preparation service. The kitchen would be upgraded to accommodate new equipment such as cooking ranges equipped with exhaust and hoods, a commercial freezer and/or refrigerator, new stainless steel islands and counters, and food storage areas.

The portable food and beverage areas referred to as “bars” in the comment are not fixed kiosks or structures and would not require renovation. These stations are movable stainless steel or metal stations that contain compartments to stock and sell light food and snacks and beverages, including alcoholic drinks. The stations are also equipped with cash registers.

**Comment PD-8: Comment concerning clarification of “total assembly space capacity” in the Masonic Center and “Auditorium capacity.”**

This response addresses the following comment:

I.9.7-Muh

*Berit S. Muh, E-mail, June 3, 2013 [I.9.7-Muh]*

**Misleading and Incomplete Statements and Analysis In The DEIR.** DEIR is replete with misleading and incomplete statements.

On page S.2, the DEIR states that the proposed renovations would not change the Center’s existing “total assembly space capacity”. That statement is not entirely accurate. While the total floor space may not change under the proposed Project, it is unquestioned that the capacity for event attendees (as opposed to fixed floor space) is proposed to increase from 3,166 to 3,300.

**Response PD-8**

Page S-2 of the EIR states: “The Masonic Center's existing building capacity of 4,674 persons in its assembly spaces would not change with the proposed renovation project.” Existing building capacity refers to occupancy requirements for life safety purposes specified in the 2010 California Building Code, Table 1004.1.1 Chapter 10, Section 1004; see Footnote 1 on EIR p. 2.1.

The total assembly space capacity refers to the total number of attendees that could be accommodated in the Masonic Center Auditorium, Exhibition Hall, and California Room. As shown in Table 2.3: Existing and Proposed Number of Attendees per Large Events (More Than 250 Attendees), by Auditorium Configuration, the Auditorium has fixed seating only on the main floor (1,860 seats) and in the balcony (1,306 seats) for a total existing total seating capacity for 3,166 attendees. With the proposed project, the fixed seating on the main floor would be removed and the main floor would be reconfigured to tiered flooring; existing fixed seating in the balcony would remain. With proposed renovations, the Auditorium would have a maximum capacity of 3,300 persons during general admission events with standing audiences on the main floor Auditorium and fixed seating on the balcony level.

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## B. PLANS AND POLICIES

The comments and corresponding responses in this section cover topics in EIR Chapter 3, Plans and Policies. These include topics related to:

- PP-1: Consistency with Plans and Policies.

### Comment PP-1: Comments related to the proposed project's inconsistency with adopted City plans and policies.

This response addresses the following comments:

I.9.24-Muh	I.14.23-Chapman (5)	I.14.26-Chapman (5)
I.14.16-Chapman (5)	I.14.24-Chapman (5)	I.14.27-Chapman (5)
I.14.17-Chapman (5)	I.14.25-Chapman (5)	I.14.28-Chapman (5)

*Berit S. Muh, E-mail, June 3, 2013 [I.9.24-Muh]*

#### **Inconsistency with City Plans, Policies and Codes**

A. *Inconsistency With Relevant City Agency Plans and Policies* The DEIR fails to analyze the proposed Project's inconsistencies with several important City plans and policies impacting the proposed Project, including the SF Entertainment Commission's plans and policies for entertainment events, such as the Department's "Neighborhood Outreach Policy for Permit Applicants", the SF Police Department's plans and policies for liquor licenses (as well as those for the State ABC), the Department of Public Works Garbage Recycling Receptacles Policy, Streets and Sidewalks Maintenance Policy and the City's smoking ordinance and policies, especially since the proposed Project calls for outdoor smoking. Most of these plans and policies were expressly addressed in the 2010 and 2012 Project approvals, but none were adequately addressed in the DEIR.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.16-Chapman (5)]*

This project could not comply with local land use policies, including--...

-- the City Master Plan: Particularly significant are conflicts with "Priority Policies." See Planning Code Section 101.1(b) for Priority Policies:

-- Priority Policies (b)(2): "That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods."

-- Priority Policy (b)(4): "That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking."

-- Priority Policy (b)(8): "That our parks and open space and their access to sunlight and vistas be protected from development."

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.17-Chapman (5)]*

15. Conflicts with the Master Plan and zoning law should preclude a permit. See Planning Code Section 101.1(e): "Prior to issuing a permit for any project which requires an initial study under the California Environmental Quality Act, and prior to issuing a permit for any...conversion or change of use, and prior to taking any action which requires a finding of consistency with the Master Plan, the City SHALL find that the proposed project...is consistent with the Priority Policies established above. For any permit issued...after January 1, 1988 the City SHALL also

find that the project is consistent with the City's Master Plan." See Section 102 (Definitions): "The word SHALL is mandatory and not directory."

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.23-Chapman (5)]*

19. The real issues are impacts of a project that is out of compliance with the Planning Code, district zoning, Master Plan, and transit policies. Environmental review could not support a "finding of consistency" with adopted plans and goals where--

-- The project requires zoning reclassification for the property (however disguised).

-- The purpose is to regularize the unlawful use for gainful business of a structure approved for not-for-profit institutional use.

-- The outcome would be equivalent to commercial "spot-zoning" for one property to accommodate long-time noncompliance with restrictions for the zoning district where it is located.

-- Approval requires overturning conditions imposed on the structure by the Planning Commission, which stipulate that owners and successors shall not benefit from a commercial reclassification to add commercial uses on the property.

-- The project seeks approval of a large-scale entertainment use in a high-density residential district, where zoning prohibits an entertainment business of any size.

-- The proposal inserts "the largest bar in Northern California" (8-11 outlets were proposed to serve more than 3,500 customers) into a residential zoning district, and a special use district whose regulations restrict drinking establishments.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.24-Chapman (5)]*

Environmental review could not support a "finding of consistency" with adopted plans and goals where...

-- The sponsor's assertion that profit depends increasingly on alcohol sales underlines conflicts with the character of a district that has the highest allowable housing density (assuring that disruptions will affect living environment for the maximum number of people).

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.25-Chapman (5)]*

-- The Police Department, parking manager, and residents reported the history of large events at this site creating impacts that include extreme traffic congestion, lack of available parking, disruption of public transit, auto/pedestrian conflicts, noise and pollution.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.26-Chapman (5)]*

-- Central Nob Hill, where these events affect esthetics and safety, should be recognized as a sensitive area, with historic and scenic features known around the world.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.27-Chapman (5)]*

-- The project fronts the only sizable park in the crowded Nob Hill district.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.28-Chapman (5)]*

-- Adverse impacts (congestion, noise, vandalism, safety) will affect a principal destination for travelers staying throughout the city, customers for nearby hotels, and cable car lines, with potential economic impacts for tourist and convention business.

**Response PP-1**

These comments state that the analysis in the Draft EIR does not support a finding that the proposed project is consistent with adopted City plans and policies. The EIR does not determine if a proposed project is consistent with adopted plans and policies. The purpose of the EIR is to analyze the physical environmental impacts of the proposed project, including those that would result from the proposed project's conflicts with adopted City plans and policies, including the Priority Policies set forth in Planning Code Section 101.1. As discussed in Chapter 3, Plans and Policies, of the EIR, p. 3.1:

In accordance with CEQA Guidelines Section 15125(d), this chapter discusses potential conflicts between the proposed project and applicable local, regional, State, and Federal plans and policies. Policy conflicts do not, in and of themselves, indicate a significant environmental effect within the meaning of CEQA. To the extent that physical environmental impacts may result from such conflicts, such impacts are analyzed in this EIR in the specific topical sections in Chapter 4, Environmental Setting, Impacts, and Mitigation, and in Section E, Evaluation of Environmental Effects, of the Notice of Preparation/Initial Study (NOP/IS) that was published on December 12, 2012 (shown in Appendix A).

The decision to approve or disapprove the proposed project rests with City decision-makers, including, but not limited to, the Planning Commission, the Entertainment Commission, and the Board of Supervisors. Prior to approving the proposed project, the Planning Commission shall, as defined in Planning Code Section 102, determine that the proposed project is consistent with adopted plans and policies. This determination is incorporated into the findings of the Planning Commission's entitlement action (e.g., a Planning Commission motion or resolution). In determining the proposed project's consistency with adopted plans and policies, the Planning Commission may consider information contained in the EIR, oral or written testimony from the public, the recommendations contained in staff reports, and information provided by other City agencies who may be involved in the review process.

The Draft EIR contains information that may be considered by decision-makers regarding Priority Policies 2, 4 and 8 and other issues that are specifically identified in the comments. The proposed project's impacts on the character of the neighborhood are analyzed in Section 4.B, Land Use and Land Use Planning, EIR pp. 4.B.7-4.B.10; impacts related to increased traffic are analyzed in Section 4.C, Transportation and Circulation, pp. 4.C.36-4.C.44; impacts related to increased noise levels are analyzed in Section 4.D, Noise, EIR pp. 4.D.21-4.D.30; impacts related to the sale of alcoholic beverages and public safety issues are analyzed in Section 4.E, Public Services, EIR pp. 4.E.7-4.E.11. For additional information regarding the proposed project's impacts on neighborhood character related to the sale of alcoholic beverages, please see Response LU-3 in Section 3.C, Land Use, RTC pp. 3.C.15-3.C.18. In addition, the Notice of Preparation/Initial Study (NOP/IS) analyzed the proposed project's impacts on historic resources (Section 4,

Cultural and Paleontological Resources, EIR Appendix A, pp. 46-48) and recreation resources such as Huntington Park (Section 10, Recreation, EIR Appendix A, pp. 79-80). The proposed project's potential economic impacts on the local tourist and convention industries would not be physical environmental effects. CEQA is concerned with whether or not a project may have adverse physical environmental effects; it is not concerned with socioeconomic effects. Pursuant to CEQA Guidelines Section 15131(a), "economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes."

The proposed project's consistency with any adopted plans and policies that were not identified in the Draft EIR but that are relevant to the proposed project, such as plans and policies adopted by the Entertainment Commission, the Police Department, and the Department of Public Works (DPW), may be considered by City decision-makers during their deliberations on whether to approve or disapprove the proposed project. In previous approval actions on the Masonic Center (the 2010 project approval that was voided by lawsuits and the April 2012 CU authorization that continued the legal nonconforming status of the Masonic Center), City decision-makers considered the plans and policies of the Entertainment Commission, the Police Department, and DPW in imposing operational conditions of approval on the Masonic Center. For additional information about these conditions of approval and the project history, please see Response PD-1 in Section 3.A, Project Description, RTC pp. 3.A.7-3.A.8.

## C. LAND USE AND LAND USE PLANNING

The comments and corresponding responses in this section cover topics in EIR Section 4.B, Land Use and Land Use Planning. These include topics related to:

- LU-1 - Legal Nonconforming Status of the Masonic Center
- LU-2 - Project Compliance with Zoning Regulations
- LU-3 - Project Impacts on Neighborhood Character
- LU-4 - Cumulative Land Use Impacts

### **Comment LU-1: Comments related to the legal nonconforming status of the Masonic Center.**

This response addresses the following comments:

PH.2.2-Miller	I.5.3-Lamé	I.14.21-Chapman (5)
I.4.2-Miller	I.10.4a-Chapman (1)	I.14.29-Chapman (5)
I.4.5-Miller	I.14.13-Chapman (5)	I.14.30-Chapman (5)
I.4.6-Miller	I.14.18-Chapman (5)	I.14.36-Chapman (5)

*Jim Miller, Public Hearing Transcript, May 23, 2013 [PH.2.2-Miller]*

The CMMT, which is the California Memorial Masonic Temple, became nonconforming in at least 1978, when the property was rezoned from commercial to RM-4, which it is today. RM-4.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.2-Miller]*

The CMMT became a non-conforming use at least by 1978 when the property was rezoned to its present RM-4 (High-Density Residential). Therefore, the applicant has falsified the EIR -- the EIR is FALSE.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.5-Miller]*

The zoning is RM-4 & has been since 1978. This is a RESIDENTIAL zone that only allows a not-for-profit business if authorized by the Planning Commission by Conditional Use. No such Conditional Use was ever authorized by the Commission for Live Nation (the applicant in the subject case).

*Leonard James Miller, E-mail, May 31, 201 [I.4.6-Miller 3]*

The CMMT became non-conforming at least in 1978 w/ the Residential Zoning Study, at which time it was zoned RM-4 (High-Density Residential). The 1978 levels of activity have already been submitted (Amy Harmer letter).

*Linda Lamé, E-mail, June 3, 2013 [I.5.3-Lamé]*

This is an obvious intensification of use of a structure in a residential neighborhood which was not originally built or intended for such heavyhanded use.

*Linda Chapman, E-mail, June 3, 2013 [I.10.4a-Chapman (1)]*

I. Land Use comments:

The application failed to show an operation within the legal historic use: i.e., what was actually authorized for the CMMT site **at any time**, prior to zoning changes allegedly creating a “lawful nonconforming use.”

Nonconforming use, when the type or intensity of operations was **not authorized by zoning or Conditional Use decision at any time**, cannot be the basis for legalization under rules intended to continue a “**lawful** nonconforming use” when zoning rules for the location change. If the new rules and old rules **both** do not authorize a use that was unlawful, it should remain illegal. That enforcement did not terminate violations does not make unlawful uses legal. The unauthorized use of CMMT **as a for-profit business (venue** for entertainment and other commercial uses) remained illegal.

Improvements originally authorized for the site were a not-for-profit lodge or club house with ancillary commercial garage. Assembly spaces, such as CMMT and the Cathedral offer, comply with zoning when entertainment and rental operations are at a level consistent with not-for-profit operation of the approved use (lodge, private club, or church). Entertainment and event rentals are not necessarily inconsistent with residential zoning—when proceeds don’t become an end exceeding institutional needs to maintain buildings and church or lodge activity.

Neither events nor food and beverage sales contemplated under Live Nation management could be consistent with not-for profit operation of a lodge building. The CMMT building (when the principal operations become for-profit entertainment and other commercial use) could not qualify as a non-profit lodge or club to meet **either** the C.U. conditions originally imposed to permit its construction, nor subsequent zoning regulations.

**If the site was found to qualify as a “lawful” nonconforming use, that status expired. There is no obligation to authorize extension of nonconforming uses in a residential neighborhood beyond the term for NCU set by the Planning Code.** When the NCU expires, or the NCU could disrupt neighborhood arrangements, the site should be made to conform to currently allowed uses.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.13-Chapman (5)]*

Existing entertainment, conventions, and public assembly did not receive environmental review. For many years, CMMT sponsored a mix of events: lawful assemblies and unauthorized uses designated in the Planning Code as “gainful business” and “other entertainment.” Zoning regulations, and stipulations for the CMMT structure, always prohibited such commercial use.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.18-Chapman (5)]*

16. Activities not authorized before zoning changes remain unlawful after zoning changes. A history of illegal use and the convenience of project sponsors do not create a “legal” nonconforming use.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.21-Chapman (5)]*

18. It would defeat the purpose of zoning to discount environmental impacts for a level of business activity that was always unlawful at the site. It defeats the purpose of zoning policies to discount impacts of uses that evaded the approval process.

Zoning for the district where CMMT is located (Nob Hill Special Use District, and underlying RM-4 high-density residential district) precludes both an entertainment business and a private lodge operated for profit.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.29-Chapman (5)]*

20. Analysis must compare the proposed use (large public entertainment and assembly business with bars and fast food service) to the previously approved institutional use (private lodge, not operated for profit, with accessory parking garage).

A profit-making business for entertainment, eating and drinking requires Commission approval to change the designated use. Therefore, analysis (for transportation, circulation, parking, and other impacts) must compare data for full-scale commercial use to the legally approved use (i.e., compare conditions when NO public entertainment is scheduled).

To comply with the current zoning and stipulations from the original Planning Commission action approving a structure for institutional use, public entertainment must be ancillary to lodge operations, and so limited as not to be a gainful business. Public assembly could be consistent with institutional use (unless on a scale that changes the operation to a gainful business).

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.30-Chapman (5)]*

21. For the applicable zoning regulations, we should look to the existing zoning: Nob Hill Special Use District (SUD) where the site is located, and the underlying RM-4 residential district. See Planning Code Sections 238 and 209.4(b) for zoning rules applicable to this site, and uses prohibited before the Department changed the rules for CMMT.

-- The Nob Hill SUD allows a private club or lodge, not operated for profit, as a Conditional Use. An entertainment business and a lodge operated for gainful business are prohibited in the SUD, and all RM-4 residential districts.

-- Before action on this case, lawful uses for CMMT were limited to private lodge (institutional use), with accessory parking garage.

-- Expanding commercial use was prohibited by conditions stipulated to be permanent in the original Planning Commission approval for an institutional structure (Resolution 4171). Conditions and stipulations have the force of law as part of the current Planning Code (see Section 174).

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.36-Chapman (5)]*

27. CMMT was approved for an "institutional type building, Grand Lodge Memorial Temple," with a parking garage as the only commercial use. Otherwise, principal and accessory uses, by law, are those appropriate to a private not-for-profit lodge or club (similar to the near-by Pacific Union and University Clubs).

a. Commercial reclassification for the parcel allowed an institution with parking garage to locate within the residential district. Stipulations precluded benefitting from commercial zoning for a use other than the garage.

b. The original approval for CMMT was precisely worded to preclude, permanently, uses not authorized in the resolution. Commission resolutions are requirements of the Planning Code (Section 174). The intent of Resolution 4171 not to open the way to commercial intrusion was made clear by conditions to run with the land under commercial zoning. The resolution stated that conditions required "at all times" observance by the owners and successors in interest.

c. Additionally, improvements were limited to the building plans approved by Resolution 4171. I submit that (as an unusual restriction) the intent must be to preclude changes, such as the stage configuration. Built without the proscenium and backstage areas of a theater for commercial productions, the stage was suited to Masonic ceremonies and the public assemblies or entertainment commonly hosted by institutions that can accommodate audiences (e.g., the Cathedral). See Resolution 4171: “Commercial improvements shall be limited as follows: The building shall be of institutional type similar to the preliminary plans entitled The grand Lodge Memorial Temple...Final plans shall be submitted to the Department of City Planning for approval as to conformity with the stipulations.”

28. I submit that restrictions the resolution and the building permit placed on internal configuration should still be effective, both because of the unique wording, and because stipulations imposed by Conditional Use are permanent, enforceable requirements of the Planning Code (Section 174). Restriction to a design in building plans should not affect systems upgrades (sound, lights). I submit that it could preclude conversion of the thrust stage (appropriate to ceremonies) to a design for commercial productions. Potentially, the stipulations and building plans could preclude other “improvements” intended for commercial conversion (including construction of numerous permanent eating and drinking facilities).

29. Subsequent zoning changes eliminated commercial spot zoning that allowed construction of the Temple with garage, incorporating them into the residential zoning district and Nob Hill SUD. When the SUD regulations were revised to allow nonprofit private clubs and lodges by Conditional Use, the use previously approved (private lodge with garage) could continue as a permitted Conditional Use. Uses that were not lawful before rezoning (commercial entertainment, or “gainful business” use of the lodge facility) could not be grandfathered as a Conditional Use, and could not be a legal nonconforming use. (Planning Code Section 178)

30[.] CMMT is not a NCU, as defined in Planning Code Section 180(a)(1)(A). Zoning changes do not give special protection for illegal uses to continue. Where a facility, authorized to operate as a nonprofit club, is used for gainful business and “other entertainment,” that use continues to be illegal. If not operating as a gainful business, the lodge with accessory garage became a permitted Conditional Use from the time Nob Hill SUD rules authorized a private nonprofit lodge as a Conditional Use (Section 178). No other use of CMMT could be either a legal NCU or a grandfathered C.U.

### **Response LU-1**

These comments address various aspects of the legal nonconforming status of the California Masonic Memorial Temple (CMMT). As a point of clarification, the CMMT is the name of the property owner; the Masonic Center is the name of the building/use on the project site.

Several comments incorrectly state that the Masonic Center was never approved as a legal commercial use or that it did not become a legal nonconforming use until 1978 or later. As discussed on EIR p. 1.2, “the Masonic Center became a ‘legal nonconforming use’ in the 1960s when the site was rezoned to a residential classification that did not permit entertainment and assembly uses.” Footnote 2 on EIR p. 1.2 provides additional information:

<sup>2</sup> The Zoning Administrator issued a Letter of Determination in 2009 stating that the Masonic Center was entitled as a commercial assembly and entertainment

venue (rather than a private lodge) in 1956 with no operating conditions of approval and is a now legal nonconforming use. The Board of Appeals upheld that determination in 2010, and the Superior Court upheld the Zoning Administrator and Board of Appeals in 2011. San Francisco Superior Court, Case No. 510365.

The Masonic Center did not evade the approval process. As discussed above, the Masonic Center was entitled as a commercial assembly and entertainment space in 1956, and it has operated as such under various operators since its completion in 1958. A land use, whether it is principally permitted, conditionally permitted, or legal nonconforming, can continue to exist and operate even if the property on which it is located is sold to another owner or the land use itself is sold to another operator, as in the case of a business. The sale of the underlying property or the change in the operator of the land use does not terminate the land use and, if applicable, its status as a permitted or conditional use or a legal nonconforming use. As such, Live Nation or any future operator of the Masonic Center may operate the facility as a commercial assembly and entertainment use.

City decision-makers are under no obligation to extend the life of a legal nonconforming use when its nonconforming status expires. While this statement is correct, the owner of a property containing a legal nonconforming use may apply for an extension pursuant to Planning Code Sections 185 and 303. Such a request was made by the property owner (Planning Department Case No. 2011.0471C, filed August 12, 2011). As discussed in Chapter 1, Introduction, of the EIR, p. 1.3, the Planning Commission and Board of Supervisors continued the status of the Masonic Center as a legal nonconforming use for an indefinite period of time without allowing any intensification of the use (the April 2012 CU authorization).

Comments state that the Masonic Center must comply with the original stipulations that were imposed by Planning Commission Resolution No. 4171, adopted in 1956, and that such conditions and stipulations have the force of law, are permanent, and cannot be amended. Pursuant to Planning Code Section 303(e), “authorization of a change in any condition previously imposed in the authorization of a conditional use shall be subject to the same procedures as a new conditional use. Such procedures shall also apply to applications for modification or waiver of conditions set forth in prior stipulations and covenants relative thereto continued in effect by the provisions of Section 174 of this Code.” Previously imposed conditions of approval are not permanent and may be amended, modified, or waived by the Planning Commission through the procedures set forth in Planning Code Section 303.

Comments state that the existing uses at the Masonic Center never underwent environmental review, and another comment states that the environmental impacts of an unlawful use should not be discounted. As discussed on EIR p. 1.2, the Masonic Center has operated as an assembly and entertainment use since the late 1950s. At that time, there were no laws requiring development

projects to undergo environmental review. CEQA, the statute that established the environmental review process, was not adopted until 1970. As discussed above, the Masonic Center is not an unlawful use; it is a legal nonconforming use. Currently, operation of the Masonic Center results in certain event-related physical environmental effects on the neighborhood, such as noise and traffic. These existing conditions are part of the neighborhood setting, are documented in the respective topical Draft EIR sections as existing conditions, and serve as the baseline for comparing and analyzing the physical environmental impacts that would result from implementation of the proposed project.

The reference to 1978 activity levels does not state how this information is relevant to the adequacy or content of the EIR and, therefore, does not require a response under CEQA Guidelines Section 15088. Refer to Response PD-3 in Section 3.A, Project Description, pp. 3.A.14-3.A.16, which addresses information in the EIR concerning historic activity levels at the Masonic Center between 2002 and 2007.

For a discussion of project compliance with the zoning regulations applicable to the project site, please see Response LU-2, below.

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**Comment LU-2: Comments related to the Masonic Center's compliance with applicable zoning regulations.**

This response addresses the following comments:

I.9.10-Muh	I.9.27-Muh	I.14.15-Chapman (5)
I.9.25-Muh	I.9.30-Muh	I.14.35-Chapman (5)
I.9.26-Muh	I.10.4b-Chapman (1)	I.14.50-Chapman (5)

*Berit S. Muh, E-mail, June 3, 2013 [I.9.10-Muh]*

Table S.1, at page S.4, LU-2 states that the proposed Project will not conflict with any applicable land use plan and therefore no mitigation and improvement measure is required. This is not an accurate statement as the Project in fact conflicts with the existing zoning on the site, as well as the April 2012 CU authorization (and the 2012 Settlement).

*Berit S. Muh, E-mail, June 3, 2013 [I.9.25-Muh]*

*B. Inconsistency with the Nob Hill Special Use District*

The Nob Hill SUD, Planning Code Section 238(d) permits as a conditional use eating and drinking uses as defined in Planning Code Section 790.34.

Planning Code Section 790.34 defines eating and drinking uses as a retail use which provides food and beverages on site including Bars, Restaurants and Limited- Restaurants and Take Out Food.

Planning Code Section 790.22 defines “Bar” as a retail use which provides on-site beer, wine and alcohol sales where no person under 21 years old is allowed and drinking establishments where

persons under 21 are allowed (such as the proposed Project), but only under a Type 42 or 60 permit, not a Type 47 liquor license.

Planning Code Section 790.91 defines “Restaurant” as a retail use or eating and drinking use which serves food to customers on-site or off-site and which may allow for the sale of beer, wine or alcohol on-site pursuant to a Type 47 liquor license if the “Restaurant” is a “Bona Fide Eating Place” as defined in Planning Code Section 790.142 and the restaurant complies with the controls set forth in Planning Code Section 703.5.

Planning Code Section 790.142 defines “Bona Fide Eating Place” as a place that is kept open for the serving of food to guests and includes a requirement that a minimum of 51% of the places gross receipts shall be from food sales sold to guests on the premises.

When read together, the above-referenced Planning Code Sections prohibit the zoning application sought, including the Type 47 liquor license in the Nob Hill SUD, unless the same are a part of a bona fide eating place that has at least 51% of the place’s gross receipts from the sale of food to guests on the premises. Clearly, the proposed Project has no intention or hope of ever meeting that requirement and accordingly, the proposed Project runs counter to the zoning in the Nob Hill SUD.

*Berit S. Muh, E-mail, June 3, 201 [I.9.26-Muh 3]*

Moreover, the proposed Project’s objectives to increase the number of events, increase the number of patrons per event and authorize a liquor license permit that is otherwise prohibited also runs counter to the April 2012 CU authorization for the Project site. For these reasons too, the DEIR’s conclusion that the proposed Project does not violate existing zoning policies is inaccurate and misleading.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.27-Muh]*

*C. Conditional Use Authorization Under Section 182 Is Not Appropriate*

The Project sponsor has also sought approval under Planning Code Section 182(b)(1), seeking to change the currently authorized nonconforming assembly and entertainment use to a conditionally approved “other entertainment” use and for intensification of such a conditionally approved other entertainment use pursuant to Planning Code Section 723.48.

Planning Code Section 182(b)(1) permits a nonconforming use within a residential district to change to another conditional use provided the nonconforming use is located within 1/4 mile from any individual area Neighborhood Commercial District (“NCD”) that permits that use. Here, the NCD is within 1/4 mile is the Polk Street NCD. However, as discussed below, the Board of Supervisors, in File Number 121065, recently determined that no new on-sale or off-sale liquor establishment, excluding an establishment that operates as a bona fide eating place as defined in Section 790.142, shall be permitted in Polk Street NCD. Since the nearest NCD within 1/4 mile of the Project prohibits the very type of liquor license sought by the proposed Project, and since the proposed Project is not a bona fide eating place, as defined in Planning Code Section 790.142, the allowance provided in Planning Code Section 182(b)(1) is not applicable for the proposed Project. This result is not only required by the current dictates of the Planning Code, but is also consistent with the Board’s 2012 CU authorization, and prior Zoning Administrator decisions. (See Zoning Administrator decisions on file with the Department). The DEIR fails to adequately discuss the adverse effects on land use when the intensification of the existing nonconforming uses is inconsistent with the RM-4 and nearby NCD use districts.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.30-Muh]*

The DEIR fails to adequately analyze the impacts of the requested change in the Nob Hill Special Use District and there is inadequate analysis of how the conditions of approval from the 2010 and 2012 Project approvals (and the 2012 Settlement) should, would and could set standards for the analysis undertaken in the DEIR. Moreover, the Board of Supervisors has previously (and again just recently) voted on the matter involving liquor licenses in the Nob Hill Special Use District, both through its approval of the April 2012 CU authorization and more recently with its approval of the Polk Street liquor license prohibition, the immediately adjacent zoning district within 1/4 mile of the Nob Hill SUD. The Board's prior (and recent) actions were adopted for the specific purpose of avoiding environmental impacts in the vicinity of the Project, and those legislative actions should be respected. Yet, nowhere in the DEIR is this fact acknowledged, discussed or analyzed to the level required by CEQA.

*Linda Chapman, E-mail, June 3, 2013 [I.10.4b-Chapman (1)]*

**II. See Attachments**

**(1) City Planning Code:**

(a) Requirements for proposed **new food and drink operation** to conform to Nob Hill SUD regulations, **which prohibit most types of restaurants** (Attachments 3).

(b) Food service sufficient to justify the ABC license and C.U. for a bona fide eating place is not feasible. Restaurant service is precluded by time available to serve before performances; by limited food marketed for customers whose object is entertainment; by inability to accommodate table service, or feed thousands of customers in the floorspace and time available. Before performances and at intermission large areas are used for queuing and entering/exiting an entertainment venue.

(c) See Planning Code definitions to qualify as **"bona fide eating place."** This defines licensed premises allowed to admit minors, where food service must predominate over alcohol. It specifies local requirements for food service in premises that operate with ABC's 47 license.

***[The attachments referenced in this comment are shown at the end of Letter I.10 in Attachment B, Draft EIR Comment Letters, of this Responses to Comments document.]***

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.15-Chapman (5)]*

This project could not comply with local land use policies, including--  
-- the current zoning map and regulations that apply to the site.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.35-Chapman (5)]*

**LAND USE AND LAND USE PLANNING-- COMPATIBILITY WITH EXISTING ZONING AND PLANS**

24. Regulations for the parcel and the residential district restrict commercial use. Zoning for the RM-4 residential district underlies commercial restrictions specific to the Nob Hill Special Use District. The purpose of RM-4 zoning is to maintain neighborhoods of high-density housing.

25. "Other entertainment" uses are generally prohibited for RM-4 districts. Nob Hill SUD regulations likewise prohibit this designation, proposed to accommodate Live Nation. (Planning Code Sections 209.4, 238)

26. The Nob Hill SUD was designed to protect a predominantly residential neighborhood, while accommodating hotels and nonprofit institutions that predated residential zoning: church, school, private clubs. SUD regulations were crafted over many years to preserve central Nob Hill's

unique balance of uses. They prohibit most commercial activity, and place specific restrictions on uses (eating and drinking establishments) with potential impacts on a residential neighborhood. Such use (in addition to hotels and nonprofit institutions) can be allowed by Conditional Use, but the means of public access is regulated. (Planning Code Section 238)

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.50-Chapman (5)]*

#### SUMMARY

This is a proposal for a large profit-making public entertainment venue at an unsuitable location. The original approved use for this site was nonprofit private club or lodge. Similar institutions are used for public gatherings, and limited entertainment as an incidental use.

#### Response LU-2

These comments state that the existing assembly and entertainment use at the Masonic Center does not comply with the zoning regulations applicable to the project site and that the existing use cannot be changed under the Planning Code.

As discussed in Chapter 3, Plans and Policies, of the EIR, pp. 3.2-3.3, the Masonic Center is a legal nonconforming use that does not comply with the current zoning regulations of the RM-4 (Residential, Mixed, High Density) District or the Nob Hill Special Use District (SUD), as well as a legal noncomplying structure that does not comply with the current regulations of the 65-A Height and Bulk District. Section 4.B, Land Use and Land Use Planning, of the EIR, discusses the proposed project's conflicts with the current zoning regulations applicable to the project site. The discussion under Impact LU-2, on EIR p. 4.B.7, states:

Impact LU-2: The proposed project would not 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. (*Less than Significant*)

The discussion of this impact statement continues on EIR p. 4.B.8, and concludes:

As discussed above, as a nonconforming use, the existing Masonic Center does not comply with a number of current zoning regulations because it was built when the site was zoned Commercial, rather than RM-4. Implementation of the renovation project would not eliminate the Masonic Center's existing noncompliance or nonconformity with these current zoning regulations. Since zoning regulations are adopted for the purposes of regulating the location of various uses, the renovation project would not conflict with any land use plans, policies, or regulations adopted to avoid or mitigate an environmental effect. This impact would be less than significant, and no mitigation measures are necessary.

For these reasons, Impact LU-2, which is shown in Table S.1, on EIR p. S.4, is accurate, and the proposed project would have less-than-significant impacts on conflicts with existing zoning.

Pursuant to Planning Code Section 182(b)(1), a legal nonconforming use may be changed to another use that is conditionally permitted at the first floor or below in an NC-1 (Neighborhood Commercial Cluster) District and in the Individual Area Neighborhood Commercial District (NCD) that is within a quarter-mile of the use with conditional use authorization from the Planning Commission. The project site is within a quarter-mile of the Polk Street NCD. Pursuant to Planning Code Sections 710.48 and 723.48, other entertainment uses, as defined in Planning Code Section 790.38, are conditionally permitted in NC-1 Districts and the Polk Street NCD, respectively. Under these Planning Code regulations, the Masonic Center may be changed from a legal nonconforming use to another entertainment use with conditional use authorization from the Planning Commission.

Several comments state that the Masonic Center cannot be changed to an eating and drinking use unless it can be classified as a bona fide eating place, as defined in Planning Code Section 790.142. Under this definition, a bona fide eating place must demonstrate that at least 51 percent of the gross receipts are from food sales prepared and sold to guests on the premises. Pursuant to Planning Code Section 238(d), an eating and drinking use, as defined in Planning Code Section 790.34, may be approved in the Nob Hill SUD with conditional use authorization from the Planning Commission. Planning Code Section 790.34 defines an eating and drinking use as “a retail use which provides food and/or beverages for either on- or off-site food consumption including Bars, Restaurants, Limited Restaurants, and Take-out Food”. Under this definition, the Masonic Center may, but is not required to, serve food in order to be classified as an eating and drinking use. The CMMT is seeking conditional use authorization from the Planning Commission to establish an eating and drinking use on the project site for event patrons only, not a bar, restaurant, limited restaurant, take-out food use, or bona fide eating place.

Several comments state that a Type 47 liquor license cannot be issued for the Masonic Center, because the Masonic Center does not meet the definition of a bona fide eating place as set forth in Planning Code Section 790.142. The authority to issue or deny liquor licenses rests with the California Department of Alcoholic Beverage Control (ABC), which is a State agency. The State’s definition of a bona fide eating place differs from the Planning Code definition. California Business and Professions Code Section 23038 defines “bona fide eating place” and related terms as follows:

[B]ona fide eating place means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health. ‘Meals’ means the usual assortment of foods commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches or salads shall not be

deemed a compliance with this requirement. ‘Guests’ shall mean persons who, during the hours when meals are regularly served therein, come to a bona fide public eating place for the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein. Nothing in this section, however, shall be construed to require that any food be sold or purchased with any beverage.

Unlike the Planning Code definition of a bona fide eating place, the State’s definition does not include a requirement that a minimum of 51 percent of the establishment’s gross sales receipts shall be from food sales prepared and sold to guests on the premises. In order for a Type 47 liquor license to be issued, the Masonic Center must meet the State’s definition of a bona fide eating place. The Masonic Center is not required to meet the Planning Code definition of a bona fide eating place unless it is or will be operating as a bona fide eating place. As discussed above, the CMMT is seeking conditional use authorization from the Planning Commission to establish an eating and drinking use on the project site for event patrons only, not a bona fide eating place.

Several comments state that proposed legislation to prohibit new on-sale or off-sale liquor establishments in a portion of the Polk Street NCD is applicable to the project site, because the sale of alcoholic beverages at the Masonic Center is alleged to cause many of the same problems that led to the proposed legislation for the Polk Street NCD. The proposed legislation would establish the Lower Polk Street Alcohol Restricted Use District (RUD). Within this RUD, no new establishments that sell alcohol would be permitted. The proposed legislation is not applicable to the proposed project, because the project site is not within the boundaries of the proposed RUD. The Draft EIR analyzed the proposed project’s physical environmental impacts related to the sale of alcoholic beverages, including increased traffic (Section 4.C, Traffic and Circulation), levels of noise (Section 4.D, Noise) and increased demand for police protection services (Section 4.E, Public Services).

For a discussion of the adequacy of the analysis in the EIR, please see Response GC-2, in Section 3.K, General Comments, RTC pp. 3.K.5-3.K.6. For a discussion of the baseline conditions that were established by the April 2012 CU authorization and used in analyzing the proposed project’s environmental impacts, please see Response PD-3 in Section 3.A, Project Description, RTC pp. 3.A.14-3.A.16. For a discussion of the so-called 2012 settlement agreement, please see Response PD-1, RTC pp. 3.A.7-3.A.8.

**Comment LU-3: Comments related to the impacts of the proposed project on the existing character of the Nob Hill neighborhood.**

This response addresses the following comments:

PH.1.4-Chapman	I.9.29-Muh	I.14.33-Chapman (5)
I.10.7-Chapman (1)	I.9.40-Muh	I.14.38-Chapman (5)
I.10.10-Chapman (1)	I.14.9-Chapman (5)	I.14.42-Chapman (5)
I.7.2-Shaheen	I.14.11-Chapman (5)	I.14.48-Chapman (5)
I.8.2-Robison	I.14.22-Chapman (5)	I.14.49-Chapman (5)
I.9.12-Muh	I.14.32-Chapman (5)	

*Linda Chapman, Public Hearing Transcript, May 23, 2013 [PH.1.4-Chapman]*

You know, I want to mention, this is just – it’s an impossible location to have this kind of venue. The Regency is well located, complete contrast with -- in terms of transportation, in terms of accessibility of the streets in terms of their not being a lot of residences around there.

*Linda Chapman, E-mail, June 3, 2013 [I.10.7-Chapman (1)]*

Youths (inebriated or energized by concerts) will head toward “The New Broadway,” near CMMT on Polk and California Streets. Either because our NCD was advertised throughout the Bay Area as the place for “action”--- or because CMMT customers must go through our NCD to reach public transportation.

*Linda Chapman, E-mail, June 3, 2013 [I.10.10-Chapman (1)]*

**III. Please consider testimony about related impacts in the Polk NCD: Decision makers can better understand impacts on residents from the CMMT plan by observing existing impacts on lower Nob Hill from alcohol and entertainment venues drawing young crowds from outside the neighborhood.**

1. Testimony and recordings showed disorderly conditions that businesses brought to the Polk NCD by marketing alcohol or entertainment to young crowds-- and abusing 47 licenses. Live Nation applied for a 47 license to admit youths to a venue huge by comparison (at least 20 times larger than the largest venue in the Polk Corridor, where many bars have a capacity close to 49.) Profit-oriented operations marketing to the same demographic that disrupted a nearby district will control a site that is surrounded by residences and intended as not-for-profit assembly space. The Live Nation business plan specifically promotes alcohol sales.

2. Residents, merchants, and property owners often report quiet enjoyment disrupted for blocks around licensed premises drawing a young demographic: noise “like the crowd at a football game,” unruly youths obstructing pedestrian and auto right-of-way, vomiting and urinating in the public realm and private property.

*Verna Shaheen, E-mail, June 2, 2013 [I.7.2-Shaheen]*

The impact on the surrounding neighborhood is excessive.

*Nancy Robison, E-mail, June 3, 2013 [I.8.2-Robison]*

I live at 1201 California Street, and the negative impact to our neighborhood from the Masonic events operated by Live Nation is huge and frequent. They blatantly ignore and violate the court order obtained by neighborhood activists, and seem unconcerned by this fact. When I called the police department regarding a recent incident where they had taken up the entire block of

California with trucks, vans, loading personnel and equipment, the police called me back and said everything was fine, even though the cable car drivers were screaming at the Live Nation people because they could not get through.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.12-Muh]*

Table S.1, at page S.4, LU-3 states that the proposed Project would not have a substantial adverse impact on the existing character of the vicinity and that no mitigation and improvement matters are therefore required. However, substantial arguments and facts support a conclusion that increases in the number of events and the increases to the number of patrons per event would result in potentially substantial adverse changes and impacts on the character of neighborhood, and the cultural resources in the vicinity. This is especially true given that the rationale for reducing the number of live entertainment events in the 2010 project and the 2012 project was made to protect the existing character of the neighborhood vicinity from substantial adverse impacts.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.29-Muh]*

**Inconsistencies With Current Land Use and Zoning**

The DEIR fails to adequately analyze the Polk Street neighborhood commercial district as a land use in the Project vicinity. This failure is critical not only because it completely ignores the one neighborhood/land use to the west of the Project site (the neighborhoods and land uses to the north, south and east are all described), but it fails to take into consideration the recent legislative enactments by the Board of Supervisors in the Polk Street district prohibiting new liquor licenses. (Board of Supervisors File No. 121065). The DEIR should study the impacts on land uses in the complete vicinity of the proposed Project and the cumulative impacts that will follow, by analyzing and discussing all of the neighborhoods in the vicinity, not by excluding the one neighborhood that has had some of the very types of problems that were sought to be avoided when the Board approved the April 2012 CU authorization and which have now been addressed by a liquor license prohibition of the very type sought by the Project sponsor.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.40-Muh]*

**Failure to analyze the impacts from large, live events on the public park, and historic culturally significant resources in the vicinity.**

The DEIR inadequately addresses the impacts that party-goers will have on the public park (Huntington Park) and historic and culturally significant resources (e.g. Pacific Union Club, Fairmont Hotel, Grace Cathedral, etc.) in the vicinity following live entertainment events. There is virtually no analysis in the DEIR on the impacts from the proposed Project to those resources in the immediate vicinity and directly across the street from the proposed Project. With an increase of almost 78% in the number of events that would occur [from] the proposed Project, it is inconceivable that the DEIR failed to analyze such impacts with any rigor whatsoever.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.9-Chapman (5)]*

10. Alcohol sales, intensification of entertainment, and other events; new forms of assembly are conducive to crowds on the streets of a residential district.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.11-Chapman (5)]*

12. The comparison to young crowds inundating the Polk Corridor for bars and entertainment is pertinent. This change happened abruptly. Severe conditions are associated with a young demographic attracted from outside the area for bars and entertainment. It is foreseeable that the

same demographic will cause problems on the streets near the Masonic; and that many will add to problems in the nearby area of California and Polk Streets[.]

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.22-Chapman (5)]*

There is a history of adverse impacts associated with the unauthorized use of CMMT, particularly parking and traffic congestion.

There is potential for more significant impacts when a large institution in a sensitive location proposes to attract thousands of customers to a full-scale entertainment venue, with large-scale alcohol sales and fast-food operations.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.32-Chapman (5)]*

22. Unusual Circumstances suggest a reasonable possibility of a significant environmental effect”...

- operation of a large-scale entertainment venue at the heart of a dense residential district;
- plans to concentrate at one site numerous points of sale for alcohol in a neighborhood zoned principally for residence;

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.33-Chapman (5)]*

22. Unusual Circumstances suggest a reasonable possibility of a significant environmental effect”...

- proximity to Nob Hill’s only sizable open space, used by residents and tourists from around the world, where large events at CMMT cause conflicts;

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.38-Chapman (5)]*

35. Alcohol fueled misconduct after Live Nation events already disrupts the neighborhood. Many report loud voices, littering, public urinating and vomiting befouling a usually quiet historic neighborhood. Pedestrians and cars competing for entry at the site, crowds congregating before and after shows, large vehicles and equipment at the curbs, noise of customers lingering outside will reduce the attraction of a normally quiet urban center.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.42-Chapman (5)]*

40. Sidewalks near the project are not adequate for crowds to gather, and are located near dwellings or hotels, where noise from customers, traffic, and equipment is troublesome.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.48-Chapman (5)]*

46. My direct observation outside the Warfield (a former Live Nation venue) around rush hour, with a crowd waiting on Market Street for a performance was that (despite the unusually wide sidewalk) it was virtually impossible to wend my way through the throng, too dangerous to walk around them in the street. My slow passage offered opportunities to observe blatant drug merchandising (one woman offering syringes from a tray like a cigarette girl).

47. Unreserved general admission events will predictably cause crowds to arrive early and wait outside, invite loiterers and sellers of scalped tickets and drugs to join the crowd, and leave bad actors to wander the area, disappointed of tickets, or after the shows. There could be impacts on Nob Hill’s only sizable open space, used by residents and tourists from around the world at hours when crowds for CMMT events cause conflicts on streets and sidewalks, and criminal activity reported by police observers.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.49-Chapman (5)]*

48. The only use in the area that is similar to the proposal is the Regency Ballroom (largest venue has capacity of 1,200, about one-third the Live Nation plan). From my experience, this seems to be a well managed enterprise. A manager acknowledged such enterprises have little control over large crowds dispersing into the neighborhood, or the “attractive nuisance” problem. Parking is a serious problem, and management cannot get parking facilities to open for event customers.

49. The Regency is better located, in all respects, to handle event crowds, at the intersection of Van Ness and Sutter (heavily travelled commercial streets, near extensive public transit, numerous parking facilities, and non-residential streets or alleys, which management uses to control lines). With all the advantages not available around CMMT, management commented that controlling 1,200 people exiting at once can be “tricky” -- and “more so with the larger audience and young customer base that Live Nation aims to attract.”

### **Response LU-3**

These comments state that the Draft EIR does not adequately analyze the proposed project’s impacts on the Nob Hill residential neighborhood surrounding the Masonic Center. Section 4.B, Land Use and Land Use Planning, of the EIR, pp. 4.B.8-4.B.10, analyzes how the proposed project (the intensification of uses in the Auditorium) would affect the existing character of the neighborhood, when compared to existing uses. Under existing conditions, Nob Hill residents experience event-related activities for events of up to 3,166 attendees such as increased pedestrian activity, crowd noise, traffic noise (e.g., honking horns), traffic volumes and attendee drop-off/pick-up activity, ticket scalpers advertising to sell tickets, the consumption of alcoholic beverages, performer bus parking, and performer equipment unloading/loading in front of the Masonic Center on California Street. The EIR acknowledges that the proposed increase from existing conditions in the number of event attendees (a maximum of 134) and the number of events (up to 85), when compared to existing conditions, could be perceived as annoyances by the residents of the neighborhood that would occur more frequently, but that there would be no substantial adverse effects on the physical land use character of the neighborhood. The EIR concludes that the proposed project would have less-than-significant land use impacts on the character of the vicinity.

Increased activity in the Polk Street bar/entertainment area is an existing condition. While some event attendees may choose to visit Polk Street establishments before or after events held at the Masonic Center, the proposed increase in the number of event attendees (a maximum of 134) and number of events (up to 85) from existing conditions would not contribute to a combined, cumulative adverse effect on existing land use conditions on Polk Street.

Section 4.C, Transportation and Circulation, of the EIR, pp. 4.C.36-4.C.44, analyzes the proposed project’s impact on traffic, transit, pedestrian, and bicycle circulation. Although there would be increased traffic associated with the increase of event attendees (a maximum of 134) and the number of events (up to 85) from existing conditions, this increase would not result in substantial

changes to existing traffic conditions, would not result in unacceptable operating conditions at nearby intersections or on any transit lines, would not result in pedestrian hazards or unacceptable operating conditions on nearby sidewalks, and would not result in bicycle hazards or unacceptable bicycling conditions. As under existing conditions, the proposed project would be required to implement conditions of approval from the April 2012 CU authorization that are related to providing parking for automobiles and bicycles, requiring all patron queuing to occur on-site, and managing the flow of event-related traffic before and after events. For these reasons, the EIR concludes that the increased traffic associated with the proposed project would result in less-than-significant impacts on traffic, transit, pedestrian, and bicycle circulation in the Nob Hill neighborhood.

Section 4.D, Noise, of the EIR, pp. 4.D.21-4.D.30, analyzes event-related noise impacts of the proposed project. The increase in the number of attendees (a maximum of 134 from existing conditions) would increase the number of vehicles traveling to and from the Masonic Center for an event at the Auditorium when compared to existing conditions. The increase in noise levels associated with more attendees and more vehicles would be negligible in the context of existing ambient noise levels. With an increase in the number of events (up to 85), residents of the neighborhood would be exposed to increased noise levels more frequently. However, as stated on EIR p. 4.D.26, nearby residents would experience these increases approximately 85 more times a year than under existing conditions, due to event-related activities such as higher pedestrian activity and conversation volumes, honking horns, attendee drop-off/pick-ups, vehicles exiting the garage from the Pine Street loading dock, performer bus parking, and performer equipment unloading/loading on California Street during large events. The proposed increased number of portable food and beverage concession areas that serve alcoholic beverages could increase the potential for incidents of crowd noise after events. Nearby residents could perceive the increased noise levels as an annoyance, but none of the event-related noise increases would result in noise levels that would exceed the standards set forth in the San Francisco Noise Ordinance. In addition, the proposed project would be required to implement the conditions of approval from the April 2012 CU authorization that are related to minimizing construction- and event-related noise and vibration levels. For these reasons, the EIR concludes that the proposed project would have less-than-significant noise impacts on the neighborhood. Refer also to Response NO-1 in Section 3.E, Noise, RTC pp. 3.E.2-3.E.4.

