File No. 110452

Committee Item No. _____
Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____ Date _____

Board of Supervisors Meeting Date May 10, 2011

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

OTHER (Use back side if additional space is needed)

☐	☐	Appeal of Final Environmental Impact Report – 2004 and 2009 Housing Elements
☐	☐	Planning Department's Comments and Responses, Draft EIR, and Appeal Response (Attachments A-H)
☐	☐	Appellant's Supplemental Letter (Exhibits A-P)

Completed by: Joy Lamug Date May 5, 2011

Completed by: _____ Date _____

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

KATHRYN R. DEVINCENZI
ATTORNEY AT LAW
22 IRIS AVENUE
SAN FRANCISCO, CALIFORNIA 94118-2727
Telephone: (415) 221-4700
Facsimile: (415) 346-3225

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2011 APR 12 PM 4:12
BY

BY HAND DELIVERY

April 12, 2011

Ms. Angela Calvillo
Clerk of the Board of Supervisors
City of San Francisco
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102

Re: Appeal of Certification of Final Environmental Impact Report for the 2004 and 2009 Housing Elements and Related CEQA Findings, Environmental Findings and Statement of Overriding Considerations

Planning Department Case Nos. 2007.1275E and 2007.1275EM

On behalf of Pacific Heights Residents Association, Cow Hollow Association, Francisco Heights Civic Association, Greater West Portal Neighborhood Association, Jordan Park Improvement Association, Lakeshore Acres Improvement Club, Laurel Heights Improvement Association of San Francisco, Inc., Marina-Cow Hollow Neighbors & Merchants, Miraloma Park Improvement Club, Presidio Heights Association of Neighbors, St. Francis Homes Association, Sunset-Parkside Education and Action Committee, Inc., and Westwood Highlands Association (herein collectively referred to as Appellants), I hereby appeal to the San Francisco Board of Supervisors the San Francisco Planning Commission's March 24, 2011 certification of the Final Environmental Impact Report (EIR) for the 2004 and 2009 Housing Elements and adoption of related CEQA findings described above. (See Exhibit A, March 24, 2011 Planning Commission motions adopting findings related to the certification of the Final EIR for the 2004 and 2009 Housing Elements and adopting environmental findings and a statement of overriding considerations under the California Environmental Quality Act, Public Resources Code sections 21,000 *et seq.*(CEQA) and related project approval recommendation.)

Appellants are members of San Franciscans for Livable Neighborhoods (SFLN), an unincorporated association. On behalf of Appellants, SFLN presented written objections and statements opposing the Planning Commission's certification of the EIR, failure to comply with the requirements of CEQA and adoption of CEQA findings. This appeal incorporates by reference all of the Appellants' previous written and oral statements submitted in opposition to certification of the EIR and the related matters described above. Those written statements are attached and discussed herein. Appellants will further document the bases for this appeal in testimony at the appeal hearing before the Board of Supervisors and may submit supplemental

written statements to the Board.

The bases for this appeal are the Planning Commission's failure to certify an EIR which complies with the requirements of CEQA and the mandates of the Peremptory Writ of Mandate issued in the pending litigation known as *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, San Francisco Superior Court Action number CPF04 504-780. (See Exhibit C hereto, Court of Appeal decision; Ex. D, Peremptory Writ of Mandate and Amendment to Peremptory Writ of Mandate)

Some of the principal bases for this appeal, as discussed further herein and in SFLN's prior submissions, are the following:

- Substantial changes made to the 2009 Housing Element after the EIR was circulated for public comment increased the severity of the project's significant adverse impact on transit services by changing the definition of "major transit lines," where infill housing would be encouraged, to include major bus lines running throughout the City.

- Substantial changes made to the 2009 Housing Element after the EIR was circulated for public comment presented a new significant adverse effect by eliminating the policy basis which maintained density limits designed to protect neighborhood character in RH-1 and RH-2 districts.

- Substantial changes made to the 2009 Housing Element after the EIR was circulated for public comment which eliminated the requirement that "changes to the Planning Code to further accommodate housing near transit will only occur through a neighborhood-supported community planning process" make it likely that the efforts of residents to maintain neighborhood character will be subordinated to the City's growth objectives.

- Significant new information disclosed in a March 14, 2011 SFPUC memorandum show that the City has a newly projected shortfall of available water supply of 7.4 million gallons of water per day and that new water treatment facilities could be needed to address the shortage, which are significant adverse effects not analyzed in the EIR. The projected shortfall results from a new requirement that water be released into two streams to maintain fish habitat, but the EIR did not discuss this possible diversion of water and concluded that sufficient water supplies would be available for the project.

- The EIR failed to analyze a reasonable range of alternatives that could reduce effects since it analyzed only a no-project alternative and an alternative that would increase effects.

- Feasible alternatives are available that would reduce the severity of the project's significant adverse impacts on transit services and water supplies, such as alternatives

that would increase the City's capacity for new housing units to levels that would meet but not exceed the City's regional housing needs allocation, and the Planning Commission unlawfully approved the project because it failed to find that feasible alternatives are not available that would reduce significant adverse effects.

- The EIR failed to analyze the 2004 and 2009 Housing Elements' potential for resulting in ultimate physical changes in the environment, repeatedly asserting that it was a policy document with future development and rezonings to follow, although the California Court of Appeal required the City to analyze in this EIR "the larger project, i.e, the future development permitted by the amendment."

- The EIR lacks an accurate, stable and finite project description in that it fails to state the amount of capacity for new housing units that it seeks to encourage and inaccurately claims that its policies would not foster population growth in the City.

- The EIR inadequately analyzed the projects' impacts on water supplies, wastewater system inadequacies, aesthetics/scenic views/visual resources and neighborhood character, Proposition M, greenhouse gas impacts, traffic impacts and parking reductions, and noise impacts and failed to use existing conditions as the baseline for analysis of the proposed project's impacts.

For the reasons more particularly explained herein and in Appellants' attached prior submissions, which are incorporated by reference, the Planning Commission's March 24, 2011 certification of the Final EIR for the 2004 and 2009 Housing Elements and adoption of related CEQA Findings, Environmental Findings and Statement of Overriding Considerations must be reversed and the project remanded to the Planning Commission with direction to prepare and consider an EIR which fully complies with the requirements of CEQA and the mandates of the Peremptory Writ of Mandate before the project may lawfully be approved.

1. Substantial Changes Made to the Project After the EIR was Circulated for Public Comment Present New Significant Effects or Substantially Increase the Severity of Significant Effects.

The June 2010 draft of the 2009 Housing Element was analyzed in the EIR. After the public comment period closed on August 31, 2010, the City issued a later draft of the 2009 Housing Element in February 2011. The Planning Commission approved the February 2011 draft, as further amended at the March 24, 2011 hearing.

A. The Significant Impact on Transit Services Would Be Substantially More Severe Due to Expansion of the Areas Where Increased Density Infill Development Would Be Encouraged.

The February 2011 draft greatly broadened the areas where taller, increased density,

reduced parking housing would be encouraged to include areas along major Muni bus lines running throughout City neighborhoods in new Policy 1.10 and its interpretative text. The June 2010 version of Policy 12.1 had limited such growth to areas near BART stations and Muni light rail trains. (See Ex. F, attached March 23, 2011 Statement of Golick, section 1, p. 1-9)

The new expansion is unnecessary because the 2009 Housing Element admits that the Plan Areas have "significantly more" capacity than needed to satisfy the City's allocation of the regional housing needs allowance (RHNA) for the period 2007-2014. (2009 Housing Element, p. 7) According to the Housing Element, Plan Areas adopted since the 2004 Housing Element are projected to "add growth of up to 20,000 new units, which, in combination with citywide infill potential provides sites which can accommodate over 42,000 new units, as cited in Part 1 of the Housing Element. Ongoing community planning efforts, including major redevelopment plans at Mission Bay, Treasure Island and Hunter's Point Naval Shipyard, will add even more capacity over the next 20 years." (Ex. 4, p. 4) The estimated new housing construction potential in adopted plans/projects and plans/ projects underway total 63,300 new housing units. (Ex. 4, p. 10)

The Draft EIR for the 2009 Housing Element further explains that the City's unrealized capacity under existing zoning is "60,995 new housing units." (Draft EIR p. IV-14) Of these, approximately 20,543 new units could be constructed on sites that are vacant or near vacant, and sites that are underdeveloped could yield another 40,452 new units. (*Id.*) Further, the City is in the process of rezoning many neighborhoods, and these rezoning efforts will increase the existing capacity in those neighborhoods, allowing for the development of additional housing units above and beyond the number of units that could be accommodated under existing zoning. (Id.) The additional capacity with rezoning initiatives currently underway is approximately 28,844 units. (DEIR Page IV-22) Should these rezoning initiatives be adopted, the City would be able to accommodate 89,839 net new housing units, which if developed would represent a 25% increase in the City's housing stock. (Draft EIR p. IV-22)

A total of 56,435 new units could result from projects now under construction or in various stages of the approval process, which include projects currently under construction, projects with approved building permits but not under construction, projects which have building department applications on file, projects which have been approved by the Planning Department and projects which have Planning Department applications on file. (Draft EIR p. IV-23) The three major projects of Candlestick Point-Hunters Point Shipyard, Treasure Island and Park Merced, comprise approximately half of the pipeline projects and could be completed by approximately 2020. (*Id.*)

Thus, the City's capacity for new housing under area plans in progress, existing unrealized capacity and pipeline projects is far in excess of the City's 31,193 unit RHNA for the planning period 2007-2014 represented by the 2009 Housing Element. As a result of the project change encouraging infill development along major bus lines throughout the City, the project's significant adverse impact on transit services would be substantially more severe because transit

services will have to be enhanced and improved in many more areas of the City. (See Ex. F, attached Statement of Golick, section 1, p. 2-3) Eliminating this expansion by defining major transit lines as areas near BART stations and along MUNI light rail lines is a reasonable alternative which the EIR failed to consider. (*Ibid.*)

B. The Elimination of Policy Text Maintaining Density Limits for RH-1 and RH-2 Areas Would Cause a New Significant Adverse Effect on Neighborhood Character.

In the June 2010 draft of the proposed 2009 Housing Element, Policy 1.6 text stated "[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character." The EIR itself acknowledges that "in some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character." (Draft EIR p. VI-7) The March 17, 2011 staff memorandum proposed to change this policy text to state "[i]n some areas, such as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character." The Planning Commission adopted this proposed change on March 24, 2011.

Consistency of individual projects with the general plan would be determined based on the changed language, and the change provides a policy basis for eliminating the objective one and two-unit density limits for RH-1 and RH-2 districts. (See Ex. F, attached Statement of Golick, section 2, p. 10-11) Also, zoning must be brought into conformity with the General Plan under Charter section 4.105. The change clearly promotes secondary units and more than the number of units currently allowed by the Planning Code for such R classifications. (See Ex. F, attached Statement of Golick, section 2, p. 10-11) This changed policy text presents a new significant effect since it could substantially degrade the quality of RH-1 and RH-2 districts and their surroundings. (*Ibid.*) The EIR failed to analyze this significant impact. A reasonable alternative which would reduce this effect would be to utilize the policy text proposed in the June 2010 draft which stated that "[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character." (*Ibid.*)

C. Policy Language Was Changed to Weaken the Effect of Opposition To Zoning Changes by Neighborhood Residents.

Language which had given neighborhood residents a primary role in protecting the character of their neighborhoods and opposing zoning changes which would degrade neighborhood character was deleted from the version of Part II of the Housing Element that was analyzed in the EIR. (See Ex. F, attached Statement of Golick, section 3, p. 12-13)

Changes made to policy language after the EIR was circulated for public review eliminated the requirement in the June 2010 draft of Policy 12.1 that "changes to the Planning Code to further accommodate housing near transit will only occur through a neighborhood-supported community planning process." The 2009 Housing Element adopted by the Planning Commission only requires a "community based planning process" before such

changes can be made. (See Ex. F, attached Statement of Golick, section 3, p. 12-13) Similarly, revised Policy 1.4 requires only that "community based planning processes" be used to generate changes to land use controls, whereas the language of the June 2010 draft of Policy 1.4 had required "[n]eighborhood-supported community planning processes." Interpretative text stating that to ensure community outreach, changes to land use policies may be proposed "with comprehensive support from the community" was changed to state "with comprehensive opportunity for community input." (*Ibid.*)

Read together with policy language encouraging increased heights and densities as well as reduced parking in transit rich areas, the changes eliminating the primary role of neighborhood residents regarding proposed changes for their neighborhoods make it likely that the efforts of residents to maintain neighborhood character will be subordinated to the City's growth objectives. (*Ibid.*)

2. The City Has a Newly Projected Shortfall of Available Water Supply of 7.4 Million Gallons Per Day, and new Water Treatment Facilities Probably Would Be Needed to Address the Shortage, Which are New Significant Effects Not Discussed in the EIR.

Significant new information showing that the City has a "projected shortfall of available water supply" has been disclosed in the March 14, 2011 San Francisco Public Utilities Commission memorandum regarding Maintaining Water Supply Levels of Service, which states that:

> In summary, the SFPUC has a projected shortfall of available water supply to meet its LOS goals and contractual obligations. Current decreased levels of demand keep this from being an immediate problem, but in the near future, the SFPUC must resolve these issues." (See Ex. E, April 11, 2011 Golick Statement and attached March 14, 2011 SFPUC memorandum, p. 1 (herein SFPUC memorandum)

The projected shortfall results from the "new instream flow release requirements in San Mateo Creek below Crystal Springs Dam and in Alameda Creek below Calaveras Dam and Alameda Creek Diversion Dam. These instream flow releases will be required at the completion of the Lower Crystal Springs Dam Improvements Project in 2013 and the completion of the Calaveras Dam Replacement Project in 2015." (SFPUC memorandum., p. 2-3)

The projected shortfall in available water supply is significant since the potential decrease in supply totals 7.4 million gallons per day (mgd) annually:

> "The instream flow release requirements for Alameda Creek and San Mateo Creek represent a potential decrease in available water supply of an average annual 3.9 mgd and 3.5 mgd, respectively with a total of 7.4 mgd average annually. This water supply decrease assumes the adopted WSIP program element of an average annual target

> delivery of 265 mgd. The analysis also assumes that all of the water supply components of the adopted WSIP are implemented and all WSIP projects are implemented, including the Upper Alameda Creek Filter Gallery project, which in accordance with the Program Environmental Impact Report (PEIR) assumptions is estimated to recapture up to 6300 acre-feet (AF) per year (5.6 mgd)." (*Id.*, p. 3)

Although the SFPUC is evaluating several water supply options in addition to those included in the adopted Water System Improvement Program (WSIP) to meet future demand and dry-year water needs in the SFPUC service area, the memorandum supplies no evidence of the likelihood that the options being considered will be funded or approved and does not discuss the circumstances affecting the likelihood of the water's availability. These options include construction of major new desalination or recycled water plants, and estimates indicate that additional water might be able to be produced at high costs such as $2,274, $4233 or $5233 per acre-foot." (*Id.*, p. 3-9)

Based on the new information concerning projected water shortfalls set forth in the March 14, 2011 SFPUC memorandum, the EIR's analysis of water supply availability is inaccurate, as it was based on the SFPUC's prior indication that "it can accommodate existing and future demand through 2030." (DEIR p. V.L-52, V.L-3-V.L-7; C&R-218, C& R-219, stating "the conclusions of the Draft EIR are based on 2009 WSAS, which illustrate that there is adequate water supply to accommodate residential growth through the year 2030;" DEIR p. V.L-46, as to 2004 Housing Element; Ex. E, April 11, 2011 Golick Statement, p. 3)

The DEIR projected that the SFPUC would be able to supply its retail customers with 84.5 mgd of water in 2010 and 94.5 mgd from 2015 to 2030. (DEIR p. V.L-3; Ex. E, April 11, 2011 Golick Statement, p. 3) The DEIR concluded that adequate water would be available for retail customers because retail demand in 2010 would be 91.81 mgd, 91.69 mgd in 2015, 91.87 mdg in 2020, and 93.42 mgd by 2030. (DEIR p. V.L-5; Ex. E, April 11, 2011 Golick Statement, p. 3) According to the March 14, 2011 SFPUC memorandum, SFPUC's Water Supply Agreement with its wholesale customers requires SFPUC to provide supply assurance of 184 mgd to the wholesale customers, except in emergencies and drought years. (March 14, 2011 SFPUC memorandum, p. 2; Ex. E, April 11, 2011 Golick Statement, p. 3) Since SFPUC cannot reduce water supplies to its wholesale customers except in emergencies and droughts, and its Water System Improvement Program (WSIP) includes a level of service goal of meeting average annual water demand of 265 mgd from the SFPUC watersheds for retail and wholesale customers during non-drought years for system demands through 2018, the newly projected shortfall must necessarily reduce water supplies to SFPUC's retail customers by 7.4 mgd on average annually in non-drought years by the time all the instream flow releases are implemented. (Ex. E, April 11, 2011 Golick Statement, p. 3) Since the first instream flow release is to be initiated in 2013, and the second in 2015, the SFPUC is projected to be unable to supply its retail customers with the amount of water which the DEIR asserted would be available from 2013 through 2018 or later. (March 14, 2011 SFPUC memorandum, p.1-3; Ex. E, April 11, 2011 Golick Statement, p. 3)

Thus, the new SFPUC water shortfall information renders inaccurate the EIR's conclusions that impacts on water supplies would be less than significant because the proposed Housing Element "would have sufficient water supply available to serve the project from existing entitlements and resources and would not require new or expanded water supply resources or entitlements." (DEIR p. V.L-44; Ex. E, April 11, 2011 Golick Statement, p. 3) Also inaccurate for the same reason is the EIR's conclusion that a less than significant impact would result because the proposed Housing Element would not require or result in the construction of new water facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. (DEIR p. V.L-24; Ex. E, April 11, 2011 Golick Statement, p. 3)

The March 14, 2011 SFPUC memorandum renders inaccurate and out of date the information upon which the EIR's conclusions were based. The conclusions in the EIR were "based on the findings of the 2009 WSAS," which the EIR stated captured the "most current water supply planning and demand information and is the latest published information on San Francisco's water supply and demand through 2030." (C&R-221; Ex. E, April 11, 2011 Golick Statement, p. 4) The March 14, 2011 SFPUC memorandum now constitutes the latest published information on San Francisco's water supply. (Ex. E, April 11, 2011 Golick Statement, p. 4)

Due to the new information as to the projected shortfall of available water supply, the Housing Element could have a significant impact on the environment because there would not be "sufficient water supplies available to serve the project from existing entitlements and resources" and the City would need new or expanded entitlements or resources. (See CEQA Guidelines, Appendix G, section XVII(d); Ex. E, April 11, 2011 Golick Statement, p. 4.) The EIR must be revised to address this issue. (Ex. E, April 11, 2011 Golick Statement, p. 4-5) In addition, the March 14, 2011 SFPUC memorandum shows that the Housing Element could have a significant impact on the environment because options to address the projected shortfall in available water supply probably would require construction of several costly new water treatment facilities, the construction of which could have significant environmental effects. (See CEQA Guidelines, Appendix G, section XVII(b); Ex. E, April 11, 2011 Golick Statement, p. 4) The EIR itself recognizes, pursuant to Appendix G of the CEQA Guidelines, that new development could result in impacts related to water facilities if new housing would result in additional need for water in areas that do not have the available capacity to transport or process the additional water, and that this could include the construction or expansion of water treatment facilities. (DEIR p. V.L-24; C&R-211; Ex. E, April 11, 2011 Golick Statement, p. 4)

The projected water insufficiency could also have a significant impact on the environment because the March 14, 2011 SFPUC memorandum does not identify an alternative source of water that is likely to become available to supply the total projected shortfall at the time all instream flow releases are implemented, and merely relies upon various potential new water treatment facilities and other options that have not been approved or funded or are in early conceptual stages. (Ex. E, April 11, 2011 Golick Statement, p. 4) The memorandum does not contain evidence that the options under consideration bear a likelihood of actually becoming

available and supplying the total projected shortfall. (Ex. E, April 11, 2011 Golick Statement, p. 4)

The "future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative sources and unrealistic allocations ('paper water') are insufficient bases for decisionmaking under CEQA. [Citation] An EIR for a land use project must address the impacts of *likely* future water sources, and the EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water's availability." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, at p. 432) Where, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies. (*Ibid.*)

Also, alternatives which are considerably different from those analyzed in the Final EIR could substantially reduce one or more significant effects on the environment, including the reasonable alternative of limiting the increased capacity for new housing units which 2009 Housing Element policies would encourage to those needed to demonstrate progress toward meeting, but not exceeding, the regional housing needs allocation of 31,193 units. (Ex. E, April 11, 2011 Golick Statement, p. 5) This alternative would include encouraging new housing growth in less areas and plan areas than proposed in the 2009 Housing Element, and therefore would require usage of less water by reducing the amount of new construction that the project would encourage. (Ex. E, April 11, 2011 Golick Statement, p. 5) The discussion of this alternative should analyze the likelihood that sufficient water supplies will actually become available to serve the number of households that would likely be added to the City under this alternative. (Ex. E, April 11, 2011 Golick Statement, p. 5) A similar type of reduced capacity alternative should be analyzed as to the regional housing needs allocation of 20,372 new units analyzed with respect to the 2004 Housing Element. (Ex. E, April 11, 2011 Golick Statement, p. 4) Where after reasoned analysis an EIR acknowledges remaining uncertainty as to water sources, "a measure for curtailing development if the intended sources fail to materialize may play a role in the impact analysis." (*Vineyard Area Citizens, supra,* at 40 Cal.4th 432))

Thus, the EIR does not accurately analyze the proposed project's potentially significant impacts on water supply and construction of new water supply facilities because its analyses were based on information which is no longer current or accurate. (Ex. E, April 11, 2011 Golick Statement, p. 4) The EIR must be revised to address the new information as to the projected shortfall in water supply and the impacts of *likely* future water sources. (Ex. E, April 11, 2011 Golick Statement, p. 4) The revised EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the availability of new water supplies. (Ex. E, April 11, 2011 Golick Statement, p. 4)

The EIR must be revised and recirculated because the significant new information as to the projected shortfall of available water supply and new facilities that could need to be constructed to address the deficiency constitute substantial changes in the circumstances under

which the Housing Element would be undertaken which will require major revisions to the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of effects identified in the Final EIR. (Ex. E, April 11, 2011 Golick Statement, p. 5) The Final EIR identified the water supply and water facility construction impacts as less than significant based on information as to water supply availability that is no longer current or accurate. (Ex. E, April 11, 2011 Golick Statement, p. 5)

3. The EIR Failed to Analyze a Reasonable Range of Alternatives That Would Reduce Effects.

An adequate EIR must describe a reasonable range of alternatives. (*Laurel Heights Improvement Association v. Regents of the University of California* (1993) 47 Cal.3d 376.) "The range of feasible alternatives [for an EIR] shall be selected and discussed in a manner to foster meaningful public participation and informed decision making." (Guidelines § 15126.6 (f).) "[T]he discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening 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." (Guidelines § 15126.6(b).) The City has a duty under CEQA to evaluate a reasonable range of alternatives to the environmentally damaging proposed project. (*Laurel Heights*, *supra*, 47 Cal.3d at 400; Ex. G, August 30, 2010 Chatten-Brown & Carstens Statement, p. 10 (herein Chatten-Brown Statement).)

The DEIR fails to analyze a reasonable range of alternatives by considering what amounts to only two alternatives: the no project alternative and an increased density alternative. (See Ex. G, Chatten-Brown Statement, p. 11) The DEIR claims to analyze three alternatives to the project: Alternative A-the No Project Alternative/continued reliance on the 1990 Residence Element; Alternative B-the 2004 Housing Element minus the policies that were struck down by the Court of Appeal; and Alternative C-an intensified version of the 2009 Housing Element that would promote additional density through zoning accommodations. (DEIR p. VII-5; Ex. G, Chatten-Brown Statement, p. 11.)

It is highly misleading for the DEIR to claim that Alternatives A and B are two different alternatives; the policies established in both are currently operative (with the exception of policies and implementation actions enjoined in the Peremptory Writ of Mandate and Amendment to said writ) and should jointly be considered the no project alternative. (Ex. G, Chatten-Brown Statement, p. 11) The existing No Project Alternative is the combination of 1990 Residence Element policies carried forward in the 2004 Housing Element and the 2004 Housing Element policies that were not struck down by the Court. CEQA Guidelines section 15126.6(e)(3)(A) identifies the no project alternative for projects that revise land use or regulatory plans and policies to be "the continuation of the existing plan, policy or operation into the future." (Ex. G, Chatten-Brown Statement, p. 11) It is the combination of Alternatives A and B that is currently in effect within the City and should be considered the No Project

Alternative, not two separate alternatives. (*Ibid.*)

By failing to consider any alternatives beyond the No Project Alternative and an Intensified Development Alternative, the DEIR fails to provide meaningful consideration of a range of potentially feasible alternatives. (Ex. G, Chatten-Brown Statement, p. 12)

An EIR should consider a reduced growth alternative if it would meet most of the objectives of the project but would avoid or lessen any significant environmental impacts of the project. (*Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089-1090; Ex. G, Chatten-Brown Statement, p. 12).) The EIR should analyze an alternative focused on meeting the regional housing needs allocation for all income levels, since the City met only 13% of its moderate income housing target and 52 % of its low income target, but met 83% of its very low income target in the planning period for the prior RHNA encompassing the years 1999 to 2006. (Ex. G, Chatten-Brown Statement, p. 13) The EIR should also consider an alternative that does not encourage any rezoning after May 2004 when the 2004 Housing Element amendment was adopted, because the City had sufficient capacity under existing zoning to meet the RHNA allocation for the planning period represented by the 2004 Housing Element and rezoning was not necessary. (Ex. G, Chatten-Brown Statement, p. 16-17) The No Post-May 2004 Rezoning Alternative would reduce many of the significant impacts the DEIR fails to acknowledge, such as: aesthetics, inadequate wastewater and water supply capacity, land use, traffic and noise. It would also reduce the significance of the one impact the DEIR does acknowledge as being significant—transit impacts. (Ex. G, Chatten-Brown Statement, p. 17)

The DEIR should also include analysis of a No Additional Rezoning Alternative. The No Additional Rezoning Alternative would include those policies and implementation actions that are designed to produce only the total number of units required by the 2007-2014 RHNA allocations and no more. (Ex. G, Chatten-Brown Statement, p. 17) This alternative would discourage further rezoning in Area Plans, Better Neighborhoods Programs, Special Use Districts or other planning measures beyond the rezoning provided in Area Plans and other planning measures adopted between 2004 and the time the EIR process was initiated. This alternative would discourage additional rezoning of the City's established neighborhoods and focus on encouraging development of two of the City's major projects: Candlestick Point-Hunters Point Shipyard and Treasure Island. These areas will be built from the ground up, with new and adequate infrastructure, allowing them to accept a higher rate of density. Rezoning to increase density or reduce parking requirements would not be allowed in established residential areas. (Ex. G, Chatten-Brown Statement, p. 17-18) Like the RHNA Focused Alternatives and the No Post-May 2004 Rezoning Alternative, the No Additional Rezoning Alternative would reduce many of the significant impacts the DEIR fails to acknowledge, such as impacts on visual resources and neighborhood character, aesthetics, views, transportation, air quality, water supply, wastewater treatment and noise. It would also reduce the significance of the one impact the DEIR does acknowledge as being significant – transit impacts. This alternative would also meet the majority of the project objectives, making it a feasible alternative. (Ex. G, Chatten-Brown Statement, p. 18)

4. The Planning Commission Unlawfully Approved the Project Because There Are Feasible Alternatives that Would Reduce Adverse Impacts.

CEQA prohibits approval of projects with adverse environmental impacts if there are feasible alternatives. (Pub. Resources Code § 21002; Guidelines § 15021(a)(2).) The CEQA Guidelines require an agency to "Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved." In order to implement this policy, the Guidelines specify that:

> A public agency may approve a project even though the project would cause a significant effect on the environment *if* the agency makes a fully informed and *publicly disclosed decision* that:
>
> (a) There is no feasible way to lessen or avoid the significant effect..." (Guidelines § 15043, emphasis added.)

As explained above, there are feasible alternatives to the Project that could reduce the Project's significant transit and water supply impacts. Therefore, the Planning Commission unlawfully approved the Project and failed to find that there is no feasible way to lessen or avoid the Projects' significant impact on transit.

5. The EIR Lacks an Accurate, Stable and Finite Project Description in That it Fails to State the Amount of Increased Capacity for New Housing Units that it Seeks to Encourage and Inaccurately Claims that its Policies Would not Foster Population Growth in the City.

The City has prepared this EIR as an attempt to comply with the Court's decision. Unfortunately, the EIR is replete with the same unsupported claim the Court rejected in the *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* decision: that policies advocating increasing density, eliminating parking requirements and height restrictions, and reducing setbacks would somehow not be the driving force in those changes being enacted. (Ex. C, *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* 2007, at p. 12; Ex. G, Chatten-Brown Statement, p. 2) The EIR merely discusses vague project objectives such as encouraging housing development, providing a vision for the City's housing and growth management, and ensuring capacity for the development of new housing to meet the RHNA at all income levels. (DEIR p. IV-7) However, the EIR does not does not disclose or analyze the amount of additional housing units that the 2009 or 2004 Housing Elements seek to encourage.

The Court of Appeal held that even if a general plan amendment is treated merely as a "first phase" with later developments having separate approvals and environmental assessments,

an evaluation of a "first phase-general plan amendment "must necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment. Only than can the ultimate effect of the amendment upon the physical environment be addressed." (Ex. C, *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* 2007, at p. 12)

By failing to prepare a legally adequate EIR, the City has failed to comply with the Peremptory Writ of Mandate issued by the San Francisco County Superior Court in this case. The EIR must be revised to acknowledge and analyze the reasonably forseeable results of the policy changes proposed in the 2004 and 2009 Housing Elements. By failing to do so, the DEIR contains and is premised upon a confusing and misleading project description. (Ex. G, Chatten-Brown Statement, p. 2)

In addition, the entire project description and DEIR analysis is underwritten by the unsupported claim that the 2004 and 2009 Housing Elements would not result in an increase in population despite the policies encouragement of increased density. (DEIR p. V.D-27; Ex. G, Chatten-Brown Statement, p. 6) The 2004 and 2009 Housing Elements encourage increased density through proposals to remove density, height, and setback restrictions and parking requirements in area plans for neighborhoods within the City. (Ex. G, Chatten-Brown Statement, p. 6) The DEIR fails to discuss any evidence to support the claim that increasing density does not increase the population size.

Contrary to the EIR's unsupported claim that the 2004 and 2009 Housing Elements would not result in an increase in population, estimates of significant population increases resulting from the City's proposed increased density policies are available and are contained in the DEIR's water supply analyses. (Ex. G, Chatten-Brown Statement, p. 7) The October 2009 SFPUC, Final Water Supply Availability Study for City and County of San Francisco (2009 Water Study) states at page 21 that the City recently evaluated projected demand and incorporated the updated San Francisco Planning projections for residential use and non-residential growth and that this "analysis results in a 2030 growth projection that differs from the 2005 UWMP." (DEIR Appendix H.) "As shown in Table 5-1 new residential growth is expected to increase by 29,787 units." (*Id.*) The 2005 Urban Water Management Plan residential growth projections were based on 2002 Association of Bay Area Governments (ABAG) and City projections. (Ex. G, Chatten-Brown Statement, p. 7)

According to the 2009 Water Study, the updated 2030 City growth projection shown in Table 5-1 incorporates a fundamental shift in ABAG's projection methodology. "Rather than taking existing local land use policy as a given (as had previously been the case), in the projections following the 2002 projections, ABAG assumes that local policy will be amended in the future to adopt 'smart growth' principles. Specifically, the projections assume that higher density growth will be focused in urban core areas, and that more housing will be produced in those areas, compared to that previously assumed. The result of these assumptions is to increase the expected population in already developed areas." (DEIR Appendix H, 2009 Water Study p. 22; Ex. G, Chatten-Brown Statement, p. 7.)

Appendix A to the 2009 Water Study is a memorandum from the City's Planning

Department which states that based on "citywide growth expectations by 2030 designed to closely match the recently adopted ABAG Projections 2009 target, but taking into account local knowledge of projects currently in various stages of the entitlement process, commonly referred to as the development pipeline," the population of San Francisco is projected to increase from 783,441 in 2005 to 916,800 by 2030. (DEIR Appendix H, 2009 Water Study Appendix A.) This is a projected increase of 133,359 residents, which amounts to a 17% increase in the City's population. (Ex. G, Chatten-Brown Statement, p. 7)

The EIR also mistakenly attempts to separate the City's rezoning efforts to increase existing capacity in specific neighborhoods through the approval of area plans from the 2004 and 2009 Housing Elements. (Ex. G, Chatten-Brown Statement, p. 7-8) However, the Court of Appeal made it clear that the City must evaluate the secondary effects of the Housing Element amendments, stating:

> "Although it may be technically true that the Housing Element is not linked to any specific rezoning, ordinance changes, or future development…it is not a vague policy document, completely unconnected to future development or potential physical changes to the environment. The Housing Element identifies areas for potential development, encourages development in neighborhood commercial areas, promotes the construction of 'well-designed housing that enhances existing neighborhood character,' '[s]trongly encourage[s] housing project sponsors to take full advantage of allowable building densities,' and advocates reducing or removing minimum parking requirements in order to increase the land available for housing development." (Ex. C, *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, at p. 12)

Cogent examples of implementation of the Housing Element's increased density policies are the zoning changes which the City approved in connection with its Market and Octavia Area Plan. (See Ex. 11 to March 23, 2011 Golick Statement)

When an EIR "conceal[s], ignore[s], exclude[s], or simply fail[s] to provide pertinent information [regarding] a reasonably foreseeable consequence of [a] project," the project's description is inadequate. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 82; Ex. G, Chatten-Brown Statement, p. 6)

6. The EIR Inadequately Analyzed the Projects' Impacts on Water Supplies.

Before the new information became available as to projected shortfalls in water supplies due to required instream flow releases, the EIR inadequately analyzed the project's impacts on water supplies. The 2009 Water Study upon which the EIR relies identifies an inadequate water supply for the years 2010-2015, prior to the City's proposed Water Supply Improvement Program (WSIP) coming online. (Ex. G, Chatten-Brown Statement, p. 30) The DEIR's water supply assessment overlooks these water supply inadequacies, claiming that the City's use of water in

years 2007-2008 was actually below predicted demand, so demand would likely be less in 2010-2015 as well. (2009 Water Study p. 29, DEIR p. V.L-6.) If the demand does exceed the supply, the SFPUC is authorized to implement a surcharge so it can purchase additional water. However, the Water Supply Assessment does not identify the sources of additional water for purchase. (Ex. G, Chatten-Brown Statement, p. 30)

The DEIR states that total retail demand in 2010 is 91.81 mgd and 93.42 mgd in 2030 (p. V.L.-5) and admits that current water supply sources amount to 84.5 mgd (p. V.L.-3). Therefore, there is a current water shortage of 7.31 mgd. (Ex. G, Chatten-Brown Statement, p. 31) The DEIR claims that the "SFPUC's retail water supplies increase to 94.5 mgd in 2015 when the SFPUC's Water System Improvement Plan (WSIP) water supply sources are readily available." (DEIR p. V.L-3.) However, this overly optimistic projection lacks adequate factual support and is based on water supply improvements that have not been approved or implemented. The DEIR's projection that "the SFPUC's retail water supplies increase to 94.5 mgd in 2015" is admittedly based on "the SFPUC's Water System Improvement Plan (WSIP) water supply sources" being "readily available." (DEIR p. V.L-3; (Ex. G, Chatten-Brown Statement, p. 31)

However, the WSIP is nothing more than an unrealized plan that relies upon construction of groundwater extraction facilities and recycled water treatment facilities, none of which have been built, in addition to increased conservation to save a total of 10 mgd, without which there would clearly be a water shortage. (Ex. G, Chatten-Brown Statement, p. 31) The 2009 Water Study admits that '[c]urrent gross per capita water use within San Francisco is 91.5 gallons per capita per day (gpcd) with residential water use calculated to be approximately 57 gpcd, the lowest use of any major urban area in California." (2009 Water Study p. 8.) Significant water conservation has already been implemented and there is no support for the conclusion that "local conservation programs implemented through 2030 could cumulatively reduce Retail purchases from the SFPUC RWS by 4.5 mgd in year 2030." (2009 Water Study p. 11; (Ex. G, Chatten-Brown Statement, p. 31)

Thus, the City has unlawfully relied upon potential water supply projects that are not in place as mitigation for a highly significant water supply deficit in years 2015 to 2030. In 2030 there would be an 8.92 mgd deficit in the water supply, when 93.42 mgd would be needed and currently only 84.5 mgd can be supplied without the WSIP. (Ex. G, Chatten-Brown Statement, p. 32)

The significant adverse impact from inadequate water supplies is substantially more severe than disclosed in the EIR when added to the newly projected shortages resulting from the instream flow release requirements disclosed in the March 14, 2011 SFPUC Memorandum.

