

ATTACHMENTS

ATTACHMENT A: PUBLIC HEARING TRANSCRIPT COMMENTS

In The Matter Of:
75 HOWARD STREET
DRAFT EIR

September 12, 2013

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BEFORE THE SAN FRANCISCO PLANNING COMMISSION

RE: 75 HOWARD STREET

PUBLIC HEARING

ON THE DRAFT ENVIRONMENTAL IMPACT REPORT

Thursday, September 12, 2013

Item E. 13. 2011.1122E

Commission Chambers - Room 400

City Hall, 1 Dr. Carlton B. Goodlett Place

San Francisco, California

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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 Gwyneth Borden

Commissioner Rich Hillis

Commissioner Kathrin Moore

Commissioner Hisashi Sugaya

Jonas Ionin, Acting Commission Secretary

FOR THE PLANNING DEPARTMENT:

Don Lewis

John Rahaim

FROM THE PUBLIC:

Sue Hestor

Dave Osgood

Jamie Whitaker

Ian Lewis

Tim Colen

Michael McKenna

Reed Bement

John Yadegar

Keith Bardel

David Cincotta

Chris Butcher

Thursday, September 12, 2013

1:14 p.m.

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P R O C E E D I N G S

COMMISSION SECRETARY IONIN: Commissioners,
that will place you on Item 13 for Case No. 2011.1122E
for 75 Howard Street, the public hearing on the draft
environmental impact report.

Please note that written comments will be
accepted at the Planning Department until 5:00 p.m. on
September 16th, 2013.

DON LEWIS: Good afternoon, President Fong,
Members of the Commission. I'm Don Lewis, Planning
Department staff and EIR Coordinator for the 75 Howard
Street project. Joining me is Nannie Turrell, Senior
Environmental Planner.

The item before you is review and comment on
the draft EIR.

The draft EIR found that the proposed project
will result in significant and unavoidable impacts on
land use, aesthetics, shadow, transportation, and
hydrology. The draft EIR found that impacts to
archeological resources, noise and vibration, air
quality, hazardous materials, and biological resources
could be mitigated to a less-than-significant level.

The draft EIR provided three alternatives:

1 The no-project alternative, the code-compliant
2 alternative, and the reduced-height alternative.

3 The code-compliant alternative would reduce
4 the project's significant and unavoidable impact on land
5 use and aesthetics to a less-than-significant level.

6 The draft EIR was published on July 31st and
7 the public review period closes on September 16th.

8 For those who are interested in commenting on
9 the draft EIR in writing, they may submit their comments
10 to the Environmental Review Officer at 1650 Mission
11 Street, Suite 400, San Francisco, by 5:00 p.m. on
12 September 16th.

13 For members of the public who are at this
14 hearing today, please state your name for the record and
15 address comments to the adequacy and completeness of the
16 EIR. Comments will be transcribed and responded to in
17 the response-to-comment document which will respond to
18 all verbal and written comments received and make
19 revisions to the draft EIR as appropriate. When the
20 response-to-comment document is complete, the Planning
21 Department will provide copies to those who have made
22 comments on the draft EIR. We will then return to
23 Commission to request certification of the EIR. If the
24 EIR is certified, the Planning Commission may consider
25 approval of the project.

1 That concludes my presentation. Thank you.

2 PRESIDENT FONG: Opening up for public
3 comment. We have a few speaker cards here. Dave
4 Osgood, Sue Hestor, and Jamie Whitaker.

5 SUE HESTOR: I need help with this. I don't
6 have control of my hands. Those are for the staff.
7 These are for the Commission. And one of them is mine.
8 Could you help me?

9 Is this on? Ah, okay. It's going up. I'm
10 passing this map up.

11 My name is Sue Hestor. Oh, the clock is
12 already running. Jamie [sic], could you go back? It
13 shouldn't count against me. I was getting the thing
14 mounted.

15 Sue Hestor. [The map you have on this is a map
16 by SOM, which is the project architect. It's their map
17 of the downtown. The project site is right here.

18 And one of the issues that you see is the
19 setback of the city and the Embarcadero Freeway --
20 pardon me -- remains. That is one of the huge issues in
21 the EIR. The EIR basically ignores the fact that -- it
22 should discuss the construction and the impact of the
23 environmental -- pardon me -- of the Embarcadero Freeway
24 and its demolition. This site is the site of the

25 project. This site is from the EIR. [And what you don't

I-Hestor1
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I-Hestor1
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1 understand, because there's no clear explanation, is
2 that all of this is City property. This is the Gap
3 property. This is the garage. The Gap property and
4 Rincon Annex and this area up here were Redevelopment.
5 You have no idea about this site unless you understand
6 Redevelopment -- the conditions that were put on
7 buildings to set them back from The Embarcadero
8 intentionally, because a lot of them were placed on by
9 Redevelopment and the Post Office Rincon Annex.

I-Hestor1
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(cont'd)

10 This site is very adventurous because they
11 were planning on planning -- the developer was
12 planning -- was going to plan the site that was
13 City-owned. The City owns a street. The City owns this
14 site right here. All of those are remnants of the
15 Embarcadero Freeway, as is the Gap building itself.

I-Hestor1
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16 And so as the City goes through this process,
17 they should be looking carefully at what is going on
18 from the City. If you go onto the Website, which we
19 were just talking about -- the map function, the
20 bright-pink section -- this is what you have for the Gap
21 building, other than this EIR. The Gap building -- I
22 was here; and a bunch of you participated or listened to
23 the hearing on the Gap building. It was pushed back
24 intentionally and it lines up. The end of this site is
25 the Gap building. The Gap building's increased height

I-Hestor1
4

1 starts beyond the point of this parking garage.

2 This is the fourth rezoning of heights along
3 the waterfront. Three of the four are for
4 ultra-high-end luxury housing. The ABAG study is
5 relevant. And the population was scoped out of this
6 EIR. There is a relationship between need for housing
7 for the workforce and production of housing that is not
8 needed. That is what this is. This EIR is grossly
9 inadequate.

10 DAVID OSGOOD: Hi, everybody. David Osgood
11 with the Rincon Center Tenants Association.

12 I want to second some of Sue's comments. And
13 on the screen you can see what she's talking about,
14 also.

15 Can we bring this up? Can we bring up the
16 image? All right.

17 The project's here, 75 Howard. You can see
18 the setbacks that the neighboring -- all the buildings
19 in this area do one of two things. They either are
20 about seven or eight stories tall. Or if they are
21 taller than that, they have a huge setback from The
22 Embarcadero. The Gap tower sets back about 75 feet.
23 That's three times further than 75 Howard would set
24 back. The Hills Residential Towers sets back about
25 180 feet. That's seven times further than 75 Howard.

I-Hestor1
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(cont'd)

I-Hestor1
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O-RTA1
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1 The historic Hills Tower sets back about a hundred feet.
2 75 would only set back 23 feet. It is completely out of
3 sync with the buildings on The Embarcadero.

O-RTA1
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(cont'd)

4 I also want to talk about stepping down, which
5 is a requirement. Now, this map which is not in the EIR
6 but should be, is very simple. The buildings that are
7 shorter than 75 Howard are in yellow. The buildings
8 that are taller are blue. There's an ocean of shorter
9 buildings behind 75 Howard. That should be emphasized
10 in the EIR, but it's not.

O-RTA1
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11 Now, I know that some of you -- you always
12 do -- somebody is going to pontificate that this
13 building steps down. It does not step down towards the
14 water. And the best way to gauge that, in my opinion --
15 and I was an architectural draftsman, so I know how to
16 do this accurately and in scale -- just draw a line like
17 this from a tall building, in this case from 350 Mission
18 Street. Draw it towards the project. And then showing
19 it down below, the same line, you can see whether it
20 steps down or not.

O-RTA1
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21 Now, SOM -- I went to their one community
22 meeting -- they like to draw these swooping lines across
23 all these shorter buildings to make it look like it's
24 stepping down, but it doesn't. This does not step down.
25 It starts to. And then when you get to the project,

1 there's that big jump up and then a huge 348 drop back
2 down towards The Embarcadero. So say what you want
3 about the project, but please don't say it steps down.

4 Thank you.

5 JAMIE WHITAKER: Good afternoon,
6 Commissioners. My name is Jamie Whitaker and I live at
7 Main and Harrison Street. It's not too far away from
8 the project. I sent an eight-page letter regarding the
9 EIR, so I'm going to vary a little bit away from EIR
10 stuff. My apologies in advance.

11 I think there's a lot of things to like about
12 the proposed project. Eliminating a 550-space public
13 parking garage, given the air pollution concerns that I
14 mentioned earlier during general public comment.
15 There's a lot to like about eliminating that parking
16 garage and instead placing a residential building,
17 residential dwellings, regardless of the economic status
18 of the people that live there.

19 The mix of the units from the proposed
20 building is also very attractive to me as a resident.
21 We tend to see 90 percent studios or darned close, you
22 know. It's mostly little hotel rooms where it brings on
23 unintended consequences. When people live alone as they
24 age, they might develop Alzheimer's disease and other
25 issues. And I see that in my building at Baycrest. You

O-RTA1
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(cont'd)

I-Whitaker1
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I-Whitaker1
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1 have people howling at the moon, so to speak. And
2 there's nobody living with them to take care of them;
3 and it's just an unfortunate outcome of having studios
4 and one-bedrooms as the predominant dwelling type.

5 So the fact that there's 97 two-bedroom units,
6 only 16 studio units, 39 one-bedroom units. But
7 probably more impressive is there's 29 three-bedroom
8 units and 5 four-bedroom units. I don't know if I've
9 seen a four-bedroom unit proposed in the neighborhood.
10 Who can afford these? Probably up there with the 8
11 Washington crowd most likely, at least the supposed
12 folks that could afford those.

13 The City-owned triangle lot. I want you to
14 know, there's a new playground built at Sue Bierman Park
15 that gets very well used. You should visit on the
16 weekend on a nice sunny day. There's -- it's
17 over-saturated. There's more kids than really what
18 there's stuff there. And Adhamina Rodriguez, who helped
19 design and really pushed for a playground for her kids
20 and other kids in the neighborhood, first looked at this
21 triangle. But the Port pushed back and said, "Well, we
22 want to lease this property and make money off this
23 triangle."

24 I really hope that this is a chance,
25 regardless of the fate of 75 Howard Street, for the City

I-Whitaker1
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I-Whitaker1
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1 to consider making this triangle a playground with a
2 four-foot fence around it. There's five daycare centers
3 in the immediate area. There's going to be \$6 million
4 in open-space money contributed from the office

5 buildings. [Now, the proposed height is not code
6 compliant; and my preference is for a code-compliant
7 building. But I'll let everybody else fight over that.]

8 Thank you.

9 IAN LEWIS: Commissioners, thank you. Ian
10 Lewis, speaking from the Hotel and Restaurant Workers
11 Union, Local 2.

12 You know, I looked at this project primarily
13 with respect to its hotel variant. And, you know, I
14 pored over it, having submitted comment during scoping.
15 And in this two-page -- two-inch thick document, I found
16 about six places where hotels were treated differently
17 from residential. And I need to call that out and
18 insist that you revise this and treat hotels as they
19 should be. They are not residential use. They function
20 differently. Hotels are the place of employment for
21 nearly 20,000 San Francisco workers. The volumes of
22 trash, the flow through the building, the conditions for
23 employees in hotels are extraordinarily important. And,
24 you know, those six places that were addressed
25 differently seemed to me places where some technician

I-Whitaker1
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(cont'd)

I-Whitaker1
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O-HRWU
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1 looked up in a book and found that the technical volume
2 of trip generation or parking demand differed in some
3 way from residential. No familiarity with what makes
4 hotels unique uses.

5 I'm not going to go through an inventory of
6 all the omissions here. I refer staff back to the
7 comments I submitted in scoping with respect to employee
8 entrances, the employee use of common-area elevators,
9 whether that's going to happen and what the consequences
10 would be. In particular, some attention to the layout
11 and design of the kitchen facilities.

12 Just so you know, about a year ago workers
13 working in a brand-new kitchen in an existing hotel in
14 Union Square were taken to the hospital because of
15 ill-conceived ventilation allowing the heat in that
16 kitchen to rise over 120 degrees -- were injured because
17 of very poorly thought-out ergonomics. That should not
18 be allowed to happen, especially when a project
19 undergoes review from the ground up like this.

20 It seems to me like the hotel variant was
21 thrown into this proposed almost as a throwaway. That's
22 certainly how it was treated in this analysis. So I
23 think either it should receive some real scrutiny and
24 analysis or should be stripped out and the hotel variant
25 eliminated.

O-HRWU
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O-HRWU
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1 Thanks.

2 PRESIDENT FONG: Thank you.

3 TIM COLEN: Good afternoon, Commissioners.

4 Tim Colen on behalf of the San Francisco Housing Action
5 Coalition.

6 And the project sponsors together with SOM
7 Architects made a presentation on this project to us a
8 few months ago. And I'd say the quick answer is, if a
9 parking garage like 75 Howard were proposed today, it
10 would never get built. It would never get approved.
11 It's a relic of a bygone era when the freeway was there,
12 the elevated freeway.

13 And we think this project is a terrific use of
14 land, to take down the garage and put up something that
15 responds better to the needs of our city.

16 We thought that the proposal itself was very
17 attractive. It has the kind of uses that we like to
18 see. We want to see more activation on the waterfront.

19 If I had any reservation at all, it's that
20 some of our members are not convinced on the question of
21 the height. Having seen a rezoning there recently, how
22 does this play off against that value conferred and
23 what's the best way to treat this? We know that there
24 are a lot of people freaking out about heights on the
25 waterfront as we go into the political season this year. ✓

O-SFHAC
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O-SFHAC
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1 I don't think this is the time to be timid. We're going
2 to hold back on that question and hope that discussions
3 continue. [But all in all this is a terrific use of land
4 and we want to see this move forward.

5 Thank you.

6 MICHAEL MCKENNA: Good afternoon, President
7 and Commissioners. Michael McKenna, IBEW, Local 6, in
8 San Francisco.

9 I just have to comment, too, on the use of the
10 land and the heights. If you looked at tapering down,
11 say, from 101 1st Street that's being built and not 350
12 Mission that doesn't exist anymore or Millennium Towers,
13 there certainly would be a tapering down from Transbay
14 Tower that will be going up at close to a thousand feet,
15 the Millennium Tower at 600 feet, and this setback
16 property that's set back in a way where the waterfront
17 stretches around the front and the turn around the Ferry
18 Building and into the port. It definitely is not -- is
19 more representative of the truth than what was testified
20 earlier.

21 And as far as the housing component, we could
22 look at my 2,000-square-foot house at 41st and Rivera
23 and determine that only a millionaire could afford that
24 house today. And I'm certainly not a millionaire, being
25 just a construction worker here in San Francisco. So

O-SFHAC
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O-SFHAC
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O-IBEW
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O-IBEW
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1 the rate of housing here in the city and the need for
2 densely populated housing within the urban core where
3 people work and don't need to use their own cars and add
4 to the greenhouse. I mean this is what we're looking
5 for, right? Increasing the density and the ability of
6 people to live closer to where they work downtown.

O-IBEW
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(cont'd)

7 I think this is a beautiful project. And I
8 would think we move this forward. Thanks.

O-IBEW
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9 REED BEMENT: Good afternoon, Commissioners.
10 Reed Bement. I'm a resident of One Hills Plaza at 75
11 Folsom Street, just a block from the project that's
12 before you.

13 Our condominium board has passed unanimously a
14 resolution opposing this project; and in that regard has
15 joined the Coalition for San Francisco Neighborhoods and
16 many other neighborhood groups in opposing this project.
17 It simply is the wrong project for this site. The
18 height limit, as you know, that now exists is 200 feet.
19 This project is 350 feet in height.

I-Bement1
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20 The EIR itself identifies six significant and
21 unavoidable impacts which cannot be mitigated. Six.
22 And these include -- I'm quoting now from the EIR
23 itself -- conflicts with the adopted height limits,
24 impairs a scenic vista, shadows public open spaces and
25 sidewalks, cumulatively contributes to shadows on public

I-Bement1
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1 open spaces and sidewalks, cumulatively contributes to
2 unacceptable traffic level of service at Spear and
3 Howard Streets, and sea-level-rise-induced flooding.

4 Because of these six significant and
5 unavoidable impacts, the EIR has found that the
6 environmentally superior proposal or alternative is that
7 which is code-compliant. And I would urge you to take
8 that into consideration when you are voting on whether
9 this matter or this project should proceed.

10 Thank you.

11 COMMISSION SECRETARY IONIN: I'd like to take
12 this opportunity to remind members of the public that
13 we're discussing the adequacy of the environmental
14 impact report, or the draft environmental impact report,
15 as opposed to the project itself.

16 JOHN YADEGAR: Good afternoon, Commissioners.
17 My name is John Yadegar. I have been practicing
18 structural engineering in San Francisco for 35 years and
19 this is my first time in a Planning Commission meeting.

20 I'm here to express my concern with regards to
21 the proposed development. These concerns are shared
22 unanimously with the entire board at Hills Plaza, where
23 I live. I moved to Hills Plaza at Folsom and
24 Embarcadero in 2004 to enjoy the quality of life at the
25 San Francisco waterfront. One of the only positive

I-Bement1
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I-Yadegar
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1 outcomes from the Loma Prieta earthquake was the freedom
2 of the waterfront from the clutter created by the
3 two-story Embarcadero Freeway. The piers are finally
4 being developed to their rightful potentials. The
5 Embarcadero is now a destination unlike any other in the
6 entire city.

I-Yadegar
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(cont'd)

7 My opposition to the proposed tower is that it
8 doesn't fit appropriately on the waterfront. The
9 proposed height limit is 75 percent more than a generous
10 maximum that was set by the Planning Department for this
11 site. It defies many planning guidelines. The setback,
12 bulk, and architecture are totally at odds with other
13 structures on the waterfront. I fear that this
14 project's approval will set a dangerous precedent for
15 other undeveloped properties on the waterfront to
16 follow. Let's not send a message that the integrity of
17 the San Francisco waterfront is up for sale.

I-Yadegar
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18 Thank you.

19 KEITH BARDEL: Good afternoon, Commissioners.
20 And my name is Keith Bardel, 75 Folsom Street. I live
21 also in Hills Plaza, about one block away.

22 I did read the EIR. It was the first time I
23 was involved in reading an EIR in the city as a
24 resident. I'm pleased to have the opportunity to read
25 that.

I-Bardel
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1 My biggest concern is on the bulk and height
2 of the building, primarily on the issue in the EIR on
3 the shadows on Rincon Park. As a member of District 6,
4 we have a lack of green space in that neighborhood,
5 particularly in District 6. I utilize that park, as do
6 thousands of people in the greenspace on a sunny day.
7 And as evident in the EIR, dramatic shadows will take
8 away a lot of that sunny space that, not only myself and
9 other residents enjoy, but visitors alike.

10 So I urge you to consider voting no as is
11 proposed for 75 Howard. Thank you.

12 PRESIDENT FONG: Is there any additional
13 public comment?

14 DAVID CINCOTTA: Hello. My name is David
15 Cincotta of Jeffer, Mangels, Butler & Mitchell; and I'm
16 here on behalf of the property owners in the
17 neighborhood.

18 I do want to say that we'll be submitting
19 additional written materials, but I wanted to address a
20 couple of significant issues today. We believe this
21 document is considered grossly inadequate and inaccurate
22 in some areas.

23 The first area that I would like to talk about
24 is in regard to the land-use impacts. The EIR -- the
25 draft EIR -- very adequately describes that this project

I-Bardel
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(cont'd)

I-Cincotta
1

1 is significant and unavoidable in its creating negative
2 impacts on the land use of this area. And that -- as to
3 how it's unavoidable, I think it's perplexing, but I'm
4 not here to address that today, because you have an
5 alternative that says it is avoidable if you reduce it.

I-Cincotta
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(cont'd)

6 In any case, what I'm here to talk about is
7 the things that it says where it's not significant --
8 it's less than significant. And that is on its impact
9 on the character of the vicinity and its impact
10 cumulatively on land-use impacts. And I believe you've
11 got the Downtown Area Plan talking about how this steps
12 down. You have the Urban Design Element Plan, you have
13 the Transit Center Development Plan, all talking about
14 how buildings must be stepped down to the Bay or
15 reduced. In fact, it actually says low buildings should
16 be along the waterfront.

I-Cincotta
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17 You have -- you even -- one of the things
18 that's not mentioned is the BCDC Waterfront Plan, which
19 is also broadly impacted by this project. The only
20 discussion -- these things were determined
21 less-than-significant. And I believe that "character"
22 in the discussion in the EIR is only referred to as land
23 use. But the impacts of these buildings, its height,
24 its bulk, its proximity to the Bay -- all of that
25 impacts the character of this neighborhood and impacts

1 the cumulative impacts of people going further and
2 further towards the Bay.

I-Cincotta
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(cont'd)

3 The other point that I wanted to talk about
4 just briefly is the transportation and circulation
5 section. This doesn't believe that this project will
6 have any cumulative impacts -- or any significant
7 unavoidable cumulative impacts. This area of the EIR is
8 wholly incomplete, because it does not discuss the
9 impacts the Warriors arena will have on this, just three
10 blocks away. This project is considered on record as
11 possibly providing parking for the arena. Yet one of
12 its variants is for parking. And there isn't an
13 adequate discussion of the cumulative impacts that this
14 project will have on transportation in that area when
15 it's already considered incredibly dramatic.

I-Cincotta
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16 There will be more in the written materials
17 submitted to you soon, but I think that this thing is
18 not ready for prime time. It's got to be done again.
19 Thanks.

I-Cincotta
4

20 CHRISTOPHER BUTCHER: Good afternoon,
21 Commissioners. Christopher Butcher from the Thomas Law
22 Group speaking on behalf of some building owners in the
23 area.

24 The EIR needs to be revised and recirculated.
25 We're going to submit additional comments with more

I-Butcher1
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I-Butcher1
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1 detailed information. But some of the areas that are
2 flawed include the transportation analysis as previously
3 discussed. One specific issue in the transportation
4 analysis is that they looked at data for just an evening
5 in the weekday to determine the level of service.
6 There's no analysis of the weekend traffic. And as
7 mentioned, the Warriors arena is coming to town.

I-Butcher1
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(cont'd)

8 Also, we've got the Ferry Building that now is
9 being, thankfully, a lot more used. We've got the
10 farmers market and all of the other facilities in the
11 area that bring a lot of transportation and traffic
12 issues on weekends. There's no discussion of that.

I-Butcher1
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13 In order for the transportation analysis to be
14 adequate, there must be a discussion of potential
15 impacts. There's data to suggest that the peak level on
16 the weekends can be greater than a weeknight level
17 analyzed at, I believe, one day in the EIR.

I-Butcher1
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18 In addition to that, the transportation
19 analysis relies heavily on a transportation study and a
20 driveway plan that is not included in the EIR and it's
21 not included in the appendix. CEQA Guidelines Section
22 15147 requires information like that either to be in the
23 EIR or in the appendix. 15147 also requires that
24 information to be provided to OPR's clearinghouse so
25 that other agencies, responsible trustee, and the like

I-Butcher1
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1 could review that documentation as part of their review
2 of the EIR. That information was not provided to OPR as
3 part of the clearinghouse; and, therefore, that
4 information was not before other agencies that have
5 looked at this document. And, therefore, the comment
6 period needs to be extended so that they can review that
7 document along with the EIR and its appendix.

I-Butcher1
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(cont'd)

8 Next, construction noise. There is a
9 mitigation measure for construction noise. That
10 mitigation measure lists potential mitigation that could
11 be adopted if feasible. That's not consistent with the
12 San Francisco noise ordinance in that it doesn't prove
13 that it will, in fact, be lower than what's required.

I-Butcher1
6

14 In addition to that, there's no discussion of
15 nighttime construction. If construction is going to be
16 allowed at night, there needs to be an analysis. If
17 it's not, there needs to be a mitigation measure that
18 says construction will not be allowed at night.

I-Butcher1
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19 Finally, the range of alternatives is not
20 adequate, because there's only two alternatives in the
21 document besides the CEQA-mandated no-project
22 alternative. Those two alternatives do not address four
23 of the six significant and unavoidable impacts. CEQA
24 requires that any potentially feasible alternative that
25 can address significant and unavoidable impacts in an

I-Butcher1
8

1 EIR be addressed. There are potentially feasible
2 alternatives that can address the shadow impacts and can
3 also address the sea-rise-level impacts addressed in the
4 EIR.

I-Butcher1
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5 We also echo the height and bulk concerns of
6 others. And you will be hearing more in our letter
7 coming next week.

I-Butcher1
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8 Thank you very much.

9 PRESIDENT FONG: Is there additional public
10 comment?

11 Okay. Seeing none, public comment is closed.

12 Commissioner Moore.

13 COMMISSIONER MOORE: I'd like to start with
14 asking for an extension for written comments from
15 September 16th to September 23. The reason is the
16 Planning Commission received this rather voluminous
17 document on August 1st, with us going on break for three
18 weeks. I was out of the country for three weeks. I did
19 not have any time, given the very busy Commission
20 calendar prior to our going on break. And I would like
21 to spend a little bit more time for substantiating
22 written comments.

A-SFPC-
Moore
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23 So what I will touch on are thoughts which
24 jumped into my eye with cursory review. And they are as
25 follows:

1 The project description for the EIR needs to
2 properly describe site disposition and ownership, what
3 building lots are and are not parts of the project,
4 based on ownership.

A-SFPC-
Moore
2

5 There's a lack of clarity about the freeway
6 parcel that the project describes as an open-space
7 amenity. Who owns this parcel at this moment? Who is
8 responsible for designing and disposing of it in
9 whatever form? The record shows that the City-owned
10 parcel was created and transferred when the freeway was
11 torn down.

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12 The project, without color differentiation at
13 the moment, shows that the project is to occur on four,
14 for lack of better word, lots. The project itself seems
15 to only own the garage site with a corner on the
16 southeast owned by the Gap.

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17 There is a public right-of-way, a street which
18 will be occupied to the project's benefit. The DEIR
19 needs to fully disclose how this assembly of parcels
20 will function as a full-fledged building site.

21 I think the draft EIR needs to become more
22 of a disclosure background for some of the projects in
23 the area which historically were under the jurisdiction
24 of Redevelopment. And while the Planning Department
25 Office of Environmental Review prepared the EIR, the

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jurisdiction of the projects were not under the Planning Department's purview. That includes the approvals for Rincon Annex, Rincon Point, South Beach, and other projects up to Broadway. And I think in order for the background of issues surrounding this project, the project needs to reference or make available those documents which substantially set the tone of this development. And I think it will be very interesting. Particularly some of us remember the approval surrounding the historic rehabilitation of the Rincon Post Office, which is indeed a Post Office property, where the creation and the height of the residential towers were ones sculpted to deal with height and bulk and exposure to waterfront. But the height also justified the historic preservation of the building and the murals of the former Post Office.

I think those things need to be taken into consideration and ultimately properly weighing what this project does contribute, what it asks for, and how you mitigate potential impacts.

The other point is the DEIR references the Transit Center. I do not believe that the Transit Center ever implied that there would be additional height and intensification of views going east. We saw the Transit Center speak to towers which are mostly west

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1 of the center or surrounding it more closely, but I do
2 not believe that that the Transit Center plan even
3 remotely suggested that this building would go up to 31
4 stories.

5 I have other comments. The one thing which is
6 always very important to me is that I do not see that
7 this project clearly references the Urban Design Plan
8 and the Downtown Plan, particularly when it comes to
9 building-massing height and building expression. While
10 this is at this moment only a draft EIR, it is
11 particularly the sculpting and the silhouette of the
12 building which will affect the program and impact as it
13 is described in the EIR.

14 I also believe that the building at this
15 moment in the EIR does not show any differentiation of
16 the required base, shaft, and top, leave alone the
17 sculpting of the building top, which is at this moment

18 just a block, a building block. It does not address
19 setbacks as practiced by the Hills building and the Gap
20 building; and it leaves a number of issues which are
21 clearly spelled out as mandated in those downtown and
22 urban design plans. And I would like the draft EIR to
23 reflect on that.

24 PRESIDENT FONG: Commissioner Antonini.

25 COMMISSIONER ANTONINI: Thank you. I have a

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1 few comments.

2 First, I understand this property does largely
3 lay within the Transit Center Development Plan; and I
4 would like to kind of -- if there is any history about
5 this site or the height considerations, certainly it
6 would be interesting to know. I sat through the
7 approvals during that time, but, you know, it would be
8 interesting to know what -- if there was any
9 consideration of this as we move forward with the plan,
10 although that's not before us today. What's before us
11 is the draft EIR.

12 And I do agree with -- though it's not before
13 us today, I agree with Commissioner Moore that some kind
14 of sculpting might be advantageous. We see that in the
15 YMCA and the Gap and some of the other buildings that
16 have been built there.