Section 4.E, Public Services, of the EIR, pp. 4.E.7-4.E.11, analyzes the proposed project's impacts on police, fire, and emergency medical services. With an increase from existing conditions in the number of event attendees (a maximum of 134), the number of events (up to 85), and the number of concession areas that sell alcoholic beverages, there is a potential for an increased demand for police, fire, and emergency medical services during events at the Auditorium when compared to existing conditions. As under existing conditions, the proposed

project would be required to implement a security plan to address potential incidents such as drunk and disorderly conduct or other criminal activity around the Masonic Center (including Huntington Park), which would minimize the need for increased police services during events. The increase in the number of event attendees and the number of events would not require the construction or expansion of new or altered police protection facilities or affect existing service ratios or response times. As discussed in Section 4.C, Transportation and Circulation, of the EIR, p. 4.C.47, increased pedestrian and vehicular traffic during events is not expected to interfere with the ability of fire and emergency medical personnel to provide service to the Masonic Center and the surrounding neighborhood. The San Francisco Fire Department would review the construction plans to ensure that adequate fire and life safety measures are provided within the Masonic Center. As under existing conditions, the proposed project would provide on-site emergency medical services for all events with more than 1,250 attendees, which would minimize the potential demand for increased fire and emergency medical services during events. The increase in the number of event attendees and the number of events would not require the construction or alteration of existing fire facilities in order to maintain acceptable service ratios, response times, or other performance objectives. For these reasons, the EIR concludes that the proposed project would have less-than-significant impacts on the provision of police, fire and emergency medical services to the Nob Hill neighborhood.

In addition, Section 4, Recreation, in the Notice of Preparation / Initial Study (NOP/IS), pp. 79-80 (see EIR Appendix A), analyzed the proposed project's impacts on Huntington Park. The increase from existing conditions in the number of event attendees (a maximum of 134), the number of events (up to 85), and the number of concession areas that sell alcoholic beverages would not result in the use of Huntington Park in a manner that would substantially deteriorate the park. As under existing conditions, the proposed project would be required to provide security patrols and monitoring in Huntington Park and near Grace Cathedral before, during, and after events to address potential public safety incidents caused by event attendees (e.g., public drinking, disorderly conduct) that would adversely affect nearby residents, require additional public services, or result in physical damage to recreational facilities at Huntington Park. For these reasons, the NOP/IS concludes that the proposed project would have less-than-significant impacts on recreation resources, and this issue required no further discussion in the EIR.

Comments state that Impact LU-3 incorrectly concludes that the proposed project would have less-than-significant impacts on the existing character of the vicinity in light of the fact that the number of events at the Masonic Center was reduced in the 2010 and 2012 project approvals due to concerns over potentially adverse impacts on the character of the neighborhood and the vicinity. The 2010 project approval was voided by the San Francisco Superior Court. The 2012 project approval did not include an increase in the number of events, because no such request was made as part of the application. Please see Response PD-1 in Section 3.A, Project

Description, RTC pp. 3.A.6-3.A.8, for more information regarding the 2010 and 2012 project approvals.

Comments related to the impacts caused by the sale of alcoholic beverages in the Polk Street NCD or at other current or previous Live Nation venues, such as the Warfield Theatre on Market Street, are about activities that occur at other locations in San Francisco. The purpose of the EIR is to analyze the proposed project's impacts on the surrounding environment for the increase from existing conditions in the number of event attendees (a maximum of 134), the number of events (up to 85), and the number of concession areas that sell alcoholic beverages, not the impacts caused by activities that occur at other locations in San Francisco. Such comments may be considered by City decision-makers during their deliberations on whether to approve or disapprove the proposed project.

Comments expressing the opinion that the Regency Ballroom located at 1300 Van Ness Avenue, near Sutter Street, is better located and more suitable than the project site for live entertainment events are acknowledged, but do not require a response as they do not pertain to the adequacy or content of the EIR. The Masonic Center, not the Regency Ballroom, is where the proposed project is located. For information regarding the definition of the proposed project that was analyzed in the EIR, please see Response PD-1, RTC pp. 3.A.6-3.A.8.

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**Comment LU-4: Comments regarding cumulative land use impacts of the proposed project.**

This response addresses the following comments:

I.9.37-Muh

I.14.2-Chapman (5)

*Berit S. Muh, E-mail, June 3, 2013 [I.9.37-Muh]*

**No Analysis Of Cumulative Impacts From Proposed Project (Fairmont Hotel and MTA Capital Project for California Street and California Street Cable Car)** The Fairmont Hotel renovations are a potentially likely new project in the vicinity in the future, yet the DEIR fails even to mention it as a potential cumulative impact. The likelihood that the Fairmont Hotel will be renovated is no less speculative than the possibility that the Academy of Art may purchase additional buildings in the vicinity. Rather, the Fairmont Hotel renovation project has been in the news for years. The DEIR should have analyzed the cumulative impacts resulting from the combination of the adverse impacts of the proposed Project with the related impacts caused by the Fairmont Hotel renovations.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.2-Chapman (5)]*

The purpose of this memorandum is to ask that the Environmental Impact Report evaluate cumulative neighborhood impacts from use changes at the California Masonic Memorial Temple (CMMT).

#### **Response LU-4**

The approach to the analysis of cumulative impacts in the EIR is described on EIR p. 4.A.4. In accordance with CEQA Guidelines Section 15130(b)(1), cumulative impacts may be analyzed by applying a list-based approach (a list of past, present, and reasonably foreseeable future projects, including projects outside the control of the lead agency), a plan-based approach (a summary of projections in an adopted general plan or related planning document), or a reasonable combination of the two. The EIR generally relies on a plan-based approach, except for Section 4.B, Land Use and Land Use Planning, which uses a list-based approach. Cumulative impacts of the proposed renovation project are analyzed for each EIR topic, as specified by the Planning Department Environmental Review Guidelines (October 2012) on p. 5-5 and p. 5-18.

Cumulative impacts are considered significant if the proposed project in combination with other development would result in a cumulatively considerable contribution to a significant cumulative impact. The Draft EIR analysis found that the proposed project would have less-than-significant cumulative land use impacts; see EIR pp. 4.B.11-4.B.12.

Typically, when applying the list-based approach, the Planning Department identifies proposed projects or plans within a one-quarter radius for which an Environmental Evaluation application has been filed, in this case the Academy of Art University Institutional Master Plan. A Draft EIR was published for the Fairmont Hotel Revitalization and Residential Tower project in April 2010; subsequently, the project sponsor withdrew its plans for the development project in 2011.<sup>1</sup> As the comment notes, although renovations and/or new construction could occur at the Fairmont Hotel site in the future, the nature and extent of those proposals are unknown and therefore were not included in the cumulative land use analysis.

The EIR also includes an analysis of cumulative physical impacts on the Nob Hill neighborhood related to transportation, noise, and public services; cumulative impacts for each of these topics were also found to be less than significant. The cumulative analysis for these topics is based on the plan-based approach which uses growth projections through the year 2035 for the project study area (which includes the Fairmont Hotel site). Refer to EIR Section 4.C, Transportation and Circulation, pp. 4.C.52-4.C.54; Section 4.D, Noise, pp. 4.D.30-4.D.31; and Section 4.E, Public Services, pp. 4.E.11-4.E.12.

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<sup>1</sup> City of San Francisco Planning Department, April 28, 2010, 950 Mason Street Fairmont Hotel Revitalization and Residential Tower Project Draft Environmental Impact Report, Case No. 2008.081E.

3. Responses to Comments  
C. Land Use and Land Use Planning

Cumulative impacts related to capital projects proposed by the Municipal Transportation Agency for California Street and the California Street cable car are addressed in Response TR-9 on RTC pp. 3.D.18-3.D.19.

## D. TRANSPORTATION AND CIRCULATION

The comments and corresponding response in this section cover topics in EIR Section 4.C, Transportation and Circulation. These include topics related to:

- TR.1 - Trip Generation and Mode of Travel
- TR.2 - Transit Capacity
- TR.3 - Event-Related Traffic
- TR.4 - On-Street Loading
- TR.5 - Performer Bus Parking
- TR.6 - Parking Impact Analysis
- TR.7 - Pedestrian Access to Transit and Parking Garages
- TR.8 - Pedestrian Safety
- TR.9 - Cumulative Impacts
- TR.10 - Transportation Conditions of Approval
- TR.11 - Adequacy of Transportation Study

### **Comment TR-1: Comments concerning the methodology used to determine the number and types of trips that would be generated by the proposed project during an event.**

This response addresses the following comments:

O-CSFN.5-Fukuda	I.2.1-Blau	I.14.41-Chapman (5)
O-CSFN.9-Fukuda	I.2.2-Blau	

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O-CSFN.5-Fukuda]*

MUNI: Many people do not take Muni to dressy events, and this was not considered in the DEIR. The DEIR report that the capacity during peak hours are only 50% or so. This is not important since many people do not take Muni to dressy events, or because of how long it would take with transfers and waiting for busses. Going to a Giants game or Forty-niner game where casual dress is the norm is one thing and taking Muni to a dressy event is very different. The limited capacity of Muni cannot be expected to be an effective means to attend and leave unless one accepts arriving an hour early and leaving an hour after an event. The capacity averages 54 riders. How many of the 3,300 people can be expected to use Muni. Are there any studies that provide a breakdown on the number of people who take Muni, how many use private automobiles, taxi, bike, or hike? The DEIR is deficient if that is not provided. We need a complete report, not one that outdated and inaccurate, incomplete, and insufficient.

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O-CSFN.9-Fukuda]*

BIKE: Taking a bike to a dressy event is not likely to happen. The hills surrounding the Masonic Auditorium is also problematic unless the event is a very casual event, and this does not even consider body odor from biking up hills. Bikers must be very disciplined with their drinking because there will be an increase in the bar(s) or bartenders.

*Meredith Blau, E-mail, May 20, 2013 [I.2.1-Blau]*

As a Nob Hill resident of 1045 Mason Street I have read the draft EIR and am very concerned about the handling of **TRAFFIC** in light of our expressed concerns.

The intended use of EIR is to inform the public of environmental consequences of a proposed project and to present information on measures that *reduce* the environmental effects. The proposed EIR review was to show how this 1111 Project would not contribute considerably to future traffic of this residential neighborhood. What I found however, were charts justifying the increase of traffic, not recognizing the **IMPACT** on Nob Hill, a residential neighborhood, when 3300 attendees arrive and depart.

As procedure for defining these traffic patterns, there were observations of numbers of cars at certain locations before an event. Did anyone actually interview attendees as to “how they got to the Auditorium” or their plans for departure? On any raining night on Nob Hill, with all three major hotels having events as well, **how will 3300 attendees be leaving the Masonic? On cable cars?** The auditorium garage accommodates only 565 vehicles. The number 1 California and the 27 Bryant buses don’t run much later than Live Nation Performances. With the long lead times to exit a crowded auditorium, how are these young people being transported off the hill? We residents already have a hard time ourselves finding taxis and parking. This study left more questions than answers.

*Meredith Blau, E-mail, May 20, 2013 [I.2.2-Blau]*

Neighbors have long observed that *on street* parking is very difficult to find and *off street* garages with “FULL” are commonplace on any given weekend. Guests drive for 30-45 minutes trying to find *any* place to park! The transit network outlined in the draft does not say how many people will use Bart, Muni, etc. It is just supposition! The realities are very different and I suggest that a study of *actual intent of attendees* be conducted for accurate traffic patterns to be compiled. The demands for parking are not precisely stated and this study is only surmising what might happen. This project, bringing mainly young people, with modest incomes for taxis or parking cars, into a residential neighborhood with limited access to mass transportation, needs to be re-examined. Nob Hill is not the center of transportation or a hub for mass transit. The wait times at night for 1 California bus is 20 min and 30 minutes for the 27 Bryant. And, they carry about 30 people each? The closest Muni buses cannot get the all of the crowd off Nob Hill.

*Linda Chapman, E-mail, June 4, 2013, Attachment) [I.14.41-Chapman (5)]*

39. Topography is too steep to expect customers to walk, or travel by more distant transit lines (especially after night performances). Estimates that a large percentage of customers will walk do not adequately explain the basis. Population of the surrounding neighborhood (older than the Live Nation market) cannot be expected to make up a large percentage of customers. Do “walkers” include people walking from public garages or public transport? They must be considered for impacts on parking and transit.

### **Response TR-1**

Comments request an explanation of the basis for the development of travel demand estimates, and question the number and types of trips that would be generated during an event at the Masonic Auditorium. Comments also question the likelihood that people will not use transit or bike or walk to attend “dressy” events at the Auditorium.

As indicated on p. S-2 of the EIR, the proposed project would increase the maximum number of event attendees within the Auditorium from 3,166 up to a maximum of 3,300 at a sold-out event with general admission, not a formal seated event. This represents a maximum increase of 134 attendees from existing conditions for events with standing room only conditions on the main floor of the Auditorium and fixed seating being provided only in the balcony.

The transportation analysis is on EIR pp. 4.C.1-4.C.54, and summarizes a detailed transportation background transportation study conducted for the project (Adavant Consulting, Nob Hill Masonic Center Renovation Project Final Transportation Study, 2011.0471!, April 10, 2013), hereinafter referred to as the “TIS.” The TIS evaluates transportation impacts of the proposed project that would result with a maximum increase of 134 attendees from existing conditions, from 3,166 to 3,330 attendees. The approach and methodology used to evaluate transportation impacts is described on EIR pp. 4.C.31-4.C.32. The project travel demand (i.e., the new vehicle, transit, pedestrian, bicycle, truck and bus traffic) was based on an assessment of existing transportation conditions during a sold-out event (3,166 attendees). As stated on EIR p. 4.C.32, travel demand characteristics of the Masonic Auditorium were determined by conducting field counts for two nighttime, live-entertainment music concert events — Il Volo on Friday, October 14, 2011, and Sting on Saturday, December 3, 2011. Approximately 1,900 people attended the Friday Il Volo concert, while the Saturday Sting was sold out with approximately 3,166 people attending. Simultaneous events at the Mark Hopkins and the Fairmont Hotel were held during the Sting concert on December 3, 2011. Therefore, for purposes of analysis, the Sting concert on December 3rd would be representative of maximum event-related transportation conditions with the proposed project.

Field counts also included the survey of four public parking garages in the immediate vicinity of the Masonic Center (the Masonic Center, Grace Cathedral, Crocker, and Fairmont Hotel garages). Turning movement counts were also collected on the two survey evenings at seven nearby intersections in the project study area bound by Washington, Stockton, Sutter and Leavenworth streets. Field observations showed that people drove, walked, and took transit to the site; individuals walking up California Street or Taylor Street included those who parked or got off transit beyond the immediate area of the Center.

The results of the travel demand survey are described on EIR pp. 4.C.32-4.C.33. Mode of travel assumptions for event attendees were based on the number of people and vehicles observed at each of the public parking garages during the two events days, plus information contained in the Planning Department’s Transportation Impact Analysis Guidelines for Environmental Review for visitor trips to Superdistrict 1, in which the project site is located. Table 4.C.8: One-way Project Visitor Trip Generation by Mode of Travel, on EIR p. 4.C.33, summarizes trip generation by mode for a maximum attendance concert (3,166 attendees) at the Masonic Center under existing conditions, and for a maximum attendance (up to 3,300 attendees) with the proposed project. As

shown in Table 4.C.8, the proposed project increase to a maximum of 3,300 attendees would represent a maximum increase of 134 persons from existing conditions arriving by auto (67), transit (30), walking (32) or other (5).<sup>1</sup> Based on an average vehicle occupancy rate of two people per vehicle derived from field surveys, the increase in attendance with the proposed project would generate approximately 35 additional vehicle trips over existing conditions. As discussed in the Impact Evaluation, starting on EIR p. 4.C.36, the existing transportation network and Muni system would be able to accommodate these expected increases in vehicle and transit trips.

Comments regarding attendees' willingness to take transit or walk to "dressy" events are acknowledged; however, such comments are subjective opinions. Both nighttime events used as a basis for estimating travel demand are representative of the types of large, nighttime live concert events that are likely to be held at the Masonic Auditorium under the proposed project. Refer also to Response TR-7 on RTC pp. 3D.15-3.D.16, which addresses pedestrian trips to the Center.

The transportation analysis reports the results of the travel demand assessment, and the level of significance of traffic impacts that would result from the proposed project; the EIR analysis does not justify or defend the project's increase in traffic. Noise, emergency access, and police service impacts on the Nob Hill neighborhood are discussed in EIR Section 4.D, Noise, on EIR pp. 4.D.1-4.D.31, and Section 4.E, Public Services, on EIR pp. 4.E.1-4.E.12; refer also to Response LU-3 in Section 3.C, Land Use and Land Use Planning, on RTC pp. 3.C.15-3.C.18.

As the comment notes, garages closest to the Center may display "FULL" signs in the study area, requiring attendees to seek parking at other garages outside of the study area; refer to Response TR-6 on RTC p. 3.D.14, which discusses parking supply and occupancy in the vicinity of the Masonic Center.

Issues raised in the comments concerning Muni service after events are addressed in Response TR-2, below.

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<sup>1</sup> Other includes limousines, taxis, bicycles and motorcycles; taxis and limousines are estimated to represent 95 percent of the "other" trip category.

**Comment TR-2: Comments related to transit capacity to serve the proposed project before and after events at the Masonic Center.**

This response addresses the following comments:

PH.1.6-Chapman	I.10.5-Chapman(1)	I.12.1-Chapman(3)
PH.2.4-Miller	I.10.8-Chapman(1)	I.13.1-Chapman(4)
I.4.7-Miller	I.10.9-Chapman(2)	I.14.39-Chapman(5)
I.9.35-Muh	I.11.1-Chapman(2)	I.14.43-Chapman(5)

*Linda Chapman, Public Hearing Transcript, May 23, 2013 [PH.1.6-Chapman]*

I submitted already to the Commission last year Peter Strauss's Muni document showing how many people can get on those buses to leave. Muni figures the peak load is 54 passengers. There's two lines up there, one of which runs every half hour and one of which runs every twenty minutes. So people are going to be hanging around waiting for a bus or heading down for Polk Street, which is already completely overwhelmed.

Coming to Polk Street, you cannot get on a bus just because people are going there. And the largest venue down there is not even one-twentieth the size of this.

*Jim Miller, Public Hearing Transcript, May 23, 2013 [PH.2.4-Miller]*

The EIR states that the hill is short plus or minus 500 parking spaces when the hotels have public assembly uses at the same time as the Masonic Temple. This is played off against five additional trips on Muni are attributed as part of the project -- anticipated as part of the project. Five additional Muni trips.

The 1 California, the 27, and the cable car can't clear but plus or minus 250 people maximum in the hour after the concerts. And they have 330 -- no -- 3,300 proposed.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.7-Miller]*

The EIR states that the Hill is short +/- 500 parking spaces when the hotels have public assembly uses at the same time as the CMMT but that only 5 additional trips via Muni are anticipated as part of the project. Why is that?

The 1 California & the 27 Bryant Muni busses as well as the California Street Cable Car can only clear +/- 250 people (maximum) after concerts. The 1 & the 27 only carry 54 riders (assuming that they arrive empty) & they run on 20- & 30-minute (respectively) headways at that time. The cable car runs every 12 minutes & they, too, are small. Transit is clearly not the answer.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.35-Muh]*

**Inadequate Analysis of Traffic and Transit Impacts** The DEIR attempts to meet its CEQA obligations on the issues of adverse traffic and transit impacts through the Department's analytical tools and modeling. Again, however, a fact-based analysis based on prior experience indicates that the additional traffic and impacts on transit resulting from the additional events at the Masonic Center on six out of seven days and nights would result in potentially substantial adverse changes and impacts on the neighborhood. Cars, buses and RV-like trucks will be queuing on California Street both before and after the almost nightly shows, and there is inadequate analysis of transit frequency, especially late night transit frequency. The DEIR inadequately analyzes the significant impacts from on the MUNI system and especially the ridership and passenger loading/unloading that will take place on California Street cable cars and Sacramento Street buses due to the event queuing and lack of adequate MUNI service in the

vicinity. The DEIR should fully analyze all of the impacts on traffic and transit in the neighborhood.

*Linda Chapman, E-mail, June 3, 2013 [I.10.5-Chapman (1)]*

(2) See transportation arrangements cited by the DEIR to accommodate up to 3,300 individuals leaving concerts in late evening. Compare Attachment 1 (capacity of the trolleys and buses used in this area for peak loads is calculated at 54 passengers per vehicle. ***[Attachment 1 referenced in this comment is shown at the end of Letter I.10 in Attachment B, Draft EIR Comment Letters, of this Responses to Comments document.]***

*Linda Chapman, E-mail, June 3, 2013 [I.10.8-Chapman (1)]*

Audiences will traverse residential streets, two or more blocks to closest bus stops, and socialize under bedroom windows during long waits for transit. How many hours could it take for Muni to accommodate thousands in limited-capacity Muni vehicles serving this neighborhood?

*Linda Chapman, E-mail, June 3, 2013 [I.10.9-Chapman (2)]*

Where is the convenient transportation promised?

1. Cable cars, with small capacity, and competition from other riders afternoon and evening, should be largely discounted.
2. 27-Bryant stops at California and Hyde (more than two blocks from CMMT, passing residences). **30-minute headways at night.**
3. 1-California stops require traversing more than two blocks to Clay and Taylor inbound. **20-minute headways at night.**
4. Stockton buses are inaccessible without long walks through residential areas: They pass underground from a stop at Sutter north into Chinatown.
5. 27 and 1 lines don't run later than the latest Live Nation performances planned for some evenings--and it takes time for large crowds to exit, then find the way a stop.
6. How many buses will remove audiences from large events-- when two lines run through the neighborhood, vehicles 20 to 30 minutes apart, each accommodating around 50 riders—**assuming buses arrive empty.**
7. Already, 1-California buses are packed late evenings near the Polk NCD, with customers for "The New Broadway." Conditions on other public transit (such as 38 Geary) are affected by crowds coming for entertainment and alcohol in the Polk Corridor: crush loaded or multiple vehicles pass up passengers at stops.

*Linda Chapman, E-mail, June 3, 2013 [I.11.1- Chapman (2)]*

To supplement my DEIR comments on Muni capacity--Here is the current Muni schedule for headways of the lines close to Masonic Center. ***[The attachment referenced in this comment is shown at the end of Letter I.11 in Attachment B, Draft EIR Comment Letters, of this Responses to Comments document.]***

*Linda Chapman, E-mail, June 3, 2013 [I.12.1- Chapman (3)]*

Illustrates comments on transit available for Masonic Center crowds.

Attachments show headway data in another format-- and map of routes in the vicinity of 1111 California. ***[The attachment referenced in this comment is shown at the end of Letter I.12 in Attachment B, Draft EIR Comment Letters, of this Responses to Comments document.]***

*Linda Chapman, E-mail, June 3, 2013 [I.13.1-Chapman (4)]*

To supplement my DEIR comments on Muni capacity-- Here is the Muni schedule for headways of the lines close to Masonic Center.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.39-Chapman (5)]*

36. The Masonic Temple is situated at the center of a relatively quiet residential district, with very limited parking, and only two public transit lines serving the project area (apart from cable car lines sometimes so overburdened by visitors that they are not transit options for residents).

37. Crowds arriving and leaving around the same time could exceed capacity of the public transit lines, whose weekend and evening schedules (submitted separately) suggest how inadequate service could be for big events, particularly weekends and after late shows. How will crowds or late stragglers depart the neighborhood? Considering bus frequencies, it is hard to understand optimistic projections about their capability to handle 3,300 customers leaving at one time.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.43-Chapman (5)]*

41. In this historic neighborhood at the cable car crossing, event customers will compete with tourists, hotel guests, customers traveling to hotel restaurants, residents and their guests for limited parking, pedestrian passage on narrow sidewalks, taxis, and Muni transport. Cable cars already are hard to board during tourist seasons.

## **Response TR-2**

Comments question whether the transit lines that serve the Masonic Center have adequate capacity to serve up to 3,300 event attendees at the Masonic Center, and whether there would be service available for attendees leaving nighttime events.

As indicated in the Travel Demand discussion starting on EIR p. 4.C.31, the proposed project would increase the existing maximum number of attendees from 3,166 to 3,300, a maximum increase of 134 patrons from existing conditions. As shown in Table 4.C.8 on EIR p. 4.C.33, this increase represents 30 additional patrons above existing conditions that would take transit to arrive at the Center, not a total of 3,300 event attendees as stated in the comments. EIR p. 4.C.39 states that approximately five (5) of the 30 additional transit trips would use Muni to connect to regional transit providers to arrive and depart from San Francisco.

The Draft EIR evaluates transit service for the five lines that are near the Masonic Center site — the 1 California trolley bus, the 27 Bryant motor coach, and the C California, PH Powell/Hyde, and PM Powell/Mason cable cars. The transit impact analysis is presented on EIR pp. 4.C.39-4.C.42. Table 4.C.13: Muni Service Utilization at the Maximum Load Point, Weekday and Saturday Late Evening (after 7 PM) Peak Hours, on EIR p. 4.C.40, shows that the existing Muni

lines serving the Center during a current sold-event (3,166 attendees) have available capacity, and could accommodate the additional 30 transit trips resulting from the proposed project, since the 30 added trips would represent an increase of one to seven additional transit riders per Muni line.

The Draft EIR provides information which addresses comments that express concern about Muni service being available to patrons after an event. Table 4.C.5: Summary of Muni Service Near Proposed Project, on EIR p. 4.C.15, shows that all five Muni lines considered in the transit analysis would *start* their last trip at the beginning of the line at least 15 minutes past midnight during both weekdays and Saturday. As stated on EIR p. 4.C.1, the April 2012 CU authorization conditions of approval restrict event hours under existing conditions such that all events are required to conclude by 11:00 PM on weeknights (non-holiday Sunday-Thursday evenings) and 11:30 PM on weekends (Friday, Saturday, and holiday evenings). A maximum of three events per year may extend until after 1:00 AM, subject to prior consultation with and approval by the San Francisco Police Department, the San Francisco Planning Department, and the Entertainment Commission with a minimum of 30 days prior to the date of such an event. This condition would continue to be implemented under the proposed project, unless modified during the project approval process. Based on current Muni late night operating hours described above, and the conclusion of almost all events by 11:00 PM on weeknights and 11:30 PM on weekends, Muni lines would be able to serve patrons departing from nighttime events at the Masonic Center. Muni's weekday evening service frequency would be reduced after 9 PM in three of the five lines analyzed, but with all lines having at least a 30-minute headway. Saturday evening Muni service frequencies do not decrease after 9 PM for the five lines analyzed in the EIR.

Comments referring to a parking shortage of 500 spaces and negligible (5 trips) increase in Muni ridership when concurrent public assembly events are held at nearby hotels relates to the discussion on EIR p. 4.C.51, which states that because of the lack of on- or off-street parking availability during simultaneous events, close to 500 vehicles would then have to park further away from the site, such as at the Sutter/Stockton garage. This discussion does not imply that there would not be any additional Muni trips because of the parking shortage during simultaneous events as these trips are already accounted for in the analysis. Furthermore, as stated above in this response, the five (5) "additional" Muni trips refers to those also using the regional transit service only, not the 30 total additional transit trips resulting from the proposed project.

As described under Response TR-1, the EIR traffic analysis was based on surveys of two actual events that were held at the Masonic Center under current conditions, one of which was a sold-out event with the maximum attendance of 3,166 patrons. Traffic impacts related to the increased number of events at the Masonic Center are described on EIR p. 4.C.39 under the discussion of *Increased Number of Events* which states: "With the proposed project, large events would occur more frequently at the Masonic Center, resulting in more frequent increases in delays at study area intersections. However, these delays would not result in unacceptable operating conditions

at study intersections.” Effects on transit due to the increased number of events are described in the first full paragraph on EIR p. 4.C.42. That discussion indicates that the increase in the number of evening events at the Masonic Center would result in more frequent evenings with higher utilization and conflicts with the nearby transit lines on late weekday and Saturday evenings. However, because these increases would not result in unacceptable transit operating conditions or over-utilization on any transit line, the more frequent higher ridership conditions would not result in significant transit demand or operational impacts. Therefore, this impact would be considered less than significant.

Issues related to pedestrian safety and mobility are discussed in Response TR-8 on RTC pp. 3.D.16-3.D.17. Refer to Response LU-4 in Section 3.C, Land Use and Land Use Planning, on RTC pp. 3.C.19-3.C.20, for a discussion of traffic-related land use impacts on the Nob Hill neighborhood.

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**Comment TR-3: Comments concerning traffic congestion and intersections operating at Level of Service E after events.**

This response addresses the following comments:

PH.2.5-Miller

I.4.8-Miller

I.14.45-Chapman (5)

O-CSFN.6-Fukuda

I.14.14-Chapman (5)

*Jim Miller, Public Hearing Transcript, May 23, 2013 [PH.2.5-Miller]*

The EIR speaks of Level of Service E at several of the intersections around the Masonic Temple during the -- after the event -- during the -- during the period of the disbanding of the concerts.

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O-CSFN.6-Fukuda]*

TRAFFIC: The increase number of taxi cabs on California Street was not adequately considered in the very limited study. I have seen photos of the traffic congestion on California Street on Saturday nights, I was just a continuous line of headlights. California Street traffic is unique in that the cable cars are very slow moving and passengers unload in the traffic lanes with automobiles. Left turns and right turns also delay traffic and was not considered.

*Leonard James Miller, E-mail, May 31, 2013 [I.4.8-Miller]*

The EIR speaks of LOS E for a time after concerts at intersections surrounding the CMMT. What about that?

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.14-Chapman (5)]*

14. In the 70s and 80s large shows at the Masonic inundated the neighborhood with traffic, and honking horns. Streets were gridlocked all the way to Van Ness when event goers sought parking. But the large events were infrequent.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.45-Chapman (5)]*

43. Noxious traffic resulting from auditorium use was not abated for decades.

**Response TR-3**

The comment correctly states that the Draft EIR indicates certain roadway segments as operating at LOS E under both Existing and Existing plus Project conditions. Existing operating conditions are described on EIR p. 4.C.13. Intersection operating conditions for existing plus project conditions are described on EIR pp. 4.C.36-4.C.39, and summarized in Table 4.C.11:

Intersection Level of Service, Existing and Existing plus Project Conditions, Weekday Late Evening Peak Hour, EIR p. 4.C.38. On p. 4.C.39 the EIR indicates that some individual intersection approaches, such as eastbound California Street at Jones, Taylor, and Mason Streets would operate at LOS E on weekday evenings under Existing plus Project conditions. That discussion also indicates that the overall LOS for all the study intersections, including those with an approach operating at LOS E, would be LOS D on weekday and Saturday evenings under Existing plus Project conditions.

As described on p. 4.C.31, the threshold for significance of a potential traffic impact at a signalized intersection is for the intersection level of service to deteriorate from LOS D or better to LOS E or F, or from LOS E to LOS F. An intersection could operate at an overall LOS D, as it would in some cases in this analysis, even when one of the intersection approaches operates at LOS E. As indicated in the footnote on p. 4.C.31, the LOS calculations for the individual intersection approaches are included in Appendix D of the TIS prepared for the proposed project.

The analysis of potential impacts at the study intersections considered the effects of cable cars operating in the median of California Street, the potential effects of left or right turning vehicles on California Street, and the increased presence of taxi service to the Masonic Center. Figure 11B of the TIS shows the additional turning movement volumes that would be generated by the proposed project over a currently sold-out event. The figure indicates that left turning movement volumes of between 3 and 50 vehicles per hour would be added onto California Street above current sold-out conditions; right turns of up to 80 additional vehicles are also shown. These turning movement increases include new project trips (up to 35 additional vehicles), as well as circling of existing traffic around the blocks due to the nearby garages being full as a result of other concurrent events.

The effects of cable car operations on traffic were also considered, as described on EIR p. 4.C.13, as well as the potential effects of traffic on cable car service, as described on EIR p. 4.C.41. The increase in passenger drop-offs (including taxis) in front of the Masonic Center as a result of the proposed project was also quantified and evaluated in the EIR. As indicated on EIR p. 4.C.21, there are currently 78 vehicles dropping off passengers during the two hours prior to the start of a Saturday sold-out event. Table 4.C.8: One-way Project Visitor Trip Generation by Mode of Travel, EIR p. 4.C.33, shows that the proposed project would add 35 vehicles above the number

of vehicles at an existing sold-out event, of which one vehicle (about 3 percent of all the vehicles) could be taxis or limousines.

Personal observations concerning gridlocked traffic conditions during large events in the 1970s and 1980s and the prior lack of abatement of noxious traffic related to events at the Auditorium are acknowledged, but they do not provide specific comments about the adequacy of the EIR transportation analysis. The Draft EIR describes existing traffic conditions during a sold-out event under existing conditions without the proposed project, and indicates that all study intersections operate at acceptable Levels of Service (LOS D or better). The current improved conditions could be partly attributed to the traffic and parking operation measures already implemented by the project sponsor as part of the April 2012 CU conditions of approval to minimize traffic queues on California Street in front of the Masonic Center and to improve the flow of traffic at the nearby intersections, including Pre-paid Parking (Condition No. 4); Traffic Management (Condition No. 7); and Event Operations Manual – Traffic Control Plan (Condition No. 27).

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**Comment TR-4: Comment suggesting that loading and unloading of trucks for events could take place inside the garage or at the curb with double parking prohibited.**

This response addresses the following comment:

I.3.8-Hong

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.8-Hong]*

With that said; I find that the sponsor or event planner for any of the events should have...

- Loading and unloading of the trucks can also be done inside the garage or on the streets at the curb – no double parking.

**Response TR-4**

As described on EIR p. 4.C.22, the Masonic Center is served by one loading dock located at the back of the building that is accessible from Pine Street via a narrow path with multi-family residential buildings on both sides. The Pine Street loading dock accesses the fifth floor level of the Masonic Center Garage; however, there is no freight elevator connection between the loading dock and the Auditorium floor. The Pine Street loading dock is used for unloading and loading by caterers and other freight companies, and the single loading space meets current demand for small to mid-size truck deliveries. Because there is no freight elevator connection to the Auditorium floor and because of the constrained size of the Pine Street loading dock, unloading from the Pine Street loading dock is not feasible for large trucks delivering stage equipment (such as sets, instruments, props, drapery, lights, and sound systems) for events in the Auditorium. Instead, trucks delivering performance equipment park curbside in front of the Masonic Center on

the south side of California Street during unloading and loading operations and transfer equipment via the pedestrian ramp to the Auditorium. Also, the Masonic Center Garage if entered from California Street does not have sufficient floor heights or maneuvering space to accommodate large trucks, notwithstanding the lack of freight elevator access to the Auditorium from the garage.

In the past, catering trucks had, for convenience, unloaded from California Street rather than from the Pine Street loading dock, but this practice has been discontinued, as stated on EIR p. 4.C.23. In addition, truck double-parking on California Street is currently prohibited by Condition No. 10 of the April 2012 CU conditions of approval.

The EIR, p. 4.C.47, includes Improvement Measure I-TR-5b, which calls for the project sponsor to prohibit the use of the California Street entrance for loading and unloading to the commercial kitchen and for normal building operation supplies, and to designate the Pine Street loading dock as the sole access for all of these operations.

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**Comment TR-5: Comments stating that performer bus parking at the Masonic Center violates City law.**

This response addresses the following comments:

I.10.6-Chapman (1)                      I.14.47-Chapman (5)

*Linda Chapman, E-mail, June 3, 2013 [I.10.6-Chapman (1)]*

(3) See Police Code prohibition on performer vans (auto homes) parking on city streets after 10PM (Attachment 2). *[Attachment 2 referenced in this comment is shown at the end of Letter I.10 in Attachment B, Draft EIR Comment Letters, of this Responses to Comments document.]*

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.47-Chapman (5)]*

45. Plans for performer busses to violate a city law that prohibits camping will add a burden for responding police.

**Response TR-5**

The comment pertains to Police Code Section 97 - Use of Vehicles for Human Habitation Prohibited. Section 97 states that no person shall use or occupy or permit the use or occupancy of any house car, camper or trailer coach for human habitation, including but not limited to sleeping, eating, resting, either single or in groups, on any street, park, beach, square, avenue, alley or public way, within the City and County of San Francisco between the hours of 10:00 p.m. and 6:00 a.m. (Section 97(a)); or at any such location within a residential neighborhood within the City and County of San Francisco between 10:00 p.m. and 6:00 a.m. (Section 97(b)).

Condition No. 16 of the April 2012 CU conditions of approval prohibits overnight bus parking, and specifically states:

**Overnight Bus Parking Prohibited.** Overnight curb parking of buses or habitable trailers for performers, support staff, or other(s) associated with the operations or productions at the property shall not be permitted on either side of California Street. The Project Sponsor shall include in any contract or agreement, or rules or guidance given to any performers, support staff, or others associated with the operations or productions at the property a requirement to abide by this condition. The Project Sponsor shall remain responsible for compliance with this condition, regardless of such notice or contractual provisions.

The provisions of Condition No. 16 would continue to apply under the proposed project, unless modified by decision-makers as part of the approval process. As such, under existing conditions, and under the proposed project, performer bus parking on California Street would not violate City law, nor add a burden for police responses as stated in the comment. Performer buses associated with events at the Masonic Center that park overnight in the City at locations away from California Street would be subject to Section 97 of the Police Code. If found guilty, violation of Section 97 is a misdemeanor subject to a fine of up to \$1,000 or by imprisonment in the County jail for a period not exceed six months, or both a fine and imprisonment (Section 98. Penalty).

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**Comment TR-6: Comments expressing concerns that the parking impact analysis relied on previous parking findings and does analyze impacts of the proposed project, and does not analyze parking demand impacts of event-related staff, employees and performers' staff.**

This response addresses the following comments:

I.9.39-Muh

I.14.44-Chapman (5)

*Berit S. Muh, E-mail, June 3, 2013 [I.9.39-Muh]*

**Insufficient Analysis of Off Street Parking Impacts** The off street parking impacts analysis is virtually identical to the analysis and findings made in the 2010 project approvals and the 2012 project approvals, yet the size and number of events proposed in the proposed Project has grown significantly. As a result, the analysis for off street parking impacts can not simply rely on the words from the prior approvals as they're value does not equate to the much larger number of live entertainment events as proposed by the Project sponsor.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.44-Chapman (5)]*

42. How many employees, contract staff and performers' entourages are present for big events? This number and the customers will place demands on very limited available parking.

#### **Response TR-6**

Statements that the EIR parking analysis conducted is based on the analyses and findings from the now-void 2010 CU authorization and the April 2012 CU authorization are incorrect. As indicated on EIR p. 4.C.25 and shown in Table 4.C.7: Off-Street Parking Garage Supply and Occupancy - Existing Conditions - Late Evening (6:15 to 8:15 PM) Peak Period, EIR p. 4.C.27, parking demand data was collected specifically for this EIR on the proposed project in October and December 2011, including a sold-out event on Saturday December 3, 2011. The parking analysis also took into consideration other concurrent events that took place at nearby hotels.

A prior Transportation Background Study was conducted in 2009 as part of the now-void 2010 CU authorization process; however, the EIR analysis of off-street parking impacts did not rely on the findings of that prior study. Similarities in the parking analysis may be coincidental in that the prior 2009 Transportation Background Study analyzed a maximum of 3,500 attendees, approximately 200 more than the maximum attendance of 3,300 attendees under the proposed project.

As indicated on EIR p. 4.C.32, there are currently 51 full-time employees at the Masonic Center, which would increase by one full-time employee with implementation of the proposed project. On event days, there are about 75 to 100 temporary workers on site (ushers, ticket takers, security, merchandise vendors, cleaning staff, etc.) which would not change with the proposed project. The TIS (p. 78, footnote 34) indicates that event personnel are part-time temporary employees who are at the site only when events occur and are charged full parking rates, while Masonic Center employees park at the garage only during non-event days. Therefore, to the extent that event-related staff and performers' staff park at garages in the study area, their demand for parking is reflected in the number of occupied spaces shown in Table 4.C.7 on EIR p. 4.C.27.

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#### **Comment TR-7: Comments discussing pedestrian access to transit and parking due to the steep grades of streets in the vicinity of Masonic Center.**

This response addresses the following comments:

O-CSFN.4-Fukuda                      I.12.2-Chapman (3)

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O-CSFN.4-Fukuda]*

PEDESTRIANS: The attendees to the Masonic Auditorium are expected to walk up steep hills from the Stockton Parking Garage, a very difficult undertaking unless you are in good shape, and dressed for strenuous climb. The DEIR correctly states that the hills discourage pedestrians. Please note that many events are likely to require evening attire and high heels. It is unlikely that

people will park at the bottom of the hill at the Stockton parking lot. Parking at the Masonic Auditorium is minimal and inadequate for major events.

*Linda Chapman, E-mail, June 3, 2013 [I.12.2-Chapman (3)]*

Some of the close routes will not be not easy to use because of steep grades to reach 1111 California on foot-- and the route through Stockton Tunnel passing by Nob Hill.

Apart from lines 1 and 27, lines least affected by steep grades to walk between the route and 1111 California are likely those in the distressed Polk Corridor and the Van Ness Corridor[.]

#### **Response TR-7**

The comments correctly describe the difficulties of walking to the top of Nob Hill to attend an event at the Masonic Center, which decreases the likelihood of some event attendees walking, taking transit, or parking away from the Masonic Center. The street grades leading to the top of Nob Hill are described in the Pedestrian Conditions discussion on EIR pp. 4.C.18-4C.19. While California Street is relatively flat between Jones Street and Taylor Street, there are steep grades to the south of the project site, discouraging pedestrians. Jones Street has a grade of about 20 percent between California Street and Pine Street, while Taylor Street has a grade of about 18 percent between Pine Street and California Street.

The discussion of Pedestrian Impacts on EIR p. 4.C.42 states the proposed project would generate pedestrian trips that include walking trips to and from the Masonic Center, plus walking trips to and from the garages and the transit stops. Overall, the proposed project would add approximately 129 new one-way pedestrian trips (32 walking trips, 30 transit trips, and 67 walking trips from the adjacent garages) to the surrounding streets during the late evening peak hour, a 4.2 percent increase over current event day conditions.

In spite of the high grades, when surveys were conducted on event days, many pedestrians were observed approaching the Masonic Center from northbound Taylor Street or westbound California Street, indicating that many event attendees walk for at least a few blocks uphill to arrive at the Masonic Center. Many of these individuals arrived at the lower side of Nob Hill by transit or automobile, and then walked the rest of the way. As discussed on EIR p. 4.C.51 and shown in Table 4.C.14, EIR p. 4.C.51, existing garages in the vicinity of the Masonic Center can accommodate the majority but not all of those vehicles arriving at an event, with the remaining vehicles parking elsewhere, such as at the Sutter/Stockton garage. It is possible that many of these patrons park at locations other than those garages located in the immediate vicinity of the Center (and therefore choose to walk on streets with steep grades) to avoid the \$30 (Masonic Center garage) to \$60 (Crocker garage) parking rates charged during events. For example, the parking rate at the Sutter/Stockton public garage, which has excess parking capacity in the evenings, is \$1.00 per hour from 6 PM until 9 AM, resulting in an approximate total parking cost of about \$5.00 for an event.

Even if all of the additional pedestrian trips that could walk from the lower Nob Hill to the Masonic Center (up to 129 one-way trips) were to be added instead to other flatter sidewalks in the immediate vicinity of the project site, they would not be expected to change the conclusions of the pedestrian impacts assessment, as they would represent a 4 percent increase over existing pedestrian trips during a sold-out event.

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**Comment TR-8: Comment stating that the EIR did not adequately address pedestrian safety and related conditions of approval included in the April 2012 CU authorization.**

This response addresses the following comment:

I.9.36-Muh

*Berit S. Muh, E-mail, June 3, 2013 [I.9.36-Muh]*

**Inadequate Analysis of Pedestrian Safety and Mobility** Again, the DEIR inadequately studied the impacts from the proposed Project on pedestrian safety and mobility. The same arguments that apply throughout this letter, namely that the additional traffic resulting from the additional events at the Masonic Center on six out of seven days and nights would result in potentially substantial adverse changes and impacts on the neighborhood, applies with equal force to the DEIR's deficiencies on the issue of pedestrian safety and mobility.

Moreover, many of the public safety measures addressed in the 2012 CU authorization and the 2012 Settlement were adopted to protect pedestrians, and those conditions should have been addressed in the DEIR.

**Response TR-8**

Existing pedestrian conditions on event and non-event days are described on EIR pp. 4.C.18-4.C.19. A qualitative evaluation of existing pedestrian conditions in the vicinity of the project site was conducted during field visits to the site during the weekday and weekend late evening periods. On event days, the sidewalk in front of the Masonic Center is fully utilized by patrons accessing the Center. Pedestrians also congregate at the signalized intersections of California and Jones streets and California and Taylor streets while waiting to cross the streets. The high volume of pedestrians tends to slow down vehicle turning movements at these two locations, although without creating inordinate traffic congestion. Potentially hazardous conditions were not observed.

Conflicts between pedestrians walking on the sidewalk and autos entering the Masonic Center garage were observed under existing conditions and could potentially continue to occur with the proposed project. To avoid such incidents, the project sponsor currently is required by the April 2012 CU conditions of approval to position uniformed security personnel during large events to supplement the SFPD officer outside the garage entrance to assist with controlling and directing traffic (Condition No. 7), and to confine all patrons queuing for events within the Masonic Center

property to manage and minimize potential pedestrian congestion on the sidewalk (Condition No. 28). These measures are discussed on EIR p. 4.D.19 and would continue to be implemented under the proposed project unless modified during the project approval process.

EIR p. 4.C.43 states that the proposed project would increase the number of late evening events at the Masonic Center, resulting in more frequent evenings with additional pedestrian activity. However, because these increases in frequency and pedestrians would not result in substantial changes to existing conditions, unacceptable operating conditions on any sidewalks, or potentially hazardous (traffic) conditions to pedestrians, the more frequent increases in pedestrian activity due to the proposed project would not cause significant pedestrian impacts. Therefore, this impact would be considered less than significant, and no mitigation is required.

As referenced in the discussion above, the Draft EIR does reference pedestrian safety measures (Condition Nos. 7 and 28) imposed by the April 2012 CU conditions of approval. These measures, listed on EIR pp. 4.C.1-4.C.2, would continue to be implemented under the proposed project unless modified during the project approval process. See Response PD-1 in Section 3.A, Project Description, on RTC pp. 3.A.7-3.A.8, regarding comments concerning a so-called “2012 Settlement Agreement.”

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**Comment TR-9: Comments stating that the cumulative transportation analysis is inadequate because it does not take into account recent increases in nighttime activity on Polk Street, changes in Muni capacity or ridership, or adequately reflects future events to be held at the Masonic Center.**

This response addresses the following comments:

O-CSFN.3-Fukuda

I.2.3-Blau

I.14.40-Chapman (5)

O-CSFN.10-Fukuda

I.9.38-Muh

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O-CSFN.3-Fukuda]*

STUDY PERIOD: The results are inaccurate because since the study period, there has been a significant increase in activity and increase in people on the weekends in the Polk Street bar/entertainment area. There are many newspaper articles on the bar scene in Polk Street, and that many young people flock to Polk Street on the weekends. The Muni ridership and capacity increase are not reflected in the study.

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O-CSFN.10-Fukuda]*

CUMULATIVE IMPACT: The cumulative impact on traffic and circulation is deficient because the DEIR did not account for the increase activity and increase number of young people coming and going to Polk Street. This has a greater impact than the events at the Fairmont Hotel. There needs to be a study of traffic and circulation in current environment.

*Meredith Blau, E-mail, May 20, 2013 [I.2.3-Blau]*

Your conclusions **Impact C-TR-1** “*The proposed project would not contribute considerably to future cumulative traffic increases*” or that in **Impact C-TR-2** “*the proposed project would not contribute considerably to increase in rider transit*” need to be verified and to me lack credibility.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.38-Muh]*

Likewise, the MTA has proposed a capital project for the renovation of California Street and the California Street cable car. The DEIR failed to discuss this potentially likely project as a cumulative impact.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.40-Chapman (5)]*

38. Impacts of commercial use of the type and intensity proposed by Live Nation must be compared to impacts that could be expected from the site’s lawful use (when there is no commercial entertainment). CMMT for many years featured some evening performances. Normally quiet streets near the top of the hill are dominated by circling traffic on performance nights, backing up to Van Ness. The existing noxious condition should be analyzed for cumulative impacts, considering the increased impacts likely to result from changes in programming.

#### **Response TR-9**

Cumulative transportation impacts of the proposed project are evaluated on EIR pp. 4.C.52-4.C.54. This assessment summarizes a more detailed evaluation presented in the TIS prepared for the proposed project, starting on p. 72 (Section 4.3, 2035 Cumulative Conditions).

The evaluation of future traffic conditions is addressed starting on EIR p. 4.C.52. Future year 2035 cumulative traffic volumes were estimated based on growth rates developed for the study area from employment, housing, and land use data taken from the City and County of San Francisco Transportation Authority (SFCTA) travel demand model for the weekday p.m. peak hour that includes Fridays. These 2035 cumulative traffic volumes account for growth due to cumulative development in the City and the entire Bay Area, as well as future planned changes in the highway network and transit service, including Muni and regional transit service providers. Future year 2035 cumulative traffic conditions would indirectly account for any measurable growth in traffic volumes or Muni ridership due to an increase in the number of people and activities on the weekends in the Polk Street bar/entertainment area, which is located approximately 5 blocks west of the Masonic Center.

Increased activity in the Polk Street bar/entertainment area is an existing condition. While some event attendees may choose to visit Polk Street establishments before or after events held at the Masonic Center, the proposed increase in the number of event attendees (a maximum increase of 134 patrons from existing conditions) and number of events (up to 85) would not contribute to a combined, cumulative adverse effect on existing traffic conditions on Polk Street.