7. The EIR Inadequately Analyzed the Projects' Impacts on Wastewater System Inadequacies, Aesthetics/Scenic Views/Visual Resources and Neighborhood Character, Proposition M, Greenhouse Gas Impacts, Traffic Impacts and Parking Reductions, and Noise Impacts and Failed to Use Existing Conditions as the Baseline for Analysis of the Proposed Project's Impacts.

For the reasons previously stated in SFLN's comments, the EIR also inadequately analyzed the projects' impacts on wastewater system inadequacies, aesthetics/scenic views/visual resources and neighborhood character, Proposition M, greenhouse gas impacts, traffic impacts and parking reductions, and noise impacts and failed to use existing conditions as the baseline for analysis of the proposed project's impacts. (See Ex. G, Chatten-Brown Statement, pp. 20-26, 34-42)

For example, the proposed 2004 and 2009 Housing Elements will likely have significant impacts on neighborhood character and aesthetics because they would encourage the construction of taller and bulkier buildings, the provision of less parking, and relaxed design consistency standards. These adverse impacts include the blocking of scenic views due to the construction of tall and massive buildings in sensitive areas; degradation of neighborhood character resulting from the construction of new structures of discordant height, bulk, or architecture, the reduction of building setbacks, or the reduction of private open space; visual impacts due to vehicles parking on sidewalks; and the loss of architectural quality and historically significant structures caused by incentives to tear down older, less dense structures. (Ex. G, Chatten-Brown Statement, p. 21 and Attachment 9, Statement of planning expert David Golick, 8 AR 1923-1928, 1919-1920, 2290)

However, the DEIR determines that neither the 2004 nor the 2009 Housing Element would have significant impacts on aesthetics because the Housing Elements will not themselves relax height and density restrictions. (See DEIR p. V.C-18, V.C-23, V.C-26; Ex. G, Chatten-Brown Statement, p. 21) As previously explained, the Court of Appeal ordered the City to analyze the secondary or growth-inducing effects of the Housing Element amendment, and the City has wilfully failed to do so.

Conclusion

For the reasons set forth above and in Appellants' prior written and oral submissions, the Final EIR is inadequate and fails to comply with the requirements of CEQA.

Objections to an agency's compliance with CEQA are timely and must be considered if presented to the agency body with the final authority to approve a project. (*San Bernardino Valley Audubon Society v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 749; *Browning-Ferris Industries v. City Council* (1986) 181 Cal.App.3d 852, 859-861.) Since the San Francisco Board of Supervisors is the body with final authority to approve amendments to the housing element of the general plan pursuant to San Francisco Charter section 4.105, Appellants' objections presented herein are timely and must be considered. After certification of the Final

EIR, the Planning Commission tendered the 2009 Housing Element to this Board for adoption, and the final approval of the 2009 Housing Element is currently pending before this Board. (Ex. A)

Signatures of Appellant organizations joining in this appeal follow my signature in the immediately attached pages. A list of mailing addresses for Appellants is attached hereto as Exhibit B.

Very truly yours,

Kathryn R. Devincenzi

Kathryn R. Devincenzi

cc: Bill Wyco, Environmental Review Officer

San Francisco Planning Department

1650 Mission Street, Suite 400

San Francisco, CA 94103

Attachments:

A- March 24, 2011 San Francisco Planning Commission Motion No. 18307 Adopting Findings Related to the Certification of a Final Environmental Impact Report for the 2004 and 2009 Housing Elements, related March 24, 2011 Planning Commission Motion Adopting Environmental Findings and a Statement of Overriding Considerations Under CEQA and the State Guidelines in Connection with the Amendment of the San Francisco General Plan Adopting the 2009 Housing Element as the Housing Element of the General Plan, and related Planning Commission Resolution recommending that the Board of Supervisors adopt the 2009 Housing Element

B-Appellant Address List

C-Court of Appeal decision in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, San Francisco Superior Court Action number CPF04 504-780

D-Peremptory Writ of Mandate and Amendment to Peremptory Writ of Mandate

E-April 11, 2011 Statement of David Golick Regarding Significant New Information As To Projected Shortfall of Available Water Supply with attached Exhibit 1 - March 14, 2011 SFPUC Memorandum Re: Maintaining Water Supply Levels of Service

F-March 24, 2011 Letter of Kathryn R. Devincenzi and attached March 23, 2011 Statement of City Planner David Golick Regarding Impacts of Changes to Proposed 2009 Housing Element

G-August 30, 2010 Letter of Chatten-Brown & Carstens regarding Comments on the Draft EIR for Updated San Francisco Housing Element

Pacific Heights Residents Association

By: Greg Scott

Greg Scott

President + Director

Cow Hollow Association

By: Wood
Member of Board of Directors

Francisco Heights Civic Association

By: Libby Benedict

Libby Benedict

Leadership Council

Francisco Heights Civic Association

Greater West Portal Neighborhood Association

By: Martin Chamberlain, President

Jordan Park Improvement Association

By_____

Rich Worner, PRESIDENT

Lakeshore Acres Improvement Club, Director

By: Adena Rosmarin
Adena Rosmarin Director

Laurel Heights Improvement Association of San Francisco, Inc.

By: _____

John Rothmann, President

Marina-Cow Hollow Neighbors & Merchants

By: Patricia Vaughey - President
Patricia Vaughey, President

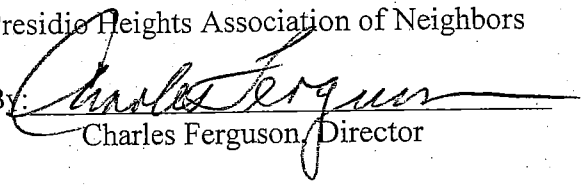
Miraloma Park Improvement Club

By: _____

Dan Liberthson

Director and Corresponding Secretary

Presidio Heights Association of Neighbors

By: 

Charles Ferguson, Director

Sunset-Parkside Education and Action Committee, Inc

By _____
Marc Duffett, President

St. Francis Homes Association

By: Scott McMillen

Scott McMillen
Vice President

Westwood Highlands Association
By:_____
Dave Bisho
President

EXHIBIT A

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 18307

HEARING DATE: March 24, 2011

Hearing Date:	March 24, 2011
Case No.:	2007.1275E
Project Address:	**San Francisco 2004 and 2009 Housing Element**
Zoning:	N/A
Block/Lot:	Citywide
Project Sponsor:	San Francisco Planning Department Kearstin Dischinger (415) 558-6284 1650 Mission Street, Suite 400 San Francisco, CA 94103
Staff Contact:	Jessica Range – (415) 575-9018 Jessica.Range@sfgov.org

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE 2004 AND 2009 HOUSING ELEMENTS.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No.2007.1275E, San Francisco 2004 and 2009 Housing Element (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

   A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on October 8, 2008 and again on September 2, 2009.

   B. On June 30, 2010, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

   C. Notices of availability of the DEIR and of the date and time of the public hearing were sent to interested individuals by Department staff on June 30, 2010.

D. On June 30, 2010, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse.

E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on June 30, 2010.

2. The Commission held a duly advertised public hearing on said DEIR on August 5, 2010 at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on August 31, 2010.

3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 60-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on March 9, 2010, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.

4. A Final Environmental Impact Report ("FEIR")has been prepared by the Department, consisting of the Draft Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law.

5. Project environmental files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, and are part of the record before the Commission.

6. On March 24, 2011, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Report was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

7. The project sponsor has indicated that the presently preferred alternative is the 2009 Housing Element.

8. The Planning Commission hereby does find that the Final Environmental Impact Report concerning File No. 2007.1275E: San Francisco 2004 and 2009 Housing Element reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR that would require recirculation of the document pursuant to CEQA Guideline Section 15088.5, and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.

9. The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the project described in the Environmental Impact Report and the project preferred by the project sponsor, described as the 2009 Housing Element in the Final Environmental Impact Report will have the following significant unavoidable environmental impacts, which can not be mitigated to a level of insignificance:

   A. A project specific and cumulative potentially significant impact on transit due to encouraging housing near transit lines, thereby increasing transit ridership potentially in excess of MUNI's capacity utilization standard of 85 percent; and.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of March 24, 2011.

Linda Avery
Commission Secretary

AYES: Commissioners Olague, Miguel, Antonini, Borden, Moore, Sugaya, Fong

NOES: None

ABSENT: None

ADOPTED: March 24, 2011

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion

HEARING DATE MARCH 24, 2011

Date:	March 17, 2011
Case No.:	2007.1275EM
Project:	**2009 Housing Element Update**
	Adoption Hearing
Staff Contact:	Kearstin Dischinger – (415) 558-6284
	Kearstin.Dischinger@sfgov.org
Reviewed by:	Sarah Dennis Phillips and Teresa Ojeada
Recommendation:	**Adopt the 2009 Housing Element Update**

ADOPTING ENVIRONMENTAL FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE GUIDELINES IN CONNECTION WITH THE AMENDMENT OF THE SAN FRANCISCO GENERAL PLAN ADOPTING THE 2009 HOUSING ELEMENT AS THE HOUSING ELEMENT OF THE GENERAL PLAN.

Whereas, the San Francisco Planning Department, the Lead Agency responsible for the implementation of the California Environmental Quality Act ("CEQA"), California Public Resources Code section 21000 et seq, has prepared an environmental impact report for the proposed 2009 Housing Element, which is an amendment to the San Francisco General Plan ("Project"); and

Whereas, the Planning Department, in cooperation with the Mayor's Office of Housing and in consultation with other City agencies, developed the 2009 Update of the Housing Element of the General Plan ("the 2009 Housing Element") through a comprehensive community-based planning effort. The Department worked closely with community leaders, stakeholders, City agencies, and community members starting in September of 2008. A 15 member Community Advisory Body (CAB) was convened to assist staff on the development and refinement of a draft version of objectives, policies and implementation programs. The Department also hosted fourteen stakeholder sessions focusing on the needs and policy interests of special interest housing groups and organizations, and over 30 workshops, some in each supervisorial district of the City. The Planning Commission has hosted several informational hearings on the 2009 Housing Element; and

Whereas, The 2009 Housing Element consists of three parts. Part I of the 2009 Housing Element consists of the Data and Needs Analysis section, which provides a statistical baseline for determining appropriate housing objectives, policies and implementation strategies. This section includes San Francisco population and employment trends, housing data, and inventories of land available for housing development. Part I also presents an updated calculation of San Francisco's

fair share of the regional housing need, for January 2007 through June 2014. The City's RHNA goal is 31,193 housing units, or 4,159 units per year. Part I identifies where development capacity exists under existing zoning for future potential housing throughout the City, and,

Whereas, Part II of the 2009 Housing Element, summarized in the Project Description of the EIR, and attached as an appendix thereto, sets forth the objectives, policies, and implementing strategies intended to address the City's housing needs based on the RHNA. Generally, the objectives and policies contained in Part II prioritize the creation of permanently affordable housing; conserve and improve the existing housing stock; recognize and preserve neighborhood character; integrate planning of housing, jobs, transportation and infrastructure; and maintain the City as a sustainable model of development; and,

Whereas, the 2009 Housing Element also includes implementation measures, which are proposed for adoption and which have been reviewed in the EIR, and a series of "Strategies for Further Review." The Strategies for Further Review are ideas which were raised over the course of development and outreach for the 2009 Housing Element. Most of the strategies require further examination, and potentially long-term study, before they can be directly implemented; and,

Whereas, the 2009 Housing Element includes input from the community, stakeholders and City officials, and responds to comments made at numerous public hearings. The 2009 Housing Element proposed for adoption is Draft 3 of the 2009 Housing Element, published in February 2011, together with the amendments described in the staff memorandum to the Planning Commission dated March 17, 2011, including changes to Policy 1.6, Policy 1.10, Objective 11, and Policy 12.1; and the addition of two implementation measures (identified as mitigation measures in the EIR) related to review of noise conditions for housing and open space; and

Whereas, the San Francisco Planning Commission will consider adoption of the 2009 Housing Element, as described in the paragraph above, and described in detail in the staff report on the Resolution Adopting the 2009 Housing Element, dated March 17, 2011 transmitted to the San Francisco Planning Commission and made available to the general public on March 17, 2011; and

Whereas, the Planning Department determined that an Environmental Impact Report ("EIR") was required for the proposed 2009 Housing Element, and provided public notice of that determination by publication in a newspaper of general circulation on October 8, 2008 and September 2, 2009; and

Whereas, the Planning Department on June 30, 2010, published the Draft Environmental Impact Report ("DEIR"). The DEIR was circulated for public review in accordance with the California Environmental Quality Act, California Public Resources Code section 21000 et seq. ("CEQA"), the State CEQA Guidelines, 14 California Code of Regulations, Section 15000 et seq., ("CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"). The Planning Commission held a public hearing on the DEIR on August 5, 2010; and,

Whereas, the Planning Department prepared responses to comments on the DEIR and published the Comments and Responses document on March 9, 2011, which together with the DEIR and additional information that became available, constitute the Final Environmental Impact Report ("FEIR"). The FEIR files and other Project-related Department files have been

available for review by the Planning Commission and the public, and those files are part of the record before this Commission; and,

Whereas, the Planning Commission, on March 24, 2011, by Motion No. 18307, reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed complied with the provisions of CEQA, the CEQA Guidelines, and Chapter 31; and

Whereas, the Planning Commission by Motion No. 18307, also certified the FEIR and found that the FEIR was adequate, accurate, and objective, reflected the independent judgment of the Planning Commission and that the Comments and Responses document contains no significant revisions to the DEIR that would have required recirculation under CEQA Guidelines Section 15088.5; and adopted findings of significant impacts associated with the Project and certified the completion of the FEIR for the Project in compliance with CEQA and the CEQA Guidelines.

Whereas, the Planning Department prepared proposed Findings, as required by CEQA, regarding the alternatives, mitigation measures and significant environmental impacts analyzed in the FEIR and overriding considerations for approving the 2009 Housing Element, and a proposed mitigation monitoring and reporting program, attached as Exhibit 1 to Attachment A, which material was made available to the public and this Planning Commission for the Planning Commission's review, consideration and actions; and now

THEREFORE BE IT RESOLVED, that the Planning Commission has reviewed and considered the FEIR and the actions associated with adoption of the 2009 Housing Element as the Housing Element of the San Francisco General Plan, and hereby adopts the Project Findings attached hereto as Attachment A including a statement of overriding considerations, and including as Exhibit 1 the Mitigation Monitoring and Reporting Program.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of March 24, 2011.

Per:

Linda D. Avery

Commission Secretary

AYES: Olauge, Miguel, Antonini, Borden, Fong, Moore, Suygaya,

NOES:

ABSENT:

ADOPTED: March 24, 2011

ATTACHMENT A

2009 SAN FRANCISCO HOUSING ELEMENT

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS: FINDINGS OF FACT, EVALUATION OF MITIGATION MEASURES AND ALTERNATIVES AND STATEMENT OF OVERRIDING CONSIDERATIONS

SAN FRANCISCO PLANNING COMMISSION

In determining to approve the proposed 2009 San Francisco Housing Element and related approval actions (the "Project"), the San Francisco Planning Commission ("Planning Commission" or "Commission") makes and adopts the following findings of fact and statement of overriding considerations and adopts the following recommendations regarding mitigation measures and alternatives based on substantial evidence in the whole record of this proceeding and under the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq. ("CEQA"), particularly Sections 21081 and 21081.5, the Guidelines for Implementation of CEQA, 14 California Code of Regulations Sections 15000 *et seq.* ("*CEQA Guidelines*"), particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administration Code.

I. Introduction

This document is organized as follows:

Section I provides a description of the proposed Project, the environmental review process for the project, the Planning Commission actions to be taken, and the location of records;

Section II identifies the impacts found not to be significant that do not require mitigation;

Section III identifies potentially-significant impacts that can be avoided or reduced to less-than-significant levels through mitigation;

Section IV identifies significant impacts that cannot be avoided or reduced to less-than significant levels;

Section V discusses why a subsequent or supplemental EIR is not required;

Section VI evaluates the different project alternatives and the economic, legal, social, technological, and other considerations that support the rejection of the alternatives and access options analyzed; and

Section VII presents a statement of overriding considerations setting forth specific reasons in support of the Planning Commission's actions and its rejection of the Alternatives not incorporated into the Project.

Attached to these findings as Exhibit 1 is the Mitigation Monitoring and Reporting Program ("MMRP") for the mitigation measures that have been proposed for adoption. The Mitigation Monitoring and Reporting Program is required by CEQA Section 21081.6 and *CEQA Guidelines* Section 15091. It provides a table setting forth each mitigation measure listed in the Final EIR ("FEIR") that is required to reduce or avoid a significant adverse impact. Exhibit 1 also specifies the agency responsible for implementation of each measure and establishes monitoring actions and a monitoring schedule.

These findings are based upon substantial evidence in the entire record before the Planning Commission. The references set forth in these findings to certain pages or sections of the EIR or responses to comments in the Final EIR are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

a. Project Description

State Housing Element Law

Since 1969, California's Housing Element law, Government Code Sections 65580 *et seq.*, has required local jurisdictions to adequately plan for and address the housing needs of all segments of its population, such that all communities contribute to the attainment of California's housing goal. Thus, each local jurisdiction is required to include a housing element as an element of its general plan.

State housing element law requires that each city and county develop local housing programs designed to meet its "fair share" of housing needs for all income groups during a stated planning period. The "fair share" allocation of regional housing needs (called the RHNA) is determined by regional planning agencies. San Francisco's RHNA is determined by the Association of Bay Area Governments (ABAG). By allocating each jurisdiction's regional housing need, and by requiring that each jurisdictions' housing element addresses the RHNA for the relevant planning period, state Housing Element law ensures that each jurisdiction accepts responsibility for the housing that represents the number of additional dwelling units that would be required to accommodate the anticipated growth in households, replace expected demolitions and conversions of housing units to non-housing uses, and achieve a future vacancy rate that allows for the healthy functioning of the housing market.

Each housing element must include an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs, a statement of housing goals, policies and objectives, as well as a program setting forth actions that the locality is undertaking or will undertake to implement the policies and achieve the goals and objectives.

State law requires the housing element to be updated periodically, usually every five years. The most recent update of the housing element occurred in 2004, when the City adopted the 2004 Housing Element, an update to the 1990 Residence Element. The 2004 Housing Element addressed the City's housing needs for the planning period 1999 to 2006. Subsequent to adoption of the 2004 Housing Element, the California Court of Appeal determined the environmental document prepared for the 2004 Housing Element was inadequate, and directed the City to prepare an EIR (see *San Franciscans for Livable Neighborhoods* v. *City and County of San Francisco* [June 22, 2007, A112987] [unpublished opinion]). The Court allowed the City to continue to rely on the 2004 Housing Element pending the completion of the EIR, except for several express policies and objectives.

2009 Housing Element

During the pendency of litigation over the 2004 Housing Element's environmental review, and in accordance with state Housing Element law, the City underwent a comprehensive planning process and prepared the next update of the Housing Element to address the planning period 2007 through 2014. The result was the proposed 2009 Housing Element.

The 2009 Housing Element consists of three parts. Part I of the 2009 Housing Element consists of the Data and Needs Analysis section, which provides a statistical baseline for determining

appropriate housing objectives, policies and implementation strategies. This section includes San Francisco population and employment trends, housing data, and inventories of land available for housing development. Part I provides a foundation for the proposed changes to the objectives and policies contained in Part II of the 2009 Housing Element.

Part I also presents an updated calculation of San Francisco's fair share of the regional housing need, for January 2007 through June 2014. The City's RHNA goal is 31,193 housing units, or 4,159 units per year. Part I identifies where development capacity exists under existing zoning for future potential housing throughout the City.

Part II of the 2009 Housing Element, summarized in the Project Description of the EIR, and attached as an appendix thereto, sets forth the objectives, policies, and implementing strategies intended to address the City's housing needs based on the RHNA. Generally, the objectives and policies contained in Part II prioritize the creation of permanently affordable housing; conserve and improve the existing housing stock; recognize and preserve neighborhood character; integrate planning of housing, jobs, transportation and infrastructure; and maintain the City as a sustainable model of development.

The 2009 Housing Element also includes implementation measures, which are proposed for adoption and which have been reviewed in the EIR, and a series of "Strategies for Further Review." The Strategies for Further Review are ideas which were raised over the course of development and outreach for the 2009 Housing Element. Most of the strategies require further examination, and potentially long-term study, before they can be directly implemented.

b. Environmental Review

The Planning Department printed and circulated a Notice of Preparation (NOP) on October 8, 2008 that solicited comments regarding the content of the proposed EIR for the 2004 Housing Element that was required by the court. The NOP for the Draft EIR was circulated for 30 days in accordance with CEQA Guidelines Section 15082(b). During the NOP circulation period, a public scoping meeting was held on November 6, 2008.

Subsequent to the circulation of the NOP, a draft of the proposed 2009 Housing Element was completed. The scope of the EIR was revised to include both the 2004 Housing Element and the 2009 Housing Element. Therefore, the Planning Department printed and recirculated an NOP on September 2, 2009 that solicited comments regarding the content of the EIR for the proposed Housing Elements. During the NOP circulation period, the Planning Department held a public scoping meeting on September 30, 2009.

The Planning Department published the Draft EIR and provided public notice of the availability of the Draft EIR for public review and comment on June 30, 2010. Notices of Completion and copies of the Draft EIR were distributed to the State Clearing house.

The Planning Commission held a duly notice public hearing on the Draft EIR on August 5, 2010. At this hearing, opportunity for public comment was given, and public comment was received on the Draft EIR. The Planning Department accepted public comments on the Draft EIR from June 30, 2010 to August 31, 2010.

The Planning Department published the Comments and Responses on the Draft EIR on March 9, 2011. This document includes responses to environmental comments on the Draft EIR made at the public hearing on August 5, 2010, as well as written comments submitted on the Draft EIR from June 30, 2010 to August 31, 2010. The Comments and Responses document also contains text changes to the Draft EIR made by the EIR preparers to correct or clarify information

presented in the Draft EIR, including changes to the Draft EIR text made in response to comments.

c. Planning Commission Actions

The Planning Commission is being requested to take the following actions to approve and implement the Preferred Project.

- Certify the Final EIR.
- Adopt CEQA Findings and a Mitigation Monitoring and Reporting Program.
- Approve and recommend adoption of the 2009 Housing Element of the San Francisco General Plan by the Board of Supervisors.

d. Location of Records

The record upon which all findings and determinations related to the Project are based includes, but is not limited to, the following:

- The San Francisco 2009 Housing Element (drafts 1, 2 and 3 and proposed amendments);
- The San Francisco 2004 Housing Element;
- The San Francisco 1990 Residence Element;
- The EIR and all documents referenced in or relied upon by the EIR;
- All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the EIR, the proposed approvals, the Project, and the alternatives set forth in the EIR;
- All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and sub-consultants who prepared the EIR, or incorporated into reports presented to the Planning Commission;
- All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR;
- All information (including written evidence and testimony) presented at any public hearing or workshop related to the Project and the EIR;
- For documentary and information purposes, all locally-adopted land use plans and ordinances, including, without limitation, general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area;
- The MMRP; and
- All other documents comprising the record pursuant to Public Resources Code Section 2116.76(e)

The public hearing transcript, a copy of all letters regarding the EIR received during the public review period, the administrative record, and background documentation for the Final EIR are

located at the Planning Department, 1650 Mission Street, Suite 400, San Francisco. Linda Avery, Commission Secretary, is the custodian of these documents and materials.

II. Impacts Found Not to Be Significant, Thus Requiring No Mitigation

Finding: Based on substantial evidence in the whole record of this proceeding, the City finds that the implementation of the Project would not result in any significant environmental impacts in the following areas: Land Use and Land Use Planning; Aesthetics; Population and Housing; Cultural and Paleontological Resources; Air Quality; Greenhouse Gas Emissions; Wind and Shadow; Recreation; Utilities and Service Systems; Public Services; Biological Resources; Geology and Soils, Hydrology/Water Quality; Hazards/Hazardous Materials; Mineral/Energy Resources; Agricultural Resources. Each of these topics is analyzed and discussed in detail, including, but not limited to, in the EIR at Chapters V.B, V.C, V.D, V.E, V.H, V.I, V.J, V.K, V.L, V.M, V.N, V.O, V.P, V.Q, V.R, and V.S.

III. Findings of Potentially-Significant Impacts that Can be Avoided or Reduced to a Less-Than-Significant Level

Finding: The California Environmental Quality Act (CEQA) requires agencies to adopt mitigation measures that would avoid or substantially lessen a project's identified significant impacts or potential significant impacts if such measures are feasible.

The findings in this Section III and in Section IV concern mitigation measures set forth in the FEIR. These findings discuss mitigation measures as proposed in the FEIR and recommended for adoption by the Planning Commission and the Board of Supervisors.

As explained previously, **Exhibit 1**, attached, contains the Mitigation Monitoring and Reporting Program required by CEQA Section 21081.6 and *CEQA Guidelines* Section 15091. It provides a table setting forth each mitigation measure listed in Chapter V of the EIR that is required to reduce or avoid a significant adverse impact. **Exhibit 1** also specifies the agency responsible for implementation of each measure, establishes monitoring actions and a monitoring schedule.
The Planning Commission finds that, based on the record before it, the mitigation measure proposed for adoption in the FEIR is feasible, and that it can and should be carried out by the Planning Commission and Board of Supervisors, and staff has recommended that it be incorporated into the 2009 Housing Element as an implementation measure found in Appendix C. The Planning Commission acknowledges that if such measures were not adopted and implemented, the Project may result in additional significant unavoidable impacts. For this reason, and as discussed in Section VI, the Planning Commission is adopting a Statement of Overriding Considerations as set forth in Section VII.

The mitigation measures identified in the FEIR which would reduce or avoid significant adverse environmental impacts are proposed for adoption as implementation measures of the 2009 Housing Element, and are set forth in **Exhibit 1**, in the Mitigation Monitoring and Reporting Program.

Noise:

a) Potentially Significant Impact

Implementation of the 2009 Housing Element would promote housing near transit and other infrastructure, housing near neighborhood services, and housing within mixed-use areas which could result in housing located in area that already experience ambient noise levels above 75 Ldn. Residential development in areas that experience noise levels above 75 Ldn could expose noise sensitive receptors to noise levels in excess of established standards. Compliance with

Title 24, which typically addresses interior noise levels for housing developments, may not mitigate exterior noise on private open space. Other site specific conditions may warrant acoustical monitoring and analysis beyond the requirements for Title 24. This could result in a significant impact with respect to noise.

b) Mitigation Measure and Conclusion

The City finds the potentially-significant impact listed above would be reduced to a less-than-significant level with implementation of mitigation measure M-NO-1, which would require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-generating uses within two blocks of the project site, and includes at least one 24-hour noise measurement (with maximum noise level readings taken at least every 15 minutes), prior to completion of environmental review. The analysis shall demonstrate with reasonable certainty that Title 24 standards, where applicable, can be met, and that there are no particular circumstances about the proposed project site that appear to warrant heightened concern about noise levels in the vicinity of the proposed project. Should such concerns be present, the Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action, in order to demonstrate that acceptable interior noise levels consistent with those in Title 24 standards can be attained.

In addition, to minimize effects on development in noisy areas, for new residential uses, the Planning Department, shall, through its building permit review process, in conjunction with noise analysis required above, require that open space required by the Planning Code for such uses be protected, to the maximum feasible extent, from existing ambient noise levels that could prove annoying or disruptive to users of the open space. Implementation of this measure could involve, among other things, site design that uses the building itself to shield on-site open space from the greatest noise sources, construction of noise barriers between noise sources and open space, and appropriate use of both common and private open space in multi-family dwellings. Implementation would also be undertaken consistent with other principles of urban design.

Compliance with this mitigation measure M-NO-1, together with compliance with Title 24 of the California Code of Regulations and the California Building Code and the San Francisco Police Code, would reduce the impact to a less-than-significant level.

IV. Significant Impacts That Cannot Be Avoided or Reduced to a Less-Than-Significant Level.

Finding: Based on substantial evidence in the whole record of these proceedings, the City finds that, where feasible, changes or alterations have been required, or incorporated into the 2009 Housing Element to reduce the significant enviromental impact as identified in the FEIR. The City determines that the following significant impacts on the environment, as reflected in the FEIR, are unavoidable, but under Public Resources Code Section 21081(a)(3) and (b), and *CEQA Guidelines* 15091(a)(3), 15092(b)(2)(B), and 15093, the City determines that the impacts are acceptable due to the overriding considerations described in Section VII below. This finding is supported by substantial evidence in the record of this proceeding.

Transportation/Circulation:

a. Impact – Transit

Adoption of the 2009 Housing Element would result in implementation of objectives and policies that encourage residential development that takes advantage of alternative modes of transportation, including transit. Under 2025 Cumulative Conditions, the California Street and

Market Street Subway transit corridors are anticipated to operate near Muni's transit capacity utilization standard of 85 percent. A substantial mode shift to transit could result in an increase in transit ridership above Muni's capacity utilization standard, thereby resulting in overcrowding on the public transit system. To reduce potential overcrowding on transit, SFMTA could increase capacity on Muni by implementing the transportation plans and programs, as described in the Draft EIR at Section V.F-15 to V.F-18, which include SFPark, SFGo, the San Francisco Bicycle Plan, the Central Subway, Bus Rapid Transit and the Better Streets Plan. Implementation of these plans and programs could reduce congestion and decrease transit travel times, allowing a given bus to complete more runs in a day, which allows MUNI's capacity to increase without acquiring additional buses. However, although many of the transportation plans are in the process of being implemented, implementation has not been secured for all of the measures, and it is not known whether the implementation of all of the measures would provide a sufficient decrease in travel time, and subsequent increase in bus runs, to carry all projected riders. SFMTA could also increase capacity on MUNI by providing more buses. However, this approach would involve increased costs to SFMTA for which funding has not been identified, and could require additional sources of revenue. Because the certainty and feasibility of these two mitigation options cannot be established, the impact on transit would remain significant and unavoidable.

b) Mitigation Measure:

No feasible mitigation measures have been identified for the potentially significant impact on transit. Hence a significant and unavoidable transit impact would occur with implementation of the 2009 Housing Element.

V. Why Subsequent Environmental Analysis or Recirculation is Not Required.

Finding: For the reasons set forth below and elsewhere in the Administrative Record, none of the factors are present which would necessitate recirculation of the Final EIR under CEQA Guideline Section 15088.5 or the preparation of a subsequent or supplemental EIR under CEQA Guideline Section 15162.

The Comments and Responses document thoroughly addressed all public comments that the Planning Department received on the Draft EIR. In response to these comments, the Department added new and clarifying text to the EIR. In addition, since publication of the Draft EIR, the staff, in response to public comments and additional staff evaluation of the 2009 Housing Element, modified a number of policies and Objective in the 2009 Housing Element in order avoid or alleviate specific concerns raised by the public and City officials.

The Comments and Responses document, which is incorporated herein by reference, analyzed all of these changes and determined that these changes did not constitute new information of significance that would add new significant environmental effects, or substantially increase the severity of effects identified in the Final EIR. Further, additional changes to the 2009 Housing Element have been incorporated into the Element after publication of the Comments and Responses document. These changes have been addressed orally by staff or in staff reports, which statements and reports are incorporated herein by reference, and based on this information, the Planning Department has determined that these additional changes do not constitute new information of significance that would alter any of the conclusions of the EIR.
Based on the information set forth above and other substantial evidence in light of the whole record on the Final EIR, the Commission determines that the 2009 Housing Element is within the scope of the project analyzed in the Final EIR; (2) approval of 2009 Housing Element will not require important revisions to the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (3) taking into account the 2009 Housing Element and other changes analyzed in the

Final EIR, no substantial changes have occurred with respect to the circumstances under which the Project are undertaken which would require major revisions to the Final EIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the Final EIR; and (4) no new information of substantial importance to the Project has become available which would indicate (a) the 2009 Housing Element or the approval action will have significant effects not discussed in the Final EIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures or alternatives found not feasible which would reduce one or more significant effects have become feasible; or (d) mitigation measures or alternatives which are considerably different from those in the Final EIR would substantially reduce one or more significant effects on the environment. Consequently, there is no need to recirculate the Final EIR under CEQA Guideline 15088.5 or to prepare a subsequent or supplemental EIR under CEQA Guideline Section 15162.

VI. Evaluation of Project Alternatives.

This Section describes the EIR alternatives, including the 2004 Housing Element, and the reasons for rejecting the alternatives and the 2004 Housing Element. This Section also outlines the 2009 Housing Element's purpose and provides the rationale for selecting or rejecting alternatives.

CEQA mandates that an EIR evaluate a reasonable range of alternatives to the project, which would "feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen effects of the project, and evaluate the comparative merits of the project." (*CEQA Guidelines*, Section 15126.6(a)).

CEQA requires that every EIR evaluate a "No Project" alternative as part of the range of alternatives analyzed in the EIR. The Housing Element EIR's No Project analysis was prepared in accordance with *CEQA Guidelines* Sections 15126.6(e)(3)(A) and (C).

Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to consider reasonable feasible options for minimizing environmental consequences of the Project.

A. Reasons for Selection of the Project

As described above and in this section, the project proposed for adoption is the 2009 Housing Element, as defined in the Project Description, with the changes identified in Draft 3 of the 2009 Housing Element published in February 2011, together with changes outlined in the staff report dated March 17, 2011. The 2009 Housing Element is identified in the Draft EIR in Chapter IV, Project Description, particularly at pages IV-28 through IV-31. The 2009 Housing Element is selected for adoption because it will promote the greatest achievement of all of the following objectives, which would not be achieved by any of the alternatives or the 2004 Housing Element.