17 But there are a few things with reference to
18 the plan itself. I think there is mention in the draft
19 EIR of the shadow impacts of the building and then the
20 effects that the buildings now or soon to be under
21 construction in the transit district will have on
22 mitigating the shadows, because they will actually often
23 be part of the shadow from the bigger buildings;
24 therefore, their impact will not be there anymore in
25 many instances. So that I think there's reference to

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1 this in this document, which was far-reaching. And I
2 think it's good to understand that when we look at those
3 shadow impacts.

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4 I don't believe that you have to analyze
5 perceived socio-economic impacts as part of an EIR, so
6 that is not necessary.

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7 Another point is that the waterfront that we
8 have is curvilinear in its nature. So we have to
9 always -- when we talk about a building and its distance
10 from the waterfront, we have to kind of look at where it
11 is really, relative to the waterfront. As we move
12 further south, the waterfront becomes closer to the
13 streets further in. Steuart Street ends, Spear Street
14 ends, Beale ends; and that is a curve. So that is an
15 interesting feature to look at as we really look at
16 where the waterfront is and isn't.

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17 The new park that's proposed, I believe there
18 is an analysis in there that talks about the amount of
19 park space being created and how much additional light
20 is created relative to the amount of light being
21 eliminated by this project as it's currently structured.
22 So it's good to look at both those factors.

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23 The speaker who talked about the hotel variant
24 is probably a good -- if we can have a little bit more
25 in comments-and-responses that would talk to impacts.

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1 If that particular variant were the one that is
2 selected, then there might be a little more impact from
3 the hotel part of the project, as would be the case
4 obviously if it's entirely condominiums. So good to
5 look at that a little bit.

6 In terms of the traffic, I'm in agreement with
7 the plan. Obviously, it depends on the variant; but if
8 the variant is all condominiums, then it would be hard
9 to believe that you're going to generate more traffic
10 from residential parking than you would from a
11 commercial parking garage, which it's their business to
12 park cars; therefore, one would think more cars would be
13 coming in and out of that.

14 And if there is an increase
15 in traffic in the area as a result of the arena or other
16 businesses that are planned for the area, the traffic is
17 going to be there regardless. I mean whether -- you
18 know, whether or not this project adds residential
19 parking is not -- it is going to have kind of a neutral
20 effect on that.

21 So those were my main feelings after reading
22 this over. I want to concentrate on it a little more.
23 And I do want to see what the comments and responses
24 are. But I think the document seems to be pretty
25 extensive. Now it needs a little fine-tuning, but I
think it will be -- give us a good picture of the

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environmental impacts of this project.

PRESIDENT FONG: Commissioner Hillis.

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COMMISSIONER HILLIS: Clearly, height will be the issue that kind of is controversial when this comes before us, with such a substantial kind of request to increase the height limit. And I think the EIR does a good job of analyzing the impacts of the additional height.

A couple of things I'd like to see beefed up -- or one that -- I know it's not typical in the alternative section to have architecture associated with those alternatives. So the code-compliant alternative as well as the lower-height alternative, it would be nice to compare what's being proposed as far as architecture developed with projects or kind of scenarios or simulations with architecture at those lower height limits, or those lower height levels, just to kind of compare apples to apples.

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And then also in the kind of the discussion of the feasibility of those alternatives, it seems somewhat scant, the information that's given on why they aren't feasible or why they can't meet the project sponsor's objectives of like tearing down the garage. So more analysis or more detail on that would be helpful.

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And then I agree with some of the public

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1 comments, although maybe not an EIR issue on open space.
2 I think we build a lot of this kind of inactive or
3 passive open space along the waterfront. So it would be
4 nice to see a variant; or, ultimately, when this is
5 considered more active use of that triangular lot, if it
6 does become open space and we have Rincon Park across
7 the street and other waterfront open spaces that tend to
8 be pretty passive.

9 PRESIDENT FONG: Commissioner Sugaya.

10 COMMISSIONER SUGAYA: Thank you. Yes.

11 Perhaps it's only my ignorance or something,
12 but when we've had -- when I've raised issues about
13 potential impacts related to land use and zoning and
14 City policy resulting from increased heights that are
15 being proposed for projects, they've always been, in my
16 recollection, rebuffed because the City has always
17 argued that those kinds of things can be changed; that
18 heights can be raised; bulk and other standards can be
19 raised; that the General Plan can be amended, et cetera.

20 So I'm quite surprised in this case to find
21 that there is a significant and unavoidable impact in
22 the analysis in those sections.

23 COMMISSION SECRETARY IONIN: Commissioners, if
24 there's nothing further, we can move on to your next
25 item.

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1 PRESIDENT FONG: Actually, I -- Commissioner
2 Moore.

3 COMMISSIONER MOORE: I would like to restate
4 my question to extend the written comment period till
5 the 23rd and ask the Commission's support for that.

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6 COMMISSIONER SUGAYA: Second.

7 PRESIDENT FONG: We can vote.

8 DIRECTOR RAHAIM: I think you can vote on it,
9 but we can certainly take your recommendation to the
10 ERO, who makes that determination, if you all believe
11 that that's the right thing to do.

12 COMMISSIONER MOORE: Yeah.

13 PRESIDENT FONG: Yeah. Fine.

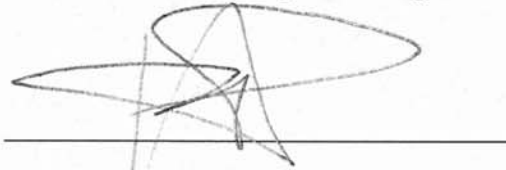
14 Commissioners, we'll take a very short break
15 here and maybe back in about 20 minutes or so.

16 (The hearing on the item concluded at
17 1:57 p.m.)

CERTIFICATE OF REPORTER

I, FREDDIE REPPOND, a duly authorized
Shorthand Reporter and licensed Notary Public, do hereby
certify that on the date indicated herein that the above
proceedings were taken down by me in stenotype and
thereafter transcribed into typewriting and that this
transcript is a true record of the said proceedings.

IN WITNESS WHEREOF I have hereunto set my hand
on this 17th day of September, 2013.

A handwritten signature in dark ink, appearing to be 'FREDDIE REPPOND', is written over a horizontal line. The signature is stylized with loops and crosses.

FREDDIE REPPOND

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ATTACHMENT B: DRAFT EIR COMMENT LETTERS

PUBLIC UTILITIES COMMISSION

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-1317



August 21, 2013

Don Lewis
1650 Mission Street 4th Floor
San Francisco, CA 94103

Dear Mr. Lewis:

Re: SCH 2012122022 San Francisco 75 Howard Street Project

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires Commission approval for the construction or alteration of crossings and grants the Commission exclusive power on the design, alteration, and closure of crossings in California. The Commission's Rail Crossings Engineering Section (RCES) is in receipt of the *Draft Environmental Impact Report (DEIR)* for the proposed 75 Howard Street Project from the State Clearinghouse. The City and County of San Francisco (City) is the lead agency.

The project area includes active railroad tracks used by the San Francisco Municipal Transportation Agency's Municipal Railway (SFMTA's MUNI) light rail vehicles. RCES recommends that the City add language to the project approval so that any development adjacent to or near the railroad/light rail right-of-way (ROW) is planned with the safety of the rail corridor in mind. New developments will increase traffic volumes not only on streets and at intersections, but also at at-grade crossings. This includes considering pedestrian circulation patterns or destinations with respect to railroad ROW and compliance with the Americans with Disabilities Act. Mitigation measures to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade crossings due to increase in traffic volumes and continuous vandal resistant fencing or other appropriate barriers to limit the access of trespassers onto the railroad ROW.

We appreciate the opportunity to provide comments on the project. We are available to meet and further discuss the comments presented herein with City, SFMTA and other relevant parties. We hope to assist in the identification of acceptable mitigation measures that will effectively address the concerns we have identified. See the following link for more information:
<http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formalapps.htm>.

If you have any questions in this matter, please contact me at (415) 703-1815, sm4@cpuc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Sia Mozaffari".

Sia Mozaffari
Utilities Engineer
Rail Crossings Engineering Section
Safety and Enforcement Division

C State Clearinghouse

A-PUC

Lewis, Don (CPC)

From: Nicholas Green <nick@rationaldev.org>
Sent: Thursday, September 12, 2013 10:59 PM
To: Lewis, Don (CPC)
Subject: 75 Howard Street Project - DEIR Challenge from CARD (Citizens Advocating Rational Development)
Attachments: City of SF - Howard Street - Project Challenge.docx

Mr. Lewis,

These comments are submitted on behalf of CARD (Citizens Advocating

Rational Development) in response to the Draft EIR prepared for 75 Howard Street Project. Please make sure that our comments are

added to the public record.

Additionally, we are requesting that a copy of the NOD for the 75 Howard Street Project be sent to us (nick@rationaldev.org) when it is issued.

Nick R. Green

President

Phone: +1 818 618 8897

Email: nick@rationaldev.org

Web: rationaldev.org



Don Lewis
City and County of San Francisco
(415) 575-9095
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: 75 Howard Street Project Case No. 2011.1122E
(State Clearing House No: 2012122022)

Dear Mr. Lewis,

The undersigned represents Citizens Advocating Rational Development ("CARD"), a non-profit corporation dedicated to issues in development and growth.

This letter contains comments on the Draft Environmental Impact Report on the 75 Howard Street Project, in accordance with CEQA and the Notice of Completion and Availability. Please ensure that these comments are made a part of the public record.

ENERGY

The DEIR does not discuss any requirements that the Project adopt energy saving techniques and fixtures, nor is there any discussion of potential solar energy facilities which could be located on the roofs of the Project. Under current building standards and codes which all jurisdictions have been advised to adopt, discussions of these energy uses are critical; a 31-story, 350 foot tall, 432,253 gross sf (gsf) residential, high-rise tower containing 186 market rate units and ~5,658 gross sf of retail use will devour copious quantities of electrical energy, as well as other forms of energy.

WATER SUPPLY

2

The EIR (or DEIR – the terms are used interchangeably herein) does not adequately address the issue of water supply, which in California, is a historical environmental problem of major proportions.

What the DEIR fails to do is:

1. Make reference to any urban water management plan;
2. Document wholesale water supplies;
3. Document Project demand;
4. Determine reasonably foreseeable development scenarios, both near-term and long-term;
5. Determine the water demands necessary to serve both near-term and long-term development and project build-out (which would have to examine likely development within the totality of the EBMUD service area);
6. Identify likely near-term and long-term water supply sources and, if necessary, alternative sources;
7. Identify the likely yields of future water from the identified sources;
8. Determine cumulative demands on the water supply system;
9. Compare both near-term and long-term demand to near-term and long-term supply options, to determine water supply sufficiency;
10. Identify the environmental impacts of developing future sources of water; and
11. Identify mitigation measures for any significant environmental impacts of developing future water supplies.

There is virtually no information in the DEIR which permits the reader to draw reasonable conclusions regarding the impact of the Project on water supply, either existing or in the future.

For the foregoing reasons, this EIR is fatally flawed.

3

AIR QUALITY/GREENHOUSE EMISSIONS/CLIMATE CHANGE

The EIR lacks sufficient data to either establish the extent of the problem which local emissions contribute to deteriorating air quality, greenhouse emissions or the closely related problem of global warming and climate change, despite the fact that these issues are at the forefront of scientific review

due to the catastrophic effects they will have on human life, agriculture, industry, sea level risings, and the many other serious consequences of global warming.

3
(cont'd)

This portion of the EIR fails for the following reasons:

4

1. The DEIR does not provide any support or evidence that the Guidelines utilized in the analysis are in fact supported by substantial evidence. References to the work of others is inadequate unless the document explains in sufficient detail the manner and methodology utilized by others.

2. Climate change is known to affect rainfall and snow pack, which in turn can have substantial effects on river flows and ground water recharge. The impact thereof on the project's projected source of water is not discussed in an acceptable manner. Instead of giving greenhouse emissions and global warming issues the short shrift that it does, the EIR needs to include a comprehensive discussion of possible impacts of the emissions from this project.

5

3. Climate change is known to affect the frequency and or severity of air quality problems, which is not discussed adequately.

6

4. The cumulative effect of this project taken with other projects in the same geographical area on water supply, air quality and climate change is virtually missing from the document and the EIR is totally deficient in this regard.

7

For the foregoing reasons, the EIR is fatally flawed.

ALTERNATIVE ANALYSIS

8

The alternative analysis fails in that the entire alternatives-to-the-project section provides no discussion of the effects of the project, or the absence of the project, on surrounding land uses, and the likely increase in development that will accompany the completion of the project, nor does it discuss the deleterious effects of failing to update the 75 Howard Street Project facilities upon those same surrounding properties and the land uses which may or have occurred thereon.

Thank you for the opportunity to address these factors as they pertain to the referenced DEIR.

Very truly yours,

CITIZENS ADVOCATING RATIONAL DEVELOPMENT

NICK R. Green

President

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

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Dick Millet

Members-at-Large

Charles Head

Jeanne Quock

September 17, 2013

Sarah B. Jones, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco CA 94103

Re: Comments on 75 Howard Street DEIR

Dear Ms Jones,

The Coalition for San Francisco Neighborhoods (CSFN) is an “umbrella” organization comprised of 48 individual San Francisco neighborhood organizations representing thousands of the city’s residents.

Please consider the following comments on the DEIR of 75 Howard Street

- 1.) San Franciscans are concerned about barriers in the form of tall buildings built between the city and the Bay
- 2.) San Franciscans oppose overdevelopment along the Embarcadero and other special areas of historic and scenic importance; 75 Howard’s current plans contribute to this overdevelopment
- 3.) the Paramount Group of New York is proposing to build a 350-foot high luxury condo building on the Embarcadero at 75 Howard Street; the 75 Howard project would exceed the area’s 200-foot height limit by 75 percent
- 4.) the 200-foot height limit was established before the development of Rincon Park and relocation of the Embarcadero roadway inland; even the 200-foot height limit is out-of-date and excessive for property fronting the Embarcadero
- 5.) the Transit Center District Plan requires buildings in the area to step down as they get closer to the bay; the plans for 75 Howard do not do that
- 6.) 75 Howard would be 47% higher than its neighbor immediately inland
- 7.) 75 Howard would be higher than every building one block north, one block south, and two blocks west
- 8.) 75 Howard would clearly not step down towards the bay as required
- 9.) neighboring buildings on the Embarcadero have significant setbacks at the seventh floor and continue to taper as they get higher
- 10.) 75 Howard would have a relatively minimal setback at the seventh floor and not taper above that
- 11.) 75 Howard would create substantial shadows on public spaces including Rincon Park
- 12.) Paramount Group would demolish an existing garage with 550 public parking spaces which is sorely needed in San Francisco
- 13.) the Paramount Group has stated their current business at 75 Howard is profitable

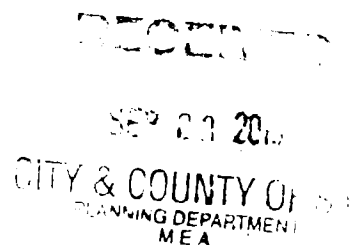
Please know that the CSFN opposes the current iteration of the Paramount Group’s proposed development at 75 Howard Street and *strongly urges* Commissioners and Supervisors to not approve this development until such time as it successfully addresses the items enumerated in this resolution.

Sincerely,

Judith Berkowitz, President

Barbary Coast Neighborhood Assn
Buena Vista Neighborhood Assn
Castro-Eureka Valley Neighborhood Assn
Cathedral Hill Neighbors Assn
Cayuga Improvement Assn
Cole Valley Improvement Assn
Cow Hollow Assn
Diamond Heights Community Assn
Dolores Heights Improvement Club
East Mission Improvement Assn
Ewing Terrace Neighborhood Assn
Excelsior District Improvement Assn
Fair Oaks Community Coalition
Forest Knolls Neighborhood Assn
Francisco Heights Civic Assn
Golden Gate Heights Neighborhood Assn
Greater West Portal Neighborhood Assn
Haight Ashbury Improvement Assn
Inner Sunset Park Neighbors
Inner Sunset Action Committee
Jordan Park Improvement Assn
Laurel Heights Improvement Assn
Liberty Hill Neighborhood Assn
Lincoln Park Homeowners Assn
Marina Civic Improvement & Property Owners Assn
Middle Polk Neighborhood Assn
Midtown Terrace Homeowners Assn
Miraloma Park Improvement Club
Mission Creek Harbor Assn
New Mission Terrace Improvement Assn
Nob Hill Neighbors
North Beach Neighbors
Oceanview, Merced Heights, Ingleside – Neighbors in Action
Outer Mission Merchants & Residents Assn
Pacific Heights Residents Assn
Panhandle Residents Organization/ Stanyan-Fulton
Parkmerced Action Coalition
Parkmerced Residents Org
Potrero Boosters Neighborhood Assn
Richmond Community Assn
Rincon Point Neighborhood Assn
Russian Hill Improvement Assn
Russian Hill Neighbors
Sunset Heights Assn of Responsible People
Sunset-Parkside Education & Action Committee
Telegraph Hill Dwellers
Twin Peaks Council & Open Space Conservancy
Twin Peaks Improvement Assn
University Terrace Neighborhood Assn

One Hills Plaza Residential Association, Inc.
 c/o Chandler Properties
 2799 California Street
 San Francisco, CA 94115



August 29, 2013

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ms. Sarah B. Jones
 Environmental Review Officer
 San Francisco Planning Department
 1650 Mission Street, Suite 400
 San Francisco, CA 94103

Re: 75 Howard Street, Planning Department File No. 2011.1122E

Dear Ms. Jones:

After review of the Draft EIR for 75 Howard Street and in response to various grave concerns that remain unaddressed, the Board of the One Hills Plaza Residential Association has voted to oppose the proposed project for 75 Howard Street.

The proposed building sets a dangerous precedent for the Embarcadero waterfront. It is inappropriate for the site not only because of its excessive height and bulk, but also because it will be the first building that does not incorporate the deep upper-floor setbacks by building like the Gap and One Hills Plaza. In addition to the limited setbacks on the East, the setbacks on the North and West sides are also inadequate to provide the necessary privacy, light and views to the occupants of the adjacent buildings. At 350 feet in height, the proposed building is 75% taller than the site's zoning currently permits.

Our Board disagrees that "The proposed project or variants would not have a substantial impact on the existing character of the vicinity" (75 Howard DEIR, S.5).

Our Board also has difficulty understanding why approvals would be issued to a project that will result in a "substantial adverse effect on a scenic vista", "cumulatively contributes to unacceptable traffic level(s)", and casts new shadows that "substantially affects outdoor recreation facilities or other public areas."

The fact that the building's shadows on Rincon Park, and public sidewalks, are "significant and unavoidable" leads to the conclusion that another site may be more appropriate for this project. Rincon Park is our neighborhood park. These adverse impacts will not only be experienced by the occupants of the surrounding residential and

1

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3

4

5

6

Ms. Sarah B. Jones

August 29, 2013

Page 2

office buildings but also by the numerous visitors to this busy Embarcadero area, including visitors to Rincon Park.

6
(cont'd)

The Draft EIR recognizes these serious impacts in the project by concluding that the Code Compliant Alternative is the "Environmentally Superior Alternative" and finding "six significant and unavoidable impacts" in the project which cannot be mitigated. These impacts include the violation of the existing height limit, casting shadows on public open spaces and sidewalks (particularly Rincon Park) and contributing to unacceptable traffic at Spear and Howard.

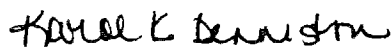
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Based upon these unavoidable impacts which cannot be mitigated, we urge the Planning Department and members of the Planning Commission not to certify the Draft EIR for 75 Howard.

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Thank you for your consideration of our concerns.

Sincerely yours,



One Hills Plaza Residential Association Board
Karol K. Denniston, President

cc: Commission President Rodney Fong
Commission Vice President Cindy Wu
Commissioner Michael J. Antonini
Commissioner Gwyneth Borden
Commissioner Rich Hillis
Commissioner Kathrin Moore
Commissioner Hisashi Sugaya
Supervisor Jane Kim

Rincon Tenants Association

88 Howard Street
Post Office Box 193015
San Francisco, CA 94119

September 23, 2013

Sarah B. Jones
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Response to 75 Howard draft EIR

Dear Ms Jones:

The draft EIR certainly acknowledges that the 75 Howard proposal is too tall, but seems to under evaluate the project's other problems. This appears to be a strategy to make it seem everything will be in line if and when the developer shortens the project. However, the other problems (not related to height) cannot be ignored in a valid EIR.



4.B LAND USE AND LAND USE PLANNING:

The introduction to Section 4.B (Land Use and Land Use Planning) states that the DEIR will reevaluate the project's conflicts with plans, policies and regulations (in LU-1) and also analyze the project's impacts on the land use character of the existing neighborhood (in LU-2). These two critical areas are analyzed only because they were requested during the public review period on the NOP/IS. Why would these have been omitted if they had not been requested?

The DEIR lists numerous criteria for evaluating the project, but much of this seems to be either ignored or evaluated incorrectly.

The section of Section 4.B on Regulatory Framework cites several "potential conflicts" with the General Plan and Planning Code between the project and:

- the city pattern,
- the character of existing and proposed development,
- transitioning heights to the waterfront, and
- protecting parks and open space access to sunlight and vistas.

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75 Howard is not in character with waterfront buildings

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(cont'd)



The portion of Section 4.B on Impacts and Mitigation Measures lists several additional considerations from the Planning Code. Impact LU-1 includes:

- the avoidance of an overwhelming or dominating appearance,
- the promotion of building forms that will improve open spaces and public areas,
- the relationship between new and older buildings.
- avoiding “visual disruption along the water,” and
- that buildings taper down towards the water.

Many of these criteria seem to be ignored in the draft EIR. Where are the nine topics that are bulleted above analyzed in the draft EIR?

It is important to note that these planning principles address the relationship of waterfront buildings and call for them to be low. It is not just a matter of them being relatively lower than inland buildings.

Impact LU-1 makes it clear the project is significantly in conflict with land use plans – and that excessive height is not the only problem. There are other conflicts (visible below) including the overwhelming and dominating appearance, it does not step down, the building form does nothing to improve any open spaces and public areas, the glass box design does absolutely nothing to integrate with older styles, and it would be a visual disruption along the water (both in height and style). Please analyze these other criteria.



Impact LU-2 contradicts LU-1 by concluding the impact on the existing character of the vicinity would be less than significant. LU-1 states the project “would disrupt the existing pattern of lower buildings on the first block along the waterfront...” This contradiction is not explained. The paragraph comparing buildings uses the words “several” and “some” repeatedly. Again, this analysis can, and should, be more quantifiable. It is not valid as written. Please correct and improve this section.

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Contrary to what LU-2 states, the project’s proposed use is not compatible with the vicinity. For example, there are no buildings anywhere near the project site that mix residential and hotel uses. (Nor should there be – the city needs housing. The proposed hotel section should be used instead for affordable housing, a use that is sorely needed and currently exists immediately across the street.) Please address these incompatibilities with the vicinity and city priorities.

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This section and others compare the project with buildings two blocks north, west and south. This is inappropriate and misleading since the blocks in this area are twice as long as they are wide. This creates an elongated comparison area which seems designed to assist the developer by allowing comparison with taller buildings (such as One Market) in the longer directions. Shorter buildings three blocks west (but closer than One Market) are ignored in these comparisons. Using the two-block gauge that Planning chose for this draft EIR, two blocks west is about 700-feet, and there does not appear to be any taller buildings within a 700-foot radius of 75 Howard. Please revise these lopsided comparisons.

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The Cumulative Impact Evaluation (Impact C-LU-1) tries to justify the project’s height by citing distant taller buildings that may – or may not – be built in the Transbay area. Cumulative does not mean distance. This is not a valid analysis for these reasons:

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- Assuming buildings will be built is a classic planning blunder that has hindered sound planning practices for decades.
- Residents in the project area do not consider the Transbay area – which reaches as far as Third Street – to even be in the same neighborhood.
- This analysis ignores the significant areas of permanent, shorter buildings between the possible Transbay high-rises and the project.
- This analysis also ignores the requirement for “low” (not just “lower”) buildings on the waterfront.

NEIGHBORING BUILDING HEIGHTS:

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Comparing the height of a project like this with the heights of neighboring buildings is a critical component of an EIR. However, it’s as though this DEIR seems to be comparing the heights of circles and boxes. 75 Howard is very boxy, but many of the neighboring buildings taper to narrow spires. Rincon Center, for example, is topped with four spires above two domes (or barrel

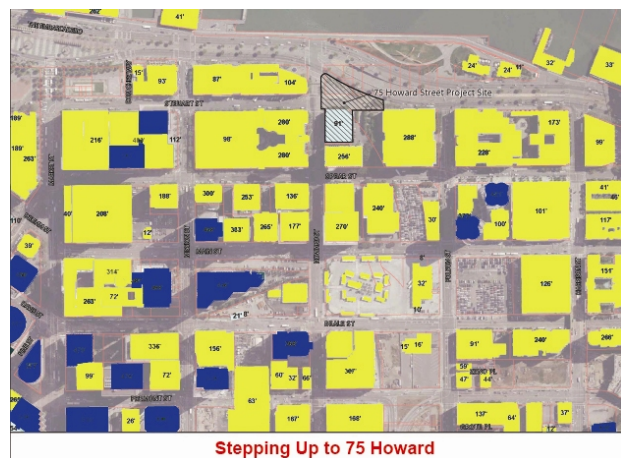
vaults) that curve upwards to peaks. Unfortunately, the DEIR compares the height of 75 Howard's nearly flat top with the heights of the other buildings' narrow tops. (The tops of Rincon's domes and spires are insignificant when gauging height.) These references need to be corrected.

The heights of neighboring buildings are listed in multiple places and appear on a map on page 4.B.8 in the draft EIR (right). These height figures appear to be in error or misleading by including the heights of mechanical areas and decorative tops. It is our understanding that rooftop mechanical areas and decorative tops are not traditionally included when measuring building heights in an EIR. For example, Rincon Center is shown to be 280' tall, yet Rincon's commercial owner (Hudson Pacific Properties) and chief engineer (who references the RC-2 Architectural Drawing #A4-10) state the elevation of the top occupied floor (23) is 222-feet and six-inches above the sidewalk (email dated 12/27/12). That's a 57' difference. Likewise, 201 Spear is shown at 256-feet, yet their law firm stated the height is actually 237.5' (letter to Planning Dept. dated 1/11/13). Apparently the Planning Dept is counting the screened HVAC equipment on top. All of these figures throughout the DEIR need to be checked and corrected as necessary.



Many nearby buildings stretch for an entire block (including but not limited to Rincon, Hills, Gap, One Market), yet have significant setbacks around the 7th floor level. The above map often portrays the entire block with the height of the tower (which is less than half the building footprint). The buildings should show multiple height figures where there is a significant change, such as around the 7th floor. There is precedence for this – One Market is shown on the map with four different elevation figures (although the significant 6th floor rooftops are incorrectly shown at the height of the lower tower). All buildings with podiums and towers (including Rincon, Gap, Hills, One Market and 201 Mission) should have these areas color-coded differently on the above map, and the elevations of the podiums and towers should all be provided.

The map should also be color-coded to simply reflect whether neighboring buildings are taller or shorter than the project (right). Two colors. Very informative, simple to understand, and easy to create.



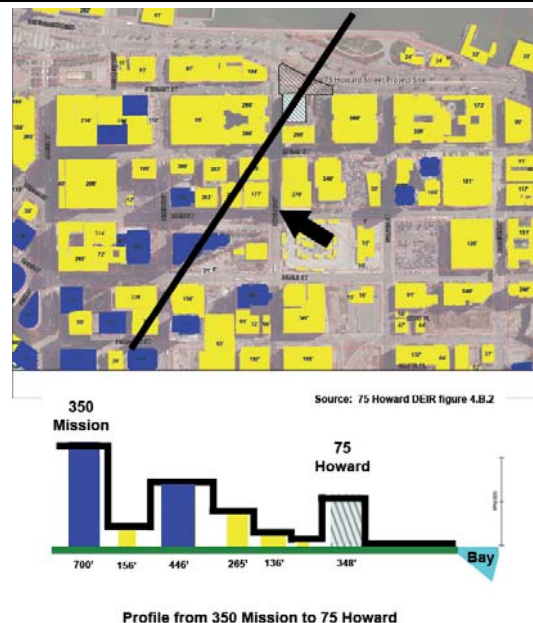
STEP DOWN REQUIREMENT:

The Downtown Area Plan, Urban Design Element, and Transit Center District Plan all require that buildings step down towards the bay. Determining whether a proposed project steps down is an inexact science and can be abused. Priority must be given to the area directly inland and perpendicular from the water (90-degrees from the coastline). Buildings immediately behind the project must also be given emphasis. Claiming a project steps down by primarily citing a few far flung buildings off in the distance is inappropriate. The EIR must demonstrate how the step-down requirement is or is not met at different intervals.