EIR p. 4.C.53 states that cumulative growth background traffic for the study intersections between today and 2035 would be minimal, resulting in small increases in the average delay per vehicle at all the study intersections on weekdays and weekends. All the study intersections would continue to operate at LOS D or better for both weekday and weekend conditions, although some individual intersections approaches, such as on eastbound California Street at Jones, Taylor and Mason streets, would operate at worse conditions such as LOS E or F. Therefore, this impact would be considered less than significant, and no mitigation is necessary.

The proposed project's contribution to cumulative increases in transit ridership is evaluated on EIR p. 4.C.54. The 30 net new transit trips to/from the Masonic Center generated by the proposed project during an event with maximum attendance of up to 3,300 patrons would represent less than 3 percent of the total number of peak hour riders on the Muni system. This increase would be well within the daily variations of Muni ridership and regional transit lines. Thus, the proposed project would not be considered a significant cumulative transit demand impact for Muni or the regional transit lines in 2035.

Renovation of the California Street cable car service referenced in the comments has already been completed. During renovations, cable car service on the California Street line was suspended from late December 2010 to June 2011. Cable car service had already been restarted and related roadway improvements had been completed at the time the traffic counts and surveys were conducted in October and December 2011 (see EIR p. 4.C.32); as such, traffic and transit impacts related to this capital improvement project were not discussed in the EIR.

The status of the Masonic Center as a legal nonconforming assembly and entertainment use is discussed under Response LU-1 in Section 3.C, Land Use and Land Use Planning, on RTC pp. 3.C.4-3.C.6.

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**Comment TR-10: Comments pertaining to the April 2012 CU authorization conditions of approval.**

This response addresses the following comments:

I.3.5-Hong

I.9.13-Muh

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.5-Hong]*

There will always be issues, like additional automobile traffic, noise from the events and then some.

With that said; I find that the sponsor or event planner for any of the events should have;

- Traffic control officers to control the traffic - before and after the event.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.13-Muh]*

Table S.1, TR-1 and the DEIR ignores the Board of Supervisors conditions of approval/mitigation measures from the 2010 and 2012 project approvals.

Table S.1, TR-3 and the DEIR ignores the Board of Supervisors conditions of approval/mitigation measures from the 2010 and 2012 project approvals.

#### **Response TR-10**

A comment indicates the need for the project sponsor to provide traffic control officers before and after an event. As described on EIR p. 4.C.28, approximately one and a half hours prior to the beginning of a large event, uniformed security personnel are deployed at the garage entrance, including SFPD officers and garage personnel. The two SFPD uniformed officers are responsible for managing traffic on California Street outside the garage, while uniformed security personnel are positioned at the garage entrance to control the flow of pedestrians crossing in front of the entrance in order to minimize conflicts with vehicles entering the garage and avoid creating queues on eastbound California Street. These personnel deployments are part of the traffic and parking operation measures already implemented by the project sponsor as part of the April 2012 CU conditions of approval, as listed on EIR p. 4.C.1.

The comment refers to Table S.1: Summary of Proposed Impacts Identified for the Proposed Project, and the impact summaries for Impact TR-1 and Impact TR-3, on EIR pp. S.4-S.5 as shown below.

<b>Impact</b>	<b>Level of Significance before Mitigation</b>	<b>Mitigation and Improvement Measures</b>	<b>Level of Significance after Mitigation</b>
<b>TR-1:</b> The proposed project would not cause a substantial increase in traffic that would cause the level of service to decline from LOS D or better to LOS E or F, or from LOS E to F at seven intersections studied in the project vicinity. (EIR p. S-3)	LS	None required.	NA
<b>TR-3:</b> The proposed project would not result in substantial overcrowding on public sidewalks, nor create potentially hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility to the site and adjoining areas. (EIR p. S-4)	LS	None required.	NA

The evaluations of Impact TR-1 and Impact TR-3 are presented on EIR pp. 4.C.36-4.C.37 and EIR pp. 4.C.42-4.C.43, respectively. Because project-related traffic impacts (TR-1) and pedestrian impacts (TR-3) would be less than significant, no mitigation measures are required,

and no improvement measures have been identified in the Draft EIR to further reduce these less-than-significant effects on traffic and pedestrian conditions with implementation of the proposed project.

The statement “None required” does not pertain to the conditions imposed by the April 2012 CU authorization. As discussed on EIR p. 4.C.1-4.C.2, the April 2012 CU authorization includes a number of transportation-related conditions of approval that are currently being implemented by the project sponsor and would continue to be implemented with the proposed project.

As discussed in Response TR-3, above, the project sponsor is currently implementing traffic and parking operation 2012 CU conditions of approval (Condition Nos. 4, 7 and 27) to minimize traffic congestion on California Street in front of the Masonic Center and improve the flow of traffic at the nearby intersections. Response TR-8 concerning pedestrian safety indicates that the sponsor is currently implementing conditions of approval (Condition Nos. 7 and 28) to minimize pedestrian/vehicle conflicts at the entrance of the Masonic Garage, and to minimize sidewalk crowding conditions for pedestrians. As discussed in Response PD-1 in Section 3.A, Project Description, the 2010 CU authorization conditions of approval are voided, and no longer applicable.

Refer to Response NO-1 in Section 3.E, Noise, on RTC pp. 3.E.2-3.E.4, which addresses event-related noise mentioned in the comment.

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#### **Comment TR-11: Comment related to the adequacy of the Transportation Study.**

This response addresses the following comment:

I.5.5 - Lamé

*Linda Lamé, E-mail, June 3, 2013 [I.5.5- Lamé]*

It has also been pointed out to me that the DEIR summarizes a deficient transportation study...the traffic congestion at the top of Nob Hill may end up being the least of our worries!

#### **Response TR-11**

The commenter believes that the transportation study conducted for the Draft EIR is deficient, although no specific deficiencies of the study are identified in the comment. The transportation analysis conducted for the Draft EIR was prepared according to a scope of work approved by the San Francisco Planning Department on June 5, 2012, and follows the Transportation Impact Analysis Guidelines for Environmental Review, developed by the San Francisco Planning Department, as appropriate. The final transportation study report was published on April 10,

2013, after review and approval by the San Francisco Planning Department and the San Francisco Municipal Transportation Agency.

Specific comments regarding the adequacy or inadequacy of the transportation study, which is the basis of the EIR transportation analysis, are addressed in Responses TR-1 through TR-10, above. The San Francisco Planning Commission will consider the adequacy and accuracy of the Draft EIR, including Section 4.C, Transportation and Circulation, based on the administrative record as a whole (including the TIS and all comments submitted on the Draft EIR and responses to them) at the EIR certification hearing.

Refer also to Response GC-3 in Section 3.K, General Comments, RTC pp. 3.K.6-3.K.7, concerning the general adequacy of the EIR.

## E. NOISE

The comments and corresponding response in this section cover topics in EIR Section 4.D, Noise. These include topics related to:

- NO1: Event-related Noise

### **Comment NO-1: Comments related to event-related interior and exterior noise at the Masonic Center.**

This response addresses the following comments:

I.3.6-Hong  
I.9.32-Muh

I.5.4- Lamé  
I.14.10-Chapman (5)

I.14.46-Chapman (5)

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.6-Hong]*

With that said; I find that the sponsor or event planner for any of the events should have...

- As far as the noise from the event, you have two types of noise/s; from the attendees attending the event and the event from inside the auditorium itself. Both are hard to control, but tolerable. Noise from inside the auditorium by keeping the front doors closed and additional sound proofing of the auditorium.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.32-Muh]*

**Noise Pollution and Impacts** The DEIR concludes that the noise impacts will not be significant. However, it is easy to image, and the facts from past live large entertainment events would assist in supporting the argument, that potential noise impacts will occur from more patrons at more large entertainment events and more live large entertainment events, with more vehicular traffic on more event days and nights, necessitating more truck and loading traffic all in a RM-4 district. Based on experience of residents of the neighborhood, including myself, we know that large music events do get quite rowdy and noisy especially during larger, rock and roll events. The regular and on-going noise from the events held at the Project site will have an adverse impact on the residents living within and persons visiting the hotels and cultural areas within the Nob Hill Special Use District area. These potentially adverse impacts were not adequately studied in the DEIR.

*Linda Lamé, E-mail, June 3, 2013 [I.5.4- Lamé]*

I want to point out that the DEIR focuses on auditorium interior noise while the newly intended use of this venue would cause much exterior noise having much greater neighborhood impact.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.10-Chapman (5)]*

11. There concerns for noise are principally about sources at the exterior: crowds on the street, proposing assembly on a terrace; frequent loading with loud equipment; backing alarms, as well as mechanical noise; traffic noise and honking on congested streets; crowd noise on the streets that will not be controlled by Masonic staff.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.46-Chapman (5)]*

44. Noise from circling traffic, horns, customers gathering on the side walks, taking over residential doorways after shows, or dispersing by way of Nob Hill streets, and equipment night and day drew comments from residents. Treating auto traffic on Nob Hill streets as “ambient noise” would ignore the impacts on performance nights, compared to neighbors’ perception of streets “so quiet you can hear a pin drop.”

#### **Response NO-1**

EIR Section 4.D, Noise, describes existing noise conditions and evaluates project-related noise impacts. That discussion addresses increases in existing noise levels that would result from noise sources when large events are held at the Masonic Center Auditorium. Event-related noise impacts address the increased number of attendees as well as the increased number and frequency of events. Increased noise levels when events are held in the Auditorium in combination with simultaneous events at nearby venues are also addressed. The EIR noise analysis concludes that the proposed project would have less-than-significant event-related noise impacts. The noise section of the EIR was based on and incorporates the results of the Masonic Center *Environmental Background Noise Study*.<sup>1</sup>

The level of significance of event-related noise was determined based on Significance Thresholds C.1 and C.3 listed on EIR p. 4.D.20, which state that implementation of the proposed renovation project would have a significant noise impact if it were to “Expose people to or generate noise levels in excess of standards established in the San Francisco General Plan or San Francisco Noise Ordinance (Article 29 of the Police Code)” (C.1) or “Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project” (C.3). For a licensed Place of Entertainment, the Noise Ordinance (Section 2909) establishes an increased noise limit of no more than 8 dBA above the existing ambient noise level as measured at the property line.

As described on EIR pp. 4.D.6-4.D.7, existing ambient noise levels were determined by conducting a survey and measuring existing ambient noise levels at nine locations at and in the vicinity of the project site. Measurements were conducted for two extended periods during which two large (over 250 attendees) live-entertainment events were held at the Auditorium: Il Volo – Friday, October 14, 2011, and Sting – Friday, December 2, 2011, and Saturday, December 3, 2011. Both Sting concerts were sold-out events. Figure 4.D.1, on EIR p. 4.D.8, shows the noise measurement locations on California, Pine, Taylor and Jones streets and within the Pine Street loading dock area.

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<sup>1</sup> Charles M. Salter Associates, Inc., *Nob Hill Masonic Center Final Environmental Background Noise Study*, December 11, 2012.

As under existing conditions and with implementation of the proposed renovation project, interior noise from within the Center's lobby and Auditorium would not be audible to pedestrians on California Street and to residents in adjacent and nearby properties. The doors to the main entrance of the Masonic Center remain closed at all times during events except when people enter or exit the building. As listed on EIR p. 4.D. 6, the April 2012 CU imposes conditions that require soundproofing and insulation of the Auditorium so that noise is not audible outside of the Center (Condition No. 22), and conducting entertainment and assembly functions only within the enclosed building (Condition No. 25). Unless modified as part of the approval process, these Conditions would continue to be applicable to the proposed project, as would Condition No. 28, which states that patrons at general admissions events are not allowed to queue on the sidewalk in front of the Center such that all queuing would occur within the Masonic Center property, including the main lobby and in the plaza fronting on California Street. (Refer to Section 4.C, Transportation and Circulation, EIR p. 4.C.19.) The Draft EIR also recommends Improvement Measure I-NO-3 – Installation of New Sound System, on EIR p. 4.D.30, to ensure that the proposed new sound system would remain inaudible outside of the Auditorium as under existing conditions.

The analysis of exterior noise takes into account noise that would be generated from a range of event-related activities at and in the vicinity of the Masonic Center: performer bus parking and performer equipment unloading/loading in the California Street curbside loading zone, pedestrian activity and conversation volumes, attendee drop-off/pick-up activity, Pine Street loading dock activities, and cable cars and vehicular traffic with honking horns.

As stated on EIR p. 4.D.25, the increase in maximum attendance of 134 patrons from existing conditions, from 3,166 to 3,300, would increase noise by less than 1 dBA in the vicinity of the Masonic Center at any of the noise measurement locations. Noise-related impacts from increased vehicular traffic (private automobiles, taxis, and limousines) would also increase by less than 1 dBA. A 1 dBA increase in noise would be barely perceptible and negligible in the context of the existing ambient noise level, which is dominated by traffic-related and cable car noise. For these reasons, noise impacts from increased attendance would be less than significant.

The proposed increase of 85 large events per year, from 230 to 315, would result in increased noise levels of between 2 dBA to 6 dBA at various locations, similar to the levels presented in Table 4.D.2 on EIR p. 4.D.11 for the Il Volo and sold-out Sting live entertainment music concerts under existing conditions. A 3 dBA change in noise levels is considered a just-noticeable difference, whereas a 10 dBA change is subjectively heard as a doubling of noise levels, as stated on EIR p. 4.D.1.

As stated on EIR pp. 4.D.25-4.D.26, compliance with the Noise Ordinance is evaluated on a per event basis, and would result in less-than-significant impacts for each event. However, because

of the increase in the frequency of large events under the proposed project, nearby residents, hotel guests, and persons visiting cultural and other venues in the Nob Hill Area could be subject to more-frequent incidents of noise levels of 2 dBA to 6 dBA above ambient levels than currently occur under existing conditions. In particular, permanent residents could experience these increased noise levels approximately 85 more times a year than under existing conditions.

As discussed on EIR p. 4.D.26, although the increased frequency of noise levels associated with large events would be noticeable and could be perceived as an annoyance to some adjacent residents such as those at Gramercy Towers and by residents adjacent to the Pine Street loading dock area, none of these occurrences would individually exceed the noise requirements of the San Francisco Noise Ordinance or result in a substantial increase in existing ambient noise levels.

Exterior noise levels generated by occasional daytime use of the front portico, lower terrace on California Street, and the upper terrace facing Taylor Street would be inaudible. As discussed on EIR p. 4.D.28, anticipated activities in these outdoor areas such as eating and face-to-face conversations typically generate noise levels in the range of 60 dBA at a distance of 5 feet such that noise generated at the proposed outdoor locations on the project site would be approximately 14 dBA quieter than existing general traffic noise levels of approximately 74 dBA.

Based on the reasons discussed above, the analysis on EIR p. 4.D.28 concludes that the maximum increase of 134 attendees per event, the increase of 85 large events per year, and the new use of outdoor areas for refreshment and break areas from existing conditions would have less-than-significant event-related noise impacts because the proposed renovation project would comply with the San Francisco Noise Ordinance, and would result in minimal or less than perceptible increases in noise levels.

To further reduce the less-than-significant event-related noise impacts on adjacent uses, especially Gramercy Towers and residents near the Pine Street loading dock, the EIR, p. 4.D.29, proposes two improvement measures: Improvement Measure I-NO-2a – Appointment of a Noise Control Officer(s) to monitor loading/unloading procedures, perform crowd control, and monitor exterior terraces for excessive noise and for compliance with the 2012 Conditions of Approval; and Improvement Measure I-NO-2b – Service and Maintenance of the Pine Street Loading Dock to minimize noise related to cars entering and exiting the garage via the Pine Street loading dock ramp.

## F. PUBLIC SERVICES

The comments and corresponding response in this section cover topics in EIR Section 4.E, Public Services. These include topics related to:

- PS-1 - Public Safety Measures

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### Comment PS-1: Comments related to public safety measures and enforcement.

This response addresses the following comments:

I.3.2-Hong	I.3.9-Hong
I.3.7-Hong	I.9.34-Muh

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.2-Hong]*

Many years ago, for years we held several an annual events here, the Miss Chinatown USA Pageant. Events ranged from the mornings to late evening activities. I was responsible for part of the logistics committee and in each case it was successful. The community, police and fire department were all part of the logistics committee. I do not recall any major incident that impacted the community or event.

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.7-Hong]*

- To lessen the impact to the community, include the local residents in the event planning so that they are aware of the events; dates and times.

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.9-Hong]*

A lot of this has been covered in the DEIR. All this can be done by communicating and working with the local community, Police, Fire Departments and the event itself. I approve of the DEIR and the CEQA as presented. I can be contacted via email if there are any questions to my above comments.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.34-Muh]*

**Public Safety Impacts And Enforcement** A consistent theme throughout the many iterations of the proposed Project has been the legitimate concerns expressed by the neighbors and the Police Department as a result of more live entertainment events with more patrons drinking more alcohol in a RM-4 neighborhood. In fact, the 2010 project approval had six conditions of approval that addressed public safety concerns or provided real enforcement measures in the event the Project sponsor did not live up to the terms of that Project approval. (Conditions Number, 15, 37, 38, 39, 40, 41). Similarly, the 2012 project approval had seven conditions of approval which either address mitigation measure to allay public safety concerns or provide real enforcement measures in the event the Project sponsor did not live up to the terms of that project approval. (Conditions Numbers 17, 18, 19, 23, 30, 31, 32). Given the similarities between the proposed Project and the 2010 and 2012 projects, the DEIR should have analyzed all of the public safety and enforcement conditions imposed by the Board of Supervisors as appropriate mitigation measures for the proposed Project.

### **Response PS-1**

The comments state issues related to previous events held at the Masonic Auditorium, and the potential increased demand for Police Department services due to the proposed project. The 2010 Conditions of Approval imposed by the 2010 Conditional Use authorization are no longer applicable. The 2010 Conditions of Approval were voided by the April 28, 2011 Statement of Decision and Write of Mandate. These decisions also voided the 2010 categorical exemption and 2010 CU authorization, which is described on EIR pp. 1.2-1.3.

As described on EIR p. 2.14, the April 2012 CU authorization referred to in one of the comments as the “2012 project” extended the existing nonconforming assembly and entertainment uses at the Masonic Center and imposed Conditions of Approval for the existing operations at the Masonic Center. The intent of the Conditions is to reduce potential effects on the Nob Hill neighborhood that could otherwise occur by extending the continued entertainment and assembly use at the Masonic Center as allowed for by the 2012 CU authorization.

Although similar in some respects, the 2012 Conditions of Approval are not mitigation measures. Identification of mitigation measures is specifically required by CEQA to reduce or avoid significant environmental impacts of a proposed project. Mitigation measures are implemented and monitored by adoption of a Mitigation Monitoring and Reporting Program. The 2012 Conditions of Approval referred to in the comments are measures that have been required by the City for the existing operation of the Masonic Center. The EIR correctly considers them as part of existing conditions. The 2012 Conditions are fully enforceable and subject to ongoing monitoring for compliance; violation of any of the Conditions could result in the revocation of the April 2012 CU authorization. The conditions of approval imposed by the April 2012 CU authorization would continue to apply and be implemented with the proposed renovation project unless modified during the project approval process.

The April 2012 Conditions of Approval are listed in Appendix B of the EIR; conditions that are related specifically to police protection services are listed in Section 4.E, Public Services, on EIR p. 4.E.3. The comment correctly lists Conditions of Approval which broadly and specifically address public safety concerns. These conditions relate to enforcement and monitoring of all conditions, including those related to public safety (Condition Nos. 17, 18, and 19); appointment of a community liaison officer (Condition No. 23); limitations on alcohol sales (Condition No. 30); Police Department review and consultation to address safety and security problems (Condition No. 31); and hiring of off-duty police officers for events with 1,250 or more presold tickets (Condition No. 32). The sponsor is also required to maintain an events operations manual that includes a security plan for neighborhood safety before, during, and after events (Condition No. 27). Condition No. 23 addresses the comments regarding informing the community about event dates and times, and working with the community; the Liaison Officer is required to make

available upon request a list of future scheduled events which will be updated on a monthly basis. Condition No. 31, which calls for Police Department review of safety and security, addresses comments related to working with the Police Department; the Fire Department is not specifically mentioned in Condition No. 31.

Observations in the one of the comments related to past events that were held without any major incident owing to the involvement of the community, the Police Department, and the Fire Department in event planning and logistics are acknowledged; this comment does not provide any specific comment on the adequacy and content of the Draft EIR and does not require a response.

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## G. ALTERNATIVES

The comments and corresponding responses in this section cover topics in EIR Chapter 6, Alternatives. These include topics related to:

- AL-1 - Alternative A: No Project Alternative
- AL-2 - Alternative B: No Major Auditorium Renovations
- AL-3 - Alternatives that Could Achieve Project Sponsor Objectives

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### Comment AL-1: Comments in support of Alternative A: No Project.

This response addresses the following comments:

I.5.1-Lamé

I.6.2-Gawenda

*Linda Lamé, E-mail, June 3, 2013 [I.5.1-Lamé]*

I have resided next to the Masonic Center since 1978 and wish to voice my approval of Alternative A - No project.

*Annette Gawenda, E-mail, June 3, 2013 [I.6.2-Gawenda]*

I implore you to NOT agree to any changes in the seating arrangements at Masonic Auditorium.

It should not be necessary to squeeze any more people in that place. It is a wonderful venue with excellent acoustics as is and I am tired of getting e-mails that yet another sneaky contractor is trying to rip the comfortable seating out. If Live Nation wants to host more people there are plenty of other venues in the city and area to accommodate the crowds and ticket sales.

NO MORE CHANGES AT MASONIC IS THE ONLY ACCEPTABLE SOLUTION AS FAR AS I AM CONCERNED. I am a tax paying voting San Francisco resident that lives in the area of Masonic Auditorium.

### Response AL-1

The commenter requests that decisions-makers consider no changes to the seating arrangements in the Masonic Auditorium and that there should be no changes to the existing Masonic Center. This condition is analyzed as Alternative A: No Project, which is a requirement under CEQA.

As stated on EIR p. 6.3, CEQA Guidelines Section 15126.6(e) requires that a “no project” alternative be evaluated. That discussion also states that a development project on identifiable property typically analyzes a no project alternative as the “circumstances under which the project would not proceed.”

As described on EIR pp. 6.4-6.5, with the No Project Alternative existing conditions at the Masonic Center site would not change, no interior renovations would occur, and the Center would continue to operate as under current conditions. The existing fixed seating on the main floor and in the balcony of the Auditorium would remain, and would continue to accommodate 3,166 total

patrons. With the No Project Alternative, there would be no renovations to provide tiered flooring on the main floor of the Auditorium that would allow different audience configurations that would accommodate up to a maximum increase of 134 patrons from existing conditions. As the one of the comments states, other and different types of live entertainment venues already exist in the City.

Decision-makers can approve, disapprove, or modify the proposed project or one of the project alternatives as part of their deliberations on the proposed project. In effect, disapproval of the proposed project would result in the No Project Alternative. No approval action would be required as the project sponsor would not receive conditional use authorization to intensify use at the Center and establish permanent food and beverage service, and would continue to operate pursuant to the April 2012 CU approval.

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**Comment AL-2: Comment stating that Alternative B: No Major Auditorium Renovations would be acceptable only if there were no increase in the number of events per year.**

This response addresses the following comment:

I.5.2- Lamé

*Linda Lamé, E-mail, June 3, 2013 [I.5.2-Lamé]*

Alternative B - No Major Auditorium Renovations would only be acceptable if there were no intensification of events. The Masonic has worked quite well for all these years, and there are other venues for the type of performance events that would require “general admission” (standing room only events).

**Response AL-2**

Alternative B: No Major Auditorium Renovations is described and evaluated on EIR pp. 6.7-6.12. Under Alternative B, the maximum number of large events would increase from 230 to 315 (85 more) per year, of which 95 would be large events (250 persons or more), the same as with the proposed project. Alternative B would not involve major renovations to the existing Masonic Center Auditorium, and would not increase the number of event attendees from 3,166 to 3,300 for a maximum increase of 134 more attendees from existing conditions.

As under existing conditions, the No Major Auditorium Renovations Alternative would not replace the existing stage. The existing fixed seating on the main floor of the Auditorium would not be removed and replaced with tiered seating to accommodate more flexible audience configurations, including standing only on the main floor.

The No Major Auditorium Renovations Alternative would include a number of ground-floor renovations, Auditorium equipment upgrades, and operational features that would be the same as with the proposed project. Alternative B would install new lighting and sound systems in the Auditorium, renovate the ground-floor California Room and Exhibition Hall, upgrade the existing ground-floor catering kitchen to a commercial kitchen, and provide up to three additional portable food and beverage concession areas, for a total of up to eight depending on the type of event. Like the proposed project, occasional daytime outdoor seating would be provided with Alternative B.

Implementation of Alternative B without an increase of 85 events per year would result in neighborhood character, traffic, noise, and public service conditions similar to those described for the No Project Alternative on EIR pp. 6.3-6.7. Refer to Response AL-1, above. Implementation of Alternative B without an increase of 85 events per year could, however, result in increased consumption of alcoholic beverages, which could increase the number of incidents requiring police or emergency medical services. As the comment states, there are other venues in the City that accommodate events that require general admission, standing-only audience configurations.

Comments on the acceptability of the No Major Auditorium Renovations Alternative without an increase of 85 events per year, from 230 to 315, may be considered and weighed by the decision-makers as part of their deliberations to approve, modify, or disapprove the proposed project, or one of the alternatives. This consideration is carried out after the environmental review process.

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**Comment AL-3: Comments stating that implementation of Alternative A: No Project or Alternative C: Reduced Number of Live Entertainment Events (Environmentally Superior Alternative) would meet the project sponsor's objectives and have less environmental impact than would the proposed project.**

This response addresses the following comments:

I.9.42-Muh

I.14.6-Chapman (5)

*Berit S. Muh, E-mail, June 3, 2013 [I-9.42-Muh]*

**Alternatives Analysis Confirms There Are Environmentally Superior Alternatives.**

The CEQA Guidelines requires that an EIR evaluate “a range of reasonable alternatives to the Project...which would feasibly attain most of the basic Project objectives but would avoid or substantially lessen any of the significant effects, and evaluate the comparative merits of the alternatives. (Emphasis added).

As noted above, and as shown in the chart below, most of the Project sponsor's objectives would be met if the No Project Alternative or the Reduced Number of Live Entertainment Events/Alternative C were adopted.

### ALTERNATIVES

Objectives	No Project Alternative (Implements the April 2012 CU authorization)	Alternative C (Includes all of the same features as the proposed Project but would permit the number of annual live entertainment events at 79 and would permit 5 concession stands with multiple points of sale)	Proposed Project
Increase Revenue- Generating Uses	Yes. The Project as it stands today with its full-time professional management can increase revenues from the project.	Yes. The as described in Alternative C, with its full-time professional management in place, can increase revenues from the project.	Yes.
Increase Number of Events	No.	Yes. Alternative C would increase the number of large live events with a maximum limit of 54 large live entertainment events per year, as determined by the Board of Supervisors.	Yes.
Modernize and Renovate the Obsolete Assembly and Entertainment Facilities	No.	Yes. As stated on page 6.12, "except for the elimination of three proposed concession area, the Reduced Number of Live Entertainment Events and Concession Area Alternatives would have <u><b>all of the same physical features of the proposed Project</b></u> , including	Yes.

3. Responses to Comments  
G. Alternatives

		renovations to the main floor of the Auditorium” (emphasis added)	
Provide Improved Nearby Meeting and Assembly Space to Support Five Nearby Nob Hill Hotels	Possibly. Although arguably, the professional management team should be able to provide more space to accommodate the nearby hotels even with the No Project Alternative.	Yes. See above.	Yes.
Provide A State-of-the-Art venue able to attract and retain full-time professional management	Yes. Already in place with the hiring of Live Nation.	Yes. Already in place with the hiring of Live Nation.	Yes.
Provide Improved food and beverage services to attendees, including serving alcoholic beverages pursuant to a Type 47 liquor license and providing on site food preparation at permanent and temporary concessions.	No (with caveat). The No Project Alternative would not include any new improved food and beverage services, but would allow the project to continue operating under its current permits, which has already proven to be professionally managed and successfully operated. The only aspect of this objective not met would be the request for a Type 47 liquor license, which is prohibited in the district, and is clearly not required to meet	Yes (with caveat) Alternative C would allow the Project to improve its food and beverage services by increasing the number of food and beverage concession areas and allow the Project to continue operate under its current permits, which has already proven to be professionally managed and successfully operated. The only aspect of this objective not met would be the request for a Type 47 liquor license, which is prohibited in the district, and is clearly not required to meet	Yes.

	the Project sponsor's objectives.	the Project sponsor's objectives.	
Improve other venue amenities including a VIP lounge in the California Room and enhanced sound and lighting systems in the Auditorium.	Yes. Even under the No Project Alternative, both of those objectives could be met.	Yes. Under Alternative C a VIP lounge in the California Room and enhanced sound and lighting systems in the Auditorium would occur.	Yes.

In summary, the discussion on pages 6.14 through 6.18 clearly articulates why the proposed Project should not be approved. In fact, as noted in those pages, Alternative C “would achieve most of the basic Project objectives” yet would have less environmental impacts at the site and to the neighborhoods in the immediate vicinity. It is for this reason that the DEIR concludes that “besides the No Project Alternative, the environmentally superior alternative would be the ‘Reduced Number of Live Entertainment Events and Concession Areas Alternative’”. Accordingly, most of the Project sponsor’s objectives are not dependent on the approval of the proposed Project but rather can be met by Alternative C (and even the No Project Alternative).

*Linda Chapman, E-mail, June 4, 2013, Attachment [I-14.6-Chapman (5)]*

5. Procedures appear so flawed as to require reversal of the 2012 Conditional Use. The DEIR uses partial approval of a project whose impacts were never reviewed to identify the “preferred alternative” that could be implemented with less adverse impact.

### **Response AL-3**

As required by CEQA Guidelines Section 15126.6(a), the Draft EIR includes a reasonable range of alternatives identified by the Planning Department that could feasibly attain most of the project sponsor’s objectives, but also avoid or reduce the less-than-significant impacts identified with implementation of the proposed project. In addition to Alternative A: No Project (required by CEQA), and Alternative C: Reduced Number of Live Entertainment Events and Concession Areas discussed in the comments above, the range of alternatives evaluated in the Draft EIR includes Alternative B: the No Major Auditorium Renovation, as described in Response AL-2, above. The Draft EIR also identifies an Environmentally Superior Alternative – Alternative C: Reduced Number of Live Entertainment Events and Concession Areas – that has the fewest significant environmental impacts from among the alternatives evaluated, in addition to the No Project Alternative (CEQA Guidelines Section 15126.6(e)(2)).

With the No Project Alternative, the Masonic Center would continue to operate as under existing conditions and its physical interior would essentially remain unchanged. Although the No Project Alternative would avoid the less-than-significant impacts of the proposed project, it would not

meet the project sponsor's objectives stated on EIR p. 6.7 in the last paragraph of the Alternative A discussion. Refer to EIR pp. 2.3-2.4 for a list of the project sponsor's objectives.

One of the comments correctly states that objectives to increase the number of events (Objective 1); modernize and renovate the Masonic Center (Objective 2); provide improved nearby meeting space (Objective 3); and provide improved food and beverage service (Objective 5) would not be fully achieved with implementation of the No Project Alternative. With respect to comments on Objective 5, refer to Response LU-2, in Section 3.C, Land Use and Land Use Planning, RTC pp. 3.C.10-3.C.11, for a discussion of the Type 47 license that would be permitted with implementation of the proposed project.

As discussed below, one of the comments incorrectly states that the No Project Alternative would address the project sponsor's Objective 1, to increase revenue-generating uses; Objective 3, to provide improved meeting space and assembly space to support nearby Nob Hill hotels; and Objective 6, to provide a state-of-the art venue and improve venue amenities including a VIP lounge in the California Room, and enhanced sound and lighting systems.

**Objective 1:** The No Project Alternative would not increase revenues that could be generated by increasing the capacity of the venue, upgrading the stage and sound and light systems, increasing the variety of food choices available to attendees, and increasing the number of food and beverage concession areas, including the sale of alcohol from five to up to eight, and on-site food preparation in the proposed commercial kitchen. As the comment notes, the second goal of Objective 1 — to increase the number of events at the center would also not be achieved with the no project alternative.

**Objective 3:** Without renovations to the Masonic Center's Auditorium, conference/exhibition space, and banquet facilities, the No Project Alternative would not provide a state-of-the art venue to attract a full-time professional management company that could be retained on a long-term basis; refer also to the Response PD-4 in Section 3.A, Project Description, RTC p. 3.A.17-3.A.18. The existing fixed seating, stage design, and lighting and sound systems in the Auditorium do not provide a state-of-the art facility and constrain and limit the types of performers and events that can be booked for engagements at the Masonic Center.

**Objective 6:** With the No Project Alternative, the sponsor's objectives to improve venue amenities, including a VIP lounge in the California Room and enhanced sound and lighting systems, would not be addressed because none of these renovations and improvements would occur with the No Project Alternative.

Alternative C: Reduced Number of Live Entertainment Events and Concession Areas would have all of the same physical features of the proposed project, including renovations to the main

floor of the Auditorium that would increase attendance from 3,166 by up to 3,300 persons for large events, a maximum increase of 134 attendees from existing conditions. As compared to the proposed project, this alternative would reduce the total number of large (250 attendees or more) live entertainment events per year proposed with the project from 95 to 79 events per year. The Reduced Number of Live Entertainment Events and Concession Areas Alternative could increase the total number of large events per year proposed with the project by 69, from 230 to 299 large events. Of the total 299 annual large (250 attendees or more) events, there would be an annual limit of 79 large live entertainment events, including music concerts, electronic dance music events, community concerts, and comedy shows, with an annual maximum limit of 54 large live entertainments events that could be live music and electronic dance music events.

Except for the elimination of three proposed concession areas, the Reduced Number of Live Entertainment Events and Concession Areas Alternative would have all of the same physical features of the proposed project. This alternative would renovate the main floor of the Auditorium, install a new lighting and sound system, renovate the ground-floor California Room and Exhibition Hall, and upgrade the existing ground-floor catering kitchen to a commercial kitchen.

Alternative C was identified as the Environmentally Superior Alternative because it would have fewer less-than-significant impacts than the proposed project, resulting from the reduced number and frequency of large live-entertainment events and the reduced number of proposed food and beverage concession areas.

Alternative C was reviewed and evaluated in comparison to the impacts of the proposed project described in the EIR on pp. 6.12-6.20, and not the continuation of existing uses permitted by the April 2012 CU authorization, which is separate and distinct from the proposed project. Refer to Response PD-1, RTC pp. 3.A.7-3.A.8, for clarification of the April 2012 CU authorization with respect to the proposed project and baseline setting conditions.

As discussed in Response PD-1, above, the project sponsor filed a CU application in June 2013 for approval of Alternative C as the preferred project for renovation of the Masonic Center. The comment correctly notes that most of the project sponsor's basic objectives could be met with implementation of Alternative C, as described on EIR p. 6.18. This alternative would not optimize the revenue-generating uses at the renovated Center because it would have fewer live entertainment events and concession areas than would the proposed project.

## H. AESTHETICS

The comments and corresponding responses in this section cover topics in EIR Appendix A - Notice of Preparation / Initial Study (NOP/IS), Section E.2. Aesthetics. These include topics related to:

- AE-1 - Views and Scenic Vistas
- AE-2 - Light and Glare

### Comment AE-1: Comments regarding views and scenic vistas.

This response addresses the following comment:

I.9.31-Muh

*Berit S. Muh, E-mail, June 3, 2013 [I.9.31-Muh]*

**Aesthetics/Scenic Vistas** The proposed Project would substantially increase the number of live entertainment events and the number of patrons at those events. The new events are expected to be “large” events with late night crowds. In order to service these large, late night events, it is expected that semi-trailer trucks and large RV-type performer’s buses would be parked in front of the Project site on California Street.

The Project site sits at the top of Nob Hill. No-parking signs will be posted almost on a daily basis on that portion of California Street where the large trucks and RV-type performer’s buses will be parked and [t]his is one of the most scenic vistas in San Francisco, with the views to the East punctuated by a clear line of sight down from Nob Hill, through Chinatown and onto the Financial District, the Bay, the Bay Bridge and parts of the East Bay, and views to the west punctuated by a clear line of sight from Nob Hill through Polk Street and over into Pacific Heights and the hills of San Francisco.

The parking of large trucks and RV-type buses before, during and after large events, which will be occurring six times per week (on average) and the posting of no- parking signs will substantially impact the scenic vistas that currently exist from the Project site. There has been scant, if any analysis, and no photographic montages, of what the neighborhood will look like with trucks and RV-type buses parked at the top of Nob Hill. At a minimum, the DEIR should undertake that level of analysis. These potential impacts were not adequately studied in the DEIR.

### Response AE-1

The comment states that the visual effect of trucks and buses on views and scenic vistas should be studied in the EIR. Equipment truck and performers’ buses are an existing temporary condition within the urban visual environment of the project site, and are not physical permanent changes to the visual environment. Under the proposed project, trucks and buses for performers would continue to be a temporary condition, and conditions of approval concerning performer bus parking under the existing April 2012 CU authorization would continue to apply to govern

operations of the Masonic Center. These include restricting the number of performer buses that can park within the California Street curbside loading area to no more than two buses during the one-and-one-half-hour period prior to the start of events (Condition No. 13) and prohibiting overnight bus parking on either side of California Street (Condition No. 16). The visual presence of both moving and parked trucks, tour buses, and performer buses associated with the nearby hotels and places of interest such as Grace Cathedral are commonly encountered and accepted ephemeral visual condition within the urban visual environment of Nob Hill. As a temporary condition within the urban environment of Nob Hill, the visual effect of performer trucks and buses under the proposed project would be considered less than significant under CEQA.

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**Comment AE-2: Comments regarding light and glare from the increased frequency of events and increased traffic.**

This response addresses the following comment:

I.9.33-Muh

*Berit S. Muh, E-mail, June 3, 2013 [I.9.33-Muh]*

**Light Pollution and Impacts** The light impacts are not adequately addressed or studied in the DEIR as there appears to be no analysis whatsoever of the light pollution level increases from more large entertainment events and more live large entertainment events, with more vehicular traffic on more event days and nights, necessitating more truck and loading traffic all in a RM-4 district. Residents of the neighborhood have first hand knowledge of the light pollution impacts and pollution that occurs from know[n] large music and entertainment events. The regular and on-going increases to lighting to protect patrons of events and residents and drivers from the events held at the proposed Project will have an adverse impact on the residents living within and persons visiting the hotels and cultural areas within the Nob Hill Special Use District area. These potentially substantial impacts were not adequately studied in the DEIR.

**Response AE-2**

The comment asserts that light and glare impacts resulting from the increase in the intensity of use at the project site under the proposed project are not adequately studied in the Draft EIR. The impacts of the proposed project related to light and glare are thoroughly described and analyzed in NOP/IS Section E.2. Aesthetics on pp. 38-43 (see EIR Appendix A). More specifically, light and glare impacts resulting from the increased frequency and attendance of events are thoroughly discussed on NOP/IS pp. 42-42, as follows:

Proposed Project Event-Related Nighttime Lighting and Glare

With the proposed project, there would be no changes to the existing interior and exterior daytime or nighttime building lighting systems described above under existing conditions. The existing lighting during nighttime events in the first-floor main entrance lobby, front entrance porch, and California Room would not change from existing

conditions with the proposed project, and the lighting of the endomosaic would continue to be turned off at 10:00 PM. As discussed above, existing nighttime lighting in the Masonic Center garage, the Pine Street exterior emergency exit stairway, and from vehicles entering the garage from the Pine Street loading dock area would continue to occur with or without the proposed project.

The increase of up to 134 attendees per event in the Auditorium would not create new sources of nighttime light or glare that would substantially affect nearby people or properties as these effects already occur under existing conditions.

Due to the proposed increase in the number of nighttime events, the proposed project would increase the frequency of nighttime lighting that is currently allowed at the Masonic Center under existing conditions. As listed in Table 1 on p. 14, based on existing historical conditions there are an average of 69 nighttime events. As discussed on p. 25, it is anticipated that there would be approximately 107 total nighttime events (22 non-live and 85 live-entertainment events) with the proposed project. This would represent an increase of about 38 nighttime events in comparison to existing conditions. The increase of approximately 38 nighttime events would increase the frequency of nighttime lighting visible from the first-floor main entrance lobby, front entrance portico, and the three bay windows of the California Room when in use for nighttime events.

There would be no increased frequency in lighting from the Masonic Center garage entrance/exit on California Street and the exterior emergency exit stairway in the Pine Street loading area since the garage and emergency exit stairway are existing sources of light.

The proposed project would increase the frequency of the number of vehicles entering and exiting the Masonic Center garage on California Street, and the Pine Street loading dock area. The increased number of vehicles using the California Street garage entrance would enter and exit opposite Grace Cathedral and not result in an adverse environmental impact that would create a new source of substantial light or glare that would affect residents in the project area.

Due to the increase of approximately 38 nighttime events with the proposed project, residents in buildings on the southern side of Pine Street directly opposite the loading dock area could experience an increased incidence of intermittent glare from vehicle headlights. This could occur when vehicles are delayed on the fifth-floor exit level of the garage before descending onto the ramp to exit at street-grade onto Pine Street. As under existing conditions, an average of about 225 vehicles could exit the garage from the Pine Street loading dock area; however, not all vehicles exiting the garage would create a new source of glare to residents on the southern side of Pine Street since not all cars would be delayed on the fifth-floor exit ramp. Intermittent glare from vehicles exiting the garage would occur for about an hour when vehicles vacate the garage, and would not affect a substantial number of people or result in a substantial environmental effect on light and glare.

Except for the increase in intermittent nighttime glare from headlights of vehicles exiting the Masonic Center garage from Pine Street, there would be no other new sources of glare (i.e., reflective windows, exterior building materials, or signage) with implementation of the proposed renovation project.

As under existing conditions, all project lighting (exterior and interior) would be directed onto the project site and immediately surrounding sidewalk area only, and would be designed and managed so as not to be a nuisance to adjacent residents. Exterior nighttime lighting is required to be kept at the minimum necessary to ensure safety, but is restricted from any placement or design that would be a nuisance to any surrounding property. These requirements would continue to be required as part of the proposed project.

As such, although the increased frequency in nighttime lighting would be noticeable, as under existing lighting conditions, nighttime lighting at the Masonic Center would not be directed to, or spill over onto, surrounding uses in a manner that would create a nuisance to surrounding properties. As under existing conditions, exterior and interior lighting at the Masonic Center would not spill over in a way that would be noticeable from a distance that would affect nighttime views.

For these reasons, the NOP/IS concluded that the proposed renovation project would not create a new source of substantial light and glare which would adversely affect day or nighttime views in the area that would substantially impact other people or properties.

## I. CULTURAL AND PALEONTOLOGICAL RESOURCES

The comments and corresponding responses in this section cover topics in EIR Appendix A, Notice of Preparation / Initial Study (NOP/IS), Section E.4. Cultural and Paleontological Resources. These include topics related to:

- CP-1: Historic and Architectural Resources

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### **Comment CP-1: Comments regarding the Masonic Center as an historic resource and the analysis of impacts on historic architectural resources in the EIR.**

This response addresses the following comments:

- |                     |                     |
|---------------------|---------------------|
| I.9.20-Muh          | I.14.34-Chapman (5) |
| I.9.41-Muh          | I.14.37-Chapman (5) |
| I.14.31-Chapman (5) |                     |

*Berit S. Muh, E-mail, June 3, 2013 [I.9.20-Muh]*

Additionally, the Project Description is inadequate under the requirements of CEQA in the following areas:

1. Although the Project description identifies spatially the various historic, public, cultural and institutional projects in the vicinity of the proposed Project, the DEIR's description of those projects in the vicinity is not sufficiently comprehensive to allow for the required analysis of significant impacts on those projects resulting from the proposed Project.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.41-Muh]*

**No Analysis of Impacts to the Masonic Hall** In the 2010 project approval, the Planning Commission and the Board of Supervisors approved a condition of approval that required the Project sponsor to work with the Planning Department to ensure that all future exterior alterations, including signage, are consistent with the Secretary of the Interiors Standards for Treatment of Historical Properties. Impacts associated with historic structure mandates should have been analyzed in the DEIR and mitigation measures, similar to that imposed by the Planning Commission and the Board in 2010 should have been included in the DEIR.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.31-Chapman (5)]*

22. Unusual Circumstances suggest a reasonable possibility of a significant environmental effect."
  - location in a listed building, in an internationally renowned historic neighborhood, in proximity to buildings and features that are listed or worthy of listing, including the crossing of three cable car lines;

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.34-Chapman (5)]*

23. Evaluation must take account of the Center's listing in the state register of historically significant buildings and impacts of proposed activities on the historic setting. Near neighbors include the architecturally significant Cathedral, two rare survivors of the 1906 fire, other buildings significant for local history or film history, and the nationally listed cable car lines.

Nob Hill's historic center has been a focus for history tours by local organizations. Visitors from around the world are attracted by associations with early San Francisco history.

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.37-Chapman (5)]*

**AESTHETICS AND CULTURAL RESOURCES**

31. The environmental assessment needs to acknowledge the Masonic Temple's state listing as a significant resource.

32. Probably the most significant issue for an EIR to address, where exterior changes would be limited, is the project's potential effects on its historic setting. The district's historic significance was noted above as an issue for the EIR. Central Nob Hill, particularly the area surrounding Hamilton Park, is a world renowned historic district. Its historic and esthetic importance is so obvious that official "historic district" recognition was not sought (as I believe) because it was already recognized, not in need of promotion to enhance the district's reputation or gain attention for neighborhood preservation goals.

33. Architecturally and historically significant hotel, apartment, and institutional buildings surround the classically styled park. In the surrounding blocks, neighborhood residents and visitors enjoy viewing buildings of noted architects, and other buildings listed by the city for esthetic merit. All three lines of our unique national monument, the historic cable cars, meet one block from the project site.

34. The project vicinity includes city landmarks, listed buildings and others worthy of listing. The EIR should identify them, as well as buildings by noted architects, and others of historic interest. The area of most esthetic interest, and the area most likely to be affected by the congestion, vandalism, and other consequences of the proposed entertainment use should comprise blocks from Jones to Stockton, and from Pine to Washington. This area, at a minimum, should be surveyed for the EIR.

**Response CP-1**

The comments maintain that the Draft EIR does not include an analysis of impacts to the Masonic Center building as an historical resource, and that mitigation measures should have been included in the EIR to ensure that future exterior alterations are consistent with the Secretary of the Interiors Standards for Treatment of Historic Properties. The analysis of impacts on the Masonic Center building, as an historic architectural resource, is found in NOP/IS Section E.4. Cultural and Paleontological Resources, pp. 46-47 (see EIR Appendix A). As noted on NOP/IS p. 47, "[t]he proposed project would not change the physical fabric of the building exterior, or the entrance foyer and its endomosaic." The NOP/IS applied the appropriate CEQA criteria for evaluating impacts on historical resources, and concluded that the proposed project does not include any physical alteration to the building that "demolishes or materially alters in an adverse manner those physical characteristics of the historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by the lead agency for purposes of CEQA" (CEQA Guidelines Section 15064.5(2)(C)). No mitigation measures are therefore necessary.

The comment also incorrectly states that the Masonic Center building is listed on the California Register of Historical Resources. As noted on NOP/IS p. 47, “[t]he Masonic Auditorium building is not included in, and has not been determined eligible for inclusion in, a local, State or Federal register of historical resources.” Nonetheless, for the purposes of CEQA review, the NOP/IS analysis concluded that the Masonic Center building is considered eligible for inclusion in the California Register of Historic Resources, and is therefore considered an historical resource for the purposes of CEQA. As noted on NOP/IS p. 47, the proposed project does not include any physical alteration to the building that “demolishes or materially alters in an adverse manner those physical characteristics of the historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by the lead agency for purposes of CEQA” (CEQA Guidelines Section 15064.5(2)(C)). For this reason the NOP/IS concluded that the proposed project would have a less-than-significant impact on an historical resource under CEQA.

The comment notes that the Masonic Center is located in close proximity to other historical resources on Nob Hill. As noted on NOP/IS p. 47, “[t]he proposed project would not change the physical fabric of the building exterior, or the entrance foyer and its endomosaic.” As such, the proposed project would not materially alter the historic setting of nearby historical resources and could not materially alter the physical characteristics of nearby historical resources that convey their historical significance or alter the Masonic Center’s relationship to any nearby historic resources. Therefore, the proposed project would not have a significant impact on off-site historic architectural resources under CEQA.

Any changes to exterior signage at the Masonic Center would be subject to the sign regulations applicable to signs in the RM-4 zoning district under Article 6 of the San Francisco Planning Code. Section 606 contains limitations on the size and illumination of new signs in residential zoning districts, such that any new signage proposed for the Masonic Center would not alter in an adverse manner those physical characteristics of the Masonic Center that convey its historical significance.

The potential for the proposed project to result in vandalism of nearby historical resources is speculative and requires no discussion under CEQA (CEQA Guidelines, Section 15145). Conditions of approval imposed by the April 2012 CU authorization that are related to event security are listed on EIR p. 4.E.3. These conditions would continue to apply with the proposed project unless modified by decision-makers as part of the approval requirements. Other effects of the project such as increased traffic and noise would have no physical effects on nearby historic resources.