- Provide a vision for the City's housing and growth management through 2014

The 2009 Housing Element is a product of significant community input. In drafting the policies and objectives of the 2009 Housing Element, the Department worked closely with community leaders, stakeholders, City agencies, and community members starting in September of 2008. The Department convened a Community Advisory Body, held over a dozen stakeholder sessions, over 30 public workshops and presentations, hosted staff office hours, surveyed the community in writing and online, and the Planning Director hosted two workshops. The 2009 Housing Element provides a community based vision for the City's housing future, specifically incorporating and responding to an updated RHNA goal set for 2007 to 2014, and responding to recent global economic indicators and global climate issues.

- Maintain the existing housing stock to serve housing needs

The 2009 Housing Element recognizes that the majority of San Francisco's housing stock is over 60 years old and this existing stock is an important part of meeting San Francisco's housing demands. Retaining existing housing reduces the needs for resources to build new housing, and maintains the total supply of lower cost housing. Demolition of existing housing and construction of new housing often results in new units which are more costly than the units that were demolished. The 2009 Housing Element contains objectives which specifically discourage the demolition of existing housing and discourages the merger of existing units, unless the resulting units increases the City's supply of affordable or family housing. The 2009 Housing Element also discourages the removal or reduction of housing for parking.

- Ensure capacity for the development of new housing to meet the RHNA at all income levels

The Association of Bay Area Governments has determined that San Francisco's fair share of the regional housing need for January 2007 through June 2014 is 31,190 units, or about 4,160 units per year. This regional housing needs assessment (RHNA) includes production targets addressing housing at a range of household income categories. San Francisco's RHNA target includes 18,880 units, or 61%, that are affordable to moderate income households (120% of the area median income) and below.

The 2009 Housing Element contains objectives and policies which ensure that the City has capacity for the development of housing at all income levels. The 2009 Housing Element contains objectives and policies to foster a housing stock that meets the needs of all residents across all lifecycles, such as families with children, people with disabilities and seniors, many of which have income levels that can only be met by affordable units. The 2009 Housing Element seeks to ensure that units affordable to all income levels are located throughout San Francisco according to infrastructure and site capacity, and encourages integrated neighborhoods with a diversity of unit types and affordability levels. The 2009 Housing Element encourages the completion of key opportunity areas such as Treasure Island, Candlestick Park and Hunters Point Shipyard, which will provide significant new capacity for new neighborhoods with units at all income levels.

- Encourage housing development where supported by existing or planned infrastructure, while maintaining neighborhood character;

The 2009 Housing Element supports the completion of planning for Treasure Island, Candlestick Park and Hunters Point Shipyard, as well as Park Merced and the Transbay Transit Center. These areas have existing infrastructure to support new housing, or new infrastructure is planned for them. The 2009 Housing Element supports new, mixed-use infill development in areas where there is adequate open space, child care, neighborhood services and public transit. At the same time, the 2009 Housing Element seeks to maintain and support the diverse and distinct character of San Francisco's neighborhoods, ensures densities in established residential areas are compatible with existing neighborhood character.

- Encourage, develop and maintain programs and policies to meet projected affordable housing needs

The 2009 Housing Element seeks to facilitate permanently affordable housing, and contains many objectives and policies designed to expand the number of resources for affordable housing, facilitate affordable housing development through land subsidy programs, and support programs

that do not require direct public subsidies and that can facilitate the development of middle income units.

- Develop a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals

The City, greater Bay Area and the State of California have adopted environmental and housing goals for more sustainable development. SB 375, adopted by the State, seeks to link housing with transportation to address global climate change. ABAG has allocated regional housing needs based on the availability of transit infrastructure. San Francisco has adopted numerous plans that support green development and help to reduce the City's greenhouse gas emissions.

The 2009 Housing Element supports these environmental and housing goals with objectives and policies which support smart regional growth that locates new housing close to jobs and transit, require that the City work with localities region-wide to coordinate affordable housing productions, which promote "green" development at the highest level by encouraging walking, bicycling and transit, and which encourage LEED developments. These objectives and policies will help ensure that San Francisco, and the region, works toward "meeting the needs of the present without sacrificing the ability of future generations to meet their own needs."

- Adopt a housing element that substantially complies with California Housing Element Law as determined by the California Department of Housing and Community Development.

A determination by the California Department of Housing and Community Development that the Housing Element substantially complies with state Housing Element law provides the City with a rebuttable assumption that the Housing Element complies with state Housing Element law and allows the City to adopt and amend redevelopment plans – an important source of affordable housing money. Without a housing element that substantially complies with state Housing Element law, the San Francisco Redevelopment Agency may be prohibited from incurring additional indebtedness to finance low- and moderate-income housing. A substantially compliant housing element also required for other state affordable housing funds.

HCD has indicated, based on their preliminary review, that it finds that the 2009 Housing Element is substantially compliant with state housing element law. The City expects that HCD will issue a letter indicating its finding by April 12. In previous correspondence, HCD commended the City for its many innovative strategies and programs.

B. Alternatives Rejected and Reasons for Rejection

Rejection of 2004 Housing Element: The 2004 Housing Element was analyzed in the EIR at an equal level of detail as the 2009 Housing Element and was offered both as a Housing Element that the decision-makers could adopt, and in response to the Court's requirement that the City analyze the 2004 Housing Element in an EIR. Generally, the 2004 Housing Element encourages housing in certain areas of the City, and encourages the construction of higher density developments and reduced parking requirements.

However, adoption of the entire 2004 Housing Element is hereby rejected. The 2004 Housing Element would not meet the Project's Objectives to encourage housing development where supported by existing or planned infrastructure while maintaining neighborhood character, because the 2004 Housing Element encourages developers to take full advantage of building densities which could negatively impact neighborhood character and aesthetics, particularly in areas of the City that are dominated by lower density development. The 2004 Housing Element does not appropriately balance the need for new housing with the need to protect the character of

established neighborhoods because it removed or modified previous policies which offered greater protection of prevailing neighborhood character.

In addition, the 2004 Housing Element was proposed in response to San Francisco's RHNA goal for 2001-2006. As noted, an updated Housing Element must respond to ABAG's RHNA goal from 2007 to 2014. Unlike the 2009 Housing Element, even if an updated Part I of the Housing Element were adopted together with 2004 Housing Element's Part II, the objectives and policies in the 2004 Housing Element do not respond to current housing needs or recent economic conditions which have an impact on the creation and preservation of affordable housing.

Finally, the 2004 Housing Element was not created with the depth and breadth of community input and involvement that the 2009 Housing Element was. The 2009 Housing Element includes input from a Citizens Advisory Committee, over 30 public workshops, staff office hours, online and written surveys as well as workshops hosted by the Planning Director over a two and a half year period.

For the foregoing reasons as well as economic, legal, social, technological, and other considerations set forth herein and elsewhere in the record, the 2004 Housing Element is hereby rejected.

Rejection of Alternative A: The No Project/Continuation of 1990 Residence Element Alternative. Alternative A is the CEQA-required "No Project" alternative. CEQA Guidelines Section 15126.6(e)(3)(A) provides that "when the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the 'no project' alternative will be the continuation of the existing plan, policy or operation into the future." Under Alternative A: the No Project/Continuation of 1990 Residence Element Alternative, the 1990 Residence Element policies would remain in effect and neither the proposed 2004 Housing Element nor the 2009 Housing Element policies would be implemented. Housing development in the City would continue as encouraged under the 1990 Residence Element.

Alternative A would not be desirable nor meet the Project's Objectives. Alternative A encourages housing in less limited areas than the Project, and could increase density to a greater extent Citywide than the Project. Thus, Alternative A would conflict with the Project's objective to encourage housing development where supported by existing or planned infrastructure. Alternative A does not include policies that discourage the destruction or reduction of housing for parking, reduce housing displacement pressures that could be exerted by a lack of suitable housing units, or support the production, management, and preservation of affordable units. In addition, Alternative A would not as aggressively ensure the relocation of displaced tenants, thus, Alternative A would not meet the Project's Objective to encourage, develop and maintain programs and policies to meet projected affordable housing needs.

Because the policies in Alternative A were based on data and housing needs prior to 1990, Alternative A does not include policies and objectives which take into account the updated demographic and background information that the policies and objectives in the 2009 Housing Element do. For example, Alternative A does not contain policies that protect historic resources to the same extent as the Project, because the Project's policies and objective's approach to historic resources reflects the changes in the City and state's approach to evaluating historic impacts. Alternative A does not contain policies which allow for the reduction in parking requirements, and thus housing projects could require an increased amount of excavation, with potentially greater impacts on archeological and paleontological impacts.

Alternative A contains less focus on housing near jobs and other services or along transit lines, which could result in the development of more housing farther away from these services resulting in more vehicle trips than under the Project. Increased vehicle trips results in more

congestion impacts, air quality impacts and greenhouse gas impacts. As a result, Alternative A does not meet the Objective to develop a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals, such as the City's Climate Action Plan and the Department of the Environment's Strategic Action Plan, both of which call for a reduction in the amount of vehicle trips which are the biggest source of greenhouse gases.

Finally, Alternative A does not promote increased density along transit lines and does not promote the creation or retention of affordable housing as aggressively as the 2009 Housing Element, and do not respond to current housing needs or recent economic conditions which have an impact on the creation and preservation of affordable housing. Thus, Alternative A would be less likely to enable the City to meet its goals to provide housing in the amounts allocated by ABAG in the RHNA, particularly housing that meets the affordability targets outlined in the RHNA.

For the foregoing reasons as well as economic, legal, social, technological, and other considerations set forth herein and elsewhere in the record, Alternative A is hereby rejected.

Rejection of Alternative B: 2004 Housing Element–Adjudicated. This alternative includes the objectives, policies and implementation measures of the 2004 Housing Element excepting policies that were stricken by the San Francisco Superior Court. Similar to Alternative A, this alternative would use the most recently identified RHNA allocation and an updated Data and Needs Analysis.

As identified in the EIR, Alternative B was determined to be the environmentally superior alternative, because Alternative B would come closer to meeting a key project objective in meeting the RHNA than would Alternative A, and Alternative A would have a potentially greater impact on historic resources.

Similar to the reasons set forth in rejecting Alternative A, Alternative B would be less likely to meet the Project's Objectives to meet the RHNA than the 2009 Housing Element. Even if enough development and new housing units were built under Alternative B to meet the overall RHNA, Alternative B may not ensure that the affordability of that new housing would reflect the income levels required by the RHNA. Similar to Alternative A and to the 2004 Housing Element, the objectives and policies in Alternative B do not respond to current housing needs or recent economic conditions which have an impact on the creation and preservation of affordable housing

Similar to Alternative A, policies and objectives in Alternative B contain less focus on housing near jobs and other services or along transit lines, which could result in the development of more housing farther away from these services resulting in more vehicle trips than under the 2009 Housing Element. Increased vehicle trips results in more congestion impacts, air quality impacts and greenhouse gas impacts. As a result, Alternative B does not meet the Objective to develop a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals, such as the City's Climate Action Plan and the Department of the Environment's Strategic Action Plan, both of which call for a reduction in the amount of vehicle trips which are the biggest source of greenhouse gases.

In addition, Alternative B, the 2004 Housing Element - Adjudicated is a compilation of policies and objectives that received no community input or involvement. This Alternative B does not contain the policies and objectives related to housing issues that respond to all stakeholders in the community including neighborhood organizations, housing developers and affordable housing advocates.

For the foregoing reasons as well as economic, legal, social, technological, and other considerations set forth herein and elsewhere in the record, Alternative B: the 2004 Housing Element – Adjudicated is hereby rejected.

Rejection of Alternative C: 2009 Housing Element–Intensified. This alternative includes concepts that more actively encourage housing development through zoning accommodations. These concepts were generated based on ideas and alternative concepts raised over the course of outreach for the 2009 Housing Element preparation process, but which were ultimately not included. These concepts are intended to encourage housing by: 1) allowing for limited expansion of allowable building envelope for developments meeting the City's affordable housing requirement on-site with units of two or more bedrooms; 2) requiring development to the full allowable building envelope in locations that are directly on Transportation Effectiveness Project (TEP) rapid transit network lines; 3) giving height and/or density bonuses for development that exceeds affordable housing requirements in locations that are directly on TEP rapid transit network lines; 4) allowing height and/or density bonus for 100 percent affordable housing in all areas of the City except in RH-1 and RH-2 zones; and 5) granting of administrative variances (i.e. over the counter) for reduced parking spaces if the development is: a) in an RH-2 zoning district (allowing for greater residential density); b) in an area where additional curb cuts would restrict parking in areas with parking shortages; or c) on a Transit Preferential Street.

Alternative C encourages greater amounts of housing than the 2090 Housing Element. By providing more housing, with fewer controls over neighborhood character, Alternative C would not meet the project sponsors objectives to appropriately balance new housing development while maintaining existing neighborhood character. Alternative C would encourage more residential projects and larger buildings, and therefore could have greater impacts on historic buildings and on public services. An increase in population greater than that anticipated in growth projections could result in greater impacts to transportation and circulation, recreation, geology and soils and water quality, as well as hazards and hazardous materials, and mineral and energy resources. Alternative C would therefore be less likely to support sustainable local, regional, and state housing and environmental goals because by more aggressively encouraging housing, the amount of new housing could exceed that accounted for in regional growth projections.

For the foregoing reasons as well as economic, legal, social, technological, and other considerations set forth herein and elsewhere in the record, Alternative C: Housing Element – Intensified is hereby rejected.

Additional Alternatives Proposed by the Public

During the term of analysis of the 2009 Housing Element and its associated EIR and the related comment period, various commentators proposed alternatives to the 2009 Housing Element. To the extent that these comments addressed the adequacy of the EIR analysis, they were described and analyzed in the Responses to Comments document. As presented in the record, the Final EIR reviewed a reasonable range of alternatives, and CEQA does not require the project sponsor to consider every proposed alternative so long as the CEQA requirements for alternatives analysis have been satisfied.

Specifically as noted in the Comments and Responses, a "RHNA-Focused Alternative" is rejected because it fails to reduce environmental impacts; a No Post-2004 Rezoning is rejected as infeasible because current, post-2004 planning controls reflect the existing environment, and any change in the controls would require significant community outreach and involvement, draft plans, Planning Commission and Board of Supervisors hearings and environmental review and would undo significant planning proposals which received widespread community and City

support. A "No-Additional Rezoning" is rejected as infeasible and undesirable as it would preclude future development required to accommodate pipeline development, would not reduce any potentially significant impacts to transit, and could impact the City's ability to meet the RHNA for all income groups because rezoning on a localized level is, at times, necessary to accommodate affordable housing developments. Thus, the No-Additional Rezoning Alternative would not meet the Project's Objectives.

For the foregoing reasons as well as economic, legal, social, technological, and other considerations set forth herein and elsewhere in the record and this document, these alternatives are hereby rejected in favor of the 2009 Housing Element.

VII. Statement of Overriding Considerations.

Notwithstanding the significant and unavoidable impact to transit of the 2009 Housing Element, the Board finds, after considering the Final EIR and based on substantial evidence in the record and as set forth elsewhere in these findings and herein, that specific overriding economic, legal, social, technological, or other considerations outweigh the identified significant effects on the environment.

1. Approval of the 2009 Housing Element will help allow the City to fulfill its fair share housing obligations as provided by the Association of Bay Area Governments. The City's fair share of regional housing, or RHNA, has been determined to be 3,294 units affordable to households with extremely low incomes; 3,295 for very low income households; 5,535 for low income households; 6,754 for moderate income households; and 12,315 for above moderate income households. The 2009 Housing Element encourages the production of housing in areas that are better served by transit and encourages the retention of existing housing, all strategies that encourage the production of housing at all income levels.

2. Approval of the 2009 Housing Element will allow the City to continue to utilize the Community Redevelopment Law to facilitate the development of affordable housing. Adoption and amendment of redevelopment plans is crucial to the City's affordable housing development: from 1990 to 2008, the San Francisco Redevelopment Agency provided financing - over $225 million – for the development of approximately 9865 units that were affordable to households making a maximum of 50% of the area median income for rental units ($47,150 for a family of four in 2008) or 100% of the area median income for ownership units ($94,300 for a family of four in 2008). Moreover, since 1990, the Agency has committed nearly 50% of tax increment generated in its project areas to affordable housing, despite state law requirements for use of tax increment of only 20%. HCD has found, based on its preliminary review, that the 2009 Housing Element has been determined to substantially comply with state Housing Element law which allows the City to take advantage of various state and federal affordable housing funds.

3. The Project is consistent with and will help support the policies and objectives of the General Plan, including but not limited to:

COMMERCE AND INDUSTRY ELEMENT

Policy 6.1 Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.3 Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity

Policy 6.4 Encourage the location of neighborhood shopping areas throughout City so that essential retail goods and personal services are accessible to all residents.
Policy 6.6 Adopt specific zoning districts, which conform to a generalized neighborhood commercial land use and density plan.

The 2009 Housing Element is consistent with these policies in the Commerce and Industry Element in that it encourages housing in mixed use developments, and served by neighborhood commercial districts. Neighborhood serving goods and services requires that there be a ready supply of customers in nearby housing. The 2009 Housing Element continues to utilize zoning districts which conforms to a generalized residential land use and density plan the General Plan.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 4 PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.
Policy 4.6 Assure the provision of adequate public open space to serve new residential development.

The 2009 Housing Element is consistent with and fulfills this policy by encouraging an equitable distribution of growth according to infrastructure, which includes public open space and parks; and by requiring that development of new housing considers the proximity of quality of life elements such as open space.

TRANSPORTATION ELEMENT

OBJECTIVE 2: USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AN IMPROVING THE ENVIRONMENT

OBJECTIVE 3: ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES

OBJECTIVE 11: ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

The 2009 Housing Element is consistent with and fulfills these policies by supporting sustainable land use patterns that integrate housing with transportation in order to increase transit mode share; ensuring that new housing is sustainably supported by the City's public infrastructure system, including transit; by supporting "smart" regional growth that locates new housing close to jobs and transit; and by promoting sustainable land use patterns that integrate housing with transportation to increase transit mode, pedestrian and bicycle mode share.

In addition, the 2009 Housing Element fulfills the following policies found in various elements and Area Plans of the General Plan

BALBOA PARK AREA PLAN

OBJECTIVE 4.2 STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT BY PROVIDING AN APPROPRIATE MIX OF HOUSING

OBJECTIVE 4.3 ESTABLISH AN ACTIVE, MIXED USE NEIGHBORHOOD AROUND THE TRANSIT STATION THAT EMPHASIZES THE DEVELOPMENT OF HOUSING.

OBJECTIVE 4.4 CONSIDER HOUSING AS A PRIMARY COMPONENT TO ANY DEVELOPMENT ON THE RESERVOIR.

OBJECTIVE 54.5 PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.

OBJECTIVE 4.6 ENHANCE AND PRESERVE THE EXISTING HOUSING STOCK.

The 2009 Housing Element is consistent with and promotes the objectives of the Balboa Park Area Plan listed above in that it supports the provision of new housing, particularly affordable housing, and promotes the retention of exiting housing units.

BAYVIEW AREA PLAN

OBJECTIVE 5 PRESERVE AND ENHANCE EXISTING RESIDENTIAL NEIGHBORHOODS.

OBJECTIVE 6 ENCOURAGE THE CONSTRUCTION OF NEW AFFORDABLE AND MARKET RATE HOUSING AT LOCATION AND DENSITY LEVELS THAT ENHANCE THE OVERALL RESIDENTIAL QUALITY OF BAYVIEW HUNTERS POINT.

The 2009 Housing Element is consistent with and promotes the objectives of the Bayview Area Plan in that it promotes the development of new housing, particularly affordable housing while supporting and respecting the diverse and distinct character of San Francisco's neighborhoods, while ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character.

CENTRAL WATERFRONT AREA PLAN

OBJECTIVE 1.1 ENCOURAGE THE TRANSITION OF PORTIONS OF THE CENTRAL WATERFRONT TO A MORE MIXED-USE CHARACTER, WHILE PROTECTING THE NEIGHBORHOODS CORE OF PDR USES AS WELL AS THE HISTORIC DOGPATCH NEIGHBORHOOD

OBJECTIVE 1.2 IN AREAS OF THE CENTRAL WATERFRONT WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER

OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE CENTRAL WATERFRONT IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

The 2009 Housing Element is consistent with the Central Waterfront Area Plan in that it supports new housing, particularly affordable housing and mixed use developments, while encouraging housing close to transit and other amenities and neighborhood services, while ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character

CHINATOWN AREA PLAN

OBJECTIVE 3 STABILIZE AND WHERE POSSIBLE INCREASE THE SUPPLY OF HOUSING

OBJECTIVE 4 PRESERVE THE URBAN ROLE OF CHINATOWN AS A RESIDENTIAL NEIGHBORHOOD

The 2009 Housing Element is consistent with the Chinatown Area Plan in that it encourages the provision of new housing, and encourages the maintenance and retention of existing housing, while ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character.

DOWNTOWN PLAN

OBJECTIVE 7 EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN

OBJECTIVE 8 PROTECT RESIDENTIAL USES IN AN ADJACENT TO DOWNTOWN FROM ENCROACHMENT BY COMMERCIAL USES.

The 2009 Housing Element is consistent with the Downtown Plan in that it encourages the development of new housing in areas that can accommodate that housing with planned or existing infrastructure, and supports new housing projects where households can easily rely on public transportation.

MARKET AND OCTAVIA AREA PLAN

OBJECTIVE 1.1 CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOODS' POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD

OBJECTIVE 1.2 ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREAS UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

OBJECTIVE 2.2 ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA

OBJECTIVE 2.3 PRESERVE AND ENHANCE EXISTING SOUND HOUSING STOCK.

The 2009 Housing Element is consistent with the Market and Octavia Area Plan because it promotes mix use developments, ensures that growth is accommodated without substantially and adversely impacting existing neighborhood character, and promotes the retention and maintenance of existing sound housing stock.

MISSION AREA PLAN

OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE MISSION IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

The 2009 Housing Element promotes the Mission Area Plan in that it encourages that new housing be affordable to people with a wide range of incomes.

RINCON HILL AREA PLAN

OBJECTIVE 1.1 ENCOURAGE THE DEVELOPMENT OF A UNIQUE DYNAMIC, MIXED USE RESIDENTIAL NEIGHBORHOOD CLOSE TO DOWNTOWN, WHICH WILL CONTRIBUTE SIGNIFICANTLY TO THE CITY'S HOUSING SUPPLY.

OBJECTIVE 2.2 MAXIMIZE HOUSING GIN RINCON HILL TO CAPITALIZE ON RINCON HILLS CENTRAL LOCATION ADJACENT TO DOWNTOWN EMPLOYMENT AND TRANSIT SERVICE, WHILE STILL RETAINING THE DISTRICT'S LIVABILITY.

The 2009 Housing Element is consistent with the Rincon Hill Area Plan in that it encourages the development of new housing in areas that can accommodate that housing with planned or existing infrastructure, and supports new housing projects where households can easily rely on public transportation.

SHOWPLACE/POTRERO HILL AREA PLAN

OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE SHOWPLACE/POTRERO IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES.

OBJECTIVE 2.2 RETAIN AND IMPROVE EXISTING HOUSING AFFORDABLE TO PEOPLE OF ALL INCOMES

OBJECTIVE 2.1 LOWER THE COST OF THE PRODUCTION OF HOUSING

The 2009 Housing Element is consistent with the Showplace/Potrero Hill Area Plan in that it promotes the development of housing that is affordable to people of all incomes.

SOMA AREA PLAN

OBJECTIVE 2: PRESERVE EXISTING HOUSING

OBJECTIVE 3 ENCOURAGE THE DEVELOPMENT OF NEW HOUSING, PARTICULARLY AFFORDABLE HOUSING.

The 2009 Housing Element is consistent with the SOMA Area Plan in that it promotes the development of housing that is affordable to people of all incomes and supports the conservation and improvement of the existing housing stock.

4. The 2009 Housing Element is consistent with state, region and Citywide plans and policies to reduce greenhouse gas emissions by encouraging the provision of housing near transit. By encouraging housing along major transit lines and in close proximity to jobs and other daily activities, the 2009 Housing Element facilitates a decrease in the number of vehicle trips by City residents and visitors, and an increase in the number of persons using other modes for transportation, such as transit, bicycle and walking. The decreased use of private automobiles and increased use of transit, bicycles and walking will help reduce use of vehicles, a major source of greenhouse gas emissions. These plans and policies include, but are not limited to:

a. San Francisco's "Climate Action Plan: Local Actions to Reduce Greenhouse Gas Emissions," adopted in September 2004, which affirms San Francisco's commitment to reducing greenhouse gas emissions by 20% below 1990 levels by 2012. Among other policies, the Climate Action Plan outlines policies to discourage trips by private automobile and increase trips by other modes.

b. San Francisco Department of the Environment's Strategic Plan 2009-2011, a annually updated mission statement by the Department of the Environment, which among other topics, outlines goals and actions to promote non-vehicle use, such as bicycles, in San Francisco in order to reduce greenhouse gas emissions from transportation by 963,000 tons per year by 2012.

c. the Global Warming Solutions Act of 2006, otherwise known as AB 32, a California state law that requires the state's greenhouse gas emissions be reduced to 1990 levels by 2020.

d. United Nations Urban Environmental Accords, a series of implementable goals that can be adopted at a city level to achieve urban sustainability, promote healthy economies, advance social equity and protect the world's ecosystem. Adopted in 2005, and signed by San Francisco, the Accords, among other goals, advocates for policies to reduce the percentage of commute trips by single occupancy vehicles by ten percent in seven years.

5. The 2009 Housing Element is a compilation of housing objectives and policies that were formed with the input of a broad range of community stakeholders. The Department worked closely with community leaders, housing advocates, neighborhood groups, City agencies, and community members starting in 2008. The resulting 2009 Housing Element balances the diverse, and sometimes competing, needs of all San Francisco residents, while providing a comprehensive vision for the City's future projected housing needs.

2004 AND 2009 HOUSING ELEMENT
MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION MEASURES					
Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
NOISE					
Mitigation Measure M-NO-1: Interior and Exterior Noise					
For new residential development located along streets with noise levels above 75 dBA L_{dn}, the planning department shall require the following: 1. The Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-generating uses within two blocks of the project site, and including at least one 24-hour noise measurement (with maximum noise level readings taken at least every 15 minutes), prior to completion of the environmental review. The analysis shall demonstrate with reasonable certainty that Title 24 standards, where applicable, can be met, and that there are no particular circumstances about the proposed project site that appear to warrant heightened concern about noise levels in the vicinity. Should such concerns be present, the Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action, in order to demonstrate that acceptable interior noise levels consistent with those in the Title 24 standards can be attained; and 2. To minimize effects on development in noisy areas, for new residential uses, the Planning Department shall, through its building permit review process, in conjunction with noise analysis required above, require that open space required under the Planning Code for such uses be protected, to the maximum feasible extent, from existing ambient noise levels that could prove annoying or disruptive to users of the open space. Implementation of this measure could involve, among other things, site design that uses the building itself to shield on-site open space from the greatest noise sources, construction of noise barriers between noise sources and open space, and	San Francisco Planning Department	Prior to completion of project-level environmental review and/or the first project approval action.	Ensure that appropriate level of noise analysis is conducted by the Project Sponsor, and where necessary, that residential site design minimizes noise impacts to public and private open space.	San Francisco Planning Department	Prior to completion of project-level environmental review and the first project approval action.

MITIGATION MEASURES					
Mitigation Measures	**Responsibility for Implementation**	**Mitigation Schedule**	**Mitigation Action**	**Monitoring/ Reporting Responsibility**	**Monitoring Schedule**
appropriate use of both common and private open space in multi-family dwellings, and implementation would also be undertaken consistent with other principles of urban design.					

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution

HEARING DATE MARCH 24, 2011

Date:	March 17, 2011
Case No.:	2007.1275EM
Project:	**2009 Housing Element Update**
	Adoption Hearing
Staff Contact:	Kearstin Dischinger – (415) 558-6284
	Kearstin.Dischinger@sfgov.org
Reviewed by:	Sarah Dennis Phillips and Teresa Ojeada
Recommendation:	**Adopt the 2009 Housing Element Update**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE AMENDING THE GENERAL PLAN BY ADOPTING THE 2009 HOUSING ELEMENT UPDATE AS THE HOUSING ELEMENT OF THE SAN FRANCISCO GENERAL PLAN, AND ADOPTING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1 AND THE GENERAL PLAN.

WHEREAS, Section 4.105 of the Charter of the City and County of San Francisco mandates that the Planning Department shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan. In compliance with State law, the San Francisco Planning Department is seeking to update the Housing Element of the General Plan;

The Planning Department, in cooperation with the Mayor's Office of Housing and in consultation with other City agencies, developed the 2009 Update of the Housing Element of the General Plan ("the 2009 Housing Element") through a comprehensive community-based planning effort. The Department worked closely with community leaders, stakeholders, City agencies, and community members starting in September of 2008. A 15 member Community Advisory Body (CAB) was convened to assist staff on the development and refinement of a draft version of objectives, policies and implementation programs. The Department also hosted fourteen stakeholder sessions focusing on the needs and policy interests of special interest housing groups and organizations, and over 30 workshops, some in each supervisorial district of the City. The Planning Commission has hosted several informational hearings on the 2009 Housing Element.

The proposed 2009 Housing Element includes Part 1: Data and Needs Analysis, which contains a description and analysis of San Francisco's population, household and employment trends; existing housing characteristics, and housing needs; Part 2: Objectives, Policies and Implementation Programs, which sets forth the policy framework to address the needs

identified in Part 1; and a series of appendices. Additionally, the Planning Department completed an Environmental Impact Report on the 2009 Housing Element.
Overall, policies envisioned contained in the 2009 Housing Element are consistent with the General Plan, especially the more detailed Area Plans. Staff recommends adoption of the Resolution amending the General Plan, by adopting Draft 3 the 2009 Housing Element Update published in February 2011, together with the amendments detailed in the Planning Commission case report dated March 17, 2011, including changes to Policy 1.6, Policy 1.10, Objective 11, and Policy 12.1; and the addition of two implementation measures (identified as mitigation measures in the EIR) related to review of noise conditions for housing and open space, as the Housing Element of the San Francisco General Plan

The Planning Commission will consider certification of the EIR prepared for the 2004 and the 2009 Housing Elements on or after March 24, 2011 prior to considering the amendments to the General Plan. It will also consider adopting California Environmental Quality Act (CEQA) Findings at that hearing.

Planning Code Section 101.1(b) establishes eight priority policies and is the basis by which differences between competing policies in the General Plan are resolved. The project is consistent with the eight priority policies, in that:

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

The 2009 Housing Element includes policies that call for preserving and enhancing the existing neighborhoods, including building housing near neighborhood commercial districts and encouraging neighborhood commercial services adequate to serve residents. A central goal of the 2009 Housing Element is to plan for housing to support the existing and future workforce.

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

The 2009 Housing Element includes objectives and policies that support existing housing and neighborhood character, and aim to preserve the cultural and economic diversity of San Francisco neighborhoods. The 2009 Housing Element contains two objectives and ten policies that address the preservation of the existing housing stock; there is also a separate objective and eleven supporting policies that address neighborhood character.

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

A central goal of the 2009 Housing Element is to preserve and enhance the City's affordable housing supply. Almost every objective and policy included in the 2009 Housing Element can be considered as addressing affordable housing supply. More specifically, the 2009 Housing Element contains three objectives that directly address affordable housing; and several other objectives and policies are intended to reduce the overall costs of housing construction, which can result in greater affordability.

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

Current short term and long term transportation planning for the City and County of San Francisco will use the land use patterns and growth projections contained in the 2009 Housing Element. Ultimately a continuation of the dense urban fabric will result in reduced regional transportation burdens and costs, including pollution, congestion, and increased infrastructure demands.

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

The 2009 Housing Element would not adversely affect the industrial or service sectors. The 2009 Housing Element contains objectives and policies that provide for housing affordable to residents at all income levels, thereby providing housing for residents employed in the industrial and service sectors, which often pay lower wages. By encouraging housing affordable to residents employed in the industrial and service sectors, these businesses are more likely to remain in San Francisco.

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

The 2009 Housing Element includes policies and implementation measures that encourage seismic sustainability of existing and new housing units.

7. That landmarks and historic buildings be preserved.

The 2009 Housing Element would not have a negative effect on the preservation of landmarks and historic buildings. The 2009 Housing Element includes policies that recognize that landmarks and historic buildings should be preserved.

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

The 2009 Housing Element will not have an impact on recreation and parks or open space or on their access to sunlight and vistas. New residential buildings must comply with Planning Code Section 295. Projects with significant impacts on parks and open space under Planning Code Section 295 cannot be approved.

The 2009 Housing Element was developed in coordination with existing General Plan policies. Analysis of applicable General Plan Objectives and Policies has determined that the proposed action is, on balance, consistent with the General Plan. Below are specific policies and objectives that support the proposed actions.

COMMERCE AND INDUSTRY ELEMENT

POLICY 6.1: Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

POLICY 6.3: Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

POLICY 6.4: Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

POLICY 6.6: Adopt specific zoning districts, which conform to a generalized neighborhood commercial land use and density plan.

The 2009 Housing Element is consistent with these policies in the Commerce and Industry Element in that it encourages housing in mixed use developments, and served by neighborhood commercial districts. Neighborhood serving goods and services requires that there be a ready supply of customers in nearby housing. The 2009 Housing Element continues to utilize zoning districts which conforms to a generalized residential land use and density plan the General Plan.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 4: PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

POLICY 4.6: Assure the provision of adequate public open space to serve new residential development.

The 2009 Housing Element is consistent with this objective and policy because it encourages an equitable distribution of growth according to infrastructure, which includes public open space and parks; and by requiring that development of new housing considers the proximity of quality of life elements such as open space.

TRANSPORTATION ELEMENT

OBJECTIVE 2 USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

OBJECTIVE 11: ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

OBJECTIVE 3: ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES.

The 2009 Housing Element is consistent with these policies because it supports sustainable land use patterns that integrate housing with transportation in order to increase transit mode share; ensuring that new housing is sustainably supported by the City's public infrastructure system, including transit; by supporting "smart" regional growth that locates new housing close to jobs and transit; and by promoting sustainable land use patterns that integrate housing with transportation to increase transit mode, pedestrian and bicycle mode share.

BALBOA PARK AREA PLAN

OBJECTIVE 4.2: STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT BY PROVIDING AN APPROPRIATE MIX OF HOUSING.

OBJECTIVE 4.3: ESTABLISH AN ACTIVE, MIXED-USE NEIGHBORHOOD AROUND THE TRANSIT STATION THAT EMPHASIZES THE DEVELOPMENT OF HOUSING.

OBJECTIVE 4.4: CONSIDER HOUSING AS A PRIMARY COMPONENT TO ANY DEVELOPMENT ON THE RESERVOIR.

OBJECTIVE 4.5: PROVIDE INCREASED HOUSING OPPORTUNITIES AFFORDABLE TO A MIX OF HOUSEHOLDS AT VARYING INCOME LEVELS.

OBJECTIVE 4.6: ENHANCE AND PRESERVE THE EXISTING HOUSING STOCK

The 2009 Housing Element is consistent with and promotes the objectives of the Balboa Park Area Plan listed above in that it supports the provision of new housing, particularly affordable housing, and promotes the retention of exiting housing units.

BAYVIEW AREA PLAN

OBJECTIVE 5: PRESERVE AND ENHANCE EXISTING RESIDENTIAL NEIGHBORHOODS.