This requirement is very straightforward for most people, but Commissioner Antonini raised questions at the September 12, 2013 meeting of the commission. He noted a “curvilinear” nature to the Embarcadero and how interesting it is “to look at where the waterfront is and isn’t.” Apparently this requirement needs to be clarified.

To better gauge and quantify whether a project meets the step-down requirements, the DEIR should use the following two tools:

- One, simply count the number of higher and lower buildings within various perimeters around the project. This method makes it clear that the 75 Howard project is surrounded primarily by shorter buildings all around.
- Two, create profiles or cross sections of area buildings on straight lines fanning out between 45- and 135-degrees from the project. We believe most of these will clearly show buildings stepping down before the project. 75 Howard then creates a big step up and then a 348-foot step almost straight down.



Both of these methods need to use impartial and random selections. Planning cannot cherry pick where to gauge these measurements. 75 Howard does not come close to meeting the requirements that buildings step down to low buildings on the waterfront.

4.C AESTHETICS:

The Regulatory Framework section of 4.C (Aesthetics) says the Urban Design Element calls for new development to:

- “complement existing patterns of development”,
- integrate with “surrounding urban patterns”, and
- “protect visual relationships and transitions with respect to older structures.”

These criteria then seem to be ignored in the DEIR’s analysis.

The existing patterns of development clearly allow tall buildings only if they are set back a considerable distance from the Embarcadero. This building would conflict with that pattern and stand out. The Hills Plaza residential tower steps back approximately 160-feet – seven times further than the proposed project (see below). This needs further analysis in the EIR.



There is too much reliance on photos in the DEIR which can be deceptive. Photos flatten the scene. They make distant buildings appear closer, and they hide shorter buildings directly behind the project. Many of the images presented in the DEIR hide or blur the project behind or within existing buildings. Figure 4.C.2 hides 75 Howard behind the shorter Rincon Center. A view just a few feet further south would reveal much more of the proposed high-rise. Image 4.C.3 crops the top 13 floors (40%) off 75 Howard. Figures 4.C.4 and 4.C.5 use telephoto images to make the project appear to blend in with distant buildings. Image 4.C.6 also makes the project seem comparable to Rincon Center because Rincon is closer. Image 4.C.7 shows a project that would conflict with other buildings fronting the Embarcadero, but again uses a telephoto shot to make it appear consistent with buildings further away. This is deceptive.

The project would not integrate with “surrounding urban patterns” and would actually stand out. A version of picture 4.C.3 (that shows the entire building) makes this clear (right).

There are numerous grand and older buildings close by, and this boxy high-rise does nothing to compliment them. Other buildings do. Hills Plaza does an excellent job of transitioning with its historic section. Rincon Center also makes a seamless transition from the historic post office to its new section.



Once again, the DEIR depends on high buildings that may, or may not, be built in the Transit Center district to make this project appear to blend in. Those buildings would be blocks away and separated by permanent buildings that are shorter 75 Howard. The conflict of visual character may not be apparent in telephoto shots, but it would be very clear firsthand.

4.E TRANSPORTATION AND CIRCULATION:

Mitigation Measure M-C-TR-1 (page 4.E.74) refers to “...changes to the current configuration of Steuart Street...” called for in the TCDP Public Realm Plan, but the summary of such changes beginning on page 4.E.42 mentions no changes to Steuart Street. Please explain.

The project’s main entrance would be on Steuart Street, but the existing garage has no entrance here. That would obviously mean an increase in traffic. The hotel variant would also introduce passenger loading and unloading on Steuart that doesn’t exist now. Meanwhile, the developer is proposing to narrow the street and turnaround. These issues need complete analysis and mitigating solutions need to be identified.

Buildings that have primary entrances on a street (Steuart in this case) other than their primary address (75 Howard) often create annoying confusion for visitors (including delivery and maintenance people) who are more inclined to make wrong turns, slow traffic, idle while finding their way, make U-turns, and travel further than necessary. Drivers looking for 75 Howard who miss Steuart Street are likely to travel many blocks before finding their way back. This project should use its 200 Steuart Street address instead of 75 Howard Street. These problems would be compounded by the hotel variant.

All these issues need to be analyzed in the EIR.

4.F NOISE:

Several topics need analysis. The project's main entrance would be on Steuart Street, but the existing garage has no entrance here. That would obviously increase noise on Steuart. The hotel variant would also increase the amount of passenger loading and unloading. Hotel doormen typically use shrill taxi whistles that are often annoying to nearby residents. Garage entrances often have warning horns that can be heard for great distances. These issues need complete analysis and mitigating solutions need to be identified.

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CLOSE PROXIMITY TO TWO HIGH-PRESSURE SEWER MAINS AND UNDERGROUND VAULTS:

There is an aging, high-pressure sewer line beneath Steuart Street directly in front of, and only a few feet away from, this project and its excavated garage. This 3-foot diameter pipe, which carries 30% of the city's sewage, has failed three times in the last four years, according to the SF PUC. This line running down Steuart Street is NOT being upgraded as part of the PUC's current improvement work.

31



2 high pressure sewer mains (SF PUC map)

Furthermore, a new high-pressure sewer line is being installed on Howard Street also just feet from this project and its excavated garage (see PUC map below). There is also a sewage vault and overflow structure nearby. All of these facilities are buried in unstable fill.

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While the draft EIR discusses 75 Howard's contribution to the city's sewage flow, it does not adequately address the project's close proximity to these high-capacity and pressured sewer facilities. The risks, liabilities, requirements, and safety measures (if any) associated with the aged sewer main are not discussed.

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The SF PUC studied this issue at 8 Washington and raised serious concerns. The same issues would seem relevant at 75 Howard. It is the same high pressure sewer main buried in fill land. There is also a vault and overflow structure nearby.

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The PUC found these sewage structures “would also be at risk” (Chron 3-11-13) at 8 Washington.

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The very close proximity to excavation, construction activities and an underground garage need to be thoroughly studied at 75 Howard. Questions need to be answered. For example, what effect would pile-driving have on an aging sewer line already susceptible to failure? How old is the existing pipe on Steuart Street? Despite regulations, when the garage at Rincon Center was excavated, there were failures in the retaining wall.

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A breach of either of the two high-pressure sewer mains this close to the Bay could cause an environmental catastrophe. An Environmental Impact Report must address this. Vague references to the titles of existing regulations are insufficient.

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CODE COMPLIANT ALTERNATIVE:

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Is the code compliant alternative really code compliant? Or would it just meet the height requirement? Vague words such as “more consistent” are often used. The code compliant alternative needs to be completely analyzed in a quantifiable manner.

Page 6.16 states the code compliant alternative would not include the open space improvement? What does the project becoming code compliant have to do with improving the open space?

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Sincerely,



David Osgood

Cc: RCTA Board of Directors

**REED H. AND ANNE G. BEMENT
75 FOLSOM STREET #1800
SAN FRANCISCO, CA 94105**

September 23, 2013

Mr. Don Lewis
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 75 Howard Street DEIR

Dear Mr. Lewis:

I have lived in One Hills Plaza for over 20 years and have been involved with community groups, including being a member of a CAC, concerned with planning issues in the Rincon Hill, Transbay and Embarcadero areas for almost as long. From that perspective, I have the following comments concerning the DEIR for 75 Howard Street.

Project Overview (2.1, 2.4)

The references to proposed “improvements resulting in a new 4,780-sq.-ft. landscaped, publicly accessible open space at Block 3742/Lot12” are misleading and inadequate. As noted in the DEIR, this lot is owned by the City and County of San Francisco and, until recently, has been open space available to the public. The proposed project would, therefore, not create any “new” open space as the DEIR repeatedly suggests in the above referenced pages and elsewhere (e.g., 4.H.12).

Indeed, this lot has been specifically identified by a report of a Recreation and Parks Commission task force as a potential new park space (S.F. Chronicle, 9/19/13, p. D1 and D3). It is a space which will, therefore, be developed as a park regardless of the proposed project.

Please describe in the EIR how this lot has been defined by the Recreation and Parks Commission and point out that this lot will be or likely will be developed as a park whether or not this project is approved.

Nor does the DEIR point out that the developer should not receive any “credit” against the significant and unavoidable shadows the project would create on public open space and sidewalks, as it has claimed, by purportedly creating “new” sunlight on this lot.

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Mr. Don Lewis
 September 213, 2013
 Page 2

The public has had in the past and will have in the future the ability to enjoy this sunlight regardless of whether the proposed project is built.

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Project Site Vicinity (2.5-2.7)

The DEIR is also inadequate and misleading in discussing other building in the vicinity in several respects. First, in setting forth heights of other buildings it refers only to the highest point of these buildings without pointing out that the heights are for ornamental towers or for floors with smaller footprints than lower floors. Thus, the Gap Building is referred to as an approximately 290 feet tall office building without describing that the top part of this height is simply an ornamental tower.

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Nor does the DEIR even refer to other relevant projects in the area. Thus, One Hills Plaza, which is approximately 200 feet in height, is not mentioned although its location is far more comparable than the Infinity Buildings which are further distant from the Embarcadero and the Bay. The building for the nearest lot in the Transbay Redevelopment area at Spear-Main on Folsom (at approximately 310 feet) is also not discussed, although it is also closer to the proposed project than the Infinity buildings.

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In addition, The DEIR is also inadequate in that it does not discuss the very significant set backs in nearby buildings, such as the Gap Building, One Hills Plaza and Rincon Towers, as compared to the very minimal or non-existent set backs for 75 Howard.

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The various descriptions and maps of building heights should show the heights of various portions of the individual parts of the buildings so that they accurately show the sculpting of the parts of the buildings.

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For these reasons, the DEIR should be determined to not be adequate, accurate and objective.

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Thank you for your consideration. I can be reached by phone at 415-882-7871 or by e-mail at Rhament@sbcglobal.net.

Sincerely yours,

s/Reed H. Bement

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September 23, 2013

Sarah Jones, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: **75 Howard Street Project Draft EIR (Case No. 2011.1122E)**

Dear Ms. Jones:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed 75 Howard Street Project (Project). We submit these comments on behalf of a group of neighboring property owners.

As explained further below, the DEIR contains a number of procedural and substantive flaws. Due to these inadequacies, the DEIR fails to satisfy the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000, et seq.) and the CEQA Guidelines (Cal. Code Regs., tit. 14, ch. 3, § 15000 et seq.).

The Planning Commission (Commission) and Board of Supervisors (Board) of the City and County of San Francisco (San Francisco) cannot approve the proposed Project until the DEIR complies fully with the requirements of CEQA. As explained throughout this comment letter, the DEIR fails to provide all the information required by CEQA and does not disclose the full extent and magnitude of the environmental impacts associated with the proposed Project. To satisfy the requirements of CEQA, the DEIR must be revised to include significant additional information and the DEIR must be recirculated.

Alternatively, the Commission and Board may decide to deny the proposed Project based upon this inadequate DEIR. A legally adequate EIR is not required in order for a lead agency to deny a project. (Pub. Resources Code, § 21080, subd. (b)(5).) Despite its inadequacies, the DEIR demonstrates that the proposed Project will result in at least six significant and unavoidable impacts. These impacts alone provide the Commission and Board with sufficient

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justification to deny the proposed Project. Therefore, should the Commission and Board agree that, in light of these impacts, the proposed Project should not be approved, the Commission and Board could deny the proposed Project without expending additional resources to produce a legally adequate EIR.

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I. The DEIR Fails to Include Information and Analysis Required by CEQA.

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A. The DEIR Improperly Scopes Out Issues that Should be Analyzed in the DEIR.

A number of potential impacts of the proposed Project were improperly excluded from the DEIR. The CEQA Guidelines state that, subject to exceptions, “[e]ffects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR[.]” (CEQA Guidelines, § 15143; see also CEQA Guidelines, § 15083, subd. (a) [stating that the scoping process may be used to “eliminat[e] from detailed study issues found not to be important”].) The DEIR, however, excludes analysis of a number of issues identified in the Initial Study that are not “clearly insignificant.” Excluding analysis of these issues from the DEIR violates CEQA, and renders the DEIR inadequate as an informational document.

For example, the Initial Study discloses that “that the soil is susceptible to liquefaction at the site.” (Initial Study, p. 124.) To address this potentially significant impact, the Initial Study states “[b]asement and pile design would be able to address *some* of the effects of lateral spreading.” (*Ibid.* (emphasis added).) The Initial Study also requires this impact to “be addressed through... adherence to the regulatory requirements in the San Francisco Building Code regarding foundation design and construction....” (*Ibid.*) While the Initial Study anticipates these measures¹ will reduce liquefaction impacts to a less than significant level, this conclusion does not justify exclusion of the issue from the DEIR. It is indisputable that liquefaction issues are not “clearly insignificant.”

¹ / The Initial Study states that certain basement and pile design criteria, including “remov[ing] the sand above a depth of 50 feet deep”, should be implemented according to the Preliminary Geotechnical Report to address liquefaction impacts. (DEIR, p. 124.) As this is a project specific requirement identified to address a potentially significant impact of the Project, the measure constitutes a mitigation measure pursuant to CEQA. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280 [mitigation measures are specific “measures that could minimize significant adverse impacts” of a project and are required in an environmental document prepared pursuant to CEQA].) The Initial Study, however, fails to list this requirement as a mitigation measure. In revising the DEIR to include analysis of liquefaction, the DEIR should include this and other mitigation measures required to address the impact.

Similarly, with respect to Hazards and Hazardous Materials, the Initial Study concludes that mitigation measures are required to address potentially significant “hazard[s] to the public or the environment through the routine transport, use, or disposal of hazardous materials” as well as to avoid a “reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.” (Initial Study, pp. 135-142.) Specifically, the Initial Study states that hazardous material or flammable gases may be present in the soil or groundwater² and that during construction “the proposed project or project variants could result in a release of hazardous materials, potentially affecting public health or the environment.” (Initial Study, p. 136.) This potential issue is exacerbated by the fact that the proposed Project requires excavation of at least 45,000 cubic yards of soil.³ (*Ibid.*) Therefore, the Project requires both a site mitigation plan and health and safety plan. (*Ibid.*) Additional mitigation is also proposed in the Initial Study to address potential exposure of “workers or the community to hazardous materials during site-related investigation and remediation” and construction. (Initial Study, pp. 138, 140-141 [Mitigation Measures M-HZ-1a and M-HZ-1b].)

Despite the Project’s potentially significant Hazards and Hazardous Materials impacts discussed in the Initial Study and the need for mitigation to address these impacts, the DEIR excludes any further discussion of these issues. As with liquefaction impacts, these Hazards and Hazardous Materials impacts are not “clearly insignificant.” Therefore, these issues should have been discussed in the DEIR. Failure to discuss these issues in the DEIR renders the document legally inadequate. The DEIR must be revised to fully disclose and discuss these potential impacts of the Project, as well as to provide corresponding mitigation.

Moreover, Mitigation Measure M-HZ-1a requires certain actions if “exposure to vapors is suspected” and if such exposure presents an “unacceptable risk.” (DEIR, p. 138.) The Initial Study fails to explain how this mitigation measure will be implemented. In revising the DEIR to address the Project’s potentially significant Hazards and Hazardous Materials impacts, the DEIR should explain how this mitigation measure will be implemented. Specifically, who determines if “exposure to vapors is expected” and what standard will be relied on in making this

² / Specifically, the Environmental Site Characterization for the Project site found that several semi-volatile organic compounds are present in the soil in levels that exceed reporting limits including benzo(a)anthracene, benzo(k)fluoranthene, and benzo(a)pyrene, fluoranthene, beno(b)fluoranthene, and pyrene. Additionally, levels of cyanide and lead were above the reportable level. (Initial Study, p. 137.)

³ / The air quality analysis included in the DEIR states that the Project will require excavation of approximately 50,000 cubic yards of soil and up to 59,000 cubic yards for the variants. (DEIR, p. 4.G.28.) The DEIR should explain the inconsistency in the amount of soil to be excavated as described in the Initial Study versus the DEIR’s air quality analysis.

determination? Additionally, what is considered an “unacceptable risk” of exposure? Without these and other details concerning Mitigation Measure M-HZ-1a, neither the public nor decisionmakers can meaningfully discern if the measure will be successful.

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Finally, the DEIR does not explain why the screening level and site-specific evaluation required by Mitigation Measure M-HZ-1a is deferred until an unspecified future date. Development of mitigation measures should only be deferred if “practical considerations prohibit devising such measures early in the planning process[.]” (*Sacramento Old City Ass'n v. City Council* (1991) 229 Cal.App.3d 1011, 1029.) Nothing prohibits the screening level and site-specific evaluation from being undertaken as part of the environmental review process. Until the DEIR includes this additional information, the DEIR is significantly deficient because it fails to provide information necessary for the public, interested agencies, and decisionmakers to fully evaluate the need for, and effectiveness of, Mitigation Measure M-HZ-1a.

B. The DEIR and its Appendix Fail to Include Documentation Required by CEQA.

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The DEIR relies on a significant number of studies and reports to reach the conclusions contained in the DEIR. The vast majority of the project specific reports relied on in the DEIR have not been made available as part of the DEIR. “[H]ighly technical and specialized analysis and data [is not required] in the body of an EIR[.]” (CEQA Guidelines, § 15147.) However, these documents must be included as “appendices to the main body of the EIR” and “shall be submitted to all clearinghouses which assist in public review.” (*Ibid.*) Project specific studies and reports cited in the DEIR, but not included in the DEIR or its appendix and not submitted to the Governor’s Office of Planning and Research CEQA Clearinghouse, include the following:

- (1) Treadwell & Rollo, Preliminary Geotechnical Investigation Report, December 9, 2011.
- (2) Far Western Anthropological Research Group, 75 Howard Street Addendum to the Archaeological Research Design and Treatment Plan for the Transit Center District Plan Area, San Francisco, California, December 2012.
- (3) Adavant Consulting, 75 Howard Street Project Transportation Study, Case No. 2011.1122, July 1, 2013.
- (4) Adavant Consulting, Assessment of the Year 2040 Cumulative Traffic Conditions for the 75 Howard Street Project, Case No. 2011.1122, June 27, 2013.
- (5) Brown-Buntin Associates, Inc, Environmental Noise and Vibration Assessment for the 75 Howard Street Project, San Francisco, California, January 10, 2013.
- (6) Aspen Environmental Group, 75 Howard Air Quality Technical Memo and Background Air Quality Emission Calculations with Activity Details and Stationary Sources, March 8, 2013.



- (7) City and County of San Francisco Department of Public Health (DPH), Air, Noise and Radiation Program, Re: 75 Howard Street – Air Quality Assessment, March 5, 2013.
- (8) CADP, Shadow Calculations and Diagrams, September 2012, February 2013, and May 2013.
- (9) The Planning Department shadow fan for the proposed project, dated March 2012.
- (10) Shadow Field observations in April and May of 2013.
- (11) Martin M. Ron Associates, Preliminary Site Survey of a portion of Assessor's Block Nos. 3741 and 3742 for Paramount Group Inc, April 15, 2013.
- (12) Treadwell & Rollo, Environmental Site Characterization, 75 Howard Street, San Francisco, CA, December 29, 2011.
- (13) Adavant Consulting, Memo to Greg Riessen/Susan Mickelsen/Don Lewis Re: 75 Howard Street Project Transportation Study, Case Number 2001.1122 Proposed Project Alternatives Assessment, June 28, 2013.

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Because the appendix does not include the required technical data relied on in the DEIR, and because this information was not submitted to the clearinghouses which assisted in agency review of the DEIR, the DEIR is substantially deficient. (CEQA Guidelines, § 15147.) “The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and the decision makers, who may not be previously familiar with the details of the project. ‘[I]nformation scattered here and there in EIR appendices, or a report buried in an appendix, is not a substitute for a good faith reasoned analysis.’” [Citation omitted.] Similarly, . . . contents . . . scattered over a voluminous administrative record does not allow the public and decision makers to readily know those contents and . . . the purposes for which. . . [the information] was intended. And the fact that the information and analysis contained in [] various environmental documents . . . is so extensive makes the need for an easily identifiable document all the greater.” (*Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 493-494.) Here, critical information was not buried in an appendix, but rather was excluded entirely from the DEIR and appendix provided to the public and interested agencies. Such exclusion renders the DEIR per se inadequate.

For example, the Transportation Study and associated Driveway Operations Plan are cited throughout the transportation and circulation analysis included in the DEIR. Implementation measure I-TR-C requires the Project proponent to “implement and adhere to all aspects of the Driveway Operations Plan, presented in the 75 Howard Street Project Transportation Study.” (DEIR, p. 4.E.55.) The DEIR, however, fails to include a summary of the requirements of the Driveway Operations Plan and the Plan, as discussed above, is not included in the DEIR or appendix. (See CEQA Guidelines, § 15150 [even if these were the types of documents that may be properly incorporated by reference (they are not), CEQA would



still require the documents be meaningfully summarized in the text of the DEIR (they have not been)].) Therefore, neither the public nor interested agencies were provided the information necessary to understand the meaning of this measure. The DEIR must be recirculated along with an appendix including all project specific studies referenced in the DEIR and necessary to meaningfully evaluate the conclusions in the DEIR. Failure to do so renders the DEIR and its associated public comment period inadequate as a matter of law. (See, e.g., Public Resources Code, § 21003, subd. (b) [“Documents prepared pursuant to this division [shall] be organized and written in a manner that will be meaningful and useful to decisionmakers and to the public.”].)

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II. The DEIR should Set Forth Public Objectives for the Project.

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The DEIR sets forth Project objectives established by the Project proponent. (DEIR, p. 2.4.) Because the Project includes Assessor’s Block 3742/Lot 12 and a portion of the Steuart Street right-of-way south of Howard Street, which is owned by the City and County of San Francisco under the jurisdiction of the Department of Public Works (DPW), we believe the DEIR should include public objectives of the Project in addition to the private objectives developed by the Project proponent.

Moreover, while CEQA does not always require an EIR to analyze the issue of economic feasibility, this DEIR should include some discussion of economic issues given that the Project objectives developed by the Project proponent include an economic objective:

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To construct a high-quality project that includes a sufficient number of residential units to make economically feasible the demolition and replacement of the existing above-grade parking garage, produce a reasonable return on investment for the project sponsor and its investors, attract investment capital and construction financing, and generate sufficient revenue to finance the open space amenities proposed as part of the project.

(DEIR, p. 2.4.)

CEQA requires that a Project description include “[a] general description of the project’s technical, *economic*, and environmental characteristics...” (CEQA Guidelines, § 15124, subd. (c) (emphasis added).) As the Project objectives rely on economic considerations, it is essential that the project description include a discussion of economic considerations relevant to the issues identified in the Project objectives. In particular, this discussion is critical because, in reliance on the Project objectives, unarticulated economic justifications are relied on in the DEIR to reject select mitigation measures and alternatives identified in the DEIR. Until the economic characteristics of the Project are discussed in the Project description, the DEIR fails to include a

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“good-faith effort at full disclosure” concerning the Project objectives. (CEQA Guidelines, § 15003, subd. (i).)

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III. Project Description

The Project includes minimal setbacks. The setbacks proposed are inconsistent with the surrounding area. However, the project description fails to provide any meaningful discussion of this issue, nor is this land use impact analyzed separately in the DEIR.

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Moreover, the Project requires a number of permits, variances, and exceptions pursuant to the San Francisco Planning Code and related land use planning documents. The Project Description includes minimal discussion of each of the approvals required for the Project. (DEIR, pp. 2.32-2.35.) To inform the public and interested agencies concerning all necessary approvals required for the Project, either the Project description or the land use chapter should include a more robust discussion of these issues including specific reference to all applicable Planning Code or standards applicable to each approval as well as the findings required to grant the approvals. This discussion will assist the public, interested agencies, and decisionmakers in understanding all potential conflicts between the proposed Project and applicable land use plans and regulations.

9

IV. The Scope of the Cumulative Impact Analysis is Inadequate.

As a general matter, the scope of the cumulative impact analyses included in the DEIR is insufficient. The DEIR states that for Aesthetics, Noise, Shadow, and Biological Resources, the analysis uses the list based approach for assessing whether the Project’s impacts are cumulatively considerable. (DEIR, p. 4.A.4.) The DEIR states further that the list differs for each of these resource areas and was “tailored to the particular environmental topic based upon the potential for combined localized environmental impacts.” (*Ibid.*)

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CEQA requires that an agency identify “past, present, and probable future projects producing related or cumulative impacts” in such a way as to afford the fullest possible protection of the environment. (*Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 868, quoting CEQA Guidelines, § 15130, subd. (b)(1)(A).) In light of this CEQA objective, “[t]he primary determination is whether it was reasonable and practical to include the projects [within the cumulative impact analysis] and whether, without their inclusion, the severity and significance of the cumulative impacts were reflected adequately.” (*Friends of the Eel River, supra*, 108 Cal.App.4th at p. 869, quoting *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 723.) Where the list based approach is used, CEQA requires all projects for which “an application [] has been received at the time the notice of

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preparation is released [to be considered in the cumulative analysis], unless abandoned by the applicant...” (*Communities For a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 122.)

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The DEIR lacks any meaningful discussion of the “tailoring” process used to select projects to consider as part of the list based approach. The DEIR also fails to establish that the “tailoring” process used complies with the requirements of CEQA discussed above relating to the list based approach. The DEIR must be revised to establish that all relevant “past, present, and probable future projects” have been considered and, to the extent any such projects are excluded from the cumulative analysis, the DEIR must explain why this “tailoring” complies with CEQA.

By virtue of omitting this important discussion, the DEIR fails to adequately consider the true cumulative impacts associated with the proposed Project. As a result, and as discussed in further detail below, the DEIR fails to comply with CEQA.

V. Land Use Impacts

11

A. The DEIR Fails to Provide Any Meaningful Discussion of San Francisco’s Priority Policies.

The DEIR lists San Francisco’s Priority Policies in an abridged form. The DEIR suggests “consistency of the proposed project and variants with the environmental topics associated with the Priority Policies is discussed” in the Initial Study and DEIR. (DEIR, p. 3.7.) However, the Initial Study merely repeats verbatim the same abridged list of Priority Policies included in the DEIR. (Compare Initial Study, pp. 33-34, to DEIR, p. 3.7.) For example, Priority Policies include ensuring that “existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods,” “commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking”, and that “parks and open space and their access to sunlight and vistas be protected from development.” (Planning Code, § 101.1, subd. (b)(2), (4), (8).) The height and massing of the proposed Project alone violates several of these Policies. The DEIR should be revised to include a meaningful discussion of how the proposed Project conflicts with San Francisco’s Priority Policies.

B. Impact LU-1 is Not Significant and Unavoidable.

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The proposed Project and its variants would be 348 feet tall. The DEIR discloses that the proposed Project is inconsistent with the height limit for the zoning district (200 feet), and also

violates stated policies in the Downtown Area Plan (explaining heights “should taper down to the shoreline of the Bay”) as well as the Urban Design Element (explaining buildings should “follow the characteristic pattern and preserving topography and views” and that “low buildings [should be located] along waterfront”). Further, it is inconsistent with the heights specified in the Transit Center District Plan (TCDP) which was adopted just 2 years ago. In light of these and numerous other undisclosed inconsistencies with applicable land use plans and policies, the DEIR concludes the Project’s impact resulting from its conflicts with the General Plan’s Urban Design Element, the Downtown Area Plan, and Transit Center District Plan is significant. (DEIR, pp. 4.B.5-9.)

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The DEIR acknowledges that one of the key reasons for this significant impact is the Project’s proposed height. (DEIR, p. 4.B.9.) Curiously, the DEIR concludes that mitigation is not available to address the Project’s height and, therefore, this impact is significant and unavoidable. (*Ibid.*) Mitigation measures may take the form of design modifications. For example, earthquake mitigation commonly requires certain design features to be incorporated into a project and onsite preservation of natural resources frequently requires projects to be designed around such resources. (See, e.g., CEQA Guidelines, § 15126.4, subd. (a)(2) [“mitigation measures can be incorporated into the... project design”].)

The DEIR does not provide an adequate discussion of why the Project proponent cannot modify the project to comply with the plans. As a result, the DEIR fails to comply with the requirements of CEQA. The DEIR must be revised to consider potentially feasible mitigation measures that could substantially reduce or avoid the Project’s significant and unavoidable land use impacts.

C. The DEIR Underemphasizes the Project’s Significant Land Use Impact.

13

The DEIR acknowledges that the proposed Project is inconsistent with various San Francisco planning documents as well as the existing height and bulk limitations for the Project site. Impact LU-1 finds that the Project would have significant and unavoidable conflicts with existing plans based on noncompliance with the height and bulk requirements and that no mitigation is available. The Project applicant seeks to address this issue by requesting an amendment to San Francisco’s Planning Code and General Plan to change the height and bulk limitations for the Project area.