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## J. AIR QUALITY

The comments and corresponding responses in this section cover topics in EIR Appendix A, Notice of Preparation/Initial Study (NOP/IS), Section E.7. Air Quality, and Section E.8. Greenhouse Gas Emissions. These include topics related to:

- AQ-1 - Toxic Air Contaminants
- AQ-2 - Cumulative Air Quality and Greenhouse Gas Emissions

### **Comment AQ-1: Comment related to increased project-generated traffic and toxic contaminant health risks.**

This response addresses the following comment:

O.CSFN.7-Fukuda

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O.CSFN.7-Fukuda]*

From page 280, “No single day of operation of the Center with the proposed renovations would be likely to cause greater than 1,600 motor vehicle trips per day, and because this level of traffic would be well below 10,000 vehicles per day project traffic would not substantially contribute to incremental health risks.” This is very misleading because the important issue would be time period the traffic increase occurs; it will be compacted within a few hours. If that is extrapolated to a 24 hour period it would be well beyond the 10,000 trips per day.

### **Response AQ-1**

The text quoted in the comment is from the second paragraph on p. 64 in NOP/IS Section E.7. Air Quality. This comment relates to the project’s emissions of toxic air contaminants (TACs) and associated health risks primarily as a result of an increase in vehicle trips. The proposed increase in the number of event attendees (a maximum increase of 134) and number of events (up to 85) from existing conditions would result in a minor increase in vehicle trips generated by the proposed project, as described below.

As discussed on NOP/IS pp. 55-57, unlike criteria air pollutants such as NO<sub>x</sub> or PM<sub>10</sub>, TACs do not have ambient air quality standards and are regulated by the Bay Area Air Quality Management District (BAAQMD) using a risk-based approach to provide quantitative estimates of health risks. This approach uses a health risk assessment analysis to estimate human health exposure to toxic substances, and to consider the toxic potency of the substances. The EIR does not provide misleading information, because health risks are related to long-term daily exposure to TACs rather than limited exposure for a peak or concentrated period during a single day. For example, as stated on NOP/IS p. 56, exposure assessment guidance typically assumes that residences would be exposed to air pollution 24 hours per day, 350 days per year for 70 years.

As discussed on NOP/IS p. 64, the BAAQMD considers roads with fewer than 10,000 vehicles per day to be minor, low-impact sources that do not pose a significant health risk even in combination with other nearby sources. It recommends that these road sources be excluded from the environmental analysis because this amount of traffic would not result in a substantial increase in health risks.

As stated in the NOP/IS, the proposed project is not anticipated to generate greater than 1,600 vehicle trips per day, which is well below the 10,000 vehicles per day established by BAAQMD for requiring a health risk assessment of project-generated TACs. The proposed project would not result in substantial amounts of traffic throughout a 24-hour period; therefore, to estimate or assume that project-generated traffic from an event as though the same amount of traffic would occur every hour during the day. This would be a minor increase, as compared to the total number of existing trips in the vicinity of the Masonic Center. For these reasons, the proposed project would not generate substantial amounts of TAC emissions that could affect nearby sensitive receptors, and this impact would be less than significant, as concluded on NOP/IS p. 64.

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**Comment AQ-2: Comments stating that the proposed project would not result in less-than-significant cumulative air quality impacts.**

This response addresses the following comments:

O.CSFN.8-Fukuda

I.9.8-Muh

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O.CSFN.8-Fukuda]*

Page 282, Impact C-AQ-1: The proposed project in combination with past present, present, and reasonably foreseeable future development in the project area would result in less than significant cumulative air quality impacts. (*Less than Significant*)

As discussed above, regional air pollution is by its very nature largely a cumulative impact. Emissions from past, present and future projects contribute to the region's adverse air quality on a cumulative basis. No single project by itself would be sufficient in size to result in regional nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulative adverse air quality impacts. The project-level thresholds for criteria air pollutants are based on levels by which new sources are not anticipated to contribute to an air quality violation or result in a considerable net increase in criteria air pollutants. Therefore, because the proposed project's construction (Impact AQ-1) and operational (Impact AQ-3) emissions would not exceed the project-level thresholds for criteria air pollutants, the proposed project would not be considered to result in a cumulatively considerable contribution to regional air quality impacts.

Although the project would expand an existing use, resulting in additional vehicle trips and associated emissions, the project site is not located within an air pollution hot spot and the project's incremental increase in localized TAC emissions resulting from new vehicle trips would be minor and would not contribute substantially to cumulative TAC emissions that could affect

nearby sensitive land uses. Therefore, cumulative air quality impacts are considered **less than significant** and will not be discussed further in the EIR.

Response: The cumulative impact of the increased in activity on Polk Street and the 1600 vehicles increase in traffic over a few hours on Masonic Auditorium event nights will have a cumulative impact on GHG, especially on “Spare the Air Alert” warning days. We believe the impact is not “less than significant.”

*Berit S. Muh, E-mail, June 3, 2013 [I.9.8-Muh]*

On page 2.3, the DEIR states that the Initial Study determined that the proposed Project would have less-than-significant impacts on cultural resources, air quality and greenhouse gas emissions. Accordingly, there is no analysis in the DEIR on these issues. However, substantial arguments and facts support a conclusion that increases in the number of events and increases to the number of patrons per event would result in potentially substantial adverse changes and impacts on greenhouse gas emissions, air quality and impacts to the cultural resources in the vicinity. For example, the increase in the number of events and the increase of patrons per event will result in more cars, taxis and other private auto services per event, which in turn will result in more air pollution, carbon emissions and vehicular traffic, which will impact the air quality and increase greenhouse gas emissions. These same facts—more live entertainment events and more patrons at those events—will also result in potentially substantial adverse impacts on cultural resources in the immediate vicinity of the Project (Huntington Park, Grace Cathedral, Pacific Union Club, Cathedral School, etc.).

#### **Response AQ-2**

The NOP/IS states on pp. 62-63 that an analysis of operational criteria air pollutants was conducted to determine if increased event operation would result in significant criteria air pollutant emission. Criteria air pollutants are described on NOP/IS pp. 53-55. Criteria air pollutants would be emitted from increases in the number of events and patrons, thereby resulting in additional vehicle trips and associated emissions. The analysis found that the increase of 85 large events annually, and the maximum increase of 134 attendees per event from existing conditions would not result in more than about 1,600 daily motor vehicle trips per day at the Center. The Draft EIR supports this estimate, showing that the net increase in project-generated traffic would be about 70 one-way vehicle trips and the additional events would generate approximately 1,748 one-way vehicle trips per day (p. 4.C.33). A total of 1,600 to 1,750 daily vehicle trips would not emit substantial amounts of criteria air pollutants, and emissions would be well below air pollutant significance thresholds. The proposed project would not exceed air quality significance thresholds for criteria air pollutants. For these reasons, the NOP/IS concludes that air quality impacts for criteria air pollutants would be less than significant, and this topic was not addressed in the Draft EIR.

The comment referring to “page 282, Impact C-AQ” quotes text from the Cumulative Air Quality Impacts discussion on NOP/IS pp. 66-67. The assessment of cumulative impacts considered whether the proposed project’s individual emissions would result in a substantial contribution to existing cumulative adverse air quality impacts. As stated on NOP/IS p. 67, because traffic-

related emissions of the project would not exceed the BAAQMD's individual project-level thresholds for criteria air pollutants, the proposed project would not be considered to result in a cumulatively considerable contribution to regional air quality impacts. For these reasons, the proposed project would result in less-than significant cumulative air quality impacts.

Increased activity in the Polk Street bar/entertainment area is an existing condition. While some event attendees may choose to drive to Polk Street establishments before or after events held at the Masonic Center, the proposed increase in the number of event attendees (a maximum increase of 134) and number of events (up to 85) from existing conditions would not result in increased vehicle trips that would contribute to a combined, cumulative adverse effect on existing local or regional air quality.

Existing regional air quality measurements and conditions account for emissions related to increased traffic levels on Polk Street and would not affect the project's less-than-significant cumulative contribution to cumulative air quality impacts. The thresholds for criteria air pollutants, discussed on NOP/IS pp. 53-54, are based on average daily and average annual emission levels; thus, concentrated periods of emissions during certain times of the day are accounted for in the averages. See Table 5: Criteria Air Pollutant Significance Thresholds, on NOP/IS p. 54.

Comments also raise issues about the project's impacts on greenhouse gas (GHG) emissions, which are described in NOP/IS Section E.8. Greenhouse Gas Emissions, pp. 67-79. Table 9: Regulations Applicable to the Proposed Project, on NOP/IS pp. 75-77, shows the project's consistency with applicable regulations. The proposed project would contribute to cumulative effects of climate change by directly or indirectly emitting GHGs during the renovation and operational phases of the Masonic Center, but not at levels that would result in a significant impact on the environment. San Francisco has developed a number of plans and programs to reduce GHG, which are described on NOP/IS p. 71. The proposed project would be consistent with the San Francisco Greenhouse Gas Emissions Strategy. Consistent with the State CEQA Guidelines and BAAQMD recommendations for analyzing GHG emissions under CEQA, projects that are consistent with the City GHG strategies would not contribute significantly to global climate change; thus, the proposed project would result in a less-than-significant impact with respect to GHG emissions and no further discussion in the EIR was required. Refer to the discussion on NOP/IS p. 74 and pp. 77-78.

Refer to Response CP-1 in Section 3.I, Cultural and Paleontological Resources, RTC pp. 3.I.2-3.I.3, for a response related to comments on the proposed project's impacts on cultural resources.

## K. GENERAL COMMENTS

The comments and corresponding responses in this section cover general topics related to the EIR and the proposed project. These include topics related to:

- GC-1 - EIR Scoping and Noticing
- GC-2 - Adequacy of the EIR
- GC-3 - Merits of the Project
- GC-4 - Compliance with Environmental Review Guidelines
- GC-5 - Non Specific Comments Related to the EIR

### Comment GC-1: Comments related to EIR public scoping and public noticing.

This response addresses the following comments:

PH.1.1-Chapman	I.9.44-Muh	I.14.4-Chapman (5)
PH.1.3-Chapman	I.9.46-Muh	I.14.7-Chapman (5)
O.CSFN.2-Fukuda	I.14.1-Chapman (5)	

*Linda Chapman, Public Hearing Transcript, May 23, 2013 [PH.1.1-Chapman]*

And I'm going to mention that I'm really surprised that I didn't get notice of the scoping. You know, I tried for a long time to find out when the scoping would be, calling environmental and also calling Kevin Guy, what's happening with the application. And, of course, with, you know, lawsuits having been pending, you never really knew. And I was still trying to find out in February when we were having a meeting where some people came to try to find out what was happening with this. And I only found out in March. Of course, the scoping notices went out in - or the initial study notices and so on -- I guess, last October.

*Linda Chapman, Public Hearing Transcript, May 23, 2013 [PH.1.3-Chapman]*

And we had a lot of difficulty getting the documents. I sent somebody over to pick them up. She couldn't get them. We eventually got them mailed. So I haven't had a chance to read very much of it.

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O.CSFN.2-Fukuda]*

The outreach for the DEIR was inadequate and many neighborhood groups were unaware of this DEIR. We need proper outreach and adequate time to understand and review the DEIR. This is a real problem that needs to be addressed not only for this DEIR but for all DEIR. If the public input is important, the comment period needs to be increased to a minimum of 60 days. To limit the comment period is to stifle the public input. Outreach and adequate comment period is critical for a fair and open process.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.44-Muh]*

**Lack of Consultation** Page 7.2 shows that the Project Sponsor made no effort to inform the neighborhood residents and owners of the proposed Project. Rather, the Project sponsor and the Department only consulted with seven individual/organizations, four of whom are interested parties given their relationship to the Project and the other three are appropriate city agencies

(MTA, Police Department and Fire Department). To my knowledge, at no time did the Department or the Project sponsor seek input on the proposed Project from any of the other residents or from any of the institutional, commercial, educational, or religious neighbors in the vicinity.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.46-Muh]*

Accordingly, please provide the public with answers to the following questions:...

8. What community outreach efforts were undertaken by the Department for the proposed Project?

Thank you for your consideration of this comment letter in connection with Case No. 2011.0471E.

*Linda Chapman, E-mail, June 4, 2013 [I.14.1-Chapman (5)]*

Environmental Review: This document brings up to date a CSFN appeal document that I forwarded in March to Brett Bollinger, after learning that the scoping and IS notices bypassed me and my contacts. ***[The document referenced in this comment is comprised of Comments I.14.2-I.14.50 as presented in this Responses to Comments document; it is shown in its entirety as the attachment to Letter I.14 in Attachment B, Draft EIR Comment Letters.]***

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.4-Chapman (5)]*

(This document brings up to date the CSFN appeal document that I forwarded in March to Brett Bollinger, after learning that the scoping and IS notices bypassed me and my contacts.)

*Linda Chapman, E-mail, June 4, 2013, Attachment [I.14.7-Chapman (5)]*

6. The environmental review failed to notify stake holders and previous participants when the Initial Study and scoping began. This is important: people in the radius to receive mailed notices were unable to respond to opaque technical language, but did initiate contacts when offered information. Others in the affected neighborhood seemed to feel confused or “in the dark” about “where we are” when city and state agencies have been involved with this project for years.

7. Copies of the DEIR were not easy available. Volunteers will not be available to review tomes if they can’t get copies timely.

8. If the objective was project approval, “covering bases” with an EIR could look defensible. To a reasonable person, scheduling a vote on a large, controversial project with some known impacts, without first soliciting comments that could trigger review, may not look like CEQA compliance.

### **Response GC-1**

These comments state that the public noticing and community outreach for the Draft EIR were inadequate. The requirements for public noticing related to the publication of an EIR are set forth in the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code (Administrative Code). Pursuant to Section 15087(a) of the CEQA Guidelines, public noticing shall be given by at least one of the following procedures: “(1) Publication at least one time by the public agency in a newspaper of general circulation in the area affected by the proposed project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas; (2) Posting of

notice by the public agency on or off the site in the area where the project is to be located;

(3) Direct mailing to the owners and occupants of property contiguous to the parcel or parcels on which the project is located. Owners of such property shall be identified as shown on the latest equalized assessment roll.” Pursuant to Section 31.14(d) of the Administrative Code, “notice to the general public shall be provided as follows: (1) Public participation, both formal and informal, shall be encouraged at all stages of review, and written comments shall be accepted at any time up to the conclusion of the public comment period. The Environmental Review Officer may give public notice at any formal stage of the review process, beyond the notices required by this Chapter 31, in any manner it may deem appropriate, and may maintain a public log as the status of all projects under formal review. Members of the general public shall be encouraged to submit their comments in writing as early as possible.” Section 31.14(d) of the Administrative Code does not require that a public scoping meeting be held, and no public scoping meeting was held for the proposed project. Under CEQA Guidelines Section 15082(c)(1) and Section 15206, no public scoping meeting is required for the Masonic Center Renovation Project.

Under the direction of the Environmental Review Officer, public notices were mailed to all property owners within a 300-foot radius of the project site, neighborhood groups, and other interested parties on the following occasions:

- On October 12, 2012, the Planning Department published and distributed a Notice of Preparation of a Draft EIR/Initial Study (NOP/IS) announcing its intent to prepare, publish, and distribute a Draft EIR.
- On April 17, 2013, the Planning Department published and distributed a Draft EIR, which was accompanied by a Notice of Availability (NOA). The NOA announced that a public hearing before the Planning Commission was scheduled for May 23, 2013 and that that public comments on the Draft EIR would be accepted until 5:00 p.m. on June 3, 2013.

In addition to the mailed notices, copies of the NOP were posted on and around the project site for 30 days, and copies of the NOA were posted on and around the project site for 45 days. The NOA included instructions on how to download an electronic version of the Draft EIR from the Planning Department’s website as well as information on where to obtain CD or paper copies of the Draft EIR or review other reference materials related to the proposed project. Therefore, the Planning Department complied with the public noticing requirements set forth in Chapter 31 of the Administrative Code.

Beyond the public noticing requirements discussed above and any Planning Code public noticing requirements related to entitlement actions, the Planning Department was not required under CEQA or Chapter 31 to conduct community outreach for the proposed project. The project sponsor has conducted community outreach by contacting Nob Hill neighborhood organizations and adjacent and nearby property owners and residents outside of the CEQA process.

One comment states that the public comment period on the Draft EIR should be increased to a minimum of 60 days. Pursuant to Section 15105(a) of the CEQA Guidelines, “the public review period for a draft EIR shall not be less than 30 days nor should it be longer than 60 days except under unusual circumstances. When a draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45 days, unless a shorter period, not less than 30 days, is approved by the State Clearinghouse.” Chapter 31 of the Administrative Code allows the public comment period to be extended on projects of exceptional size or complexity. Pursuant to Section 31.14(b)(1) of the Administrative Code, “the Planning Commission or the Environmental Review Officer may, upon the request of an agency or person with special expertise from whom comments are sought, grant an extension of time beyond the original period for comments, but such extension shall not prevent with the holding of any hearing on the draft EIR for which notice has already been given.” The Environmental Review Officer and the Planning Commission considered the request to extend the public comment period on the Draft EIR, but did not grant an extension beyond the 45-day public comment period required by CEQA.

The organization and persons consulted during preparation of the Draft EIR are listed in EIR Chapter 7, Report Preparers, on p. 7.2. The “Organizations and Persons Consulted” list is required by CEQA Guidelines Section 15129. That list identifies local agencies and private individuals that the EIR preparers consulted in preparing the Draft EIR; it is not a list of the organizations or persons the project sponsor has contacted to seek input on the proposed project. As noted in the comment, three of the individuals listed are from City agencies who provided information for EIR Sections 4.C, Transportation and Circulation (Municipal Transportation Agency), and 4.E, Public Services (Police and Fire Departments). The remaining four individuals are affiliated with the Masonic Center and were contacted to obtain information for the Draft EIR concerning proposed renovations, and garage, event-related, and catering kitchen operations of the Masonic Center.

---

**Comment GC-2: Comments related to the general adequacy and completeness of the Draft EIR.**

This response addresses the following comments:

PH.3.1-Antonini	O.CSFN.11-Fukuda	I.3.10-Hong
O.CSFN.1-Fukuda	I.3.3-Hong	I.9.15-Muh

*Michael Antonini, Planning Commissioner, Public Hearing Transcript, May 23, 2013 [PH.3.1-Antonini]*

From my reading of this, it seems to address a lot of the things. I’ve been through the process with the neg dec and the first time around here. And this does seem to be a good document. Of

course, we'll see what comments and responses come up and then we'll look at the combined document as the final EIR, as we always do.

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O.CSFN.1-Fukuda]*

The Coalition for San Francisco Neighborhoods (CSFN) Land Use Committee believes the DEIR for the 1111 California Street Masonic Auditorium Project is incomplete, inadequate, and inaccurate.

*Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee, Coalition for San Francisco Neighborhoods, E-mail, June 3, 2013 [O.CSFN.11-Fukuda]*

CSFN opposes the DEIR for the 1111 California Street Masonic Renovation Project because it is inaccurate, inadequate, and incomplete.

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.3-Hong]*

The DEIR is very comprehensive in Project Scope and in Detail; it seems that there were no stones left unturned. An asset to the community, the Sponsor, the Planning Department and all the consultants that put it all together.

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.10-Hong]*

In Conclusion, I urge the San Francisco Planning Department and Commission and eventually the Mayor and all the members Board of Supervisors to approve this DEIR/CEQA. Thank you for your consideration of my comments, support and formally request that my comments be included in the Comments for this project and look forward to having my comments addressed and further action taken to approve this DEIR.

Thank you all, for your attention.

*Berit S. Muh, E-mail, June 3, 2013 [I.9.15-Muh]*

These, and other, factual problems with the DEIR render it inadequate and incomplete in its analysis, and as a result the DEIR does not meet the requirements of CEQA.

## **Response GC-2**

These comments do not raise any specific issues regarding the adequacy of the Draft EIR; rather, they address the Draft EIR's general adequacy. CEQA Guidelines Section 15151, Standards for Adequacy of an EIR, states:

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

Specific comments regarding the adequacy or inadequacy of the environmental analysis are addressed in this Responses to Comments document by environmental topic. The San Francisco Planning Commission will consider the adequacy and accuracy of the Draft EIR, based on the administrative record as a whole (including all comments submitted on the Draft EIR and responses to them) at the EIR certification hearing.

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### **Comment GC-3: Comments relating to the merits of the project.**

This response addresses the following comments:

I.3.1-Hong  
I.3.4-Hong

I.5.6- Lamé  
I.7.1-Shaheen

I.8.3-Robison

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.1-Hong]*

Good morning Miss. Sarah Jones and Mr. Brett Bollinger,

I am writing in support of the 1111 California Street project. Over the many years I have been a long time participant of the many activities held here. First of all, thank you for letting me have the opportunity to respond to this DEIR and the CEQA. As part of the EIR process, I've finished reviewing the DEIR/CEQA; April 17, 2013 for this project. I found no compelling reason to disapprove it. In fact it's just the opposite. The Sponsor has done just about all they could to meet the community's concerns and have done whatever is possible to revamp most events to lessen any inconvenience and impact to the community/area.

*Dennis J. Hong, E-mail, May 28, 2013 [I.3.4-Hong]*

I have lived in the City all my life, events like this brings needed revenue to the City and helps keep the City vibrant with these events and at the same time supports the cultural heritage of San Francisco.

*Linda Lamé, E-mail, June 3, 2013 [I.5.6- Lamé]*

Do not allow this project to move forward more than has already been agreed upon (April 2012).

*Verna Shaheen, E-mail, June 2, 2013 [I.7.1-Shaheen]*

I want to go on the record as opposing the project and insist that a comprehensive environmental impact study be done.

*Nancy Robison, E-mail, June 3, 2013 [I.8.3-Robison]*

Everyone with even a casual knowledge of the situation understands that Live Nation are ruining the neighborhood. Please do everything in your power to shut this down. They need to go somewhere else to host events of this type.

### **Response GC-3**

Comments expressing opposition or support for the proposed project, or aspects thereof, are comments on the merits of the proposed project. Comments on the merits of the proposed project do not raise any specific environmental issues about the adequacy or accuracy of the Draft EIR's coverage of environmental impacts that require a response in this Responses to Comments

document under CEQA Guidelines 15088. Comments on the merits of the proposed project may be considered by the decision-makers as part of their decision to approve, modify, or disapprove the proposed project. This consideration is carried out independent of the environmental review process.

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**Comment GC-4: Comments concerning compliance with Planning Department's Environmental Review Guidelines.**

This response addresses the following comment:

I.9.45-Muh

*Berit S. Muh, E-mail, June 3, 2013 [I.9.45-Muh]*

**Violation of Planning Department Guidelines**

Given what appears to be an effort to ignore the rules of the game that resulted from the April 2012 CU authorization, I am concerned that other recognized rules of the game, may also have been ignored. Accordingly, please provide the public with answers to the following questions:

1. At any time, did the Department staff or the Department's consultants provide administrative drafts, or portions of administrative drafts, of DEIR deliverables to the Project sponsor, its counsel or consultants, in violation of Section 2.4.2 of the Department's "Environmental Review Guidelines"?
2. If so, when did that occur and what deliverables were provided?
3. At any time, did the Department staff or the Department's consultants violate any of the other provisions of Section 2.4.2 of the Department's "Environmental Review Guidelines"?
4. If so, when did such violations occur and what was involved?
5. At any time, did the Department staff or the Department's consultant engage in discussions (written, oral, telephonic or electronically) with the Project sponsor, its counsel or consultants regarding material changes to the analysis or conclusions of the DEIR in violation of Section 2.4.3 of the Department's "Environmental Review Guidelines"?
6. If so, when did any such discussions occur and what was discussed?
7. Are any of the EIR consultants also providing any services to the Project sponsor?

**Response GC-4**

This comment raises seven questions, each of which is addressed below. The Draft EIR for the Masonic Center Renovation Project was prepared according the San Francisco Planning Department's Environmental Review Guidelines (October 5, 2012).

1. Administrative drafts or portions of administrative drafts of EIR deliverables were not provided to the project sponsor, its counsel or consultants in advance of the document being provided to Environmental Planning for review.

2. Not applicable; see response to item 1, above.
3. The other provisions of Section 2.4.2 of the Guidelines were adhered to for preparation of the Draft EIR.
4. Not applicable; see response to item 3, above.
5. Neither the Planning Department staff nor the consultant engaged in discussions with the project sponsor regarding material changes to the analysis or conclusions of the environmental document without the participation or consent of the Environmental Planning environmental coordinator.
6. Not applicable; see response to item 5, above.
7. Except for preparation of the Draft EIR at the direction of the Planning Department, the EIR consultant is not providing any services to the project sponsor.

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**Comment GC-5: Other statements that do not raise a specific EIR-related comment.**

This response addresses the comments below:

I.7.3-Shaheen

I.8.1-Robison

*Verna Shaheen, E-mail, June 2, 2013 [I.7.3-Shaheen]*

I also understand that a member of the planning department is a Mason and so should recuse himself from voting on the project.

*Nancy Robison, E-mail, June 3, 2013 [I.8.1-Robison]*

Dear Ms. Jones – I agree with everything in the attached message from Mr. Fukuda. *[The attachment referenced in this comment is presented as Letter O-CSFN in Attachment B of this Responses to Comments document.]*

**Response GC-5**

The first comment refers to former Planning Commission, Ron Miguel, who is a Mason. Mr. Miguel is no longer a Planning Commissioner and will not vote on certification of the EIR or approval of the project.

Mr. Fukuda's letter, referenced in the second comment, is presented in Attachment B of this Responses to Comments document as Letter O.CSFN. The comments from the letter are addressed in this RTC document as follows:

- Comment O.CSFN.1 and O.CSFN.11: Section 3.K, General Comments, Response GC-2, RTC pp. 3.K.5-3.K.6.
- Comment O.CSFN.2: Section 3.K, General Comments, Response GC-1, RTC pp. 3.K.2-3.K.4.
- Comments O.CSFN.3 and O.CSFN.10: Section 3.D, Transportation and Circulation, Response TR-9, RTC pp. 3.D.18-3.D.19.

3. Responses to Comments  
K. General Comments

- Comment O.CSFN.4: Section 3.D, Transportation and Circulation, Response TR-7, RTC pp. 3.D.15-3.D.16.
- Comments O.CSFN.5 and O.CSFN.9: Section 3.D, Transportation and Circulation, Response TR-1, RTC pp. 3.D.2-3.D.4.
- Comment O.CSFN.6: Section 3.D, Transportation and Circulation, Response TR-3, RTC pp. 3.D.10-3.D.11.
- Comment O.CSFN.7: Section 3.J, Air Quality, Response AQ-1, RTC pp. 3.J.1-3.J.2.
- Comment O.CSFN.8: Section 3.J, Air Quality, Response AQ-2, RTC pp. 3.J.3-3.J.4.

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## **ATTACHMENT A: PUBLIC HEARING TRANSCRIPT COMMENTS**



**In The Matter Of:**  
*MASONIC CENTER PROJECT*  
*PUBLIC HEARING*

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*May 23, 2013*

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BEFORE THE SAN FRANCISCO PLANNING COMMISSION

1111 CALIFORNIA STREET

MASONIC CENTER PROJECT

PUBLIC HEARING

ON THE DRAFT ENVIRONMENTAL IMPACT REPORT

May 23, 2013

Item E.7, 2011.0471E

Commission Chambers - Room 400

City Hall, 1 Dr. Carlton B. Goodlett Place

San Francisco, California

REPORTED BY: FREDDIE REPPOND, STENOGRAPHIC REPORTER

## A P P E A R A N C E S

## SAN FRANCISCO PLANNING COMMISSION:

Commissioner Rodney Fong, President

Commissioner Cindy Wu, Vice President

Commissioner Michael Antonini

Commissioner Rich Hillis

Commissioner Katharine Moore

Commissioner Hisashi Sugaya

Jonas Ionin, Acting Commission Secretary

## FOR THE PLANNING DEPARTMENT:

John Rahaim

Brett Bollinger

## FROM THE PUBLIC:

Linda Chapman

Jim Miller

--oOo--

1 Thursday, May 23, 2013

6:55 p.m.

2 ---o0o---

3 P R O C E E D I N G S

4 SECRETARY IONIN: Commissioners, that will  
5 place you on Item 7 for Case No. 2011.0471E at 1111  
6 California Street, the public hearing on the draft  
7 environmental impact report.

8 Please note that written comments will be  
9 accepted at the Planning Department's offices until 5:00  
10 p.m. on June 3rd, 2013.

11 If I could ask the members of the audience to  
12 please leave these chambers quietly as we proceed with  
13 our last item on our hearing. We would greatly  
14 appreciate it.

15 MR. BOLLINGER: Good afternoon, President  
16 Fong, Members of the Commission --

17 COMMISSIONER SUGAYA: Wait. Have you called  
18 the item?

19 SECRETARY IONIN: Yes, Commissioner Sugaya.  
20 The item has been called.

21 COMMISSIONER SUGAYA: I recuse myself because  
22 I live within 500 feet.

23 SECRETARY IONIN: Would anyone like to --

24 PRESIDENT FONG: Is there a motion to recuse  
25 Commissioner Sugaya?

1 COMMISSIONER ANTONINI: So moved.

2 COMMISSIONER BORDEN: No, we can't. He can't  
3 leave.

4 SECRETARY IONIN: On the motion to recuse  
5 Commissioner Sugaya, Commissioner Antonini.

6 COMMISSIONER ANTONINI: Aye.

7 SECRETARY IONIN: Commissioner Borden.

8 COMMISSIONER BORDEN: Aye.

9 SECRETARY IONIN: Commissioner Hillis.

10 COMMISSIONER HILLIS: No.

11 SECRETARY IONIN: Commissioner Moore.

12 COMMISSIONER MOORE: Aye.

13 SECRETARY IONIN: Commissioner Sugaya.

14 COMMISSIONER SUGAYA: Aye.

15 SECRETARY IONIN: Commissioner Wu.

16 COMMISSIONER WU: Aye.

17 SECRETARY IONIN: And Commission President  
18 Fong.

19 PRESIDENT FONG: Aye.

20 SECRETARY IONIN: That motion passes six to  
21 one, with Commissioner Hillis voting against.

22 MR. BOLLINGER: Good evening, President Fong,  
23 Members of the Commission. I'm Brett Bollinger with the  
24 environmental planning division of the Planning  
25 Department.

1           This is a hearing to receive comments on the  
2 draft environmental impact report for Case No.  
3 2011.0471E, 1111 California Street, which is the Masonic  
4 Center project, which consists of the renovation of the  
5 existing auditorium, ground floor California Room,  
6 exhibition hall, and catering kitchen. The maximum  
7 allowable number of large events, which are over 250  
8 attendees, would increase from 230 to 315 events. The  
9 auditorium ground floor seats would be removed,  
10 increasing the maximum capacity from 3,166 attendees to  
11 3,300 attendees.

12           This is not a hearing to consider approval or  
13 disapproval of the project. That hearing will follow  
14 the final EIR certification. Comments today should be  
15 directed to the adequacy and accuracy of information  
16 contained in the draft EIR.

17           Staff is not here to answer comments today.  
18 Comments will be transcribed and responded to in writing  
19 in the comments-and responses document. This document  
20 will respond to all verbal and written comments received  
21 and will include revisions to the draft EIR as  
22 appropriate.

23           Commenters should speak slowly and clearly so  
24 that the court reporter can produce an accurate  
25 transcript. Also, commenters should state their name

1 and address so that they can be properly identified so  
2 that they can be sent a copy of the  
3 comments-and-responses document when completed.

4 After hearing comments from the general  
5 public, we will also take comments for the draft EIR  
6 from the Planning Commissioners.

7 The public comment period for this project  
8 began on April 17th and will extend until 5:00 p.m.,  
9 June 3rd, 2013.

10 I respectfully suggest that the public hearing  
11 be opened.

12 Thank you.

13 PRESIDENT FONG: Is there a project sponsor?

14 Opening it up for public comment. I have two  
15 cards, Linda Chapman and Hiroshi Fukuda.

16 MS. CHAPMAN: Hiroshi had to leave.

17 Linda Chapman, C-h-a-p-m-a-n, 1316 Larkin.

18 And I'm going to mention that I'm really  
19 surprised that I didn't get notice of the scoping. You  
20 know, I tried for a long time to find out when the  
21 scoping would be, calling environmental and also calling  
22 Kevin Guy, what's happening with the application. And,  
23 of course, with, you know, lawsuits having been pending,  
24 you never really knew.

25 And I was still trying to find out in February

PH1.1

1 when we were having a meeting where some people came to  
2 try to find out what was happening with this. And I  
3 only found out in March. Of course, the scoping notices  
4 went out in -- or the initial study notices and so on --  
5 I guess, last October.

PH1.1  
(cont.d)

6 And I will mention that I had a 13-page appeal  
7 in here on the neg dec that went in for CSFN, authored  
8 by me with my address; and most of this addresses what I  
9 thought should be in the EIR.

PH1.2

10 And then the document for the appeal to the  
11 Board of Supervisors last year and the document to you,  
12 which included, you know, some relevant things, none of  
13 which, as far as I can see, got addressed. And we had a  
14 lot of difficulty getting the documents. I sent  
15 somebody over to pick them up. She couldn't get them.  
16 We eventually got them mailed. So I haven't had a  
17 chance to read very much of it.

PH1.3

18 You know, I want to mention, this is just --  
19 it's an possible location to have this kind of venue.  
20 The Regency is well located, complete contrast with --  
21 in terms of transportation, in terms of accessibility of  
22 the streets in terms of their not being a lot of  
23 residences around there.

PH1.4

24 I've lived in the neighborhood since '69.  
25 Even in the '70s, when we were not talking about alcohol

PH1.5

1 being involved or, you know, hordes of young people  
2 coming to concerts, the whole place would block up with  
3 traffic. You know, the whole hill would block up and  
4 all the way down to Van Ness. But there were so few  
5 events that were large like that at night; and there was  
6 no alcohol involved, to speak of, maybe a little bit of  
7 wine on some on them. And there was a great deal of  
8 information turned in previously, last year, about the  
9 number of events historically, like eight large  
10 entertainment events with live entertainment per year in  
11 '94, or 12 or whatever. Big contrast with what's  
12 proposed here.

PH1.5  
(cont.d)

13 I submitted already to the Commission last  
14 year Peter Strauss's Muni document showing how many  
15 people can get on those buses to leave. Muni figures  
16 the peak load is 54 passengers. There's two lines up  
17 there, one of which runs every half hour and one of  
18 which runs every twenty minutes. So people are going to  
19 be hanging around waiting for a bus or heading down for  
20 Polk Street, which is already completely overwhelmed.

PH1.6

21 Coming to Polk Street, you cannot get on a bus  
22 just because people are going there. And the largest  
23 venue down there is not even one-twentieth the size of  
24 this.

25 PRESIDENT FONG: Is there any additional

1 public comment on this item?

2 MR. MILLER: My name is Jim Miller.

3 I would like to give some public comment about  
4 the EIR. This talks about a total of 230 large events  
5 per year and a maximum of 54 live entertainment events.

6 SECRETARY IONIN: Excuse me, Jim. If you'd  
7 take your hand off the mic, it won't crackle so much.

8 MR. MILLER: Okay.

9 On page 1.3 of the EIR. In point of fact,  
10 it's more like 15. Evidence from 1994 to 2002 shows a  
11 low of 8 events and a high of 20 events, with an average  
12 of 15 per year.

13 The CMMT, which is the California Memorial  
14 Masonic Temple, became nonconforming in at least 1978,  
15 when the property was rezoned from commercial to RM-4,  
16 which it is today. RM-4.

17 Evidence of the 1978 activity levels have  
18 already been submitted.

19 The EIR states that the hill is short plus or  
20 minus 500 parking spaces when the hotels have public  
21 assembly uses at the same time as the Masonic Temple.  
22 This is played off against five additional trips on Muni  
23 are attributed as part of the project -- anticipated as  
24 part of the project. Five additional Muni trips.

25 The 1 California, the 27, and the cable car

PH2.1

PH2.2

PH2.3

PH2.4

1 can't clear but plus or minus 250 people maximum in the  
2 hour after the concerts. And they have 330 -- no --  
3 3,300 proposed.

PH2.4  
(cont.d)

4 The EIR speaks of Level of Service E at  
5 several of the intersections around the Masonic Temple  
6 during the -- after the event -- during the -- during  
7 the period of the disbanding of the concerts.

PH2.5

8 SECRETARY IONIN: Mr. Miller, I'm sorry, but  
9 your time is up.

10 PRESIDENT FONG: Thank you.

11 Is there any other public comment on this  
12 item? Okay. Seeing none, public comment is closed.

13 Commissioners?

14 Commissioner Moore.

15 COMMISSIONER MOORE: Could you please restate,  
16 just for the record, when the written comments would  
17 come in, because that might have slipped by in the  
18 beginning. I'd appreciate that.

19 SECRETARY IONIN: The written comments are  
20 accepted at the Planning Department's offices until 5:00  
21 p.m. on June 3rd, 2013.

22 COMMISSIONER MOORE: That is the day after the  
23 holiday, right? That's a Monday?

24 COMMISSIONER ANTONINI: The holiday is this  
25 week.

1 SECRETARY IONIN: June 3rd. I don't believe  
2 there is a holiday on June 3rd.

3 DIRECTOR RAHAIM: The holiday is May 27th.

4 COMMISSIONER MOORE: Thank you.

5 PRESIDENT FONG: Commissioner Antonini.

6 COMMISSIONER ANTONINI: From my reading of  
7 this, it seems to address a lot of the things. I've  
8 been through the process with the neg dec and the first  
9 time around here. And this does seem to be a good  
10 document. Of course, we'll see what comments and  
11 responses come up and then we'll look at the combined  
12 document as the final EIR, as we always do.

PH3.1

13 PRESIDENT FONG: Okay.

14 (Discussion on the item ended at 7:05 p.m.)  
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1 STATE OF CALIFORNIA )

2 COUNTY OF SAN FRANCISCO )

3  
4 CERTIFICATE OF REPORTER

5  
6 I, FREDDIE REPPOND, a duly authorized Shorthand  
7 Reporter and licensed Notary Public, do hereby certify  
8 that on the date indicated herein that the above  
9 proceedings were taken down by me in stenotype and  
10 thereafter transcribed into typewriting and that this  
11 transcript is a true record of the said proceedings.

12 IN WITNESS WHEREOF I have hereunto set my hand on  
13 this 4th day of June, 2013.

14  
15 \_\_\_\_\_  
16 FREDDIE REPPOND  
17  
18  
19  
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23  
24  
25



## **ATTACHMENT B: DRAFT EIR COMMENT LETTERS**



Ms. Sarah Jones  
Acting Environmental Review Officer  
San Francisco Planning Department  
1650 Mission St., Room 400  
San Francisco, Ca 94103

June 3, 2013

Subject: DEIR or 1111 California Street, Masonic Auditorium Renovation Project,  
Case 2011.0471E

Dear Ms. Sarah Jones,

The Coalition for San Francisco Neighborhoods (CSFN) Land Use Committee believes the DEIR for the 1111 California Street Masonic Auditorium Project is incomplete, inadequate, and inaccurate. The outreach for the DEIR was inadequate and many neighborhood groups were unaware of this DEIR. We need proper outreach and adequate time to understand and review the DEIR. This is a real problem that needs to be addressed not only for this DEIR but for all DEIR. If the public input is important, the comment period needs to be increased to a minimum of 60 days. To limit the comment period is to stifle the public input. Outreach and adequate comment period is critical for a fair and open process.

O.CSFN.1

O.CSFN.2

STUDY PERIOD: The results are inaccurate because since the study period, there has been a significant increase in activity and increase in people on the weekends in the Polk Street bar/entertainment area. There are many newspaper articles on the bar scene in Polk Street, and that many young people flock to Polk Street on the weekends. The Muni ridership and capacity increase are not reflected in the study.

O.CSFN.3

PEDESTRIANS: The attendees to the Masonic Auditorium are expected to walk up steep hills from the Stockton Parking Garage, a very difficult undertaking unless you are in good shape, and dressed for strenuous climb. The DEIR correctly states that the hills discourage pedestrians. Please note that many events are likely to require evening attire and high heels. It is unlikely that people will park at the bottom of the hill at the Stockton parking lot. Parking at the Masonic Auditorium is minimal and inadequate for major events.

O.CSFN.4

MUNI: Many people do not take Muni to dressy events, and this was not considered in the DEIR. The DEIR report that the capacity during peak hours are only 50% or so. This is not important since many people do not take Muni to dressy events, or because of how long it would take with transfers and waiting for busses. Going to a Giants game or Forty-niner game where casual dress is the norm is one thing and taking Muni to a dressy event is very different. The limited capacity of Muni cannot be expected to be an effective means to attend and leave unless one accepts arriving an hour early and leaving an hour after an event. The capacity averages 54 riders. How many of the 3,300 people can be expected to use Muni. Are there any studies that provide a breakdown on the number of people who take Muni, how many use private automobiles, taxi, bike, or hike? The DEIR is deficient if that is not provided. We need a complete report, not one that outdated and inaccurate, incomplete, and insufficient.

O.CSFN.5

TRAFFIC: The increase number of taxi cabs on California Street was not adequately considered in the very limited study. I have seen photos of the traffic congestion on California Street on Saturday nights, I was just a continuous line of headlights. California Street traffic is unique in that the cable cars are very slow moving and passengers unload in the traffic lanes with automobiles. Left turns and right turns also delay traffic and was not considered.

O.CSFN.6

From page 280, "No single day of operation of the Center with the proposed renovations would be likely to cause greater than 1,600 motor vehicle trips per day, and because this level of traffic would be well below 10,000 vehicles per day project traffic would not substantially contribute to incremental health risks." This is very misleading because the important issue would be time period the traffic increase occurs; it will be compacted within a few hours. If that is extrapolated to a 24 hour period it would be well beyond the 10,000 trips per day.

O.CSFN.7

Page 282, Impact C-AQ-1: The proposed project in combination with past present, present, and reasonably foreseeable future development in the project area would result in less than significant cumulative air quality impacts. (*Less than Significant*)  
As discussed above, regional air pollution is by its very nature largely a cumulative impact. Emissions from past, present and future projects contribute to the region's adverse air quality on a cumulative basis. No single project by itself would be sufficient in size to result in regional nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulative adverse air quality impacts.<sup>63</sup> The project-level thresholds for criteria air pollutants are based on levels by which new sources are not anticipated to contribute to an air quality violation or result in a considerable net increase in criteria air pollutants. Therefore, because the proposed project's construction (Impact AQ-1) and operational (Impact AQ-3) emissions would not exceed the project-level thresholds for criteria air pollutants, the proposed project would not be considered to result in a cumulatively considerable contribution to regional air quality impacts. Although the project would expand an existing use, resulting in additional vehicle trips and associated emissions, the project site is not located within an air pollution hot spot and the project's incremental increase in localized TAC emissions resulting from new vehicle trips would be minor and would not contribute substantially to cumulative TAC emissions that could affect nearby sensitive land uses. Therefore, cumulative air quality impacts are considered **less than significant** and will not be discussed further in the EIR.

O.CSFN.8

Response: The cumulative impact of the increased in activity on Polk Street and the 1600 vehicles increase in traffic over a few hours on Masonic Auditorium event nights will have a cumulative impact on GHG, especially on "Spare the Air Alert" warning days. We believe the impact is not "less than significant."

BIKE: Taking a bike to a dressy event is not likely to happen. The hills surrounding the Masonic Auditorium is also problematic unless the event is a very casual event, and this does not even consider body odor from biking up hills. Bikers must be very disciplined with their drinking because there will be an increase in the bar(s) or bartenders.

O.CSFN.9

CUMULATIVE IMPACT: The cumulative impact on traffic and circulation is deficient because the DEIR did not account for the increase activity and increase number of young people coming and going to Polk Street. This has a greater impact than the events at the Fairmont Hotel. There needs to be a study of traffic and circulation in current environment.

O.CSFN.10

CSFN opposes the DEIR for the 1111 California Street Masonic Renovation Project because it is inaccurate, inadequate, and incomplete.

O.CSFN.11

Sincerely,

Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee



**FARELLA BRAUN + MARTEL LLP**

Attorneys At Law

Russ Building / 235 Montgomery Street  
San Francisco / CA 94104

T 415.954.4400 / F 415.954.4480  
www.fbm.com

**STEVEN L. VETTEL**  
svettel@fbm.com  
D 415.954.4902

April 24, 2013

Sarah B. Jones  
Acting Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco CA 94103-2414

Re: 1111 California Street Draft EIR  
Case No. 2011.0471E  
Comments of Project Sponsor on DEIR

Dear Ms. Jones:

I am writing on behalf of the project sponsor, California Masonic Memorial Temple, to provide one comment on the Draft EIR for 1111 California Street Masonic enter Renovation Project.

On April 9, 2013, the California Court of Appeal issued its decision in Appeal No. 132779, *Nob Hill Association v. City and County of San Francisco*. A copy of the Court's Opinion is enclosed. The Opinion granted the appeals of the City and County of San Francisco and of my client and reversed the San Francisco Superior Court's judgment and writ of mandate in Case No. 510365. That judgment and writ is discussed in the DEIR on Pages 2.28 (footnote 27), 3.3, and 4.B.8.

Because the Court of Appeal has reversed the Superior Court judgment, no amendment of the Nob Hill Special Use District or any other rezoning or Planning Code amendment is required prior to project approvals. Accordingly, the possible Board of Supervisors action listed on page 2.28 under Project Approvals is no longer necessary.

Sincerely,

Steven L. Vettel

Enclosure

cc: Brett Bollinger

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

NOB HILL ASSOCIATION et al.,

Plaintiffs and Respondents,

v.

CITY & COUNTY OF SAN FRANCISCO

et al.,

Defendants and Appellants;

CALIFORNIA MASONIC MEMORIAL  
TEMPLE,

Real Party in Interest and Appellant.

A132779

(San Francisco County  
Super. Ct. No. CPF10510365)

Defendants City and County of San Francisco, Board of Appeals for the City and County of San Francisco, and zoning administrator for the City and County of San Francisco (hereafter collectively referred to as the city), and real party in interest California Masonic Memorial Temple (the Temple), separately appeal from a June 28, 2011, judgment granting a peremptory writ of mandate concerning the use of the Nob Hill Masonic Center (Center), which is owned by the Temple. We agree with appellants that the trial court erred in setting aside a finding purportedly made in the zoning administrator's letter of determination (LOD), dated September 10, 2009. Accordingly, we will reverse the judgment and direct the trial court to vacate its writ of mandate and enter a new judgment denying the petition for writ of mandate.

In a writ petition filed in the trial court, respondents Nob Hill Association and other neighborhood groups challenged a board of appeals decision upholding the zoning

administrator's LOD, dated September 10, 2009, which was issued at the request of the Temple regarding its current operation of the Center. The zoning administrator found the Center's operation as a commercial assembly and entertainment venue was a legal nonconforming use. The zoning administrator also commented that "if [the Temple] desires to enlarge or intensify the nature of the existing operations in a manner that would preclude . . . authorization under Section 185(e),<sup>[1]</sup> it may be appropriate to seek Conditional Use authorization through the process described in Section 182(b)(1).<sup>[2]</sup> [The Temple has] not requested, nor are we opining on any specific changes in operation to the Center that may constitute intensification, and therefore jeopardize the existing nonconforming status."

In its statement of decision, the trial court found that there was substantial evidence to support the zoning administrator's finding that the Center's operation was currently a legal nonconforming use, which determination is not at issue on this appeal. However, the trial court determined that the zoning administrator had erred "in *finding* that the proposed renovation for the Center could be approved through the conditional use authorization pursuant to [Planning Code] section 182 (b)(1) because the contemplated use is not permitted in the Polk Street NCD." (Italics added.) In its judgment, the trial court directed the issuance of a writ, remanding the proceedings to the city and commanding it to set aside that portion of the zoning administrator's LOD, "*finding* that the proposed renovation of the Masonic Memorial Temple could be approved through conditional use authorization pursuant to Planning Code Section 182(b)(1), and/or allowing a conditional use application for the Masonic Memorial Temple pursuant to Planning Code Section 182(b)(1)." (Italics added.)

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<sup>1</sup> San Francisco Planning Code section 185, subdivision (e), authorizes the Planning Commission to approve continued operations in their current nonconforming use.

<sup>2</sup> Pertinent to this appeal, San Francisco Planning Code section 182, subdivision (b)(1), "authorizes the Planning Commission to change the nonconforming assembly and entertainment use to a conforming 'Other Entertainment' use (because the property is located within 1/4 mile of a neighborhood commercial district [NCD]) and then consider a conditional use [application] to enlarge or intensi[f]y the Other Entertainment use."

We agree with appellants that the trial court erred in setting aside a portion of the zoning administrator's LOD regarding a prospective change in the use of the Center. At the time of the issuance of the LOD there was no proposed change in use of the Center under consideration by the zoning administrator. Rather, the zoning administrator merely commented that if the Temple wanted to enlarge or intensify the Center's existing operations it might be appropriate to submit a conditional use application as described in San Francisco Planning Code section 182(b)(1). The zoning administrator made no finding that such a conditional use application would or should be allowed or approved by the Planning Commission, which has the exclusive jurisdiction to hear and decide such requests, subject to later review by the board of supervisors. (San Francisco Charter, section 4.105.) Thus, the trial court should not have issued a writ, commanding the city to set aside a finding not made by or within the jurisdiction of the zoning administrator. (See generally *Sierra Club v. San Joaquin Local Agency Formation Com.* (1999) 21 Cal.4th 489, 510 ["[a]dministrative agencies must be given the opportunity to reach a reasoned and final conclusion on each and every issue upon which they have jurisdiction to act before those issues are raised in a judicial forum"].)<sup>3</sup>

We therefore reverse the judgment granting writ relief, and on remand, we will direct the trial court to vacate its writ of mandate and enter a new judgment denying the petition for a writ of mandate.<sup>4</sup>

---

<sup>3</sup> In light of our determination, we do not need to address the parties' other contentions.