OBJECTIVE 6: ENCOURAGE THE CONSTRUCTION OF NEW AFFORDABLE AND MARKET RATE HOUSING AT LOCATIONS AND DENSITY LEVELS THAT ENHANCE THE OVERALL RESIDENTIAL QUALITY OF BAYVIEW HUNTERS POINT.

The 2009 Housing Element is consistent with and promotes the objectives of the Bayview Area Plan listed above in that it supports the provision of new housing, particularly affordable housing, and promotes the retention of exiting housing units.

CENTRAL WATERFRONT AREA PLAN

OBJECTIVE 1.1: ENCOURAGE THE TRANSITION OF PORTIONS OF THE CENTRAL WATERFRONT TO A MORE MIXED-USE CHARACTER, WHILE

PROTECTING THE NEIGHBORHOOD'S CORE OF PDR USES AS WELL AS THE HISTORIC DOGPATCH NEIGHBORHOOD

OBJECTIVE 1.2: IN AREAS OF THE CENTRAL WATERFRONT WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER

OBJECTIVE 2.1: ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE CENTRAL WATERFRONT IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES

The 2009 Housing Element is consistent with the Central Waterfront Area Plan because it supports new housing, particularly affordable housing and mixed use developments, while encouraging housing close to transit and other amenities and neighborhood services, and ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character.

CHINATOWN AREA PLAN

OBJECTIVE 3: STABILIZE AND WHERE POSSIBLE INCREASE THE SUPPLY OF HOUSING

OBJECTIVE 4: PRESERVE THE URBAN ROLE OF CHINATOWN AS A RESIDENTIAL NEIGHBORHOOD.

The 2009 Housing Element is consistent with the Chinatown Area Plan because it encourages the provision of new housing, and encourages the maintenance and retention of existing housing, while ensuring that growth is accommodated without substantially and adversely impacting existing neighborhood character.

DOWNTOWN PLAN

OBJECTIVE 7: EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

OBJECTIVE 8: PROTECT RESIDENTIAL USES IN AND ADJACENT TO DOWNTOWN FROM ENCROACHMENT BY COMMERCIAL USES.

The 2009 Housing Element is consistent with the Downtown Plan because it encourages the development of new housing in areas that can accommodate that housing with planned or existing infrastructure, and supports new housing projects where households can easily rely on public transportation.

MARKET AND OCTAVIA AREA PLAN

OBJECTIVE 1.1: CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A MIXED-USE URBAN NEIGHBORHOOD.

OBJECTIVE 1.2 ENCOURAGE URBAN FORM THAT REINFORCES THE PLAN AREA'S UNIQUE PLACE IN THE CITY'S LARGER URBAN FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER.

OBJECTIVE 2.2 ENCOURAGE CONSTRUCTION OF RESIDENTIAL INFILL THROUGHOUT THE PLAN AREA.

OBJECTIVE 2.3 PRESERVE AND ENHANCE EXISTING SOUND HOUSING STOCK.

The 2009 Housing Element is consistent with the Market and Octavia Area Plan because it promotes mixed-use developments, ensures that growth is accommodated without substantially and adversely impacting existing neighborhood character, and promotes the retention and maintenance of existing sound housing stock.

MISSION AREA PLAN

OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE MISSION IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES

The 2009 Housing Element promotes the Mission Area Plan because it encourages new housing be affordable to people with a wide range of incomes.

RINCON HILL AREA PLAN

OBJECTIVE 1.1 ENCOURAGE THE DEVELOPMENT OF A UNIQUE DYNAMIC, MIXED-USE RESIDENTIAL NEIGHBORHOOD CLOSE TO DOWNTOWN, WHICH WILL CONTRIBUTE SIGNIFICANTLY TO THE CITY'S HOUSING SUPPLY.

OBJECTIVE 1.2 MAXIMIZE HOUSING IN RINCON HILL TO CAPITALIZE ON RINCON HILL'S CENTRAL LOCATION ADJACENT TO DOWNTOWN EMPLOYMENT AND TRANSIT SERVICE, WHILE STILL RETAINING THE DISTRICT'S LIVABILITY.

The 2009 Housing Element is consistent with the Rincon Hill Area Plan because it encourages the development of new housing in areas that can accommodate that housing with planned or existing infrastructure, and supports new housing projects where households can easily rely on public transportation. Rincon Hill has existing infrastructure and contains numerous public transportation options including MUNI, Bart and Caltrain.

SHOWPLACE/POTRERO HILL AREA PLAN

OBJECTIVE 2.1 ENSURE THAT A SIGNIFICANT PERCENTAGE OF NEW HOUSING CREATED IN THE SHOWPLACE / POTRERO IS AFFORDABLE TO PEOPLE WITH A WIDE RANGE OF INCOMES

OBJECTIVE 2.2 RETAIN AND IMPROVE EXISTING HOUSING AFFORDABLE TO PEOPLE OF ALL INCOMES

OBJECTIVE 2.4 LOWER THE COST OF THE PRODUCTION OF HOUSING

The 2009 Housing Element is consistent with the Showplace/Potrero Hill Area Plan because it promotes the development of housing that is affordable to people of all incomes.

SOMA AREA PLAN

OBJECTIVE 2 PRESERVE EXISTING HOUSING.

OBJECTIVE 3 ENCOURAGE THE DEVELOPMENT OF NEW HOUSING, PARTICULARLY AFFORDABLE HOUSING.

The 2009 Housing Element is consistent with the SOMA Area Plan in that it promotes the development of housing that is affordable to people of all incomes and supports the conservation and improvement of the existing housing stock.

WHEREAS, Pursuant to Planning Code Section 340, on February 24th, 2011, the Planning Commission adopted Resolution No. 18294, a Resolution of Intention to initiate amendments to the General Plan of the City and County of San Francisco by adopting the 2009 Housing Element as the Housing Element of the San Francisco General Plan. Said Resolution is incorporated herein by reference; and,

WHEREAS, Prior to considering this relevant amendment to the General Plan, the Planning Commission adopted Motion No. 18307. In that action, the Commission certified the San Francisco 2004 and 2009 Housing Element Environmental Impact Report. On this same date, at a duly noticed public hearing, the Planning Commission also adopted Motion 18308, adopting California Environmental Quality Act Findings related to the 2009 Housing Element. Said Motions are incorporated herein by reference; and

WHEREAS, That on March 24, 2011, the Planning Commission held a duly noticed public hearing on the proposed amendment to the General Plan, and considered the written and oral testimony of Planning Department staff, representatives of other City Departments and members of the public concerning the proposed adoption of the 2009 Housing Element.

NOW THEREFORE BE IT RESOLVED, that the Commission for the purposes of this action relies on the CEQA Findings in Motion No. 18308; and

BE IT FURTHER RESOLVED, That the Commission for the reasons set forth herein, finds that the proposed 2009 Housing Element is, on balance, consistent with the General Plan and the priority policies of Planning Code Section 101.1; and

BE IT FURTHER RESOLVED, That on March 24, 2011, the Planning Commission held a public hearing on the 2009 Housing Element Update and considered the written and oral testimony of Planning Department staff, representatives of other City Departments and members of the public concerning the proposed General Plan Amendment; and

BE IT FURTHER RESOLVED, That pursuant to Planning Code Section 340, the Planning Commission does hereby find that the public necessity, convenience and general welfare require the approval of the attached ordinance, approved as to form by the City Attorney, and directs staff to make corresponding updates to the Land Use Index of the General Plan, and recommends the adoption of the 2009 Housing Element, which shall consist of Draft 3 of the 2009 Housing Element Update published in February 2011, together with the amendments detailed in

the Planning Commission case report dated March 17, 2011, including changes to Policy 1.6, Policy 1.10, Objective 11, and Policy 12.1; and the addition of two implementation measures (identified as mitigation measures in the EIR) related to review of noise conditions for housing and open space; amendments requested by HCD to meet their preliminary approval including the following clarifications to part 1: Clarify methodology of evaluating vacant land, Clarify methodology for calculating ratio of residential to non-residential uses in mixed use districts, Add projection of acquisition and rehabilitation of units during the planning period, Add information about brownfields, sea level rising, and green house gases, Add more details on current processing and impact fees, Clarify implementation measure 37, Clarify implementation measure 38, and Clarify implementation measure 55; and amend Policy 1.4 to acknowledge that significant community outreach is appropriate for zoning changes that involve several parcels or blocks, and a community based planning process is appropriate for zoning changes that involve several blocks; as though fully set forth herein, to the Board of Supervisors.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission on March 24, 2011.

Linda D. Avery

Commission Secretary

AYES: Olauge, Miguel, Antonini, Borden, Fong, Moore, Suygaya,

NOES: na

ABSENT: na

ADOPTED: March 24, 2011

EXHIBIT B

APPELLANT ADDRESS LIST

Cow Hollow Association
Geoff Wood
2760 Baker Street
San Francisco, CA 94123

Francisco Heights Civic Association
Libby Benedict
77 Almaden Court
San Francisco, CA 94118

Greater West Portal Neighborhood Association
Matt Chamberlain
2690-16th Avenue
San Francisco, CA 94116

Jordan Park Improvement Association
Rich Worner
129 Palm Avenue
San Francisco, CA 94118

Lakeshore Acres Improvement Club
Adena Rosmarin
566 Gellert Drive
San Francisco, CA 94132

Laurel Heights Improvement Association of San Francisco, Inc.
John Rothmann
250 Euclid Avenue
San Francisco, CA 94118

Marina-Cow Hollow Neighbors & Merchants
Patricia Vaughey
2742 Baker Street
San Francisco, CA 94123

Miraloma Park Improvement Club
Dan Liberthson
333 Molimo Drive
San Francisco, CA 94127

Pacific Heights Residents Association
Greg Scott
2434 Jackson Street
San Francisco, CA 94115

Presidio Heights Association of Neighbors
Charles Ferguson
3398 Washington Street
San Francisco, CA 94118

St. Francis Homes Association
Carolyn Squeri
12 San Leandro Way
San Francisco, CA 94127

Sunset-Parkside Education and Action Committee, Inc.
Marc Duffett
2690-46th Avenue
San Francisco, CA 94116

Westwood Highlands Association
David Bisho
120 Brentwood Avenue
San Francisco, CA 94127

EXHIBIT C

Filed 6/22/07 San Franciscans for Livable Neighborhoods v. City and County of San Frnacisco CA1/4

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

SAN FRANCISCANS FOR LIVABLE NEIGHBORHOODS, Plaintiff and Appellant, v. CITY AND COUNTY OF SAN FRANCISCO, Defendant and Respondent.	A112987 (San Francisco County Super. Ct. No. 504780)

Appellant San Franciscans for Livable Neighborhoods (SFLN) challenges the denial of its petition for a writ of mandate to compel respondent City and County of San Francisco (the City) to set aside the approval of the housing element of its general plan and to prepare an environmental impact report (EIR) pursuant to the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21000 et seq.)[1] Appellant claims that there is substantial evidence to support a fair argument that amendments to the housing element may have a significant impact on the environment, thus requiring the preparation of an EIR. We agree and reverse.

[1] All statutory references are to the Public Resources Code unless otherwise specified.

I.
FACTUAL AND PROCEDURAL BACKGROUND

The City is required by state law to prepare a general plan for the development of the City that includes, among other elements, a housing element that analyzes "existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing." (Gov. Code, § 65583; see also Gov. Code, §§ 65300, 65302, subd. (c).) The housing element must be updated at least every five years. (Gov. Code, § 65588, subd. (b).)

The City revised its housing element in 1990, when it adopted the 1990 Residence Element (Residence Element). An EIR was prepared to evaluate the revision. Meeting the housing goals in the Residence Element would reduce traffic congestion and thus improve air quality, according to the EIR, because people who work in the City would have shorter commutes. The EIR concluded that reaching the housing goals in the Residence Element could be achieved without any significant adverse effects to the environment.

The Residence Element was not updated again until May 13, 2004, when the City's planning commission adopted a revision following nearly three years of public comment and draft revisions. The revised element, now called the 2004 Housing Element (Housing Element), is the subject of the current appeal.

The Association of Bay Area Governments (ABAG) projected that the population of San Francisco would increase by almost 32,500 people by 2010 to about 809,200. ABAG determined that San Francisco's share of the regional housing need for January 1999 through June 2006 would be 20,374 units, or 2,717 units annually. The Housing Element was designed to address those housing needs.

The City's planning department (Department) prepared an initial study to evaluate whether proposed changes to the Housing Element would have a significant effect on the environment. As part of its analysis, the Department examined only new policies that were being added to the Housing Element; it apparently did not evaluate the effects of policies that contained no text change or that were modified, or the effect of removing certain policies from the 1990 Residence Element. The initial study emphasized that although proposed revisions to the Housing Element were meant to promote increased housing production, no environmental effects would result from the adoption of the element because it did not specify any development, rezoning, or area plans. In evaluating whether the Housing Element would affect various aspects of San Francisco's environment, the initial study repeatedly stated that any environmental impact analysis would be conducted in connection with the approval of any future development projects, area plans, or rezoning. The Department then prepared a negative declaration, which concluded that revisions to the Housing Element could not have a significant effect on the environment. SFLN[2] appealed a preliminary negative declaration, but the planning commission voted unanimously to uphold the negative declaration on the same day it adopted the Housing Element.

SFLN appealed the approval of the negative declaration to the Board of Supervisors. The Board of Supervisors denied the appeal on June 29, 2004, and the 2004 Housing Element was thereafter approved by operation of law. (S.F. Charter, § 4.105

---

[2] SFLN is an unincorporated association that includes several neighborhood organizations: the Cow Hollow Association, the Francisco Heights Civic Association, the Greater West Portal Neighborhood Association, the Jordan Park Improvement Association, the Lakeshore Acres Improvement Club, the Laurel Heights Improvement Association of San Francisco, Inc., the Marina-Cow Hollow Neighbors & Merchants, the Miraloma Park Improvement Club, the Pacific Heights Residents Association, the Presidio Heights Association of Neighbors, the Russian Hill Neighbors, the St. Francis Homes Association, the Sunset-Parkside Education and Action Committee, Inc., and the Westwood Highlands Association.

[proposed general plan amendment deemed approved by Board of Supervisors if board fails to act within 90 days of receiving amendment]; S.F. Planning Code, § 340, subd. (d) [same].) The City filed a notice of determination on November 2, 2004.

The revised Housing Element describes several projects that already have been approved by the Department, and for which permit applications either have been approved or filed with the department of building inspection. One such project is the "Better Neighborhoods Program," a program currently planned for three "pilot neighborhoods" to link land use and transportation development so that each element supports the other. The Housing Element identifies areas for potential housing development, and it includes specific policies and implementation strategies to increase building densities, especially in areas well served by transit, and to advocate reducing or removing minimum parking requirements in order to increase the land available for housing development. The Housing Element also includes a list of future actions to implement the element's objectives and policies.

SFLN filed a petition for writ of mandate with the trial court challenging the City's decision to adopt the Housing Element without preparing and considering an EIR. The petition sought to vacate and set aside the City's decision to approve the Housing Element and to order the City to prepare and consider an EIR.

The trial court denied the petition on the grounds that the 2004 Housing Element did not vary greatly from the 1990 Residence Element, and that SFLN had not provided sufficient evidence to support a fair argument that the revised Housing Element might significantly affect the environment. SFLN timely appealed the subsequent judgment.

II.
DISCUSSION

A. General Legal Principles and Standard of Review.

A government agency shall prepare an EIR on any proposed project that may have a significant effect on the environment. (§ 21100, subd. (a); *Pocket Protectors v. City of*

Sacramento (2004) 124 Cal.App.4th 903, 927.) The purpose of an EIR is "to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment." (§ 21061; see also *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354.) The amendment of an element of a general plan is considered a "project" for purposes of the statute. (Cal. Code Regs., tit. 14, § 15378, subd. (a)(1);[3] see also *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 202; *Black Property Owners Assn. v. City of Berkeley* (1994) 22 Cal.App.4th 974, 985; *City of Santa Ana v. City of Garden Grove* (1979) 100 Cal.App.3d 521, 526, 534.)

A "significant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project." (Guidelines, § 15382.) " 'If there is a possibility that the project may have a significant environmental effect, the agency must conduct an initial threshold study. [Citation.] If the initial study reveals that the project will not have such effect, the lead agency may complete a negative declaration briefly describing the reasons supporting this determination. [Citations.] However, if the project may have a significant effect on the environment, an EIR must be prepared.' [Citations.]" (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 304-305; see also Guidelines, §§ 15002, subd. (k)(1)-(2), 15063, subd. (a), 15365.) The initial study is designed to inform the choice between a negative declaration and an environmental impact report, as well as eliminate unnecessary EIRs. (Guidelines, § 15063, subd. (c)(1),

---

[3] The Guidelines for the Implementation of the California Environmental Quality Act, hereafter Guidelines, are found in California Code of Regulations, title 14, section 15000 et seq. All subsequent regulatory citations to the Guidelines are to title 14 of the Code of Regulations. "[C]ourts should afford great weight to the Guidelines except when a provision is clearly unauthorized or erroneous under CEQA." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391, fn. 2.)

(6).) "The initial study must include a description of the project. The study must also '[p]rovide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment.' " (*City of Redlands v. County of San Bernardino*, (2002) 96 Cal.App.4th 398, 406, fns. omitted.)

Absent substantial evidence of any significant environmental impact, the agency shall adopt a negative declaration. (§ 21080, subd. (c); *City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 405.) A negative declaration is "a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental report." (§ 21064; see also Guidelines, § 15371.) "[S]ubstantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact." (§ 21080, subd. (e)(1); see also Guidelines, § 15384, subd. (b); *City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 410.) Substantial evidence "means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency." (Guidelines, § 15384, subd. (a).) Substantial evidence does not include "argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment." (§ 21080, subd. (e)(2); see also Guidelines, §§ 15064, subd. (f)(5), 15385, subd. (a).)

"In reviewing an agency's decision to adopt a negative declaration, a trial court applies the 'fair argument' test. 'Under this test, the agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a proposed project may have a significant effect on the environment. . . .' If such evidence exists, the court must set aside the agency's decision to adopt a negative declaration as an abuse of

discretion in failing to proceed in a manner as required by law." (*City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 405, fns. omitted; see also § 21082.2, subd. (d).) "The 'act or decision' we review here is not the decision that the project may or may not have a significant environmental impact, but the decision that it can or cannot be *fairly argued* that the project may have a significant environmental impact." (*City of Livermore v. Local Agency Formation Com.* (1986) 184 Cal.App.3d 531, 541.) "The fair argument standard is a 'low threshold' test for requiring the preparation of an EIR. [Citations.] It is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, *with a preference for resolving doubts in favor of environmental review*. [Citations.]" (*Pocket Protectors v. City of Sacramento*, *supra*, 124 Cal.App.4th 903 at p. 928.)

B. CEQA Favors Early Review of Environmental Issues.

We agree with SFLN that the City should not be excused from conducting an EIR simply because the Housing Element is a policy document, with more specific developments to follow. "The general plan is atop the hierarchy of local government law regulating land use. It has been aptly analogized to 'a constitution for all future developments.' [Citation.]" (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1183.) "A general plan embodies an agency's fundamental policy decisions to guide virtually all future growth and development." (*City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 409.) This was acknowledged in the initial study here, which noted that "the revised Housing Element would be used to frame the discussion of future Area Plans, rezoning proposals and specific development proposals, in the same way that all of the elements of the General Plan provide a framework for decision-making about the future of the City."

"Even if a general plan amendment is treated merely as a 'first phase' with later developments having separate approvals and environmental assessments, it is apparent that an evaluation of a 'first phase-general plan amendment' must necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment. Only then can the ultimate effect of the amendment upon the physical environment be addressed." (*Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 194 [EIR required for general plan amendment, even though amendment required a special use permit and additional EIR before any specific development could take place].) CEQA mandates that environmental considerations "not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284.) "Generally, in cases involving general plan amendments, the local agency has either prepared an EIR or was required to do so. [Citations.]"[4] (*Christward Ministry*, *supra*, at pp. 193-194.)

Because San Francisco's population will increase whether or not the City plans for it, the City argues, the Housing Element will not *cause* any population growth, as SFLN claims. The City argues that determinations about its housing needs are "statutorily exempt from environmental review" under Government Code section 65584, subdivision (f), which provides that determinations made by the state's Department of

---

[4] Citing a May 6, 2004, Department memorandum, the City claims that "amendments to a Housing Element are often analyzed properly in a negative declaration," as at least five other Bay Area counties and sixteen other Bay Area cities issued negative declarations for their housing elements (on some unspecified dates). The cited memorandum noted that the Department conducted "a limited survey" of other Bay Area jurisdictions and found that the use of a negative declaration for a housing element update "is not in any way unusual." The relevant housing elements apparently are not in the record, as the City does not cite to them. We therefore do not know whether the other housing elements contained any material changes, or whether there were any legal challenges to the adoption of the negative declarations.

Housing and Community Development, ABAG, or the City about existing and projected housing needs are exempt from CEQA. (See also Gov. Code, § 65582, subds. (b) & (c).) Just because the specific determinations about existing and projected housing needs are exempt, that does not necessarily mean that environmental review of the planning efforts to accommodate those needs also are exempt. We agree with the general proposition that the Housing Element is not designed to induce population growth, and that this case is therefore distinguishable from those cited by SFLN, where approvals of projects clearly would result in population growth in previously undeveloped areas. (*Arviv Enterprises, Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333, 1345, 1347-1348 [approval of 21-house project in area with limited services]; *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 352, 371 [development of airport industrial area expected to add nearly 10,000 employees to area].) It does not follow, however, that planning for growth in a major urban area automatically should be exempt from environmental review.

The City argues that it would be "entirely speculative" to "guess" where any new area plans, zoning changes, or development might occur in the future as a result of the revised Housing Element. The Guidelines recognize that an EIR on an amendment to a general plan may lack specificity, and indicate that it should thus focus on any foreseeable secondary effects on the environment. (Guidelines, § 15146, subd. (b); see also *Christward Ministry v. Superior Court*, *supra*, 184 Cal.App.3d at p. 195 [difficulty in assessing environmental impact of general plan affects specificity of, not requirement to conduct, EIR].) The City also suggests that it is excused from conducting an EIR because any developments that occur under the revised Housing Element would "necessarily require their own environmental review." Again, the Guidelines recognize that "the EIR need not be as detailed as an EIR on the specific construction projects *that might follow*." (Guidelines, § 15146, subd. (b), italics added; *City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 412 [environmental study of general plan

will not have same degree of specificity as for specific construction project]; *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 625 [environmental studies on general plan amendments usually general in nature].) In other words, just because future EIRs may be conducted, that does not *automatically* excuse the City from conducting an EIR now.

The City's reliance on *Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556 (*Pala Band*), which did not involve the amendment of a general plan, is misplaced. In that case, San Diego County designated potential landfill sites as " 'tentatively reserved' " when it adopted an integrated waste management plan pursuant to the Integrated Waste Management Act of 1989 (§ 40000 et seq.) (Waste Act). (*Pala Band* at pp. 560, 566, 575.) The court noted that the " 'tentatively reserved' " designation did not make it reasonably foreseeable that any development would actually occur. (*Id.* at pp. 575-576.) The court upheld a negative declaration, and held that the county was not required to conduct an EIR because to do so would be "premature" as "any analysis of potential environmental impacts would be wholly speculative." (*Id.* at p. 576.)

The City claims that it would likewise be premature to evaluate any potential environmental effects of the Housing Element because any such effects would be "speculative." The City's actions in amending the Housing Element, however, are far different from the actions taken by the county in *Pala Band.* There, the county designated 10 proposed landfill sites as " 'tentatively reserved' " pursuant to specific provisions of the Waste Act. (*Pala Band, supra*, 68 Cal.App.4th at p. 575; see also § 41710.) The court concluded that it was not reasonably foreseeable that any of the sites would actually be developed, because a " 'tentatively reserved' " designation under the Waste Act could be made before an *actual commitment* to develop a specific landfill was made. (*Pala Band* at pp. 575-576.) In order to actually develop a landsite, the county

would be required to take additional steps under the Waste Act, and environmental review could be undertaken when a specific site was proposed. (*Id.* at pp. 576-578.)

Here, by contrast, the Housing Element identifies specific housing goals and implementing strategies. As the court recognized in *City of Santa Ana v. City of Garden Grove*, *supra*, 100 Cal.App.3d at page 532, "general plans now embody fundamental land use decisions that guide the future growth and development of cities and counties. The adoption or amendment of general plans perforce *have a potential for resulting in ultimate physical changes in the environment* and were properly included in [the Guidelines] as projects subject to CEQA." (Italics added; see also § 21080, subd. (a); Guidelines, § 15378, subd. (a)(1).) "CEQA and its guidelines focus on the ultimate impact of a project, not on whether the project is tangible or intangible." (*City of Livermore v. Local Agency Formation Com.*, *supra*, 184 Cal.App.3d at p. 539 [ordering preparation of EIR where county amended sphere of influence guidelines].)

The City also relies on *Atherton v. Board of Supervisors* (1983) 146 Cal.App.3d 346, 351, for the proposition that "no purpose can be served by requiring an EIR [that forces the agency] to engage in sheer speculation as to future environmental consequences." In fact, the agency in *Atherton* actually *completed* an EIR in connection with an amendment to the transportation element of a general plan. (*Id.* at p. 349.) The court upheld a challenge to the adequacy of the EIR, finding that the degree of specificity in the EIR was appropriate for the "conceptual" nature of the amendment. (*Id.* at pp. 350-351.)

Because the Housing Element is not "linked" to any specific plan, legislation, or development, the City argues, the cases cited by SFLN are distinguishable as they involve specific rezoning or development. (*Bozung v. Local Agency Formation Com.*, *supra*, 13 Cal.3d at p. 281 [annexation of agricultural land proposed to be used for development]; *Christward Ministry v. Superior Court*, *supra*, 184 Cal.App.3d at p. 190 [general plan amendment authorized potential new use at specific landfill site]; *City of*

Carmel-by-the-Sea v. Board of Supervisors (1986) 183 Cal.App.3d 229, 235, 246 [rezoning that would permit development near wetlands]; *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 156-157 [general plan amendment in connection with proposed shopping center].) Although it may be technically true that the Housing Element is not linked to any specific rezoning, ordinance changes, or future development,[5] as the City emphasizes, it is not a vague policy document, completely unconnected to future development or potential physical changes to the environment. The Housing Element identifies areas for potential development, encourages development in neighborhood commercial areas, promotes the construction of "well-designed housing that enhances existing neighborhood character," "[s]trongly encourage[s] housing project sponsors to take full advantage of allowable building densities," and advocates reducing or removing minimum parking requirements in order to increase the land available for housing development. While no specific developments are connected with these policies, given the expected population growth and the number of construction projects already underway, the possibility of future development is not merely theoretical. (Cf. *Pala Band*, *supra*, 68 Cal.App.4th at pp.575-576.) The initial study recognizes that the updated Housing Element is "one component of a comprehensive planning effort called the Citywide Action Plan (CAP)," and that the Housing Element was "updated to provide a policy basis *for more specific planning*

---

[5] For this reason, *Laurel Heights Improvement Assn. v. Regents of University of California*, *supra*, 47 Cal.3d 376, is less helpful than SFLN suggests. In *Laurel Heights*, the court concluded that an EIR must analyze the effects of future expansion if it is a "reasonably foreseeable consequence of the initial project." (*Id.* at p. 396.) *Laurel Heights* did not involve the amendment of a general plan, but instead addressed the sufficiency of an EIR that was prepared in connection with the proposed relocation of the School of Pharmacy at the University of California, San Francisco (UCSF). (*Id.* at p. 387.) It was undisputed that UCSF intended to expand its use of a specific facility once space became available, and the "general type of future use" was therefore reasonably foreseeable. (*Id.* at p. 396.)

efforts, such as Better Neighborhoods Program, the Eastern Neighborhoods Community Plans for the Mission District, Bayview, Showplace Square/Potrero Hill, and the Downtown Neighborhoods, such as the C-3-O District and Rincon Hill district." (Italics added.)

Moreover, consistent with the mandate of Government Code section 65583, subdivision (c), that a housing element contain "a five-year schedule of *actions*" that the City is undertaking or plans to undertake to implement the element, the Housing Element includes an appendix titled "preliminary work program for implementing the housing element" that lists various "[i]mplementation [*a*]*ction*[*s*]" for the element's objectives and policies, including beginning a "Geary Boulevard Better Neighborhood program."[6] (Italics added; see also *Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4th 1098, 1108 [housing element shall include schedule of actions].) The planning commission resolution adopting the Housing Element likewise stressed that the Housing Element contained "an action program to implement the policies and achieve the goals and objectives of the Housing Element." In other words, the City anticipates future action based on the Housing Element. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 794 [general plans have " 'potential for resulting in ultimate physical changes to environment' "].) In short, an EIR would not be premature.

---

[6] Citing *Northwood Homes, Inc. v. Town of Moraga* (1989) 216 Cal.App.3d 1197, 1204, the City attempts to downplay the importance of the Housing Element, noting that "[t]he housing needs identified in the general plan are simply goals, not mandated acts." *Northwood Homes* is inapposite. There, the court rejected appellant's argument that an open space ordinance which limited the density of development on certain lands was invalid because it would cause Moraga to fall short of the housing needs identified in its general plan. (*Id.* at pp. 1200, 1203-1204.) The court acknowledged that municipalities are required to adopt housing elements that analyze housing needs and schedule development programs; however, it held that appellant failed to meet its burden to show that the ordinance at issue would have a significant effect on the regional housing supply. (*Id.* at pp. 1202-1204 & fn. 6, citing Gov. Code, § 65583.)

C. EIR Required Only For Changes To General Plan.

As the City correctly emphasizes, we must determine whether there were any *changes* to the Housing Element that were significant enough to warrant conducting an EIR. "[W]hen a proposed amendment to a general plan is the subject of an initial study, in most cases the agency will not be required to assess the environmental effects of the entire plan or preexisting land use designations. Instead, the question is the potential impact on the existing environment of *changes* in the plan which are embodied in the amendment. [Citations.]"[7] (*Black Property Owners Assn. v. City of Berkeley*, *supra*, 22 Cal.App.4th at p. 985.)

In *Black Property Owners*, the City of Berkeley revised its housing element to include the possible construction of 747 additional housing units over 5 years. (*Black Property Owners Assn. v. City of Berkeley*, *supra*, 22 Cal.App.4th at p. 978.) Although no party disputed an initial study's conclusion that the new housing construction would have positive environmental effects, a property owners' association challenged the adoption of the housing element revision, alleging that the city should have been required to prepare an EIR on the adverse consequences of its housing policies in general. (*Id.* at pp. 978, 985 & fn. 7.) The appellate court held that because no changes were proposed to the city's housing-related ordinances, CEQA did not require any assessment of the ordinances' environmental effects. (*Id.* at p. 985.) Further, a rent control ordinance that was "ratified and acknowledged" in the housing element update was exempt from CEQA. (*Id.* at p. 986.) "To require an EIR on the policies embodied in the rent control

---

[7] We disagree with SFLN's characterization of this passage of *Black Property Owners* as dicta. The court cited two cases where general plan amendments were passed in connection with a particular development project or land use designation, and concluded in the next sentence that "a similar approach to the scope of the required environmental review is appropriate" where a general plan amendment is required by statute. (*Black Property Owners Assn. v. City of Berkeley*, *supra*, 22 Cal.App.4th at p. 985.) The cited passage was essential to the court's decision.

ordinance, which was not subject to CEQA when it was enacted 13 years ago by the voters of [Berkeley], and which [Berkeley] has taken no action to change, would not further" the statutory purpose of CEQA. (*Ibid.*)

We disagree with SFLN insofar as it argues that any amendment of the Housing Element necessarily requires an EIR to evaluate each of the element's policies, or that a review of the *entire* Housing Element is necessary. Again, Government Code section 65588, subdivision (b) requires that a housing element be updated every five years. In doing so, local governments may simply "ratif[y] and acknowledge[]" previously adopted ordinances and policies, and evaluating policies left unchanged would not further the purpose of CEQA. (*Black Property Owners Assn. v. City of Berkeley*, *supra*, 22 Cal.App.4th at p. 986; see also *Christward Ministry v. Superior Court*, *supra*, 184 Cal.App.3d at p. 189 [no environmental evaluation necessary based on land use designation unchanged by amendment to general plan]; 1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2006) § 13.12, p. 638.) Indeed, several Housing Element policies incorporated no text change whatsoever from the 1990 Residence Element, and no purpose would be served in conducting environmental review on policies that were evaluated before the adoption of the 1990 Residence Element. The City need only conduct an EIR on any potential effects to the existing environment that may result from *changes* in the general plan which are embodied in the amended element. (*Black Property Owners Assn. v. City of Berkeley*, *supra*, 22 Cal.App.4th at p. 985; *Christward Ministry v. Superior Court*, *supra*, 184 Cal.App.3d at pp. 186-187.)

SFLN relies on cases where courts stressed that when an agency reviews a new project or change to a general plan, it must evaluate the effect of the project or amendment to the existing environment. For example, in *Environmental Planning & Information Council v. County of El Dorado*, *supra*, 131 Cal.App.3d at pages 352-353, the El Dorado County Board of Supervisors certified EIRs prepared to evaluate two area plans that were amendments to the board's general plan. The EIRs compared the

proposed plans with the existing general plan, which was misleading because it made it appear as if the population capacities of the areas would decrease under the plans. (*Id.* at pp. 355, 357-358.) In fact, the existing populations were so small that the amendments actually called for substantial increases in population in each area, and the EIRs thus did not evaluate the impacts of the proposed plans on the environment in its then-current state. (*Id.* at p. 358.) It makes sense that when an agency considers a *change* to a general plan, it should evaluate how that change may affect the existing environment, not how the amendment compares with the previous general plan.

Here, by contrast, it does not make sense to evaluate policies from the 1990 Residence Element that were left unmodified, even if the physical environment in San Francisco has changed since 1990. This case is distinguishable from other cases SFLN relies on to support its argument that the entire Housing Element should be subject to environmental review, as the courts in those cases stressed that when evaluating *new* plans or *changes* to general plans, agencies must focus on the possible effect to the existing environment. (*Christward Ministry v. Superior Court*, *supra*, 184 Cal.App.3d at pp. 186-187 [agency must assess effect of amendment to general plan on existing physical environment, not simply compare proposed amendment and existing general plan]; *Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 697, 711 petn. for review pending, petn. filed May 24, 2007, S152886 [EIR improperly compared proposed project with theoretical construction permitted by existing zoning, rather than with actual existing vacant lot].)[8]

---

[8] *Meridian Ocean Systems, Inc. v. State Lands Com.* (1990) 222 Cal.App.3d 153, 164-165, likewise does not support SFLN's argument that the entire Housing Element is subject to environmental review. The case did not involve the amendment of a general plan. Instead, it analyzed whether the State Lands Commission improperly ordered an EIR for certain geophysical research that previously had been statutorily exempt from environmental review. (*Id.* at pp. 160, 162-165.) The court addressed the invocation of an exception to a specific statutory exemption that is not at issue here. (*Id.* at pp. 164-165, 169.)

With these general legal principles in mind, we now consider whether an EIR is required here.