Assuming for the sake of argument that the Commission and Board can make the findings required to approve the Planning Code and General Plan amendments (which appears questionable at best because there is no indication that the amendment is required for the sake of public necessity, convenience, or general welfare, as required by Planning Code), San Francisco

would then be stuck with a building that violates the purpose of Section 251 of the Planning Code, Policy 13.1 of the Downtown Area Plan, and the Urban Design Element's "Fundamental Principles for Major New Development." As quoted in the DEIR, the Urban Design Element states: "Low buildings along the waterfront contribute to the gradual tapering of height from hilltops to water that is characteristic of San Francisco and allows views of the Ocean and the Bay." In short, amending the text of the Planning Code and General Plan regarding height and bulk does not remove the proposed Project's inconsistency with the above policies.

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Impact LU-1 in the DEIR acknowledges a significant and unavoidable conflict with height and bulk limitations, but it fails to provide an analysis of the other inconsistencies with City's Planning Code and General Plan. (CEQA Guidelines, § 15125, subd. (d) [establishing that CEQA requires a discussion of such inconsistencies].) The DEIR discloses inconsistencies with Planning Code section 251, Policy 13.1 of the Downtown Area Plan, and the Urban Design Element's principles for development, but does not reach significance conclusions regarding any inconsistencies other than zoning and bulk requirements.

The discussion also misleads readers by pointing out taller buildings in the neighborhood without acknowledging that those buildings are farther from the water and, unlike the Project, are generally consistent with the San Francisco's oft-repeated policy that building heights should taper down to the water. This Project would be an aberration, and this fact should not be downplayed. The policies and planning principles that the Project violates are embedded in San Francisco-approved planning documents to preserve some of the most attractive characteristics of San Francisco. The DEIR treats these Planning Code and General Plan policies as if they are merely optional guidance that can be disregarded in favor of a Project that is inappropriately large for the site and is inconsistent with the character of the surrounding neighborhood. Impact LU-1 needs to discuss more than just the height and bulk limits for the individual site; it must also reconcile inconsistencies with the established planning vision for the neighborhood. Those inconsistencies will remain even if the Commission amends the height and bulk requirements for the site.

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The land use analysis also ignores the fact that the Project is inconsistent with the applicable rear yard setback requirement. The Project Description acknowledges the need for a reduced size rear yard. (DEIR, p. 2-34.) Planning Code section 134 mandates rear yards equal to 25 percent of the lot size in C-3 districts. The DEIR states that the Project only provides an 18 foot rear yard (it does not disclose what percentage of the lot 18 feet is), which presumably exacerbates the impact of the building's excessive height on the surrounding area. For CEQA purposes, this inconsistency with the applicable code must be disclosed, the potential impacts analyzed, and all feasible mitigation measures implemented. In addition to the CEQA analysis, we see no basis for the findings required by Planning Code sections 134(d) and 309.

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D. The DEIR Improperly Concludes Impact LU-2 is Less Than Significant.

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Without any substantive evidence, the DEIR determines that there is less than a significant impact on the “character of the vicinity”. The DEIR only considers the neighboring “land uses” in reaching this determination. (DEIR, p. 4.B.9-10.) The DEIR completely ignores the design and character of the adjacent buildings and neighborhood. It ignores the inconsistent heights, inconsistent bulk dimensions, and inconsistent proximity to the Bay. Yet still determines that the Land Use Impact (LU-2) is insignificant. This conclusion is unsupportable.

As demonstrated throughout the applicable land use planning documents, the purpose of many of the policies and regulations that the proposed Project violates is to ensure the character of existing neighborhoods is preserved. The proposed Project exceeds heights allowed on the parcel by approximately 75%. This substantial deviation from existing planning requirements unquestionably impacts the character of the area. The DEIR must be revised to disclose this significant impact, and mitigation measures must be proposed to address it.

E. The DEIR Improperly Concludes Cumulative Impact C-LU-1 is Less Than Significant.

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The land use cumulative impact analysis fails to consider the impact of developing the proposed Project in addition to other planned projects in the area, such as the Warriors Arena. The land use cumulative impact analysis should consider how granting such a substantial exceedance of existing land use planning policies and regulations, in concert with other planned development in the area, may erode the vision for the area as set forth in applicable land use plans. Moreover, the DEIR should consider how granting such exceptions for this Project may increase planning pressure to authorize additional highrise developments along the waterfront. Without further discussion of potential cumulative land use impacts, the DEIR’s conclusion that the impact is less than significant is unsupportable.

VI. Aesthetics

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The cumulative aesthetic impacts analysis of the Project is inaccurate. In Impact C-AE-1, the DEIR concludes that the aesthetic impact of the Project will be less than cumulatively considerable. The rationale for the conclusion is that the Project will purportedly conform to overall building heights in the cumulative condition. However, Figures 4.C.8 and 4.C.9 clearly show that the taller buildings contemplated in the cumulative scenario are further inland than the proposed Project. The buildings in the immediate vicinity of the Project, including those further from the waterline, are significantly shorter than the proposed building. Even in the cumulative

scenario, the proposed Project will be a departure from San Francisco's established norm of a skyline tapered down to the waterfront. The facts do not support the DEIR's conclusion that the cumulative aesthetic impact will be less than cumulatively considerable. The analysis should be revised and all feasible mitigation measures must be considered.

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VII. Cultural and Paleontological Resources

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A. The DEIR Improperly Excludes a Discussion of Potential Impacts on Historic Resources.

The Initial Study concludes the proposed Project does not have the potential to impact any historic resources. (Initial Study, p. 54.) As a result, the DEIR does not include an analysis of historical resources impacts. The DEIR, however, discloses that the Project has the potential to impact historic brick sewers underneath Steuart Street. (DEIR, p. 4.F.11.) As a result, it was improper to exclude a discussion of historic resources from the DEIR. Therefore, the DEIR must be revised and recirculated to address potential impacts on historic resources.

Moreover, the DEIR must disclose and acknowledge the proposed Project's potentially significant impacts on historic resources resulting from its conflicts with General Plan Objective 12, Policy 12.3: "Design new buildings to respect the character of older development nearby."

B. Mitigation Proposed to Address Archeological Resource Impacts Fails to Comply with the Requirements of CEQA.

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The DEIR concludes that construction of the proposed Project has a moderately-high probability of encountering known historic-era archaeological features located in the Project area. (DEIR, p. 4.D.34.) The Initial Study concludes that "[g]iven the likelihood of encountering historical era subsurface archeological resources within the project site, the proposed project and project variants could have a potentially significant adverse impact on legally-significant archeological resources." (Initial Study, p. 57.) The DEIR includes mitigation measures to address this potentially significant impact. (DEIR, pp. 4.D.35-39.)

The mitigation measures proposed in the DEIR are inadequate pursuant to CEQA. As explained in *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, CEQA sets forth a detailed process for mitigating potential impacts to these types of historical archeological resources. Specifically, "the EIR's discussion of mitigation measures for impacts to historical resources of an archaeological nature must include preservation in place, and the discussion of preservation in place must include, but is not limited to, the four methods of preservation in place listed in subparagraph (B) [of CEQA Guidelines section 15126.4,



subdivision (b)(3)].” (*Id.* at p. 85.) “[F]easible preservation in place must be adopted to mitigate impacts to historical resources of an archaeological nature unless the lead agency determines that another form of mitigation is available and provides superior mitigation of the impacts.” (*Id.* at p. 87.)

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The mitigation measures proposed in the DEIR fail to require preservation in place. The DEIR must be revised to comply with the requirements of CEQA Guidelines section 15126.4, subdivision (b)(3)(B). To the extent the DEIR concludes mitigation is available to protect historical archeological resources better than preservation in place, the DEIR must provide a detailed justification for that conclusion.

VIII. Transportation and Circulation

21

The DEIR’s analysis of transportation and parking impacts includes a number of glaring omissions and inadequacies. CEQA requires that an EIR provide sufficient analysis and detail about a project and its potential environmental impacts to enable informed decisionmaking by the agency and informed participation by the public. (See CEQA Guidelines § 15151; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692.) An EIR “must contain facts and analysis, not just the agency’s bare conclusions...” (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 568.)

A. The Traffic Analysis is Inadequate.

A fundamental omission is an explanation of the limited geographic scope of the traffic analysis. The traffic study and the Transportation and Circulation chapter in the DEIR only studied nine intersections in the immediate vicinity of the Project and did not provide analysis for any road segments, as is standard in DEIRs. The study area extends only one to two blocks away from the Project site. However, the Project is located in an area with pre-existing traffic problems and with an aggravating circumstance of removing 551 existing public parking spaces (540 by demolishing the existing garage and eleven metered on-street spaces). It seems inevitable that a project of this size will have significant impacts on transportation and circulation beyond the limited scope of the existing study area. The DEIR needs to provide an explanation for the small study area and likely needs to expand the study area to encompass additional areas that may be impacted by the Project.

Additionally, two of the nine intersections evaluated in the transportation study rely on data gathered almost two years before the Notice of Preparation (NOP) was issued in December of 2012. (Transportation Study, p. 18.) Neither the Transportation Study nor the DEIR provide any justification for use of this outdated data. Moreover, neither the Transportation Study nor

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the DEIR disclose when the data for the Fremont St. / Folsom St. / I-80 WB off-ramp was collected. In short, 1/5 to 1/3⁴ of the minimal traffic data relied on in the DEIR is outdated.

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Pursuant to CEQA, the environmental baseline normally is the environmental conditions as of the date the NOP is issued. (CEQA Guidelines, § 15125, subd. (a); *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 445 [analysis based on actual existing conditions are mandatory unless the lead agency presents substantial evidence that “an analysis based on existing conditions would tend to be misleading or without informational value for EIR users”].) The DEIR provides no justification for its reliance on outdated data collected well before the NOP was issued. The “Existing Plus Project Conditions” scenario must be reevaluated to account for current congestion at the study intersections as well as other relevant nearby intersections omitted from the DEIR analysis.

The DEIR also provides no evidence to support its implicit assumption that travel demand would be higher during the PM peak period than during the AM peak commute period. The DEIR appears to treat the Project as a simple residential development, failing to recognize its diverse uses including restaurant, café, and open space uses that will draw visitors at various hours of the day.

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In addition to expanding the scope of the traffic study area, the study should also analyze peak event traffic scenarios. For example, traffic can be far worse when multiple high-traffic events overlap than it is on a typical weekday or weekend. The analysis should evaluate the Project’s impacts when events such as fleet week, Giants games, Warriors games (in the cumulative scenario), and other high-traffic events coincide. Traffic, transit, and parking capacity can all be overwhelmed during these events and the analysis of large projects, such as this one, must take these events into account.

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Moreover, the Transportation Study and DEIR rely on a single day of PM peak data on a Thursday for each intersection. The DEIR provides no justification for use of data for one Thursday or for excluding an analysis of AM peak levels. Not only is this sample too small to be meaningful, but Thursday PM traffic is not representative of traffic in the area. The data used wholly ignores the Tuesday, Thursday, and Saturday Farmers Markets, whose growing popularity is evidenced by the increasing vendor and restaurant surcharges collected for the markets and the approximately 25,000 visitors that come to the area during the markets. To more accurately reflect peak traffic, the analysis should have considered traffic counts from a variety of days and times including Tuesdays and Fridays, as well as special event days.

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⁴ / Depending on when the Fremont St. / Folsom St. / I-80 WB off-ramp data was collected.

Furthermore, traffic counts on the weekend can exceed weekday PM peak levels in this area as a result of substantial tourist, commercial, and recreation related traffic generated on the weekends. Therefore, the DEIR should have evaluated weekend traffic in addition to weekday traffic. The fact that the Transportation Study excludes any analysis of weekend traffic is even more egregious given that the study discusses, albeit superficially, weekend pedestrian counts and weekend parking in the area. (Transportation Study, p. 18.)

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Lastly, Implementation Measure I-TR-D states that it is “the responsibility of the owner/operator of the proposed project to ensure that vehicle queues do not block any portion of the sidewalk.” (DEIR, p. S.17.) If the owner/operator fails to fulfill its obligation and substantial queues or conflicts result, the owner/operator may be required to limit inbound and/or outbound Project driveway access during peak hours. (*Ibid.*) The DEIR provides no discussion of potential traffic and parking impacts associated with limiting access to the Project driveway during peak hours. CEQA requires an EIR to discuss potential impacts caused by measures required in an EIR. (CEQA Guidelines, § 15126.4, subd. (a)(1)(D).) Therefore, the DEIR must be revised to address the potential impacts associated with Measure I-TR-D.

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B. The Analysis of Parking Impacts and Associated Air Quality, Safety, and Noise Impacts is Inadequate.

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The analysis of the Project’s parking impact is inadequate. Parking deficits can create environmental impacts in the form of hazardous conditions for pedestrian, cyclists, and motorists, increased traffic delays, and air quality impacts. The DEIR forecasts that the Project will create a deficit of 444-600 spaces during weekday midday, which would potentially be even worse during peak-event traffic on both weekdays and weekends. Other off-street parking facilities may be able to accommodate some of the forecasted shortfall (the DEIR assumes 200 spaces will be available elsewhere),⁵ however, even in the best case scenario the parking deficit caused by this Project will have environmental consequences. Nonetheless, the DEIR reaches a conclusion in Impact TR-7 that the parking deficit will not “be expected to result in a significant parking impact.” (DEIR, p. 4.E.66.) The DEIR is completely devoid of any explanation as to how the less than significant conclusion was reached. There is no defined threshold of significance and no connection between the conclusion and the parking deficit. If creating a

⁵ / It should be noted that the Project’s conclusion that the parking demand created by the Project can be accommodated elsewhere is questionable at best. For example, the Transportation Study demonstrates that the existing parking structure at 75 Howard Street constitutes *over 40%* of all garage parking spaces available in the evenings and on weekends in the Project vicinity. The DEIR provides no explanation how the Project, which both substantially increases parking demand and reduces available parking in the Project vicinity, will not cause significant environmental impacts associated with a parking deficit.

parking deficit of up to 600 spaces in a high-traffic area in downtown San Francisco is not significant, then what is? The DEIR must clearly identify the air quality, health and safety, and noise impacts that will be associated with the parking deficit caused by the Project in order to inform the decisionmakers and the public regarding the true impacts of the Project.

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Additionally, in evaluating existing conditions on the Project site, the parking analysis only took into account one “typical Thursday” and one “typical Saturday” based on data provided by the Project sponsor, surveys conducted in October 2012, and information presented in the Transit Center District Plan (TCDP) study. Despite the popularity of the weekend Farmers Market and the Ferry Building, along with the parking challenges associated with these uses, no surveys were conducted for the morning or weekend periods. (See Transportation Study, p. 44 [Table 2-10].) Moreover, the DEIR fails to define “typical,” though the term presumably excludes high-traffic events. This leads to understating the existing traffic conditions in the vicinity of the Project, which may explain why such a small study area was used. Understating existing traffic conditions may lead to understating the Project’s potential parking impacts, as well as the traffic impacts, in the cumulative scenario.

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The DEIR should consider known peak periods for the area surrounding the Ferry Building. Because this area is uniquely situated, the traffic analysis should evaluate weekday AM data on a Farmers Market day as well as weekend data.

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C. The Discussion of the Warriors Arena is Inadequate.

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While the cumulative impact discussion in the transportation and circulation analysis briefly discusses the Warriors Arena project (DEIR, pp. 4.E.78-79), the discussion is superficial. The CEQA-mandated point in time relevant for evaluating cumulative impacts of a project is the date of publication of the NOP. (*Communities For a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 122.) The DEIR does not dispute the fact that the Warriors Arena was a reasonably foreseeable project as of the date the NOP was issued. Instead, the justification provided for the lack of meaningful discussion is that the “data and analysis are expected to be available the fall of 2013, considerably after the 75 Howard Street Project DEIR is published.” (DEIR, p. 4.E.78.)

The Warriors Arena project published its NOP on December 5, 2012 and its sponsors have held several hearings before the City's Planning Commission, Port Commission and Board of Supervisors describing the proposed project for Piers 30-32 and Seawall Lot 330. In fact, the project has been revised at least twice and a new revised proposal will be made shortly. All of these proposals show that there would be virtually no public parking on the Piers for the Arena and very limited parking on the Seawall Lot as it is designed to accommodate only the proposed

hotel, residential and retail uses. Planning Commissioners during hearings on the Warriors Arena acknowledged that additional parking would need to be found to handle the parking shortfall generated during the over 200 events per year at the Arena. Clearly there is sufficient information on the parking supply and demand generated by the Warriors Arena to meaningfully address this significant issue in the DEIR for this Project.

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The Warriors Arena and Seawall Lot 330 proposal is situated only 3 blocks from the proposed project. As stated above, the proposed project on its own is increasing parking demand and reducing parking supply in the neighborhood yet the DEIR has, incomprehensibly and without adequate analysis, determined that this is not a “significant” impact. Certainly cumulatively this is a significant and potentially disastrous condition.

An EIR cannot exclude a meaningful discussion of cumulative impacts associated with other reasonably foreseeable projects on the basis that the environmental review process for those other projects is not as far along as the subject project. Clearly there is material and plentiful information regarding cumulative parking issues in the vicinity of the project. Therefore, the data and information necessary to permit a meaningful analysis of both cumulative parking and traffic issues, particularly as it relates to the Warrior proposed project, is now available and must be included in the DEIR. The DEIR must be revised and recirculated to provide a good faith analysis of these significant issues.

D. The Cumulative Traffic Analysis is Inadequate.

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The cumulative scenario is inadequately defined and the analysis is lacking in several ways. The DEIR simply refers to the traffic analysis for the TCDP and fails to adequately disclose and define the cumulative scenario for this Project.

The DEIR also concludes that the Project will contribute considerably to significant traffic impacts at the Spear and Howard intersection. Modifications discussed in Mitigation Measure M-C-TR-1 could reduce the impact to less than significant levels. The DEIR, however, states that the measure is infeasible without providing any analysis of feasibility. Conclusory statements regarding the feasibility of a mitigation measure do not satisfy the requirements of CEQA. The DEIR must be revised to provide additional support for the conclusion, and to the extent the mitigation measure is infeasible the DEIR should consider alternative measures. For example, the Project proponent could be required to contribute its fair share towards roadway improvements or roadway management actions necessary in response to the significant impact on Spear and Howard Streets.

The cumulative traffic impact analysis must also address the critical issue of parking in the neighborhood in consideration of the cumulative scenario and, in particular, the Warriors Arena. As drafted, the DEIR fails entirely to provide any discussion of parking within the cumulative impact analysis. The DEIR should be revised to analyze and mitigate the Project's contribution to environmental impacts related to cumulative parking shortfalls.

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IX. Noise

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The DEIR discloses that construction will last for over 2.5 years. The DEIR states that the noisiest construction activities will last approximately 30 weeks – over half a year. Construction noise, therefore, is a significant issue for neighboring residents, employees, and users of surrounding open space. As discussed below, the DEIR's noise impact analysis contains a number of substantial flaws, which render the analysis inadequate pursuant to CEQA.

A. The DEIR Fails to Adequately Discuss the Project's Compliance with San Francisco's Noise Ordinance.

The DEIR states that “[a]ll construction activities at the project site and construction for off-site projects would *generally* be required to comply with the Noise Ordinance.” (DEIR, p. 4.F.33 (emphasis added).) The DEIR, however, fails to explain why, and under what conditions, Project construction would be authorized to violate the Noise Ordinance. The DEIR must be revised to clarify what construction activities would not be required to comply with the Noise Ordinance.

The DEIR also ambiguously states the Noise Ordinance “limits noise from any individual piece of construction equipment, except impact tools, to 80 dBA (Ldn) at 100 feet unless the construction activity would occur during allowable hours.” (DEIR, p. 4.F.33.) The Noise Ordinance does not set forth hours in which noise in excess of 80 dBA (Ldn) is authorized. With three narrow exceptions, the Noise Ordinance requires that construction noise never exceed 80 dBA. The DEIR should be revised to make clear that the Noise Ordinance does not authorize noise in excess of 80 dBA during any specific hours, and the DEIR should clearly state whether Project construction is anticipated to exceed the Noise Ordinance's 80 dBA limit.

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Moreover, San Francisco's General Plan discourages new residential development in areas where exterior noise levels exceed 65 dBA (Ldn). The DEIR establishes that exterior noise levels surrounding the Project exceed 65 dBA (Ldn). (DEIR, p. 4.F.8 [Table 4.F.2].) Therefore, the Project is being proposed in an area where the General Plan discourages residential development. This inconsistency must be discussed in the DEIR, and the policy should be carefully considered by the Commission and Board in evaluating the merits of this Project.

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B. The Discussion of Nighttime Construction Noise Impacts is Inadequate.

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The DEIR fails to include any meaningful discussion of nighttime construction noise. Instead, the DEIR simply states that “the Noise Ordinance prohibits construction activities between 8:00 p.m. and 7:00 a.m.” (DEIR, p. 4.F.33.) No further discussion of nighttime construction noise is provided. There are several issues with this sparse discussion of nighttime construction noise.

Even if the Noise Ordinance prohibited nighttime construction noise, as discussed above the DEIR provides a vague admission that the Project will not fully comply with the Noise Ordinance. (DEIR, p. 4.F.33 [Project “would *generally* be required to comply with the Noise Ordinance”].) Therefore, the limitations set forth in the Noise Ordinance provide no assurance that nighttime construction will not occur.

Contrary to the conclusion in the DEIR, Noise Ordinance Section 2908 only *limits* construction noise authorized at night; it does not *prohibit* nighttime construction noise. Moreover, Section 2908 authorizes the Director of Public Works or the Director of Building Inspection to exempt a project from Section 2908’s nighttime construction noise limitation. Therefore, the DEIR provides no assurance that nighttime construction noise will not occur during Project construction.

The DEIR must either be revised to include a detailed discussion of potential nighttime construction noise associated with the Project or a mitigation measure should be included that expressly prohibits nighttime construction. Until one of these revisions is made to the DEIR, the analysis of construction noise is inadequate.

C. The Discussion of, and Mitigation for, Pile Driving Noise Impacts is Inadequate.

38

The DEIR provides that construction of the Project will require up to 400 piles. The DEIR repeatedly states that these piles will either be “driven or drilled”. (See, e.g., DEIR, pp. 2.31, 4.F.18, 4.F.23.) Driving piles into the ground creates substantially more noise and vibration impacts than drilling piles into the ground. The DEIR, however, fails to include any discussion of when pile drilling would be used as opposed to pile driving. The DEIR should be revised to include a mitigation measure requiring use of drill rigs and setting forth the conditions upon which pile driving would be authorized.

D. Noise Mitigation Included in the DEIR is Inadequate to Ensure the Project's Potentially Significant Noise Impacts are Reduced to a Less-Than-Significant Level.

39

The conclusion in the DEIR that noise impacts are less-than-significant after mitigation is unsupportable for at least two reasons.

First, one of the thresholds of significance set forth in the DEIR is whether the Project will “[e]xpose people to or generate noise levels in excess of standards established in the San Francisco General Plan or Noise Ordinance (Article 29 of the Police Code).” (DEIR, p. 4.F.17.) The noise analysis included in the DEIR fails to demonstrate construction noise will not exceed levels authorized by the Noise Ordinance. The DEIR merely concludes Mitigation Measures M-NO-1a and M-NO-1b will “decrease construction noise levels and minimize the proposed project and project variants’ significant effects.” (DEIR, p. 4.F.22.) And, that Mitigation Measure M-NO-3 would “control project-related stationary noise sources to the maximum extent feasible.” Therefore, the DEIR fails to demonstrate the proposed mitigation measures ensure either construction or operational noise levels will not exceed levels authorized by the Noise Ordinance.

The inability of the mitigation measures to ensure noise levels will not violate the Noise Ordinance is illustrated by the terms of Mitigation Measure M-NO-1b. Specifically, Mitigation Measure M-NO-1b demonstrates that Project construction may result in “extreme noise generating activities” which could exceed “noise levels of 90 dBA or greater.” (DEIR, p. 4.F.23; see also DEIR, p. 4.F.20 [Table 4.F.5] (demonstrating a variety of construction equipment may result in noise in excess of the Noise Ordinance’s 80 dBA limit).) Therefore, rather than demonstrate that Project construction noise will not violate the Noise Ordinance, Mitigation Measure M-NO-1b provides support for the conclusion that Project construction likely *will* violate the Noise Ordinance.

Second, the mitigation measures not only fail to ensure the project will not exceed the limits established in the Noise Ordinance, but they are not drafted in mandatory terms. Both Mitigation Measures M-NO-1a and M-NO-1b list a series of potential methods to reduce the Project’s noise impacts, but the DEIR states the measures will only be adopted “if feasible.” (DEIR, pp. 4.F.22-23.) The DEIR defers consideration of the feasibility of Mitigation Measures M-NO-1a and M-NO-1b. A mitigation measure cannot include unenforceable standards. (*Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1262.) Without further discussion of how these measures will be implemented and evidence supporting the conclusion that the measures are feasible, the measures are not adequate

to ensure that the proposed Project's noise impacts will be reduced to a less than significant level.

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For each of these reasons, the DEIR must be revised to disclose that a significant unavoidable construction noise impact remains after implementation of the mitigation measures. Such disclosure will also require recirculation of the DEIR.

E. Vibration Impacts are Potentially Significant.

40

The DEIR states that the brick sewers underneath Steuart Street "are susceptible to settlement and can be damaged by small amounts of settlement." (DEIR, p. 4.F.11.) The DEIR also concludes that vibrations caused by pile driving "would be over the threshold for potential structural damage for older or historically significant buildings or structures." (DEIR, p. 4.F.25.) The DEIR, however, includes no mitigation measure to address this impact.

Instead, the DEIR includes a quasi-mitigation measure requiring the San Francisco Public Utility Commission (SFPUC) to review and approve the underground excavation plan and require a shoring plan and vibration monitoring. There are two significant problems with this requirement. First, this requirement must be identified as a mitigation measure as it is a project-specific mandate identified to address a potentially significant impact of the Project. Second, the measure is inadequate as a mitigation measure. The measure simply requires the Project proponent to prepare a vibration analysis in the future and then to comply with the analysis's recommendation. This is not adequate mitigation for the purposes of CEQA. (See, e.g., *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794 [mitigation that "does no more than require a report be prepared and followed" is inadequate].) Therefore, the DEIR must be revised to include adequate CEQA mitigation to address the Project's potentially significant vibration impact.

X. Air Quality

A. The DEIR Fails to Provide a Quantitative Analysis of Cancer Risk Associated with Project Construction and Operation.

41

The DEIR fails to clearly set forth the cancer risk associated with the Project. The DEIR should be revised to include a quantitative analysis of excess cancer risk and incremental PM2.5 concentrations for the maximally exposed individual due to Project construction. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 735 [holding an EIR that omitted a "quantitative, comparative analysis" of the project's air quality impacts was inadequate].) The DEIR must also include a quantitative analysis of cumulative cancer risk and PM2.5

concentration exposure for new residents due to the on-site sources, off-site stationary sources, roadway sources, and other relevant sources within 1,000 feet of the Project boundaries. In consideration of a quantitative analysis of cancer risk and PM2.5 concentrations, the EIR for the 8 Washington Project concluded the 8 Washington Project would have significant and unavoidable impacts as a result of construction related cancer risk/PM2.5 as well as cumulative cancer risk/PM2.5 for future residents of the proposed Project. The DEIR fails to provide any justification for why these significant and unavoidable impacts identified in the 8 Washington Project EIR are less than significant for this Project. A similar level of analysis as in the 8 Washington Project EIR is required in the DEIR for this Project.

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B. Project Design Features Render Mitigation Measure M-AQ-4b Inadequate.

42

The DEIR concludes that the “proposed project and project variants . . . would have the potential to expose sensitive receptors to substantial concentrations of air pollutants resulting in a significant impact.” (DEIR, p. 4.G.36.) The DEIR proposes Mitigation Measure M-AQ-4b to mitigate this significant impact. (*Ibid.*) Mitigation Measure M-AQ-4b requires use of a ventilation system that removes at least 80 percent of the outdoor PM2.5 concentrations in habitable areas.

However, neither Mitigation Measure M-AQ-4b nor the corresponding analysis discloses that the residential units all have operable windows, many have balconies, and the Project includes outdoor open spaces. Mitigation Measure M-AQ-4b does not, and cannot, effectively mitigate the significant air quality impacts associated with these areas/project features.

The DEIR could avoid significant toxic air contaminant and related air pollutant impacts associated with balconies and operable windows by excluding these features from the Project. If balconies and operable windows remain as design features, then the DEIR must be revised to disclose that Impact AQ-4 will remain significant after implementation of Mitigation Measure M-AQ-4. Such disclosure will require recirculation of the DEIR.