<sup>4</sup> The Temple requests that we take judicial notice of two public documents - the "San Francisco Board of Appeals Agenda for Regular Meeting of December 9, 2009," and the "San Francisco Board of Appeals Agenda for Regular Meeting of January 13, 2010." Because the documents are not necessary to resolve this appeal, we deny the request as moot.

We deny the parties' joint motion to vacate the trial court's judgment pursuant to the requirements for a stipulated reversal of judgment under Code of Civil Procedure, section 128, subdivision (a)(8). After the filing of the briefs on this appeal, the parties informed us they had entered into a settlement agreement concerning the operation of the Center. However, they agree, and we concur, that the settlement agreement does not render the appeal moot. We have therefore decided the appeal on its merits.

### **DISPOSITION**

The judgment is reversed. On remand the trial court shall vacate its writ of mandate and enter a new judgment denying the petition for a writ of mandate. The parties are to bear their own costs on appeal.

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Jenkins, J.

We concur:

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McGuiness, P. J.

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Pollak, J.



**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Tuesday, May 21, 2013 9:23 AM  
**To:** Donna Pittman  
**Cc:** SVettel@fbm.com  
**Subject:** FW: The draft EIR Case No 011.047E

This is the only DEIR comment thus far.

---

**From:** Jones, Sarah  
**Sent:** Monday, May 20, 2013 3:59 PM  
**To:** Bollinger, Brett  
**Subject:** Fwd: The draft EIR Case No 011.047E

Sent from my iPhone

Begin forwarded message:

**From:** Blau Meredith <[meredithblau@yahoo.com](mailto:meredithblau@yahoo.com)>  
**Date:** May 20, 2013, 3:30:59 PM PDT  
**To:** "[sarah.b.jones@sfgov.org](mailto:sarah.b.jones@sfgov.org)" <[sarah.b.jones@sfgov.org](mailto:sarah.b.jones@sfgov.org)>  
**Subject:** The draft EIR Case No 011.047E  
**Reply-To:** Blau Meredith <[meredithblau@yahoo.com](mailto:meredithblau@yahoo.com)>  
[Sarah.b.jones@sfgov.org](mailto:Sarah.b.jones@sfgov.org)

To Planning Dept Commissioners  
Pertaining to the draft EIR 1111 California **Case No 011.047E** for May 23 meeting

As a Nob Hill resident of 1045 Mason Street I have read the draft EIR and am very concerned about the handling of **TRAFFIC** in light of our expressed concerns.

The intended use of EIR is to inform the public of environmental consequences of a proposed project and to present information on measures that *reduce* the environmental effects. The proposed EIR review was to show how this 1111 Project would not contribute considerably to future traffic of this residential neighborhood. What I found however, were charts justifying the increase of traffic, not recognizing the **IMPACT** on Nob Hill, a residential neighborhood, when 3300 attendees arrive and depart. .

As procedure for defining these traffic patterns, there were observations of numbers of cars at certain locations before an event. Did anyone actually interview attendees as to "how they got to the Auditorium" or their plans for departure? On any raining night on Nob Hill, with all three major hotels having events as well, **how will 3300 attendees be leaving the Masonic? On cable cars?** The auditorium garage accommodates only 565 vehicles. The number 1 California and the 27 Bryant buses don't run much later than Live Nation Performances. With the long lead times to exit a crowded auditorium, how

I 2.1



are these young people being transported off the hill? We residents already have a hard time ourselves finding taxis and parking. This study left more questions than answers.

I 2.1  
(cont.d)

Neighbors have long observed that *on street* parking is very difficult to find and *off street* garages with “FULL” are commonplace on any given weekend. Guests drive for 30-45 minutes trying to find *any* place to park! The transit network outlined in the draft does not say how many people will use Bart, Muni, etc. It is just supposition! The realities are very different and I suggest that a study of *actual intent of attendees* be conducted for accurate traffic patterns to be compiled. The demands for parking are not precisely stated and this study is only surmising what might happen. This project, bringing mainly young people, with modest incomes for taxis or parking cars, into a residential neighborhood with limited access to mass transportation, needs to be re-examined. Nob Hill is not the center of transportation or a hub for mass transit. The wait times at night for 1 California bus is 20 min and 30 minutes for the 27 Bryant. And, they carry about 30 people each? The closest Muni buses cannot get the all of the crowd off Nob Hill.

I 2.2

Your conclusions **Impact C-TR-1** “*The proposed project would not contribute considerably to future cumulative traffic increases*” or that in **Impact C-TR-2** “*the proposed project would not contribute considerably to increase in rider transit*” need to be verified and to me lack credibility.

I 2.3

Meredith Blau  
1045 Mason Street #402  
San Francisco 94108

**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Tuesday, May 28, 2013 3:42 PM  
**To:** Donna Pittman  
**Cc:** SVettel@fbm.com  
**Subject:** FW: 1111 California - case - Comments to the DEIR and CEQA

---

**From:** Dennis Hong [<mailto:dennisj.gov88@yahoo.com>]  
**Sent:** Tuesday, May 28, 2013 3:18 PM  
**To:** Bollinger, Brett; Jones, Sarah  
**Cc:** Wycko, Bill; Avery, Linda; Chiu, David; Kim, Jane  
**Subject:** 1111 California - case - Comments to the DEIR and CEQA

Dennis J. Hong  
101 Marietta Drive  
San Francisco, CA. 94127-1841  
415-239-5867

May 28, 2013

San Francisco Planning Department  
Atten: Miss Sarah B. Jones, Lead Planner and  
Mr. Brett Bollinger, Lead Planner  
1650 Mission Street, Suite 400  
San Francisco, CA. 94103  
[Sarah.B.Jones@SFGOV.org](mailto:Sarah.B.Jones@SFGOV.org)  
[Brett.bollinger@SFgov.org](mailto:Brett.bollinger@SFgov.org)  
Subject: Comments to the DEIR-1111 California Street  
Case 2011.0471E

Good morning Miss. Sarah Jones and Mr. Brett Bollinger,  
I am writing in support of the 1111 California Street project. Over the many years I have been a long time participant of the many activities held here. First of all, thank you for letting me have the opportunity to respond to this DEIR and the CEQA. As part of the EIR process, I've finished reviewing the DEIR/CEQA; April 17, 2013 for this project. I found no compelling reason to disapprove it. In fact it's just the opposite. The Sponsor has done just about all they could to meet the community's concerns and have done whatever is possible to revamp most events to lessen any inconvenience and impact to the community/area.

Many years ago, for years we held several annual events here, the Miss Chinatown USA Pageant. Events ranged from the mornings to late evening activities. I was responsible for part of the logistics committee and in each case it was successful. The community, police and fire department were all part of the logistics committee. I do not recall any major incident that impacted the community or event.

I 3.1

I 3.2

The DEIR is very comprehensive in Project Scope and in Detail; it seems that there were no stones left unturned. An asset to the community, the Sponsor, the Planning Department and all the consultants that put it all together.	I 3.3
I have lived in the City all my life, events like this brings needed revenue to the City and helps keep the City vibrant with these events and at the same time supports the cultural heritage of San Francisco.	I 3.4
There will always be issues, like additional automobile traffic, noise from the events and then some.	I 3.5
With that said; I find that the sponsor or event planner for any of the events should have;	
- Traffic control officers to control the traffic - before and after the event.	
- As far as the noise from the event, you have two types of noise/s; from the attendees attending the event and the event from inside the auditorium itself. Both are hard to control, but tolerable. Noise from inside the auditorium by keeping the front doors closed and additional sound proofing of the auditorium.	I 3.6
- To lessen the impact to the community, include the local residents in the event planning so that they are aware of the events; dates and times.	I 3.7
- Loading and unloading of the trucks can also be done inside the garage or on the streets at the curb – no double parking.	I 3.8
A lot of this has been covered in the DEIR.	I 3.9
All this can be done by communicating and working with the local community, Police, Fire Departments and the event itself. I approve of the DEIR and the CEQA as presented. I can be contacted via email if there are any questions to my above comments.	
In Conclusion, I urge the San Francisco Planning Department and Commission and eventually the Mayor and all the members Board of Supervisors to approve this DEIR/CEQA. Thank you for your consideration of my comments, support and formally request that my comments be included in the Comments for this project and look forward to having my comments addressed and further action taken to approve this DEIR.	I 3.10
Thank you all, for your attention.	
Regards, Dennis Hong	

**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Friday, May 31, 2013 9:39 AM  
**To:** Donna Pittman  
**Subject:** Fwd: Case No. 2011.0471E -- 1111 California Street -- Masonic Center Renovation Project (Brett Bollinger)

Begin forwarded message:

**From:** "Jones, Sarah" <[sarah.b.jones@sfgov.org](mailto:sarah.b.jones@sfgov.org)>  
**Date:** May 31, 2013, 9:11:43 AM PDT  
**To:** "Bollinger, Brett" <[brett.bollinger@sfgov.org](mailto:brett.bollinger@sfgov.org)>  
**Subject:** Fwd: Case No. 2011.0471E -- 1111 California Street -- Masonic Center Renovation Project (Brett Bollinger)

Sent from my iPhone

Begin forwarded message:

**From:** Leonard Miller <[lj.miller@me.com](mailto:lj.miller@me.com)>  
**Date:** May 31, 2013, 12:04:56 PM EDT  
**To:** <[sarah.b.jones@sfgov.org](mailto:sarah.b.jones@sfgov.org)>, <[licwa@yahoo.com](mailto:licwa@yahoo.com)>, Leonard James Miller <[lj.miller@me.com](mailto:lj.miller@me.com)>  
**Subject:** Case No. 2011.0471E -- 1111 California Street -- Masonic Center Renovation Project (Brett Bollinger)

The EIR says that the case involves a total of 230 large events per year with a maximum of 54 large live-entertainment events per year (p. 1.3 of the EIR). It should be more like 15 large events per year. Evidence from 1994 - 2002 indicates that there were a low of 8 events & a high of 20 (w/ an average of 15). I 4.1  
I 4.2  
I 4.3

The numbers of events between 2005 & 2008 didn't fare much better -- an average of 31.5 large evening events (including live evening entertainment events, ethnic / cultural performances [foreign language], lectures, benefit performances, & amateur talent performances). This is about half of what the applicant said was the current number of nighttime large events at the CMMT. I 4.4  
I 4.5

The CMMT became non-conforming at least in 1978 w/ the Residential Zoning Study, at which time it was zoned RM-4 (High-Density Residential). The 1978 levels of activity have already been submitted (Amy Harmer letter).

I 4.6

The EIR states that the Hill is short +/- 500 parking spaces when the hotels have public assembly uses at the same time as the CMMT but that only 5 additional trips via Muni are anticipated as part of the project. Why is that?

I 4.7

The 1 California & the 27 Bryant Muni busses as well as the California Street Cable Car can only clear +/- 250 people (maximum) after concerts. The 1 & the 27 only carry 54 riders (assuming that they arrive empty) & they run on 20- & 30-minute (respectively) headways at that time. The cable car runs every 12 minutes & they, too, are small. Transit is clearly not the answer.

The EIR speaks of LOS E for a time after concerts at intersections surrounding the CMMT. What about that?

I 4.8

The EIR is written in such a way that no single event crosses the threshold for environmental impact, it's the frequency of events that has the propensity to bother neighbors.

I 4.9

The EIR keeps referring to the "April 2012 CU". By the sane token as the Court's voiding of the 2010 CU, the April 2012 CU is voided, too, as it was done w/o EE. Although the CMMT entered into a covenant to follow the 35 conditions of that approval, the motion is null & void.

I 4.10

The EIR offers 3 remedies for expansion of the NCU to allow an outside for-profit developer in.

I 4.11

- (1) amend the NCU statutes of the Planning Code.
- (2) amend the Nob Hill SUD.
- (3) create a new SUD in which an NCU is allowed to take on a for-profit developer.

It looks as though the EIR is correct in this matter.

From: Bollinger, Brett [brett.bollinger@sfgov.org]  
Sent: Monday, June 03, 2013 1:05 PM  
To: Donna Pittman  
Cc: SVettel@fbm.com  
Subject: FW: Case No 2011.0471E

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

From: Linda Helen [mailto:lh11@earthlink.net]  
Sent: Monday, June 03, 2013 10:58 AM  
To: Bollinger, Brett  
Cc: Jones, Sarah  
Subject: Case No 2011.0471E

I have resided next to the Masonic Center since 1978 and wish to voice my approval of Alternative A - No project.

I 5.1

Alternative B -

No Major Auditorium Renovations would only be acceptable if there were no intensification of events. The Masonic has worked quite well for all these years, and there are other venues for the type of performance events that would require "general admission" (standing room only events).

I 5.2

This is an obvious intensification of use of a structure in a residential neighborhood which was not originally built or intended for such heavyhanded use.

I 5.3

I want to point out that the DEIR focuses on auditorium interior noise while the newly intended use of this venue would cause much exterior noise having much greater neighborhood impact.

I 5.4

It has also been pointed out to me that the DEIR summarizes a deficient transportation study...

I 5.5

the traffic congestion at the top of Nob Hill may end up being the least of our worries! Do not allow this project to move forward more than has already been agreed upon (April 2012).

I 5.6

Thank you,

Linda Lamé



**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Monday, June 03, 2013 1:04 PM  
**To:** Donna Pittman  
**Cc:** SVettel@fbm.com  
**Subject:** FW: MASONIC AUDITORIUM

---

**From:** Annette Gawenda [<mailto:annette@ucgd.com>]  
**Sent:** Monday, June 03, 2013 12:10 PM  
**To:** Bollinger, Brett  
**Cc:** Jones, Sarah  
**Subject:** MASONIC AUDITORIUM

Apparently Sarah is out of the office and I have been directed to send you my protest e-mail.

I have lived on Bush Street since 1978 and have enjoyed MANY concerts and programs at the Masonic Auditorium up on California Street. I thought the proposed changes have been all settled with the number of concerts and seating arrangements that Live Nation has been proposing and secretly trying to get passed.

I 6.1

I implore you to NOT agree to any changes in the seating arrangements at Masonic Auditorium. It should not be necessary to squeeze any more people in that place. It is a wonderful venue with excellent acoustics as is and I am tired of getting e-mails that yet another sneaky contractor is trying to rip the comfortable seating out. If Live Nation wants to host more people there are plenty of other venues in the city and area to accommodate the crowds and ticket sales.

I 6.2

NO MORE CHANGES AT MASONIC IS THE ONLY ACCEPTABLE SOLUTION AS FAR AS I AM CONCERNED.

I am a tax paying voting San Francisco resident that lives in the area of Masonic Auditorium.

Best regards,  
Annette

Annette Gawenda  
755 Bush Street, #202  
San Francisco, CA 94108



**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Monday, June 03, 2013 1:07 PM  
**To:** Donna Pittman  
**Cc:** SVettel@fbm.com  
**Subject:** FW: Masonic Project

---

**From:** Jones, Sarah  
**Sent:** Monday, June 03, 2013 12:47 PM  
**To:** Bollinger, Brett  
**Subject:** Fwd: Masonic Project

Sent from my iPhone

Begin forwarded message:

**From:** Verna Shaheen <[vernshah@aol.com](mailto:vernshah@aol.com)>  
**Date:** June 2, 2013, 1:15:49 AM EDT  
**To:** <[sarah.b.jones@sfgov.org](mailto:sarah.b.jones@sfgov.org)>  
**Subject:** Masonic Project

I want to go on the record as opposing the project and insist that a comprehensive	I 7.1
environmental impact study be done.	I 7.2
The impact on the surrounding	I 7.3
neighborhood is excessive. I also understand that a member of the planning	
department is a Mason and so should recuse himself from voting on the project.	
Thank you,	
Verna Shaheen	
415-771-3544	



**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Tuesday, June 04, 2013 8:51 AM  
**To:** Donna Pittman  
**Subject:** FW: DEIR or 1111 California Street, Masonic Auditorium Renovation Project,  
**Attachments:** CSFN DEIR Masonic renov 0603.doc

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**From:** Jones, Sarah  
**Sent:** Tuesday, June 04, 2013 8:49 AM  
**To:** Bollinger, Brett  
**Subject:** FW: DEIR or 1111 California Street, Masonic Auditorium Renovation Project,

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Sarah Bernstein Jones  
Acting Environmental Review Officer  
Acting Director of Environmental Planning

Planning Department | City and County of San Francisco  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
Direct: 415-575-9034 | Fax: 415-558-6409  
Email: [sarah.b.jones@sfgov.org](mailto:sarah.b.jones@sfgov.org)  
Web: [www.sfplanning.org](http://www.sfplanning.org)

**From:** Nancy Robison [[mailto:nancy\\_robison@sbcglobal.net](mailto:nancy_robison@sbcglobal.net)]  
**Sent:** Monday, June 03, 2013 1:39 PM  
**To:** Jones, Sarah  
**Cc:** Rahaim, John; [licwa@yahoo.com](mailto:licwa@yahoo.com); Li Chapman; [ninersam@aol.com](mailto:ninersam@aol.com)  
**Subject:** FW: DEIR or 1111 California Street, Masonic Auditorium Renovation Project,

[Dear Ms. Jones – I agree with everything in the attached message from Mr. Fukuda, I live at 1201 California Street, and the negative impact to our neighborhood from the Masonic events operated by Live Nation is huge and frequent. They blatantly ignore and violate the court order obtained by neighborhood activists, and seem unconcerned by this fact. When I called the police department regarding a recent incident where they had taken up the entire block of California with trucks, vans, loading personnel and equipment, the police called me back and said everything was fine, even though the cable car drivers were screaming at the Live Nation people because they could not get through. Everyone with even a casual knowledge of the situation understands that Live Nation are ruining the neighborhood. Please do everything in your power to shut this down. They need to go somewhere else to host events of this type.]

I 8.1

I 8.2

I 8.3

Thanks

Nancy Robison

Ms. Sarah Jones  
Acting Environmental Review Officer  
San Francisco Planning Department  
1650 Mission St., Room 400  
San Francisco, Ca 94103

June 3, 2013

Subject: DEIR or 1111 California Street, Masonic Auditorium Renovation Project,  
Case 2011.0471E

Dear Ms. Sarah Jones,

The Coalition for San Francisco Neighborhoods (CSFN) Land Use Committee believes the DEIR for the 1111 California Street Masonic Auditorium Project is incomplete, inadequate, and inaccurate. The outreach for the DEIR was inadequate and many neighborhood groups were unaware of this DEIR. We need proper outreach and adequate time to understand and review the DEIR. This is a real problem that needs to be addressed not only for this DEIR but for all DEIR. If the public input is important, the comment period needs to be increased to a minimum of 60 days. To limit the comment period is to stifle the public input. Outreach and adequate comment period is critical for a fair and open process.

**STUDY PERIOD:** The results are inaccurate because since the study period, there has been a significant increase in activity and increase in people on the weekends in the Polk Street bar/entertainment area. There are many newspaper articles on the bar scene in Polk Street, and that many young people flock to Polk Street on the weekends. The Muni ridership and capacity increase are not reflected in the study.

**PEDESTRIANS:** The attendees to the Masonic Auditorium are expected to walk up steep hills from the Stockton Parking Garage, a very difficult undertaking unless you are in good shape, and dressed for strenuous climb. The DEIR correctly states that the hills discourage pedestrians. Please note that many events are likely to require evening attire and high heels. It is unlikely that people will park at the bottom of the hill at the Stockton parking lot. Parking at the Masonic Auditorium is minimal and inadequate for major events.

**MUNI:** Many people do not take Muni to dressy events, and this was not considered in the DEIR. The DEIR report that the capacity during peak hours are only 50% or so. This is not important since many people do not take Muni to dressy events, or because of how long it would take with transfers and waiting for busses. Going to a Giants game or Forty-niner game where casual dress is the norm is one thing and taking Muni to a dressy event is very different. The limited capacity of Muni cannot be expected to be an effective means to attend and leave unless one accepts arriving an hour early and leaving an hour after an event. The capacity averages 54 riders. How many of the 3,300 people can be expected to use Muni. Are there any studies that provide a breakdown on the number of people who take Muni, how many use private automobiles, taxi, bike, or hike? The DEIR is deficient if that is not provided. We need a complete report, not one that outdated and inaccurate, incomplete, and insufficient.

**TRAFFIC:** The increase number of taxi cabs on California Street was not adequately considered in the very limited study. I have seen photos of the traffic congestion on California Street on Saturday nights, I was just a continuous line of headlights. California Street traffic is unique in that the cable cars are very slow moving and passengers unload in the traffic lanes with automobiles. Left turns and right turns also delay traffic and was not considered.

From page 280, "No single day of operation of the Center with the proposed renovations would be likely to cause greater than 1,600 motor vehicle trips per day, and because this level of traffic would be well below 10,000 vehicles per day project traffic would not substantially contribute to incremental health risks." This is very misleading because the important issue would be time period the traffic increase occurs; it will be compacted within a few hours. If that is extrapolated to a 24 hour period it would be well beyond the 10,000 trips per day.

Page 282, Impact C-AQ-1: The proposed project in combination with past present, present, and reasonably foreseeable future development in the project area would result in less than significant cumulative air quality impacts. (*Less than Significant*)

As discussed above, regional air pollution is by its very nature largely a cumulative impact. Emissions from past, present and future projects contribute to the region's adverse air quality on a cumulative basis. No single project by itself would be sufficient in size to result in regional nonattainment of ambient air quality standards. Instead, a project's individual emissions contribute to existing cumulative adverse air quality impacts.<sup>63</sup> The project-level thresholds for criteria air pollutants are based on levels by which new sources are not anticipated to contribute to an air quality violation or result in a considerable net increase in criteria air pollutants. Therefore, because the proposed project's construction (Impact AQ-1) and operational (Impact AQ-3) emissions would not exceed the project-level thresholds for criteria air pollutants, the proposed project would not be considered to result in a cumulatively considerable contribution to regional air quality impacts. Although the project would expand an existing use, resulting in additional vehicle trips and associated emissions, the project site is not located within an air pollution hot spot and the project's incremental increase in localized TAC emissions resulting from new vehicle trips would be minor and would not contribute substantially to cumulative TAC emissions that could affect nearby sensitive land uses. Therefore, cumulative air quality impacts are considered **less than significant** and will not be discussed further in the EIR.

Response: The cumulative impact of the increased activity on Polk Street and the 1600 vehicles increase in traffic over a few hours on Masonic Auditorium event nights will have a cumulative impact on GHG, especially on "Spare the Air Alert" warning days. We believe the impact is not "less than significant."

BIKE: Taking a bike to a dressy event is not likely to happen. The hills surrounding the Masonic Auditorium is also problematic unless the event is a very casual event, and this does not even consider body odor from biking up hills. Bikers must be very disciplined with their drinking because there will be an increase in the bar(s) or bartenders.

CUMULATIVE IMPACT: The cumulative impact on traffic and circulation is deficient because the DEIR did not account for the increase activity and increase number of young people coming and going to Polk Street. This has a greater impact than the events at the Fairmont Hotel. There needs to be a study of traffic and circulation in current environment.

CSFN opposes the DEIR for the 1111 California Street Masonic Renovation Project because it is inaccurate, inadequate, and incomplete.

Sincerely,

Hiroshi Fukuda, Chair CSFN Land Use and Housing Committee



Ms. Berit S. Muh  
1150 Sacramento Street  
San Francisco, CA 94108  
beritmuh@yahoo.com

June 3, 2013

Via Email: sarah.b.jones@sfgov.org

Ms. Sarah B. Jones  
Acting Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

RE: Comments on Draft Environmental Impact Report for Masonic Hall  
Case No. 2011.0471-E

Dear Ms. Jones:

I live in the Nob Hill neighborhood of San Francisco. I am writing to provide the San Francisco Planning Department ("Planning Department") with comments on the Draft Environmental Impact Report ("DEIR") for the Masonic Center, Case No. 2011.0471-E (the "Project"). For the reasons stated below, I believe the DEIR does not meet the requirements of California Environmental Quality Act ("CEQA").

### **Project History**

As a resident of Nob Hill, I have watched closely the planning applications made by the Project sponsor over the years. As discussed below, many of the facts and potential significant environmental impacts identified in prior projects are directly relevant to the proposed Project, yet those facts were inadequately discussed, mistakenly characterized or in some cases omitted from the analysis in the DEIR.

### *2010 Project*

In 2010, the Project sponsor's first attempt at expanding the Masonic Center into a full-blown music and late night entertainment venue, came before the San Francisco Planning Commission. In that application, the Project sponsor sought approval of a conditional use authorization to change the existing nonconforming entertainment use to "other entertainment", pursuant to Planning Code sections 182(b)(1) and 728.48, and to add permanent food and beverage service for patrons of entertainment and assembly events, pursuant to Planning Code section 238(D). That action would have allowed the Project sponsor to vastly expand the number of live entertainment events annually, increase alcohol sales at all of those events, and expand the times for events at the Masonic Center, all in violation of the existing

I 9.1

zoning in the Nob Hill Special Use District (“Nob Hill SUD”) and the wishes of the neighborhood’s residents and businesses. (the “2010 project”).

The 2010 project contained most of the same physical attributes as the proposed Project (eight concession stands, removal of fixed seating, etc.), but the 2010 project proposed 3,500 patrons during general admission events, 95 live large entertainment events with a start time of not later than 7PM (with 70 allowed to be general admission without assigned seating), and up to five events allowed to end at 2AM with the permission of the San Francisco Police Department, Planning Department and Entertainment Commission.

After lengthy and time consuming hearings before the San Francisco Planning Commission and with its staff, the 2010 project was approved by the Planning Commission in Case No. 2008.1072C, Motion No. 18042 with conditions. (See Exhibit A).

The Planning Commission’s Motion No. 18042 was appealed to the Board of Supervisors in April 2010. In May 2010, the Board of Supervisors disapproved the Planning Commission’s Motion No. 18042 and approved the issuance of a conditional use authorization adopting the Planning Commission’s conditions of Motion No. 18024, as amended by the Board (Motion No. M10-84, File No. 100588, May 18, 2010, attached as Exhibit B). The Board’s made 11 amendments to the conditions of approval in the Planning Commission’s Motion 18024 and added an additional four conditions of approval to that Motion. Chief among the Board’s amendments were its decision to reduce the number of patrons to 3,300 and permit a maximum of 85 live large entertainment events annually, with up to three events ending at 1:00AM with prior approval. Four lawsuits challenging these decisions were filed by interested parties.

### *2012 Project*

In January 2012, the Project sponsor applied for another conditional use authorization in its efforts to expand the number of shows at the Masonic Center, and allow for permanent and otherwise prohibited Type 47 liquor license approval in its effort to turn the Masonic Hall (and Nob Hill) into a full-blown music and late night entertainment district (the “2012 project”). The 2012 project sought approval of a conditional use authorization to continue the existing nonconforming assembly and entertainment use, and the existing food and beverage service uses at the Masonic Center pursuant to Planning Code Sections 185(e) and 303. As noted in the Departments hearing report, “no enlargement, intensification or extension of the existing nonconforming use” was to be permitted in order to minimize impacts to the surrounding neighborhood.

The Planning Commission approved the 2012 project with conditions (Case No. 2011.0471C, Motion 18520. (See Exhibit C).



The Planning Commission's conditions of approval included setting the maximum number of patrons per live entertainment event at 3,282 and setting an annual maximum of 68 live large entertainment events and an annual maximum of 219 events not involving live entertainment. (See Findings 33, 34, respectively, Motion 18520). The Planning Commission Motion 18520 was appealed to the Board of Supervisors in February 2012.

**I 9.1  
(cont.d)**

In April 2012, the Board of Supervisors, in its unanimous Motion M12-42, File 120185, voted to disapprove the decision of the Planning Commission's Motion 18520 and approved the conditional use as set forth in the Planning Commission Motion 18520 with amendments. (See Exhibit D, Motion M12-42). The Board of Supervisors amendment permitted 54 live large entertainment events and another 175 events not involving live entertainment at the Masonic Center. The Project sponsor did not seek authorization that would have allowed for a Type 47 liquor license or any intensification of use at the Masonic Center in its 2012 Project application.

#### *The October 2012 Settlement*

**I 9.2**

In October 2012, I was made aware that the Nob Hill Coalition and the Nob Hill Association had agreed to settle all of its disputes with the Project sponsor, and that the Project sponsor had accepted the terms of the settlement proposed which incorporated all of the 2012 project conditions as approved by the Board and several additional conditions agreed upon by the settling parties, including the Project sponsor (the "2012 Settlement"). A synopsis of the key terms of the settlement agreement, as I understood it, follows:

1. The number of live large entertainment events limited at 54 annually;
2. Food and beverage serving stations, including bars, would be limited to four concession facilities open to the public and one concession facility in the VIP lounge;
3. Only two public serving stations would be open for events of 2,000 people or less;
4. No concession facilities, including bars, would be permitted in the auditorium;
5. A restriction would be placed on the venue prohibiting the venue from expanding or intensifying the approved use (i.e. 54 live large entertainment events) for 20 years;
6. The Project sponsor would contribute a total of \$300,000 in 2013 and 2014 to a Huntington Park non-profit for the improvement and maintenance of Huntington Park with additional contributions over time;
7. All deliveries and loaded would be conducted from the loading dock on Pine Street, except for sound and lighting equipment which was allowed to be delivered, if necessary, during limited periods from California Street;
8. Priority ticket rights would be granted to Nob Hill residents;

9. The Project sponsor would implement a School Music Program for District 3 schools;
10. Additional Security and Monitoring requirements were required. (See Exhibit E).

**I 9.2**  
**(cont.d)**

With those points in mind, and the satisfaction of knowing that the neighborhood had agreed upon the terms of the conditional use authorization and settlement, I was therefore shocked to see that the Project sponsor was now seeking approval for the vastly intensified, vastly enlarged proposed Project. After all of the promises made by the Project sponsor, all of the hearings attended, all of the conditions imposed by the Planning Commission and Board of Supervisors limiting the number of patrons and number of live large events (and taking actions that would have prohibited a Type 47 liquor license), and the 2012 Settlement, it appears now that the Project sponsor is seeking to evade the past, ignore the Board and the neighborhood, and bring a full-blown live large music and entertainment district to this RM-4 district in violation of all of the zoning for the site. The DEIR should not be used to environmentally clear the proposed enlarged Project that runs counter to the 2012 Settlement (and 2012 CU approval) especially since the DEIR fails to adequately describe 2012 Settlement and the Project's environmental impacts from that baseline.

#### *Proposed Project*

**I 9.3**

The Project sponsor's current scheme seeks conditional use authorization to change the authorized nonconforming assembly and entertainment use to a conditionally permitted "Other Entertainment" use (Planning Code Section 182(b)(1)) and for intensification of that conditional use (Planning Code Section 723.48) or alternatively, the Project sponsor's request for amendments to the Nob Hill SUD (Section 238 of the San Francisco Planning Code) to authorize the intensification of a large, nonconforming assembly and entertainment use within the Nob Hill SUD. The proposed Project seeks to environmentally clear a significantly more intense proposed Project, with a substantial increase in the number of live large entertainment events annually, that would, in most likelihood, allow for a Type 47 liquor license. The DEIR, however, does not adequately address all of the prior actions and potentially significant environmental impacts from the much larger and substantially more intense proposed Project.

#### The intensification proposed is extraordinary.

**I 9.4**

Now, the Project sponsor seeks to increase the number of live large entertainment events from 54 to 95, a whopping 76% increase. This gigantic increase in live large entertainment events is compounded by the Project sponsor's proposal to also increase the number of other large events from an existing annual maximum of 220 large events to an annual maximum of 315 such events, a 43% increase in the number of large events. Imagine what the Nob Hill residential and historically

significant SUD will look like when there is a large entertainment event occurring more than six days and nights per week!

A summary of the 2010 Project, the 2012 Project, the 2012 Settlement, and the proposed Project is shown in the following chart.

<b>2010 Project</b>	<b>2012 Project</b>	<b>2012 Settlement</b>	<b>Proposed Project</b>
85 Live Large Entertainment Events	54 Live Large Entertainment Events	54 Live Large Entertainment Events	95 Live Large Entertainment Events (76% Increase)
*** Events Not Involving Live Entertainment (No limitation)	176 Large Events Not Involving Live Entertainment	176 Large Events Not Involving Live Entertainment (with no expansion for 20 years)	220 Large Events Not Involving Live Entertainment (26% Increase)
Upgraded Kitchen (Approval would potentially permit Type 47 liquor license)	No Upgraded Kitchen (Approval did not include possibility of a Type 47 liquor license)	No Upgraded Kitchen (Approval did not include possibility of a Type 47 liquor license)	Upgraded Kitchen (Approval would potentially permit Type 47 liquor license)
8 Concession Stands	5 Concession Stands	5 Concession Stands-None in auditorium	8 Concession Stands
RM-4 and Nob Hill SUD	RM-4 and Nob Hill SUD	RM-4 and Nob Hill SUD	RM-4 and Nob Hill SUD
Close proximity to 4 historic structures, 1 school, 1 public park, 6 institutions, 4 hotels, and 7 residential buildings	Close proximity to 4 historic structures, 1 school, 1 public park 6 institutions, 4 hotels, and 7 residential buildings	Close proximity to 4 historic structures, 1 school, 1 public park 6 institutions, 4 hotels, and 7 residential buildings	Close proximity to 4 historic structures, 1 school, 1 public park, 6 institutions, 4 hotels, and 7 residential buildings
3,500 Patrons	3,166 Patrons	3,166 Patrons	3,300 Patrons

Clearly, the proposed Project represents a scheme to significantly intensify the Masonic Center and the impacts from that massive intensification will be significant.

One would hope that the City's public process, including Board of Supervisor's approvals involving the 2010 and 2012 projects, and the 2012 Settlement, all of

which accomplish most of the Project sponsor’s objectives, and were reached with the consent of the Project sponsor, the neighbors, and other City agencies, would be respected as final. Unfortunately, the Project sponsor insists on ignoring the prior results that sought to protect the environment and the neighborhood in the vicinity of the Project and intends instead to intensify the nonconforming use in this RM-4 district.

**I 9.5  
(cont.d)**

Fortunately, the DEIR is so riddled with defects that this practical argument for denial of the DEIR, when it comes before the Commission and Board of Supervisors, is not the only argument available. Rather, for the reasons stated herein, the DEIR does not meet the requirements of CEQA.

**I 9.6**

### **Misleading and Incomplete Statements and Analysis In The DEIR**

**I 9.7**

DEIR is replete with misleading and incomplete statements.

On page S.2, the DEIR states that the proposed renovations would not change the Center’s existing “total assembly space capacity”. That statement is not entirely accurate. While the total floor space may not change under the proposed Project, it is unquestioned that the capacity for event attendees (as opposed to fixed floor space) is proposed to increase from 3,166 to 3,300.

**I 9.8**

On page 2.3, the DEIR states that the Initial Study determined that the proposed Project would have less-than-significant impacts on cultural resources, air quality and greenhouse gas emissions. Accordingly, there is no analysis in the DEIR on these issues. However, substantial arguments and facts support a conclusion that increases in the number of events and increases to the number of patrons per event would result in potentially substantial adverse changes and impacts on greenhouse gas emissions, air quality and impacts to the cultural resources in the vicinity. For example, the increase in the number of events and the increase of patrons per event will result in more cars, taxis and other private auto services per event, which in turn will result in more air pollution, carbon emissions and vehicular traffic, which will impact the air quality and increase greenhouse gas emissions. These same facts—more live entertainment events and more patrons at those events—will also result in potentially substantial adverse impacts on cultural resources in the immediate vicinity of the Project (Huntington Park, Grace Cathedral, Pacific Union Club, Cathedral School, etc.).

**I 9.9**

On page 2.9, the DEIR states that the concourse area contains a “small” food preparation area, two portable food and beverage areas...” The food preparation area should not be described as “small” (or for that matter, “large” or “medium sized”), but instead should be described by its actual square footage and other physical features. In fact, Figure 2.4 seems to indicate that the “former catering kitchen” is now the same size as the “new commercial kitchen”

Table S.1, at page S.4, LU-2 states that the proposed Project will not conflict with any applicable land use plan and therefore no mitigation and improvement measure is required. This is not an accurate statement as the Project in fact conflicts with the existing zoning on the site, as well as the April 2012 CU authorization (and the 2012 Settlement).	I 9.10
Moreover, when the 2010 and 2012 projects came before the Planning Department, Planning Commission and Board of Supervisors each time there were important conditions attached to those smaller projects, conditions which work most closely as appropriate mitigation measures for the intensification of use proposed by the proposed Project. The DEIR should analyze and address all of the prior conditions of approval from the 2010 ad 2012 projects and all of those conditions of approval should be incorporated into the DEIR as mitigation measures to address the impacts from the Project.	I 9.11
Table S. 1, at page S.4, LU-3 states that the proposed Project would not have a substantial adverse impact on the existing character of the vicinity and that no mitigation and improvement matters are therefore required. However, substantial arguments and facts support a conclusion that increases in the number of events and the increases to the number of patrons per event would result in potentially substantial adverse changes and impacts on the character of neighborhood, and the cultural resources in the vicinity. This is especially true given that the rational for reducing the number of live entertainment events in the 2010 project and the 2012 project was made to protect the existing character of the neighborhood vicinity from substantial adverse impacts.	I 9.12
Table S.1, TR-1 and the DEIR ignores the Board of Supervisors conditions of approval/mitigation measures from the 2010 and 2012 project approvals.	I 9.13
Table S.1, TR-3 and the DEIR ignores the Board of Supervisors conditions of approval/mitigation measures from the 2010 and 2012 project approvals.	
Table S.1 and the DEIR fails to incorporate other important conditions of approval from the 2010 and 2012 project approvals, including failing to impose all of the previously approved conditions governing the consequence for the Project sponsor's failures to satisfy the conditions (i.e. mitigation measures) that have already been approved for the Project.	I 9.14
These, and other, factual problems with the DEIR render it inadequate and incomplete in its analysis, and as a result the DEIR does not meet the requirements of CEQA.	I 9.15
<b>The DEIR Inadequately Analyzes The April 2012 CU Authorization and 2012 Settlement</b>	I 9.16
In April 2012, after years of public process and governmental hearings and approvals, the Board of Supervisors approved the April 2012 CU authorization which at that time satisfied the Project sponsor's objectives and represented its	↓

request for zoning authorization. Shortly thereafter, the parties, I believe, agreed on the 2012 Settlement.

**I 9.16  
(cont.d)**

As a local resident, not involved in the April 2012 CU authorization or the 2012 Settlement, I believed then, and continue to believe now, that the April 2012 CU authorization and the 2012 Settlement were intended to set the parameters for the uses at the Masonic Center. It was my understanding that the Project sponsor was willing to live with the terms of the April 2012 CU authorization and 2012 Settlement, including the number of events permitted, liquor license restrictions imposed, mitigations required, and the other conditions of approval required to allow for the continued operation of the site as a non-conforming use in the Nob Hill SUD.

Now, for the first time through reading the DEIR, I became aware that the Project sponsor doesn't believe that its objectives can be met without violating the terms of the April 2012 CU authorization and the 2012 Settlement. The Project sponsor is seeking to ignore the April 2012 CU authorization and 2012 Settlement without substantial justification and without complying with the requirements of CEQA in order to vastly intensify the use at the Masonic Center by having almost daily large entertainment events and at least one live large entertainment event weekly in this RM-4 residential neighborhood in violation of the Project sponsor's prior statements, the Board's prior decisions and the neighborhood's prior opposition.

### **The Project Description And Objectives Are Inadequate**

**I 9.17**

The Project description attempts to hide the true rationale for the proposed Project through all sorts of neutral words and phrases. The true Project description should reflect the Project sponsor's objectives which are to get more revenue from more patrons from more live large entertainment events and more large entertainment events, where more patrons can drink more liquor from more VIP lounges with more general admission attendance.

The DEIR also fails to describe the Project adequately. Among other reasons, it fails accurately to describe the number, nature and size of future events and fails to describe the real reasons behind this proposed Project. The Project sponsor's objective is to increase the number and size of live entertainment events and , through a change in the zoning, obtain a Type 47 liquor license for the Project solely to maximize revenue at the expense of the neighborhood and in contravention of years of planning and good faith negotiations. The DEIR has limited the Project description by ignoring those key points in an effort to undercut the public's review of the proposed Project. The DEIR and Project sponsor should accurately describe the Project for what it is—a major intensification of use in a RM-4 district that seeks to ignore all of the planning laws and citizen's involvement in the past.

**I 9.18**

Simply put, the stated objectives completely ignore the facts of what has been said in the past and what has occurred with the Project's earlier iterations both before the

Planning Commission and the Board of Supervisors. The proposed Project presents no new features of the Project description or Project objectives that could be used to support the proposed Project in light of the Board of Supervisor's and Project sponsor's agreements made in the April 2012 CU authorization.

**I 9.18  
(cont.d)**

Moreover, in an expression of how far the DEIR is willing to go to ignore the facts, there is no other reference in the DEIR as to how the Project objective of "supporting economic vitality of other hotels in the vicinity" is met by the proposed Project. And, there is no acknowledgement that even without the proposed Project, the Project sponsor has already been able to attract full time professional management to operate the Project site in a professional and successful manner. Clearly, the proposed Project is not necessary to meet either of those Project objectives as one is completely ignored in the DEIR and the other has already occurred without the proposed Project being approved.

**I 9.19**

Additionally, the Project Description is inadequate under the requirements of CEQA in the following areas:

**I 9.20**

1. Although the Project description identifies spatially the various historic, public, cultural and institutional projects in the vicinity of the proposed Project, the DEIR's description of those projects in the vicinity is not sufficiently comprehensive to allow for the required analysis of significant impacts on those projects resulting from the proposed Project.

2. In the subsection entitled "Project Characteristics", paragraph 1, the DEIR fails to describe the proposed renovation for the kitchen and bar areas.

**I 9.21**

3. The section entitled "Proposed Food and Beverage Concession Operations" states that "Three additional portable food and beverage concession areas are proposed ... for a total of up to eight concession areas...each with several points of sale." The proposed authorization for portable food and beverage concessions are not consistent with Nob Hill SUD, nor is the Type 47 liquor license request consistent with the ABC regulations governing approval of a Type 47 liquor license or prior San Francisco Police Department decisions involving the Project. The DEIR Project description is not accurate on these points.

**I 9.22**

4. The section entitled "Project Approvals" fails to state that the SF Police Department will be asked to place conditions on the liquor license request pursuant to Planning Code Section 1298.

**I 9.23**

### **Inconsistency with City Plans, Policies and Codes**

**I 9.24**

#### **A. *Inconsistency With Relevant City Agency Plans and Policies***

The DEIR fails to analyze the proposed Project's inconsistencies with several important City plans and policies impacting the proposed Project, including the SF

Entertainment Commission's plans and policies for entertainment events, such as the Department's "Neighborhood Outreach Policy for Permit Applicants", the SF Police Department's plans and policies for liquor licenses (as well as those for the State ABC), the Department of Public Works Garbage Recycling Receptacles Policy, Streets and Sidewalks Maintenance Policy and the City's smoking ordinance and policies, especially since the proposed Project calls for outdoor smoking. Most of these plans and policies were expressly addressed in the 2010 and 2012 Project approvals, but none were adequately addressed in the DEIR.

I 9.24  
(cont.d)

*B. Inconsistency with the Nob Hill Special Use District*

I 9.25

The Nob Hill SUD, Planning Code Section 238(d) permits as a conditional use eating and drinking uses as defined in Planning Code Section 790.34.

Planning Code Section 790.34 defines eating and drinking uses as a retail use which provides food and beverages on site including Bars, Restaurants and Limited-Restaurants and Take Out Food.

Planning Code Section 790.22 defines "Bar" as a retail use which provides on-site beer, wine and alcohol sales where no person under 21 years old is allowed and drinking establishments where persons under 21 are allowed (such as the proposed Project), but only under a Type 42 or 60 permit, not a Type 47 liquor license.

Planning Code Section 790.91 defines "Restaurant" as a retail use or eating and drinking use which serves food to customers on-site or off-site and which may allow for the sale of beer, wine or alcohol on-site pursuant to a Type 47 liquor license if the "Restaurant" is a "Bona Fide Eating Place" as defined in Planning Code Section 790.142 and the restaurant complies with the controls set forth in Planning Code Section 703.5.

Planning Code Section 790.142 defines "Bona Fide Eating Place" as a place that is kept open for the serving of food to guests and includes a requirement that a minimum of 51% of the places gross receipts shall be from food sales sold to guests on the premises.

When read together, the above-referenced Planning Code Sections prohibit the zoning application sought, including the Type 47 liquor license in the Nob Hill SUD, unless the same are a part of a bona fide eating place that has at least 51% of the place's gross receipts from the sale of food to guests on the premises. Clearly, the proposed Project has no intention or hope of ever meeting that requirement and accordingly, the proposed Project runs counter to the zoning in the Nob Hill SUD.

Moreover, the proposed Project's objectives to increase the number of events, increase the number of patrons per event and authorize a liquor license permit that is otherwise prohibited also runs counter to the April 2012 CU authorization for the

I 9.26

Project site. For these reasons too, the DEIR's conclusion that the proposed Project does not violate existing zoning policies is inaccurate and misleading.

I 9.26  
(cont.d)

*C. Conditional Use Authorization Under Section 182 Is Not Appropriate*

I 9.27

The Project sponsor has also sought approval under Planning Code Section 182(b)(1), seeking to change the currently authorized nonconforming assembly and entertainment use to a conditionally approved "other entertainment" use and for intensification of such a conditionally approved other entertainment use pursuant to Planning Code Section 723.48.

Planning Code Section 182(b)(1) permits a nonconforming use within a residential district to change to another conditional use provided the nonconforming use is located within ¼ mile from any individual area Neighborhood Commercial District ("NCD") that permits that use. Here, the NCD is within 1/4 mile is the Polk Street NCD. However, as discussed below, the Board of Supervisors, in File Number 121065, recently determined that no new on-sale or off-sale liquor establishment, excluding an establishment that operates as a bona fide eating place as defined in Section 790.142, shall be permitted in Polk Street NCD. Since the nearest NCD within ¼ mile of the Project prohibits the very type of liquor license sought by the proposed Project, and since the proposed Project is not a bona fide eating place, as defined in Planning Code Section 790.142, the allowance provided in Planning Code Section 182(b)(1) is not applicable for the proposed Project. This result is not only required by the current dictates of the Planning Code, but is also consistent with the Board's 2012 CU authorization, and prior Zoning Administrator decisions. (See Zoning Administrator decisions on file with the Department). The DEIR fails to adequately discuss the adverse effects on land use when the intensification of the existing nonconforming uses is inconsistent with the RM-4 and nearby NCD use districts.

*D. The San Francisco Police Department Will Again Have To Participate In The Application For A Type 47 Liquor License.*

I 9.28

It is my understanding that the San Francisco Police Department participated in the earlier applications by the Project sponsor and during at least one such application, the Department opposed the Project sponsor's request for a Type 47 liquor license. (See testimony of Captain Anna Brown, 2010 Planning Commission hearing on 2010 project). The DEIR fails to adequately or accurately analyze the Police Department's role in the application process and the facts surrounding the Police Department's involvement with the Project sponsor's prior applications. The Police Department's prior actions involving the 2010 and 2012 projects should have been analyzed and addressed in the DEIR.

*E. The State ABC Rules Prohibit The Request For A Type 47 Liquor License.*

According to the Department's property information for the Project site, the California Alcohol and Beverage Commission ("ABC") denied an earlier permit request by the sponsor for a Type 47 liquor license (Case Number MB0901125). The basis for that fact presumably had to do with, among other things, the fact that the Project is not a "bona fide eating place" and facts provided to the ABC by the San Francisco Police Department. The facts involving the ABC permit disapproval are relevant to the proposed Project and its potential impacts on public safety, pedestrian safety, and impacts on the surrounding vicinity, and should have been addressed in the DEIR.

I 9.28  
(cont.d)

### **Inconsistencies With Current Land Use and Zoning**

I 9.29

The DEIR fails to adequately analyze the Polk Street neighborhood commercial district as a land use in the Project vicinity. This failure is critical not only because it completely ignores the one neighborhood/land use to the west of the Project site (the neighborhoods and land uses to the north, south and east are all described), but it fails to take into consideration the recent legislative enactments by the Board of Supervisors in the Polk Street district prohibiting new liquor licenses. (Board of Supervisors File No. 121065). The DEIR should study the impacts on land uses in the complete vicinity of the proposed Project and the cumulative impacts that will follow, by analyzing and discussing all of the neighborhoods in the vicinity, not by excluding the one neighborhood that has had some of the very types of problems that were sought to be avoided when the Board approved the April 2012 CU authorization and which have now been addressed by a liquor license prohibition of the very type sought by the Project sponsor.

The DEIR fails to adequately analyze the impacts of the requested change in the Nob Hill Special Use District and there is inadequate analysis of how the conditions of approval from the 2010 and 2012 Project approvals (and the 2012 Settlement) should, would and could set standards for the analysis undertaken in the DEIR. Moreover, the Board of Supervisors has previously (and again just recently) voted on the matter involving liquor licenses in the Nob Hill Special Use District, both through its approval of the April 2012 CU authorization and more recently with its approval of the Polk Street liquor license prohibition, the immediately adjacent zoning district within ¼ mile of the Nob Hill SUD. The Board's prior (and recent) actions were adopted for the specific purpose of avoiding environmental impacts in the vicinity of the Project, and those legislative actions should be respected. Yet, nowhere in the DEIR is this fact acknowledged, discussed or analyzed to the level required by CEQA.

I 9.30

### **Aesthetics/Scenic Vistas**

I 9.31

The proposed Project would substantially increase the number of live entertainment events and the number of patrons at those events. The new events are expected to be "large" events with late night crowds. In order to service these

large, late night events, it is expected that semi-trailer trucks and large RV-type performer's buses would be parked in front of the Project site on California Street.