D. Housing Element Contains Changes That Necessitate an EIR.

The City relies on *Black Property Owners*, *supra*, 22 Cal.App.4th 974 when it states that it "did not analyze the effects of the policies and objectives in the 2004 Housing Element that remain consistent with those policies and objectives contained in the 1990 Resident Element and other elements of the General Plan." It stresses that any changes to the Housing Element were "so minor in scope" that a full environmental review was unnecessary. SFLN argues that unlike in *Black Property Owners*, the Housing Element here was "significantly modified" and calls for "a broad range of future development," necessitating environmental review. We agree with SFLN that the Housing Element contains changes, that some of those changes are not "minor" (as the City argues), and that there is substantial evidence to support a fair argument those changes may have a significant impact on the environment.

For example, policy 11.9 of the Housing Element now provides that densities and "parking standards" should be set at levels "that promote the City's overall housing objectives while *respecting* neighborhood scale and character"; the Residence Element policy was to set allowable densities at levels that will "*promote compatibility with* prevailing neighborhood scale and character." (Italics added.) A Residence Element policy to adopt specific zoning districts that would set density categories has been eliminated from the Housing Element.

Other Housing Element policies make more significant changes. Policy 11.8, a new policy, provides: "Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character." Its explanatory text provides that the "Department should strongly support projects that creatively address residential parking

and open space requirements, resulting in higher densities with a full range of unit sizes." The Department will "study the impacts of reduced parking and private open space provisions and will consider revising the Planning Code accordingly." With respect to "neighborhood character," new policy 11.1 is to "[u]se new housing development as a means to enhance neighborhood vitality and diversity." Its interpretive text states that "[m]inimum density requirements and maximum parking standards should be used to encourage a mix of unit sizes in areas well served by transit and neighborhood retail." Whereas a previous Residence Element policy was to "[p]romote construction of well designed housing that *conserves* existing neighborhood character," policy 11.5 of the Housing Element now "[p]romote[s] the construction of well-designed housing that *enhances* existing neighborhood character." (Italics added.)

The 1990 Residence Element contained a policy to "[r]elate land use controls to the appropriate scale for new and existing residential areas." The interpretive text stated that "zoning envelopes should be tailored to the prevailing built pattern to maintain the low density character [of single- and two-family neighborhoods]." One stated objective of the policy was to "allow some expansion" of height and depth controls in one- and two-family areas "to accommodate contemporary living space needs and still be compatible with the neighborhood scale." Modified policy 11.6 of the Housing Element now states: "Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit." Its implementation action states: "The City will continue to promote increased residential densities in areas well served by transit and neighborhood compatible development with the support and input from local neighborhoods."

New policy 1.7 is to "[e]ncourage and support the construction of quality, new family housing." Finally, although policy 1.6, to "[c]reate incentives for the inclusion of

housing, particularly permanently affordable housing, in new commercial development projects," is almost identical to a policy in the 1990 Residence Element, an implementation provision now calls for reviewing the possibility of removing parking and density requirements as "incentives."

The City argues that "for purposes of CEQA, there was no change to the City's policy of increasing density while maintaining neighborhood character that was significant." We disagree. Taken together, the changes to the Housing Element cited above reflect a shift away from preserving existing housing density and a movement toward allowing denser housing development, and decreased off-street parking, which in turn could lead to increased traffic congestion, air pollution, and noise, as well as a change in the aesthetic quality of City neighborhoods. (*Pocket Protectors v. City of Sacramento*, *supra*, 124 Cal.App.4th at pp. 936-937 [CEQA addresses enjoyment of aesthetic qualities].)[9]

We find *City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th 398 instructive. There, a county board of supervisors adopted general plan amendments relating to the county's "sphere of influence" over future land use planning and development. (*Id.* at pp. 403-404.) The trial court disagreed with the county's characterization of the amendments as mere clarifications of existing policy. (*Id.* at p. 404.) The appellate court affirmed the issuance of a writ of mandate to set aside the amendments, noting that the county had replaced mandatory language with more permissive or discretionary language, that the amendments granted the county more discretion in land use matters relating to unincorporated territory, and that the

---

[9] This case is distinguishable from *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 592, where this court held that "[t]he aesthetic difference between a four-story and a three-story building on a commercial lot on a major [urban] thoroughfare" was "not a significant environmental impact, even under the fair argument standard." Here, changing density requirements in San Francisco could theoretically affect a much larger area, and have a much larger impact, increasing noise, air pollution, and congestion.

amendments made substantive changes to the county's policies and procedures. (*Id.* at pp. 406-407.) In fact, the difference in policies before and after the amendments, standing alone, constituted substantial evidence of a fair argument that the amendments could have a significant effect on the environment. (*Id.* at p. 414.)

Similarly, here, the Housing Element does more than simply clarify or affirm existing policies with respect to housing density. It now "encourage[s]" developers to take "full advantage of allowable building densities," and stresses the enhancement of neighborhood character instead of conservation of neighborhood character. Although we are sympathetic to the City's argument that this case is distinguishable because the amendments to the Housing Element are not as " 'drastic' " as those in *City of Redlands, supra,* 96 Cal.App.4th at page 414, it does not follow that the amendments will not lead to changes to the physical environment. In fact, any future housing promoters could argue that a high density development was compatible with the revised Housing Element. "Not only does CEQA apply to revisions or amendments to an agency's general plan, but CEQA reaches beyond the mere changes in the language in the agency's policy to the ultimate consequences of such changes to the physical environment." (*Id.* at p. 409.)

Moreover, the City fails to distinguish *City of Redlands* in another important respect. The court found that the initial study in *City of Redlands* was inadequate because it "fail[ed] to provide sufficient evidence or analysis of the potential environmental effects of the [general plan] amendments." (96 Cal.App.4th at p. 408.) Instead, for each environmental factor, the county simply stated that no changes were proposed for any goals, policies, or action items, and that the proposed amendments were not expected to result in any significant change to the environment. (*Ibid.*) The court concluded that the initial study was "an impermissible attempt to evade environmental review by failing to address the consequences of the revisions to its policy and procedures," and that the county's efforts were " 'a token observance of regulatory requirements.' " (*Id.* at pp. 408-409.)

We conclude that the City here likewise failed to adequately address in the initial study the consequences of the revisions to the Housing Element. The initial study repeatedly emphasizes that the Housing Element "alone" will not produce new housing, and that environmental review will be deferred until any specific development, rezoning, planning code revision, or area plan is proposed. The same theme is repeated under each of the environmental factors considered in the initial study, with the City concluding that it would be premature to analyze any possible environmental effects of the proposed amendments. For several of the environmental factors, the City simply includes the following conclusion, with slight variations: "[T]he proposed new policies of the Housing Element would encourage the provision of additional housing in the City. However, at the policy level, it would be speculative to estimate the level and location of new residents that would result from their adoption. Again, the amount of new housing cited in the Data Needs and Analysis section of the revision represents the City's share of housing calculated by ABAG, and is not a proposed new policy or stated goal of the Housing Element. Thus, while [various] effects of the proposed revisions cannot be accurately predicted, future plans, rezoning and specific development proposals that arise out of the City's comprehensive effort to encourage more housing could lead to increased [various] impacts, and these would be analyzed and reported in the environmental documents that would be prepared for them."

As we explained above, however, the City may not defer analysis of general plan amendments simply because more specific proposals may come later. "CEQA advances a policy of requiring an agency to evaluate the environmental effects of a project *at the earliest possible stage* in the planning process. We conclude that, by failing to accurately describe the agency action and by deferring full environmental assessment of the consequences of such action, the [City] has failed to comply with CEQA's policy and requirements." (*City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 410, fn. omitted.) By simply indicating that the City would defer environmental

review until specific developments are proposed, the City failed to provide sufficient information to determine whether significant environmental impacts may occur. (*Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo*, *supra*, 172 Cal.App.3d at p. 171 [initial study "far too conclusionary" and inadequate for failure to reveal what evidence, if any, was relied on in reaching conclusions].)

We likewise agree with SFLN that the City failed to adequately analyze the entire "project" for purposes of CEQA. (§ 21100, subd. (a).) The initial study *must* consider "[a]ll phases of project planning, implementation, and operation." (Guidelines, § 15063, subd. (a)(1).) Here, however, the City analyzed only new policies that were added to the Housing Element. The City did not analyze, for example, the potential environmental effects of eliminating the policy of increasing the housing supply "without overcrowding or adversely affecting the prevailing character of existing neighborhoods." (*City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at p. 407 [general plan amendments eliminated provisions containing various requirements or limitations].) The City likewise did not analyze the effect of eliminating a Residence Element policy to adopt specific zoning districts that would set density categories. Moreover, the initial study did not analyze policies that were modified, such as the policy that now promotes construction of housing that "enhances" rather than "conserves" neighborhood character. (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1200 [initial study inadequate because it failed to consider or assess effect of revisions of off-leash dog policy].)

As in *City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at page 410, we conclude that because there was substantial evidence of a significant environmental impact, an EIR (as opposed to a revised initial study) is appropriate here. In fact, we may discern reasonable assumptions of the Housing Element's impact simply from reviewing the language of the amendments themselves, because the amendments now call for possibly removing parking and density requirements as incentives to

developers, promoting the construction of housing that enhances (as opposed to conserves) neighborhood character, supporting projects that result in higher densities, and studying the impacts of reduced parking and private open space provisions. (*Id.* at p. 414.) In short, the amendments do more than simply clarify existing policies. (*Id.* at p. 407.)

Moreover, SFLN provided substantial evidence to support a fair argument that the Housing Element amendments may have a significant impact on the environment. It relies primarily on a 22-page letter (with attachments) by David Golick, a planning consultant. Golick concluded that the Housing Element "contains policies encouraging substantial high-density housing development, which in turn could cause a number of potentially significant effects upon visual quality/neighborhood character, transportation, land use and utilities/public services in San Francisco." For example, he wrote that the revisions could lead to "high-density, bulky, potentially 50-foot tall buildings in neighborhood commercial areas and along transit corridors throughout the City [which] could cause myriad environmental effects," including incompatibility with neighborhood character, and a transformation of San Francisco's unique neighborhoods into "high-walled canyons."

The City argues that SFLN's evidence does not amount to substantial evidence, because it is speculative. But the City again falls back on its argument that the Housing Element lacks any specific development proposal or zoning change. The City chides SFLN for failing to point to "any factual evidence that anyone, anywhere in the City, is proposing" specific developments with taller buildings, or residential units above commercial structures. But it is beyond dispute that specific developments will be proposed in the future, and developers would be able to argue that taller buildings are consistent with the City's general plan. Likewise, the proponent of any new zoning ordinance that calls for denser developments would be able to argue that the ordinance was consistent with the Housing Element. (E.g., S.F. Planning Code, § 101.1, subd. (d)

[City may not adopt zoning ordinance or development agreement authorized by Government Code section 65865 unless development or ordinance is consistent with general plan].) Moreover, because the initial study lacked any analysis of the potential effects of the revised Housing Element, it is understandable that the evidence cited by SFLN also lacked specificity. As in *City of Redlands v. County of Bernardino*, *supra*, 96 Cal.App.4th at page 414, we find it ironic that the City complains about SFLN's lack of evidence, considering "it initially set the stage by failing to gather facts and evidence in conducting its initial study of the amendments' potential environmental effects."

"CEQA places the burden of environmental investigation on government rather than the public. If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." (*Sundstrom v. County of Mendocino*, *supra*, 202 Cal.App.3d at p. 311 [inadequate initial study of proposed private sewage treatment plant]; see also *Christward Ministry v. Superior Court*, *supra*, 184 Cal.App.3d at p. 197 [city's position there was no fair argument of significant impact to environment based, in part, on failure to complete adequate initial study]; *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1597.) Here, SFLN was permitted to draw "reasonable inferences" about the possible environmental effects of the amendments, based on facts and reasonable assumptions from those facts. (*City of Redlands v. County of San Bernardino*, *supra*, 96 Cal.App.4th at pp. 410-411 [no requirement that expert testimony support fair argument that project may have significant effect on the environment].)

Because there was substantial evidence in the record to support a fair argument that the amendments to the Housing Element may have a significant impact on the environment, the City was required to prepare an EIR, and the trial court erred in denying SFLN's petition for a writ of mandate.

III.
DISPOSITION

The judgment is reversed, and the trial court is ordered to issue a writ of mandate directing the City to set aside its adoption of the negative declaration and to order the preparation of an EIR. Appellant shall recover its costs on appeal.

SEPULVEDA, J.

We concur:

REARDON, ACTING P. J.

RIVERA, J.

EXHIBIT D

Kathryn DeVincenzi (SBN: 70[illegible])
22 Iris Avenue
San Francisco, CA 94118
Telephone (415) 221-4700
Facsimile (415) 346-3225
Attorney for Petitioner/Plaintiff
San Franciscans for Livable Neighborhoods

FILED
San Francisco County Superior Court
APR 06 2009
GORDON PARK-LI, Clerk
BY: _____ Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

SAN FRANCISCANS FOR LIVABLE NEIGHBORHOODS,

Petitioner and Plaintiff,

v.

CITY AND COUNTY OF SAN FRANCISCO, and DOES I-X,

Respondents and Defendants.

No. CPF04 504 780

PEREMPTORY

WRIT OF MANDATE

Action Filed: November 30, 2004

Hearing Date: January 27, 2009
Dept. 302, 9:30 a.m.
Honorable Charlotte W.

TO THE CITY & COUNTY OF SAN FRANCISCO ("City"):

YOU ARE HEREBY COMMANDED immediately upon receipt of this writ to set aside and void the approval of the Final Negative Declaration which you adopted and issued on May 13, 2004 in San Francisco Planning Commission Resolution No: 16786, in connection with your approval of the 2004 amendments to the housing element of the City's general plan and San Francisco Planning Commission Resolution No. 16787.

YOU ARE FURTHER COMMANDED to prepare, consider and certify an environmental impact report ("EIR") pursuant to the provisions of the California Environmental Quality Act, Public Resources Code §§ 21,000 *et seq.* ("CEQA"), concerning any potentially significant effects to the existing environment that may result, based on a fair argument

supported by substantial evidence, from any and all changes in the City's 1990 Residence Element that are embodied in the amended housing element, and to fully comply with the requirements of CEQA by June 30, 2009, concerning said proposed amendments to the housing element of the City's general plan. Among the proposed amendments to the housing element of the City's general plan that will be analyzed as part of the project considered in said EIR are the proposed omission of 1990 Residence Element Policy 2-4 to adopt specific zoning districts that would set density categories (Slip Op. 17, 22; JN 81-84) and the proposed omission of 1990 Residence Element Objective 2 "To increase the supply of housing without overcrowding or adversely affecting the prevailing character of existing neighborhoods." (Slip Op. p. 22; JN p. 80)

Until you prepare, consider and certify said EIR and fully comply with the requirements of CEQA in relation to the changes from the City's 1990 Residence Element embodied in the amended housing element, YOU ARE COMMANDED to refrain from enforcing, relying upon, approving or implementing the following changes from the 1990 Residence Element, together with the accompanying interpretative text and implementation actions which are stated along with such matters in the 2004 Housing Element:

1. New Policy 11.8 to "Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character" as interpreted by explanatory text providing that the "Department should strongly support projects that creatively address residential parking and open space requirements, resulting in higher densities with a full range of unit sizes" and that the Department will "study the impacts of reduced parking and private open space provisions and will consider revising the Planning Code accordingly." (Slip Op. p. 17-18; 1 AR 284-285)

2. New Policy 11.1 to "Use new housing development as a means to enhance neighborhood vitality and diversity" as interpreted by explanatory text that "[m]inimum density requirements and maximum parking standards should be used to encourage a mix of unit sizes in areas well served by transit and neighborhood retail." (Slip Op. p. 18;1 AR 276)

3. Modified Policy 11.9 to "Set allowable densities and parking standards in residential areas at levels that promote the City's overall housing objectives while respecting neighborhood scale and character." (Slip Op. p. 17, 1 AR 285)

4. Modified Policy 11.6 to "Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit" together with Implementation 11.6 which states that: "The City will continue to promote increased residential densities in areas well served by transit and neighborhood compatible development with the support and input from local neighborhoods." (Slip Op. p. 18; 1 AR 283)

5. Modified Policy 11.5 to "Promote the construction of well-designed housing that enhances existing neighborhood character." (Slip Op. p. 18; 1 AR 280)

6. New Policy 1.7 to "Encourage and support the construction of quality, new family housing." (Slip Op. p.18)

7. New Implementation 1.6 that the "Planning Department will review the following incentives for commercial project developments in the Downtown C-3 District: "no residential parking requirement; and no density requirements for residential projects." (Slip Op. 18-19; 1 AR 220)

8. New Policy 11.7 stating that "Where there is neighborhood support, reduce or remove minimum parking requirements for housing, increasing the amount of lot area available for housing units." (1 AR 284; 15 AR 4196)

9. New Policy 1.2 to "Encourage housing development, particularly affordable housing, in neighborhood commercial areas without displacing existing jobs, particularly blue-collar jobs or discouraging new employment opportunities" including its implementation by a specialized type of zoning called "Transit Oriented Neighborhood Commercial District (NC-T) Zoning" controls that "provide increased housing densities above the ground floor and reduced residential parking requirements on linear shopping streets and along transit corridors." (1 AR 216; 204)

10. New language added to Policy 1.1 to "Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhoods [sic] support," and accompanying new interpretative text stating that "along transit-preferential streets" "residential parking requirements" "should be, if appropriate, modified," and that there "is a reduced need for automobile use" in "neighborhood commercial districts" where "[p]arking and traffic problems can be further addressed by community parking facilities and car-sharing programs, and other creative transportation programs." (1 AR 215)

11. New Implementation 1.1 which states that a "citywide action plan (CAP) should provide a comprehensive framework for the allocation of higher density, mixed-use residential development in transit-rich areas with stable urban amenities in place. In these areas, specific CAP strategies should include: higher densities and reduced parking requirements in downtown areas or through a Better Neighborhoods type planning process; pedestrian-oriented improvements to enhance the attractiveness and use of transit." (1 AR 215-216)

Notwithstanding the foregoing, with respect to 2004 Implementation 1.6, YOU ARE COMMANDED to refrain from enforcing, relying upon, approving or implementing only the new added language consisting of "no residential parking requirement; and no density requirements for residential projects" and with respect to 2004 Implementation 1.1, YOU ARE COMMANDED to refrain from enforcing, relying upon, approving or implementing only the new implementation added to Implementation 1.1 set forth above.

Your approval of the above-specified policies or implementation actions as amendments to the City's housing element on May 13, 2004 as part of San Francisco Planning Commission Resolution No. 16787 is hereby set aside and revoked until you comply fully with CEQA as set forth herein.

The City need not conduct environmental review "on policies that were evaluated before the adoption of the 1990 Residence Element." (Slip Op. p. 15) Pursuant to Public Resources Code section 21168.9, and for the reasons set forth in the arguments of counsel and as set forth below, the Court finds that:

a) The policies, objectives and implementation measures of the 2004 Housing Element listed above, are severable from the remaining policies, objectives and implementation measures. This finding is based on the Court of Appeal's holding that environmental review of the entire 2004 Housing Element is not necessary under CEQA and *Black Property Owners v. City of Berkeley* (1994) 22 Cal.App.4th 974 because the 2004 Housing Element makes no changes to many policies and objectives in the 1990 Residence Element; and,

(b) The City's reliance on the remainder of the 2004 Housing Element without the above policies will not prejudice complete and full compliance with CEQA. The Court relies on the San Francisco Planning Department Director's sworn testimony that the City has begun an environmental impact report of the 2004 Housing Element in accordance with CEQA, and the Court's continuing jurisdiction of this matter through a return to the writ will assure compliance with CEQA mandates; and,

(c) Consistent with the Court of Appeal holding that "[s]everal Housing Element policies incorporated no text change whatsoever from the 1990 Residence Element, and no purpose would be served in conducting environmental review on policies that were evaluated before the adoption of the 1990 Residence Element," the Court finds that the remaining policies in the 2004 Housing Element do not violate CEQA.

In addition, the Court further finds that consistent with Public Resources Code section 21168.9(c) and *Laurel Heights Improvement Assoc. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, the Court exercises its equitable powers in fashioning an appropriate remedy under CEQA, and finds that there are compelling public policy reasons to allow the City and County of San Francisco to rely on the remaining portions of the 2004 Housing Element, save for the policies listed above, to wit that the provision of housing, particularly affordable housing, is a "priority of the highest order" as acknowledged by case law and the state Legislature, and that San Francisco must strive to provide its fair share of regional housing needs.

YOU ARE FURTHER COMMANDED to certify the environmental impact report and fully comply with the provisions of the California Environmental Quality Act, Public Resources Code §§ 21000 *et seq.*, concerning the proposed housing element amendments described herein by June 30, 2009, and to make and file a return to this Court upon taking action in compliance with this writ, setting forth what you have done to comply, and this Court shall retain jurisdiction

over this action to determine whether the City's actions have fully complied with the mandates of this peremptory writ.

IT IS ORDERED THAT THE COURT SHALL ISSUE THE FOREGOING WRIT:

DATE: 04-06-09

Charlotte W. Woolard

THE HONORABLE CHARLOTTE W. WOOLARD
JUDGE OF THE SUPERIOR COURT

DATE: 4-6-09

GORDON PARK-LI, Clerk of the Superior Court

By: _____ Deputy Clerk

ERICKA LARNAUTI

KATHRYN R. DEVINCENZI (SB #70630)
22 Iris Avenue
San Francisco, CA 94118
Telephone: (415) 221-4700
Facsimile: (415) 346-3225

Attorney for Petitioner/Plaintiff
San Franciscans for Livable Neighborhoods

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

SAN FRANCISCANS FOR LIVABLE NEIGHBORHOODS, Petitioner and Plaintiff, v. CITY AND COUNTY OF SAN FRANCISCO, and DOES I-X, Respondents and Defendants.	No. CPF04 504 780 ~~[PROPOSED]~~ **AMENDMENT TO PEREMPTORY WRIT OF MANDATE** Action Filed: November 30, 2004 Hearing Date: May 18, 2009 Dept. 302, 9:30 a.m. Honorable Charlotte W. Woolard

TO THE CITY & COUNTY OF SAN FRANCISCO ("City"):

In addition to the changes embodied in the City's 2004 Housing Element which this Court restrained in the Peremptory Writ of Mandate issued by this Court on April 6, 2009:

Until you prepare, consider and certify an environmental impact report ("EIR") pursuant to the provisions of the California Environmental Quality Act, Public Resources Code §§ 21,000 *et seq.* ("CEQA") concerning any potentially significant effects to the existing environment that may result, based on a fair argument supported by substantial evidence, from any and all changes

in the City's 1990 Residence Element that are embodied in the amended housing element, and fully comply with the requirements of CEQA concerning said proposed amendments to the housing element of the City's general plan, YOU ARE FURTHER COMMANDED to refrain from enforcing, relying upon, approving or implementing the following changes from the 1990 Residence Element, together with the accompanying interpretative text set forth below:

12. Language added to modified Implementation 1.3 which states with respect to "Downtown areas and areas subject to a Better Neighborhoods type planning process" that "[p]lanning and zoning code changes should include floor-to-area ratio exemptions." (See 15 AR 4187, 1 AR 217, 1990 RE p. 131)

13. Modified Objective 11 which states that "IN INCREASING THE SUPPLY OF HOUSING, PURSUE PLACE MAKING AND NEIGHBORHOOD BUILDING PRINCIPLES AND PRACTICES TO MAINTAIN SAN FRANCISCO'S DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL NEIGHBORHOODS." (See 15 AR 4195, 1 AR 276, 1990 RE p. 106)

14. Language added to Modified Policy 4.4 to: Consider granting "parking requirement exemptions for the construction of affordable or senior housing." (See 15 AR 4190, 1 AR 243, 1990 RE p. 97)

~~15. Modified Policy 4.5 to "Allow greater flexibility in the number and size of units within established building envelopes, potentially increasing the number of affordable units in multi-family structures." (See 15 AR 4190, 1 AR 244, 1990 RE p. 81)~~

16.15. Modified Objective 1, which states "TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND" as interpreted by modified explanatory text stating "New residential development must be of a character and stability that enhances the City's neighborhoods and maintains the quality of life for existing and future residents. How this new residential development can be accommodated without jeopardizing the very assets that make living in San Francisco desirable must be discussed. In order to enhance the city's livability, the supply of housing must be increased and new housing developments should respect the scale and character of the surrounding neighborhood." (1 AR 213; 1990 RE p. 75, 15 AR 4187)

Your approval of the above-specified objectives, policies or implementation actions as amendments to the City's housing element on May 13, 2004 as part of San Francisco Planning Commission Resolution No. 16787 is hereby set aside and revoked until you comply fully with CEQA as set forth herein.

The findings and other orders set forth in the Court's April 6, 2009 Peremptory Writ of Mandate, including those beginning at page 4, line 18 and continuing through page 6, line 2, apply with equal force to the proposed changes in the 2004 Housing Element described herein, which the Court incorporates by reference.

IT IS ORDERED THAT THE COURT SHALL ISSUE THE FOREGOING WRIT:

DATE: 05-29-09

Charlotte W. Woolard

THE HONORABLE CHARLOTTE W. WOOLARD
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN FRANCISCO EUREKA

DATE: JUN 0 1 2009

GORDON PARK-LI, Clerk of the Superior Court

By: _____ Deputy Clerk

ROSSALY E. DE LA VEGA NAVARRO

EXHIBIT E

STATEMENT OF CITY PLANNER DAVID GOLICK REGARDING SIGNIFICANT NEW INFORMATION AS TO PROJECTED SHORTFALL OF AVAILABLE WATER SUPPLY

I have been a professional city planner for over forty years and have practiced in the Bay Area for thirty-eight years. During that time I served as Chief of Planning for the City of Concord, the largest city in Contra Costa County, for ten years. During my career, I have either prepared or reviewed approximately 1,000 Initial Studies and Environmental Impact Reports. I have become familiar with and have a deep working knowledge of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines. I have coached subordinate employees regarding CEQA requirements and have addressed CEQA issues at conferences of the American Planning Association. The City of San Francisco retained me to participate in oral board examinations of candidates for planning positions, such as the position of Planner III, Environmental Review. As Chief of Planning for the City of Concord, my duties included overseeing the activities of the planning department staff in updating the housing element of Concord's general plan as periodically required by the State of California Department of Housing and Community Development. A copy of my resume was previously submitted in connection with the Final Environmental Impact Report ("EIR") proceeding conducted as to the 2009 Housing Element.

In this statement, I will discuss the significant new information which has disclosed that there is a projected shortfall of available water supply to serve the needs of San Francisco residents, and that new water treatment facilities probably would be needed to address the shortage. As a result of this new information, the analyses of water supply availability and water treatment facilities in the Final EIR prepared for the 2004 and 2009 Housing Element amendments are inaccurate and inadequate. The proposed 2004 and 2009 Housing Elements will be collectively referred to herein as the "Housing Element."

1. The City Has a Projected Shortfall of Available Water Supply, and New Water Treatment Facilities Probably Would Be Needed to Address the Shortage.

Significant new information showing that the City has a "projected shortfall of available water supply" has been disclosed in the March 14, 2011 San Francisco Public Utilities Commission memorandum regarding Maintaining Water Supply Levels of Service, which states that:

> In summary, the SFPUC has a projected shortfall of available water supply to meet its LOS goals and contractual obligations. Current decreased levels of demand keep this from being an immediate problem, but in the near future, the SFPUC must resolve these issues." (See memorandum attached as Exhibit 1, p. 1)

The projected shortfall results from the "new instream flow release requirements in San Mateo Creek below Crystal Springs Dam and in Alameda Creek below Calaveras Dam and Alameda

Creek Diversion Dam. These instream flow releases will be required at the completion of the Lower Crystal Springs Dam Improvements Project in 2013 and the completion of the Calaveras Dam Replacement Project in 2015." (*Id.*, p. 2-3)

The projected shortfall in available water supply is significant since the potential decrease in supply totals 7.4 million gallons per day ("mgd") annually:

> "The instream flow release requirements for Alameda Creek and San Mateo Creek represent a potential decrease in available water supply of an average annual 3.9 mgd and 3.5 mgd, respectively with a total of 7.4 mgd average annually. This water supply decrease assumes the adopted WSIP program element of an average annual target delivery of 265 mgd. The analysis also assumes that all of the water supply components of the adopted WSIP are implemented and all WSIP projects are implemented, including the Upper Alameda Creek Filter Gallery project, which in accordance with the Program Environmental Impact Report (PEIR) assumptions is estimated to recapture up to 6300 acre-feet (AF) per year (5.6 mgd)." (*Id.*, p. 3)

The total projected shortfall of 7.4 mgd is calculated based on summation of the potential instream flow release requirements of 3.9 mgd for Alameda Creek and 3.5 mgd for San Mateo Creek.

The SFPUC is evaluating "several water supply options in addition to those included in the adopted WSIP to meet future demand and dry-year water needs in the SFPUC service area," including additional diversions from the Tuolumne River using existing SFPUC water rights, Lower Tuolumne River Diversion, additional conservation, recycled water and groundwater projects throughout the retail and wholesale service area, a regional desalination project for dry-year needs and a year-round desalination project at Oceanside in San Francisco." (*Id.* p. 3-4) However, most of the options are merely being investigated or evaluated, and the memorandum supplies no evidence of the likelihood that the options being considered will be funded or approved and does not discuss the circumstances affecting the likelihood of the water's availability. The likelihood that these water supply options would be implemented and online by the time the instream flow release requirements are initiated is questionable and should be addressed in the EIR.

For example, the agreement among the partner agencies for planning work has not yet been approved for a Regional Desalination Project, and the project would not be completed until 2020. (*Id.* p. 4) The amount of transferred water from MID and/or TID that could be increased is not specified. (*Id.*) No work has been performed as to a potential San Francisco Desalination Project beyond the investigations included in the PEIR, and staff "is currently evaluating whether or not to devote any additional effort to this alternative at this time." (*Id.* p. 5) The environmental impact report has not been prepared for the proposed San Francisco Westside Recycled Water Project, and that facility would serve an average annual demand of up to 2 mdg. (*Id.*) The Harding Park Recycled Water Project and Sharp Park Recycled Water Project are currently under construction, but will supply only ".23 mgd at a cost of $4233 per acre-foot" and

".08 mgd at a cost of $5233 per acre-foot," respectively. (*Id.*) The potential San Francisco Eastside Recycled Water Project is merely in the "pre-planning" stage. (*Id.* p. 5-6) A potential expansion of the Daly City recycled water project that would cost $48 million is being "examined." (*Id.*, p. 6-7) The potential South San Francisco Recycled Water Project would cost $20.5 million and is under discussion. (*Id.*) The potential Menlo Country Club Recycled Water Project would cost $9.3 million and is in discussion. (*Id.*, p. 9) Discussions are also being held concerning a formula used to implement a 1920 arbitration award requiring release of water into Alameda Creek. (*Id.* p. 8-9)

2. The EIR's Conclusions Are Inaccurate Because They Are Based on Information as to Projected Water Supplies That Is No Longer Accurate.

Based on the new information concerning projected water shortfalls set forth in the March 14, 2011 SFPUC memorandum, the EIR's analysis of water supply availability is inaccurate, as it was based on the SFPUC's prior indication that "it can accommodate existing and future demand through 2030." (DEIR p. V.L-52, V.L-3-V.L-7; C&R-218, C& R-219, stating "the conclusions of the Draft EIR are based on 2009 WSAS, which illustrate that there is adequate water supply to accommodate residential growth through the year 2030;" DEIR p. V.L-46, as to 2004 Housing Element.) The DEIR projected that the SFPUC would be able to supply its retail customers with 84.5 mgd of water in 2010 and 94.5 mgd from 2015 to 2030. (DEIR p. V.L-3) Thus, the DEIR concluded that adequate water would be available for retail customers because retail demand in 2010 would be 91.81 mgd, 91.69 mgd in 2015, 91.87 mdg in 2020, and 93.42 mgd by 2030. (DEIR p. V.L-5) According to the March 14, 2011 SFPUC memorandum, SFPUC's Water Supply Agreement with its wholesale customers requires SFPUC to provide supply assurance of 184 mgd to the wholesale customers, except in emergencies and drought years. (March 14, 2011 SFPUC memorandum, p.2) Since SFPUC cannot reduce water supplies to its wholesale customers except in emergencies and droughts, and its Water System Improvement Program ("WSIP") includes a level of service goal of meeting average annual water demand of 265 mgd from the SFPUC watersheds for retail and wholesale customers during non-drought years for system demands through 2018, the newly projected shortfall must necessarily reduce water supplies to SFPUC's retail customers by 7.4 mgd on average annually in non-drought years by the time all the instream flow releases are implemented. Since the first instream flow release is to be initiated in 2013, and the second in 2015, the SFPUC is projected to be unable to supply its retail customers with the amounts of water which the DEIR asserted would be available from 2013 through 2018 or later. (March 14, 2011 SFPUC memorandum, p.1-3)

Thus, the new SFPUC water shortfall information renders inaccurate the EIR's conclusions that impacts on water supplies were determined to be less than significant because the proposed Housing Element "would have sufficient water supply available to serve the project from existing entitlements and resources and would not require new or expanded water supply resources or entitlements." (DEIR p. V.L-44) Also inaccurate for the same reason is the EIR's conclusion that a less than significant impact would result because the proposed Housing

Element would not require or result in the construction of new water facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. (DEIR p. V.L-24)

The March 14, 2011 SFPUC memorandum renders inaccurate and out of date the information upon which the EIR's conclusions were based. The conclusions in the EIR were "based on the findings of the 2009 WSAS," which the EIR stated captured the "most current water supply planning and demand information and is the latest published information on San Francisco's water supply and demand through 2030." (C&R-221) The March 14, 2011 SFPUC memorandum now constitutes the latest published information on the San Francisco's water supply.

3. The EIR Must Be Revised To Analyze the New Significant Impacts on Water Supply and Construction of New Water Treatment Facilities Disclosed by the Current SFPUC Memorandum.

Due to the new information as to the projected shortfall of available water supply, the Housing Element could have a significant impact on the environment because there would not be "sufficient water supplies available to serve the project from existing entitlements and resources" and the City would need new or expanded entitlements or resources. (See CEQA Guidelines, Appendix G, section XVII(d).) The EIR must be revised to address this issue. In addition, the March 14, 2011 SFPUC memorandum shows that the Housing Element could have a significant impact on the environment because options to address the projected shortfall in available water supply probably would require construction of several costly new water treatment facilities, the construction of which could have significant environmental effects. (See CEQA Guidelines, Appendix G, section XVII(b)) The EIR itself recognizes, pursuant to Appendix G of the CEQA Guidelines, that new development could result in impacts related to water facilities if new housing would result in additional need for water in areas that do not have the available capacity to transport or process the additional water, and that this could include the construction or expansion of water treatment facilities. (DEIR p. V.L-24; C&R-211)

The projected water insufficiency could also have a significant impact on the environment because the March 14, 2011 SFPUC memorandum does not identify an alternative source of water that is likely to become available to supply the total projected shortfall at the time all instream flow releases are implemented, and merely relies upon various potential new water treatment facilities and other options that have not been approved or funded or are in early conceptual stages. The memorandum does not contain evidence that the options under consideration bear a likelihood of actually becoming available and supplying the total projected shortfall.

The EIR does not accurately analyze the proposed project's potentially significant impacts on water supply and construction of new water supply facilities because its analyses were based on information which is no longer current or accurate. The EIR must be revised to address

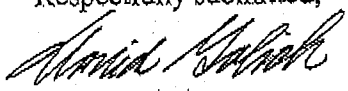
the new information as to the projected shortfall in water supply and the impacts of *likely* future water sources. The revised EIR's discussion must include a reasoned analysis of the circumstances affecting the likelihood of the availability of new water supplies.