XI. Shadow

43

A. Approval of the Proposed Project would Violate Planning Code Section 147.

The DEIR states that the public parks and open spaces that will be impacted by the Project’s shadow are not subject to Planning Code Section 295 because they are not within the jurisdiction of the Recreation and Park Commission. The DEIR, therefore, implies that the shadow impacts do not conflict with the Planning Code. (DEIR, p. 4.H.12.) This conclusion ignores Planning Code Section 147.

Section 147 provides that building heights that exceed 50 feet “*shall* be shaped, consistent with the dictates of good design and without unduly restricting the development potential of the site in question...” to reduce shadow impacts. (Emphasis added.) By code the Project may not exceed 200 feet. As demonstrated in the DEIR, the Code Compliant alternative reduces the Project’s shadow impact as compared to the proposed Project. Specifically, the Code Compliant alternative would cast 53.5% less shadow over Rincon Park than the proposed Project. (See, e.g., DEIR, p. 4.H.24.)

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Because the proposed Project would cast substantially more shadow than other potential alternatives, including the Code Compliant alternative, consistent with the mandatory requirement of Section 147, the City cannot approve the proposed Project over a less impactful alternative, such as the Code Compliant alternative, unless the Commission and Board conclude that San Francisco’s existing code requirements are not “consistent with the dictates of good design and [] unduly restrict the development potential of the site in question.” It is unlikely that such a finding can be made.

B. The DEIR Improperly Concludes No Mitigation is Available to Address the Project’s Significant Shadow Impact.

44

The DEIR states that no feasible mitigation is available for the proposed Project’s shadow impact on Rincon Park, because “any theoretical mitigation would fundamentally alter the basic design and programming parameters of the proposed project or variants.” Nothing in CEQA allows dismissal of mitigation measures that change basic design of a project. For the purposes of CEQA, the question is whether proposed mitigation measures are *feasible* not whether they will impact project design. (*County of San Diego v. Grossmont-Cuyamaca Community College District* (2006) 141 Cal.App.4th 86, 98 [“CEQA contains a ‘substantive mandate’ requiring public agencies to refrain from approving projects with significant environmental effects if ‘there are *feasible...mitigation measures*’ that can substantially lessen or avoid those effects.”] (original emphasis).) Therefore, pursuant to CEQA, mitigation could be considered that requires greater setbacks, reductions in bulk, or other design changes to address shadow impacts.

The DEIR also relies on the alleged infeasibility of avoiding shadow impacts on Rincon Park as an excuse for not proposing mitigation measures to address this significant impact. (See, e.g., DEIR, p. 4.H.24 [“Any development of substantial height (approximately 100 feet or taller) on the project site would shadow Rincon Park.”].) This justification is unsupportable.

The threshold of significance as set forth in the DEIR is whether the Project “[c]reate[s] new shadow in a manner that substantially affects outdoor recreation facilities or other public areas.” (DEIR, p. 4.H.10.) Pursuant to the threshold of significance, the question is whether the Project casts a shadow that substantially affects outdoor areas not whether the Project casts any shadows at all. Therefore, the DEIR’s focus on whether a mitigation measure or alternative could “avoid casting *any* net new shadow on Rincon Park” is disingenuous. (DEIR, p. 4.8.24 (emphasis added).)

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The DEIR illustrates the fallacy of this argument in its discussion of shadow impacts on the Embarcadero Promenade. The DEIR concludes the Project will result in shadow impacts on the Embarcadero Promenade. (DEIR, p. 4.H.25.) Nevertheless, the DEIR concludes theses shadow impacts are less than significant. (*Ibid.*)

As demonstrated above, contrary to the conclusions in the DEIR, mitigation or alternatives may be available to reduce the Project’s significant shadow impact on Rincon Park to a less than significant level without fully avoiding any shadow impact. The DEIR must be revised to consider potentially feasible mitigation measures and/or alternatives as suggested above that could reduce the shadow impact to a less than significant level. Moreover, it is the decisionmakers responsibility to reach a final determination regarding the feasibility of mitigation measures or alternatives included in the DEIR. The DEIR should not exclude potentially feasible mitigation measures or alternatives solely on the basis that the Project proponent believes the measures would not allow construction of the proponent’s ideal design for the site.

C. The DEIR’s Discussion of Cumulative Shadow Impacts is Inadequate.

45

During the Planning Commission hearing on September 12, 2013, one or more of the Planning Commissioners expressed confusion regarding the cumulative shadow impact caused by the proposed Project. This confusion was likely derived from the DEIR’s inadequate analysis of the Project’s cumulative shadow impact. The DEIR discloses that the Transit Center District projects and the proposed Project would both cast shadows on Rincon Park and that the shadow impacts differ. The DEIR, however, fails to quantify the cumulative shadow impacts on Rincon Park.

The DEIR demonstrates that, if developed, the proposed Project would increase shadow impacts on Rincon Park by approximately 25%. The DEIR does not provide similar data for the cumulative impact. To allow the Commission, Board, and public to fully understand the cumulative impact on Rincon Park, the DEIR should be revised to include a cumulative shadow impact analysis that provides a sufficient level of detail to evaluate cumulative shadow impacts.

XII. Biological Resources

46

The DEIR concludes that the location-related standards included in Planning Code Section 139 relating to bird strikes do not apply to the project. This conclusion is based on the fact that the proposed Project site is 375 feet from the San Francisco Bay. Additionally, the DEIR concludes that Rincon Park is not large enough to constitute an Urban Bird Refuge. This conclusion is flawed for two reasons.

First, an Urban Bird Refuge is defined as “open spaces two acres and larger dominated by vegetation, including vegetated landscaping, forest, meadows, grassland, or wetlands, or open water.” Rincon Park is “an approximately 2.7-acre waterfront open space.” (See DEIR, p. 2.5.) Therefore, Rincon Park meets the definition of an Urban Bird Refuge.

Second, Section 139 does not treat the San Francisco Bay separately from other Urban Bird Refuges. As Rincon Park borders the San Francisco Bay, together the San Francisco Bay and Rincon Park constitute an “open space[] two acres and larger dominated by vegetation, including vegetated landscaping, forest, meadows, grassland, or wetlands, or open water.” Therefore, the DEIR must be revised to acknowledge that the Project is located within approximately 200 feet of an Urban Bird Refuge, and must include analysis of potential bird strike impacts and mitigation for those impacts in consideration of its proximity to an Urban Bird Refuge.

XIII. Hydrology and Water Quality

47

A. The DEIR Fails to Disclose and Discuss Potential Impacts Caused by Water Pumping Activities in the Context of the Shallow Water Table.

The water table in the Project area is very close to the surface (approximately seven feet below the surface). The DEIR fails to include any discussion of the substantial dewatering that will be required to construct the 60 foot deep underground parking garage or ongoing pumping that may be required during operation of the Project as a result of the shallow water table. Construction and operational water pumping will consume substantial amounts of energy, and will also require disposal of large amounts of groundwater that likely has a high salt content. The DEIR does not discuss the energy consumption, water disposal, or potential air quality impacts associated with pumping activities required by the Project. The DEIR must include a discussion of these potentially significant impacts.

B. The DEIR Fails to Disclose that the Project will Result in a Significant Impact Related to the Tsunamis.

48

The DEIR concludes that “[t]he project site would be subject to inundation during a 100-year tsunami event.” (DEIR, p. 4.K.23.) The DEIR, however, concludes this impact is less than significant because San Francisco would likely have four to five hours warning and there is “a well-established warning system in place that would provide early notification of an advancing tsunami or seiche and thus allow for evacuation of people.” This conclusion ignores the significance threshold applicable to this impact.

The DEIR provides that impacts from tsunamis are significant if they would “[e]xpose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow.” (DEIR, p. 4.K.21 (emphasis added).) The DEIR demonstrates that the 100-year tsunami event would “flood the first floor of the building and the underground parking levels.” (DEIR, p. 4.K.23.) As a result, it is undisputed that the 100-year tsunami event would result in a significant loss associated with flooding of the Project’s parking garage, common areas, restaurant and café uses, and other first floor facilities. The DEIR must be revised to acknowledge this significant impact and feasible mitigation measures must be adopted in response to this impact.

C. The DEIR Should Include Mitigation Measures to Address the Project’s Sea Level Rise Impacts.

49

The Bay Conservation and Development Commission’s San Francisco Bay Plan states that “infill development in [shoreline areas such as the Project site] should be closely scrutinized.” (DEIR, p. 4.K.18.) The DEIR does not closely scrutinize the Project. Instead, the DEIR simply concludes sea level rise is significant and fails to consider any potentially feasible mitigation measures that may reduce the impact to a less than significant level.

If, after close scrutiny, infill development is nevertheless approved in areas such as the Project site, the San Francisco Bay Plan states such a project should utilize “innovative engineering and design solutions so that the structures are resilient to potential flood[ing]” and “should be designed to be resilient to a mid-century sea level rise projection.” The DEIR fails to consider any “innovative engineering and design solutions” as mitigation measures, and fails to propose any measures that will ensure the Project is “resilient to a mid-century sea level rise projection.” Rather, the DEIR concludes this impact is significant and unavoidable without proposing any mitigation other than developing an emergency plan. Therefore, the Project is not consistent with the San Francisco Bay Plan. The DEIR should include further discussion of this

inconsistency either within the Land Use chapter of the DEIR or within the Hydrology and Water Quality analysis.

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A variety of mitigation measures, or alternatives, could be developed to address the significant and unavoidable impact of sea level rise on the proposed Project. First, as discussed in the San Francisco Bay Plan, the DEIR should include an adaptive management plan to mitigate the impacts of sea level rise. Second, the DEIR could require the Project proponent to pay its fair share towards future shoreline improvements undertaken to reduce the potential impacts of sea level rise. Third, design solutions should be proposed to reduce the impacts of sea level rise. These design solutions could, for example, include using the first floor for parking and having all active useable spaces start on the second floor. This type of design solution could be designed to be consistent with the Americans with Disabilities Act (ADA) requirements. The DEIR must be revised and recirculated to address these feasible mitigation measures.

XIV. Alternatives

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A. The Alternatives Analysis Fails to Include a Reasonable Range of Alternatives.

The DEIR fails to consider a reasonable range of alternatives. “A major function of an EIR ‘is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official.’” (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1456.) To achieve this goal, CEQA requires a DEIR to include a “reasonable range of alternatives.” (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 566; see also CEQA Guidelines, § 15126.6, subd. (a).) While there are no set-in-stone rules regarding what constitutes a “reasonable range” of alternatives, the range must be “sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned.” (*San Bernardino Valley Audubon Soc’y v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750-751.)

Courts have held that an EIR considering two alternatives did not satisfy the obligation to discuss a range of reasonable alternatives. (*Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1217-1218, 1222.) In contrast, four alternatives may “represent enough of a variation to allow informed decision-making.” (*Mann v. Community Redevelopment Agency* (1991) 233 Cal.App.3d 1143, 1151; accord *Village Laguna of Laguna Beach v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1028-1032; *Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal.App.4th 704.)

Here, the DEIR only includes two alternatives not including the CEQA-mandated No Project alternative. On its face, this is not a reasonable range of alternatives.

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Moreover, this error is compounded by the fact that one of the two alternatives included in the DEIR does not satisfy the purpose for considering a CEQA alternative because it does not substantially lessen or avoid any significant unavoidable impacts of the proposed Project. The purpose of the alternatives discussion in an EIR is to identify ways to reduce or avoid significant environmental effects. For this reason, an EIR must focus on alternatives that avoid or substantially lessen a project's significant environmental effects, and the alternatives discussed should be ones that offer substantial environmental advantages over the proposed project. (Pub. Res. Code § 21002; CEQA Guidelines § 15126.6, subds. (a)-(b); see *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 566 ["[A]n EIR for any project subject to CEQA review must consider a reasonable range of alternatives to the project, or to the location of the project, which [] offer substantial environmental advantages over the project proposal. . . ."] (emphasis added).) The Reduced Height alternative fails to substantially lessen or avoid any of the Project's significant and unavoidable impacts. Therefore, the DEIR only includes one alternative that complies with the requirements of CEQA.

The majority of the Project's significant and unavoidable impacts are not substantially reduced or avoided by the alternatives identified in the DEIR. "A potentially feasible alternative that might avoid a significant impact must be *discussed* and *analyzed* in an EIR so as to provide information to the decision makers about the alternative's potential for reducing environmental impacts." (*Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1304 (original emphasis); CEQA Guidelines § 15126.6, subd. (b) [an alternatives analysis must focus on alternatives that "avoid[] or substantially lessen[] any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly"].)

As discussed previously, through use of alternative design features, the Project's significant and unavoidable sea level rise impact could potentially be reduced to a less than significant level. Additionally, the DEIR discloses that bulk and/or height reductions could reduce the Project's significant and unavoidable shadow impacts to a less than significant level.⁶ Finally, the significant shadow, sea level rise, and traffic impacts caused by the proposed Project

⁶ / The DEIR suggests a project alternative that is less than 100 feet tall could fully avoid the Project's shadow impacts on Rincon Park. (DEIR, p. 4.H.32.) As discussed above, shadow impacts do not need to be fully avoided to reduce this impact to a less than significant level. Therefore, the DEIR establishes that an alternative with a height somewhere between 100 and 200 feet could substantially reduce or avoid the Project's significant and unavoidable shadow impacts. The DEIR, therefore, should include an alternative within this height range.

could all be substantially reduced or avoided by an offsite alternative.⁷ The DEIR fails to consider these or other potentially feasible alternatives to substantially reduce or avoid the Project's significant and unavoidable impacts.

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The DEIR should be revised to include a detailed analysis of these alternatives; it would be improper for the DEIR to be revised to reject these alternatives without a detailed analysis. Alternatives identified within an EIR should be carried forward for detailed review unless they are infeasible. Feasibility of the alternatives must be analyzed at two distinct stages of the CEQA process. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 981.) First, during preparation of the DEIR a local agency must make an initial determination as to which alternatives are *potentially* feasible and which are not. (*Center for Biological Diversity v. County of San Bernardino* (2010) 184 Cal.App.4th 1342, 1356, citing *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1457 (emphasis added).) Then, in “the second phase – the final decision on project approval – the decisionmaking body evaluates whether the [environmentally superior] alternatives are *actually* feasible.” (*California Native Plant Society v. City of Santa Cruz, supra*, 177 Cal.App.4th at p. 981 [emphasis in original]; Pub. Resources Code, § 21081.)

At this first phase of the analysis of alternatives, an alternative capable of substantially reducing or avoiding the Project's sea level rise and shadow impacts – such as the ones discussed above – are potentially feasible. Therefore, the DEIR should include a detailed analysis of these

⁷ / The DEIR states that an offsite alternative was considered but rejected. However, the discussion is inadequate. First, the DEIR acknowledges that this alternative was rejected even though “[n]o off-site location [was] considered...” (DEIR, p. 6.51.) It is disingenuous to reject this alternative without even consider potential alternative locations. Second, the DEIR explains that no “other waterfront locations along The Embarcadero” could be used for the Project. While this may be true, several of the Project's objectives can be achieved without developing the Project along The Embarcadero. And, pursuant to CEQA, a lead agency may not reject an alternative solely on the basis that it may “impede to some degree the attainment of project objectives, or would be more costly.” (CEQA Guidelines, § 15126.6, subd. (b).) Lastly, the DEIR suggests an offsite alternative may be rejected because the Project proponent does not own other land suitable for developing the Project. However, the Project proponent does not own all the parcels that are proposed as part of the Project. For example, Assessor's Block 3742/Lot 12 and a portion of the Steuart Street right-of-way south of Howard Street is included as part of the Project and is owned by the City and County of San Francisco under the jurisdiction of the Department of Public Works (DPW). Therefore, an undefined offsite alternative cannot in good faith be rejected on the basis of land ownership issues.

alternatives. The Commission and Board, in the second phase, may – if supported by substantial evidence – determine the alternatives are infeasible.

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B. The Analysis of the No Project Alternative is Inadequate.

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The No Project alternative included in the DEIR fails to comply with the requirements of CEQA. “The purpose of describing and analyzing a no project alternative is to allow decisionmakers to *compare* the impacts of approving the proposed project *with the impacts of not approving the proposed project.*” (CEQA Guidelines, § 15126.6, subd. (e)(1) (emphasis added).) The No Project analysis fails to include any discussion of impacts anticipated to occur in the event the Project is not approved. Instead, the No Project alternative merely states for each resource area that the No Project alternative would not result in the impacts caused by the Project.

It is self-evident that if the Project is not approved the Project’s impacts will not occur. The pertinent question for the purposes of the No Project alternative analysis, however, is whether *not* approving the Project would result in its own environmental benefits or impacts. Absent an analysis of the potential impacts of the No Project alternative, a meaningful comparison between the Project and No Project alternative is not possible. Therefore, the DEIR must be revised to include a meaningful discussion of the No Project alternative.

C. The Analysis of the Code Compliant Alternative is Inadequate.

52

Unlike the proposed Project, the Code Compliant alternative “would reinforce the existing pattern discernible at the southeast edge of Downtown of buildings stepping down to the water’s edge.” (DEIR, p. 6.16.) As a result, the Code Compliant alternative is identified as the second most environmentally superior alternative after the No Project alternative.

The Code Compliant alternative, nevertheless, fails to substantially lessen or avoid the majority of the proposed Project’s significant and unavoidable impacts. The only reason the Code Compliant alternative is considered the environmentally superior alternative is because the DEIR fails to include a reasonable range of alternative including one or more potentially feasible alternatives that could reduce or avoid the majority of the Project’s significant and unavoidable impacts.

Additionally, the analysis of the Code Compliant alternative is inadequate. Without any explanation, the DEIR states that the Code Compliant alternative would not be required to comply with Improvement Measure I-TR-K. The DEIR should be revised to explain why this improvement is not required for the Code Compliant alternative.

Moreover, the DEIR states the Code Complaint alternative would not include the open space proposed as part of the Project. (DEIR, p. 6.29.) The DEIR provides no explanation as to why open space is excluded from the Code Complaint alternative. The DEIR should be revised to include the public open space improvements as part of the Code Compliant alternative or should include a detailed explanation as to why these improvements are excluded from the alternative. As drafted, it appears the public open space improvements were excluded merely to ensure the alternative achieves less of the Project objectives than may otherwise be possible.

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D. The DEIR's Unsupported Assertion that Project Alternatives are Financially Infeasible is Self-Serving and Misleading.

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The DEIR explains that the Project sponsor has stated that neither the Code Compliant or Reduced Height alternatives are financially feasible. (DEIR, pp. 6.30-31, 6.49.) The DEIR includes no discussion to support this conclusion. The DEIR demonstrates that the conclusion is questionable at best. For example, the Reduced Height alternative includes only approximately 2% less residential square footage than the proposed Project. (DEIR, p. 6.3 [Table 6.1].) Given this minimal reduction of square footage, it is difficult to believe the alternative would be financially infeasible. Moreover, the DEIR states that the original Project design proposed by the Project proponent was "similar to the Reduced Height Alternative." (DEIR, p. 6.52.) The Project proponent would not have proposed a Project that was financially infeasible. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 600 ["[n]o proponent, whether wealthy or not, is likely to proceed with a project that will not be economically successful"], quoting *Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal.App.4th 430, 449.) Therefore, the conclusions in the DEIR regarding the potential financial feasibility of the Project alternatives appear disingenuous at best.

XV. To Comply with CEQA the DEIR must be Recirculated.

54

CEQA requires recirculation when "significant new information is added to an environmental impact report" after the public comment period has closed but before certification. (Pub. Resources Code, § 21092.1.) New information is considered "significant" if the information is necessary to provide the public and interested agencies with "meaningful opportunity to comment upon a substantial adverse environmental effect of the project or . . . feasible project alternative[s]" (CEQA Guidelines, § 15088.5, subd. (a).) Revisions required to address the numerous deficiencies discussed above constitutes significant new information. The new information required to respond to this comment letter is necessary to provide the public and interested agencies with a meaningful opportunity to comment upon

Sarah Jones
September 23, 2013
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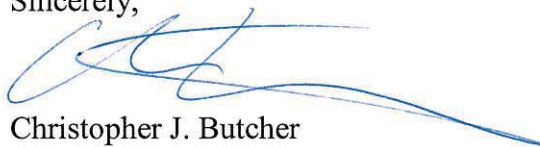
potential adverse environmental effects of the proposed Project. Therefore, these necessary revisions require San Francisco to recirculate the DEIR.

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Thank you for your consideration of the above comments. We look forward to release of the revised and recirculated DEIR for our further review. If you have any questions, please contact me at your convenience.

Sincerely,



Christopher J. Butcher
Thomas Law Group

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CITY & COUNTY OF SF
PLANNING DEPARTMENT
M.F.A.

September 12, 2013

Sarah B. Jones, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94130

Dear Ms. Jones:

I am responding as a neighboring property owner regarding the Draft Environmental Impact Report for Case No. 2011.1122E—**75 Howard Street Project**. I watched live coverage of your meeting today on this item.

I would urge the Planning Commission to maintain code compliance and **disapprove any height variance for this project** as it will be visually out of proportion with neighboring buildings and will adversely impact the area and set a dangerous precedent for future developments.

Please restrict this project to current standards for height (200-foot limit), setback, and tapering of the design. It is also important to “stair step” or taper this building consistent with other area buildings. The Gap HQ, Hills Plaza and Rincon Center all have significant setbacks at the 7th floor and continue to taper as they get higher. The 75 Howard design should be held to the same standards for tapering and setbacks.

I am against the current design since significant shadows would be created on public spaces including Rincon Park. I believe in the reasons height and setback standards were created and do not want San Francisco to abandon our standards for development. Please only approve code-compliant developments.

In summary, if this building is allowed to proceed with the requested variances, then a dangerous precedent is set for variances for all future developments in our neighborhoods damaging our livability and world-class waterfront.

Sincerely,



Rebecca L. Carter, property owner
338 Spear Street
The Infinity, Unit 31A
San Francisco, CA 94105

Lewis, Don (CPC)

From: Jones, Sarah
Sent: Sunday, August 18, 2013 5:54 PM
To: Lewis, Don (CPC); Turrell, Nannie
Subject: FW: 75 Howard Street

From: Craig Chinn [cchinn2520@att.net]
Sent: Sunday, August 11, 2013 3:20 PM
To: Jones, Sarah
Subject: 75 Howard Street

Dear Ms. Jones,

We have read with some trepidation that the 75 Howard Street project is requesting a 350 foot height limit instead of staying within the 200 foot limit. As residents at 333 Main Street, we walk the Embarcadero and take in its many views, which include down the Embarcadero and back into the City. Keeping a lower height for buildings nearest the bay provides a better visual image for San Francisco and helps keep the Embarcadero from being a wall. We believe this is why the original limits were set.

Keeping the existing height limits unchanged gets our vote. Lowering the limits would be even better.

Thank you,

Craig and Noelle Chinn

1

Lewis, Don (CPC)

From: willy chiu <wwchiu168@yahoo.com>
Sent: Monday, September 16, 2013 1:08 PM
To: Planning@rodneyfong.com; Lewis, Don (CPC)
Subject: comments on 75 Howard Street building

To: Mr. Rodney Fong, Planning Commission President
Mr. Don Lewis, planner in charge of 75 Howard Street building

Subject: concerns about 75 Howard Street building construction under consideration

Dear Mr. Fong and Mr. Lewis,

Rodney - thank you for talking with me earlier today. As I had mentioned, I am a citizen for over 40 years who had lived in San Francisco and moved to the Peninsula area now.

I understand there was a hearing last week on the permit for construction of a 31-story, 384 foot-tall high-rise tower at 75 Howard Street. I am submitting my comments as a private citizen and as a frequent visitor to the Embarcadero promenade with my family and friends on a regular basis, since this is such a fabulous scenic area of San Francisco, one of the best places to live !!

You and your team had done a superb job so far in keeping this area very attractive for all visitors to enjoy !!
Thank you for that !!

I have 3 concerns, I am sure the commission may have heard this before from many other citizens as well, let me keep this brief :

1. Height at 384 feet will overshadow many existing water-front buildings especially those that had been there for such a long time, this new building will distract from the charm and character of the water front. There is less of an impact if 75 Howard is limited at the 200 feet level. Thus, IMPACT on CHARM and CHARACTER of the water front could be lessened !! 1
2. Additional traffic and pollution generated from the building as more units got occupied from the increased building height, there will be also a bigger shadow blocking off more sunshine. Thus, ENVIRONMENTAL IMPACT is more negative !! 2
3. Construction of a new building although is positive to the local economy, but have you thought of the additional height that houses more high end apartments that may bring to the attention of average citizens that affordable housing is even more out of reach? Thus, there could be negative SOCIAL IMPACT from being a target of discontent !! 3

Please consider these factors as you make your decisions on constructing such a tall 384 feet high building at the scenic water front.

Regards and Signed,

Willy Chiu
Los Altos Hills, Ca.
September 16, 2013.

September 2, 2013

Sarah B. Jones, Environmental Review Officer,
San Francisco Planning Department,
1650 Mission Street, Suite 400,
San Francisco, CA 94103
sarah.b.jones@sfgov.org and don.lewis@sfgov.org.

Dear Ms. Jones and Mr. Lewis:

I wish to express my deep concern regarding the proposed building construction located at 75 Howard St.

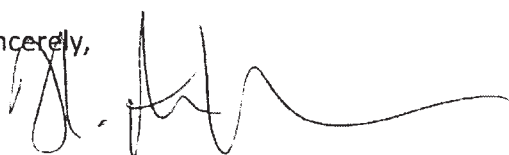
Allowing this unnecessary building project to proceed would set a dangerous precedent that could damage the excellent progress that has been accomplished by your department in recent years.

As I understand it, its 350-foot height would be 75% over the permitted 200-foot limit.

Unlike its neighboring buildings, this huge monolith would have only one minimal setback at the 7th floor and would not taper above that floor creating numerous potential issues for all surrounding structures including casting surrounding public spaces into darkness due to its hulking shadows.

I urge you to maintain the existing standards and not grant this variance. There is absolutely no societal need to do so. Please do not unleash what could be the beginning of the end for our beautiful San Francisco skyline.

Sincerely,



H. Stephen Cookston
338 Spear St.
Unit 17B
San Francisco, CA 94015

Lewis, Don (CPC)

From: Leah Edwards <leah@leahedwards.com>
Sent: Friday, August 16, 2013 8:24 PM
To: Jones, Sarah; Lewis, Don (CPC)
Subject: Against height limit exception for 75 Howard

Hi,

I am writing to oppose the propose height limit exception for 75 Howard.

Although I would love to see more condominiums available in San Francisco, it doesn't make sense to build in ways that diminish the desirability of visiting or living in San Francisco.

Many good planning decisions in the last decade have made the waterfront area more walkable and have made it a commercial center for residents and tourists, and I don't understand why anyone is even considering altering that plan.

You know better than me that tall buildings with no setbacks make urban spaces less pedestrian friendly. I also don't believe (no matter who would make assurances) that one height variance in the area wouldn't lead to other variances in areas with high community value.

I look forward to that corner being developed into something more useful and appealing than what it is now, but I would like it down within existing height limits.

Sincerely,
Leah Edwards
338 Spear Street Unit 4H
San Francisco, CA 94105

220 Montgomery St
Suite 2100
San Francisco
California 94104

Ph: (415) 362-3599
Fx: (415) 362-2006

mosconelaw.com

September 12, 2013

Via Hand Delivery

Sarah B. Jones
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94103

Re: Comments on the 75 Howard Draft Environmental Impact Report

Dear Ms. Jones,

Thank you for the opportunity to submit Comments on the Draft Environmental Impact Report (DEIR) for the proposed 75 Howard Street Project. My firm represents the property owners of 201 Spear Street, the building immediately adjacent to and west of the project site. My comments on the DEIR follow. These comments pertain to the two project variants as well as the proposed project.

1. The EIR needs to clarify the project objectives and clearly state the underlying purpose of the project.

Section 15124 of the California Environmental Quality Act (CEQA) Guidelines requires the statement of objectives to include the underlying purpose of the project.