The Project site sits at the top of Nob Hill. No-parking signs will be posted almost on a daily basis on that portion of California Street where the large trucks and RV-type performer's buses will be parked and This is one of the most scenic vistas in San Francisco, with the views to the East punctuated by a clear line of sight down from Nob Hill, through Chinatown and onto the Financial District, the Bay, the Bay Bridge and parts of the East Bay, and views to the west punctuated by a clear line of sight from Nob Hill through Polk Street and over into Pacific Heights and the hills of San Francisco.

The parking of large trucks and RV-type buses before, during and after large events, which will be occurring six times per week (on average) and the posting of no-parking signs will substantially impact the scenic vistas that currently exist from the Project site. There has been scant, if any analysis, and no photographic montages, of what the neighborhood will look like with trucks and RV-type buses parked at the top of Nob Hill. At a minimum, the DEIR should undertake that level of analysis. These potential impacts were not adequately studied in the DEIR.

**I 9.31  
(cont.d)**

### **Noise Pollution and Impacts**

The DEIR concludes that the noise impacts will not be significant. However, it is easy to image, and the facts from past live large entertainment events would assist in supporting the argument, that potential noise impacts will occur from more patrons at more large entertainment events and more live large entertainment events, with more vehicular traffic on more event days and nights, necessitating more truck and loading traffic all in a RM-4 district. Based on experience of residents of the neighborhood, including myself, we know that large music events do get quite rowdy and noisy especially during larger, rock and roll events. The regular and on-going noise from the events held at the Project site will have an adverse impact on the residents living within and persons visiting the hotels and cultural areas within the Nob Hill Special Use District area. These potentially adverse impacts were not adequately studied in the DEIR.

**I 9.32**

### **Light Pollution and Impacts**

The light impacts are not adequately addressed or studied in the DEIR as there appears to be no analysis whatsoever of the light pollution level increases from more large entertainment events and more live large entertainment events, with more vehicular traffic on more event days and nights, necessitating more truck and loading traffic all in a RM-4 district. Residents of the neighborhood have first hand knowledge of the light pollution impacts and pollution that occurs from know large music and entertainment events. The regular and on-going increases to lighting to protect patrons of events and residents and drivers from the events held at the proposed Project will have an adverse impact on the residents living within and

**I 9.33**

persons visiting the hotels and cultural areas within the Nob Hill Special Use District area. These potentially substantial impacts were not adequately studied in the DEIR.

**I 9.33  
(cont.d)**

### **Public Safety Impacts And Enforcement**

**I 9.34**

A consistent theme throughout the many iterations of the proposed Project has been the legitimate concerns expressed by the neighbors and the Police Department as a result of more live entertainment events with more patrons drinking more alcohol in a RM-4 neighborhood. In fact, the 2010 project approval had six conditions of approval that addressed public safety concerns or provided real enforcement measures in the event the Project sponsor did not live up to the terms of that Project approval. (Conditions Number, 15, 37, 38, 39, 40, 41). Similarly, the 2012 project approval had seven conditions of approval which either address mitigation measure to allay public safety concerns or provide real enforcement measures in the event the Project sponsor did not live up to the terms of that project approval. (Conditions Numbers 17, 18, 19, 23, 30, 31, 32). Given the similarities between the proposed Project and the 2010 and 2012 projects, the DEIR should have analyzed all of the public safety and enforcement conditions imposed by the Board of Supervisors as appropriate mitigation measures for the proposed Project.

### **Inadequate Analysis of Traffic and Transit Impacts**

**I 9.35**

The DEIR attempts to meet its CEQA obligations on the issues of adverse traffic and transit impacts through the Department's analytical tools and modeling. Again, however, a fact-based analysis based on prior experience indicates that the additional traffic and impacts on transit resulting from the additional events at the Masonic Center on six out of seven days and nights would result in potentially substantial adverse changes and impacts on the neighborhood. Cars, buses and RV-like trucks will be queuing on California Street both before and after the almost nightly shows, and there is inadequate analysis of transit frequency, especially late night transit frequency. The DEIR inadequately analyzes the significant impacts from on the MUNI system and especially the ridership and passenger loading/unloading that will take place on California Street cable cars and Sacramento Street buses due to the event queuing and lack of adequate MUNI service in the vicinity. The DEIR should fully analyze all of the impacts on traffic and transit in the neighborhood.

### **Inadequate Analysis of Pedestrian Safety and Mobility**

**I 9.36**

Again, the DEIR inadequately studied the impacts from the proposed Project on pedestrian safety and mobility. The same arguments that apply throughout this letter, namely that the additional traffic resulting from the additional events at the Masonic Center on six out of seven days and nights would result in potentially substantial adverse changes and impacts on the neighborhood, applies with equal force to the DEIR's deficiencies on the issue of pedestrian safety and mobility.

Moreover, many of the public safety measures addressed in the 2012 CU authorization and the 2012 Settlement were adopted to protect pedestrians, and those conditions should have been addressed in the DEIR.

I 9.36  
(cont.d)

#### **No Analysis Of Cumulative Impacts From Proposed Project (Fairmont Hotel and MTA Capital Project for California Street and California Street Cable Car)**

I 9.37

The Fairmont Hotel renovations are a potentially likely new project in the vicinity in the future, yet the DEIR fails even to mention it as a potential cumulative impact. The likelihood that the Fairmont Hotel will be renovated is no less speculative than the possibility that the Academy of Art may purchase additional buildings in the vicinity. Rather, the Fairmont Hotel renovation project has been in the news for years. The DEIR should have analyzed the cumulative impacts resulting from the combination of the adverse impacts of the proposed Project with the related impacts caused by the Fairmont Hotel renovations.

Likewise, the MTA has proposed a capital project for the renovation of California Street and the California Street cable car. The DEIR failed to discuss this potentially likely project as a cumulative impact.

I 9.38

#### **Insufficient Analysis of Off Street Parking Impacts**

I 9.39

The off street parking impacts analysis is virtually identical to the analysis and findings made in the 2010 project approvals and the 2012 project approvals, yet the size and number of events proposed in the proposed Project has grown significantly. As a result, the analysis for off street parking impacts can not simply rely on the words from the prior approvals as they're value does not equate to the much larger number of live entertainment events as proposed by the Project sponsor.

#### **Failure to analyze the impacts from large, live events on the public park, and historic culturally significant resources in the vicinity.**

I 9.40

The DEIR inadequately addresses the impacts that party-goers will have on the public park (Huntington Park) and historic and culturally significant resources (e.g. Pacific Union Club, Fairmont Hotel, Grace Cathedral, etc.) in the vicinity following live entertainment events. There is virtually no analysis in the DEIR on the impacts from the proposed Project to those resources in the immediate vicinity and directly across the street from the proposed Project. With an increase of almost 78% in the number of events that would occur from the proposed Project, it is inconceivable that the DEIR failed to analyze such impacts with any rigor whatsoever.

#### **No Analysis of Impacts to the Masonic Hall**

I 9.41

In the 2010 project approval, the Planning Commission and the Board of Supervisors approved a condition of approval that required the Project sponsor to work with the Planning Department to ensure that all future exterior alterations,

including signage, are consistent with the Secretary of the Interiors Standards for Treatment of Historical Properties. Impacts associated with historic structure mandates should have been analyzed in the DEIR and mitigation measures, similar to that imposed by the Planning Commission and the Board in 201 should have been included in the DEIR.

I 9.41  
(cont.d)

### Alternatives Analysis Confirms There Are Environmentally Superior Alternatives.

I 9.42

The CEQA Guidelines requires that an EIR evaluate “a range of reasonable alternatives to the Project...which would feasibly attain **most** of the basic Project objectives but would avoid or substantially lessen any of the significant effects, and evaluate the comparative merits of the alternatives. (Emphasis added).

As noted above, and as shown in the chart below, most of the Project sponsor’s objectives would be met if the No Project Alternative or the Reduced Number of Live Entertainment Events/Alternative C were adopted.

#### ALTERNATIVES

Objectives	No Project Alternative (Implements the April 2012 CU authorization)	Alternative C (Includes all of the same features as the proposed Project but would permit the number of annual live entertainment events at 79 and would permit 5 concession stands with multiple points of sale)	Proposed Project
Increase Revenue-Generating Uses	Yes. The Project as it stands today with its full-time professional management can increase revenues from the project.	Yes. The as described in Alternative C, with its full-time professional management in place, can increase revenues from the project.	Yes.
Increase Number of Events	No.	Yes. Alternative C would increase the number of large	Yes.

		live events with a maximum limit of 54 large live entertainment events per year, as determined by the Board of Supervisors.	
Modernize and Renovate the Obsolete Assembly and Entertainment Facilities	No.	Yes. As stated on page 6.12, "except for the elimination of three proposed concession area, the Reduced Number of Live Entertainment Events and Concession Area Alternatives would have <b><u>all of the same physical features of the proposed Project</u></b> , including renovations to the main floor of the Auditorium" (emphasis added)	Yes.
Provide Improved Nearby Meeting and Assembly Space to Support Five Nearby Nob Hill Hotels	Possibly. Although arguably, the professional management team should be able to provide more space to accommodate the nearby hotels even with the No Project Alternative.	Yes. See above.	Yes.
Provide A State-of-the-Art venue able to attract and retain full-time professional management	Yes. Already in place with the hiring of Live Nation.	Yes. Already in place with the hiring of Live Nation.	Yes.



Provide Improved food and beverage services to attendees, including serving alcoholic beverages pursuant to a Type 47 liquor license and providing on site food preparation at permanent and temporary concessions.	No (with caveat). The No Project Alternative would not include any new improved food and beverage services, but would allow the project to continue operating under its current permits, which has already proven to be professionally managed and successfully operated. The only aspect of this objective not met would be the request for a Type 47 liquor license, which is prohibited in the district, and is clearly not required to meet the Project sponsor's objectives.	Yes (with caveat) Alternative C would allow the Project to improve its food and beverage services by increasing the number of food and beverage concession areas and allow the Project to continue operate under its current permits, which has already proven to be professionally managed and successfully operated. The only aspect of this objective not met would be the request for a Type 47 liquor license, which is prohibited in the district, and is clearly not required to meet the Project sponsor's objectives.	Yes.
Improve other venue amenities including a VIP lounge in the California Room and enhanced sound and lighting systems in the Auditorium.	Yes. Even under the No Project Alternative, both of those objectives could be met.	Yes. Under Alternative C a VIP lounge in the California Room and enhanced sound and lighting systems in the Auditorium would occur.	Yes.

In summary, the discussion on pages 6.14 through 6.18 clearly articulates why the proposed Project should not be approved. In fact, as noted in those pages, Alternative C "would achieve most of the basic Project objectives" yet would have

less environmental impacts at the site and to the neighborhoods in the immediate vicinity. It is for this reason that the DEIR concludes that “besides the No Project Alternative, the environmentally superior alternative would be the ‘Reduced Number of Live Entertainment Events and Concession Areas Alternative’ ”. Accordingly, most of the Project sponsor’s objectives are not dependent on the approval of the proposed Project but rather can be met by Alternative C (and even the No Project Alternative).

I 9.42  
(cont.d)

### **The DEIR Does Not Adequately Address Mitigation Measures**

I 9.43

As stated throughout this letter, the 2010 and 2012 project approvals contained lengthy and detailed conditions of approval that are at odds with the proposed Project. The DEIR concludes, not on the basis of any rigorous analysis, that the proposed Project will have less than significant impacts on the environment. Yet, the Board of Supervisors imposed numerous conditions of approval on the prior project that are not all incorporated into the mitigation measures and improvement measures discussed in the DEIR. The DEIR should analyze and incorporate the conditions of approval from the prior projects.

### **Lack of Consultation**

I 9.44

Page 7.2 shows that the Project Sponsor made no effort to inform the neighborhood residents and owners of the proposed Project. Rather, the Project sponsor and the Department only consulted with seven individual/organizations, four of whom are interested parties given their relationship to the Project and the other three are appropriate city agencies (MTA, Police Department and Fire Department). To my knowledge, at no time did the Department or the Project sponsor seek input on the proposed Project from any of the other residents or from any of the institutional, commercial, educational, or religious neighbors in the vicinity.

### **Violation of Planning Department Guidelines**

I 9.45

Given what appears to be an effort to ignore the rules of the game that resulted from the April 2012 CU authorization, I am concerned that other recognized rules of the game, may also have been ignored. Accordingly, please provide the public with answers to the following questions:

1. At any time, did the Department staff or the Department’s consultants provide administrative drafts, or portions of administrative drafts, of DEIR deliverables to the Project sponsor, its counsel or consultants, in violation of Section 2.4.2 of the Department’s “Environmental Review Guidelines”?
2. If so, when did that occur and what deliverables were provided?

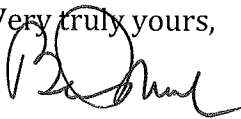
3. At any time, did the Department staff or the Department's consultants violate any of the other provisions of Section 2.4.2 of the Department's "Environmental Review Guidelines"?
4. If so, when did such violations occur and what was involved?
5. At any time, did the Department staff or the Department's consultant engage in discussions (written, oral, telephonic or electronically) with the Project sponsor, its counsel or consultants regarding material changes to the analysis or conclusions of the DEIR in violation of Section 2.4.3 of the Department's "Environmental Review Guidelines"?
6. If so, when did any such discussions occur and what was discussed?
7. Are any of the EIR consultants also providing any services to the Project sponsor?
8. What community outreach efforts were undertaken by the Department for the proposed Project?

**I 9.45  
(cont.d)**

Thank you for your consideration of this comment letter in connection with Case No. 2011.0471E.

**I 9.46**

Very truly yours,



Berit S. Muh

EXHIBT A

PLANNING COMMISSION CASE NO. 2008.1072C AND MOTION NO. 18042



## SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- ☐ Inclusionary Housing (Sec. 315)  
☐ Jobs Housing Linkage Program (Sec. 313)  
☐ Downtown Park Fee (Sec. 139)

- ☐ First Source Hiring (Admin. Code)  
☐ Child Care Requirement (Sec. 314)  
☐ Other

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### Planning Commission Motion No. 18042

HEARING DATE: MARCH 4, 2010

Date: February 26, 2010  
Case No.: 2008.1072C  
Project Address: 1111 California Street  
Zoning: RM-4 (Residential Mixed, High Density) District  
65-A Height and Bulk District  
Nob Hill Special Use District  
Block/Lot: 0253/020  
Project Sponsor: Allan Casalou  
1111 California Street  
San Francisco, CA 94108  
Staff Contact: Kevin Guy – (415) 558-6163  
[kevin.guy@sfgov.org](mailto:kevin.guy@sfgov.org)  
Recommendation: Approval with Conditions

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION TO CHANGE THE EXISTING NON-CONFORMING ENTERTAINMENT USE OF THE "NOB HILL MASONIC CENTER" TO "OTHER ENTERTAINMENT" PURSUANT TO PLANNING CODE SECTIONS 182(B)(1) AND 723.48, AND TO ADD PERMANENT FOOD AND BEVERAGE SERVICE FOR PATRONS OF ENTERTAINMENT AND ASSEMBLY EVENTS, PURSUANT TO PLANNING CODE SECTION 238(D), ON A PROPERTY WITHIN THE RM-4 (RESIDENTIAL MIXED, MEDIUM DENSITY) DISTRICT, THE 65-A HEIGHT AND BULK DISTRICT, AND THE NOB HILL SPECIAL USE DISTRICT.

#### RECITALS

1. On September 10, 2008, Steven Vettel, acting on behalf of Allan Casalou, ("Project Sponsor", representing the California Masonic Memorial Temple), submitted a request with the City and County of San Francisco Planning Department ("Department") for a Conditional Use authorization (Case No. 2008.1072C) to add eating and drinking uses at the Nob Hill Masonic Center ("Center") located at 1111 California Street ("Project Site"), within the RM-4 Zoning District and the Nob Hill Special Use District ("SUD"), pursuant to Planning Code Section ("Section") 238(d).
2. On November 5, 2008, Ilene Dick, acting on behalf of the Project Sponsor submitted a request with the Department for Environmental Evaluation of the addition of eating and drinking uses at the

Center (Case No. 2008.1072E). The addition of food and beverage service is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption (Minor Alteration of an Existing Use).

3. On March 10, 2009, Ilene Dick, acting on behalf of the Project Sponsor submitted a request with the Department for Environmental Evaluation of the removal of existing fixed seating within the auditorium of the Center, resulting in an increase of the maximum capacity of the auditorium from 3,282 persons to 3,500 persons (Case No. 2009.0183E). On February 18, 2010, the increase in the capacity of the auditorium was determined to be exempt from CEQA as a Class 32 Categorical Exemption (Infill Development Project) under CEQA, as described in the determination contained in the Planning Department files for this case.
4. On September 28, 2009, Steven Vettel, acting on behalf of the Project Sponsor, submitted an amendment to the Conditional Use authorization request (Case No. 2008.1072C), to change the existing non-conforming entertainment use of the "Nob Hill Masonic Center" to "Other Entertainment" pursuant to Sections 182(b)(1) and 723.48. This amendment also proposed to remove some of the existing fixed seating within the auditorium of the Center, resulting in an increase of the maximum capacity of the auditorium from 3,282 persons to approximately 3,500 persons. The amended Conditional Use authorization request includes the initial proposal to add eating and drinking uses at the Center, pursuant to Planning Code Section ("Section") 238(d) (collectively, "Project").
5. On March 4, 2010, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.1072C, at which time the Commission reviewed and discussed the findings for approval prepared for its review by Department staff.
6. The Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Project.
7. The Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.

**MOVED**, that the Commission hereby grants the approval requested in Application No. 2008.1072C, as modified herein, subject to the conditions contained in Exhibit A, attached hereto and incorporated herein by reference, based on the following findings

#### **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The proposal is to modify the configuration of the auditorium within the Center, add food and beverage service, and change the existing non-conforming entertainment

use of the Center to an "Other Entertainment" use through Conditional Use authorization. The existing fixed seats would be removed from the main floor of the auditorium to provide a flexible range of audience configurations, including general admission events (with no seating), "cabaret seating" (with tables and chairs), and temporary seating. These modifications would which would increase the maximum capacity of the auditorium from 3,282 persons to 3,500 persons during general admission events. The existing fixed seats in the balcony would be retained. A total of eight concession areas serving food and/or beverages would be situated throughout the Center. In addition, the existing catering kitchen at the ground floor would be upgraded to a full commercial kitchen to allow for on-site food preparation. The project also proposes to modify from the existing "thrust" stage configuration to a rectangular configuration, and to install an upgraded sound and lighting system. The renovated Center would be structured to host a variety of events, including concerts, banquets, ceremonies, exhibitions, and meetings. The project would not alter the exterior of the Center.

3. **Site Description and Present Use.** The Project Site is located on the south side of California Street between Jones and Taylor Streets, Block 0253, Lot 020. The subject property is located within the RM-4 (Residential Mixed, High Density) District, the 65-A Height and Bulk District, and the Nob Hill Special Use District. The Project Site gently slopes along the California Street frontage, but is steeply sloped along the Taylor Street frontage. The property measures 49,841 square feet, including a 25-foot wide flag portion fronting on Pine Street. This flag portion provides access to a loading area, and secondary access to the parking garage.

4. **Surrounding Properties and Neighborhood.** The Project Site is located within the Nob Hill neighborhood, an area characterized by a mix of hotel, institutional, and high-density residential uses. Neighborhood-serving commercial uses are scattered at various corners throughout the neighborhood, as well as along commercial strips on Polk Street, Pacific Avenue, and the Chinatown neighborhood to the east. Several prominent institutional uses (including the Grace Cathedral and the Pacific Union Club) and hotels (the Fairmont and the Mark Hopkins Intercontinental) are clustered in the immediate vicinity on California Street between Mason and Jones Streets.

The scale of existing buildings varies greatly in the vicinity of the Project Site. Taller buildings, some exceeding twelve stories in height, are clustered near the crest of Nob Hill. This cluster accentuates and exaggerates the underlying topography, creating a recognizable orientation point within the skyline of the City. Buildings are generally lower to the in the downslope areas, averaging four to five stories in height. The building immediately to the west is a 16-story residential tower, while the remainder of the block to the south is comprised of lower-scale residential uses.

5. **Environmental Review.** The project is categorically exempt pursuant to the California Environmental Quality Act (CEQA), Section 15301 (Class 1, Minor Alteration to an Existing Use) and Section 15332 (Class 32, Infill Development Project).
6. **Public Comment.** Staff has received a large number of communications regarding the project. A significant number of individuals, neighborhood organizations, and business owners in the area

have expressed concerns over the traffic, noise (from patron activity and loading operations), parking impacts (from patrons, tour buses, and equipment trucks), and crime, vandalism, and public drunkenness from lingering patrons. Staff has also received letters in support of the project, primarily from event promoters and civic organizations. These organizations stress the importance of the Center for promoting the entertainment and cultural life of the City, as well as a venue for civic functions (such as graduation and naturalization ceremonies).

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

- A. **Uses.** Section 182(b)(1) permits a non-conforming use within a Residential District to change to another use which is permitted as a Conditional Use in an NC-1 District and in an Individual Area Neighborhood Commercial District ("NCD") within one-quarter of a mile, through the Conditional Use authorization process. Section 238(d) permits eating and drinking uses (except large fast-food restaurants) within the Nob Hill SUD, through the Conditional Use authorization process.

*The existing Center was operated as a permitted use until 1978, when the subject property was rezoned to the RM-4 Zoning District. The RM-4 District does not permit entertainment and assembly uses, therefore, the Center became non-conforming with this rezoning. The types of entertainment and assembly activities that occur within the Center meet the definition of an Other Entertainment use described in Section 790.38. The Project Site is located within one-quarter of a mile of the Polk Street NCD. An Other Entertainment use is permitted as a Conditional Use within the NC-1 District (Section 710.48) and the Polk Street NCD (Section 723.48). The Project Sponsor is requesting Conditional Use authorization to change the existing non-conforming use of the Center to an Other Entertainment use, pursuant to Section 182(b)(1). In addition, the Project Sponsor is requesting Conditional Use authorization for eating and drinking uses, pursuant to Section 238(d), to allow the eight food and beverage concession stations proposed for the Center.*

- B. **Off-Street Parking.** Section 151 theater or auditorium uses to provide one parking space for every eight seats up to 1,000 seats, plus one space for each ten seats in excess of 1,000.

*The removal of fixed seats in the lower level of the auditorium would result in a maximum event capacity of 3,500 patrons during general admission events. Although the off-street parking requirements of Section 151 are based on the number of "seats", the intent is to calculate the required number of spaces based on the capacity of the venue. Applying the same parking ratio to the number of patrons, the project would be required to provide 375 off-street parking spaces.*

*The existing Masonic Center garage contains 565 parking spaces. However, 205 of these spaces are currently leased to monthly leaseholders. Therefore, only 360 spaces are available for use by the general public. Under the present arrangement, the Project would fall short of the required off-street parking by 15 spaces. A condition of approval has been added requiring that the project provide off-street parking spaces in perpetuity for the use of patrons of the Center, pursuant to the calculations of Planning Code Section 151. This calculation would require a minimum of 375 parking spaces,*

*therefore, the Center would therefore need to cancel approximately 15 of the monthly leases for parking spaces to meet the requirements of the Planning Code and the cited condition of approval.*

- C. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. An Other Entertainment use that measures between 100,001 to 200,000 square feet of gross floor area would be required to provide one off-street loading space.

*The gross floor area of the Center measures approximately 113,300 square feet of gross floor area. An existing loading dock is accessed via Pine Street and measures approximately 35 feet in length by 10 feet in width. This loading space fails to meet several aspects of the Planning Code as follows:*

1) *Enclosure: Pursuant to Section 155(p), a loading area within 50 feet of an "R" District shall be completely enclosed within a building if the area is used in regular night operation. Given the nature of the proposed Other Entertainment use, it is expected that this loading dock would be used at night. The dock is unenclosed and is located within an "R" District, and therefore fails to meet the enclosure requirement of the Planning Code.*

2) *Dual-Use of Loading Dock: According to the Project Sponsor, the loading dock area also partially serves as a secondary driveway for vehicles to access the Masonic Center parking garage.*

*Because the existing loading dock does not comply with these aspects of the Planning Code, the Center is considered to be a "noncomplying structure" as defined by Section 180(a)(2). The Planning Code calculates loading requirements based on the gross floor area of a structure. Because the proposed changes to the interior configuration of the Center will not increase the overall gross floor area of the structure, the Project is not considered an intensification that would increase the number of required loading spaces pursuant to the Planning Code.*

- D. **Hours of Operation.** Section 182(b)(1) permits a non-conforming use within a Residential District to change to another use which is permitted as a Conditional Use in an Individual Area NCD with one-quarter of a mile, through the Conditional Use authorization process. The Project Site is located within one-quarter of a mile of the Polk Street NCD. Section 182(b)(1) requires that such uses comply with the use limitations of the Individual Area NCD, including hours of operation. The Polk Street NCD requires Conditional Use authorization to operate between the hours of 2:00AM and 6:00AM.

*Conditions of approval have been added requiring that all weeknight events end by 11:00PM, and all weekend events end by 11:30PM. In addition, these conditions would allow the Project Sponsor to seek authorization from the San Francisco Police Department, the Planning Department, and the Entertainment Commission for up to five events per year that extend until 2:00AM.*

8. **Planning Code Section 303(c)** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use Authorization. On balance, the Project does comply with said criteria in that:

- A. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

*The Center is a venue of regional cultural, entertainment, and civic importance that has hosted a wide variety of events since 1958. In addition to activities associated with the Freemasons, these events include music, comedy, and cultural performances, civic events (such as graduations and naturalization ceremonies), exhibitions, and corporate meetings. However, the operation of a venue with Citywide and regional significance, has the potential to cause a number of substantial impacts to the surrounding area.*

*The Center has operated since the 1950's without substantial operational conditions, other than those imposed by the Planning Code and other applicable regulations. While the Project would result in a relatively minor increase in the capacity of the venue, the Project would add new food and beverage concessions (including alcohol sales). The Project Sponsor has also indicated that the venue would host more frequent events, including nighttime entertainment events (such as concerts), with some patrons attending on a general admission basis. These changes in the operating parameters of the Center necessitate the imposition of conditions of approval that will allow the Center to continue operating as a important entertainment, cultural, and civic venue while minimizing impacts to the surrounding neighborhood. Conditions have been added that limit the number of evening events and operating hours, promote safety and security, address parking and traffic control, set parameters for loading operations, limit hours for serving alcoholic beverages, and establish a program to monitor and enforce these conditions. On balance, these conditions will allow the venue to continue operating in a manner that is desirable for the community and the City as a whole, and is compatible with the area.*

- B. The proposed use or feature will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*While the Project would increase the frequency of events and slightly increase the capacity of the venue, the size and shape of the site and the size, shape, and arrangement of the building would not change. With the imposition of the conditions of approval for the Project, the site and the building are adequate for the proposed use.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading, including provision of car-share parking spaces, as defined in Section 166 of this Code;

*The Transportation Study for the Project estimates that an event attended by 3,500 patrons would require approximately 520 parking spaces within the vicinity of the project. The amount of parking provided pursuant to the Planning Code would fall short of meeting this demand by*

*approximately 145 parking spaces. The Grace Cathedral garage and the Crocker garage are each located within one-half block of the Project Site and offer a total of 330 parking spaces. These garages could therefore accommodate parking needs which are not met within the Masonic Center garage. The Project Sponsor proposes to offer fixed-priced parking for larger events, with parking that can be pre-purchased at the time that the patron orders tickets for an event.*

*The area is moderately well-served by transit, with four MUNI lines (1 - California, 27 - Bryant, and the California and Powell-Hyde Cable Car lines) available within two blocks of the Project Site. The Transportation Study estimates that approximately 64% of patrons would arrive to the event by a mode other than private vehicles (transit, taxi, walking, or bicycling).*

*The Transportation Study for the project concludes that the size, configuration, and accessibility of the loading dock make it unsuitable for larger trucks needed to deliver stage equipment and other large items. In addition, there is no direct freight elevator connection between this loading dock and the auditorium, complicating the use of this dock for delivery of stage equipment. However, the conditions of approval require that all deliveries associated with the kitchen (food, beverages, catering supplies, etc.) will be made from the loading dock. The maximum loading demand for these types of deliveries would be approximately five deliveries per day.*

*The Transportation Study estimates that concert events typically require one or two large trucks to deliver stage equipment. Some events do not require any large trucks for such equipment deliveries. As part of the Project, permanent sound and lighting equipment will be upgraded in the auditorium, which should reduce the amount of ancillary equipment that will need to be delivered for use during individual performances. While the number of delivery trucks per event is expected to be reduced, the frequency of events will increase compared to existing conditions. The Center currently hosts an average of 47 evening events annually, however, the conditions of this approval will allow a maximum of up to 95 live-entertainment evening events annually, as well as 20 evening events that do not involve live entertainment.*

*Because the Pine Street loading dock is unsuitable for use by the large delivery vehicles, such loading is proposed to occur from the curbside parking on California Street. The Planning Code does not specifically regulate curbside parking, however, several operational conditions of approval have been added to help minimize impacts related to this curbside loading activity. Specifically, the Project Sponsor must seek approval from the San Francisco Municipal Transportation Agency (SFMTA) to designate a "white" zone on the south side of California Street, extending from the Masonic Center garage entrance approximately 185 feet to the west. This zone would serve multiple purposes, as enumerated and restricted by the conditions of approval, and as summarized below:*

- 1) Large trucks would park within this zone during the transfer of stage equipment and other materials for events. After the unloading activities conclude, the delivery trucks would be stored off site for the duration of the event. The trucks would return to load the materials at the end of the event, and would not be parked overnight on California Street. All loading activities must be completed within 90 minutes after the conclusion of an event.*

2) Performer buses may park within this zone beginning at to 1.5 hours prior to the beginning of an event, and may remain within the zone during the duration of the event. No more than two performer buses may park within this zone at any time, and no performer buses shall be permitted to park within this zone overnight. The Project Sponsor shall be required to install shore power (following receipts of all necessary approvals) to provide electrical power to these performer buses and avoid the use of engines or generators. The sponsor must also research the viability of utilizing off-street parking facilities in the vicinity to park performer buses during events.

3) The remainder of the zone (not occupied by performer buses or delivery trucks) is intended for passenger drop-off, taxi loading, and queuing for vehicles entering the Masonic Center garage.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*All events scheduled for the Center would occur within the interior of the building. Therefore, all noise directly resulting from events such as concerts is attenuated and is not perceptible outside of the building. The majority of pedestrian queuing for events would occur within the interior of the building, in the main lobby area, reducing conversational noise from waiting patrons. Shore power will be installed adjacent to street parking spaces that will accommodate performer bus parking, so that engines or generators will not need to run continuously to power accessories within these parked vehicles. The Project would upgrade the existing sound and lighting equipment within the auditorium, reducing noise associated with outside deliveries of such equipment for each event. Rubber or vinyl mats and curb and ramp transition strips would be placed to reduce the noise generated by loading activities requiring dollies or other rolling conveyances. The project proposes no exterior changes to the Center, therefore, the Project is not expected to generate new dust or glare.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The Project Site is completely built-out and no changes are proposed to the exterior with regards to landscaping, open spaces, lighting, or signs. Conditions of approval have been added to ensure that the parking, loading, and other functions associated with the events at the Center operate in a manner that minimizes impacts to the surrounding neighborhood. These conditions are discussed further under item 8(B)(ii) above.*

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

*The Project complies with the applicable requirements of the Planning Code, and will not adversely affect the policies of the General Plan as discussed under Item #9 below.*

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

*Section 182(b)(1) permits a non-conforming use within a Residential District to change to another use which is permitted as a Conditional Use in an NC-1 District and in an Individual Area Neighborhood Commercial District ("NCD") with one-quarter of a mile. The Project Site is located within one-quarter mile of the Polk Street NCD, which allows "Other Entertainment" uses through the Conditional Use authorization process. The Polk Street NCD providing convenience and specialty goods, services, and entertainment activities to residents in the Polk Gulch, Nob Hill, Russian Hill, and Pacific Heights areas. The NCD is further described in Section 723.1, which states that commercial uses are generally located on the ground floor of buildings. The regulations of Section 723 are intended to, "...limit new eating, drinking, and other entertainment...uses, which can produce parking congestion, noise, and other nuisances or displace other types of local-serving convenience goods and services."*

*The Polk Street NCD does not expressly prohibit entertainment uses, but instead requires Conditional Use authorization to allow such venues that can be located and operated properly without detracting from residential livability. The Project would not displace any local-serving convenience uses, and would allow the continued operation of the existing venue. Extensive conditions of approval have been added to address the impacts to the surrounding neighborhood that could result from the continued operation and intensification of the Center, including limitations on the number of nighttime events that are allowed annually.*

- E. With respect to applications filed pursuant to Article 7, Section 703.2(a), zoning categories .46, .47, and .48, that such use or feature will:

- i. Not be open between 2:00AM and 6:00AM.;

*The conditions of approval do not allow the Center to host events between the hours of 2:00AM and 6:00AM.*

- ii. Not use electronic amplification between midnight and six a.m.;

*The majority of events, including those utilizing electronic amplification, would end by 11:00PM on weeknights and 11:30PM on weekend. Pursuant to the conditions of approval, the Project Sponsor may seek authorization from the San Francisco Police Department, the Planning Department, and the Entertainment Commission for up to five events per year that extend until 2:00AM. However, all events scheduled for the Center would occur within the interior of the building, and noise from the electronic amplification would not be audible from outside the building.*

- iii. Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

*All events scheduled for the Center would occur within the interior of the building. Therefore, all noise directly resulting from events such as concerts is attenuated and is not perceptible outside of the building. Conditions of approval have been added to address noise resulting from sources associated with the event activities at the Center, as discussed in item #8(B)(iii).*

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

## **ARTS ELEMENT**

### **OBJECTIVE I-1:**

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

#### **Policy I-1.1**

Promote inclusion of artistic considerations in local decision-making.

#### **Policy I-1.2**

Officially recognize on a regular basis the contributions arts make to the quality of life in San Francisco.

#### **Policy I-1.4**

Provide access to the creative process and cultural resources for all neighborhoods, cultural communities, and segments of the city and its populations.

### **OBJECTIVE VI-1**

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

#### **Policy VI-1.4**

Preserve existing performing spaces in San Francisco.

*The Center is a venue of regional cultural, entertainment, and civic importance that has hosted a wide variety of events since 1958. Some events of these events have been associated with the Freemasons, civic events, and exhibitions. However, the Center has a longstanding tradition of hosting performance arts events, including music of all genres, comedy, dance, and cultural performances. These events strengthen the recognition and reputation of San Francisco as a city that is supportive of the arts. Such activities strengthen the recreational and cultural vitality of San Francisco, bolster tourism, and support the local economy by drawing patrons from throughout the region. The Project would allow for the continued operation and viability of the Center as a venue to host performing arts events.*

## **COMMERCE AND INDUSTRY ELEMENT**

### **Neighborhood Commerce**

#### **OBJECTIVE 6:**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

**Policy 1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

**Policy 6.9**

Regulate uses so that traffic impacts and parking problems are minimized.

**OBJECTIVE 8:**

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

**Policy 8.1**

Guide the location of additional tourist related activities to minimize their adverse impacts on existing residential, commercial, and industrial activities.

*These policies includes guidelines that seek to avoid the negative impacts to residential uses resulting from entertainment venues. While the subject property is not located within an NCD, Section 182(b)(1) allows the existing non-conforming use to be changed to an "Other Entertainment" use, which is permitted as through the Conditional Use authorization process, because this use is conditionally permitted within the nearby Polk Street NCD.*

*Conditions have been added that limit the number of evening events and operating hours, promote safety and security, address parking and traffic control, set parameters for loading operations, limit hours for serving alcoholic beverages, and establish a program to monitor and enforce these conditions. These conditions of approval that will allow the Center to renovate and continue operating, while minimizing impacts to the surrounding neighborhood.*

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

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

*The Project would not displace any retail establishments or compromise employment opportunities in the area.*

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

*The Project would not displace any existing housing. The conditions of approval will ensure that the venue will operate in a manner that preserves and enhances the cultural and economic diversity of the neighborhood and the City, while minimizing negative impacts to the character of the area.*

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

*The Project will not result in the loss of any existing affordable housing units*

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

*The Transportation Study prepared for the project demonstrates that adequate parking exists at the Masonic Center garage, and other nearby garages to accommodate patrons who wish to drive private vehicles to events. The area is moderately well-served by transit, and it is expected that approximately 64% of patrons would arrive to the event by a mode other than private vehicles (transit, taxis, walking, or bicycles). Conditions of approval have been added to address parking and circulation of performer buses, equipment and catering trucks, and patron vehicles.*

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

*The Project does not include any commercial space, and will enhance opportunities for service sector employment.*

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

*The Project does not involve any construction activities that would compromise the structural integrity of the existing building.*

- G. That landmarks and historic buildings be preserved.

*No exterior changes are proposed for the Project. Any future storefront alterations and signage would be required to comply with applicable preservation standards.*

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

*The Project, which does not include any physical expansion of the existing building envelope, would not impact any parks or open spaces or their access to sunlight.*

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

Motion 18042  
Hearing Date: March 4, 2010

CASE NO 2008.1072C  
1111 California Street

### DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2008.1072C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18042. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on March 4, 2010.

Linda Avery  
Commission Secretary

AYES: Miguel, Antonini, Borden, Olague

NAYS: Lee, Moore

ABSENT: Sugaya

ADOPTED: March 4, 2010

## Exhibit A

### Conditions of Approval

#### GENERAL CONDITIONS

1. This authorization is to allow a change from the existing non-conforming entertainment use of the "Nob Hill Masonic Center" to "Other Entertainment" pursuant to Planning Code Sections 182(b)(1) and 723.48, and to add a maximum of eight permanent food and beverage service stations for patrons of entertainment and assembly events, pursuant to Planning Code Section 238(d), located at 1111 California Street, in general conformity with plans labeled Exhibit B; dated March 4, 2010.
2. A site permit or building permit for the herein-authorized Project shall be obtained within three years of the date of this action, and construction, once commenced, shall be thenceforth pursued diligently to completion or the said authorization may become null and void. This authorization may be extended at the discretion of the Zoning Administrator only where the failure to issue a permit by the Department of Building Inspection to construct the proposed building is caused by a delay by a City, state or federal agency or by any appeal of the issuance of such a permit(s). The Project Sponsor shall obtain required site or building permits within three years of the date of this approval or this authorization may be null and void. Construction, once commenced, shall be pursued diligently to completion.
3. The operator of the establishment shall obtain all necessary approvals from the San Francisco Entertainment Commission prior to hosting live entertainment events on-site, but no later than 18 months from the date of this Conditional Use authorization.
4. Noise and odors shall be regulated so as not to be a nuisance to nearby businesses or residents.
5. The Project Sponsor shall work with staff to ensure that all future exterior alterations, including signage, are consistent with the Secretary of Interior's Standards for Treatment of Historical Properties. Signage size shall be appropriate for the scale of the historic building, and materials and lighting shall be compatible with the historical character of the building.
6. An enclosed waste storage area shall be provided within the establishment. All trash and recycling containers shall be kept within the building until pick-up by the disposal company.
7. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code and/or the specific Conditions of Approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter in accordance with the hearing notification and conduct

procedures as set forth in Sections 174, 306.3, and 306.4 of the code to consider revocation of this conditional use authorization.

8. The Project Sponsor shall assure the execution and recordation of the specified conditions as a Notice of Special Restrictions at the Office of the County Recorder / County Clerk.

#### **MAXIMUM OCCUPANCY AND EVENTS**

9. No more than 3,500 patrons shall be permitted for events in the auditorium on the main floor level and mezzanine of the Masonic Center.
10. There shall be an annual maximum of 95 live entertainment events held at the Masonic Center that start at 7:00PM or later, of which no more than 70 live entertainment events may utilize general admission attendance without assigned seating for patrons in the lower (floor) level of the auditorium. There shall be an annual maximum of 20 events not involving live entertainment held at the Masonic Center that start at 7:00PM or later.
11. There shall be an annual maximum of 50 daytime events held at the Masonic Center that end at 7:00PM, and an additional maximum of 50 daytime events held at the Masonic Center that end at 5:00PM.
12. Notwithstanding the limitations in conditions #10 and #11 above, there shall be no limitations on the number and seating method of events that are attended by 250 patrons or fewer.
13. All events shall conclude by 11:00PM on weeknights (non-holiday Sunday-Thursday evenings) and 11:30PM on weekends (Friday, Saturday, and holiday evenings). Up to five events per year may extend until 2:00AM, subject to prior consultation with and approval by the San Francisco Police Department, the San Francisco Planning Department, and the Entertainment Commission a minimum of 30 days prior to the date of such an event.
14. All patron queuing for events with general admission attendance shall occur within the Masonic Center property, including the main lobby and in the plaza fronting on California Street.

#### **SECURITY AND SAFETY**

15. The Project Sponsor shall maintain, update over time, provide to event personnel, and make available to the Planning Department an event Operations Manual to include:
  - A security plan to ensure neighborhood safety before, during and after performances, including in Huntington Park and near Grace Cathedral.
  - A traffic control plan, including deployment of traffic control personnel outside the venue to assist patron unloading and loading, queuing into the garage, and enforcement of the Parking and Traffic, Loading and Performer Bus Parking conditions set forth below.

- Trash pick-up program within two hours after each event in the four blocks bounded by Sacramento, Jones, Pine and Mason Streets.
- Direction to event personnel to assure compliance with these conditions of approval.

**PARKING AND TRAFFIC**

16. The Project Sponsor shall make available to the general public within the Masonic Center garage no less than number of off-street parking spaces required by Planning Code Section 151 for "theater or auditorium" uses (a minimum of 1 parking space per 8 patron occupancy for the first 1,000 patrons, plus 1 space per 10 patrons above 1,000 patrons in the Auditorium). The number of spaces shall not be reduced or otherwise be made unavailable for the use of the Masonic Center due to monthly leases or other arrangements.
17. There shall be a fixed parking fee for events with more than 1,500 ticketed attendees.
18. The Project Sponsor shall offer pre-paid parking to event attendees who purchase tickets in advance of the event date through an on-line ticket service. Such pre-paid parking passes shall specify the location of the garage for which the ticket has been paid (either the Masonic Center garage or any other nearby garage that enters into a cooperating agreement with the Project Sponsor for pre-paid parking) and the location of the garage's entrance.
19. The Project Sponsor shall allow access to the Masonic Center garage through the Pine Street loading dock prior to events in order to reduce vehicle queuing on California Street. The Pine Street loading dock shall also be used for exiting from the garage after events.
20. The Project Sponsor shall minimize vehicular queuing on California Street by use of the following strategies events with more than 1,500 ticketed patrons:
  - Increase traffic staffing inside the California Street garage entrance to increase the rate of vehicular entry to the garage.
  - Position security personnel (including San Francisco Police Department services when warranted) outside the garage to assist with controlling and directing traffic, including directing patrons to other nearby garages if and when the Masonic Center garage is full.
  - Convert the center lane of the existing garage entrance ramp to a second inbound lane to increase queuing room within the garage.
21. The Project Sponsor shall consult with nearby public garages to inform arriving patrons that those garages can be used to park for performances and events when the Center's garage is full.
22. The Project Sponsor shall apply for designation of a truck and bus loading zone and passenger zone for drop-off by taxis and other vehicles and additional garage queuing for the approximately 185-foot long curb zone on California Street between the entrance to the Center garage and Gramercy Tower (1177 California Street) driveway, to be in effect only prior to and during events at the Masonic Center. The drop-off zone shall be sufficient to accommodate a minimum of three taxis or private vehicles dropping off passengers at one time.

23. The Project Sponsor shall provide not less than 26 Class I or Class II bicycle parking spaces at the property, consistent with Planning Code Section 155.2.

**LOADING**

24. The Project Sponsor shall use the Pine Street loading dock for all loading and unloading to the commercial kitchen and for normal building operation supplies.
25. The Project Sponsor shall provide fixed sound and lighting systems for the Masonic Auditorium to reduce the need for performers to load and unload sound and lighting equipment into the building.
26. The Project Sponsor shall seek a special event "no parking" permit from the Police Department whenever it anticipates loading or bus operations on California Street and direct trucks to park in that zone. No double-parking of trucks shall be permitted. The Project Sponsor may load and unload from the California Street curb only stage sets, performance equipment, and related materials associated with specific events. Pursuant to the regulations of the Department of Building Inspection, a sign shall be posted on the access ramp during loading and unloading operations that notifies disabled persons of the duration of the loading and provides specific information about alternative means of disabled access into the building, which alternative access shall be maintained at all times during loading and unloading operations on California Street.
27. To minimize noise during loading and unloading operations on California Street, the Project Sponsor shall install prior to loading and unloading activities a resilient surface material, such as rubber or vinyl, on truck ramps, pavement, sidewalk and the ramp and incorporate transition strips between different surfaces and shall direct that truck engines be turned off except when moving the vehicle or functions that require engine power are occurring, such as lowering or raising of hydraulic ramps.
28. Personnel conducting loading and unloading activities on California Street shall be instructed to minimize the volume of conversation and prohibit the playing of amplified music outside the building during loading and unloading, particularly during nighttime hours.
29. After the conclusion of unloading activities, trucks using the California Street curb loading zone shall depart the premises, park off-site, and not return for loading until near the conclusion of the performance. No overnight curb parking of trucks shall be permitted on California Street.
30. All loading activities shall be completed no more than 90 minutes following the conclusion of an event.

**PERFORMER BUS PARKING**

31. During the one and one-half hour period prior to the start of events, no more than two performer buses shall park on the south side of California Street, so that the remainder of the 185-foot long curbside area is available for attendee unloading and loading and vehicle queuing into the garage. The Project Sponsor shall direct any additional buses to park in other bus parking zone(s)

the City chooses to designate near the corner of California and Taylor Streets, such as on Taylor Street adjacent to Huntington Park or on the north side of California Street. The Project Sponsor shall make best available efforts to evaluate and demonstrate to the Zoning Administrator the physical and operational feasibility of storing performer buses at nearby off-street parking facilities during events.

32. The Project Sponsor shall provide electric power on the south side of California Street for event buses in order to ensure the quiet and clean powering of these vehicles and shall direct that all performer buses parking at this zone connect to this electric power and not run their engines or generators.
33. The project sponsor shall seek permission from the appropriate City agency or adjacent property owners to install electric power adjacent to any other City-designated bus parking zone that is within ½ block of the property, if feasible, so that, if there is a feasible method of providing electric power, the Project Sponsor shall direct performer buses to connect to this electric power and not run their engines or generators.
34. Overnight curb parking of buses or habitable trailers for performers, support staff, or other associated with the operations or productions at the property shall not be permitted on either side of California Street. The Project Sponsor shall include in any contract or agreement, or rules or guidance given to any performers, support staff, or others associated with the operations or productions at the property a requirement to abide by this condition. The Project Sponsor shall remain responsible for compliance with this condition, regardless of such notice or contractual provisions.

#### **FOOD AND BEVERAGE SERVICE**

35. This Conditional Use authorization for eating and drinking uses is limited to service to patrons of on-site assembly and entertainment events within the Nob Hill Masonic Center. This authorization allows for the operation of a maximum of eight concessions stands selling food and beverages. There shall be no operations of a restaurant, either full-service or self-service, open to members of the public who are not patrons of assembly or entertainment uses within the Masonic Center.
36. Following the conclusion of the last intermission of an event, a maximum of two publicly-accessible concession stands and one "VIP" concession stand (not accessible by the general public) may serve alcoholic beverages. One hour prior to the conclusion of an event, line markers shall be placed at the end of each of the lines. No patron approaching a line for a concession stand after the placement of the line marker will be served an alcoholic beverage, with the intent that alcohol service will conclude 45 minutes prior to the end of an event.

#### **PERFORMANCE AND ENFORCEMENT**

37. The Project Sponsor shall make best efforts to continue to meet with neighbors of the Masonic Center to collaborate on issues of concern, including, but not limited to, traffic, loading (including the use of the Pine Street loading dock), safety and crowd control, and parking. The Zoning Administrator shall verbally present the status of these efforts to the Planning Commission within three weeks of this approval.

38. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to the owners and occupants of nearby properties and shall give written notice of the name, business address and telephone number of the community liaison officer to the Zoning Administrator and the owners of properties in the area bounded by Sacramento Street, Mason Street, Pine Street and Jones Street. The telephone number of the community liaison shall be monitored for a reasonable period of time prior to, during and after events until patrons have disbursed from the neighborhood.
39. The Planning Department shall report to the Planning Commission on the status of compliance with these conditions of approval within 6 months following the re-opening of the auditorium after construction is completed, and every 6 months thereafter for the first two years of post-construction operations. A copy of the Planning Department's report to the Planning Commission shall be provided to the Project Sponsor, the San Francisco Police Department, and the Nob Hill Association (or successor organization). A public informational hearing regarding the compliance report may be held upon the determination of the Zoning Administrator or at the request of the Planning Commission.
40. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Sections 176 and 176.1 of the Planning Code and actions to abate violations of this conditional use authorization in accordance with Section 303(f).
41. Should monitoring of these Conditions of Approval be required, the Project Sponsor or successors shall pay fees as established in Section 351(e)(1) of the Planning Code.