The EIR must be revised and recirculated because the significant new information as to the projected shortfall of available water supply and new facilities that could need to be constructed to address the deficiency constitute substantial changes in the circumstances under which the Housing Element would be undertaken which will require major revisions to the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of effects identified in the Final EIR. The Final EIR identified the water supply and water facility construction impacts as less than significant based on information as to water supply availability that is no longer current or accurate.

The new information that has become available as to projected water supply shortage and potential new water production facilities also constitutes new information that is of substantial importance to the project as proposed for approval which indicates that the Housing Element amendment will have potentially significant effects on water supply and construction of new water production facilities not discussed in the Final EIR. The new information also indicates that such environmental effects will be substantially more severe than the Final EIR indicated. Also, alternatives which are considerably different from those analyzed in the Final EIR could substantially reduce one or more significant effects on the environment, including the reasonable alternative of limiting the increased capacity for new housing units which 2009 Housing Element policies would encourage to those needed to demonstrate progress toward meeting, but not exceeding, the regional housing needs allocation of 31,193 units. This alternative would include encouraging new housing growth in less areas and plan areas than proposed in the 2009 Housing Element, and therefore would require usage of less water by reducing the amount of new construction that the project would encourage. The discussion of this alternative should analyze the likelihood that sufficient water supplies will actually become available to serve the number of households that would likely be added to the City under this alternative. A similar type of reduced capacity alternative should be analyzed as to the regional housing needs allocation of 20,372 new units analyzed with respect to the 2004 Housing Element.

Thank you for your attention to this important matter.

Respectfully submitted,



Dated: April 11, 2011

David Golick
Planning Consultant

Attachment - March 14, 2011 SFPUC Memorandum Re: Maintaining Water Supply Levels of Service

EXHIBIT 1

SFPUC
WATER
WASTEWATER
POWER

SAN FRANCISCO PUBLIC UTILITIES COMMISSION

OFFICE OF THE ASSISTANT GENERAL MANAGER, WATER
1155 Market Street, 11th Floor, San Francisco, CA 94103 • Tel. (415) 934-5736

March 14, 2011

#5c1

EDWIN M. LEE
MAYOR

FRANCESCA VIETOR
PRESIDENT

ANSON MORAN
VICE PRESIDENT

ANN MOLLER CAEN
COMMISSIONER

ART TORRES
COMMISSIONER

VINCE COURTNEY
COMMISSIONER

ED HARRINGTON
GENERAL MANAGER

TO: Commissioner Francesca Vietor, President
Commissioner Anson B. Moran, Vice President
Commissioner Ann Moller Caen
Commissioner Art Torres
Commissioner Vince Courtney

THROUGH: Ed Harrington, General Manager

FROM: Steven R. Ritchie, Assistant General Manager, Water

RE: Maintaining Water Supply Levels of Service

In Resolution No. 10-0175 adopted by the commission on October 15, 2010, the commission directed staff to provide information to the Commission and the public by March 31, 2011 on how the SFPUC has the capability to attain its water supply levels of service and contractual obligations. This directive was in response to concerns expressed by the Commission and the Wholesale Customers regarding the effect on water supply of the instream flow releases required as a result of the Lower Crystal Springs Dam Improvement Project and the Calaveras Dam Replacement Project. In summary, the SFPUC has a projected shortfall of available water supply to meet its LOS goals and contractual obligations. Current decreased levels of demand keep this from being an immediate problem, but in the near future, the SFPUC must resolve these issues. Various activities are underway to resolve the shortfall problem, and they are identified in this memo. Staff will report back to the Commission by August 31, 2011 to provide further information on actions to resolve the shortfall problem.

Water Supply Levels of Service and Contractual Obligations

The Water System Improvement Program (WSIP) includes a level of service goal and system performance objectives for water supply as follows:

Water Supply – *meet customer water needs in non-drought and drought periods*	• Meet average annual water demand of 265 mgd from the SFPUC watersheds for retail and wholesale customers during non -drought years for system demands through 2018. • Meet dry-year delivery needs through 2018 while limiting rationing to a maximum 20 percent system-wide reduction in water service during extended droughts. • Diversify water supply options during non-drought and drought periods. • Improve use of new water sources and drought management, including groundwater, recycled water, conservation, and transfers.

The SFPUC's obligations regarding water supply in the Water Supply Agreement are described in Article 3 of the Agreement. The Agreement requires the SFPUC to provide the supply assurance of 184 million gallons per day (mgd) to the wholesale customers collectively and the individual supply guarantees to wholesale customers individually, however, SFPUC may reduce the amount of water available or interrupt water deliveries specific to geographical areas due to the following conditions (per Section 3.11):

- Emergencies;
- Installing, repairing, rehabilitating, replacing, investigating or inspecting equipment in the Regional Water System;
- Performing maintenance on the Regional Water System; or
- Shortages caused by drought.

Section 3.15 further addresses urgent and non-urgent circumstances that may diminish the SFPUC's ability to maintain the Supply Assurance and the ability of the SFPUC to engage in planning evaluation and implementation of replacement sources of supply when the need arises without the prior approval of the Wholesale Customers. Examples of urgent reductions include sudden events such as "drought, earthquakes, terrorist acts, catastrophic failures of facilities owned and operated by SFPUC and other natural or man-made events." Non-urgent reductions are described as "climate change, regulatory actions and other events that may impact SFPUC's ability to maintain the Supply Assurance from its existing surface water supplies, but on timescales long enough to permit SFPUC to collaborate with its Wholesale Customers on how best to address the possible impacts to water supply."

Instream Flow Release Requirements

There are new instream flow release requirements in San Mateo Creek below Crystal Springs Dam and in Alameda Creek below Calaveras Dam and Alameda Creek

Diversion Dam. These instream flow releases will be required at the completion of the Lower Crystal Springs Dam Improvements Project in 2013 and the completion of the Calaveras Dam Replacement Project in 2015.

The instream flow release requirements for Alameda Creek and San Mateo Creek represent a potential decrease in available water supply of an average annual 3.9 mgd and 3.5 mgd, respectively with a total of 7.4 mgd average annually. This water supply decrease assumes the adopted WSIP program element of an average annual target delivery of 265 mgd. The analysis also assumes that all of the water supply components of the adopted WSIP are implemented and all WSIP projects are implemented, including the Upper Alameda Creek Filter Gallery project, which in accordance with the Program Environmental Impact Report (PEIR) assumptions is estimated to recapture up to 6300 acre-feet (AF) per year (5.6 mgd).

Water Supply Options Available to the SFPUC

The WSIP program includes the following components for meeting water supply levels of service through 2018.

Water Supply – All Year Types
In all water year types, the SFPUC will continue to meet demand in its service area up to 265 mgd in all year types from its watersheds:

- Tuolumne River watershed
- Alameda Creek watershed
- San Mateo County watersheds

Water Supply – Dry-Year Types
The adopted WSIP includes the following water supply projects to meet dry-year demands with no greater than 20 percent system-wide rationing in any one year.

- Restoration of Calaveras Reservoir capacity
- Restoration of Crystal Springs Reservoir capacity
- Westside Basin Groundwater Conjunctive Use
- Water Transfer with Modesto Irrigation District/Turlock Irrigation District (MID/TID)

The WSIP PEIR evaluated several water supply options in addition to those included in the adopted WSIP to meet future demand and dry-year water needs in the SFPUC service area. These options include:

- Additional diversions from the Tuolumne River using existing SFPUC water rights
- Lower Tuolumne River Diversion
- Additional conservation, recycled water and groundwater projects throughout the retail and wholesale service area

- Regional Desalination Project for dry-year needs
- Year-round Desalination Project at Oceanside in San Francisco

SFPUC staff has been investigating all of these options, variants of them, and other options to meet the adopted LOS goals and contractual obligations of the SFPUC. Current efforts are described below.

Transfers from MID and/or TID
The adopted WSIP includes a 2 mgd transfer of water from MID/TID to meet dry-year needs in the service area. Transfer amounts could be increased to make up for losses in water supply due to instream flow releases. The SFPUC is currently investigating the potential to obtain a transfer from the Districts that would not result in any changes to flows on the Tuolumne River below La Grange dam.

Regional Desalination Project
The SFPUC is working with East Bay Municipal Utility District (EBMUD), Contra Costa Water District (CCWD), Santa Clara Valley Water District (SCVWD), and Zone 7 Water Agency to jointly develop a 10-20 mgd desalination facility in East Contra Costa County that would serve the combined water needs of each of the partner agencies with desalination and water transfers. The project would treat brackish water to produce potable water that would be delivered to EBMUD and CCWD transmission systems and includes subsequent water exchanges to serve the other partner needs, as required. For example, SFPUC would receive water from EBMUD through the EBMUD-Hayward-SFPUC intertie. The capital cost for the project (inflated to 2018 dollars) is estimated to be $193 million. Based on delivery of 9 mgd (10,080 AFY) of transfer water from EBMUD at Hayward, the SFPUC's proportionate share of capital costs is estimated to be $86.7 million. The SFPUC's share of annual operating and maintenance costs are anticipated to be an additional $16.5 million. The unit cost of water delivered to the SFPUC is expected to be $2,274 per acre foot.

Planning for the Regional Desalination Project began in 2003. Feasibility studies and pilot testing have been completed, both supported by grant funding through Proposition 50. Hydraulic modeling and investigation of water rights and other permitting requirements are currently underway. Design is anticipated to begin in 2012 and project completion is currently scheduled for 2020.

The next phase of work will include both hydrologic and hydraulic modeling as well as outreach to stakeholders including regulatory agencies. The estimated budget for this phase is $1,000,000 or $200,000 per agency. The agreement among the partner agencies for this phase of work is expected to come before the SFPUC for consideration on May 24.

San Francisco Desalination Project
In the WSIP PEIR, the SFPUC investigated an option to serve future demand in the service area through a year-round desalination plant located on the Westside of San Francisco near the Oceanside Water Pollution Control Plant. The project as described in the PEIR, would involve construction of a 25 mgd ocean water desalination plant. The plant would produce potable water through reverse-osmosis technologies during all hydrologic year types to the regional water system. The desalinated water would be introduced into the regional water system at Sunset Reservoir. No additional work has been performed on this project beyond the investigations included in the PEIR. Staff is currently evaluating whether or not to devote any additional effort to this alternative at this time.

Recycled Water
Three recycled water projects are in construction or in the advanced stages of planning. The Harding Park Recycled Water Project, utilizing wastewater from the City of Daly City, (0.23 mgd at a cost of $4233 per acre-foot) and the Sharp Park Recycled Water Project, utilizing water from the City of Pacifica, (0.08 mgd at a cost of $5233 per acre-foot) are currently under construction.

San Francisco's Westside Recycled Water Project is currently undergoing Environmental Review. The proposed project, which consists of an advanced treatment facility located at the west-end of Golden Gate Park, would serve an average annual demand of up to 2 mgd. The facility would serve mostly irrigation demands, with the main customers consisting of Golden Gate Park (approximately 85% of the demand), and the Lincoln Park and Presidio Golf Courses at a cost of $7439 per acre-foot.

A series of public workshops on the Westside Recycled Water Project was completed in February 2011. These workshops provided an opportunity for the public to suggest alternatives to the proposed project site in Golden Gate Park. The alternatives that were developed during that process have been forwarded to the San Francisco City Planning Major Environmental Analysis Division for their consideration in the Environmental Impact Report.

Several other recycled water projects are available to the SFPUC to serve customers recycled water to offset current potable water use. The SFPUC is beginning the process of considering these projects described below for further analysis and implementation.

San Francisco Eastside Recycled Water Project
The SFPUC is currently conducting pre-planning activities for the Eastside Recycled Water Project and has completed two preliminary studies: the Eastside Recycled Water Market Assessment Update and the Eastside Non-Potable Water Use Study. Two recycled water treatment alternatives were developed in the Non-Potable Water

Use Study: (1) a centralized recycled water facility at or near the Southeast Water Pollution Control Plant (WPCP), and (2) decentralized treatment consisting of satellite recycled water facilities for identified users. Both centralized and decentralized treatment alternatives were included in this analysis.

The project would serve an average annual recycled water demand of 2 mgd. Potential customers are located within the City and County of San Francisco and include the following:

- Transbay Redevelopment Project
- Mission Bay
- Seawall Lot 337
- Hunters Point Shipyard (HPSY) Phase I (Parcel A')
- Hunters Point Shipyard Phase II
- McLaren Park (including Gleneagles Golf Course)
- Backlands at Pier 90 through 96
- Pier 70

The project would serve recycled water for both outdoor and indoor uses, including irrigation, toilet flushing, cooling in commercial buildings, commercial laundries and heavy industrial processes such as concrete batching and/or gravel washing. The centralized treatment alternative would consist of advanced treatment facilities located at or near the existing Southeast WPCP, and would treat secondary effluent produced by the plant, and distribute to end-users. The decentralized treatment alternative would consist of satellite recycled water facilities situated close to recycled water end-uses (identified above), and would treat raw wastewater. The Eastside project is currently undergoing siting review similar to the alternatives evaluation process used for the Westside project.

Daly City Expansion Recycled Water Project

The City of Daly City currently supplies recycled water to several golf course irrigation customers in Daly City and San Francisco from its tertiary facilities at the Daly City Wastewater Treatment Plant (WWTP). SFPUC is partnering with Daly City to expand the recycled water system to serve additional customers within the SFPUC service area. The first phase is an expansion of recycled water service to the Harding Park Golf Club (Harding Park) in San Francisco, which is expected to be completed in 2012.

The SFPUC has examined implementing a second phase of expansion using Daly City recycled water. The proposed project could serve an average annual demand of 1.3 mgd. Potential customers include SFPUC customers in the Lake Merced Area (average annual demand of approximately 0.4 mgd), California Water Company (Cal

Water) customers, and customers that own private wells in the town of Colma. The project would serve recycled water only for irrigation uses.

The estimated total capital cost of the project is $48 million (2010 dollars) based on the following capital components:

- New tertiary treatment facilities at Daly City WWTP;
- A pipeline to serve Lake Merced Area irrigation customers in San Francisco;
- A new pipeline to the south to supply Colma customers; and
- Recycled water storage facilities for Colma customers.

Staff is beginning discussions with Daly City about the next phase of work to further develop this project.

South San Francisco Recycled Water Project

The South San Francisco Recycled Water Facility Plan was jointly developed by the Cities of South San Francisco and San Bruno, the SFPUC and Cal Water in August 2009. The Plan proposes to produce recycled water at the South San Francisco/San Bruno Water Quality Control Plant and distribute recycled water to customers in the South San Francisco and San Bruno areas, and potentially, in the Town of Colma.

The project was further refined in 2010. The recommended project includes serving an average annual demand of 0.6 mgd of recycled water to Golden Gate National Cemetery (GGNC), a SFPUC retail customer, along with Cal Water and San Bruno municipal customers. The project would serve recycled water only for irrigation needs.

The estimated total capital cost of the project is $20.5 million (2010 dollars) for recycled water treatment, storage and delivery system. The study recommended the SFPUC share be $15.4 million for capital costs to serve GGNC (average annual demand of 0.3 mgd). The recommended project includes the following capital components:

- Construction of new tertiary treatment facilities at a South San Francisco water pollution control facility;
- New pipelines to supply recycled water to customers; and
- Recycled water storage facilities.

Staff is beginning discussions with South San Francisco about the next phase of work to further develop this project.

Menlo Country Club Recycled Water Project

The SFPUC and Menlo Country Club (CC) recently completed a recycled water feasibility study. Currently, Menlo CC, located in Woodside, California, receives water from two retail providers. Domestic water is supplied by CalWater and irrigation water is supplied by the SFPUC.

The City of Redwood City (Redwood City) is the water and recycled water purveyor within its City limits. Menlo CC is located adjacent to the Redwood City boundary within the City of Woodside. Redwood City recently completed its $72.4M Phase 1 Recycled Water Project that includes treatment, storage, pumping and pipeline facilities serving a variety of customer sites.

Recycled water is produced at the South Bayside System Authority (SBSA) Wastewater Treatment Facility in the Redwood Shores area. SBSA produces the Disinfected Tertiary Recycled Water suitable for "unrestricted use" under Title 22 of the California Code of Regulations. This is the highest classification of recycled water under this regulation and it may be used for golf course irrigation, and for storage in onsite impoundments at golf courses, where there is unrestricted public access.

The estimated total capital cost of the project is $9.3 million to serve Menlo CC the average annual 0.22 mgd of irrigation demand. The proposed recycled water project includes the following capital components:

- Distribution pipeline from Redwood City's existing recycled water pipeline to Menlo CC;
- Pumping facility; and
- Recycled water storage facility.

Staff is beginning discussions with Redwood City and Menlo Country Club about the next phase of work to further develop this project.

Bailey Formula
The SFPUC's relationship with Alameda County Water District (ACWD) regarding Alameda Creek water rights is defined by a December 28, 1920 State Water Commission arbitration award. The 1920 award required Spring Valley to release certain volumes of water into Alameda Creek to replace the volume of water that would have percolated to storage into the Niles Cone through the bed of Alameda Creek if Calaveras Dam had not been built. The 1920 award contains a formula devised by engineer Paul Bailey (the "Bailey Formula") that is maintained by the U.S. Geological Survey based on data provided by Spring Valley and the SFPUC after 1930.

Over the ensuing decades, the SFPUC has made releases to Alameda Creek for the benefit of ACWD. The SFPUC and ACWD are currently in discussions regarding

how the Bailey Formula approach should be implemented in the future and how to define and deal with the volume of water that ACWD currently owes the SFPUC.

Summary

In summary, the SFPUC has a projected shortfall of available water supply to meet its LOS goals and contractual obligations. Current decreased levels of demand keep this from being an immediate problem, but in the near future, the SFPUC must resolve these issues. Various activities are underway to resolve the shortfall problem. Staff will report back to the Commission by August 31, 2011 to provide further information on actions to resolve the shortfall problem.

Please contact me if you have any questions.

cc: Art Jensen, CEO and General Manager, BAWSCA

EXHIBIT F

KATHRYN R. DEVINCENZI
ATTORNEY AT LAW
22 IRIS AVENUE
SAN FRANCISCO, CALIFORNIA 94118-2727
Telephone: (415) 221-4700
Facsimile: (415) 346-3225

BY HAND DELIVERY March 24, 2011

San Francisco Planning Commission
c/o Linda Avery, Planning Commission Secretary
City Hall, Room 400
1 Dr. Carlton B. Goodlett Place
San Francisco, CA

Re: San Francisco 2004 and 2009 Housing Element
Certification of the Final Environmental Impact Report
Planning Department Case No.: 2007.1275E, and

On behalf of San Franciscans for Livable Neighborhoods ("SFLN"), we request that the above-described environmental impact report ("EIR") be revised and recirculated for public comment due to the substantial changes which the City made in the proposed project after the close of the public review period on August 31, 2010 for the Draft EIR.

1. The EIR Must be Revised and Recirculated Because Substantial Changes Have Been Made in the Proposed Project Which Increase the Severity Of Significant Effects or Involve New Significant Effects.

The version of Part II of the proposed 2009 Housing Element Objectives & Policies that was analyzed in the Draft EIR and subjected to public review and comment was the June 2010 Preliminary Draft for Public Review, and language contained in that proposed project will be identified herein as "EIR" language. The subsequent substantial changes which the City made in Part II of the proposed 2009 Housing Element are reflected in the February 2011 version of Part II of the 2009 Housing Element or in the March 17, 2011 Planning Department staff memorandum for the 2009 Housing Element Update.

These substantial changes include the following:

- February 2011 draft greatly broadened the areas where taller, increased density, reduced parking housing would be encouraged to include areas along major Muni bus lines running throughout City neighborhoods in new Policy 1.10 and its interpretative text. The June 2010 EIR Policy 12.1 had defined major transit lines where such growth would be encouraged to areas near BART stations and along Muni light rail trains. The new expansion is unnecessary because the June 2010 draft admitted that the Plan Areas have

capacity for "significantly more" than the 31,000 units allocated for this planning period (2007-2014). (see page 7, February 2011 draft for adoption 2009 Housing Element).

- June 2010 EIR Policy 1.6 text was changed in the March 17, 2011 staff memorandum from "[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character" to state "[i]n some areas, such as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character." Consistency of individual projects with general plan would be determined based on the changed language, and the change provides a policy basis for eliminating the objective one and two-unit density limits for RH-1 and RH-2 districts. The General Plan is the Constitution for development and the supreme planning standard. Also, zoning must be brought into conformity with the General Plan under Charter section 4.105. The change clearly promotes secondary and additional units within the building envelope. Similar changes were made to Policies 11.5 and 11.3.

- The changes eliminated the requirement in the June 2010 draft of EIR Policy 12.1 that "changes to the Planning Code to further accommodate housing near transit will only occur through a neighborhood-supported community planning process." The February 2011 draft only requires a "community based planning process" before such changes can be made. A similar change was made to Policy 1.5.

Residents living near major local bus lines outside the Plan Areas and not near a BART station or a Muni light rail line, to which the EIR policies directed growth, were deprived of lawful public notice that their neighborhoods could be affected by the policies proposed in the version of Part II of the Housing Element that was changed after the EIR public review and comment period closed. The Project's significant unmitigated effect on transit services would be significantly reduced if the expansion were eliminated, and the City required to enhance public transit services only to the Plan Areas rather than to the areas along major bus lines outside the Plan Areas.

For the reasons more particularly explained in the accompanying Statement of City Planner David Golick, these substantial changes embodied in the February 2011 version of Part II of the Housing Element or proposed in the staff memorandum constitute: (1) substantial changes in the Project proposed for approval that will require revisions in the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, (2) substantial changes that have occurred with respect to the circumstances under which the Project proposed for approval are undertaken which will require major revisions to the Final EIR due to the involvement of new environmental effects or a substantial increase in the severity of effects identified in the Final EIR and/or (3) constitute new information of substantial importance to the Project as proposed for approval that has become available which indicates that (i) the Project will have significant effects not discussed in

the Final EIR, (ii) significant environmental effects will be substantially more severe, (iii) mitigation measures or alternatives found not feasible which would reduce one or more significant effects have become feasible or (iv) mitigation measures or alternatives which are considerably different from those in the Final EIR would substantially reduce one or more significant effects on the environment.

2. The EIR Failed to Consider a Reasonable Range of Alternatives.

For the reasons more particularly explained in the EIR comment letter submitted on behalf of SFLN on August 31, 2010 by Chatten-Brown & Carstens, the EIR fails to consider a reasonable range of alternatives as it fails to consider an alternative that would meet the City's need for housing without the need for rezoning or massive increases in density.

3. The EIR Is Inaccurate and Inadequate.

For the reasons previously stated in SFLN's and other comment letters, the EIR fails to adequately analyze the Housing Element's aesthetic, water supply, wastewater, land use, inducement of significant population growth, greenhouse gas, traffic, parking and noise impacts. The EIR also utilizes a misleading and inadequate description of the proposed Project.

4. The City's Findings Are Legally Inadequate.

Under Public Resources Code 21002, "it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." It is therefore unlawful for the City to approve the 2009 Housing Element as proposed because the feasible alternatives of lesser or no rezoning (and lesser increased density) and encouragement of transit-oriented development only in the plan areas, would substantially reduce the Project's significant effect on transit services.

The City's findings are legally inadequate because they lack a finding that there is no feasible alternative which could substantially reduce the proposed Project's significant impact on transit services.

The findings state that the project would have a significant unavoidable impact on transit ridership "due to encouraging housing near transit lines, thereby increasing transit ridership potentially in excess of MUNI's capacity utilization standard of 85 percent."

However, there is no finding that there are no feasible alternatives that would substantially reduce or mitigate this significant effect. The feasible alternative of encouraging growth in the areas which the City already designated as priority development areas rather than

along major bus lines outside the priority development areas would significantly reduce this effect on increased transit ridership and require less public investment in enhancing transit services. (See Golick and other SFLN statements) This alternative is feasible because the Planning Department staff refused to designate the areas outside the priority development areas ("PDAs") as areas appropriate for growth in the Sustainable Communities Strategy planning process since the City "already has plans to accommodate almost the entire amount of growth expected (over 90%) by 2035 within its designated PDAs." *(Id.)*

The findings are also incorrect and not supported by substantial evidence in the record in that revision and recirculation of the EIR is required for the reasons previously stated in comment letters and statements by representatives of SFLN.

Conclusion

SFLN objects to certification of the EIR and approval of the proposed 2009 Housing Element.

Very truly yours,

Kathryn R. Devincenzi

Kathryn R. Devincenzi

Attachment - Statement of City Planner David Golick

STATEMENT OF CITY PLANNER DAVID GOLICK REGARDING IMPACTS OF CHANGES TO PROPOSED 2009 HOUSING ELEMENT

I have been a professional city planner for over forty years and have practiced in the Bay Area for thirty-eight years. During that time I served as Chief of Planning for the City of Concord, the largest city in Contra Costa County, for ten years. During my career, I have either prepared or reviewed approximately 1,000 Initial Studies and Environmental Impact Reports. I have become familiar with and have a deep working knowledge of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines. I have coached subordinate employees regarding CEQA requirements and have addressed CEQA issues at conferences of the American Planning Association. The City of San Francisco retained me to participate in oral board examinations of candidates for planning positions, such as the position of Planner III, Environmental Review. As Chief of Planning for the City of Concord, my duties included overseeing the activities of the planning department staff in updating the housing element of Concord's general plan as periodically required by the State of California Department of Housing and Community Development. A copy of my resume is attached hereto as Exhibit 1.

In this statement, I will discuss the potentially significant environmental impacts that could result from the changes made in the 2009 Housing Element (the proposed "Project") after the public comment period closed on August 31, 2010. Herein, I will refer to the June 2010 draft of the 2009 Housing Element that was subjected to environmental review as the "EIR Draft." The substantial changes to the proposed Project are set forth in a February 2011 draft of Part II and a Planning Department staff memorandum dated March 17, 2011.

1. The Project Was Substantially Changed to Encourage Transit-Oriented Development Along Major Bus Lines Outside Plan Areas.

The February 2011 draft of new Policy 1.10 broadly promotes infill housing "in transit-rich areas" which it defines to include Muni's major bus lines as "defined and prioritized in Muni's Transit Effectiveness Project (TEP) as the '24-hour Rapid Network,' " which "will be slated for long-term improvements" and "are slated to receive funding and service increases which will make it easier to meets service demands." The proposed new policy states that the Department "should support housing projects along these major transit lines *provided* they are consistent with current zoning and design guidelines." (See Ex. 2, pp. 2-4, summary of changes)

The March 17, 2011 staff proposal adds language encouraging "affordable housing" along the major transit lines and eliminates prior language that admitted that the proposed rapid lines are not funded and need service increases and long-term improvements. A communication from the Metropolitan Transportation Agency admitting such inadequacies is included herein. (See Exhibit 3) Also, inaccurate language previously referring to the proposed rapid network as "24 hour" was eliminated.

The new policy language also broadly supports "new housing projects" near major transit lines through references to "walking and bicycling" and "nearby residents" but does not define or limit the extent of the distance from transit lines in which the new transit-oriented housing would be both allowed and encouraged. It also fails to explain the density that should be permitted for infill housing in transit-rich areas or for housing projects along major transit lines.

Although the 2009 Housing Element does not provide a map of these major bus lines, the map of the TEP-proposed rapid network obtained from the San Francisco County Transportation Agency, is attached hereto in Exhibit 3. The SFCTA e-mail explains that the TEP-recommended rapid route network is not yet approved, has not undergone environmental review or been funded. (*Id.*) Numerous capital projects to improve transit reliability, improve customer amenities and reduce transit travel times are included in the draft TEP Implementation Plan, which has not been finalized or approved. (See Ex. 3, e-mails) So, the Muni bus routes described in the proposed TEP rapid route network do not provide rapid service now, and $160-200 million in capital projects would be needed to support the TEP-recommended rapid route network and make other improvements to the Muni system. (*Id.*) The funds for the capital improvements needed for the TEP-recommended rapid route network would largely be sought from federal and state grants which require some percentage of City money in hand in order to apply for matching federal or state grants. (*Id.*) The City has only approximately $10-15 million in funds for such TEP improvements. (*Id.*) Due to State and federal budget shortfalls, it is problematic whether funds would be available for these San Francisco projects in the forseeable future. In recent news reports, Muni stated that it lacks funds to undertake detailed seismic studies of existing Muni tunnels that are about one hundred years old and will have difficulty funding work to replace deteriorating metal and concrete supporting structures.

This is a major change in the proposed Project because the June 2010 draft of Part II that was subjected to environmental review had removed the broad language of Policy 1.5 that had supported new housing projects on sites that are located along major bus lines and removed Map 1 of "Major Transit Lines." (See Ex. 4, p. 14 red-lined June 2010 draft of part II)) Also, EIR Policy 12.1 had encouraged new housing that relies on transit "in areas that are well served with transportation infrastructure including BART trains, and Muni light rail trains" and had clarified "that changes to the Planning Code to further accommodate housing near transit will only occur through a neighborhood-supported community planning process." (See Ex. 4, p. 59). EIR Policy 12.1 text had removed the language "and Muni's rapid network of buses" from the policy text that was subjected to environmental review. (*Id.*)

Until Muni's bus lines have received funding for the needed service increases and improvements and implementation of the improvements is underway, they should not be defined as major transit lines along which transit-oriented development would be encouraged. Otherwise, policies that prematurely encourage housing growth in these areas would increase the significant adverse impact on already strained Muni bus services. The EIR concludes that the proposed project (without the bus lines defined as major transit lines) would have a significant unmitigated effect on public transit, which is insufficient to support the proposed expansion in

housing capacity. (See Ex. 5, Executive Summary, p. II-9)

Expanding the proposed Project to designate areas along major bus lines outside the Plan Areas as the areas in which transit-oriented development would be encouraged would substantially increase the severity of the significant environmental impact which the Project would have on inadequate transit services.

Eliminating this expansion of the proposed Project is a reasonable alternative which could be accomplished by approving the language of EIR Policy 12.1 as stated in the June 2010 draft of the Housing Element (which identified the areas along Bart lines and Muni light rail lines as major transit areas). That alternative would define major transit lines as areas near BART stations and along Muni light rail lines. Such alternative would reduce the significant environmental impact which results from inadequate transit services and public funding for transit since it would substantially reduce the areas where transit would be further strained by added capacity and substantial public funds would have to be spent on increasing the reliability and capacity of public transit services.

The EIR should therefore be revised to analyze the feasible alternative of eliminating the definition of major bus lines outside the Plan Areas from the areas where transit-oriented development would be encouraged and substantial funds needed for improved bus service. Under the alternative, major transit lines would be defined as BART stations and Muni light rail lines, as proposed in the June 2010 draft of Part II of the Housing Element. The EIR should be revised and recirculated for public review and comment due to the substantial increase in the severity of the significant impact on transit services which would result from expansion of the areas defined as major transit lines and the reasonable alternative of eliminating this expansion from the Project proposed for approval.

The severity of the significant adverse impact of the proposed Project on already inadequate public transit services was explained by the City to ABAG as follows:

> "While San Francisco has pioneered transit supportive development over the past few decades, we are at our limit in terms of transit's ability to carry more people in the peak period without significant new right-of-way, fleet and facility expansion. Our transit state of good repair backlog is over $2 billion just to maintain current service levels let alone the additional service levels from the expected growth, and similar backlogs exist for the regional transit service providers who serve San Francisco, such as BART and Caltrain. These core capital capacity constraints are regional in nature and will need a regional focus on resource prioritization for these PDAs to be successfully implemented. In addition, San Francisco needs over $750 million to bring our local streets to a state of good repair, and many PDAs have significant non-transportation infrastructure investment needs as well, lacking the community assets necessary to make them complete communities....

We are further challenged by needing to pace growth with new investment. While San Francisco's planning efforts aim to combine changes in zoning with proposals for new infrastructure investment, we continually face resistance from neighborhoods who are skeptical that needed infrastructure will come. There is a very real threat of neighborhood demand for legislation that meters growth according to infrastructure provision, thereby restricting zoning changes and any development under those zoning changes, until after the infrastructure is in place." (Ex. 6, thirteenth page)

The alternative of eliminating the bus lines outside the Plan Areas is clearly feasible because by a resolution of the Board of Supervisors in June 2007, the City approved Priority Development Areas as the areas where sustainable development could occur, and these areas correspond to the Plan Areas which the Housing Element states could accommodate "significantly more" that the 31,000 units allocated as the City's share of the regional housing needs allocation for this planning period (2007-2014. (See Ex. 4, p. 4-10 and map at ninth page of Ex. 6) The City has admitted that the "lion's share of city's growth will continue to be focused in its PDAs" and that they have more than enough capacity to satisfy the City's regional housing needs allowance for this planning period:

"San Francisco's Adopted and Planned PDAs collectively accommodate over 63,000 new housing units, and 136,000 new jobs. Healthy absorption of the city's existing vacancies in PDAs like Downtown provides the opportunity for another 23,000 or more jobs. However, new growth in San Francisco is not confined to PDAs. The city includes numerous small-scale infill opportunity sites close to transit throughout all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city. Cumulatively, San Francisco's PDAs and other opportunities yield the potential for over 85,000 housing units and almost 160,000 more jobs, more growth than is likely to be projected for San Francisco under the SCS P2011 Projections." (Ex. 6, twelfth page)

This evidence makes it clear that the city's 17,000 infill opportunity sites close to transit run "throughout all of its neighborhoods" outside of Priority Development Areas (or Plan Areas), and, therefore, the impact on already inadequate transit services would be substantially more severe if areas along bus lines outside the PDAs (or Plan Areas) are included in the definition of major transit lines slated for increased housing development.

Since the staff-proposed addition of the bus line areas would require the City to increase the reliability and efficiency of major bus lines running throughout the City instead of concentrating such improvements in the PDAs, a reasonable alternative which would reduce the severity of the significant impact on transit services would be to limit the definition of major transit lines to BART stations and Muni light rail lines, instead of broadening it to include all major bus lines. This alternative is certainly feasible because the City refused to identify areas outside of the PDAs as areas that could take on greater levels of growth at this time in the course of the Sustainable Communities Strategy planning, stating:

> "Because San Francisco already has plans to accommodate almost the entire amount of growth expected (over 90%) by 2035 within its designated PDAs, and because significant resources are necessary to provide the infrastructure necessary to support this growth, staff elected not to identify additional areas that could take on greater levels of growth at this time." (Ex. 6, p. 2 ; see also p. 7 of June 2010 version of 2009 Housing Element stating: "Completed and ongoing area plans have developed neighborhood specific housing plans, which could accommodate the majority of new housing needs in the City.")