Page 2.4 of the EIR identifies four project objectives:

- 1. To improve the architectural and urban design character of the City's waterfront by replacing the existing above-grade parking garage with a high-quality residential project with ground floor retail uses and sufficient parking.*
- 2. To increase the City's supply of housing.*
- 3. To construct streetscape improvements and open space that serve neighborhood residents and workers and enliven pedestrian activity on the waterfront during evening and nighttime hours.*
- 4. To construct a high-quality project that includes a sufficient number of residential units to make economically feasible the demolition and replacement of the existing above-grade parking garage, produce a reasonable return on investment for the project sponsor and its investors, attract investment capital and construction financing, and generate sufficient revenue to finance the open space amenities proposed as part of the project.*

While not included in the Project Description, page 5.2 of the EIR (Other CEQ Considerations) states that *“The basic objective of the proposed project and project variants is to support and contribute to the developing mixed use character of the Transit Center District Plan area by developing in-fill, high density residential development in the downtown area.”*

1
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This creates an inherent contradiction in the EIR because the four project objectives on page 2.4 are not consistent with the “basic objective” stated on page 5.2. For example, while objective 2 and to a certain extent 4 are consistent with the “basic objective” of the project, objective 1 is outside the scope of the “basic objective” and, even worse, is not advanced by the project. Objective 1 is to “improve the architectural and urban design character of the City’s waterfront” but the proposed project would degrade the architectural character of the City’s waterfront by replacing the 91-foot-high structure with a building over three times as high – an imposing, bulky tower with minimal setbacks. The 356-foot-high building (348 plus eight feet for rooftop screening and mechanical enclosures) has an 85.5 foot-high podium with a tower set-back just 23 feet from the eastern edge. This is a substantial departure from the established building form and height along the waterfront to the north and south as well as from the established citywide pattern of buildings stepping down in height to the waterfront. (Please see comments 5 through 7 below for further discussion of this issue.)

2. The EIR needs to clarify whether the proposed project includes an 82-foot-high or 85.5-foot-high podium.

2

Paragraph 5 on page 2.24 refers to an 82-foot-high podium and figure 2.14 shows a podium that is 85.5 feet high.

3. The EIR needs to accurately describe the existing building heights, setbacks and forms for the Gap building and Hills Plaza complexes and Figure 4.B.2 should be revised.

3

As shown in Figure 4.C.7, the existing buildings adjacent to and near the project site along The Embarcadero that define the land use form of the area include Bayside Plaza, Rincon Towers, and the Embarcadero YMCA to the north and the Gap Building and Hills Plaza to the south. The EIR includes adequate descriptions of the buildings to the north along The Embarcadero, but not those to the south.

On page 2.7 and elsewhere in the document the Gap Building is described as “...a 14 story (approximately 290 feet tall) office building...” A.M Stern, the architect, describes the building as a six-story base with a 15 story tower set back from the base. No height is listed on the Stern website, but Emporis lists it as 214.35 feet high. Page 4.C.3 of the EIR indicates that the Gap tower is set back over 100 feet from The Embarcadero. The EIR should identify the precise setback and include it on page 2.7 of the EIR.

Hills Plaza is shown on Figure 4.B.2 as a 228-foot building which is misleading since most of the complex is much lower in height. It is estimated that the Tower in the Hills complex is set back approximately 160 feet from The Embarcadero.

Figure 4.B.2 should be revised to indicate the range of building heights for each individual project along The Embarcadero. As shown in Figures 4.C.5 through 4.C.7, the Gap and Hills complexes are varied in height with a narrow tower comprising a small portion of the complex, in marked contrast to the design of the proposed project. The EIR needs to be revised to accurately describe the dimensions of these buildings in order to understand the established design context along this portion of The Embarcadero and accurately evaluate the land use and aesthetic impacts of the project.

4. The DEIR incorrectly determines that there is no feasible mitigation to reduce Impact LU-1.

Page 4.B.9 of the EIR states that “...*the proposed project and project variants would result in a significant and unavoidable project-level land use impact. There is no effective mitigation measure available that would avoid or substantially reduce the significant impact of the proposed project and project variants.*”

Section 15370 of the CEQA Guidelines defines mitigation states, in part, that “*Mitigation includes... (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.*”

The EIR incorrectly concludes that there is no feasible mitigation measure available to reduce significant impacts on conflicts with plans and policies. If the project were modified to reduce the height and bulk of the building then the impacts would be reduced. (See *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles* (1986) 177 Cal.App.3d 300, 308-309 [mitigation measures including scaling back the size of a development project including its height].)

Planning Code Section 251 specifies that the City adopted its land use plans and policies for the purpose of avoiding or mitigating environmental effects. Because no such mitigation is recommended despite the project’s conflicts with these plans and policies, it appears that the EIR assumes that it is not possible for the project sponsor to reduce the height and bulk to any extent without rendering the project financially infeasible. Following this “logic” no mitigation could ever be recommended for any project that would alter height or mass if the project sponsor objected on economic grounds. CEQA requires that any such conclusion or finding of financial infeasibility be based on evidence and there is no such evidence in the EIR.

Page 5.2 of the EIR states that “*The basic objective of the proposed project and project variants is to support and contribute to the developing mixed use character of the Transit Center District Plan area by developing in-fill, high density residential development in*

the downtown area.” The project could be modified and still achieve this and other stated project objectives (e.g., increasing the City’s housing supply).

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The EIR should be modified to include mitigation measures that reduce land use impacts related to the project’s conflicts with the City’s plans and policies. If those mitigation measures are deemed infeasible, the EIR must explain the basis for such a finding. Only then will the EIR provide the information that the decision-makers and the public need to have about the project. (See § 15151 of the CEQA Guidelines [*“An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.”*].)

5. The DEIR incorrectly determines that the project would not have a substantial impact on the existing character of the vicinity (Impact LU-2).

6

The height and massing of the proposed project would have a substantial impact on the existing land use character of the vicinity because the proposed new buildings are significantly taller and bulkier than the other buildings along The Embarcadero. The character of the western edge of The Embarcadero is defined by buildings under or just over 100 feet in height and buildings with towers over podiums that are setback significantly from the Embarcadero – e.g. the Gap Building is set back well over 100 feet with further progressive stepping back and the Hills Plaza tower is set back approximately 160 feet.

The project would be over 115 feet taller than 201 Spear to the west, 26 stories higher than 101 Howard further to the west and 14 stories higher than 101 Main the next building to the west. The proposed building would step up, not down to the waterfront.

The DEIR accurately concludes that the project conflicts with the existing zoning, height and bulk districts and impacts the area’s visual character of the vicinity. However, the conclusion that the project would not have a significant impact on the land use character of the area is inaccurate.

The proposed project would markedly alter the existing character of the western edge of The Embarcadero, thereby significantly impacting the land use pattern and character of the area.

While the project would not introduce any land use types that would be incompatible with the existing uses in a generic sense (e.g., the project is not a heavy industrial use being introduced into a residential neighborhood), it would alter the land use character of the area, just as a high-rise residential building in a one- to two-story residential neighborhood would adversely impact the land use character of a neighborhood. Land use character is partially defined by the physical characteristics of a project and how they relate to surrounding land uses.

There are numerous City plans and policies that prescribe development of the site to adhere to the existing well-established land use pattern of development stepping down to the waterfront.¹ This is one of the City's defining characteristics, one which distinguishes it from Miami, New York and other cities that have high rise buildings right up to the waterfront. Our City is blessed with dramatic varying topography and this project should not lead the way to change this defined pattern. The current zoning should not be amended to accommodate the project. Instead, the project should be modified to conform to well- established existing policy and land use that was reviewed comprehensively - as part of the Transit Center District Plan, which was just adopted last year.

6
 (cont'd)

As stated on page 4.B.7 of the EIR, "*The project site was not identified through the TCDP process and EIR analysis as a likely development site due to the existing garage and its location on the Embarcadero along the waterfront.*" In other words, the project site was recently evaluated as part of an extensive planning process for the TCDP (adopted in 2012) as to whether it should be rezoned to raise the height limit and the City determined that it should not due to its location. There is no evidence that it was somehow "overlooked" because it had an existing structure.

The EIR should be modified to state that that project would have a significant adverse impact on land use character.

Page 4.B.7 of the EIR has an out of place discussion saying that the applicant did not ask to change the height limit as part of a "Developer Scenario Alternative" presented in the Transit Center District Plan EIR.

7

Page 3.3 states that "*The project is generally consistent with the General Plan's call to concentrate tall buildings in centers of activity such as downtown.*" This should be deleted from the EIR; the purpose of the Plan and policies section of the EIR is to discuss potential conflicts between the project and applicable plan and policies, not to identify policies with which the project is allegedly consistent.

8

¹ For example, Policy 3.5 of the Urban Design Element of the San Francisco General Plan states: "Relate *the height of buildings to important attributes of the city pattern and to the height and character of existing development.*" As explained further in the Urban Design element, "the heights of buildings should taper down to the shoreline of the Bay and Ocean, following the characteristic pattern and preserving topography and views." The EIR states that "*The proposed high-rise tower would make a step up, rather than a step down, at the southeastern edge of Downtown along the waterfront.*" Also, Policy 2.5 of the Transit Center District Plan states: "*Transition heights down to adjacent area, with particular attention on the transition to the southwest and west in the lower scale South of Market areas and to the waterfront to the east. The TCDP did not result in rezoning the site.*" The project is in a 200-S height and bulk district.

6. **The EIR incorrectly concludes that the project would not contribute considerably to significant cumulative land use impacts related to (a) applicable plans or policies adopted for the purpose of avoiding or mitigating an environmental effect, or (b) substantially impacting the existing character of the site vicinity.**

9

The project combined with other proposed projects along the waterfront, most notably the massive 125-foot-high Warriors Arena on Piers 30-32 and two 110-foot-high hotel buildings, a 175-foot-high residential tower and commercial development proposed on the adjacent seawall lot, would create significant cumulative land use projects. The open character of the areas immediately adjacent to the waterfront and to The Embarcadero along the waterfront would be replaced by development of a mass and height that would result in significant changes in land use character.

The EIR should be modified to include this significant, cumulative impact on land use character.

7. **The DEIR incorrectly concludes that the proposed project would not have a substantial adverse effect on a scenic resource.**

10

As stated on page 4.C.20 of the EIR, the project site is in the vicinity of two offsite scenic resources: The Embarcadero and Rincon Park. The project is proposed on a site that is in a prominent, highly visible location along The Embarcadero across from Rincon Park.

The EIR states that *"The proposed residential tower would reinforce the western edge of The Embarcadero and would provide an active face to The Embarcadero and Rincon Park."* In fact, the project would build a 350-foot-high, 109- (tower) to 116- (podium) foot-wide building along The Embarcadero and Rincon Park and would have a substantial adverse effect on those scenic resources. While the other buildings along the waterfront north and south of the site gracefully and substantially step back from The Embarcadero or are just over 100-feet-tall, the proposed building would be up to 250 feet higher than any other building along The Embarcadero in the vicinity and it lacks a substantial setback for the tower: the tower's set back from the podium would be just 23 feet from the east, 16 feet from the west, two feet from the north and five feet from the south.

In contrast, the Gap Inc. building to the south has a six story base with a 15 story tower set back over 100 feet from its base (and approximately 125 feet from The Embarcadero) with successively setback upper-story tiers. (On page 2.5 and elsewhere in the EIR, it is incorrectly referred to as a 14 story, 290-foot-tall office building which mischaracterizes the building. As shown in Figures 4.C.2, 4.C.6 and 4.C.7 of the EIR, the tower is slim and set far back from the lower stories. As described on the architect's website (A.M. Stern), it is *"...set back from the Embarcadero to minimize shadows on the waterfront*

park. Two Folsom Street is articulated as a cubical background mass and a slender foreground tower working together as one. Despite the irregular configuration of the site, our design presents a symmetrical composition, the coupling of the base and tower taking its cues from the nearby Ferry Terminal Building and providing a larger reading from the water. The articulation also breaks down the project's bulk, creating a village of forms... the tower complements and in a way completes the stepping up of the campaniles and office tower of the Hills Plaza complex to the south."

10
 (cont'd)

Further to the south is Hills Plaza, a historic approximately five-story original building, which includes newer 18-story 257-foot-high tower which progressively steps back approximately 160 feet from The Embarcadero.

Working along The Embarcadero northeast of the site is Bayside Plaza, a 104-foot-tall, seven-story office building that minimizes its impact on the waterfront and The Embarcadero with each story stepping back successively from a four-story base. The Embarcadero YMCA building, just north of Bayside Plaza is 104 feet high and eight-stories.

Rincon Towers is located north of the project site, but is set back west of Bayside Plaza and is located one building away from the Embarcadero. Rincon Towers is 24 stories and approximately 280 feet tall. It has a six-story podium base with two relatively slender towers set back from the base.

The EIR should be revised to state that the project would have a significant adverse impact on The Embarcadero and Rincon Park, which are both offsite scenic resources and should include mitigation measures to reduce those impacts.

8. Figure 4.C.3 View B – View from The Embarcadero at Howard Street, looking west needs to be revised to show the top of the proposed project.

11

The visual simulations do not fully capture the project's impacts on views along the waterfront and The Embarcadero. Figure 4.C.3, one of the most important viewpoints cuts off the top of the building, thereby minimizing the impact from this vantage point. While a fixed camera only captures a certain vertical dimension, people passing by look up and change their orientation as they walk, run, bike or drive along the waterfront. Revise Figure 4.C.3 to show the top of the proposed project.

9. Prepare a Video Simulation to more accurately understand the impacts of the project on the waterfront and The Embarcadero.

12

In order to fully understand the visual impacts of the project, a video should be prepared to accurately depict the project's impacts on views from the waterfront and the Embarcadero. This would allow the public and decision-makers to more accurately understand the visual impacts of the project, and with current technology can be done for a reasonable cost.

10. The EIR incorrectly concludes that the project would not make a cumulatively considerable contribution to a significant impact related to aesthetics.

13

The aesthetics section includes a detailed discussion of the project within the context of the Transit Center Development Plan and dismisses the project's contribution to cumulative aesthetic impacts: page 4.C.23 of the EIR states that *"The proposed project would conform to the overall pattern of building heights under cumulative conditions. For these reasons, under cumulative conditions, the proposed project would not contribute considerably to a cumulative impact on scenic vistas of the Downtown core"*.

The project does not conform to the overall pattern of building heights, which step down to the waterfront. The project does not follow this established pattern. Moreover, the EIR omits an important discussion of the project's contribution to cumulative aesthetic impacts on the City's waterfront. The project combined with the proposed 12-story, 125 foot-high Warriors Arena, 175-foot-high residential tower, two 110-foot-high hotel buildings, and commercial space would have a significant adverse impact on scenic vistas and visual character of this portion of the waterfront and would further break with the pattern of development stepping down to the waterfront.

The EIR should be modified to identify a significant, cumulative impact on aesthetics and should include mitigation measures to reduce these impacts.

11. Impacts on Private Views

14

Page 4.C.20 correctly states at under CEQA a project would only have a significant impact if it were to adversely affect public, not private views. We do not disagree with this conclusion. However, it should be noted that the setback proposed on the west side of the building is minimal at 16 feet and intrusive to the occupants of 201 Spear, the 237.5 foot-high building to the west, especially given that the maximum permitted height on the subject site is 200 feet and the project proposes to exceed that by 150 feet, or 75 percent.

12. Mitigation Measures and Project Objectives

15

Section 15126.4 of the CEQA Guidelines state that *"An EIR shall describe feasible measures which could minimize significant adverse impacts..."* The EIR deems the land use, visual, and shadow impacts of the project significant and unavoidable. However, such impacts could be reduced if the project were modified to reduce the height and bulk of the building. While it is not clearly stated in the mitigations section of the EIR, it appears from the discussion in the alternatives section, that the City has deemed any decrease in height or mass infeasible. (See, e.g., 6.30-6.31 [*"The Code Compliant Alternative, however, would not meet the project sponsor's objective to . . . produce a reasonable return on investment for the project sponsor and its investors, and attract investment capital and construction financing."*].)

There is no evidence in the EIR on which to base such a conclusion. The project sponsor has proposed a bulky structure that is 150 feet higher than the permitted height limit. How high or bulky would a proposed structure need to be before the City would question the profit motivated objectives of a project? What is the City deeming a “reasonable return on investment”? The EIR fails to identify where these lines are drawn, or even what “returns on investment” could be expected from the proposed project as compared to designs that are less bulky and consistent with approved height limits.

15
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Section 15093 (b) of the CEQA Guidelines states that “*When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record.*” By excluding mitigation measures that would reduce significant land use, visual, and shadow impacts, the EIR deprives the public and decision-makers of critical information regarding ways to reduce or eliminate significant impacts. While the applicant may argue that any reduction in height or mass would render the project infeasible, CEQA demands that the option be provided along with evidence relating to its purported infeasibility.

The EIR does not provide sufficient detail for the decision-makers and the public to determine how the project could be modified to reduce the significant land use, visual and shadow impacts. The City should revise the DEIR to include mitigation measures to reduce the significant land use, visual and shadow impacts identified in the EIR.

13. The DEIR incorrectly determines that there is no feasible mitigation to reduce Shadow Impact WS-1.

16

The project would result in a shadow increase of about 25 percent over the existing amount of shadow on the park. Page 4.H.24 of the EIR identifies the project’s significant shadow impacts on Rincon Park: “*Rincon Park is a sunny park along the waterfront, and the current height limits on the west side of The Embarcadero preserve afternoon sunlight on Rincon Park. The net new project or variant shadow on Rincon Park would be substantial and would adversely affect the enjoyment and use of the park. For these reasons, the proposed project or project variants would have a significant and unavoidable shadow impact on Rincon Park.*”

The shadow impact could be reduced by reducing the height of the proposed building. However, the EIR concludes on page 4.H.24, that “*Reducing the building height would reduce the development program of the proposed project or variants. Even then the proposed project or variants would still shadow Rincon Park. Thus, there is no feasible mitigation measure.*” This is an unreasonable conclusion. Most if not all of the project objectives would be met with a reduced height project. Page 6.26 of the EIR discusses the 200-foot Code Compliant Alternative, which would cut the amount of shadow to about half of that of the proposed project. Just because a mitigation measure would not

reduce an impact to a less-than-significant level does not mean the mitigation measure should be discarded out of hand. As stated in Section 21002 of CEQA, "*The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to a project, and to indicate the manner in which those significant effects can be mitigated or avoided.*"

16
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The EIR should be revised to include mitigation measures to reduce shadow impacts on Rincon Park.

14. The EIR incorrectly concludes that there is no feasible mitigation for cumulative shadow impacts.

17

Page 4.H.32 of the EIR states that "*There is no feasible mitigation for the project's or variants' contributions to cumulative shadow impacts, because and theoretical mitigation would fundamentally alter the basic design and programming of the proposed project or variants*" This is not the standard under which the feasibility of mitigation measures should be evaluated under CEQA. If this were the standard then many if not most mitigation measures proposed in EIRs would be deemed infeasible.

Revise the EIR to include mitigation measures to reduce the project contribution to cumulative shadow impacts.

15. The EIR correctly identifies the Code Complaint Alternative as environmentally superior.

18

The EIR correctly identifies the Code Complaint Alternative as the environmentally superior alternative other than the No Project Alternative. It would reduce impacts on land use, land use planning and aesthetics to a less-than-significant level and would reduce impacts on shadow, hydrology and water quality and to cumulative transportation and circulation impacts.

Page 6.30 of the EIR notes that the Code Compliant Alternative would achieve some of the basic objectives of the project sponsor, but that it "*...would not meet the project sponsor's objective to construct streetscape improvements and open space that serves the neighborhood residents and workers, and enliven pedestrian activity on the waterfront during evening and nighttime hours, nor would it meet the project sponsor's objectives to construct a high-quality project that includes a sufficient number of residential units to make economically feasible the demolition of the existing above-ground parking garage, produce a reasonable return on investment for the project sponsor and its investors, an attract investment capital and construction financing.*" It goes on to say that the floor plates of this alternative would be too large for a residential building, which of course could be remedied by modifying the building to reduce the size of the floor plates.

Page 5.2 of the EIR identifies "*The basic objective of the proposed project and project variants is to support and contribute to the developing mixed use character of the Transit*

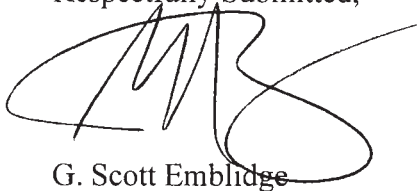
Center District Plan area by developing in-fill, high density residential development in the downtown area.”

18
(cont'd)

Because the Code Compliant Alternative would (a) meet the basic objective of the project as well as some of the other stated objectives of the proposed project (b) be consistent with the Urban Design Element of the City's General Plan, the Downtown Area Plan and the Transit Center District Plan that calls for buildings to step down to the waterfront; (c) reduce or eliminate significant environmental impacts; and (d) avoid setting a precedent for rezoning to permit high-rise development along the waterfront and changing the established land from one that steps down to one that steps up to the waterfront, the City should reject the proposed project and preserve existing policies and regulations governing the project site.

Thank you again for the opportunity to comment on this important document. We ask that the EIR be revised as stated in this letter in order to provide the public and decision-makers with accurate information to understand the impacts of the project and provide mitigation measures to reduce or eliminate impacts.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'G. Scott Emblidge', written over a horizontal line.

G. Scott Emblidge

cc: Don Lewis
Nannie Turrell

Lewis, Don (CPC)

From: Blake Feinstein <bwfeinstein@gmail.com>
Sent: Monday, September 16, 2013 1:58 PM
To: Planning@rodneyfong.com; Lewis, Don (CPC)
Subject: 75 Howard Construction

Dear Mr. Lewis and Mr. Fong

I am concerned about the purposed construction of a 350+ foot tall skyscraper at 75 Howard St. I regularly visit the Embarcadero as it is a beautiful place to relax and enjoy the amazing scenery. 1

If 75 Howard gets approved at its current proposed height I fear that 1. it will cast an unpleasant shadow on the Embarcadero and more importantly 2. will create an unfortunate precedent that will allow other developers to go well beyond the zoned height limits and the city will end up with a wall of skyscrapers on the waterfront. 1

I understand that the city needs housing but a condo building for the wealthiest 1% is not a necessity, especially when it comes at the cost of the waterfront which should be for everyone to enjoy. 2

I sincerely hope that you will consider these two points when you make your decision about building a skyscraper on the waterfront.

Thank you for your time.

Kind regards,

Blake Feinstein
1146 Taylor Street Unit 3
San Francisco, CA 94108

Lewis, Don (CPC)

From: Grant Green <heckelphone@gmail.com>
Sent: Monday, August 12, 2013 6:57 PM
To: Kim, Jane; Jones, Sarah; Lewis, Don (CPC)
Subject: 75 Howard Street proposal

Dear Supervisor Kim, Ms. Jones, and Mr. Lewis,

We are writing to object to the proposed 75 Howard St. project. We are San Francisco residents and property owners, living in the immediate vicinity of the project (338 Spear St.), and strongly oppose the construction of this proposed eyesore, and the approval of the huge variances required.

Here are the problems we see with the proposed project:

1. The proposed building is far too large for the neighborhood, and substantially exceeds the heights of the buildings nearby. It does not fit within the general planning envelope, of having decreasing building heights toward the Bay, but instead stands out like a sore thumb, an offense exacerbated by its ugliness and lack of design. From many angles, it blocks views of buildings that are much more attractive, such as the Gap building and 201 Spear, and blocks views of the Bay, the Ferry Terminal and other sights from many residential towers in the area. It is **75% taller** than permitted for its height/bulk zoning, and will obstruct views from the Transbay Redevelopment towers to be constructed in the near future, reducing their value and marketability as well.

2. The proposed design is, to put it bluntly, ugly, oppressive, and void of artistic character. It is architecturally uninteresting, presenting essentially as a featureless rectangular monolith, and does not even have an interesting roof or termination, as required by SF plans. It does nothing to improve or maintain the SF skyline, or the interesting character of the region. Instead, it maximizes the shadowing of nearby areas, and seems deliberately designed to increase sidewalk wind levels. This alone is sufficient reason to deny the proponents' request for the necessary variances.

3. In return for its burdens and blights, the project offers very little in return to the City of San Francisco. It engenders a few fees, and creates a paltry number of jobs. The fees, and a greater number of jobs, could be created by substituting a much smaller (conforming) building designed for office use. In short, there is no justification from departing from the existing zoning, height, and bulk requirements. A zoning plan is ineffective if it is not followed and enforced, consistently. While variances should be permitted for exceptional cases, "exceptional cases" should not include "exceptionally bad." The 75 Howard project is essentially without redeeming value in its current form, and should be rejected.

4. The 75 Howard project imposes an unconscionable burden on the local traffic and parking congestion problems. Embarcadero and Spear streets are already heavily congested during rush hours: approval of this project will inject hundreds of new residents (and their cars) directly into the traffic on Embarcadero and Spear streets, and will increase the frequent gridlock on the Bay Bridge approaches (e.g., Harrison St.). As to parking, the proposed project fails to provide sufficient off-street parking for the number of residents (and/or hotel guests) and their guests it proposes, which means that the project will further impact the already scarce parking available in the area by soaking up local on-street parking and other public parking areas. Not only does the project eliminate the existing garage, it also eliminates a number of street parking spaces. Finally, the project relies on mechanical parking, which means that when the system is being maintained or repaired, all those residents will need to find alternate parking elsewhere in the neighborhood, when parking is even tighter due to elimination of the 75 Howard garage.

5. The existing parking garage is convenient and sorely needed, as public parking is notoriously scarce in San Francisco. The 75 Howard garage is within convenient walking distance of both the Ferry Terminal (and its plaza), Rincon park, the Exploratorium, the Embarcadero waterfront, and the ballpark. When the new basketball stadium is constructed, it will also serve a vital parking (and/or overflow parking) for events there as well. Mass transit improvements are years in the future, while approval of the 75 Howard project will result in an immediate impact on parking the area. Personally, I use public transportation whenever possible, but at the same time I understand that SF derives a fair amount of revenue from tourism: while we may want to discourage individual automobile use, this also negatively impacts San Francisco's desirability as a tourist destination. While we residents (and commuters) can be expected to learn the optimal, low impact way to get around town, the vast majority of tourists will not arrive so informed.

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We hope that our voices are heard, and those of our neighbors. If there is any way to further oppose this project, please let us know.

Thanks, and best regards,

Grant & Heather Green

338 Spear St. unit 26H

Lewis, Don (CPC)

From: Andrey Gusev <andrey.gusev@gmail.com>
Sent: Saturday, September 14, 2013 1:33 AM
To: Jones, Sarah; Lewis, Don (CPC)
Subject: 75 Howard

Hello SF Planning Department,

I would like to express my deep concern about the proposed height of 75 Howard building as well as lack of significant setback, that is typical for the water facing buildings in this area. I am homeowner in Infinity complex (318 Spear St), have been there for over two years.

I believe by violating established 200-foot limit not only a dangerous precedent is being set, but also a world class architectural composition of Bay Bridge and surrounding buildings will be negatively impacted. The composition is unique to San Francisco and doesn't include a "wall of buildings" that is found in New York City for example. The composition has been created over many decades and now is a heritage of San Francisco as a city, California as a state, and even United States as whole. 1

I believe it is important to preserve this landmark composition and develop the area only in accordance with established criteria. 2

A violation of the established criteria will have immediate negative impact on historic landmark and also on desirability of the neighborhood. Allowing the proposal to go on as described will be have very few short term benefits (if any) and many long term, hard to fix (huge shadow on Rincon Park and the embarcadero walk) problems.

I am very concerned about this and would like to urge you to hold 75 Howard project to 200 foot limit and significant setback like the neighborhood buildings.

Thanks,

Andrey Gusev

SUE C. HESTOR
Attorney at Law
870 Market Street, Suite 1128 • San Francisco, CA 94102
(415) 362-2778 • FAX (415) 362-8048

hestor@earthlink.net
cell (415) 846 1021

September 23, 2013

Don Lewis
Environmental Review
San Francisco Planning Department
1650 Mission Street 4th floor
San Francisco CA 94103

2011.1122E - 75 Howard Street Draft EIR

Dear Mr. Lewis:

I am submitting my own comments on the 75 Howard Street DEIR.

In general, the DEIR works mightily to avoid any substantive discussion of how this site evolved.

- Construction, building form, demolition of the Embarcadero Freeway.
- How the roadways evolved due to actions related to the Embarcadero Freeway
- Policies that buildings should be shaped to step down to the waterfront.
- The overlay of zoning and plan controls in this area, e.g. the sites under control of the Redevelopment Agency, the Federal government, City agencies, and other agencies which approved projects following City guidelines as much as possible.
- The construction of open spaces along the waterfront.

Much of the development of this area happened independent of the Planning Commission.

The location of records that show the involvement of entities other than City Planning in development, the environmental reviews therefor, and the project analyses must be identified so they can be located and read to inform the discussion of the land use development and history that shaped the buildings in this area.

This is the THIRD attempt to increase heights along The Embarcadero where the City meets the Bay. Public views were CONSCIOUSLY adopted to strengthen the City form of stepping down to the Bay.

1
2
3
4

#1 was 110 The Embarcadero/138 Stewart - the headquarters of the SF general strike, which was ultimately abandoned after the Supervisors disapproved the environmental review.

4
(cont'd)

#2 is 8 Washington Street, approval of which is on the November 2013 ballot.

#3 is this **75 Howard Street**.

#4 is the Warriors' arena on Piers 30/32.