EXHIBT B

BOARD OF SUPERVISORS MOTION NO. M10-84, FILE NO. 100588

1 [Adopting Findings Related to the Conditional Use Appeal on Property Located at 1111  
2 California Street]

3  
4 **Motion adopting findings related to the appeal of a decision of the Planning**  
5 **Commission, Motion No. 18042, approving Conditional Use Application 2008.1072C on**  
6 **property located at 1111 California Street.**

7  
8 WHEREAS, the Planning Commission issued a decision by Motion No. 18042 dated  
9 March 4, 2010, approving Conditional Use Application No. 2008.1072C on property located at  
10 1111 California Street to change the existing non-conforming entertainment use of the "Nob  
11 Hill Masonic Center" to "Other Entertainment," pursuant to Planning Code Sections 182(B)(1)  
12 and 723.48, and to add permanent food and beverage service for patrons of entertainment  
13 and assembly events, pursuant to Planning Code Section 238(D), on a property within the  
14 RM-4 (Residential Mixed, High-Density) District, the 65-A Height and Bulk District, and the  
15 Nob Hill Special Use District, on property located at 1111 California Street, Lot No. 020 in  
16 Assessor's Block No. 0253; and

17 WHEREAS, said determination was timely appealed to the Board of Supervisors on  
18 April 5, 2010, by William Terrell, Aldo Caccamo, Chris Freeman, Enrique Landa, Elizabeth  
19 Pomada, and Donna Muse);

20 WHEREAS, on May 4, 2010, the Board conducted a duly noticed public hearing on the  
21 appeal from the Planning Commission's approval referred to in the first paragraph of this  
22 motion. Following the conclusion of the public hearing on May 4, the Board disapproved the  
23 decision of the Planning Commission (Planning Commission Motion No. 18042 dated March  
24 4, 2010) and approved the issuance of requested Conditional Use Application No.  
25 2008.1072C, subject to the conditions imposed by the Planning Commission in its Motion No.

Clerk of the Board  
BOARD OF SUPERVISORS

Page 1  
2/1/2010

1 18042, as amended by the Board on May 4, 2010, and subject to additional conditions  
2 imposed by the Board of Supervisors. The amended and additional conditions imposed by the  
3 Board are as follows:

4 Amending Condition No. 9: No more than 3,300 patrons shall be permitted for events  
5 in the auditorium on the main floor level and mezzanine level of the Masonic Center.

6 Amending Condition No. 10: There shall be an annual maximum of 85 live  
7 entertainment events held at the Masonic Center that start at 7:00 p.m. or later, of which no  
8 more than 60 live entertainment events may utilize general admission attendance without  
9 assigned seating for patrons in the lower (floor) level of the auditorium. There shall be an  
10 annual maximum of 20 events not involving live entertainment held at the Masonic Center that  
11 start at 7:00 p.m. or later.

12 Amending Condition No. 13: All events shall conclude by 11:00 p.m. on weeknights  
13 (non-holiday Sunday-Thursday evenings) and 11:30 p.m. on weekends (Friday, Saturday, and  
14 pre-holiday evenings). Up to three events per year may extend until 1:00 a.m. on weekends  
15 (Friday, Saturday, and pre-holiday evenings), subject to prior consultation with and approval  
16 by the San Francisco Police Department, the San Francisco Planning Department, and the  
17 Entertainment Commission a minimum of 30 days prior to the date of such event.

18 Amending Condition No. 14: All patron queuing for events with general admission  
19 attendance shall occur within the interior of Masonic Center property, i.e. the main lobby area  
20 and Exhibition Hall.

21 Amending Condition No. 17: There shall be a fixed parking fee for events with more  
22 than 1,250 ticketed attendees.

23 Amending Condition No. 20: The Project Sponsor shall minimize vehicular queuing on  
24 California Street by use of the following strategies events with more than 1,250 ticketed  
25 patrons:

1           •       Increase traffic staffing inside the California Street garage entrance to increase  
2 the rate of vehicular entry to the garage.

3           •       Position security personnel (including San Francisco Police Department services  
4 when warranted) outside the garage to assist with controlling and directing traffic, including  
5 directing patrons to other nearby garages if and when the Masonic Center garage is full.

6           •       Convert the center lane of the existing garage entrance ramp to a second  
7 inbound lane to increase queuing room within the garage.

8           •       Event staff shall ensure u-turns are prevented and that the cable car lane is free  
9 flowing.

10           Amending Condition 24: The Project Sponsor shall use the Pine Street loading dock  
11 for all loading and unloading to the commercial kitchen and for normal building operation  
12 supplies.

13                   24(a) The Pine Street loading area shall be upgraded to enclose end of ramp  
14 and improve access to passenger elevators.

15           Amending Condition 26: The Project Sponsor shall seek a special event "no parking"  
16 permit from the Police Department whenever it anticipates loading or bus operations on  
17 California Street and direct trucks to park in that zone. No double-parking of trucks shall be  
18 permitted. The Project Sponsor may load and unload from the California Street curb only  
19 stage sets, performance equipment, and related materials associated with specific events.  
20 Pursuant to the regulations of the Department of Building Inspection, a sign shall be posted on  
21 the access ramp during loading and unloading operations that notifies disabled persons of the  
22 duration of the loading and provides specific information about alternative means of disabled  
23 access into the building, which alternative access shall be maintained at all times during  
24 loading and unloading operations on California Street.

25                   26(a) Performers shall use the house system for primary sound and lights.

1 Amending Condition 28: Personnel conducting loading and unloading activities on  
2 California Street shall be instructed to minimize the volume of conversation and prohibit the  
3 playing of amplified music outside the building during loading and unloading, particularly  
4 during nighttime hours.

5 28(a) There shall be no loading or unloading on California Street before 7:00  
6 a.m.

7 28(b) Scheduled event loading on California Street shall be limited to 125 days  
8 per year.

9 Amending Condition No. 31: During the one and one-half hour period prior to the start  
10 of events, no more than two performer buses shall park on the south side of California Street,  
11 so that the remainder of the 185-foot long curbside area is available for attendee unloading  
12 and loading and vehicle queuing into the garage. The Project Sponsor shall direct any  
13 additional buses to park in other bus parking zone(s) the City chooses to designate near the  
14 corner of California and Taylor Streets, such as on Taylor Street adjacent to Huntington Park  
15 or on the north side of California Street. The Project Sponsor shall make best available efforts  
16 to evaluate and demonstrate to the Zoning Administrator the physical and operational  
17 feasibility of storing performer buses at nearby off-street parking facilities during events.

18 31(a) The Project Sponsor shall make commercially reasonable best efforts to  
19 secure space in the closest parking garage to park the maximum number of performer buses  
20 that can fit inside that garage and if space is secured from the garage owner, that number of  
21 buses shall be parked inside the garage.

22 Amending Condition No. 36. Following the conclusion of the last intermission of an  
23 event, a maximum of two publicly-accessible concession stands and one "VIP" concession  
24 stand (not accessible by the general public) may serve alcoholic beverages. One hour prior to  
25 the conclusion of an event, line markers shall be placed at the end of each of the lines. No

1 patron approaching a line for a concession stand after the placement of the line marker will be  
2 served an alcoholic beverage, with the intent that alcohol service will conclude 45 minutes  
3 prior to the end of an event.

4 36(a) There shall be no minimum purchase required and a maximum of two  
5 drinks served per order.

6 Amending Condition 39: The Planning Department shall report to the Planning  
7 Commission on the status of compliance with these conditions of approval within 6 months  
8 following the re-opening of the auditorium after construction is completed, and every 6 months  
9 thereafter for the first four years of post-construction operations, and once a year after the first  
10 4 years upon the request of the District Supervisor or the Chief of Police. If the Zoning  
11 Administrator determines, or the Planning Commission requests, a public informational  
12 hearing may be held on the compliance report. A copy of the Planning Department's report to  
13 the Planning Commission shall be provided to the Project Sponsor, the San Francisco Police  
14 Department, and the Nob Hill Association (or successor organization).

15 Adding Condition 42: Project Sponsor shall be required to comply with all noise  
16 ordinance limits in Municipal Police Code 29, or any successor ordinance.

17 Adding Condition 43: If an event has presented a pattern of safety and security  
18 problems in previous concert seasons or at other venues, then the Project Sponsor shall  
19 consult with the Police Department to determine whether the Project Sponsor can provide  
20 adequate safety and through utilization of its security personnel, contracted private security  
21 and/or on-duty or off-duty Police officers. To the extent that the Chief of Police reasonably  
22 determines, based entirely on the ability to provide safety and security and not on the  
23 expressive content of the event, that the Project Sponsor cannot provide adequate safety and  
24 security for any proposed event or that the event's historic pattern establishes that safety and  
25 security issues cannot be adequately handled at this venue regardless of the Project

1 Sponsor's security plan, the Chief of Police may order that the event shall not be held. This  
2 provision does not supersede any subsequent regulations regarding place of entertainment  
3 permits.

4 Adding Condition 44: Project Sponsor shall comply with Administrative Code Section  
5 10-B, and if off-duty officers are hired pursuant to subsections thereof, a minimum of two  
6 officers be hired for events with 1,250 or more presold tickets; if SFPD determines that more  
7 than two officers are required, the project sponsor shall provide the additional officers.

8 Adding Condition 45: Project Sponsor shall encourage the use of public transit through  
9 its on-line marketing sites, including links to transit providers.

10 WHEREAS, in reviewing the appeal of the approval of the requested conditional use  
11 authorization, the Board of Supervisors reviewed and considered the written record before the  
12 Board and all of the public comments made in support of and in opposition to the appeal;

13 NOW, THEREFORE, BE IT MOVED, that the Board of Supervisors of the City and  
14 County of San Francisco hereby adopts as its own and incorporates by reference herein, as  
15 though fully set forth, the findings made by the Planning Commission in its Motion No. 18042  
16 dated March 4, 2010, approving Conditional Use Application No. 2008.1072C;

17 FURTHER MOVED, that the Board of Supervisors finds that the additional and  
18 amended conditions imposed by the Board May 4, 2010, further support the findings made by  
19 the Planning Commission in its Motion No. 18042 dated March 4, 2010, approving Conditional  
20 Use Application No. 2008.1072C, as follows:

21 Planning Commission Finding 7.D. Hours of Operation, is further supported because  
22 the conditions of approval have been amended to allow the Project Sponsor to seek  
23 authorization from the San Francisco Police Department, the Planning Department, and the  
24 Entertainment Commission for up to only three events per year that extend until 1:00AM, as  
25

1 opposed to the original condition, which allowed up to five events per year that extended until  
2 2:00 a.m.

3 Planning Commission Finding 8.E(i) Not to be open between 2:00 a.m. and 6:00 a.m.,  
4 is further supported because the conditions of approval have been amended so that the  
5 Center is not allowed to host events between 1:00 a.m. and 6:00 a.m., as opposed to the  
6 original condition, which provided the Center was not allowed to host events between the  
7 hours of 2:00 a.m. and 6:00 a.m.

8 Planning Commission Finding 8.E(ii) Not use electronic equipment between midnight  
9 and 6:00 a.m. is further supported because the conditions of approval have been amended to  
10 allow the Project Sponsor to seek authorization from the San Francisco Police Department,  
11 the Planning Department, and the Entertainment Commission for up to only three events per  
12 year that extend until 1:00AM, as opposed to the original condition, which allowed up to five  
13 events per year that extended until 2:00 a.m.

14 FURTHER MOVED, That the Board of Supervisors took notice that Planning found the  
15 Project categorically exempt from environmental review under the California Environmental  
16 Quality Act (CEQA) on March 4, 2010. Specifically, the Planning Department found the  
17 project exempt pursuant to section 15332 of the CEQA Guidelines. The Board considered, on  
18 May 4, 2010, an appeal of said determination and affirmed the determination by Planning that  
19 the Project is categorically exempt from review under CEQA. The Board finds that there have  
20 been no substantial Project changes, no substantial changes in Project circumstances, and no  
21 new information of substantial importance that would change the determination that the  
22 Project is categorically exempt from environmental review under CEQA.



City and County of San Francisco

Tails

Motion: M10-84

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

File Number: 100588

Date Passed: May 18, 2010

Motion adopting findings related to the appeal of a decision of the Planning Commission, Motion No. 18042, approving Conditional Use Application 2008.1072C on property located at 1111 California Street.

May 18, 2010 Board of Supervisors - AMENDED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi

May 18, 2010 Board of Supervisors - APPROVED AS AMENDED

Ayes: 9 - Avalos, Campos, Chiu, Chu, Daly, Elsbernd, Mar, Maxwell and Mirkarimi

Noes: 2 - Alioto-Pier and Duffy

File No. 100588

I hereby certify that the foregoing Motion was APPROVED AS AMENDED on 5/18/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

EXHIBIT C

PLANNING COMMISSION CASE NO. 2011.0471C AND MOTION NO. 18520



## SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- |  |  |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315)         | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139)            | <input type="checkbox"/> Other                             |

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

### Planning Commission Motion 18520

HEARING DATE: JANUARY 19, 2012

Date: January 12, 2012  
Case No.: 2011.0471C  
Project Address: 1111 California Street  
Zoning: RM-4 (Residential Mixed, High Density) District  
65-A Height and Bulk District  
Nob Hill Special Use District  
Block/Lot: 0253/020  
Project Sponsor: Allan Casalou  
1111 California Street  
San Francisco, CA 94108  
Staff Contact: Kevin Guy - (415) 558-6163  
[kevin.guy@sfgov.org](mailto:kevin.guy@sfgov.org)

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION TO CONTINUE THE EXISTING NONCONFORMING ASSEMBLY AND ENTERTAINMENT USES OF THE "NOB HILL MASONIC CENTER", AND TO CONTINUE THE EXISTING FOOD AND BEVERAGE SERVICE USES WITHIN THE CENTER, PURSUANT TO PLANNING CODE SECTIONS 185(e) AND 303, ON A PROPERTY WITHIN THE RM-4 (RESIDENTIAL MIXED, MEDIUM DENSITY) DISTRICT, THE 65-A HEIGHT AND BULK DISTRICT, AND THE NOB HILL SPECIAL USE DISTRICT.

#### PREAMBLE

On August 12, 2011, Steven Vettel, acting on behalf of Allan Casalou, ("Project Sponsor", representing the California Masonic Memorial Temple), submitted a request with the City and County of San Francisco Planning Department ("Department") for a Conditional Use authorization (Case No. 2011.0471C) to continue the existing non-conforming assembly and entertainment uses, as well as the existing food and beverage service uses, at the Nob Hill Masonic Center ("Center") located at 1111 California Street ("Project Site"), within the RM-4 Zoning District and the Nob Hill Special Use District ("SUD"), pursuant to Planning Code Section ("Section") 238(d). No enlargement, intensification, or extension of the existing nonconforming use is proposed as part of the request for Conditional Use authorization.

The requested Conditional Use Authorization is not subject to the California Environmental Quality Act ("CEQA") because it is not defined as a project under CEQA Guidelines section 15060(c)(2) and Section

15378 because the continued operation of the existing uses will not result in a direct or reasonably foreseeable indirect physical change in the environment.

On January 19, 2012, the San Francisco Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.0471C.

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

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2011.0471C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

### **FINDINGS**

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The Center has operated since 1958, hosting activities associated with the Freemasons, as well as a variety of events that include music, comedy, and cultural performances, civic events (such as graduations and naturalization ceremonies), exhibitions, and corporate meetings. The assembly and entertainment functions of the Center became nonconforming in 1978, when the subject property was rezoned to the RM-4 District, which does not permit such activities. The proposal is to continue the operation of the nonconforming entertainment and assembly uses, as well as the existing food and beverage service uses, which are conditionally permitted within the Nob Hill Special Use District. No enlargement or intensification of the existing nonconforming use, and no change to the physical configuration of the Center is proposed as part of the request for Conditional Use authorization. The maximum capacity of the auditorium would remain at 3,282 persons.

The Center has operated since the 1950's without substantial operational conditions, other than those imposed by the Planning Code and other applicable regulations. Conditions of approval are proposed to maintain the historic level of operating intensity and to minimize impacts to the surrounding neighborhood. These conditions would limit the number of annual events and operating hours, promote safety and security, address parking and traffic control, set parameters for loading operations, limit hours for serving alcoholic beverages, and establish a program to monitor and enforce these conditions.

3. **Site Description and Present Use.** The Project Site is located on the south side of California Street between Jones and Taylor Streets, Block 0253, Lot 020. The subject property is located

within the RM-4 (Residential Mixed, High Density) District, the 65-A Height and Bulk District, and the Nob Hill Special Use District. The Project Site gently slopes along the California Street frontage, but is steeply sloped along the Taylor Street frontage. The Center occupies nearly the entire site, and includes approximately 118,000 square feet of assembly and entertainment space, 17,000 square feet of administrative space utilized by the Freemasons, and a parking garage containing approximately 565 off-street parking spaces. The property measures 49,841 square feet, including a 25-foot wide flag portion fronting on Pine Street. This flag portion provides access to a loading area, and secondary access to the parking garage.

4. **Surrounding Properties and Neighborhood.** The Project Site is located within the Nob Hill neighborhood, an area characterized by a mix of hotel, institutional, and high-density residential uses. Neighborhood-serving commercial uses are scattered at various corners throughout the neighborhood, as well as along nearby commercial strips on Polk Street, Pacific Avenue, and the Chinatown neighborhood to the east. Several prominent institutional uses (including the Grace Cathedral and the Pacific Union Club) and hotels (the Fairmont and the Mark Hopkins Intercontinental) are clustered in the immediate vicinity on California Street between Powell and Jones Streets.

The scale of existing buildings varies greatly in the vicinity of the Project Site. Taller buildings, some exceeding twelve stories in height, are clustered near the crest of Nob Hill. This cluster accentuates and exaggerates the underlying topography, creating a recognizable orientation point within the skyline of the City. Buildings are generally lower to the in the downslope areas, averaging four to five stories in height. The building immediately to the west is a 16-story residential tower, while the remainder of the block to the south is comprised of lower-scale residential uses.

5. **Public Comment.** Staff has received a large number of communications regarding the project. A significant number of these communications have questioned the historic frequency and number of events (particularly live entertainment events) that have occurred in the past and would serve as a baseline for future operating conditions. Several communications also claim that the Center has infrequently served alcohol at prior events, at fewer beverage stations than the five stations proposed for continued operation. Members of the public have also raised concerns regarding traffic, noise (from patron activity and loading operations), parking impacts (from patrons, tour buses, and equipment trucks), and changes in the type of events that would be held at the Center.
6. **Planning Code Compliance:** The Commission finds that the project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Uses.** Section 185(e) permits nonconforming uses to continue operation beyond specified termination dates through the Conditional Use authorization process, provided that no intensification or enlargement of the use is proposed. Section 238(d) permits eating and drinking uses (except large fast-food restaurants) within the Nob Hill SUD, through the Conditional Use authorization process.

*The existing Center was operated as a permitted use until 1978, when the subject property was rezoned to the RM-4 Zoning District. The RM-4 District does not permit entertainment and assembly uses, therefore, the Center became non-conforming with this rezoning. The Project Sponsor is requesting Conditional Use authorization to continue the operation of the nonconforming assembly and entertainment uses of the Center, without any enlargement or intensification. Conditions of approval are proposed to maintain the historic level of operating intensity and to minimize impacts to the surrounding neighborhood.*

*The Project Sponsor proposes to operate five food and beverage stations concession stations within the Center, and has represented that this would be a continuation of the average number of food and beverages stations that have historically operated within the Center. Until 2010, individual event promoters were responsible for obtaining "one-day" permits from the California Department of Alcoholic Beverage Control (ABC). These permits applied to the premises of the Center, and did not describe a specific number of concession stations. There is insufficient evidence to reliably establish an historic average in terms of the number of these stations. Therefore, this motion does not include any conditions with respect to the quantity of stations.*

- B. **Off-Street Parking.** Section 151 theater or auditorium uses to provide one parking space for every eight seats up to 1,000 seats, plus one space for each ten seats in excess of 1,000.

*The existing Masonic Center garage contains 565 parking spaces. However, 205 of these spaces are currently leased to monthly leaseholders. A condition of approval has been added requiring that the Center provide off-street parking spaces within the garage in perpetuity for the use of event patrons, in an amount which conforms to the requirements of Planning Code Section 151. This conditions stipulates that the number of spaces may not be reduced or otherwise made unavailable due to monthly leases or other commitments of spaces within the garage.*

- C. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. An Other Entertainment use that measures between 100,001 to 200,000 square feet of gross floor area would be required to provide one off-street loading space.

*The gross floor area of the Center measures approximately 118,000 square feet. An existing loading dock is accessed via Pine Street and measures approximately 35 feet in length by 10 feet in width. This loading space fails to meet several aspects of the Planning Code as follows:*

1) *Enclosure: Pursuant to Section 155(p), a loading area within 50 feet of an "R" District shall be completely enclosed within a building if the area is used in regular night operation. Given the nature of the proposed Other Entertainment use, it is expected that this loading dock would be used at night. The dock is unenclosed and is located within an "R" District, and therefore fails to meet the enclosure requirement of the Planning Code.*

2) *Dual-Use of Loading Dock: According to the Project Sponsor, the loading dock area also partially serves as a secondary driveway for vehicles to access the Masonic Center parking garage.*

*Because the existing loading dock does not comply with these aspects of the Planning Code, the Center is considered to be a "noncomplying structure" as defined by Section 180(a)(2). The Planning Code calculates loading requirements based on the gross floor area of a structure. Because the Project would continue the existing operation of the Center, and would not increase the overall gross floor area of the structure, the Project is not considered an intensification that would increase the number of required loading spaces pursuant to the Planning Code.*

- D. **Hours of Operation.** Section 185(e) does not specify hours of operation of nonconforming uses which are permitted to continue operation through Conditional Use authorization.

*A Condition of approval have been added requiring that all weeknight events end by 11:00PM, and all weekend events end by 11:30PM. In addition, this condition would allow the Project Sponsor to seek authorization from the San Francisco Police Department, the Planning Department, and the Entertainment Commission for up to three events per year that extend until 1:00AM.*

7. **Planning Code Section 303(c)** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use Authorization. On balance, the Project does comply with said criteria in that:

- A. The proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.

*The Center is a venue of regional cultural, entertainment, and civic importance that has hosted a wide variety of events since 1958. In addition to activities associated with the Freemasons, these events include music, comedy, and cultural performances, civic events (such as graduations and naturalization ceremonies), exhibitions, and corporate meetings. However, the operation of a venue with Citywide and regional significance, has the potential to cause a number of substantial impacts to the surrounding area.*

*The Center has operated since the 1950's without substantial operational conditions, other than those imposed by the Planning Code and other applicable regulations. The imposition of conditions of approval will allow the Center to continue operating as a important entertainment, cultural, and civic venue while minimizing impacts to the surrounding neighborhood. Conditions have been added that limit the number of events and operating hours, promote safety and security, address parking and traffic control, set parameters for loading operations, limit hours for serving alcoholic beverages, and establish a program to monitor and enforce these conditions. On balance, these conditions will allow the venue to continue operating in a manner that is desirable for the community and the City as a whole, and is compatible with the area, and reflects historic operating conditions at the Center.*

- B. The proposed use or feature will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The size and shape of the site and the size, shape, and arrangement of the building would not change. With the imposition of the conditions of approval for the Project, the site and the building are adequate for the proposed use.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading, including provision of car-share parking spaces, as defined in Section 166 of this Code;

*The Center includes a garage with 565 parking spaces. A condition of approval has been added requiring that the Center provide off-street parking spaces within the garage in perpetuity for the use of event patrons, in an amount which conforms to the requirements of Planning Code Section 151. In addition, the Grace Cathedral garage and the Crocker garage are each located within one-half block of the Project Site and offer a total of 330 parking spaces. These garages could therefore accommodate parking needs which are not met within the Masonic Center garage. The Project Sponsor proposes to offer fixed-priced parking for larger events, with parking that can be pre-purchased at the time that the patron orders tickets for an event.*

*The area is moderately well-served by transit, with four MUNI lines (1 - California, 27 - Bryant, and the California and Powell-Hyde Cable Car lines) available within two blocks of the Project Site. In addition, patrons have the option to arrive at the Center by taxi, walking, or bicycling.*

*Because the Pine Street loading dock is unsuitable for use by large delivery vehicles, such loading is proposed to occur from the curbside parking on California Street. The Planning Code does not specifically regulate curbside parking, however, several operational conditions of approval have been added to help minimize impacts related to this curbside loading activity. Specifically, the Project Sponsor must seek approval from the San Francisco Police Department to designate a temporary truck and passenger loading zone on the south side of California Street, extending from the Masonic Center garage entrance approximately 185 feet to the west, prior to and during large events. This zone would serve multiple purposes, as enumerated and restricted by the conditions of approval, and as summarized below:*

*1) Large trucks would park within this zone during the transfer of stage equipment and other materials for events. After the unloading activities conclude, the delivery trucks would be stored off site for the duration of the event. The trucks would return to load the materials at the end of the event, and would not be parked overnight on California Street.*

*2) Up to two performer buses may park within this zone beginning at to 1.5 hours prior to the beginning of an event, and may remain within the zone during the duration of the event. No more than two performer buses may park within this zone at any time, and no performer buses shall be permitted to park within this zone overnight. The Project Sponsor shall be required to install shore power (following receipts of all necessary approvals) to provide electrical power to these performer buses and avoid the use of*

*engines or generators. The sponsor must also research the viability of utilizing off-street parking facilities in the vicinity to park performer buses during events.*

*3) The remainder of the zone (not occupied by performer buses or delivery trucks) is intended for passenger drop-off, taxi loading, and queuing for vehicles entering the Masonic Center garage.*

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*All events scheduled for the Center would occur within the interior of the building. Therefore, all noise directly resulting from events such as concerts is attenuated and is not perceptible outside of the building. The majority of pedestrian queuing for events would occur within the interior of the building, in the main lobby area, reducing conversational noise from waiting patrons. Shore power will be installed adjacent to street parking spaces that will accommodate performer bus parking, so that engines or generators will not need to run continuously to power accessories within these parked vehicles. Rubber or vinyl mats and curb and ramp transition strips would be placed to reduce the noise generated by loading activities requiring dollies or other rolling conveyances. The project proposes no interior or exterior changes to the Center, therefore, the Project is not expected to generate new dust or glare.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The Project Site is completely built-out and no changes are proposed to the exterior with regards to landscaping, open spaces, lighting, or signs. Conditions of approval have been added to ensure that the parking, loading, and other functions associated with the events at the Center operate in a manner that minimizes impacts to the surrounding neighborhood. These conditions are discussed further under item 8(B)(ii) above.*

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

*The Project complies with the applicable requirements of the Planning Code, and will not adversely affect the policies of the General Plan as discussed under Item #8 below.*

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

## **ARTS ELEMENT**

### **OBJECTIVE I-1:**

**RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.**

**Policy I-1.1**

Promote inclusion of artistic considerations in local decision-making.

**Policy I-1.2**

Officially recognize on a regular basis the contributions arts make to the quality of life in San Francisco.

**Policy I-1.4**

Provide access to the creative process and cultural resources for all neighborhoods, cultural communities, and segments of the city and its populations.

**OBJECTIVE VI-1**

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

**Policy VI-1.4**

Preserve existing performing spaces in San Francisco.

*The Center is a venue of regional cultural, entertainment, and civic importance that has hosted a wide variety of events since 1958. Some events of these events have been associated with the Freemasons, civic events, and exhibitions. However, the Center has a longstanding tradition of hosting performance arts events, including music of all genres, comedy, dance, and cultural performances. These events strengthen the recognition and reputation of San Francisco as a city that is supportive of the arts. Such activities strengthen the recreational and cultural vitality of San Francisco, bolster tourism, and support the local economy by drawing patrons from throughout the region. The Project would allow for the continued operation and viability of the Center as a venue to host performing arts events.*

**COMMERCE AND INDUSTRY ELEMENT**

**OBJECTIVE 8:**

ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

**Policy 8.1**

Guide the location of additional tourist related activities to minimize their adverse impacts on existing residential, commercial, and industrial activities.

*These policies includes guidelines that seek to avoid the negative impacts to residential uses resulting from entertainment venues. Conditions have been added that limit the number of evening events and operating hours, promote safety and security, address parking and traffic control, set parameters for loading operations, limit hours for serving alcoholic beverages, and establish a program to monitor and enforce these conditions. These conditions of approval will allow the Center to continue its existing operation while minimizing impacts to the surrounding neighborhood.*

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

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

*The Project would not displace any retail establishments or compromise employment opportunities in the area.*

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

*The Project would not displace any existing housing. The conditions of approval will ensure that the venue will operate in a manner that preserves and enhances the cultural and economic diversity of the neighborhood and the City, while minimizing negative impacts to the character of the area.*

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

*The Project will not result in the loss of any existing affordable housing units*

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

*For patrons who wish to drive private vehicles to events, adequate parking exists at the Masonic Center garage, and other nearby garages. The area is moderately well-served by transit, and patrons may choose to arrive to the event by a mode other than private vehicles (transit, taxis, walking, or bicycles). Conditions of approval have been added to address parking and circulation of performer buses, equipment trucks, and patron vehicles.*

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

*The Project does not include any commercial office space, and will enhance opportunities for service sector employment.*

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

*The Project does not involve any construction activities that would compromise the structural integrity of the existing building.*

- G. That landmarks and historic buildings be preserved.

*No exterior or interior changes are proposed for the Project. Any future alterations and signage would be required to comply with applicable preservation standards.*

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

*The Project, which does not include any physical expansion of the existing building envelope, would not impact any parks or open spaces or their access to sunlight.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

### DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2011.0471C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated January 19, 2012, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No.

Motion 18520  
Hearing Date: January 19, 2012

CASE NO 2011.0471C  
1111 California Street

18520. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on January 19, 2012.

Linda D. Avery  
Commission Secretary

AYES: Miguel, Antonini, Borden, Fong, Moore

NAYS:

ABSENT: Sugaya (Recused)

ADOPTED: January 19, 2012

# **EXHIBIT A**

## **AUTHORIZATION**

This authorization is for a conditional use to allow the continuation of the existing nonconforming assembly and entertainment uses, as well as the existing food and beverage service uses (d.b.a. Nob Hill Masonic Center) located at 1111 California Street, Block 0253, Lot 020 pursuant to Planning Code Sections 185(e) and 303 within the RM-4 District, the 65-A Height and Bulk District, and the Nob Hill Special Use District; in general conformance with plans, dated January 19, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2011.0471C and subject to conditions of approval reviewed and approved by the Commission on January 19, 2012 under Motion No 18520. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

## **RECORDATION OF CONDITIONS OF APPROVAL**

Prior to the commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on January 19, 2012 under Motion No 18520.

## **SEVERABILITY**

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

## **CHANGES AND MODIFICATIONS**

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

## **Conditions of approval, Compliance, Monitoring, and Reporting**

### **PERFORMANCE**

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. The approved use must be commenced within three years of the approval of this Conditional Use authorization. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if the use has not commenced within three (3) years of the date of the Motion approving the Project.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## Monitoring

### PARKING AND TRAFFIC

2. **Parking Requirement.** The Project Sponsor shall make available to the general public within the Masonic Center garage no less than number of off-street parking spaces required by Planning Code Section 151 for "theater or auditorium" uses (a minimum of 1 parking space per 8 patron occupancy for the first 1,000 patrons, plus 1 space per 10 patrons above 1,000 patrons in the Auditorium). The number of spaces shall not be reduced or otherwise be made unavailable for the use of the Masonic Center due to monthly leases or other arrangements.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

3. **Parking Fee.** There shall be a fixed parking fee for events with more than 1,250 ticketed attendees.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

4. **Pre-Paid Parking.** The Project Sponsor shall offer pre-paid parking to event attendees who purchase tickets in advance of the event date through an on-line ticket service. Such pre-paid parking passes shall specify the location of the garage for which the ticket has been paid (either the Masonic Center garage or any other nearby garage that enters into a cooperating agreement with the Project Sponsor for pre-paid parking) and the location of the garage's entrance.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

5. **Bicycle Parking.** The Project Sponsor shall provide not less than 26 Class I or Class II bicycle parking spaces at the property, consistent with Planning Code Section 155.2.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

6. **Pine Street Access.** The Project Sponsor shall allow access to the Masonic Center garage through the Pine Street loading dock prior to events for holders of pre-paid parking tickets in order to reduce vehicle queuing on California Street. The Pine Street loading dock shall also be used for exiting from the garage after events.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

7. **Traffic Management.** The Project Sponsor shall minimize vehicular queuing on California Street by use of the following strategies events with more than 1,250 ticketed patrons:

- Increase traffic staffing inside the California Street garage entrance to increase the rate of vehicular entry to the garage.
- Position security personnel (including San Francisco Police Department services when warranted) outside the garage to assist with controlling and directing

## Monitoring

traffic, including directing patrons to other nearby garages if and when the Masonic Center garage is full.

- Convert the center lane of the existing garage entrance ramp to a second inbound lane to increase queuing room within the garage.
- Event staff shall ensure that u-turns are prevented and that the cable car lane is free-flowing.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

8. **Overflow Parking.** The Project Sponsor shall consult with nearby public garages to inform arriving patrons that those garages can be used to park for performances and events when the Center's garage is full.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

9. **Loading Zone.** The Project Sponsor shall apply for designation of a truck and bus loading zone and passenger zone for drop-off by taxis and other vehicles and additional garage queuing for the approximately 185-foot long curb zone on California Street between the entrance to the Center garage and Gramercy Tower (1177 California Street) driveway, to be in effect only prior to and during events at the Masonic Center. The drop-off zone shall be sufficient to accommodate a minimum of three taxis or private vehicles dropping off passengers at one time.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

10. **Loading on California Street.** The Project Sponsor shall seek a special event "no parking" permit from the Police Department whenever it anticipates loading or bus operations on California Street and direct trucks to park in that zone. No double-parking of trucks shall be permitted. The Project Sponsor may load and unload from the California Street curb only stage sets, performance equipment, and related materials associated with specific events. Pursuant to the regulations of the Department of Building Inspection, a sign shall be posted on the access ramp during loading and unloading operations that notifies disabled persons of the duration of the loading and provides specific information about alternative means of disabled access into the building, which alternative access shall be maintained at all times during loading and unloading operations on California Street. After the conclusion of unloading activities, trucks using the California Street curb loading zone shall depart the premises, park off-site, and not return for loading until near the conclusion of the performance. No overnight curb parking of trucks shall be permitted on California Street.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

11. **Loading Noise.** To minimize noise during loading and unloading operations on California Street, the Project Sponsor shall install prior to loading and unloading activities a resilient surface material, such as rubber or vinyl, on truck ramps, pavement, sidewalk and the ramp and incorporate transition strips between different surfaces and shall direct that truck

## Monitoring

engines be turned off except when moving the vehicle or functions that require engine power are occurring, such as lowering or raising of hydraulic ramps.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

12. Personnel conducting loading and unloading activities on California Street shall be instructed to minimize the volume of conversation and prohibit the playing of amplified music outside the building during loading and unloading, particularly during nighttime hours.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

13. **Performer Bus Parking.** During the one and one-half hour period prior to the start of events, no more than two performer buses shall park on the south side of California Street, so that the remainder of the 185-foot long curbside area is available for attendee unloading and loading and vehicle queuing into the garage. The Project Sponsor shall direct any additional buses to park in other bus parking zone(s) the City chooses to designate near the corner of California and Taylor Streets, such as on Taylor Street adjacent to Huntington Park or on the north side of California Street. The Project Sponsor shall make best available efforts to evaluate and demonstrate to the Zoning Administrator the physical and operational feasibility of storing performer buses at nearby off-street parking facilities during events.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

14. **"Shore" Power.** The Project Sponsor shall provide electric power on the south side of California Street for event buses in order to ensure the quiet and clean powering of these vehicles and shall direct that all performer buses parking at this zone connect to this electric power and not run their engines or generators.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

15. The project sponsor shall seek permission from the appropriate City agency or adjacent property owners to install electric power adjacent to any other City-designated bus parking zone that is within ½ block of the property, if feasible, so that, if there is a feasible method of providing electric power, the Project Sponsor shall direct performer buses to connect to this electric power and not run their engines or generators.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

16. **Overnight Bus Parking Prohibited.** Overnight curb parking of buses or habitable trailers for performers, support staff, or other associated with the operations or productions at the property shall not be permitted on either side of California Street. The Project Sponsor shall include in any contract or agreement, or rules or guidance given to any performers, support staff, or others associated with the operations or productions at the property a requirement to abide by this condition. The Project Sponsor shall remain responsible for compliance with this condition, regardless of such notice or contractual provisions.

## Monitoring

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

### MONITORING - AFTER ENTITLEMENT

17. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

18. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

19. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## Operation

### OPERATION

20. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*

21. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>*

22. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

*For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, [www.sfdph.org](http://www.sfdph.org)*

*For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, [www.sfdbi.org](http://www.sfdbi.org)*

*For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-1012 or 415-5530123, [www.sf-police.org](http://www.sf-police.org)*

23. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor. The community liaison shall make available, upon request, a list of future scheduled events which will be updated on a monthly basis.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

24. **Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.

## Operation

*For information about compliance, contact the Entertainment Commission, at 415 554-6678, [www.sfgov.org/entertainment](http://www.sfgov.org/entertainment)*

25. **Entertainment and Assembly.** The entertainment and assembly functions shall be performed within the enclosed building only. The building shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission within a reasonable timeframe following project approval. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.

*For information about compliance, contact the Entertainment Commission, at 415 554-6678, [www.sfgov.org/entertainment](http://www.sfgov.org/entertainment)*

26. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

27. **Event Operations Manual.** The Project Sponsor shall maintain, update over time, provide to event personnel, and make available to the Planning Department an event Operations Manual to include:

- A security plan to ensure neighborhood safety before, during and after performances, including in Huntington Park and near Grace Cathedral.
- A traffic control plan, including deployment of traffic control personnel outside the venue to assist patron unloading and loading, queuing into the garage, and enforcement of the Parking and Traffic, Loading and Performer Bus Parking conditions set forth below.
- Trash pick-up program within two hours after each event in the four blocks bounded by Sacramento, Jones, Pine and Mason Streets.
- Direction to event personnel to assure compliance with these conditions of approval.

28. **Patron Queuing.** All patron queuing for events with general admission attendance shall occur within the Masonic Center property, including the main lobby and in the plaza fronting on California Street.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

29. **Food and Beverage Service.** Food and beverage service is limited to service to patrons of on-site assembly and entertainment events within the Nob Hill Masonic Center. There shall be no operations of a restaurant, either full-service or self-service, open to members of the public who are not patrons of assembly or entertainment uses within the Masonic Center.

## Operation

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

30. **Alcohol Sales.** Following the conclusion of the last intermission of an event, or one hour prior to the conclusion of an event within no intermission, a maximum of three concession stands may serve alcoholic beverages. One hour prior to the conclusion of an event, line markers shall be placed at the end of each of the lines. No patron approaching a line for a concession stand after the placement of the line marker will be served an alcoholic beverage, with the intent that alcohol service will conclude 45 minutes prior to the end of an event. There shall be no minimum purchase of alcohol required, and a maximum of two alcoholic beverages may be served per order.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

31. **Police Department Review.** If an event has presented a pattern of safety and security problems in previous concert seasons or at other venues, then the Project Sponsor shall consult with the Police Department to determine whether the Project Sponsor can provide adequate safety and through utilization of its security personnel, contracted private security, and/or on-duty or off-duty Police officers. To the extent that the Chief of Police reasonably determines, based entirely on the ability to provide safety and security and not on the expressive content of the event, that the Project Sponsor cannot provide adequate safety and security for any proposed event or that the event's historic pattern establishes that safety and security issues cannot be adequately handled at the venue regardless of the Project Sponsor's security plan, the Chief of Police may order that the event shall not be held. This provision does not supersede any subsequent regulations regarding place of entertainment permits.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

32. **Off-Duty Police Officers.** Project Sponsor shall comply with Administrative Code Section 10-B, and if off-duty officers are hired pursuant to subsections thereof, a minimum of two officers be hired for events with 1,250 or more presold tickets; if SFPD determines that more than two officers are required, the Project Sponsor shall provide the additional officers.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## Maximum Occupancy and Events

### MAXIMUM OCCUPANCY AND EVENTS

33. **Occupancy.** No more than 3,282 patrons shall be permitted for events in the auditorium on the main floor level and mezzanine of the Masonic Center.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

34. **Number of Events.** There shall be an annual maximum of 68 live entertainment events, and an annual maximum of 219 events not involving live entertainment, held at the Masonic Center. Notwithstanding these limitations, there shall be no limitations on the number of events that are attended by 250 patrons or fewer.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

35. **Event Hours.** All events shall conclude by 11:00PM on weeknights (non-holiday Sunday-Thursday evenings) and 11:30PM on weekends (Friday, Saturday, and holiday evenings). Up to three events per year may extend until 1:00AM, subject to prior consultation with and approval by the San Francisco Police Department, the San Francisco Planning Department, and the Entertainment Commission a minimum of 30 days prior to the date of such an event.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

EXHIBIT D

BOARD OF SUPERVISORS MOTION NO. M12-42, FILE NO. 120185

AMENDED IN BOARD  
4/3/12

FILE NO. 120185

MOTION NO. M12-42

1 [Disapproving Planning Commission Decision Related to Conditional Use Authorization - 1111  
2 California Street; Approving Conditional Use as Modified by the Board of Supervisors]

3  
4 **Motion disapproving decision of the Planning Commission by its Motion No. 18520,**  
5 **approving Conditional Use Authorization identified as Planning Case No. 2011.0471C**  
6 **on property located at 1111 California Street, and authorizing conditional use on**  
7 **property located at 1111 California Street as modified by the Board of Supervisors on**  
8 **April 3, 2012.**

9  
10 **MOVED, That the decision of the Planning Commission by its Motion No. 18520 dated**  
11 **January 19, 2012, approving Conditional Use Authorization identified as Planning Case No.**  
12 **2011.0471C, pursuant to Planning Code Sections 185(e) and 303, to continue the existing non-**  
13 **conforming assembly and entertainment uses of the "Nob Hill Masonic Center", and to continue**  
14 **the existing food and beverage service uses within the center, on a property within the RM-4**  
15 **(Residential Mixed, Medium Density) District, the 65-A Height and Bulk District, and the Nob Hill**  
16 **Special Use District, on property located at:**

17 **1111 California Street, Assessor's Block No. 0253, Lot No. 020.**

18 **be and the same is disapproved;**

19  
20 **FURTHER MOVED, That conditional use at said property is hereby authorized as set**  
21 **forth in the decision of the Planning Commission by its Motion No. 18520 dated January 19,**  
22 **2012, Planning Case No. 2011.0471C, except that condition 34 "Number of Events" in said**  
23 **motion is stricken and the following condition is imposed, as modified by the Board of**  
24 **Supervisors on April 3, 2012:**

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**34. Number of Events.** There shall be an annual maximum of 54 live entertainment events, and an annual maximum of 176 events not involving live entertainment, held at the Masonic Center. Notwithstanding these limitations, there shall be no limitations on the number of events that are attended by 250 patrons or fewer.



**City and County of San Francisco**

**Tails**

**Motion: M12-042**

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

**File Number:** 120185

**Date Passed:** April 03, 2012

Motion disapproving decision of the Planning Commission by its Motion No. 18520, approving Conditional Use Authorization identified as Planning Case No. 2011.0471C on property located at 1111 California Street, and further subject to additional conditions imposed by the Board of Supervisors on April 3, 2012.

**March 20, 2012 Board of Supervisors - CONTINUED**

Ayes: 7 - Avalos, Campos, Chiu, Elsbernd, Farrell, Kim and Olague

Excused: 3 - Chu, Cohen and Wiener

Absent: 1 - Mar

**March 27, 2012 Board of Supervisors - CONTINUED**

Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar and Wiener

Absent: 1 - Olague

**April 03, 2012 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE**

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

**April 03, 2012 Board of Supervisors - APPROVED AS AMENDED**

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

File No. 120185

I hereby certify that the foregoing Motion was APPROVED AS AMENDED on 4/3/2012 by the Board of Supervisors of the City and County of San Francisco.

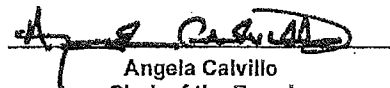
  
Angela Calvillo  
Clerk of the Board

EXHIBIT E

OVERVIEW OF 2012 SETTLEMENT TERMS

- The number of *live entertainment events will be limited to 54 per year*. (The original proposal submitted by the Masonic to the City Planning Commission had no limits; an earlier proposal was for 98. *The number of live entertainment events supported by the Draft EIR is 95.*)
- The number of food-and-beverage serving stations, to include bars, will be limited to *4 concession facilities open to the public and one concession facility in a private VIP room*. (The original proposal was for 11 bars. *The number of concession facilities supported by the Draft EIR is 8.*)
- *Only 2 public serving stations will be open for events of 2,000 people or less* (This is the same as the present configuration. *There is no such limitation in the Draft EIR.*)
- There will be *NO concession facilities in the auditorium*. (Earlier proposals called for a two large bars in the auditorium. *The EIR may support two concession facilities in the auditorium.*)
- There will be *no expansion or intensification of use for a period of 20 years*. (Proposals thus far have had no such limitation. *The EIR has no such limitation.*)
- The Masonic will contribute *\$300,000 in the next two years to a fund for the improvement and maintenance of Huntington Park*. Further contributions in the out-years will bring the total to *between \$500,000 and \$800,000 over the life of the agreement* (based on ticket sales).
- *Deliveries and loading will be conducted from the loading dock on the Pine Street entrance*, except for sound and lighting equipment, which must be delivered and loaded from California Street.
- *Nob Hill residents will be able to purchase tickets 48 hours before they are released for sale to the general public*. (This will encourage local residents to attend events at the Masonic; encourage the Masonic to schedule events that appeal to Nob Hill residents; reduce inbound/outbound traffic; and reduce congestion.)
- *The Masonic will dedicate one set of box seats* for all events for distribution and use by a neighborhood committee. (This will allow persons from the neighborhood monitoring/liaison committee to attend on a regular basis and thus to monitor for compliance with the terms of the settlement agreement.)
- *LiveNation will implement a School Music Program* for District 3 Schools.
- *Community and Ethnic Concerts* will receive discounted rental rates.
- Other terms will be governed by the interim settlement document that was agreed upon last April.

**Other Key Provisions Regarding Security and Monitoring.** In addition to the beneficial provisions in the Term Sheet addressed above, the proposed settlement incorporates terms from the interim settlement agreement and the Modified Conditional Use Permit that have been in force since April 3, 2012. The terms regarding security that the Masonic is required to provide before, during and after events, and monitoring to ensure that all terms are carried out, are summarized below.

- ***Security Plan.*** On the day of a show, from morning until the end a show, the Security plan requires the Masonic to provide private security personnel outside the building on California Street. Personnel are stationed at the end of the drop-off zone and in front of 1177 California, two key locations.

Thirty minutes before a show begins, and continuously until the Masonic garage is emptied after a show, the Masonic is required to provide two private security personnel and two San Francisco Police Department patrolmen for all events of 2400 patrons or less, and four private security personnel and three Police Department patrolmen for events with over 2400 patrons.

Fifteen minutes before the end of an event, and until all traffic is out of the garage, security personnel are to be stationed at (a) the California Street steps at Grace Cathedral (1 private security person); (b) the Taylor Street steps of Grace Cathedral (1 private security person); (c) on patrol in Huntington Park to prohibit loitering in the park (2 private security persons); and (d) on patrol between the Masonic Garage and the corner of California and Jones Streets (Police Department).

The Security Plan also provides for one Emergency Medical Technician onsite.

Note: Private security guards all are certified by the State of California as internal security guards (like those at banks, stores, etc.). They are required to be trained and certified. They do not carry weapons, but San Francisco Police Department patrolmen do. Thus, armed response is available, if it ever should be required.

- ***Monitoring and Control.*** From 1958 through 2008 there were no real controls on the Masonic operations. The terms of the proposed agreement, in addition to those that the Conditional Use Permit now provide, we are now looking at significant controls, with over 45 conditions imposed, and a monitoring committee to oversee compliance. The committee is to be comprised of persons from 1177 California (or other HOAs), the NHA, the Masonic and Live Nation. It is to meet quarterly and file reports with the Planning Department and the Police Department. That report will be drafted by the operator and owner of the venue, but will be provided to the HOA and NHA representatives for comments before it is filed. The monitoring committee also will be apprised of the events planned and scheduled for the next calendar quarter. The Police Department also will monitor upcoming events and has authority to require the owner/operator to provide addition security, in its discretion, if the need is anticipated.

**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Tuesday, June 04, 2013 8:41 AM  
**To:** Donna Pittman  
**Subject:** FW: 1111 California 2011.0471E Fw: Nob Hill Masonic Center, 1111 California. 2011.0471C on 1/19/12 agenda  
**Attachments:** MuniPStrauss SFMTA Short Range Transit Plan excerpts 3.docx; PoliceCodeCamping.docx; PlanningCode238NobHillsUD.docx

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**From:** Jones, Sarah  
**Sent:** Tuesday, June 04, 2013 8:39 AM  
**To:** Bollinger, Brett  
**Subject:** FW: 1111 California 2011.0471E Fw: Nob Hill Masonic Center, 1111 California. 2011.0471C on 1/19/12 agenda

---

**Sarah Bernstein Jones**  
**Acting Environmental Review Officer**  
**Acting Director of Environmental Planning**

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1650 Mission Street, Suite 400, San Francisco, CA 94103  
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Web: [www.sfplanning.org](http://www.sfplanning.org)

---

**From:** Li Chapman [<mailto:licwa@yahoo.com>]  
**Sent:** Monday, June 03, 2013 4:58 PM  
**To:** Jones, Sarah  
**Subject:** 1111 California 2011.0471E Fw: Nob Hill Masonic Center, 1111 California. 2011.0471C on 1/19/12 agenda

In 2011- 2012, the Department processed a Conditional Use application (reference case 2011.0147C) in advance of the environmental review required to respond to a court order for CEQA compliance.