This conclusion is reinforced by the fact that the City identified "[i]ncreased transit service frequencies for core trunk lines serving PDAs" as an implementation strategy needed to support growth of particular importance to San Francisco. (Ex. 6, twelfth page)

The amount of projected growth in PDAs meets over 90% of the City's growth target for two decades after the 2007-2014 planning period for which the 2009 Housing Element was prepared:

> "San Francisco is planning to accommodate more than 60,000 new households in PDAs by 2035. This represents the placement of over 90% of our county growth targets (from Projections 2009) within PDAs. This is significant as the next closest county achieves only ~40% of new households in PDAs." (Ex. 6, tenth page)

Since Planning Department staff did not identify areas along bus lines outside the PDAs as additional areas that could take on greater levels of growth in the Sustainable Communities Strategy planning effort, it is obviously a reasonable alternative to delete such areas from the proposed 2009 Housing Element Project. The addition of such areas in the February 2011 or finally adopted draft of the proposed 2009 Housing Element would exacerbate the project's significant adverse impact on transit because transit services would have to be increased in more part of the City than if the increases were concentrated in PDAs. Before the major bus lines were added as major transit lines slated for transit-oriented development, the City stated that the 2009 Housing Element already went farther than needed to accommodate the City's share of the regional housing needs allocation for the planning period 2007-2014, stating:

> "Together, these planning efforts could provide capacity for **significantly more** than the 31,000 units allocated for this planning period (2007-2014); however, they will require significant investment in infrastructure and supporting services in order to support this growth...The City should prioritize public investment in these plan areas to achieve the community goals of each plan, according to each plans' infrastructure and community improvements program." (Emphasis added, Ex. 6, p. 8, Part II, June 2010 Draft 2 Housing Element)

According to the Housing Element, Plan Areas adopted since the 2004 Housing Element are projected to "add growth of up to 20,000 new units, which, in combination with citywide

infill potential provides sites which can accommodate over 42,000 new units, as cited in Part 1 of the Housing Element. Ongoing community planning efforts, including major redevelopment plans at Mission Bay, Treasure Island and Hunter's Point Naval Shipyard, will add even more capacity over the next 20 years." (Ex. 4, p. 4) The estimated new housing construction potential in adopted plans/projects and plans/ projects underway total 63,300 new housing units. (Ex. 4, p. 10)

The Draft EIR for the 2009 Housing Element further explains that the City's unrealized capacity under existing zoning is "60,995 new housing units." (Draft EIR p. IV-14) Of these, approximately 20, 543 new units could be constructed on sites that are vacant or near vacant, and sites that are underdeveloped could yield another 40,452 new units. (*Id.*) Further, the City is in the process of rezoning many neighborhoods, and these rezoning efforts will increase the existing capacity in those neighborhoods, allowing for the development of additional housing units above and beyond the number of units that could be accommodated under existing zoning. (Id.) The additional capacity with rezoning initiatives currently underway is approximately 28,844 units. (DEIR Page IV-22) Should these rezoning initiatives be adopted, the City would be able to accommodate 89,839 net new housing units, which if developed would represent a 25% increase in the City's housing stock. (Draft EIR p. IV-22)

A total of 56,435 new units could result from projects now under construction or in various stages of the approval process, which include projects currently under construction, projects with approved building permits but not under construction, projects which have building department applications on file, projects which have been approved by the Planning Department and projects which have Planning Department applications on file. (Draft EIR p. IV-23) The three major projects of Candlestick Point-Hunters Point Shipyard, Treasure Island and Park Merced, comprise approximately half of the pipeline projects and could be completed by approximately 2020. (*Id.*)

Thus, the City's capacity for new housing under area plans in progress, existing unrealized capacity and pipeline projects is far in excess of the City's 31,000 unit RHNA for the planning period 2007-2014 represented by the 2009 Housing Element. The significant impact on the City's transit services would be lessened if transit services have to be enhanced only in the areas already rezoned. The Project's impact on other City services such as water, sewer, fire and police, would also be significantly lessened if the areas slated for increased growth were limited to those already rezoned.

As explained in my prior Declaration filed in the legal action in which the court required an EIR to analyze the proposed Housing Element changes, the EIR prepared by the City's transportation authority projects that time spent in congested traffic conditions will double by 2035 if the City concentrates its further development along transit routes as proposed in its citywide action plan. (See Attachment 13 to Chatten-Brown & Carstens August 30, 2010 EIR comment letter to Bill Wyco regarding 2004 and 2009 updates to Housing Element) This is a significant impact because citywide traffic is expected to be degraded to service level F. This is

not surprising, as San Francisco is already the second most densely populated City in the nation, and the massive amount of increased housing capacity proposed in the 2009 Housing Element, as increased by the changes proposed in the February 2011 or March 17, 2011 versions of Part II thereof, is simply unsustainable and unreasonable. (Ex. 7)

It is no exaggeration to say that ABAG's proposal to concentrate this amount of future growth in San Francisco is a major step toward Manhattanization of San Francisco. After all, aside from New York City, San Francisco already is the most densely populated city in the country.

The City should now revise the EIR and analyze the effect of expanding the areas designated for transit-oriented development to the areas along or near bus lines extending throughout the City outside the Planned Areas. The EIR should analyze the feasible alternative of eliminating this expansion of areas designated for transit-oriented development because the Project's significant impact on already-strained transit services would be substantially lessened if the project were limited to the Planned Areas. Under such alternative, the City would have to enhance bus service to the major lines running through the Planned Areas but not to the major bus lines running throughout the City outside the Planned Areas. This expansion of areas designated for transit-oriented development was requested by the advocacy group SPUR. (See Ex. 8, p. 2) SPUR makes clear that the broad language "transit-oriented development" calls for substantial zoning changes that would have adverse impacts. SPUR explains that effects of such new construction would be as follows:

> "more housing and jobs along transit corridors and in already transit-oriented neighborhoods" .... "means zoning for taller buildings and higher density in downtown and along the BART and Muni Metro lines in the neighborhoods. It means allowing new in-law units and eliminating parking and density limits in some neighborhoods." (See Exhibit 8, p. 2)

Thus, Housing Element language calling for transit-oriented development provides a policy basis for various increased density strategies including taller buildings and secondary units.

In San Francisco, areas along transit corridors running through residential neighborhoods are usually zoned neighborhood-commercial. The prevailing height in such neighborhood-commercial areas is now generally one or two stories and such areas are usually not now built up to maximum height limits (which are generally forty feet). Their low density character now usually matches and conforms with the low density character of surrounding residential neighborhoods. However, changing policy to encourage building taller structures with reduced or no parking in these linear neighborhood commercial areas along major bus lines could create canyon effects since the linear massing of the taller buildings would disrupt and divide the lower density character of the surrounding residential neighborhoods. Such linear massing would constitute an adverse visual effect on the character of existing neighborhoods, a significant adverse change in the quality of those neighborhoods and could also significantly reduce light to

adjacent or nearby residences.

Various existing measures which the City has previously enacted to increase the capacity of land for housing demonstrate the adverse impacts of increased traffic congestion, strained Muni services and visual neighborhood character that could result from extending transit-oriented development along bus lines running through established neighborhoods. The Residential Transit-Oriented Districts provide a good example. Under Planning Code section 207.1, in RTO and RTO-M Districts provided for in Planning Code section 201, dwelling units that are affordable (meeting criteria stated therein) shall not count toward density calculations or be limited by lot area. In addition, under Planning Code section 151, a dwelling unit in an affordable housing project is not required to have any off-street parking space except in RH-1 and RH-2 districts. (Ex.9) Therefore taller buildings with inadequate parking could result from new 2009 Housing Element Policy 1.10 because many small affordable units could be constructed in areas to be zoned RTO, and such units would not have any off-street parking. This type of construction could add large numbers of new residents to these areas and place increased demand on already strained Muni services. Those residents using automobiles would likely spend significant time circling to find parking spaces, which could increase traffic congestion in the area.

As previously noted, the Transportation Authority EIR projects significant further degradation in traffic conditions in the City as a result of concentrating future growth along transit corridors. Further time spent in congested traffic conditions causes vehicles to emit more pollutants than vehicles traveling at a normal rate of speed. (See Attachment 10 to Chatten-Brown & Carstens August 30, 2010 EIR comment letter to Bill Wyco regarding 2004 and 2009 updates to Housing Element , which is incorporated by reference) The City's December 6, 2010 Sustainable Communities Strategy letter recognizes that there could be "local adverse effects" from particulate matter vehicle emissions given "the growing recognition of air quality conflicts between busy roadways and infill development." (Ex. 10, p. 2) This is a potentially significant effect which should be analyzed in a revised EIR due to the proposed expansion of the transit-oriented development to areas along major bus lines outside the Plan Areas. The EIR should be revised and recirculated for public review and comment.

Zoning changes enacted for transit-oriented development after the 2004 Housing Element was approved, could cause significant parking space deficits in new structures. For example, under the Market Octavia Area plan rezonings (Exhibit11) only one off-street parking space is required for each four dwelling units in the Van Ness Special Use District. The resulting parking space deficit could cause traffic congestion in the area from cars circling to seek parking spaces and potentially increase pollutant emissions from motor vehicles in the immediate area.

In addition, under Planning Code section 134 (e) and (f), the rear yard requirement in NC Districts and Eastern Neighborhoods mixed use districts may be modified or waived by the

Zoning Administrator pursuant to the procedures which are applicable to variances. New structures built in neighborhood commercial districts along major transit lines could overwhelm adjacent structures that are not built up to height or bulk limits and which have the rear yards required by current code.

2. Changes Eliminated Policy Language Maintaining Density Limits For RH-1 and RH-2 Neighborhoods.

EIR Policy 1.6 text stating that [i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character" was changed in the February 2011 draft to state [i]n some areas, such as RH-1 and RH-2, prevailing height and bulk limits should be maintained to protect neighborhood character." Also, use of "flexibility in the number and size of units" was expanded to apply through "community based planning processes" and therefore would apply to projects outside plan areas and to individual projects, instead of merely to "community plan areas" as previously proposed in EIR Policy 1.6.

In the staff memorandum dated March 17, 2011, this provision was changed to state "[i]n some areas, such as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character." Since it is unclear which provision the Planning Commission may adopt, this statement will discuss the environmental effects of both proposals. Essentially, both proposals would provide a policy basis for replacing the current objective standards with subjective standards to be interpreted by the Planning Department and Commission. Use of a subjective standard is a substantial change in the nature of the proposed Project that must be subjected to environmental review.

This change was reflected in other policies. In EIR Policy 11.5, policy text stating "[p]articularly in RH-1 and RH-2 areas, density limits should be maintained to protect neighborhood character" was changed to state "[p]articularly in RH-1 and RH-2 areas, prevailing height and bulk patterns should be maintained to protect neighborhood character."

Similarly, EIR Policy 11.3 text stating "[i]n existing residential neighborhoods, this means development projects should uphold and preserve the existing zoning of the area" was changed to only "defer to the prevailing height and bulk of the area." This new language would also provide a policy basis for eliminating objective per unit density limits for residential neighborhoods, invite secondary units, and permit existing buildings to be divided into multiple units. Also, language calling for "a community-supported vision" was weakened to "a community-based vision." Policy language ensuring growth without "significantly impacting existing residential neighborhood character" was changed to growth without "substantially and adversely impacting" such character. New language was added supporting "adoption of neighborhood-specific design standards in order to enhance or conserve neighborhood character only if those guidelines are "consistent with overall good-planning principles." The new

reference to "good-planning principles" is a completely subjective standard that means virtually anything its advocate wants it to mean.

Since the housing element provides "the policy framework for future planning decisions" and new zoning is required to be consistent with the general plan under Planning Code section 101.1(d), the new language failing to maintain density limits would provide a policy basis undermining: (1) the current maximum dwelling unit density limits provided in Planning Code section 209.1, to wit, the one-unit limit for RH-1 and two-unit limit for RH-2 districts. (See Ex. 14, excerpt from Legislative Digest referring to Planning Code limitations on numbers of units permitted in RH-1 and RH-2 districts.)

In addition, the new language would provide a policy basis undermining the front set-back requirements provided in Planning Code section 132, the rear yard requirements provided in Planning Code section 134, the usable open space requirements for dwelling units provided in Planning Code section 135 and the side yard requirements for RH-1 districts provided in Planning Code section 133. (See Summary of the Planning Code Standards for Residential Districts attached as Exhibit 12) Such standards describe the height and bulk districts provided in Planning Code section 122 as of mere "general application" to residential districts. Thus, the changed language would provide a policy basis for eliminating the present objective standards which limit density in RH-1 and RH-2 neighborhoods.

Changing the general plan policy, which is the supreme planning law, is the first step to changing zoning. The purpose of zoning is to help implement the general plan. Under Charter section 4.105, the Planning Department "shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan, and periodically prepare implementation programs and schedules which link the General Plan to the allocation of local, state and federal resources." In addition, zoning ordinances must be consistent with the General Plan under Planning Code section 101.1 (d). A good example of increased density planning codes changes carrying out the General Plan is the ordinance adopting approximately 40 zoning changes to implement the Market Octavia area plan after the City approved the 2004 Housing Element. (Exhibit 11)

The proposed new policy language calling for using the prevailing or existing height and bulk limits or using existing height and bulk patterns would provide less protection for the neighborhood character of RH-1 and RH-2 districts than the maximum dwelling unit density limits provided in Planning Code section 209.1. Such changed policy language would promote secondary units and more than the number of units currently allowed by the Planning Code for such R classifications. Established and often older RH-1 and RH-2 districts have a low density character which would be substantially degraded if more than one unit was built in an RH-1 district or more than two units were built in an RH-2 district. The essential nature of such areas would be irreparably degraded by increased density.

Since many established residential neighborhoods have a prevailing one-unit or one/two combined-unit character, the new policy language could cause these neighborhoods to change from low to moderate density, which would constitute a substantial degradation in the quality of such sites and their surroundings, which is a significant adverse impact under provision I. (c) of the CEQA Guidelines. Under provision XVIII of the CEQA Guidelines, the Project's potential for degrading the quality of the environment requires a mandatory finding of significance of this impact. In addition, such language would conflict with applicable land use plans (which include zoning ordinances) that are adopted for the purposes of avoiding or mitigating such adverse aesthetic effects discussed above. The change would also conflict with the priority planning principle stated in Planning Code section 101.1 (b) (2) that existing "neighborhood character be conserved and protected", which is another significant effect that the EIR failed to analyze. Such conflicts with applicable land use plans are potentially significant adverse impacts under provision X. (b) of the CEQA Guidelines. (Ex. 13)

The Draft EIR failed to analyze the significant effects of the proposed new policy language on the aesthetic and visual quality of the environment in RH-1 and RH-2 districts and on the new language's conflict with land use plans applicable to such areas. Since these impacts are significant, the City must revise the EIR and analyze such significant effects, mitigation measures which could reduce such effects and reasonable alternatives which could reduce effects. The revised EIR must be recirculated for public review and comment.

A reasonable alternative to this new language would be to utilize the language of the second draft of the 2009 Housing Element which states: "[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character." Maintaining such language would eliminate the significant effects discussed above and is certainly feasible since the City's Plan Areas have far more increased capacity for new housing units than required for the 2007-2014 regional housing needs allocation.

It is the belief of many residents that substantial degradation of the Richmond district resulted from demolition of older single family residences and their replacement with taller, boxy multi-unit structures built up to maximum height and bulk limits that are known as "Richmond Specials." That experience is a telling example of the adverse effects that could result from encouraging increased density in RH-1 and RH-2 neighborhoods. Many residents believe that the architectural character of the Richmond district was substantially degraded when significant numbers of older homes were replaced with such maximized Richmond Specials. The same effect could occur throughout the City as a result of the proposed changes to the 2009 Housing Element.

The proposed new language referring to the "limits" would encourage additions or expansions to existing structures in RH-1 and RH-2 areas which would protrude beyond the envelopes of existing neighboring structures in RH-1 and RH-2 areas that are not currently built up to the prevailing height or bulk limits and have a low density character. The range of adverse effects on neighborhood character that could result from the changed language referring to the

"limits" would include demolition of older homes and their replacement with out-of-scale taller, multi-unit structures; adding floors to existing structures that are not built up to current height limits; expansions into existing rear yards and reduction of mid-block open space; and the cluttered appearance from additional motor vehicles parking on sidewalks and other illegal areas. Such additions, expansions and new construction could disrupt the existing patterns of established residential neighborhoods and substantially degrade the quality of those areas.

The newly proposed language referring to "existing height and bulk patterns" would use the outer envelope of existing structures, as interpreted by the Planning Department and Commission, as a reference point. This proposal would lack objective per-unit density limits within the envelope and would conflict with the provisions of Planning Code section 209.1, which provides the one-unit limit for RH-1 and two-unit limit for RH-2 districts. For the reasons set forth above, this proposed language would produce the same significant impacts discussed above: a significant impact due to conflict with applicable land use plans and would also cause the significant impact resulting from substantial degradation of the quality of such sites and their surroundings, which requires a mandatory finding of significance. The same alternative discussed above would be feasible and a revised EIR is required to be prepared analyzing the significant effects of the proposed change in language, reasonable alternatives thereto and mitigation measures that could reduce effects. The EIR should be revised and recirculated for public review and comment.

The EIR failed to consider measures which could mitigate significant effects or reasonable alternatives thereto. The City made these changes after the public review period on the EIR had closed.

3. Policy Language Was Changed to Weaken the Effect of Opposition To Zoning Changes by Neighborhood Residents.

Language which had given neighborhood residents a primary role in protecting the character of their neighborhoods and opposing zoning changes which would degrade neighborhood character was deleted from the version of Part II that had been analyzed in the EIR.

In EIR Policy 12. 1 text requiring "a neighborhood-supported community planning process" to make changes to the Planning Code to further accommodate housing near transit was weakened to refer to a "community based planning process."

In EIR Policy 1.4 "[n]eighborhood-supported community planning processes" was changed in revised Policy 1.4 to "community based planning processes" to be used to generate changes to land use controls, at the urging of SPUR. (Ex. 4, p. 11, Ex. 2, p. 2, Ex. 8, p. 3) Interpretative text stating that "[c]hanges that involve several parcels or blocks should always be the result of a neighborhood-supported community planning process" was changed to state "[z]oning changes that involve several parcels or blocks should always involve significant community outreach, as part of a community based planning process." Interpretative text stating

that to ensure adequate community outreach, changes to land use policies may be proposed "with comprehensive support from the community" was changed to state "with comprehensive opportunity for community input."

New language was added to Objective 11 stating "[c]hanges planned for an area should build on the assets of the specific neighborhood while allowing for change," after other language providing support for neighborhood character.

In addition, language calling for restricting uses that disrupt the residential fabric were deleted from EIR Policy 11.8.

In EIR Policy 4.6, language was deleted that growth "should not overburden built out neighborhoods where infrastructure is at capacity."

Policy 11.2 text stating that the Planning Department "should build on and bolster individual community's local controls" including "neighborhood Covenants, Conditions and Restrictions (CC&R's)" was changed to only require awareness of CC&R's by Planning staff, and new language was added stating "although only those guiding documents approved by the Planning Commission may be legally enforced by Planning staff."

Read together, policy language encouraging increased heights and densities as well as reduced parking in transit rich areas, the changes eliminating the primary role of neighborhood residents regarding proposed changes for their neighborhoods make it likely that the efforts of residents to maintain neighborhood character will be subordinated to the City's growth objectives. While citywide stakeholders and developer advocacy groups should have input regarding city planning, their input should be secondary to the input of the people who live in established neighborhoods. Residents in established neighborhoods have major financial investments in their neighborhoods and legitimate, long-term interests in preventing congestion or degradation of those areas so that they remain attractive and accessible to vehicular traffic and emergency vehicles.

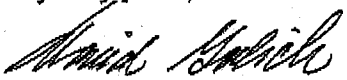
4. CEQA Requires that the City Prepare a Revised EIR Analyzing Significant Effects Which Could Result from the Changes and Alternatives and Mitigation Measures.

Since the City made the changes discussed herein months after the public review and comment period on the EIR expired , the City should prepare a revised EIR analyzing the potentially significant impacts of the changes discussed herein on the RH-1 and RH-2 districts and on the areas along and near the major bus lines described in the TEP map, which were not analyzed in the EIR. Such EIR should also analyze the effect of elimination of the requirement that planning code changes be "neighborhood-supported." The revised EIR must consider reasonable alternatives and mitigation measures that could reduce effects and be recirculated for

public review and comment.

Thank you for your attention to this very important matter.

Very truly yours,



Dated: March 23, 2011

David Golick
Planning Consultant
dlgolick@msn.com

EXHIBIT 1

RESUME

David Golick
4241 Dubhe Court
Concord, CA 94521
Phone (925) 798-6276
e-mail dlgolick@msn.com

Work Experience

1. Planning Consultant and Contract Planner, May, 2000 – Present

   A. Interim Community Development Director, City of Benicia, 2005

      Responsible for the operation of the Planning Division and Building Division. Involved in preparation of departmental budget and work program.

   B. Interim Community Development Director, City of Lafayette, December, 2000 - April, 2001

      Supervised and coordinated the Planning, Building, Engineering, and Public Works functions. Responsible for a major reorganization of the Planning Services Division.

   C. Interim Planning and Building Manager, City of Lafayette, April, 2001 - October, 2001

      Managed Planning and Building program. Responsible for hiring almost an entire new staff. Major projects included three controversial subdivisions, a senior housing proposal, and a downtown redevelopment commercial and housing project. Conducted zoning administrator hearings.

   D. Major Land Use Projects

      - Managed contentious in-fill applications, including a proposed 23 unit residential subdivision that required an Environmental Impact Report, for the City of Lafayette, 2000-2008.
      - Project planner for a 119,000 sq. ft. Home Depot commercial warehouse development for the City of Hercules, 2002.
      - Project planner for a 132 unit low income apartment project for the City of Hercules, 2002.
      - Critiqued environmental documents prepared for two proposed Contra Costa County ordinance amendments, private sector clients, 2000-2003.
      - Critiqued Draft Environmental Impact Report prepared for South Schulte Specific Plan in the City of Tracy, private sector client, 2003.

- Helped develop scopes of services for technical consultants involved in preparation of an Environmental Impact Report for a large mixed use development in the City of Fairfield, private sector client, 2003.
- Provided technical assistance to a consortium of 15 homeowner groups opposed to revisions to the Housing Element by the City and County of San Francisco, 2004.

2. Chief of Planning, City of Concord 1990 – 2000
   Director of Planning, City of Concord 1989

   Responsible for the management and administration of planning functions. Responsibilities included development of Planning Division priorities and work programs, budget preparation and monitoring, personnel management, policy and ordinance formulation, a complete revision of the General Plan, and management of large scale development projects. Provided staff support to City Council, Planning Commission, and Design Review Board.

Examples of Other Work Related Experience

1. Co-authored a guide for planners titled, "Free Advice for Young Planners Entering Public Sector Employment", which has been often quoted and used as a teaching tool by public planning departments and universities.
2. Served on a review committee for development of a booklet titled, "Start at the Source – Residential Site Planning and Design Guidance Manual for Stormwater Quality", prepared by Bay Area Stormwater Management Agencies Association.
3. Chaired a task force that developed innovative customer service approaches.
4. Speaker at American Planning Association national and state conventions as well as at local events.
5. Served on Bay Area Council focus groups that analyzed economic development potentials and constraints of the metropolitan area.
6. Member of the American Planning Association, Bay Area Planning Directors Association, and the Urban Land Institute.

Education

1. University of Massachusetts at Amherst, B.A. in Economics.
2. University of Rhode Island
   A. Graduate Studies in Community Planning. All course work, 61 graduate semester credits, completed
   B. Graduate Studies in Public Administration. Nine graduate semester credits completed.
3. San Francisco State University. Spanish language and cross-cultural training.
4. Participated in numerous technical seminars regarding Planning and Management.

EXHIBIT 2

Challenges Ahead: Balancing Goals with Resources and Realities

In an effort to plan for and respond to growing housing demands, the Planning Department has engaged several neighborhoods in specific community planning efforts. Ten community plans – the Candlestick and Hunters Point Shipyard Plans, Rincon Hill, Market & Octavia, Central Waterfront, East SoMa, Mission, Showplace Square/Potrero Hill and Balboa Park Area Plans, and the Visitacion Valley Master & Redevelopment Plan - have been adopted since the 2004 Housing Element update. Together these recently adopted Plan Areas are projected to add growth of almost 40,000 new units, which, in combination with citywide infill potential provides sites which can accommodate over 46,000 new units, as cited in Part 1 of the Housing Element. Ongoing community planning efforts, including major redevelopment plans at Mission Bay, Treasure Island and Hunter's Point Naval Shipyard, will add even more capacity over the next 20 years.

Policy 1.2 Focus housing growth and infrastructure-necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park and Hunter's Point Shipyard.

In order to increase the supply and affordability of housing, the City has engaged in significant planning for housing through Area Plans (portions of the General Plan which focus on a particular part of the City), Redevelopment Plans (community revitalization plans authorized and organized under the provisions of the California Community Redevelopment Law), and major development projects created in partnership with private sponsors. Adopted community plans include Balboa Park, Market and Octavia and the Central Waterfront neighborhoods; the Eastern Neighborhoods program including the Mission, South of Market, Showplace Square and Potrero Hill; Candlestick, and Hunters Point Shipyard; and several Redevelopment Area Plans, most recently Visitacion Valley/Schlage Lock.

Plans underway include Japantown, Glen Park, Western SoMa and Executive Park. Other major projects in development with the City include Treasure Island, Park Merced and the Transbay Transit Center. These ongoing community planning efforts should continue. These projects could result in a community accepted housing vision for the neighborhood, related zoning changes and neighborhood specific design guidelines that will encourage housing development in appropriate locations.

Together, these planning efforts could provide capacity for significantly more than the 31,000 units allocated for this planning period (2007-2014). However these plans will require significant investment in infrastructure and supporting services in order to support this growth. Each adopted plan contains related programs for affordable housing (directing the mix of housing types, tenures and affordability needs), infrastructure and community services, they also contain design guidelines and community review procedures. The City should prioritize public investment in these plan areas, according to each plans' infrastructure and community improvement program. These plans will also require diligence in their application: each plan contains numerous policies and principles intended to ensure neighborhood consistency and compatibility, and it is up to Planning Department staff and the Planning Commission to uphold those principles in project review and approvals.

Plan Area/ Major Project	Estimated New Housing Construction Potential*
Balboa Park Area Plan	1,800
Market/Octavia Area Plan	6,000
Central Waterfront Area Plan	2000
Mission Area Plan	1700
East SOMA Area Plan	2900
Showplace Square/Potrero Hill Area Plan	3200
Rincon Hill Area Plan	4,100
Visitation Valley Redevelopment Plan	1,500
Transbay Redevelopment Plan	3,400
Mission Bay Redevelopment Plan	3,000
Hunters Point Shipyard/ Candlestick Point	10,000
Total Adopted Plans & Projects:	**39,600**
Executive Park	1,600
Glen Park	100
Japantown	To be determined
Park Merced	5,600
Transit Center District	1,200
West SOMA	2,700
Treasure Island	7,000
Total Plans & Projects Underway:	**18,2900**
TOTAL	**57,800**

Policy 1.4 Ensure ~~neighborhood-supported~~ community based planning processes are used to generate changes to land use controls.

Community plans are an opportunity for neighborhoods to work with the City to develop a strategic plan for their future, including housing, services and amenities. Such plans can be used to target growth strategically to increase infill development in locations close to transit and other needed services, as appropriate. Community plans also develop or update neighborhood specific design guidelines, infrastructure plans, and historic resources surveys, as appropriate. As noted above, in recent years the City has undertaken significant community based planning efforts to accommodate projected growth. Zoning changes that involve several parcels or blocks should always involve significant community outreach, as part of a community based planning process.

Any new community based planning processes should be initiated *in partnership* with the neighborhood, and involve the full range of City stakeholders. The process should be initiated by the Board of Supervisors, with the support of the District Supervisor, through their adoption of the Planning Department's or other overseeing agency's work program;

and the scope of the process should be approved by the Planning Commission. To assure that the Planning Department, and other agencies involved in land use approvals conduct adequate community outreach, any changes to land use policies and controls that result from the community planning process may be proposed only after an open and publicly noticed process, after review of a draft plan and environmental review, and with comprehensive opportunity for~~support from the~~ community input. Proposed changes must be approved by the Planning Commission and Board of Supervisors at a duly noticed public hearing. Additionally, the Department's Work Program allows citizens to know what areas are proposed for community planning~~.~~ The Planning Department should use the Work Program as a vehicle to inform the public about all of its activities, and should publish and post the Work Program to its webpage, and make it available for review at the Department.

Policy 1.6 Consider greater flexibility in number and size of units within established building envelopes in community based planning processes, especially if it can increase the number of affordable units in multi-family structures.

In San Francisco, housing density standards have traditionally been set in terms of numbers of dwelling units in proportion to the size of the building lot. For example, in an RM-1 district, one dwelling unit is permitted for each 800 square feet of lot area. This limitation generally applies regardless of the size of the unit and the number of people likely to occupy it. Thus a small studio and a large four-bedroom apartment both count as a single unit. Setting density standards encourages larger units and is particularly tailored for lower density neighborhoods consisting primarily of one- or two-family dwellings. However, in some areas which consist mostly of taller apartments and which are well served by transit, the volume of the building rather than number of units might more appropriately control the density.

Within a community ~~supported~~ based planning process, the City may consider using the building envelope, as established by height, bulk, set back, parking and other Code requirements, to regulate the maximum residential square footage, rather than density controls that are not consistent with existing patterns. In setting allowable residential densities in established neighborhoods, consideration should be given to the prevailing building type in the surrounding area so that new development does not detract from existing character. In some areas, such as RH-1 and RH-2, ~~density limits should be maintained to~~prevailing height and bulk limits should be maintained to protect neighborhood character.

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

San Francisco enjoys an extensive network of transit lines, including a number of major transit lines that provide nearby residents with the opportunity to move about the City without need of a car. Because of proximity to transit and bicycle networks,

neighborhood serving businesses and job centers, some 29% of the City's households do not own cars and 33% of San Franciscans take public transit to work, with higher rates for households in transit-rich areas. Infill housing in transit-rich areas can provide lower income households, affordable unsubsidized housing opportunities. Housing with easy access to transit facilitates the City's efforts to implement the City's *Transit First* policy. Additionally housing near transit can provide site-efficient and cost effective housing.

In reviewing reliance on public transportation, it is important to distinguish areas that are "transit-rich," and located along major transit lines, from those that are simply served by transit. For the purposes of this Housing Element, "major transit lines" are defined as those that have significant ridership and comprehensive service – meaning almost 24-hour service with minimal headways. This network of major transit lines includes BART's heavy rail lines, MUNI Metro's light rail system including the F, J, K, L, M and N lines, and Muni's major arterial, high-ridership, frequent service local network lines. These lines are defined and prioritized in Muni's Transit Effectiveness Project (TEP) as the "24-hour Rapid Network," and will be slated for long-term improvements. These transit lines are slated to receive funding and service increases which will make it easier to meet service demands as well as increase the ability to travel both downtown and between neighborhoods. Therefore, the Department should support housing projects along these major transit lines *provided* they are consistent with current zoning and design guidelines.

Policy 4.6 Encourage an equitable distribution of growth according to infrastructure and site capacity.

Equitable growth brings economic opportunity to all residents, provides for intelligent infrastructure investment and offers a range of housing choices. Distributing growth equitably means that each part of the City has a role in planning for growth, and receives an equitable distribution of growth's benefits. It is as much about revitalizing and redeveloping transitioning parts of the City such as the Eastern Neighborhoods, as it is about guiding new communities in areas such as Treasure Island.

Whether in existing or new neighborhoods, all of the City's resident's should have access to public infrastructure, services and amenities. In ideal circumstances, infrastructure will be available before or in concert with new housing. Therefore growth should be directed through community planning to areas where public infrastructure exists and is underutilized; ~~it should not overburden built-out neighborhoods where infrastructure is at capacity. Community planning should also look to areas~~ or where there is significant site capacity ~~but are less developed in terms of infrastructure; these areas will require the construction of~~ and new infrastructure is planned in cooperation with new development.

Policy 9.2 Continue prioritization of preservation of existing affordable housing as the most effective means of providing affordable housing.

Financial support is required to continue to support the preservation of existing affordable housing. The HPP program has used tax-exempt bond financing, low income tax credits and federal funds to finance acquisition and rehabilitation costs. In addition, the Agency has engaged tenants and built organizing capacity to support acquisition

negotiations with owners of such developments. The City should continue these mechanisms to complete acquisitions of existing, at-risk subsidized units.

Additionally, other agencies in the City should look to retain existing affordable housing stock with supportive programs and policies. Privately owned and operated rental housing is under continuing pressure to convert to market rate housing, and programs such as the acquisition and rehabilitation model discussed previously can aid in their retention.

Policy 10.2 Implement planning process improvements to both reduce undue project delays and provide clear information to support community review.

As part of the Action Plan, the Planning Department is exploring a number of procedural and operational reforms intended to reduce project delays and increase community review.

To provide a more efficient review process that also provides the potential for earlier community review, the Planning Department is implementing a "Revised Development Review Process," based on the concept that earlier input and coordination by all divisions of the Planning Department on larger, more complex projects results in a more efficient review overall. The efficiency is gained by identifying and addressing significant project issues, and providing developers more comprehensive procedural information early in the review process. This approach also improves the likelihood that communities surrounding potential development projects will be more aware early in the review process. Together, these features reduce the overall review time for a project, allow for earlier community awareness, and—perhaps most importantly—ultimately result in better projects being approved and built.

To initiate neighbor communication early on in the development process, and provide the project sponsor the opportunity to address neighbor concerns about the potential impacts of the project prior to submitting an application, the Department has also implemented a required Pre-Application Process that requires eligible project sponsors to conduct community meetings prior to filing any entitlement, inviting all relevant Neighborhood Associations, abutting property owners and occupants. This process allows the community access to planned projects, and allows the project sponsor to identify, and address, issues and concerns early on.

Objective 11 Support and respect the diverse and distinct character of San Francisco's neighborhoods.

San Francisco is a City of neighborhoods, each with a distinct character and quality. While the Housing Element provides a citywide housing strategy, no policy should be applied without first examining its applicability to each specific neighborhood's unique context. Its implementation should be applied and expressed differently in each neighborhood. The existing character, design context (including neighborhood specific design guidelines), historic and cultural context, and land use patterns of each neighborhood shall inform and define the specific application of Housing Element

policies and programs. As each neighborhood progresses over time the distinct characters will form the foundation to all planning ~~and preservation efforts~~work in the area. Just as the City seeks a variety of housing types to meet the diversity of needs, the City also values a variety of neighborhood types to support the varying preferences and lifestyles of existing and future households. Changes planned for an area should build on the assets of the specific neighborhood while allowing for change.

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

As the City's Residential Design Guidelines state, San Francisco is known for its neighborhoods and the visual quality of its buildings. Its architecture is diverse, yet many neighborhoods are made up of buildings with common rhythms and cohesive elements of architectural expression. For all new buildings and major additions, the fundamentals of good urban design should be followed, respecting the existing neighborhood character, while allowing for freedom of architectural expression. A variety of architectural styles (e.g. Victorian, Edwardian, Modern) can perform equally well. Proposed buildings should relate well to the street and to other buildings, regardless of style. New and substantially altered buildings should be designed in a manner that conserves and respects neighborhood character. High quality materials, and a strong attention to details, should be carried across all styles. And buildings should represent their era, yet be timeless.

Planning Department review of projects and development of guidelines should build on ~~and bolster individual community's~~adopted local controls, including recently adopted Area Plans, ~~neighborhood specific guidelines, neighborhood Covenants, Conditions, and Restrictions (CC&R's),~~ neighborhood specific design guidelines, and historic preservation district documents. Planning staff should be aware of, and be a resource for, on-going individual community efforts that support good planning principles, such as neighborhood-specific Covenants, Conditions, and Restrictions (CC&R's) and design guidelines. New development and alterations or additions to existing structures in these neighborhoods should refer to these controls in concert with the citywide Residential Design Guidelines, although only those guiding documents approved by the Planning Commission may be legally enforced by Planning staff. Also projects in historic preservation districts should refer to related design documents.