#5 is Seawall lot 330 on the east side of The Embarcadero opposite Piers 30/32.

These attempts to change the form of San Francisco along the waterfront must be discussed.

At the Commission hearing I submitted an -

5

- overhead photo of the 3D model of downtown maintained by the architect of this project, Skidmore Owings and Merrill, 2012 Excellence in Structural Engineering Awards, Structural Engineers Assn of Northern California, showing the north east shoreline and section of San Francisco. That photo is part of my submission. It is also submitted here.

I am also separately submitting the following documents as part of my comments -

6

- The Assessor's map of block 3742 as of 1995 - available on the Planning website for 75 Howard
- The Assessor's map of block 3741 as of 1995 - available on the Planning website for 75 Howard
- The colored map of the Rincon Point - South Beach Redevelopment area currently available on the Redevelopment Agency website
- The map of the Transbay Redevelopment area currently available on the Redevelopment Agency website
- The eastern half of the map of San Francisco, Once and Future Waters - Nineteenth-Century Bodies of Water, Twenty-Second Century Shorelines, from the book "Infinite City: A San Francisco Atlas, 2011 copyright Regents of the University of California showing the historic shoreline of San Francisco in 1960 superimposed with "landfill subject to inundation in 2100 from 1.5 meter sea level rise."

Each exhibit shows at least some portion of the 75 Howard site and is part of my DEIR comments.

Sincerely,

Sue C. Hestor

The issue of housing has been improperly “scoped out” of the 75 Howard EIR

The issue of the environmental effects of population and housing has been scoped out of this EIR. **(App A Notice of Preparation, p. 39)** If those working in SF cannot afford to buy or rent housing in SF because the housing being constructed is unaffordable to them, construction of new SF housing will not meet the existing work force need. Instead, these workers will push out into areas outside of San Francisco looking for housing that is affordable and which meets their needs. *Explain how exporting demand for housing to OTHER AREAS undermines the ABAG goals of linking employment and housing and concentrating housing in already developed areas where impacts will be reduced.*

The housing to be built at 75 Howard is to a great extent “SF Bay view” housing aimed at extremely high income buyers, whether or not this will be their primary residence. **Include information, by income level, on whom developer sees as the market for these units.** *Primary residents with only one home? Or 2nd, 3rd etc apartments for persons owning multiple residences?*

Buildings are being developed in SF which are financed in part by those seeking to make an investment over \$500,000 to qualify for **EB-5** temporary residence status or other similar visas. *Are those potential buyers any part of developers’ expected market for these units?* To the extent units along the SF waterfront assume buyers with little or no unmet housing needs - because there is already substantial upper end housing available - the units do not serve the need for housing identified by the Mayors’ Office of Housing, the Planning Department, and ABAG. *Does the housing to be constructed meet SF and ABAG housing goals?* If there is no match between the housing being produced and identified SF housing DEMAND BY INCOME LEVEL, housing such as 75 Howard may simultaneously shrink the supply of SF land available **and** increase the demand for middle and lower income housing outside SF or out of the ABAG Priority Development Area. *If the income level goals are not met because cumulative development in SF is primarily aimed at those who can afford high end market rate housing, what will be the effect on attainment of ABAG goals or of the goals of the Transit Center Plan development?*

Since population and housing has been improperly scoped out of the DEIR , there is no discussion of the proliferation of extremely high end view housing and encouragement of regional sprawl by people who work in SF and can’t afford to live here. *Add that discussion in the EIR. Note that housing developed in the former Redevelopment Areas near the waterfront and Transit Center had a significant component of low and middle income housing. Compare that amount to recent housing proposals made to Planning Department in the areas close to (within 3 or 4 blocks of) The Embarcadero.*

The second “goal” for this development - increase the City’s supply of housing (2.4) - must be discussed in light of above. Describe the nature of the “residents” to be served by this project in the discussion on 5.1. If a substantial portion of the buyers of these units have other homes and only occasionally are in residence, how does the proposed project differ from the residential/hotel mixed use variant, which variant is rejected? Explain the housing affordability of THIS project and compare it to the needs identified for SF housing.

Reference to the Transit Center Plan

On 4.B.7 the DEIR implies that as a favor to the City the developer resisted submitting an application for increased height on this site so that that the TCDP could go forward. *Please supply documents that show this intentional delay and relevant discussion with the Department .*

The map of the project boundaries for the Transit Center District Plan should be included.

Please explain why the TCDP did not include increased heights for project site.

Failure to adequately describe Rincon Annex Post Office and development of Rincon Towers

The **Rincon Annex Post Office site** is located in the Rincon Point-South Beach Redevelopment Area. A map of that area can be accessed via - www.sfredevelopment.org/index.aspx?page=62. The colored map that includes this site has been provided.

To enable the reader to understand development and jurisdiction of this area, the boundaries of Rincon Point-South Beach Redevelopment Area must be shown in the EIR - plus a map that shows the Transbay Redevelopment area. The map of the Transbay Redevelopment Area is provided here and should also be included. It is on the redevelopment agency website at:

<http://www.sfredevelopment.org/ftp/uploadedimages/Projects/Boundary.jpg#Map>

A map showing these Redevelopment areas must be included to understand what entity approved the individual projects that surround this site and what Land Use standards were applied to each individual building to ensure that City policy on setbacks and stepping down to the waterfront were part of the decision on those building designs.

Provide information for each project developed within a two block radius of the 75 Howard Street site since 1971 adoption of the Urban Design Plan. Information should include whether the building was subject to environmental review with the file number and the location of the environmental documents. For each such project, the approving agency should be listed (mostly SF Redevelopment Agency or the Planning Department) with the file number and current location of the record of that approval.

Since the project has unmitigated Land Use impacts, sufficient information on how and whether nearby projects were evaluated against land use and setback standards must be adequately provided in the EIR.

Include information on the historical status of Rincon Annex which was listed on the National Register in 1979 and designated a City Landmark in 1980. Explain that the public area includes Anton Refregier WPA murals. That those murals and the main post off structure original post office were preserved as part of the development of housing along Howard across from the proposed project. The minimal discussion of Rincon Annex in the DEIR must be supplemented with a description of the circumstances leading to development of sculpted housing towers along Howard.

Was the EIR for development of the Rincon Annex site prepared by the Planning Department? Where are those environmental review files located? Where are the project review/approval files of the project on this former Federal site? What factors went into evaluation of this development, including the sculpting of the residential towers along Howard. Describe the trade-offs that were made to increase the height of the apartments along Howard in exchange for the preservation of the murals and the main post office building.

13
(cont'd)

Describe the City's conscious decision to allow the building of sculpted towers along Howard Street to fund preservation of the landmark main post office building PLUS the depression era murals. Did the Redevelopment Agency action state that construction of housing along Howard was related to preserving the main post office and its murals?

Include information on the shallow waterfront block diagonally across Howard and Spear which is the only remaining block of downtown SF adjacent to the former Embarcadero Freeway. That block is one lot deep from Howard to Mission. Discuss the unusual shape and height of the corner building at 177 Steuart/188 The Embarcadero which was shaped with to follow the path of the Embarcadero Freeway. Discuss the scale and show graphically the low-scale nature of the entire block with the modest tower of the former Seaman's YMCA.

14

History of this area

Explain location of the headquarters of the 1934 West Coast Waterfront Strike and the 1937 San Francisco General Strike and activity in the block diagonally across the Howard and Spear intersection at 138 Spear/ 110 The Embarcadero. It evolved into the ILWU. The Rincon Annex Post Office building was constructed directly across from that building.

15

This scale and this history must be described in the EIR because of the dramatic changes in Land Use and scale proposed for this project and Land Use Impacts which must be found to be significant.

Paramount does not own most of this site but their lack of ownership is obscured in the DEIR.

16

Although the project evaluated includes 4 parcels - AB 3741/Lot 31 (existing Parking garage), AB 3741 Lot 35 (Gap site), AB 3742/Lot 12 (City site), Steuart Street (City site), the existing site plan on page 2.3 and its associated text fails to CLEARLY explain these sites. Only the garage parcel is owned by developer the Paramount Group. The site description at 2.1 obscures the control of this site and must be revised. Amend the text and maps (including the Existing Site Plan at 2.2 to make the ownership of this site much clearer and that the majority of this site is in public ownership.

*The triangular parcel at the southeast corner of the site (**AB 3741 Lot 35**) is not stated to be such , but appears to be a small part of The **Gap headquarters** at 2 Folsom. Explain the current and proposed ownership of the Gap parcel at AB 3742/Lot 35. The defining feature of this triangular site is a **very tall billboard** for The Gap on what appears to be the side of the garage. The existence of the billboard must be included in the description of the site. Is demolition of the billboard part of the project? Will it be replaced or accommodated elsewhere in the project? Explain any 75 Howard building design*

adjustments related to the Gap ownership of this site. Explain the ownership and boundaries of this site. Will development of this project result in the reassessment of The Gap headquarters? Is The Gap to be paid for transfer of the triangular part of this lot? Is development of the small triangular of the site done in such a way that it will not trigger reassessment?

16
(cont'd)

*Clearly state that the remainder of this site - a majority of the project site analyzed in this EIR is **owned by the public**. Steuart STREET and the parcel across Steuart (**AB 3742 Lot 12**) are NOT owned by the Paramount. They are public sites created by the demolition of the Embarcadero Freeway. This **Open Space Improvement Site** totals **29,883 sq ft.** and is described for the first time on page 2.10. Describe that aspect of the public ownership and size of project at the beginning of the text and summary. The text and graphics of the EIR obscure the fact that the majority of the **Open Space Improvement Site** is owned by the public (29,883 sq ft contrasted to 20,931 sq ft for the proposed housing development site). Clarify this size and ownership **PLAINLY** in the EIR.*

How did the developer acquire rights to the “open space improvement site” or its components? If they have not been already acquired, what steps does Paramount propose to acquire control of these sites? What agencies, what commissions have to approve that acquisition?

The Steuart Street site functions as a park and driveway at the entrance for the 75 Howard building. It currently provides access to parking for 201 Spear and for 2 Folsom. Please explain clearly in the Project Description whether that access will be altered. How will it be provided? What is the estimated increase in value to the 75 Howard building from this park entrance? What increase in value to 75 Howard from the orientation to a park and changes described to the Steuart Street site?

*The term “**open space improvement site**” is used in a confusing manner. The reader could reasonably think that a significant portion of this site was dedicated to OPEN SPACE. Other places in the DEIR use the term “4,780 sq ft of open space” - under 16% of the site. 4.H.12, 4.J.11, 4.J.10. The terminology used to describe the project site is **CONFUSING** and must be changed. Public open space appears to change from a majority of the combined 4 parcel site to 9% for public open space.*

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*The **Steuart Street right-of-way** appears to change from being included to not included and back again. Change the terminology in the EIR from “open space improvement site” to a term that is **NOT** so misleading or erroneous. Pages where this term is used include 2.31, 3.2, 4.B.5, 4.C.22., 4.E.1, 4.E.27, 4.F.30, 4.G.19, 4.G.20, 4.H.1, 4.J.2, 4.J.3, 4.J. 11, 4.J.3 (open space functions as extension of Gap open space), 4.J.10.*

18

The above request for information about the history of development, shaping and setbacks of projects along The Embarcadero specifically includes The Gap building. Explain the shaping, setbacks by distance and height, of that building. Were they conditions on this development? What is the relation of this development to the Embarcadero Freeway? What is the relation of the open space to development of the Gap building?

19

Who is Paramount and how are they financed?

The Project Sponsor is PPF Paramount Group 75 Howard LLP. (7.2) That developer has not had a presence in SF. *What other downtown properties have they developed? What properties have been acquired but not developed?*

News articles emphasize the foreign investment that funds Paramount projects. *How does developer anticipate financing this project? Will the developer attempt to use the EB-5 program to get financing or investment in the project?*

To the extent that foreign owners buy these units it has been reported that areas with a concentration of “prestige” view residences remain unoccupied for much of the year. This has been evident in cities such as Manhattan and London where entire areas and complexes remain vacant for large stretches of the year because of that ownership. *Explain the income tax implications of a foreign national being located in the United States (not just San Francisco) over 183 days a year which result in a large portion of vacant units.*

Units which are not occupied by persons using this as their primary residence and live there most of the “52 weeks” a year, make a decreased demand for services and hinder development of a residential neighborhood. With the proposed dramatic increase in building height these units have been designed to increase the amount of unobstructed view housing, many with views of San Francisco Bay. *What steps does Paramount intend to take to avoid sale to owners will use these units only intermittently or as a pied a terre?*

Claim and graphic that Other buildings are taller

The map of existing building heights at 4.B.8 is TOTALLY misleading and must be amended. The map and DEIR text appears to claim that ENTIRETY of site has been developed to highest point allowed anywhere on that site. This contradicts the information presented on the Skidmore Owings Merrill model showing various building heights and setbacks ON A INDIVIDUAL BUILDING. I provided a photo of that map at the Commission hearing and again as part of these comments.

Please provide an amended map that correctly shows the various heights imposed AND CONSTRUCTED when the project came thru Agency or Planning for development. The approving entities applied the Urban Design Plan and policies for stepping down building heights to the waterfront. The Map at 4.B.8 is misleading and must be replaced.

In addition to the Rincon Annex Post office site, 75 Howard is surrounded by other buildings and sites in the Rincon Point-South Beach Redevelopment Area. The description and graphics of these heights must be amended in the EIR.

Describe that the Infinity towers are two blocks AWAY from the waterfront. Also describe development of Hills Plaza at Folsom and The Embarcadero which has sculpted heights and setbacks on the new construction added to the rehabbed factory.

Other maps are needed to describe this area

23

The EIR must provide graphics which show the route, site and height of the Embarcadero Freeway which was the dominant factor in development of this area. That freeway was in place during development of the Urban Design Plan and Downtown Plan. Among things which should be shown: Construction of the Embarcadero Freeway + its later demolition after Loma Prieta + the transfer of the Port to San Francisco + the federal post office (Rincon Annex) + a Muni yard which became site of the Hotel Vitale + construction of light rail along The Embarcadero + creation of various Redevelopment Areas along The Embarcadero and for the Transit Center. All of these government actions have resulted in a complicated map of current and historic jurisdiction in this area. The Planning Department is only one of the entities approving these projects

The EIR totally lacks maps showing all of these areas. I have separately provided maps of the various Redevelopment areas so that they may be included in the EIR. The 2 Assessor's 1995 Block maps show some of the shape of the parcels created by construction and later demolition of the freeway. A map which clearly shows the parcels created for the Embarcadero Freeway AND a discussion of how its creation and demolition affected design of projects in this immediate area is needed to understand the Land Use context for 75 Howard Street. It must be provided.

To understand development of this area the EIR must discuss how the shape and height of the Embarcadero Freeway affected development of the existing garage and the rest of blocks 3742 and 3741 (map included).

The public open spaces along the waterfront which are to be protected from shadow include Herb Caen Way along The Embarcadero. Figure 4.H.1 does not show the sidewalk areas so protected. Draw in that area on maps of the open space.

24

SUE C. HESTOR

Attorney at Law

870 Market Street, Suite 1128 · San Francisco, CA 94102
(415) 362-2778 · FAX (415) 362-8048

RECEIVED

SEP 23 2013

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M E A

September 23, 2013

Don Lewis
Environmental Review
San Francisco Planning Department
1650 Mission Street 4th floor
San Francisco CA 94103**2011.1122E - 75 Howard Street Draft EIR****Documents submitted by Sue Hestor as part of DEIR comments**

At the Commission hearing I submitted an

- overhead photo of the model of downtown maintained by the architect of this project, Skidmore Owings and Merrill, 2012 Excellence in Structural Engineering Awards, Structural Engineers Assn of Northern California, showing the northeast shoreline and section of San Francisco. That photo is part of my submission. It is also submitted here.

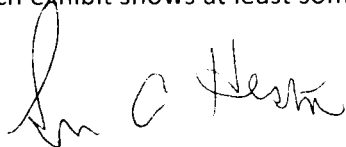
1

I am hereby separately submitting the following documents -

- The Assessor's map of block 3742 as of 1995 - available on the Planning website for 75 Howard
- The Assessor's map of block 37421as of 1995 - available on the Planning website for 75 Howard
- The colored map of the Rincon Point - South Beach Redevelopment area currently available on the Redevelopment Agency website
- The map of the Transbay Redevelopment area currently available on the Redevelopment Agency website
- The eastern half of the map of **San Francisco, Once and Future Waters - Nineteenth-Century Bodies of Water, Twenty-Second Century Shorelines**, from the book "Infinite City: A San Francisco Atlas, 2011 copyright Regents of the University of California showing the historic shoreline of San Francisco in 1960 superimposed with "landfill subject to inundation in 2100 from 1.5 meter sea level rise."

2

Each exhibit shows at least some portion of the 75 Howard site and are part of my DEIR comments.



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CITY & COUNTY ASSESSOR 1995

3741

100 VARA BLK.322

LOTS MERGED

Lot 13,14,15 merged into Lot 12 "1943"

20	"	"	19	"
2,3,4,5,6	"	"	1	"
6A	"	"	7	"1938"
24	"	"	32	"1984"
30	"	"	32	"

REVISED '57

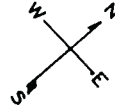
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REVISED '60

REVISED '70

REVISED '82

" '84

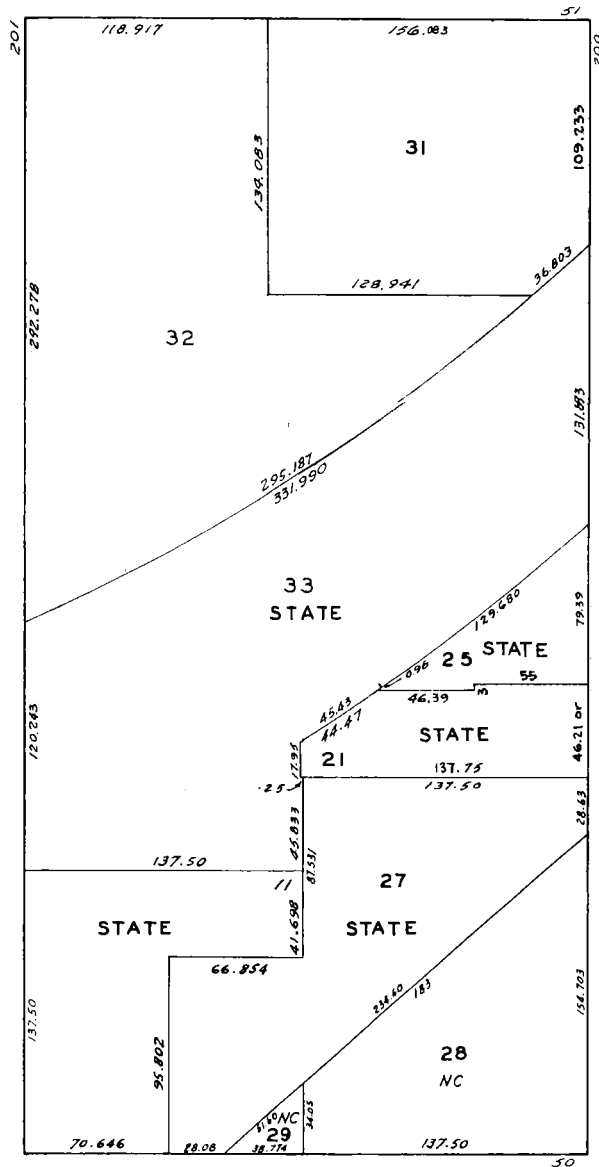


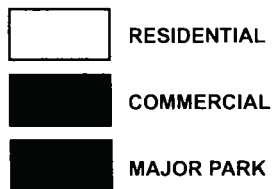
HOWARD

SPEAR

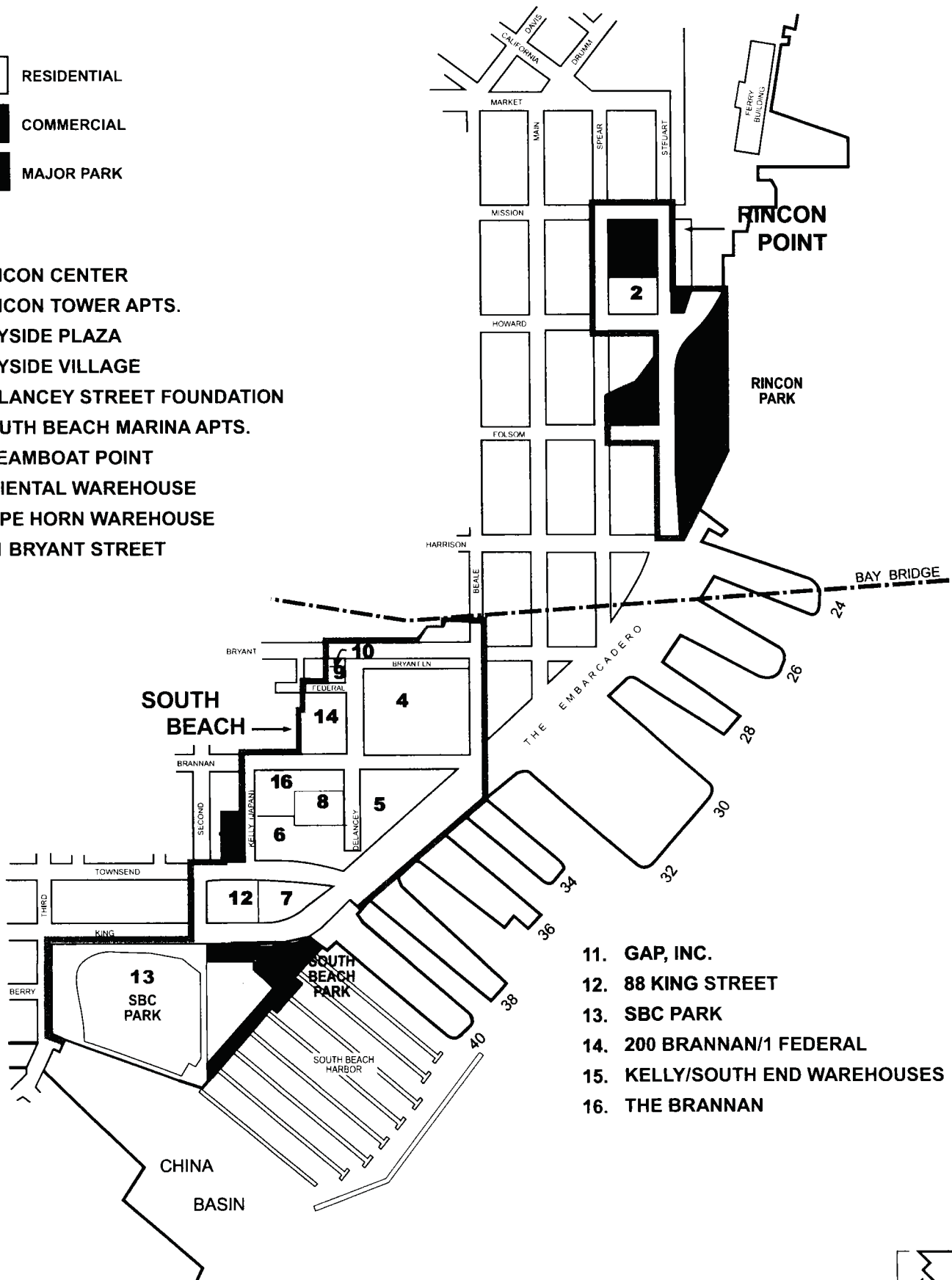
STEUART

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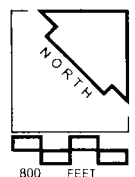


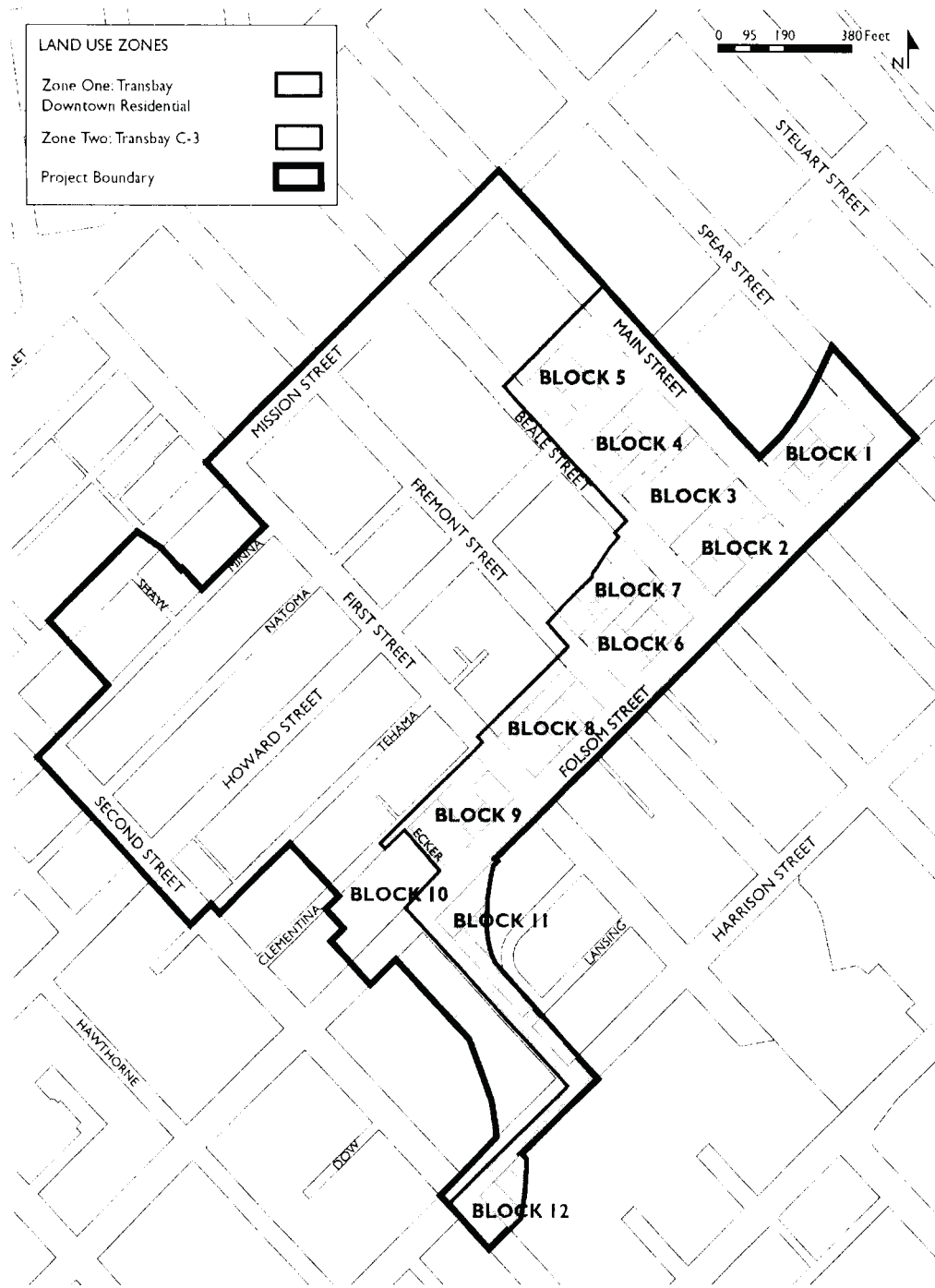


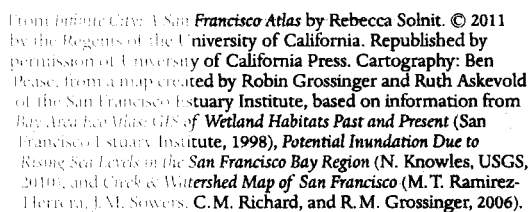
1. RINCON CENTER
2. RINCON TOWER APTS.
3. BAYSIDE PLAZA
4. BAYSIDE VILLAGE
5. DELANCEY STREET FOUNDATION
6. SOUTH BEACH MARINA APTS.
7. STEAMBOAT POINT
8. ORIENTAL WAREHOUSE
9. CAPE HORN WAREHOUSE
10. 301 BRYANT STREET



11. GAP, INC.
12. 88 KING STREET
13. SBC PARK
14. 200 BRANNAN/1 FEDERAL
15. KELLY/SOUTH END WAREHOUSES
16. THE BRANNAN







2012 Excellence in STRUCTURAL ENGINEERING Awards



Owens Merrill LLP



STRUCTURAL ENGINEERS ASSOCIATION OF NORTHERN CALIFORNIA

Lewis, Don (CPC)

From: Thomas Joseph <thomas@chezjoseph.com>
Sent: Saturday, September 14, 2013 6:12 PM
To: Jones, Sarah; Lewis, Don (CPC)
Cc: Thomas Joseph
Subject: 2011.1122E - Public comment on Draft EIR for 75 Howard Street Project

Dear Sir/Madam,

I am writing to submit a public comment on the Draft EIR for the 75 Howard Street Project (Case no. 2011.1122E), and in particular to express my opposition to a structure that is proposed to be 348 feet tall, in violation of the current 200 foot limit set in the Transit Center District Plan.