Reversing the order to issue environmental actions **after** authorizing a Conditional Use for the same or similar project had consequences--that contributed to an incomplete and inaccurate DEIR.

The Superior Court rejected Categorical Exemptions alleged for this project, and nullified the Conditional Use approved in 2010. A court order should trigger at least the level of review for the 2012 decision ("Phase 1" of this Conditional Use) that CEQA Guidelines required without that Categorical Exemption.

The Department evaded the court intention for accurate environmental assessment of Masonic changes-- by dividing one project (subject of the court ruling) into phases processed like separate projects. The Conditional Use that was decided in 2012 evaded environmental review--after the court rejected a CatEx.

A project approved in 2012 deferred environmental review-- when that C.U. was alleged to be "temporary." The next phase was already proposed, continuing and expanding the 2012 project. "Phase 2" was expected to modify the Conditional Use procedure for the same program to reclassify and intensify

I 10.1

I 10.2

the project site that was initially approved in 2010. The scope of "Phase 2" was known; but "two projects" for the same site were analyzed as having no cumulative impacts.

A project was bifurcated for purpose of authorizing a Conditional Use to operate in 2012-- while removing it from court ordered environmental review. Approving "Phase 1" created the DEIR's alleged "baseline" (new conditions are used to deny significant impacts for "Phase 2"). It further prejudiced analysis by claiming the 2012 variant of 2011.0147E is a "project alternative" that the DEIR uses to assess impacts of the full project.

Activities that existed for "Phase 1" were largely discounted by the flawed assessment for "Phase 2". But the CEQA mandated process was ignored for "Phase 1" to trigger notices, Initial Study, and at a minimum the appealable Negative Declaration.

The bifurcated Conditional Use actions are one project. The court ordered environmental review for impacts of the Masonic Center project-- not the impacts from a 2013 change order.

Absent a timely environmental review for the Conditional Use project that was heard in 2012-- data submitted by the public for 2011 and 2012 C.U. hearings should be added to comments for consideration in the 2013 EIR. Detailed data (to include zoning changes and type and number of events) were made part of the 2011-2012 record. I have asked to incorporate with the DEIR comments some data from the 2011-2012 file (when an environmental file was not open for comments).

I have copies of some submissions offered for the C.U. record that show changing intensity, history of allowed land use and actual events (delivered by Nob Hill Association, Amy Harmer, Donald Humphreys). Now that my copies are marked and attachments possibly not intact, I asked Kevin Guy to facilitate access to previous C.U. files to copy data for the DEIR comments. Access was not arranged; since the Department has the research for the Conditional Use file that preceded environmental review, I ask to incorporate the historic data showing the level of large entertainment events occurring before and after the zoning revisions

**I 10.2  
(cont.d)**

**Please incorporate my submissions for the previous decisions that raised environmental concerns about this project. I previously forwarded the memos to the environmental planner after discovering that I was omitted from the 2012 environmental notices. I am providing edited copies.**

**I 10.3**

**Attached is some Muni and Police Code information that I previously submitted.**

Linda Chapman  
1316 Larkin 94109  
516-5063

----- Forwarded Message -----

**From:** Linda Chapman <[licwa@yahoo.com](mailto:licwa@yahoo.com)>

**To:** "[kevin.guy@sfgov.org](mailto:kevin.guy@sfgov.org)" [kevin.guy@sfgov.org](mailto:kevin.guy@sfgov.org) (addressees deleted)

**Sent:** Thursday, January 19, 2012 2:45 PM

**Subject:** Nob Hill Masonic Center, 1111 California. 2011.0471C on 1/19/12 agenda

#### **I. Land Use comments:**

**I 10.4a**

The application failed to show an operation within the legal historic use: i.e., what was actually authorized for the CMMT site **at any time**, prior to zoning changes allegedly creating a "lawful nonconforming use."

Nonconforming use, when the type or intensity of operations was **not authorized by zoning or Conditional Use decision at any time**, cannot be the basis for legalization under rules intended to continue a "lawful nonconforming use" when zoning rules for the location change. If the new rules and old

rules **both** do not authorize a use that was unlawful, it should remain illegal. That enforcement did not terminate violations does not make unlawful uses legal. The unauthorized use of CMMT as a **for-profit business (venue** for entertainment and other commercial uses) remained illegal.

**I 10.4a  
(cont.d)**

Improvements originally authorized for the site were a not-for-profit lodge or club house with ancillary commercial garage. Assembly spaces, such as CMMT and the Cathedral offer, comply with zoning when entertainment and rental operations are at a level consistent with not-for-profit operation of the approved use (lodge, private club, or church). Entertainment and event rentals are not necessarily inconsistent with residential zoning-- when proceeds don't become an end exceeding institutional needs to maintain buildings and church or lodge activity.

Neither events nor food and beverage sales contemplated under Live Nation management could be consistent with not-for profit operation of a lodge building. The CMMT building (when the principal operations become for-profit entertainment and other commercial use) could not qualify as a non-profit lodge or club to meet **either** the C.U. conditions originally imposed to permit its construction, nor subsequent zoning regulations.

**If the site was found to qualify as a "lawful" nonconforming use, that status expired. There is no obligation to authorize extension of nonconforming uses in a residential neighborhood beyond the term for NCU set by the Planning Code.** When the NCU expires, or the NCU could disrupt neighborhood arrangements, the site should be made to conform to currently allowed uses.

## **II. See Attachments**

### **(1) City Planning Code:**

(a) Requirements for proposed **new food and drink operation** to conform to Nob Hill SUD regulations, **which prohibit most types of restaurants** (Attachments 3).

(b) Food service sufficient to justify the ABC license and C.U. for a bona fide eating place is not feasible. Restaurant service is precluded by time available to serve before performances; by limited food marketed for customers whose object is entertainment; by inability to accommodate table service, or feed thousands of customers in the floorspace and time available. Before performances and at intermission large areas are used for queuing and entering/exiting an entertainment venue.

(c) See Planning Code definitions to qualify as **"bona fide eating place."** This defines licensed premises allowed to admit minors, where food service must predominate over alcohol. It specifies local requirements for food service in premises that operate with ABC's 47 license.

**I 10.4b**

(2) See transportation arrangements cited by the DEIR to accommodate up to 3,300 individuals leaving concerts in late evening. Compare Attachment 1 (capacity of the trolleys and buses used in this area for peak loads is calculated at 54 passengers per vehicle. .

**I 10.5**

(3) See Police Code prohibition on performer vans (auto homes) parking on city streets after 10PM (Attachment 2).

**I 10.6**

Youths (inebriated or energized by concerts) will head toward "The New Broadway," near CMMT on Polk and California Streets. Either because our NCD was advertised throughout the Bay Area as the place for "action"--- or because CMMT customers must go through our NCD to reach public transportation.

**I 10.7**

Audiences will traverse residential streets, two or more blocks to closest bus stops, and socialize under bedroom windows during long waits for transit.  
How many hours could it take for Muni to accommodate thousands in limited-capacity Muni vehicles serving this neighborhood?

**I 10.8**

Where is the convenient transportation promised?

1. Cable cars, with small capacity, and competition from other riders afternoon and evening, should be largely discounted.

**I 10.9**

2. 27-Bryant stops at California and Hyde (more than two blocks from CMMT, passing residences). **30-minute headways at night.**
3. 1-California stops require traversing more than two blocks to Clay and Taylor inbound. **20-minute headways at night.**
4. Stockton buses are inaccessible without long walks through residential areas: They pass underground from a stop at Sutter north into Chinatown.
5. 27 and 1 lines don't run later than the latest Live Nation performances planned for some evenings--and it takes time for large crowds to exit, then find the way a stop.
6. How many buses will remove audiences from large events-- when two lines run through the neighborhood, vehicles 20 to 30 minutes apart, each accommodating around 50 riders--  
**assuming buses arrive empty.**
7. Already, 1-California buses are packed late evenings near the Polk NCD, with customers for "The New Broadway." Conditions on other public transit (such as 38 Geary) are affected by crowds coming for entertainment and alcohol in the Polk Corridor: crush loaded or multiple vehicles pass up passengers at stops.

**I 10.9  
(cont.d)**

**III. Please consider testimony about related impacts in the Polk NCD: Decision makers can better understand impacts on residents from the CMMT plan by observing existing impacts on lower Nob Hill from alcohol and entertainment venues drawing young crowds from outside the neighborhood.**

**I 10.10**

1. Testimony and recordings showed disorderly conditions that businesses brought to the Polk NCD by marketing alcohol or entertainment to young crowds-- and abusing 47 licenses. Live Nation applied for a 47 license to admit youths to a venue huge by comparison (at least 20 times larger than the largest venue in the Polk Corridor, where many bars have a capacity close to 49.)  
Profit-oriented operations marketing to the same demographic that disrupted a nearby district will control a site that is surrounded by residences and intended as not-for-profit assembly space. The Live Nation business plan specifically promotes alcohol sales.
2. Residents, merchants, and property owners often report quiet enjoyment disrupted for blocks around licensed premises drawing a young demographic: noise "like the crowd at a football game," unruly youths obstructing pedestrian and auto right-of-way, vomiting and urinating in the public realm and private property.

Linda Chapman  
1316 Larkin  
516-5063 cell  
674-3589 home  
1.

## SFMTA Short Range Transit Plan excerpts 3

FROM: [Peter Straus](#)

TO: [Chapman, Linda](#)

Tuesday, March 29, 2011 4:05 PM

### Message body

Hi, Linda--

As you requested, I've attached scans of three pages (the cover and pp. 45 and 54) of SFMTA's FY2008-2027 Short Range Transit Plan (S RTP), the most recent complete version of this document.

Page 45, in Figure 4.3, gives the maximum load for planning purposes of each of Muni's vehicle types. Muni's standard trolley coaches and motor coaches are both covered as "40-foot coaches" with a 63-passenger maximum capacity for planning purposes.

Page 54, in Figure 4.9, under "Peak Period Load Factors," indicates the agency's policy to limit peak period loads to no more than 85% of these capacity figures, or an average of no more than 54 passengers per 40-foot bus.

--peter

3 Attached files| 3.0MB

FIGURE 4.2  
Muni's Policy Headways

WEEKDAY	PEAK	BASE	EVENING	OWL
Radial	10	15	20	30
Express	10	—	—	—
Crosstown	15	15	20	30
Feeder	20	30	30	—
WEEKEND	BASE	EVENING	OWL	
Radial	15	20	30	
Crosstown	20	20	30	
Feeder	30	30	—	

FIGURE 4.3  
Muni's Planning Load Factors

VEHICLE	MAXIMUM LOAD FOR PLANNING PURPOSES
30' Coach	45
40' Coach	63
60' Coach	94
Light Rail Vehicle	119
Historic Streetcar	70
Cable Car	63

- Increased capacity should be provided at equal or lower cost by substituting articulated vehicles where loads and frequencies warrant.
- Consider reducing service without exceeding policy headways on lines that continuously have diminished ridership.

#### Stop Policies

- Passenger stop spacing should be approximately 800–1,000 feet on motor coach and trolley coach lines except where there are steep grades, and 1,000–1,200 feet between stops on LRV surface lines.
- On streets with grades of over 10%, stops should be spaced 500–600 feet apart. On streets with grades of over 15%, such as on Castro between 22nd Street and 24th Street, stops may be spaced as close as 300–400 feet.
- Stops should be on the near side of an intersection at stop signs; where right turns are heavy from the cross street on to the transit street; or where the green time for the transit street is less than half of the traffic signal cycle.
- Stops should be on the far side of an intersection at uncontrolled intersections; where the bus makes a turn; where right turns are heavy from the transit street on to the cross street; or where the green time for the transit street is more than half of the cycle.
- Stops should be mid-block if there is a major traffic generator mid-block, or if pedestrian flows naturally converge at a mid-block location.

- Transit shelters should be installed at high usage boarding locations, generally with more than 125 boarding per day. The shelter site must meet DPW's criteria for sidewalk width to be in conformance with ADA requirements.

#### Other Service Goals

- Expand Metro system accessibility beyond the Key Stops Program (which made higher-ridership surface stops accessible).
- Construct appropriate transit rights-of-way in major corridors to reduce transit travel time and increase capacity.
- Expand transit priority measures, such as bus bulbs, bus-only lanes, and transit signal priority, on the Transit Preferential Streets network, or elsewhere as needed.
- Develop inter-operator fare instruments to facilitate regional travel.
- Provide convenient transfer opportunities with regional transit operators.

The service design policies described in this section are currently being reevaluated as part of Muni's ongoing Transit Effectiveness Project (TEP). The planning process for the TEP began in July 2006 and will last until early 2008. The intended result of this planning process is to produce a revised set of service standards and a set of recommended changes to routes, headways, span of service, and operating practices that can result in higher ridership at lower operating cost per passenger. There is more information about the TEP in Chapter 5 of this document.

#### Transit Services and Areas Served

With the service design described above, Muni provides access to most locations within San Francisco, 19 hours a day, 365 days a year – 24 hours a day to the key trunk corridors.

## **SEC. 97. USE OF VEHICLES FOR HUMAN HABITATION PROHIBITED.**

(a) No person shall use or occupy or permit the use or occupancy of any house car, camper or trailer coach for human habitation, including but not limited to sleeping, eating or resting, either single or in groups, on any street, park, beach, square, avenue, alley or public way, within the City and County of San Francisco between the hours of 10:00 p.m. and 6:00 a.m.

(b) No person shall use or occupy or permit the use or occupancy of any motor vehicle for human habitation, either single or in groups, on any street, park, beach, square, avenue, alley or public way, within a residential neighborhood of the City and County of San Francisco between the hours of 10:00 p.m. and 6:00 a.m. For the purposes of this Section, "motor vehicle" shall mean any self-propelled vehicle other than a house car, camper or trailer coach. "Residential neighborhood" shall mean any area of the City zoned for R-H, R-M or R-C use under the City Planning Code, and "habitation" shall mean the use of a motor vehicle as a dwelling place, and shall not mean the use of a motor vehicle for alleviation of sickness or temporary physical inability to operate such motor vehicle.

(Amended by Ord. 417-84, App. 10/5/84)

## **SEC. 98. PENALTY.**

Any person who violates any provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction such person shall be punished by a **fine of not to exceed \$1,000 or by imprisonment in the County Jail for a period not to exceed six months, or by both** such fine and imprisonment.

(Added by Ord. 77-71, App. 4/2/71)

## SEC. 238. NOB HILL SPECIAL USE DISTRICT.

In order to provide for an established area with a unique combination of uses and a special identity, there shall be a Nob Hill Special Use District as designated on Sectional Map No. 1 SU of the Zoning Map. The following **provisions shall apply** within such special use district:

- (a) A hotel, inn or hostel, as described in Section 209.2(e) of this Code, may be permitted by the City Planning Commission as a conditional use under Section 303 of this Code.
- (b) In connection with any permitted principal or conditional use located in such special use district, incidental commercial uses may be permitted by the City Planning Commission as a conditional use under Section 303 of this Code, if designed primarily for occupants of and visitors to the use to which they are incidental, accessible to the general public only from within the building, and not identified outside the building by means of any sign or signs.
- (c) **A private lodge, private clubhouse, private recreational facility or community facility other than as specified in Planning Code Subsection 209.4(a) of this Code, and which is not operated as a gainful (for-profit) business may be permitted by the Planning Commission as a conditional use under Section 303 of this Code.**
- (d) **Eating and drinking uses as defined in Section 790.34 of this Code, with the exception of large fast-food restaurants as defined in Section 790.90 of this Code, may be permitted by the Planning Commission as a conditional use under Section 303 of this Code.** The limitations on design, accessibility and identification set forth in Subsection (b) above shall not apply to such uses hereby permitted.
- (e) Signage for principal permitted uses or for eating and drinking uses within the Nob Hill Special Use District shall be limited as per Planning Code Section 606 with the exception that projecting signs in the form of sign copy on canopies and awnings shall be permitted for eating and drinking uses in lieu of wall signs unless otherwise limited as a condition of approval of a conditional use authorization.
- (f) The various uses provided for in Subsections 238(a) through 238(e) above are not permitted in any portion of a building which is devoted to a dwelling unit or to group housing as defined in Section 209.2(a) of this Code.
- (g) Awnings, canopies and marquees, as regulated in Section 136.3 of this Code, shall be permitted in the Nob Hill Special Use District.

(Amended by Ord. 443-78, App. 10/6/78; Ord. 329-91, App. 9/11/91)



**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Tuesday, June 04, 2013 8:40 AM  
**To:** Donna Pittman  
**Subject:** FW: Updated Excel  
**Attachments:** MuniFrequencyChart.xls

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**From:** Jones, Sarah  
**Sent:** Tuesday, June 04, 2013 8:39 AM  
**To:** Bollinger, Brett  
**Subject:** FW: Updated Excel

---

**Sarah Bernstein Jones**  
**Acting Environmental Review Officer**  
**Acting Director of Environmental Planning**

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Web: [www.sfplanning.org](http://www.sfplanning.org)

---

**From:** Li Chapman [<mailto:licwa@yahoo.com>]  
**Sent:** Monday, June 03, 2013 5:06 PM  
**To:** Jones, Sarah  
**Cc:** [henrypan93@gmail.com](mailto:henrypan93@gmail.com)  
**Subject:** Fw: Updated Excel

To supplement my DEIR comments on Muni capacity--  
Here is the currnt Muni schedule for headways of the lines close to Masonic Center.  
Linda Chapman  
1316 Larkin 94109

I 11.1

----- Forwarded Message -----

**From:** Henry Pan <[henrypan93@gmail.com](mailto:henrypan93@gmail.com)>  
**To:** Li Chapman <[licwa@yahoo.com](mailto:licwa@yahoo.com)>  
**Sent:** Thursday, May 30, 2013 9:35 PM  
**Subject:** Updated Excel

--

Henry Pan  
415.830.0885  
[henrypan93@gmail.com](mailto:henrypan93@gmail.com)

Route	Last Run Departs Inbound Timepoint Closest to Masonic M-F		Last Run Departs Outbound Timepoint Closest to Masonic M-F		Last Run Departs Inbound Timepoint Closest to Masonic Sat	
	1	12:45am (Clay/Polk)		1:05am (Sacto/Powell)	1:45am (Clay/Polk)	
	27	1:05am (Leavenworth/Sutter)		12:56am (Jones/Sutter)	1:05am (Leavenworth/Sutter)	
Calif Cable		12:34am (Calif/Hyde)		1:08am (Calif/Powell)	12:34am (Calif/Hyde)	
Route	Last Run Departs Outbound Timepoint Closest to Masonic Sat		Last Run Departs Inbound timepoint Closest to Masonic Sun		Last Run Departs Outbound Timepoint Closest to Masonic Sun	
	1	2:05am (Sacto/Powell)		1:45am (Clay/Polk)	2:05am (Sacto/Powell)	
	27	12:56am (Jones/Sutter)		1:05am (Leavenworth/Sutter)	12:56am (Jones/Sutter)	
Calif Cable		1:08am (Calif/Powell)		12:34am (Calif/Hyde)	1:08am (Calif/Powell)	
Route	Freq 7pm-8pm M-F		Freq 8pm-9pm M-F		Freq 9pm-10pm M-F	
	1		8		12	
	27		15		15	
Calif Cable			10		10	
Route	Freq 7pm-8pm Sat		Freq 8pm-9pm Sat		Freq 9pm-10pm Sat	
	1		10		15	
	27		20		20	
Calif Cable			12		12	
Route	Freq 7pm-8pm Sun		Freq 8pm-9pm Sun		Freq 9pm-10pm Sun	
	1		10		15	
	27		20		20	
Calif Cable			12		12	
Freq 10pm and after M-F						
						20
						30
						15
Freq 10pm onward Sat						
						20
						30
						15
Freq 10pm onward Sun						
						20
						30
						15

**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Tuesday, June 04, 2013 8:40 AM  
**To:** Donna Pittman  
**Subject:** FW: 1111 California 2011.0471E Muni Data Fw: Traffic letter  
**Attachments:** MuniFrequencyChart.xlsx; NHNMasonicTransit.png

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**From:** Jones, Sarah  
**Sent:** Tuesday, June 04, 2013 8:38 AM  
**To:** Bollinger, Brett  
**Subject:** FW: 1111 California 2011.0471E Muni Data Fw: Traffic letter

---

**Sarah Bernstein Jones**  
**Acting Environmental Review Officer**  
**Acting Director of Environmental Planning**

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1650 Mission Street, Suite 400, San Francisco, CA 94103  
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---

**From:** Li Chapman [<mailto:licwa@yahoo.com>]  
**Sent:** Monday, June 03, 2013 5:27 PM  
**To:** Jones, Sarah  
**Cc:** [henrypan93@gmail.com](mailto:henrypan93@gmail.com); [Ninersam@aol.com](mailto:Ninersam@aol.com); [rebecae@earthlink.net](mailto:rebecae@earthlink.net); [rbgarcia@sonic.net](mailto:rbgarcia@sonic.net); [meredithblau@yahoo.com](mailto:meredithblau@yahoo.com)  
**Subject:** 1111 California 2011.0471E Muni Data Fw: Traffic letter

Illustrates comments on transit available for Masonic Center crowds.  
Attachments show headway data in another format-- and map of routes in the vicinity of 1111 California.  
Some of the close routes will not be not easy to use because of steep grades to reach 1111 California on foot-- and the route through Stockton Tunnel passing by Nob Hill.  
Apart from lines 1 and 27, lines least affected by steep grades to walk between the route and 1111 California are likely those in the distressed Polk Corridor and the Van Ness Corridor  
Linda Chapman  
1316 Larkin

I 12.1

I 12.2

----- Forwarded Message -----

**From:** Henry Pan <[henrypan93@gmail.com](mailto:henrypan93@gmail.com)>  
**To:** Linda Chapman <[licwa@yahoo.com](mailto:licwa@yahoo.com)>  
**Sent:** Sunday, May 19, 2013 7:32 PM  
**Subject:** Re: My proposed Traffic letter for comments

Linda,  
I've attached my findings in an Excel spreadsheet. The excel spreadsheet does not include runs that do not go the full route.  
I've also attached a map.



Route	Last Run Departs Inbound Timepoint Closest to Masonic M-F		Last Run Departs Outbound Timepoint Closest to Masonic M-F		Last Run Departs Inbound Timepoint Closest to Masonic Sat	
	1	12:45am (Clay/Polk)		1:05am (Sacto/Powell)	1:45am (Clay/Polk)	
	27	1:05am (Leavenworth/Sutter)		12:56am (Jones/Sutter)	1:05am (Leavenworth/Sutter)	
Calif Cable		12:34am (Calif/Hyde)		1:08am (Calif/Powell)	12:34am (Calif/Hyde)	
Route	Last Run Departs Outbound Timepoint Closest to Masonic Sat		Last Run Departs Inbound timepoint Closest to Masonic Sun		Last Run Departs Outbound Timepoint Closest to Masonic Sun	
	1	2:05am (Sacto/Powell)		1:45am (Clay/Polk)	2:05am (Sacto/Powell)	
	27	12:56am (Jones/Sutter)		1:05am (Leavenworth/Sutter)	12:56am (Jones/Sutter)	
Calif Cable		1:08am (Calif/Powell)		12:34am (Calif/Hyde)	1:08am (Calif/Powell)	
Route	Freq 7pm-8pm M-F		Freq 8pm-9pm M-F		Freq 9pm-10pm M-F	
	1		8		12	
	27		15		15	
Calif Cable			10		10	
Route	Freq 7pm-8pm Sat		Freq 8pm-9pm Sat		Freq 9pm-10pm Sat	
	1		10		15	
	27		20		20	
Calif Cable			12		12	
Route	Freq 7pm-8pm Sun		Freq 8pm-9pm Sun		Freq 9pm-10pm Sun	
	1		10		15	
	27		20		20	
Calif Cable			12		12	
						Freq 10pm and after M-F
						15 20
						15 30
						12 15
						Freq 10pm onward Sat
						20 20
						20 30
						12 15
						Freq 10pm onward Sun
						20 20
						20 30
						12 15



**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Tuesday, June 04, 2013 8:40 AM  
**To:** Donna Pittman  
**Subject:** FW: 1111 California 2011.0471E Muni data for headways: Updated Excel  
**Attachments:** MuniFrequencyChart.xls

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**From:** Jones, Sarah  
**Sent:** Tuesday, June 04, 2013 8:37 AM  
**To:** Bollinger, Brett  
**Subject:** FW: 1111 California 2011.0471E Muni data for headways: Updated Excel

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**Sarah Bernstein Jones**  
**Acting Environmental Review Officer**  
**Acting Director of Environmental Planning**

Planning Department | City and County of San Francisco  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
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**From:** Li Chapman [<mailto:licwa@yahoo.com>]  
**Sent:** Monday, June 03, 2013 5:31 PM  
**To:** Jones, Sarah  
**Cc:** [henrypan93@gmail.com](mailto:henrypan93@gmail.com); [meredithblau@yahoo.com](mailto:meredithblau@yahoo.com); [rebecae@earthlink.net](mailto:rebecae@earthlink.net)  
**Subject:** 1111 California 2011.0471E Muni data for headways: Updated Excel

----- Forwarded Message -----

**From:** Linda Chapman <[licwa@yahoo.com](mailto:licwa@yahoo.com)>  
**To:** "[sarah.b.jones@sfgov.org](mailto:sarah.b.jones@sfgov.org)" <[sarah.b.jones@sfgov.org](mailto:sarah.b.jones@sfgov.org)>  
**Cc:** "[henrypan93@gmail.com](mailto:henrypan93@gmail.com)" <[henrypan93@gmail.com](mailto:henrypan93@gmail.com)>  
**Sent:** Monday, June 3, 2013 5:05 PM  
**Subject:** Fw: Updated Excel

To supplement my DEIR comments on Muni capacity--  
Here is the Muni schedule for headways of the lines close to Masonic Center.  
Linda Chapman  
1316 Larkin 94109

I 13.1

----- Forwarded Message -----

**From:** Henry Pan <[henrypan93@gmail.com](mailto:henrypan93@gmail.com)>  
**To:** Li Chapman <[licwa@yahoo.com](mailto:licwa@yahoo.com)>  
**Sent:** Thursday, May 30, 2013 9:35 PM  
**Subject:** Updated Excel

--

Henry Pan  
415.830.0885  
[henrypan93@gmail.com](mailto:henrypan93@gmail.com)

Route	Last Run Departs Inbound Timepoint Closest to Masonic M-F		Last Run Departs Outbound Timepoint Closest to Masonic M-F		Last Run Departs Inbound Timepoint Closest to Masonic Sat	
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Route	Freq 7pm-8pm M-F		Freq 8pm-9pm M-F		Freq 9pm-10pm M-F	
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Route	Freq 7pm-8pm Sat		Freq 8pm-9pm Sat		Freq 9pm-10pm Sat	
	1		10		15	
	27		20		20	
Calif Cable			12		12	
Route	Freq 7pm-8pm Sun		Freq 8pm-9pm Sun		Freq 9pm-10pm Sun	
	1		10		15	
	27		20		20	
Calif Cable			12		12	
Freq 10pm and after M-F						
						20
						30
						15
Freq 10pm onward Sat						
						20
						30
						15
Freq 10pm onward Sun						
						20
						30
						15

**From:** Bollinger, Brett [brett.bollinger@sfgov.org]  
**Sent:** Tuesday, June 04, 2013 8:27 AM  
**To:** Donna Pittman  
**Cc:** SVettel@fbm.com  
**Subject:** FW: 1111 California-- Case 2011.0147E  
**Attachments:** MasonicJune3EIRCommentsFromAppealfor CSFN2010.doc

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**From:** Jones, Sarah  
**Sent:** Tuesday, June 04, 2013 8:26 AM  
**To:** Bollinger, Brett  
**Subject:** FW: 1111 California-- Case 2011.0147E

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**Sarah Bernstein Jones**  
**Acting Environmental Review Officer**  
**Acting Director of Environmental Planning**

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**From:** Li Chapman [<mailto:licwa@yahoo.com>]  
**Sent:** Tuesday, June 04, 2013 12:30 AM  
**To:** Jones, Sarah  
**Subject:** 1111 California-- Case 2011.0147E

Environmental Review: This document brings up to date a CSFN appeal document that I forwarded in March to Brett Bollinger, after learning that the scoping and IS notices bypassed me and my contacts.

Linda Chapman  
1316 Larkin 94109

I 14.1

June 3, 2013

Case Number 2011.0471E: 1111 California Street, Nob Hill Masonic Center  
Comments for Draft Environmental Impact Report

For: Sarah B. Jones  
Environmental Review Officer

Prepared by: Linda Chapman  
1316 Larkin Street  
San Francisco CA 94109

The purpose of this memorandum is to ask that the Environmental Impact Report evaluate cumulative neighborhood impacts from use changes at the California Masonic Memorial Temple (CMMT).

I 14.2

The Coalition for San Francisco Neighborhoods voted to appeal the original denial of Environmental Review, then opposed the Conditional Use applications.  
(This document brings up to date the CSFN appeal document that I forwarded in March to Brett Bollinger, after learning that the scoping and IS notices bypassed me and my contacts.)

I 14.3

I 14.4

1. I submit that no rationale but political expedience can account for decisions to approve a Conditional Use in 2012—with no environmental review. The Superior Court rejected a CatEx determination and reversed 2010 Conditional Use approval, expecting the city to comply with CEQA for environmental review and the Planning Code rules for zoning determinations. Could our city officials explain this response?

I 14.5

2. The minimum CEQA requirement was an Initial Study supporting a determination to issue a Negative Declaration or EIR—**before** a Conditional Use decision. After C.U. approval, the Initial Study looks like an empty gesture. I submit that a hearing on Conditional Use authorization could not lawfully proceed without the Initial Study Determination, and the Planning Commission action could be void.

3. It is puzzling to see a Draft EIR prepared **after the 2012 C.U. approval**. In the process that was reversed by a court order, considerable effort was expended to avoid CEQA, by professionals who must understand its plain English Guidelines. After the court ordered environmental review, the Conditional Use application was split into phases-- for one C.U. to be approved with no environmental review, while a second C.U. application waited for an Environmental Impact Report. What's wrong with this picture? Seems like a question to refer to the judge. The "temporary" C.U. lets the project sponsor continue to operate on a scale incompatible with the neighborhood, while neighbors report adverse impacts—as if the judge hadn't nullified the 2010 C.U.

4. The Commission did not receive the state mandated environmental evaluation to inform a 2012 decision on the Conditional Use. In 2013, a Draft EIR treated a new C.U. from 2012 as a "baseline"-- historic condition to evaluate impacts of the new application to intensify commercial activities. The EIR treated the C.U. approved in 2012 as if this commercial use hadn't been part of the project when the court ordered environmental review-- and as if approving "two projects" could have no cumulative impacts.

5. Procedures appear so flawed as to require reversal of the 2012 Conditional Use. The DEIR uses partial approval of a project whose impacts were never reviewed to identify the "preferred alternative" that could be implemented with less adverse impact.

I 14.6

6. The environmental review failed to notify stake holders and previous participants when the Initial Study and scoping began. This is important: people in the radius to receive mailed notices were unable to respond to opaque technical language, but did initiate contacts when offered information. Others in the

I 14.7



affected neighborhood seemed to feel confused or “in the dark” about “where we are” when city and state agencies have been involved with this project for years.

I 14.7  
(cont.d)

7. Copies of the DEIR were not easy available. Volunteers will not be available to review tomes if they can't get copies timely.

8. If the objective was project approval, "covering bases" with an EIR could look defensible. To a reasonable person, scheduling a vote on a large, controversial project with some known impacts, without first soliciting comments that could trigger review, may not look like CEQA compliance.

9. For impacts to be accurately assessed, the subject for review must be properly framed. Impacts to assess are not a change from 2012 activities-- but comparing recent years to the traffic impacts from a few large shows a year when the Masonic Center operated closer to its approved use.

I 14.8

10. Alcohol sales, intensification of entertainment, and other events; new forms of assembly are conducive to crowds on the streets of a residential district.

I 14.9

11. There concerns for noise are principally about sources at the exterior: crowds on the street, proposing assembly on a terrace; frequent loading with loud equipment; backing alarms, as well as mechanical noise; traffic noise and honking on congested streets; crowd noise on the streets that will not be controlled by Masonic staff.

I 14.10

12. The comparison to young crowds inundating the Polk Corridor for bars and entertainment is pertinent. This change happened abruptly. Severe conditions are associated with a young demographic attracted from outside the area for bars and entertainment. It is foreseeable that the same demographic will cause problems on the streets near the Masonic; and that many will add to problems in the nearby area of California and Polk Streets

I 14.11

13. If the principal change is identified as auditorium capacity, or the change in events from a year ago, this framing will understate impacts. Existing entertainment, conventions, and public assembly did not receive environmental review. For many years, CMMT sponsored a mix of events: lawful assemblies and unauthorized uses designated in the Planning Code as "gainful business" and "other entertainment." Zoning regulations, and stipulations for the CMMT structure, always prohibited such commercial use.

I 14.12

I 14.13

14. In the 70s and 80s large shows at the Masonic inundated the neighborhood with traffic, and honking horns. Streets were gridlocked all the way to Van Ness when event goers sought parking. But the large events were infrequent.

I 14.14

This project could not comply with local land use policies, including--

I 14.15

-- the current zoning map and regulations that apply to the site.

-- the City Master Plan: Particularly significant are conflicts with "Priority Policies." See Planning Code Section 101.1(b) for Priority Policies:

I 14.16

-- Priority Policies (b)(2): "That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods."

-- Priority Policy (b)(4): "That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking."

-- Priority Policy (b)(8): "That our parks and open space and their access to sunlight and vistas be protected from development."

15. Conflicts with the Master Plan and zoning law should preclude a permit. See Planning Code Section 101.1(e): "Prior to issuing a permit for any project which requires an initial study under the California Environmental Quality Act, and prior to issuing a permit for any... conversion or change of use, and prior to taking any action which requires a finding of consistency with the Master Plan, the City SHALL find that the proposed project...is consistent with the Priority Policies established above. For any permit issued...after

I 14.17

January 1, 1988 the City SHALL also find that the project is consistent with the City's Master Plan." See Section 102 (Definitions): "The word SHALL is mandatory and not directory."	I 14.17 (cont.d)
16. Activities not authorized before zoning changes remain unlawful after zoning changes. A history of illegal use and the convenience of project sponsors do not create a "legal" nonconforming use.	I 14.18
17. The EIR treated existing impacts—and even the 2012 Conditional Use approval as a baseline: it should analyze cumulative impacts for existing-plus-proposed business. "Normal" (when used by a regulatory agency) implies "legal" and "common." Circumstances did not create "reasonable expectations" in the neighborhood for events assuming proportions of a gainful business, and entertainment outstripping public assembly that could have less community impact (such as graduation and naturalization ceremonies),	I 14.19 I 14.20
18. It would defeat the purpose of zoning to discount environmental impacts for a level of business activity that was always unlawful at the site. It defeats the purpose of zoning policies to discount impacts of uses that evaded the approval process.	I 14.21
Zoning for the district where CMMT is located (Nob Hill Special Use District, and underlying RM-4 high-density residential district) precludes both an entertainment business and a private lodge operated for profit.	
There is a history of adverse impacts associated with the unauthorized use of CMMT, particularly parking and traffic congestion.	I 14.22
There is potential for more significant impacts when a large institution in a sensitive location proposes to attract thousands of customers to a full-scale entertainment venue, with large-scale alcohol sales and fast-food operations.	
19. The real issues are impacts of a project that is out of compliance with the Planning Code, district zoning, Master Plan, and transit policies. Environmental review could not support a "finding of consistency" with adopted plans and goals where-- -- The project requires zoning reclassification for the property (however disguised). -- The purpose is to regularize the unlawful use for gainful business of a structure approved for not-for-profit institutional use. -- The outcome would be equivalent to commercial "spot-zoning" for one property to accommodate long-time noncompliance with restrictions for the zoning district where it is located. -- Approval requires overturning conditions imposed on the structure by the Planning Commission, which stipulate that owners and successors shall not benefit from a commercial reclassification to add commercial uses on the property. -- The project seeks approval of a large-scale entertainment use in a high-density residential district, where zoning prohibits an entertainment business of any size. -- The proposal inserts "the largest bar in Northern California" (8-11 outlets were proposed to serve more than 3,500 customers) into a residential zoning district, and a special use district whose regulations restrict drinking establishments. -- The sponsor's assertion that profit depends increasingly on alcohol sales underlines conflicts with the character of a district that has the highest allowable housing density (assuring that disruptions will affect living environment for the maximum number of people). -- The Police Department, parking manager, and residents reported the history of large events at this site creating impacts that include extreme traffic congestion, lack of available parking, disruption of public transit, auto/pedestrian conflicts, noise and pollution. -- Central Nob Hill, where these events affect esthetics and safety, should be recognized as a sensitive area, with historic and scenic features known around the world. -- The project fronts the only sizable park in the crowded Nob Hill district. -- Adverse impacts (congestion, noise, vandalism, safety) will affect a principal destination for travelers staying throughout the city, customers for nearby hotels, and cable car lines, with potential economic impacts for tourist and convention business.	I 14.23 I 14.24 I 14.25 I 14.26 I 14.27 I 14.28

20. Analysis must compare the proposed use (large public entertainment and assembly business with bars and fast food service) to the previously approved institutional use (private lodge, not operated for profit, with accessory parking garage).

I 14.29

A profit-making business for entertainment, eating and drinking requires Commission approval to change the designated use. Therefore, analysis (for transportation, circulation, parking, and other impacts) must compare data for full-scale commercial use to the legally approved use (i.e., compare conditions when NO public entertainment is scheduled).

To comply with the current zoning and stipulations from the original Planning Commission action approving a structure for institutional use, public entertainment must be ancillary to lodge operations, and so limited as not to be a gainful business. Public assembly could be consistent with institutional use (unless on a scale that changes the operation to a gainful business).

21. For the applicable zoning regulations, we should look to the existing zoning: Nob Hill Special Use District (SUD) where the site is located, and the underlying RM-4 residential district, See Planning Code Sections 238 and 209.4(b) for zoning rules applicable to this site, and uses prohibited before the Department changed the rules for CMMT.

I 14.30

-- The Nob Hill SUD allows a private club or lodge, not operated for profit, as a Conditional Use. An entertainment business and a lodge operated for gainful business are prohibited in the SUD, and all RM-4 residential districts.

-- Before action on this case, lawful uses for CMMT were limited to private lodge (institutional use), with accessory parking garage.

-- Expanding commercial use was prohibited by conditions stipulated to be permanent in the original Planning Commission approval for an institutional structure (Resolution 4171). Conditions and stipulations have the force of law as part of the current Planning Code (see Section 174).

22. Unusual Circumstances suggest a reasonable possibly of a significant environmental effect."

I 14.31

-- location in a listed building, in an internationally renowned historic neighborhood, in proximity to buildings and features that are listed or worthy of listing, including the crossing of three cable car lines;

-- operation of a large-scale entertainment venue at the heart of a dense residential district;

I 14.32

-- plans to concentrate at one site numerous points of sale for alcohol in a neighborhood zoned principally for residence;

-- proximity to Nob Hill's only sizable open space, used by residents and tourists from around the world, where large events at CMMT cause conflicts;

I 14.33

23. Evaluation must take account of the Center's listing in the state register of historically significant buildings and impacts of proposed activities on the historic setting. Near neighbors include the architecturally significant Cathedral, two rare survivors of the 1906 fire, other buildings significant for local history or film history, and the nationally listed cable car lines. Nob Hill's historic center has been a focus for history tours by local organizations. Visitors from around the world are attracted by associations with early San Francisco history.

I 14.34

#### LAND USE AND LAND USE PLANNING-- COMPATIBILITY WITH EXISTING ZONING AND PLANS

I 14.35

24. Regulations for the parcel and the residential district restrict commercial use. Zoning for the RM-4 residential district underlies commercial restrictions specific to the Nob Hill Special Use District. The purpose of RM-4 zoning is to maintain neighborhoods of high-density housing.

25. "Other entertainment" uses are generally prohibited for RM-4 districts. Nob Hill SUD regulations likewise prohibit this designation, proposed to accommodate Live Nation. (Planning Code Sections 209.4, 238)

26. The Nob Hill SUD was designed to protect a predominantly residential neighborhood, while accommodating hotels and nonprofit institutions that predated residential zoning: church, school, private clubs. SUD regulations were crafted over many years to preserve central Nob Hill's unique balance of uses. They prohibit most commercial activity, and place specific restrictions on uses (eating and drinking establishments) with potential impacts on a residential neighborhood. Such use (in addition to hotels and nonprofit institutions) can be allowed by Conditional Use, but the means of public access is regulated. (Planning Code Section 238)

**I 14.35  
(cont.d)**

27. CMMT was approved for an "institutional type building, Grand Lodge Memorial Temple," with a parking garage as the only commercial use. Otherwise, principal and accessory uses, by law, are those appropriate to a private not-for-profit lodge or club (similar to the near-by Pacific Union and University Clubs).

**I 14.36**

a. Commercial reclassification for the parcel allowed an institution with parking garage to locate within the residential district. Stipulations precluded benefitting from commercial zoning for a use other than the garage.

b. The original approval for CMMT was precisely worded to preclude, permanently, uses not authorized in the resolution. Commission resolutions are requirements of the Planning Code (Section 174). The intent of Resolution 4171 not to open the way to commercial intrusion was made clear by conditions to run with the land under commercial zoning. The resolution stated that conditions required "at all times" observance by the owners and successors in interest.

c. Additionally, improvements were limited to the building plans approved by Resolution 4171. I submit that (as an unusual restriction) the intent must be to preclude changes, such as the stage configuration. Built without the proscenium and backstage areas of a theater for commercial productions, the stage was suited to Masonic ceremonies and the public assemblies or entertainment commonly hosted by institutions that can accommodate audiences (e.g., the Cathedral). See Resolution 4171: "Commercial improvements shall be limited as follows: The building shall be of institutional type similar to the preliminary plans entitled The grand Lodge Memorial Temple...Final plans shall be submitted to the Department of City Planning for approval as to conformity with the stipulations."

28. I submit that restrictions the resolution and the building permit placed on internal configuration should still be effective, both because of the unique wording, and because stipulations imposed by Conditional Use are permanent, enforceable requirements of the Planning Code (Section 174). Restriction to a design in building plans should not affect systems upgrades (sound, lights). I submit that it could preclude conversion of the thrust stage (appropriate to ceremonies) to a design for commercial productions. Potentially, the stipulations and building plans could preclude other "improvements" intended for commercial conversion (including construction of numerous permanent eating and drinking facilities).

29. Subsequent zoning changes eliminated commercial spot zoning that allowed construction of the Temple with garage, incorporating them into the residential zoning district and Nob Hill SUD. When the SUD regulations were revised to allow nonprofit private clubs and lodges by Conditional Use, the use previously approved (private lodge with garage) could continue as a permitted Conditional Use. Uses that were not lawful before rezoning (commercial entertainment, or "gainful business" use of the lodge facility) could not be grandfathered as a Conditional Use, and could not be a legal nonconforming use. (Planning Code Section 178)

30. CMMT is not a NCU, as defined in Planning Code Section 180(a)(1)(A). Zoning changes do not give special protection for illegal uses to continue. Where a facility, authorized to operate as a nonprofit club, is used for gainful business and "other entertainment," that use continues to be illegal. If not operating as a gainful business, the lodge with accessory garage became a permitted Conditional Use from the time Nob Hill SUD rules authorized a private nonprofit lodge as a Conditional Use (Section 178). No other use of CMMT could be either a legal NCU or a grandfathered C.U.

## AESTHETICS AND CULTURAL RESOURCES

31. The environmental assessment needs to acknowledge the Masonic Temple's state listing as a significant resource.

32. Probably the most significant issue for an EIR to address, where exterior changes would be limited, is the project's potential effects on its historic setting. The district's historic significance was noted above as an issue for the EIR. Central Nob Hill, particularly the area surrounding Hamilton Park, is a world renowned historic district. Its historic and esthetic importance is so obvious that official "historic district" recognition was not sought (as I believe) because it was already recognized, not in need of promotion to enhance the district's reputation or gain attention for neighborhood preservation goals.

33. Architecturally and historically significant hotel, apartment, and institutional buildings surround the classically styled park. In the surrounding blocks, neighborhood residents and visitors enjoy viewing buildings of noted architects, and other buildings listed by the city for esthetic merit. All three lines of our unique national monument, the historic cable cars, meet one block from the project site.

34. The project vicinity includes city landmarks, listed buildings and others worthy of listing. The EIR should identify them, as well as buildings by noted architects, and others of historic interest. The area of most esthetic interest, and the area most likely to be affected by the congestion, vandalism, and other consequences of the proposed entertainment use should comprise blocks from Jones to Stockton, and from Pine to Washington. This area, at a minimum, should be surveyed for the EIR.

35. Alcohol fueled misconduct after Live Nation events already disrupts the neighborhood. Many report loud voices, littering, public urinating and vomiting befouling a usually quiet historic neighborhood. Pedestrians and cars competing for entry at the site, crowds congregating before and after shows, large vehicles and equipment at the curbs, noise of customers lingering outside will reduce the attraction of a normally quiet urban center.

## TRANSPORTATION AND CIRCULATION

36. The Masonic Temple is situated at the center of a relatively quiet residential district, with very limited parking, and only two public transit lines serving the project area (apart from cable car lines sometimes so overburdened by visitors that they are not transit options for residents).

37. Crowds arriving and leaving around the same time could exceed capacity of the public transit lines, whose weekend and evening schedules (submitted separately) suggest how inadequate service could be for big events, particularly weekends and after late shows. How will crowds or late stragglers depart the neighborhood? Considering bus frequencies, it is hard to understand optimistic projections about their capability to handle 3,300 customers leaving at one time.

38. Impacts of commercial use of the type and intensity proposed by Live Nation must be compared to impacts that could be expected from the site's lawful use (when there is no commercial entertainment). CMMT for many years featured some evening performances. Normally quiet streets near the top of the hill are dominated by circling traffic on performance nights, backing up to Van Ness. The existing noxious condition should be analyzed for cumulative impacts, considering the increased impacts likely to result from changes in programming.

39. Topography is too steep to expect customers to walk, or travel by more distant transit lines (especially after night performances). Estimates that a large percentage of customers will walk do not adequately explain the basis. Population of the surrounding neighborhood (older than the Live Nation market) cannot be expected to make up a large percentage of customers. Do "walkers" include people walking from public garages or public transport? They must be considered for impacts on parking and transit.

I 14.37

I 14.38

I 14.39

I 14.40

I 14.41

40. Sidewalks near the project are not adequate for crowds to gather, and are located near dwellings or hotels, where noise from customers, traffic, and equipment is troublesome. I 14.42
41. In this historic neighborhood at the cable car crossing, event customers will compete with tourists, hotel guests, customers traveling to hotel restaurants, residents and their guests for limited parking, pedestrian passage on narrow sidewalks, taxis, and Muni transport. Cable cars already are hard to board during tourist seasons. I 14.43
42. How many employees, contract staff and performers' entourages are present for big events? This number and the customers will place demands on very limited available parking. I 14.44
43. Noxious traffic resulting from auditorium use was not abated for decades. I 14.45

## NOISE

44. Noise from circling traffic, horns, customers gathering on the side walks, taking over residential doorways after shows, or dispersing by way of Nob Hill streets, and equipment night and day drew comments from residents. Treating auto traffic on Nob Hill streets as "ambient noise" would ignore the impacts on performance nights, compared to neighbors' perception of streets "so quiet you can hear a pin drop." I 14.46

## PUBLIC SERVICES

45. Plans for performer busses to violate a city law that prohibits camping will add a burden for responding police. I 14.47
46. My direct observation outside the Warfield (a former Live Nation venue) around rush hour, with a crowd waiting on Market Street for a performance was that (despite the unusually wide sidewalk) it was virtually impossible to wend my way through the throng, too dangerous to walk around them in the street. My slow passage offered opportunities to observe blatant drug merchandising (one woman offering syringes from a tray like a cigarette girl). I 14.48
47. Unreserved general admission events will predictably cause crowds to arrive early and wait outside, invite loiterers and sellers of scalped tickets and drugs to join the crowd, and leave bad actors to wander the area, disappointed of tickets, or after the shows. There could be impacts on Nob Hill's only sizable open space, used by residents and tourists from around the world at hours when crowds for CMMT events cause conflicts on streets and sidewalks, and criminal activity reported by police observers. I 14.49
48. The only use in the area that is similar to the proposal is the Regency Ballroom (largest venue has capacity of 1,200, about one-third the Live Nation plan). From my experience, this seems to be a well managed enterprise. A manager acknowledged such enterprises have little control over large crowds dispersing into the neighborhood, or the "attractive nuisance" problem. Parking is a serious problem, and management cannot get parking facilities to open for event customers. I 14.49
49. The Regency is better located, in all respects, to handle event crowds, at the intersection of Van Ness and Sutter (heavily travelled commercial streets, near extensive public transit, numerous parking facilities, and non-residential streets or alleys, which management uses to control lines). With all the advantages not available around CMMT, management commented that controlling 1,200 people exiting at once can be "tricky" -- and "more so with the larger audience and young customer base that Live Nation aims to attract." I 14.50

## SUMMARY

This is a proposal for a large profit-making public entertainment venue at an unsuitable location. The

original approved use for this site was nonprofit private club or lodge. Similar institutions are used for public gatherings, and limited entertainment as an incidental use.

**I 14.50**  
**(cont.d)**