Permitting a 348 foot tall structure would violate basic principles of the Transit Center District Plan, including but not limited to the following:

* Objective 2.2: Create an elegant downtown skyline, building on existing policy to craft a distinct downtown "hill" form, with its apex at the Transit Center, and tapering in all directions.

* Policy 2.3: Create a balanced skyline by permitting a limited number of all buildings to rise above the dense cluster that forms the downtown core, stepping down from the Transit Tower in significant height increments.

* Policy 2.4: Transition heights downward from Mission Street to Folsom Street and maintain a lower "saddle" to clearly distinguish the downtown form from the Rincon Hill form and to maintain views between the city's central hills and the Bay Bridge.

* Policy 2.5: Transition heights down to adjacent areas, with particularly attention on the transitions to the southwest and west in the low scale of South of Market areas and to the waterfront to the east.

Approval of the project as proposed would break the trust of citizens like me who have made a personal and a financial commitment to this San Francisco neighborhood because of our belief in the goals and values of the Transit Center District Plan. It would be a breach of faith to diminish our quality of life and the value of our financial investments by approving a project that violates a published plan.

Not surprisingly, the Draft EIR has identified several significant aesthetic and environmental impacts with the proposal, and has identified the Code Compliant Alternative as environmentally superior. I concur with this and strongly recommend rejection of the current proposal and approval of the Code Compliant Alternative.

Regards,

-Thomas Joseph

Lewis, Don (CPC)

From: Jones, Sarah
Sent: Wednesday, September 11, 2013 8:02 AM
To: Lewis, Don (CPC)
Subject: FW: Objection to 75 Howard project

Sarah Bernstein Jones
Environmental Review Officer
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
Web: www.sfplanning.org

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

From: Richard Kuo [<mailto:rkuo@rkuo.com>]
Sent: Tuesday, September 10, 2013 7:58 PM
To: Jones, Sarah
Subject: Objection to 75 Howard project

Hi,

I am just writing a quick note to note my objection to the 75 Howard project. The proposed plans greatly exceed the recommended height limits in place and have no significant taper.

1

Our waterfront is a precious resource and buildings placed next to the waterfront must respect the access to the views. Proper tapering and height limits provide access and views to the rest of the city instead of limiting it to just one building. Being considerate in this fashion also makes it much more viable to continue redevelopment efforts into the future.

2

Thank you,

Richard Kuo
338 Spear St, Unit 7D
San Francisco, CA 94105

Sent from my iPad

Lewis, Don (CPC)

From: CHRISTOPHER PEDERSON <chpederson@yahoo.com>
Sent: Saturday, August 24, 2013 6:03 PM
To: Jones, Sarah; Lewis, Don (CPC)
Cc: CHRISTOPHER PEDERSON
Subject: Comments on DEIR for 75 Howard St. project (case no. 2011.1122E)

Thank you for this opportunity to comment on the draft environmental impact report for the 75 Howard Street project.

State law (SB 375), regional plans (including Plan Bay Area recently adopted by MTC and ABAG), and the San Francisco General Plan all recognize the importance of encouraging high-density, transit-oriented development adjacent to major employment centers and public transit nodes. Indeed, when enacting SB 375, the Legislature found that California would be unable to achieve the greenhouse gas emission reduction goals of AB 32 without improved land use and transportation policy. Unfortunately, the DEIR slights the imperative importance of these requirements and instead treats subjective aesthetic concerns regarding the shape of the city's skyline and transitory shadows on a nearby urban promenade as being the most pressing environmental issues that this project raises.

The DEIR's statement that the environmentally preferred alternative would be to allow a squat, ugly, seven-story commuter parking garage to remain (pg. 6.50) illustrates how blind the DEIR is to the importance of encouraging high-density, transit-oriented development in downtown San Francisco. Because the DEIR must also characterize some alternative other than the no project alternative as the environmentally preferable alternative, the DEIR selects the lowest density alternative. This again demonstrates the EIR's failure to recognize the environmental benefits high-density, transit-oriented development in this location and the numerous state, regional, and local policies that are intended to encourage such development.

Pursuant to SB 375, MTC and ABAG recently adopted Plan Bay Area. That plan was required to identify strategies for reducing greenhouse gas emissions associated with transportation and land use patterns. A crucial component of the plan was to identify priority development areas that are well-served by public transit and/or adjacent to major employment centers. Downtown San Francisco, of course, plays a vital role in that strategy. Between the years 2010 and 2040, the number of jobs in San Francisco is projected to grow by 34%, the number of housing units is projected to grow by 25%, and population is projected to grow by 35%. Unless San Francisco approves a large amount of high-density development in downtown, Plan Bay Area will not achieve its targets for reducing greenhouse gas emissions. Unfortunately, the DEIR says not one word about the significant adverse environmental consequences of tunnel-vision CEQA analysis that places primary importance on purely local, comparatively trivial impacts and seeks to reduce those impacts by reducing density, thereby reducing the significant regional and global benefits that high-density, transit-oriented development provides.

In order to serve its primary purpose of informing decisionmakers and the public about the full range of environmental impacts associated with future development at 75 Howard Street, the DEIR should be revised to address the following issues:

1) The EIR should identify and discuss state laws, regional plans, and local policies (including the City Charter Transit First Policy, general plan transit first policies, the Downtown Plan, the Transit Center District Plan, and the Planning Code) that require or encourage high-density, transit-oriented development. It should especially include discussion of policies intended to reduce automobile use downtown, including by reducing the supply of commuter parking, by abolishing minimum parking requirements, and by establishing a low ratio (0.25:1) for residential parking that is permitted by right.

- 2) When evaluating lower-density alternatives, the EIR should address the adverse regional and cumulative environmental effects of reducing the density of development in a place such as downtown San Francisco that is a major employment center and is very well-served by multiple public transit services. 3
- 3) The EIR should evaluate a new project alternative that has the same height and the same number of residential units as the proposed project, but that includes the code-compliant ratio of 0.25 parking spaces per residential unit. Such an alternative would allow decisionmakers to evaluate the feasibility and impacts associated with an alternative that is truly consistent with the City's transit first policies. Moreover, the lack of analysis of such an alternative might arguably limit the authority of City decisionmakers to exercise their discretion to deny the exception that is required for any residential parking that exceeds the 0.25:1 parking ratio. 4
- 4) The "Code Compliant" alternative should be genuinely code compliant. The alternative discussed in the DEIR would require a discretionary exception from the 0.25:1 ratio for residential parking that is permitted by right. The EIR should consider an alternative that does not require discretionary exceptions from the Planning Code's parking limitations. Failure to evaluate such an alternative would mean that decisionmakers and the public are deprived of an analysis of a genuinely code compliant alternative that is consistent with transit first policies (or at least is as consistent as possible given the reduced density of a code compliant alternative). 5
- 5) When analyzing the variants of the proposed project that include public parking, the EIR should evaluate whether that additional parking is consistent with the City's transit first policies and the policy of the Downtown Plan to reduce the supply of commuter parking. (E.g., Downtown Plan policies 18.3, 18.4, Transit Center District Plan policies 4.51, 4.57.) The Planning Code does prohibit new parking garages from providing monthly, weekly, or daily rates that encourage all-day commuter parking, but the Transit Center District Plan frankly acknowledges that that requirement is violated with impunity and is effectively unenforceable. The EIR should include analysis of this requirement and whether any mitigation measures are available that would result in effective enforcement. In addition, in order to ensure that the public parking isn't simply a way to circumvent the Planning Code's limitations on residential parking, the project should not be allowed to provide any preferential treatment or prices to residents of the project who wish to use the public parking. 6
- 6) The quantitative traffic modeling astonishingly predicts that the proposed residential version of the project will have the same traffic impacts as the residential variant that includes extra public parking. The text of the DEIR acknowledges that this is probably incorrect because the availability of parking affects transportation choices (4.E.39). The EIR should therefore prominently disclose wherever it summarizes or analyzes predictions about future traffic behavior that the results of the traffic modeling are unreliable. (Of course, even if the modeling could factor in how parking supply affects transportation decisions, any predictions about traffic conditions 20 years in the future are entirely speculative. Unfortunately, in the alternative universe that is CEQA analysis, we must all pretend that this particular kind of numerology sheds some meaningful light on the future environmental impacts of the project.) 7
- 7) The DEIR states that the proposed project is inconsistent with language in the Downtown Plan suggesting that development near the waterfront should taper down from taller structures located further from the waterfront. The City has already approved buildings adjacent to the under-construction Transbay Terminal that are significantly taller than the proposed project. The EIR should acknowledge that the proposed project would taper down from these other already-approved towers. 8

Thank you for your consideration of my comments.

Sincerely,

Christopher Pederson

Lewis, Don (CPC)

From: Jones, Sarah
Sent: Wednesday, September 11, 2013 3:28 PM
To: Lewis, Don (CPC)
Subject: FW: comment on 75 Howard St project

Sarah Bernstein Jones
Environmental Review Officer
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
Web: www.sfplanning.org

From: Dee Seligman [<mailto:deesel91@gmail.com>]
Sent: Wednesday, September 11, 2013 1:01 PM
To: Jones, Sarah
Subject: comment on 75 Howard St project

I am opposed to this project because it exceeds the height limit for such a building. These limits were designed with the aesthetic considerations and shadow limitations for the whole city. They should be followed. 1

--
Dee Seligman Ph.D.
H: 415-668-6308

Sarah B. Jones, Environmental Review Officer
Re: 75 Howard Street Project Draft EIR
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

September 10, 2013

Jamie Whitaker
201 Harrison Street, Unit 229
San Francisco, CA 94105

Subject: Planning Department Case No. 2011.1122E, 75 Howard Street Project

Dear Ms. Jones,

Please send me a copy of the Final EIR for Planning Department Case No. 2011.1122E, 75 Howard Street Project on CD-ROM.

First, I fully support the demolition of the 550 space public parking garage because it would help to reduce the traffic congestion and air pollution that contributes to the premature deaths of residents in my SoMa neighborhood. Elimination of the 550 space parking garage would help a neighborhood which according to the California Office of Statewide Health Planning and Development had the highest pediatric asthma hospitalization rate at 26.7 while the City's average was 11.2 per 10,000 residents under 18 years of age for the years 2008-2010. This figure does not even include the 600+ children who spend every weekday in daycare centers near their parents' office buildings in the Rincon neighborhood.

1

Second, there should absolutely not be a public parking variant option approved for this project (though a residential/hotel mixed use variant would possibly be appropriate and beneficial to the extent it adds activity to the area from hotel guests and hotel tax revenues for the City, it should not be allowed to have any public parking because of the negative community health impacts such parking cumulatively increases). The San Francisco County Transportation Authority (SFCTA) has already indicated that the South of Market downtown streets need a 20% reduction in vehicle traffic just to get from a status of "oversaturated" to "saturated" given the currently approved development projects in the area. Adding public parking back to this location is the equivalent of promoting the premature death and asthma of Rincon residents due to the negative health impacts identified by the World Health Organization, the California Air Resources Board, and the Bay Area Air Quality Management District of ozone, carbon monoxide, and particulate matter which gets even worse when the neighborhood experiences weekday evening or Giants game event traffic congestion leading to the Bay Bridge entrance ramps.

2

Third, the block 3742, lot 012 potential open space parcel owned by DPW should be slated to become an open space with playground equipment (swingset, slide, teeter-totter, etc. enclosed with a 4 foot tall fence) regardless of the fate of the 75 Howard Street Project because of its sunlight exposure, much better air quality compared to the planned park spaces below and beside freeway ramps, close proximity to five daycare centers cited on page 4.G.12 along with the Embarcadero YMCA which host about 600 kids every week day (which shockingly, by the way, are ignored by the Planning Department's Recreation and Open Space Element document's latest version), and Recreation and Parks data indicating that District 6 has only 0.17 acres per 1,000 residents while the City's average is 6.14 acres per 1,000 residents. All the talk about wanting to retain families in San Francisco seems quite hollow and disingenuous with no action taken to make this City-owned lot at block 3742, lot 012 a much-needed playground for a quickly growing residential area and the 600 kids in nearby daycare centers who deserve to be treated with much more equity and fairness than the City provides them today given the hundreds of millions of dollars South of Market creates in revenues for the City every single year.

3

I am submitting the following comments on the Case No. 2011.1122E DEIR as a resident of Rincon Hill who on a daily basis walks, bikes, drives, and/or rides transit by the project site of 75 Howard Street as I travel from and to my home at Main Street and Harrison Street.

Page S.18, Impact TR-4, Mitigation I-TR-F: The area has plenty of what my neighbor Toby refers to as stupid, useless plazas. Bicycle racks should absolutely not take away from the potential open space provided by block 3742, lot 012 (the "triangle lot" owned by DPW) because of the extreme deficit of open space in the area and wealth of concrete on the other Spear and Howard or Steuart and Howard corners on which bike racks can be installed if needed.

4

Page S.19, Impact TR-5, Mitigation I-TR-I: The 21.5 feet wide sidewalk should not take away from the potential open space provided by block 3742, lot 012 ("the triangle lot" owned by DPW) because of the extreme deficit of open space in the area with about 600 kids in nearby daycare centers and 300 (and growing) kids as Rincon residents who need a sunny, decent air quality playground on that triangle to help them develop as healthy, well-socialized kids. A 13.5 foot wide sidewalk is perfectly adequate for the area.

5

Page S.22, Impact C-TR-1, Mitigation M-C-TR-1: The City should convert Spear Street into a 2-way roadway to help locals travel north or south by bicycle (or car) and to help slow cars down when they make turns onto Spear Street from Market, Mission, Howard, Folsom, or Harrison Streets. Spear Street is far enough of from the Bay Bridge and Embarcadero to act as a neighborhood, calm street for pedestrians and bicyclists to get from homes along Harrison, Folsom, and Howard to the transit spine and commercial/office corridor of Market Street.

6

Page S.27, Impact AQ-2, Mitigation M-AQ-2: Diesel particulate matter spewing big rigs for the multiple construction projects in the Rincon neighborhood east of 2nd Street between Market Street and the Bay Bridge have been double parking and idling on residential blocks between Folsom and Harrison Streets. There should be a clear “off-limits” cordoned area around the primarily residential blocks southeast of Folsom Street within which the trucks should not stop for any reason other than being stuck in the typical traffic congestion. The area is already marked by San Francisco Health Code Article 38 as an air pollution hot spot, and most of the residences do not have any sort of ventilation or filtration to help keep particulate matter, ozone, and carbon monoxide from vehicles out of their homes.

7

Page S.33, Impact WS-1, No mitigation: *The proposed project or variants would create new shadow in a manner that substantially affects outdoor recreation facilities and other public areas.* There is a mitigation – tapering the building frequently up to the zoned height of 200 feet. The Rincon neighborhood’s high rises taper substantially more than the proposed design to help mitigate shadowing on Rincon Park. The DEIR fails to mention this as a mitigation tool and also it would also help the building fit into the character of existing buildings in Rincon.

8

Page S.41, Alternative A: No Project Alternative states that “Assessor’s Block 3742/Lot 012 would remain vacant and paved, and would continue to be owned by the City and County of San Francisco for construction staging and other temporary uses.” This statement is presumptuous and misleading because the community will advocate and pressure the politicians to make sure that this space becomes a playground given the public health needs of such a use in the space as opposed to it being an underutilized vacant and paved lot. The community raised over \$600,000 to pay for the construction of a playground at Sue Bierman Park which, if visited on a nice Saturday or Sunday afternoon, is fully utilized and then some by residents and visitors to the area, and the community could do so again if the City refuses to invest some of the \$6 million+ in Downtown Park Fund monies that will be deposited by office building developers in the immediate C-3 zone near block 3742, lot 012. It would be inexcusable to not activate this public space to help promote good health for kids in San Francisco’s Rincon neighborhood. This comment also applies to **page S.42, third paragraph** about the Code Compliant Alternative’s effect on block 3742, lot 012.

9

Page 2.4, Project Sponsor Objective bullet number four: *“generate sufficient revenue to finance the open space amenities proposed as part of the project.”* It should be noted that the community could work with the Department of Public Works under their Street Parks Program to maintain the open space which would likely include spray washing a couple times per year and maintaining rubber flooring of a playground space – likely \$5,000 or much less per year, in my opinion, for maintenance. Bathroom facilities for public use could be provided with the restaurant or café space in the building for open space users.

10

Page 4.E.8, Table 4.E.1: This table is inadequate because it fails to evaluate the current conditions of roadways with the new Bay Bridge eastern span now opened and operational. While Thursday evenings were the worst in regards to traffic congestion from east bay commuters leaving work on weekday evenings in their cars towards the Bay Bridge, the new eastern span seems to have created similarly awful and deadly to residents/pedestrians traffic conditions all seven days of the week since opening on September 2, 2013. Traffic analysis needs to be updated to reflect this new major roadway and chokepoint (I-80).

11

Page 4.E.8, Transit Network: The statement that *"The project site is well served by public transit with both local and regional service provided in the vicinity"* is absolutely false in regards to the local transit component. On December 5, 2009, the SFMTA removed the segments of the 12-Folsom bus line from running east of 2nd Street to the waterfront, thereby cutting out grocery store and casual dining destination travel via transit for over 6,000 current and 20,000 future Rincon neighborhood residents and tens of thousands more workers/visitors. The bus lines that run through the neighborhood do not provide needed southwest to northeast local service, and as such, residents tend to drive much more than what a "Transit Oriented Development" neighborhood is supposed to encourage because the short-sighted SFMTA cut our local bus service off. The Transit Effectiveness Project continues to treat the Rincon neighborhood with discrimination and encourages private auto use along with the negative externalities such use creates that negatively impacts community health. It should also be noted that the T-Third Muni Metro rail will no longer serve the area once the Central Subway project is up and running. It should also be noted that on Giants game days and during commute hours, the Muni Metro N Judah and T-Third is so overly saturated with users that there is often no room for residents in SoMa to safely board and safely ride the trains. Also, the Temporary Transbay Terminal should be closed up in 2017 when the permanent Transbay Transit Center commences operations and buses move to 1st and Mission. It is absolutely false to say that the area is well served by local public transit when the likely destinations are considered – folks who live in Rincon don't want to go to Treasure Island, the Richmond, Western Addition, or other points in the Avenues when they need to reach neighborhood serving businesses that exist in western SoMa.

12

Page 4.E.15, Muni Transit Effectiveness Project Service Changes, fourth bullet point: *"No route or frequency changes are proposed for the ... T Third Metro lines."* I believe this statement is false in regards to the T-Third Metro once the Central Subway begins operations and the T-Third will be routed up 4th Street instead of the current route along The Embarcadero after exiting Mission Bay.

13

Page 4.E.23, Emergency Vehicle Access: *"No specific transportation-related issues such as traffic congestion ... have been observed that affect emergency vehicle access to the project site."* This statement does not seem accurate because San Francisco is well-publicized to be the third most congested city in the United States, and the Bay Bridge is the epicenter of the congestion ... affecting Howard Street among other

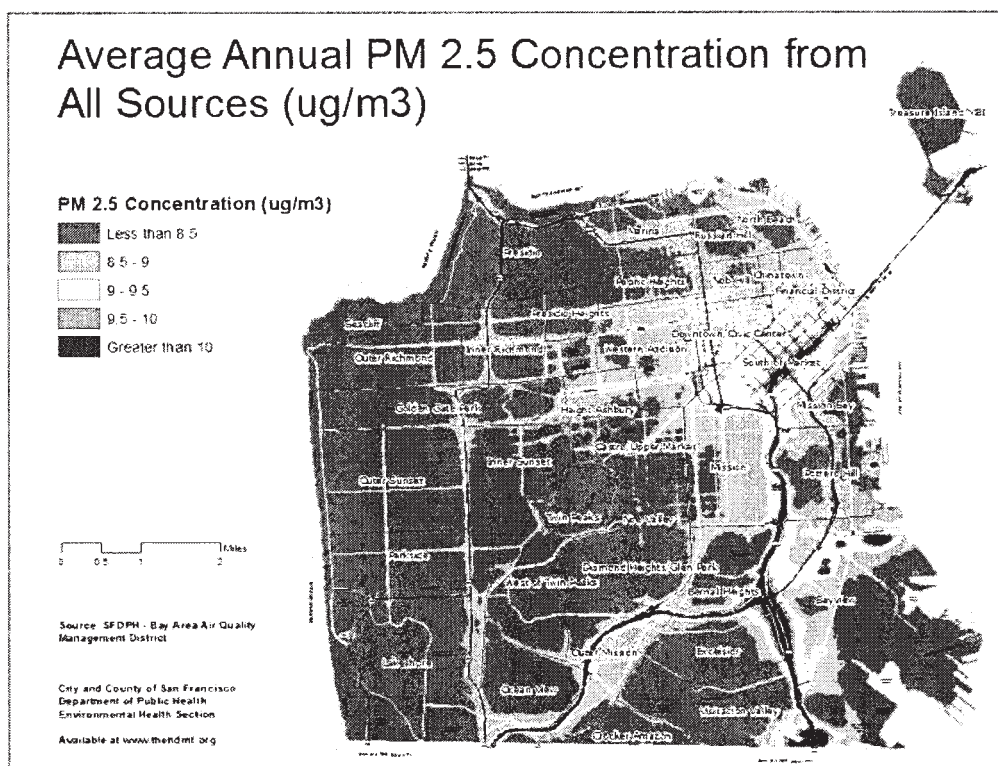
14

roadways in the area. Emergency vehicles often take the hazardous route of driving along the MUNI Metro rail tracks, endangering unsuspecting pedestrians, bicyclists, and drivers, because The Embarcadero is so oversaturated with traffic – especially on weekends and whenever cruise ships are unloading or loading further up the waterfront. I've witnessed fire trucks and ambulances stuck in traffic along Mission, The Embarcadero, and 2nd Street ...delaying arrival to help residents, which may increase chances of death or permanent disabilities.

14
(cont'd)

Page 4.G.3, Table 4.G.1: This table does not seem to be localized to consider the conditions in South of Market. The epidemiologists employed by the San Francisco Department of Public Health have prepared a map (inserted below) that can be found at http://www.sustainablecommunitiesindex.org/city_indicators/view/14 which indicates SoMa's % Particulate Matter 2.5 is 6.10% compared to 1.20% citywide and SoMa's % cancer risk is 27.80% compared to 3.30% citywide.

15



The number of pediatric asthma-related hospital visits per 1,000 persons under age 18 should also be noted for the area because the number is significantly higher than for other parts of San Francisco. The hospitalization rate for zip code 94105 is 26.7 pediatric asthma related hospital visits per 1,000 minors versus 11.2 visits citywide. Please see the related table cut out from the Harvey Rose Socioeconomic Equity report presented to the San Francisco Board of Supervisors Budget Committee on June 5, 2013:

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**Figure 68: Age-Adjusted Hospitalization Rate due to Pediatric Asthma
By Zip Code and Neighborhood, 2008-2010**

Zip Code(s)	Neighborhood(s)	Hospitalization Rate
94102	Tenderloin/Western Addition	10.5
94103 and 94104	South of Market & Financial District	15.0
94107, 94111, 94130, and 94105	Potrero Hill, Telegraph Hill/Waterfront, Treasure Island, and Rincon Hill	26.7
94109	Russian Hill/Polk Gulch	7.5
94110	Inner Mission	9.6
94112	Ingleside/Excelsior	12.1
94114	Castro/Eureka Valley	16.0
94115	Western Addition	13.5
94116	Parkside	12.2
94117	Haight Ashbury/Western Addition	11.5
94118 and 94129	Inner Richmond & Presidio	5.6
94121	Outer Richmond	7.8
94122	Sunset	9.5
94124	Bayview/Hunter's Point	19.0
94131	Twin Peaks/Glen Park	15.3
94132	Lake Merced	12.5
94134	Visitacion Valley/Portola	15.8
San Francisco		11.2

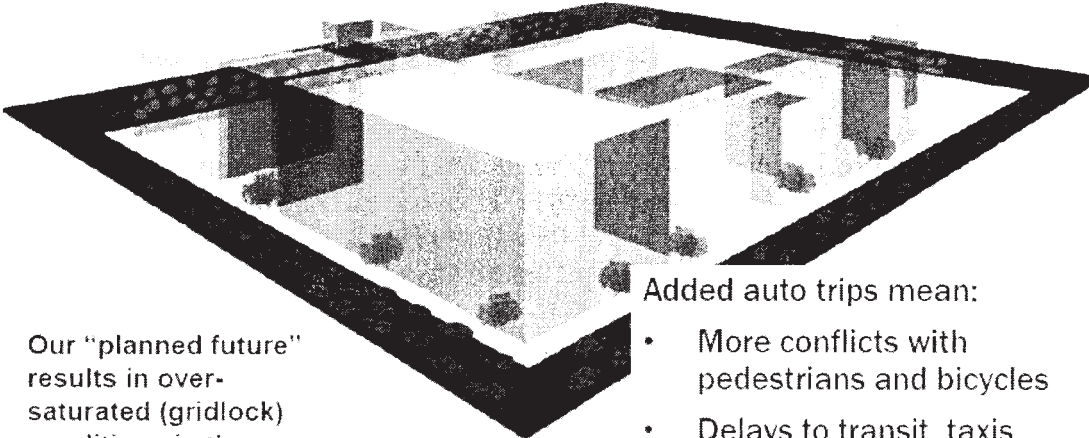
Source: Health Matters in San Francisco, reported from the California Office of Statewide Health Planning and Development

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(cont'd)

Of course traffic congestion adds to the ozone, carbon monoxide, and particulate matter in the air that residents breathe, and all of the development being built or approved for downtown San Francisco will create total gridlock and more pollution if the City does not implement congestion pricing and other mitigations to try to avoid killing residents with poisons in the air created by past and future planning decisions that did not consider the impacts on community health available by partnering with the Department of Public Health's Environmental Health and Sustainability epidemiologists.

17


Forecast "core" auto trips create gridlock



Our "planned future" results in over-saturated (gridlock) conditions in the core network.

Added auto trips mean:

- More conflicts with pedestrians and bicycles
- Delays to transit, taxis, and commercial deliveries

 www.sfta.org/MoveSmartSF | twitter.com/SanFranciscoTA | www.facebook.com/MoveSmartSF 9

17
(cont'd)

Page 4.H.15, fifth paragraph: *"Excluding the pedestrian promenade along its eastern perimeter, Rincon Park is used primarily for passive recreation such as sitting and lying down."* I would add that Rincon Park is also primarily used for exercise with personal trainers teaching groups or with individuals doing their own exercises. It is a popular location for wedding photography along the waterfront with Cupid's Span serving as a background or the Bay Bridge and Bay waters. It is also a common spot for dogs to play or kids to learn how to bicycle. Kids from the Embarcadero YMCA and the daycare centers will get brought to Rincon Park chain gang style and will draw on the sidewalks with chalk too.

18

Page 5.3, fifth paragraph: *"The proposed project would provide for high-density residential growth (up to approximately 186 units per acre) supported by existing community facilities, public services, transit service and infrastructure, and public utilities."* I would laugh if I weren't so agitated at the perception that existing community facilities, public services, transit service, and infrastructure in South of Market would be adequate for thousands of new residents in the Rincon neighborhood. With only 0.17 acres per 1,000 residents and no playground planned that does not sit under or near a freeway (think air pollution, asthma) ramp, it is nuts to think 5,000 new dwelling units can be added without new playgrounds/parks for kids that everybody should know will appear as the next natural lifecycle event following the purchase/rental of a home. With the "transit-

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oriented development" label on the Rincon neighborhood, it is stupefying that the SFMTA eliminated 12-Folsom bus service and has no plans for any local bus service in the TEP for the area – which will train the new residents to drive their private autos and create more car congestion and related air pollution which harms our

21
(cont'd)

health. There are not San Francisco Police patrolling the Rincon neighborhood – buildings have had to hire Patrol Special Police to have any sort of public safety monitoring at all in the neighborhood. The roads are extremely dangerous for

22

pedestrians. The one bright side of all the new residents is that it makes us a growing constituency to push and shove to get the new services and infrastructure we more than pay for with our tax contributions every year to the City. Just the Rincon Hill existing residences between Folsom and Bryant contributed about \$17 million just to the City's General Fund in 2011-12 based on the assessed values of properties available from the Assessor at DataSF.org and knowledge that the General Fund gets about 57% of the Prop 13 base 1% property tax revenue.

23

24

Thank you for reading my unfiltered, blunt comments on the project's Draft EIR for 75 Howard Street.

Sincerely,

Jamie Whitaker