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

Accommodation of growth should be achieved without damaging existing residential neighborhood character. In community plan areas, this means development projects should adhere to adopted policies, design guidelines and community review procedures. In existing residential neighborhoods, this means development projects should ~~uphold and preserve the existing~~defer to the prevailing height and bulk ~~zoning~~ of the area.

To ensure character is not impacted, the City should continue to use community planning processes to direct growth and change according to a community ~~supported~~ based vision.

The Planning Department should utilize residential design guidelines, neighborhood specific design guidelines, and other documents describing a specific neighborhoods character as guideposts to determine compatibility of proposed projects with existing neighborhood character.

The Department should support the adoption of neighborhood-specific design standards in order to enhance or conserve neighborhood character, provided those guidelines are consistent with overall good-planning principles and help foster a more predictable, more timely, and less costly pre-development process. To this end, the Department should develop official procedures for submittal of neighborhood-initiated design guidelines, for review by Department staff, and for adoption or endorsement.

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

Current zoning districts result in land use and density patterns shown on the accompanying Generalized Permitted Housing Densities by Zoning District, Map 6; and the accompanying table illustrating those densities, Table I-64, in Part 1 of the Housing Element. The parameters contained in the Planning Code under each zoning districts can help ensure that new housing does not overcrowd or adversely affect the prevailing character of existing neighborhoods. The City's current zoning districts conform to this map and provide clarity on land use and density throughout the City. When proposed zoning map amendments are considered as part of the Department's community planning efforts, they should conform generally to these this maps, although minor variations consistent with the general land use and density policies may be appropriate. They should also conform to the other objectives and policies of the General Plan.

Policy 11.5 ~~Maintain allowable~~Ensure densities in established residential areas ~~at levels which~~ promote compatibility with prevailing neighborhood character.

Residential density controls should ~~continue to be applied where appropriate to maintain~~reflect prevailing building types in established residential neighborhoods. Particularly in RH-1 and RH-2 areas, density ~~limits should be maintained~~prevailing height and bulk patterns should be maintained to protect neighborhood character. Other strategies to maintain and protect neighborhood character should also be explored, including "neighborhood livability initiatives" that could examine ~~community supported~~ guidelines and principles to preserve what is beloved about the area. Such an initiative could result in strategies to improve the appearance and accessibility of neighborhood commercial districts, or neighborhood specific design guidelines for specific RH-1 and RH-2 neighborhoods.

Policy 12.1 Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

New residents require access to neighborhood serving businesses, employment centers, recreation facilities, and regional centers. To the extent possible these trips should be easily accommodated on the existing transportation network with increased services. To that end the city should promote housing development in areas that are well served with

transportation infrastructure including Bart trains, and Muni light rail trains~~.~~. However, changes to the Planning Code to further accommodate housing near transit will ~~only~~ occur through a ~~neighborhood-supported~~ community based planning process. Encouragement of the use of public transit and car-sharing must be accompanied by improving the reliability and usability of public transportation and broadening access to and location of car share options, as ways to make these alternatives more attractive. Additionally, bicycle amenities can and should be an integral component to housing and supporting the City's Transit First policy. The City must maintain and improve the transportation network in coordination with new development. Long range transportation planning should consider projected growth patterns. Tools such as impact fees should facilitate the coordination of new growth with improved transportation infrastructure. As the City has been directing planning efforts to shape housing construction in transit-rich locations through its Redevelopment, Better Neighborhoods and other community planning processes, its funding efforts should prioritize these parts of the City. To ensure that new neighborhood infrastructure, particularly transit, is provided concurrently with new growth, agencies within the City should prioritize funding or planning efforts within these planned areas, especially for discretionary funding application processes such as the state's Proposition 1C.

Policy 13.3 Promote sustainable land use patterns that integrate housing with transportation ~~via~~ in order to increase transit, pedestrian, and bicycle mode share.

Sustainable land use patterns include those located close to jobs and transit, as noted above. But they also include easy access to, and multiple travel modes between, other services, shopping and daily needs. This could mean all services needed are located within an easy walk of the nearby housing; it could also mean that such services are available by bike or transit, or in the best cases, by all modes. The common factor in sustainable land use patterns is that the need for a private car is limited.

To encourage walking, cycling and transit use, comprehensive systems must be in place. A Citywide network of walkable streets, bike lanes that are safe for children as well as the elderly, and reliable, convenient, transit must be in place. The City should continue efforts to improve such networks, to make them more attractive to users. The City should also continue requirements and programs that link developers of housing to contribute towards such systems. Sustainable design that includes improved streets and transit stops adjacent to developed property, as well as the inclusion of mid-block crossings, alleys and bike lanes at larger, multi-block developments, can further incentivize non-automotive movement.

EXHIBIT 3

Gmail by Google

Kathy Devincenzi <krdevincenzi@gmail.com>

SFTP presentation followup: Muni TEP Rapid Network

4 messages

Liz Brisson <liz.brisson@sfcta.org> **Thu, Feb 17, 2011 at 6:05 PM**
To: krdevincenzi@gmail.com
Cc: "White, Dustin" <Dustin.White@sfmta.com>, Tilly Chang <tilly.chang@sfcta.org>

Dear Ms. Devincenzi,

Thanks again for having us at the CSFN meeting on Tuesday. We appreciate the opportunity to present and hear your input. Tilly forwarded me your voicemail asking for a map of the 24-hour TEP Rapid Network and more information about its implementation status.

I am writing to connect you with Dustin White (cc-ed here), Acting Manager of Transit Service Planning at SFMTA. He would be the best point of contact to help you answer your question.

Dustin can also be reached by phone at 415-701-4603

Please let me know if you have any other questions,

Regards,

Liz Brisson

Transportation Planner

San Francisco County Transportation Authority

100 Van Ness Ave., 26th Floor

San Francisco, CA 94102

415-522-4838

www.sfcta.org

www.facebook.com/sfcta

www.twitter.com/sanfranciscota

Kathy Devincenzi <krdevincenzi@gmail.com> **Thu, Feb 17, 2011 at 6:22 PM**
To: Liz Brisson <liz.brisson@sfcta.org>

Thank you Ms. Brisson. I will follow up with Mr. White.
[Quoted text hidden]

White, Dustin <Dustin.White@sfmta.com> **Fri, Feb 18, 2011 at 4:09 PM**
To: Liz Brisson <liz.brisson@sfcta.org>, krdevincenzi@gmail.com
Cc: Tilly Chang <tilly.chang@sfcta.org>

Existing 24-hour Muni network:

http://transit.511.org/static/providers/maps/SF_1217201092058.pdf

The original TEP-proposed rapid network that was endorsed by the SFMTA Board of Directors in fall 2008 for the purposes of environmental review is shown on the attached map. The corresponding frequency recommendations can be found here:

http://www.sfmta.com/cms/mtep/documents/FrequencyChartBoard091008_PubJT.pdf

While most of the route alignments shown on this map are still proposed, a few have changed*.

The SFMTA is currently working with a consultant team to finalize a TEP Implementation Plan, which will allow the environmental review process to begin. The TEP Implementation Plan prioritizes approximately $200 million in capital projects to support the TEP-recommended rapid route network and make other improvements to the Muni system. Some of the original TEP planning phase route recommendations were implemented as part of system-wide service changes made in December 2009. Most of the remaining TEP-recommended service changes are currently planned to occur in two phases (one in fiscal year 2012/13 and one in fiscal year 2014/15). Numerous capital projects to improve transit reliability, improve customer amenities and reduce transit travel times are also included in the draft TEP Implementation Plan and phased between now and fiscal year 2019/20.

*For example, the attached map shows the M Ocean View terminating at SFSU and the J Church being extended beyond Balboa Park to SFSU; however based on the most recent plans for the Parkmerced development, the J Church is no longer being proposed to extend beyond Balboa Park, but the M Ocean

View is being proposed to operate with some trains stopping at SFSU/Parkmerced and others continuing to Balboa Park to provide more service between SFSU/Parkmerced and Downtown.

Dustin White
Transportation Planner
San Francisco Municipal Transportation Agency
ph: 415.701.4603 | fax: 415.701.4343
email: dustin.white@sfmta.com | www.sfmta.com

From: Liz Brisson [mailto:liz.brisson@sfcta.org]
Sent: Thursday, February 17, 2011 6:05 PM
To: krdevincenzi@gmail.com
Cc: White, Dustin; Tilly Chang
Subject: SFTP presentation followup: Muni TEP Rapid Network

[Quoted text hidden]

SFMTA_TEP_Recommended_11X17_Rapid_080408.pdf
3102K

Kathy Devincenzi <krdevincenzi@gmail.com> **Fri, Mar 18, 2011 at 2:44 PM**
To: "White, Dustin" <Dustin.White@sfmta.com>

Dear Mr. White,

Thank you very much for the map and the explanations of the Transit Effectiveness Project (TEP) in your e-mail and in our telephone conversation of March 10, 2011.

My notes of that telephone conversation show that you explained to me that the TEP-recommended rapid route network has not yet been approved, has not undergone environmental review, and has not been funded. Numerous capital projects to improve transit reliability, improve customer amenities and reduce transit travel times are included in the draft TEP Implementation Plan, which has not been finalized. So, the Muni bus routes described in the proposed TEP-recommended rapid route network are not rapid now, and $160-200 million in capital projects would be needed to support the TEP-recommended rapid route network and make other improvements to the Muni system. The funds for the capital improvements needed for the TEP-recommended rapid route network would largely be sought from federal and state grants which require some percentage of City money in hand in order to apply for matching federal or state grants. The City has only approximately $10-15 million in funds for such TEP improvements.

Thank you again for explaining this to me and kindly let me know if my understanding set forth above is incorrect.

Kathy Devincenzi
[Quoted text hidden]

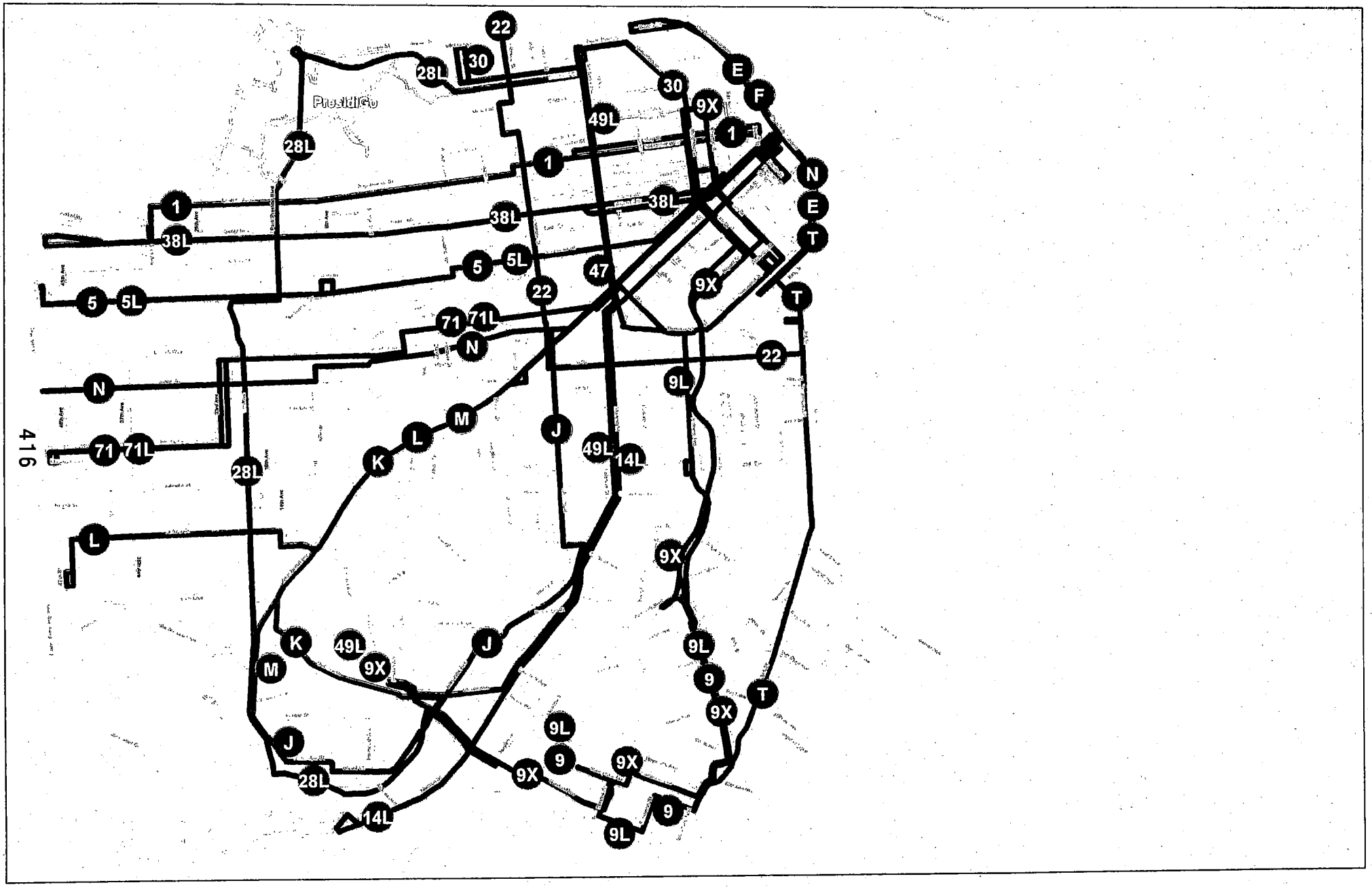

Presidio
22
30
28L
30
E
F
9X
49L
1
28L
1
N
E
1
38L
38L
T
38L
5
5L
47
5
5L
22
9X
T
71
71L
N
22
N
9L
M
L
K
J
49L
14L
71
71L
28L
L
9X
K
49L
J
9L
M
9X
9
T
9X
9L
J
9
9X
28L
9X
9
14L
9L

EXHIBIT 4

DRAFT HOUSING ELEMENT

SAN FRANCISCO GENERAL PLAN

PART II: OBJECTIVES & POLICIES

AN ELEMENT OF THE GENERAL PLAN OF THE CITY AND COUNTY OF SAN FRANCISCO

JUNE 2010 | PRELIMINARY DRAFT FOR PUBLIC REVIEW

Note: This Document is based on the June 2009 Preliminary Draft of the Housing Element, Part II Objectives and Policies. Changes since the 2009 Preliminary Draft incorporate community comments, Community Advisory Body (Cab) comments, and comments from other City agencies. The Planning Department released a memo in April 2010 summarizing the proposed changes. This memo, which precedes the draft element, serves as an executive summary for the changes included in the full text.

Changes to the document are noted as follows:
- Deletions – ~~strike-through text~~
- Additions – <u>Underlined text</u>

Additionally staff made a number of minor corrections to the document – these are not noted in this document.

INTRODUCTION

Housing element law mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The City of San Francisco has embraced this requirement as an opportunity for a community based vision for San Francisco's future. Part 2 of the *Housing Element* sets forth objectives, policies, and programs to address the housing needs identified in Part one.

The Housing Element is intended to provide the policy background for housing programs and decisions; and to provide broad direction towards meeting the City's housing goals. As with other elements of the General Plan, it provides the policy framework for future planning decisions, and indicates the next steps the City plans to take to implement the Housing Element's objectives and policies. Adoption of the Housing Element does not modify land use, specify areas for increased height or density, suggest specific controls for individual neighborhoods, implement changes to the Zoning Map or Planning Code, or direct funding for housing development. Any such changes would require significant community and related legislative processes, as well as review and public hearings before the Planning Commission and Board of Supervisors.

Why is Housing an Issue?

San Francisco's population continues to grow; now surpassing the 1950s population peak, with over 800,000 residents. As a hub for the region, San Francisco hosts a significant proportion of the City's jobs, as well as the core of local transportation infrastructure. Despite the recent economic impacts of the national recession, industries in San Francisco are – slowly - growing, particularly in the categories of financial and professional services, and knowledge industries such as biotechnology, digital media, and clean technology. With new employment opportunities comes the increased demand for a variety of housing types.

Affordable housing is the most salient housing issue in San Francisco and the Bay Area. ABAG projects that at least 39% of new housing demands will be from low and very low income households (households earning under 80% of area median income), and another 22% affordable from households of moderate means (earning between 80 and 120% of area median income). The policies and programs offer strategies to address these specific housing demands.

Based on the growing population, and smart growth goals of providing housing in central areas like San Francisco, near jobs and transit, the State Department of Housing and Community Development (HCD), with the Association of Bay Area Governments (ABAG), estimates that San Francisco must plan for the capacity for roughly 31,000 new units, 60% of which should be suitable for housing for the extremely low, very low, low and moderate income households, in the next Housing Element period to meet its share of the region's projected housing demand. Because San Francisco also shares these state and regional objectives to increase the supply of housing, improve the regional jobs-housing balance, protect the environment, and promote a more efficient development pattern, this Housing Element works to meet those targets.

The City's Housing Values

In developing the 2009 Housing Element Update, the City worked closely across agencies and broadly with San Francisco neighborhoods, community organizations, housing advocates, and residents. Through a broad outreach process that included a Community Advisory Body, stakeholder sessions, over 30 community workshops, monthly office hours, and interactive web outreach including an online survey, four housing values were developed to guide the 2009 Housing Element:

1. *Prioritize permanently affordable housing.* Across the City, participants acknowledged that the cost of housing in San Francisco was an issue affecting everyone, from working families to the very poor. Thus the Housing Element focuses on creating the right type of housing, to meet the financial, physical and spatial needs of all of our residents who cannot afford market-rate housing. This requires not only creating new housing, but addressing the numerous housing types needed for San Francisco's diverse population, and preserving and maintaining the existing housing stock , which provides some of the City's most affordable units.
2. *Recognize and preserve neighborhood character.* Residents of San Francisco, from its wealthiest neighborhoods to its lower income areas, prioritized their own neighborhoods' physical and cultural character. Therefore the Housing Element recognizes that any plans for housing, from individual projects to community plans, need to acknowledge the unique needs of individual neighborhood which they are located. No individual strategies proposed in this Housing Element are appropriate universally; each needs to be considered within the neighborhood context. By using community planning processes that are driven by the input of the community itself, the City can ensure that the best qualities of neighborhoods are not only maintained, but strengthened.
3. *Integrate planning of housing, jobs, transportation and infrastructure.* Participants stressed that housing does not occur in a vacuum- that successful housing must be considered as a part of a whole neighborhood, one that includes public infrastructure such as transit, open space and community facilities, and privately provided infrastructure such as retail and neighborhood services. As one considers the needs of various household types, steps must be taken to encourage amenities required by families, such as child care, schools, libraries, parks and other services.
4. *Cultivate the City as a sustainable model of development.* The City's residents recognized the City's social, practical and legislative responsibility to address housing needs from both the local and the regional perspective, given San Francisco's role as a job center and a transit nexus. Thus, the Housing Element prioritizes increasing transit availability and accessibility, and prioritizing housing development where transit and other mode options are improved, to reduce the impacts of greenhouse gas emissions. It promotes "green" development in both new and reconstruction. It does not, however, promote growth at all costs: the Housing Element recognizes that a truly sustainable San Francisco balances housing

production with other major values discussed above, in the context of affordability needs, infrastructure provision, and neighborhood culture and character.

Challenges Ahead: Balancing Goals with Resources and Realities

In an effort to plan for and respond to growing housing demands, the Planning Department has engaged several neighborhoods in specific community planning efforts. Nine community plans – the Bayview Hunters Point, Rincon Hill, Market & Octavia, Central Waterfront, Eastern SoMa, Mission, Showplace Square/Potrero Hill and Balboa Park Area Plans, and the Visitacion Valley Master & Redevelopment Plan - have been adopted since the 2004 Housing Element update. Together these recently adopted Plan Areas are projected add growth of up to 20,000 new units, which, in combination with citywide infill potential provides sites which can accommodate over 42,000 new units, as cited in Part 1 of the Housing Element. Ongoing community planning efforts, including major redevelopment plans at Mission Bay, Treasure Island and Hunter's Point Naval Shipyard, will add even more capacity over the next 20 years.

Implementation of these plans, both on the housing and infrastructure side still requires significant planning and support. The City has made strides in developing new housing to serve that growing population - about 18,960 new housing units were added to the City's housing stock since 2000 - housing affordability continues to be a major policy issue. Even with very successful policies and programs, and an all-time high average production rate of over 2000 units per year, San Francisco achieved only 67% of its housing goals for very low and low production, and a total of 47% of all affordable housing production.[1] Because of the high cost of housing subsidies required to provide a unit to low and very low income households ranges from $170,000 to $200,000 per unit. Total costs to meet the total need projected by the RHNAs exceed $2 billion dollars, significantly more than funding has allowed in previous years. Given current economic conditions this level of funding is far more than can be realistically expected in the short term.

This Housing Element addresses residential development during a period of national recession, against a backdrop of reductions in sale and rental values, backlogs of unsold units, and a dearth of funding for new housing development. Working within this context, the Housing Element stresses stabilization strategies that respond to the economic downturn. Creative new context specific strategies include:

- Small-site acquisition and rehabilitation, where the City takes an active role in securing and stabilizing existing units as permanently affordable housing.
- Owner-initiated rehabilitation, where the City supports- financially or otherwise – owner or landlord initiated improvements to existing housing, particularly at-risk rental units.

[1] Note: Other major cities, such as Oakland and Los Angeles, faced the same challenges, meeting on average only 30% of their affordability targets

- Project partnerships, fostering relationships between affordable and market rate developers on new sites, or on projects which may have stalled, to expand affordable housing opportunities.
- Providing assistance in foreclosures, including assistance to existing homeowners and working to secure foreclosed units as affordable opportunities.

However, even with these strategies the City will not likely see the development 31,000 new units, particularly its affordability goals of creating over 12,000 units affordable to low and very low income levels projected by the RHNA. There are adequate sites to meet projected housing needs, and the policies of this Housing Element support further housing development. However, realizing the City's housing targets requires tremendous public and private financing - given the state and local economy and private finance conditions is not likely to be available during the period of this Housing Element.

For the City is to be truly successful in achieving the type and amount of housing targeted by the RHNAs and mandated by local and regional sustainability goals, a full partnership with the state and the region is required. Funding at the state and regional levels need to continue to consider – and prioritize - San Francisco's share of the statewide housing, particularly its affordability challenges, when allocating funding for affordable housing and for public infrastructure. Only through this partnership, and if infrastructure and housing funding priorities are coordinated with regional growth objectives, can the City truly move towards these housing production targets.

Acknowledging Tradeoffs

The Housing Element is intended to be an integrated, internally consistent and compatible statement of policies for housing in San Francisco, based upon the goals of the citizens of the City. However, many of these goals have a natural tension between them. For example, the relationship of market rate to affordable housing can often seem competitive, and even oppositional. Yet increased levels of affordable housing cannot be achieved without the private development sector, which brings significant funding towards affordable housing and its needed services through tax revenues, inclusionary requirements and other fees. In balancing this relationship, the City needs to consider how all types of housing contribute to overall goals.

Another tension exists between the demand for more housing in San Francisco and the impact – real or perceived – that new development can have on neighborhoods. To meet local and regional sustainability goals, more housing and greater density is required, but growth needs to be shaped so that it does not occur at the expense of valued San Francisco neighborhood qualities. Community plans balance these factors to increase housing equitably while still preserving what people love about their neighborhoods.

Another major issue to balance is the relationship between housing and infrastructure The City's goal is to locate housing in areas that already have access to infrastructure and services, many sites large enough for affordable housing are often found in transitioning areas that require additional infrastructure. The City needs to seek equilibrium for

housing opportunities by prioritizing increased infrastructure or services to these transitioning areas.

The purpose of this Housing Element is not to resolve all of those tensions, but to provide a framework the City can use to highlight concerns that should be balanced by decision makers, to achieve the City's stated housing goals.

The Document

The *objectives* and *policies* that follow are intended to address the State's objectives and the City's most pressing housing issues: identifying adequate housing sites, conserving and improving existing housing, providing equal housing opportunities, facilitating permanently affordable housing, removing government constraints to the construction and rehabilitation of housing, maintaining the unique and diverse character of San Francisco's neighborhoods, balancing housing construction with community infrastructure, and sustainability. Each set of objectives and related policies is accompanied by *implementing programs* - a detailed schedule of actions that will implement the housing element including timelines, steps, projected outcomes and entities responsible for each action. Also, each set of objectives and policies is followed by a series of *strategies for further review* - ideas which were raised over the course of the Housing Element development and outreach, which require further examination, and potentially long-term study, before they can be directly implemented. These strategies will be examined in more detail with the appropriate agencies over the course of the draft Housing Element's review, to determine if such strategies are possible and can be pursued as implementation programs.

Issue One: Adequate Sites

Objective 1 Identify and make available for development adequate sites to meet the City's housing needs. especially permanently affordable housing.

Even during declining economies, housing demand in San Francisco continues. Families continue to grow, life expectancy has increased, and more people seek to live closer to where they work. The need for housing comes from households of all income levels.

In an effort to manage the regional growth and accommodate projected housing needs throughout the Bay Area, the Association of Bay Area Governments (ABAG) allocates a number of housing units at various income levels to each community in the region based on projected job growth. ABAG has allocated more than 31,000 new housing units in City and County of San Francisco through the year 2014, with over 60% of those units required to be affordable to households of moderate income (defined as 120% of Area Median Income) or below.

Reaching these ABAG goals will require the implementation of a number of strategies, including planning and constructing new permanently affordable housing, for which land must be identified. Housing sites must be considered carefully in order to make the most of a limited land supply while ensuring that new housing is in keeping with existing neighborhood character. Completed and ongoing area plans have developed neighborhood specific housing plans, which could accommodate the majority of new housing needs in the City.

Specific criteria should be considered when planning for, and securing, sites for housing. To enable easy access and movement throughout the City, housing should be located close to transit, and to other necessary public infrastructure such as schools, parks and open space, as well as quasi-public or privately provided services such as child care and health facilities. To enable access to retail and services, new housing should be located throughout the City in a mixed-use fashion. To ensure the health of residents, housing should be located away from concentrations of health-impacting land uses.

New housing is not the only answer to addressing housing needs in San Francisco. Other strategies, such as retention of existing units, and making existing units permanently affordable, as discussed in Objectives 2 and 3, enable the City to meet many of its housing affordability goals.

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

San Franciscans are a diverse population, with a diverse set of housing needs. Future housing policy and planning efforts must take into account the diverse needs for housing. The RHNA projections indicate housing goals for various income levels, these provide basic planning goals for housing affordability. San Francisco's housing policies and programs should provide strategies that promote housing at each income level, and furthermore identify sub-groups, such as middle income and extremely low income households that require specific housing policy. In addition to planning for affordability, the City should plan for housing that serves a variety of household types and sizes.

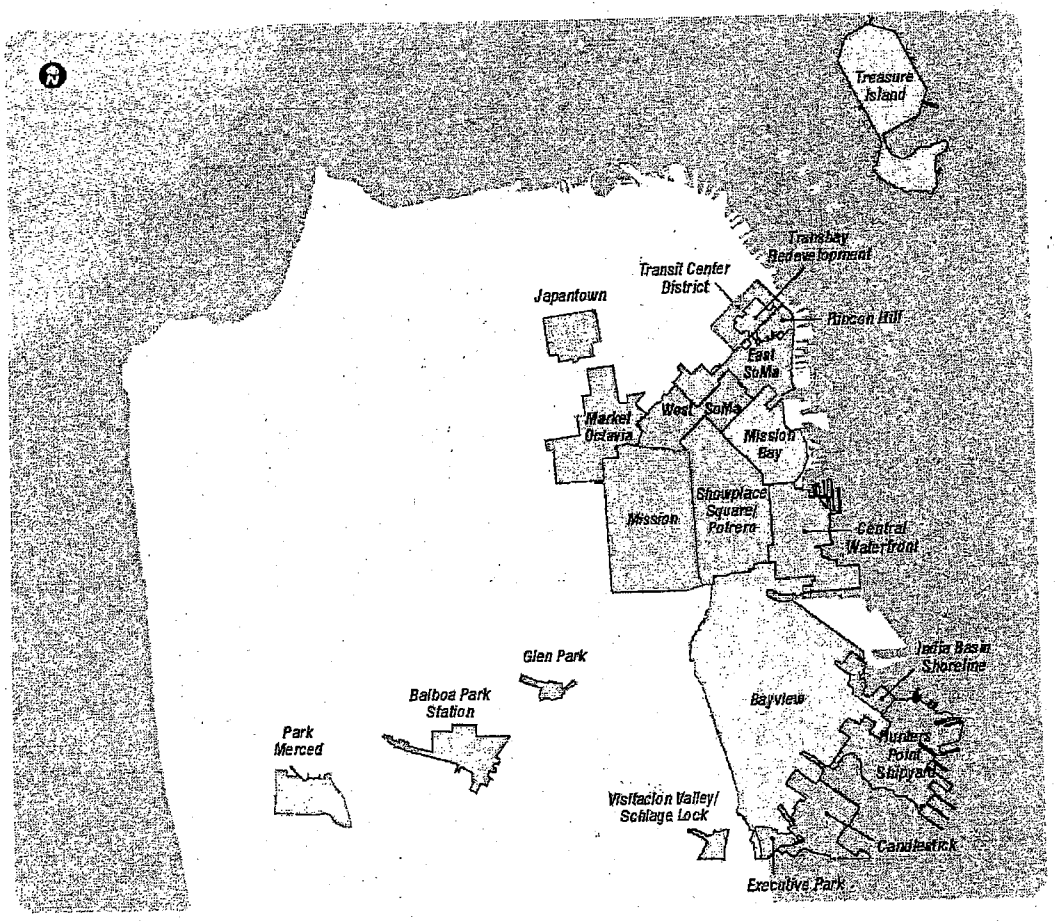
Policy 1.2 Focus housing growth and the infrastructure necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park and Hunter's Point Shipyard.

In order to increase the supply and affordability of housing, the City has engaged in significant planning for housing through Area Plans (portions of the General Plan which focus on a particular part of the City), Redevelopment Plans (community revitalization plans authorized and organized under the provisions of the California Community Redevelopment Law), and major development projects created in partnership with private sponsors. Adopted community plans include Balboa Park, Market and Octavia and the Central Waterfront neighborhoods; the Eastern Neighborhoods program including the

Mission, South of Market, Showplace Square and Potrero Hill; and several Redevelopment Area Plans, most recently Visitacion Valley/Schlage Lock.

~~o~~Plans underway include Japantown, Glen Park, and a number of planning projects in the Southeast sector of the City, including Executive Park, Candlestick, and Hunters Point Shipyard. Other major projects in development with the City include Treasure Island, Park Merced and the Transbay Transit Center. These ongoing community planning efforts should continue. These projects could result in a community accepted housing vision for the neighborhood, related zoning changes and neighborhood specific design guidelines that will encourage housing development in appropriate locations ~~throughout San Francisco~~.

Together, these planning efforts could provide capacity for significantly more than the 31,000 units allocated for this planning period (2007-2014); however they will require significant investment in infrastructure and supporting services in order to support this growth. Each adopted plan contains related programs for affordable housing (directing the mix of housing types, tenures and affordability needs), infrastructure and community services, they also contain design guidelines and community review procedures. The City should prioritize public investment in these plan areas to achieve the community goals of each plan, according to each plans' infrastructure and community improvements program.



Plan Areas

MAP XX

Adopted Area Plan

Pending Adoption

Plan Areas Under Development

Plan Areas in Coordination With Redevelopment Authority or Other Groups

PLANNING DEPARTMENT

Plan Area/ Major Project	Estimated New Housing Construction Potential*
Balboa Park Area Plan	1,800
Market/Octavia Area Plan	6,000
Central Waterfront Area Plan	2000
Mission Area Plan	1700
East SOMA Area Plan	2900
Showplace Square/Potrero Hill Area Plan	3200
Rincon Hill Area Plan	4,100
Visitation Valley Redevelopment Plan	1,500
Transbay Redevelopment Plan	3,400
Mission Bay Redevelopment Plan	6000
Total Adopted Plans & Projects:	**32,600**
-	-
Executive Park	1,600
Glen Park	100
Japantown	To be determined
Park Merced	5,600
Transit Center District	1,200
West SOMA	2,700
Hunters Point Shipyard	4,000
Candlestick	7,500
Treasure Island	8,000
Total Plans & Projects Underway:	**31,900**
TOTAL	**63,300**

**From individual NOP and EIR, rounded*

~~fabric, historic structures and neighborhood character. Completion of such a study will allow the Department to determine how strategies that increase capacity for housing would work within neighborhood specific context.~~

~~Secondary units (also called "accessory units", "in-law units" or "granny flats") represent a simple and cost-effective method of expanding the housing supply, because they can be located efficiently on existing residential lots without requiring the owner to subdivide the property; can be constructed inexpensively when such units are located in already existing structures; and can meet the needs of low-income households or seniors because of their typically lower rents. Secondary units are allowed in all of the City's zoning districts, except for RH-1 areas. Given concerns about secondary units' impacts on neighborhood character and about increased parking demands, allowing secondary units in RH-1 districts should be considered only during the community planning process, and allowed where there is demonstrated community support, and where such units can conform to minimum Code standards of safety and livability.~~

~~Policy 1.5Policy 1.5 Support new housing projects on sites that are located close to major transit lines.~~

~~San Francisco enjoys an extensive network of transit lines, including a number of major transit lines that provide nearby residents with the opportunity to move about the City without need of a car. Because of proximity to transit, some 29% of the City's households do not own cars and 33% of San Franciscans take public transit to work, with higher rates for households in transit-rich areas. Infill housing in transit-rich areas provides a cost-effective solution for lower-income residents and for those who do not own cars, particularly if parking is not included or required. Locating new housing along transit-served areas supports the City's *Transit First* policy and discourages car dependency. More importantly it provides site-efficient and cost-effective housing solutions.~~

~~However, it is important to distinguish areas that are "transit-rich," and located along major transit lines, from those that are simply served by transit. For the purposes of this Housing Element, "major transit lines" are defined as those that have significant ridership and comprehensive service – meaning almost 24-hour service with minimal headways. This network of major transit lines includes BART's heavy rail lines, MUNI Metro's light rail system including the F, J, K, L, M and N lines, and Muni's major arterial, high-ridership, frequent service local network lines. These lines are defined and prioritized in Muni's Transit Effectiveness Project (TEP) as the "24-hour Rapid Network," and will be slated for long-term improvements. These transit lines are slated to receive funding and service increases which will make it easier to meet service demands as well as increase the ability to travel both downtown and between neighborhoods. Therefore, the Department should support housing projects along these major transit lines that are consistent with all current zoning. A map of these major transit lines is attached as Map II-1: Major Transit Lines.~~

retail, child care, art and cultural facilities. These elements are critical to maintaining and enhancing the quality of life in San Francisco and should be encouraged and supported.

Policy 12.1 ~~Promote~~ Encourage new housing that ~~is located in close proximity to transportation infrastructure, to promote~~relies on transit use and environmentally sustainable patterns of movement.

New residents require access to neighborhood serving businesses, employment centers, recreation facilities, and regional centers. To the extent possible these trips should be easily accommodated on the existing transportation network with increased services. To that end the city should promote housing development in areas that are well served with transportation infrastructure including Bart trains, and Muni light rail trains.~~, and Muni's rapid network of buses.~~ However, changes to the Planning Code to further accommodate housing near transit will only occur through a neighborhood-supported community planning process.

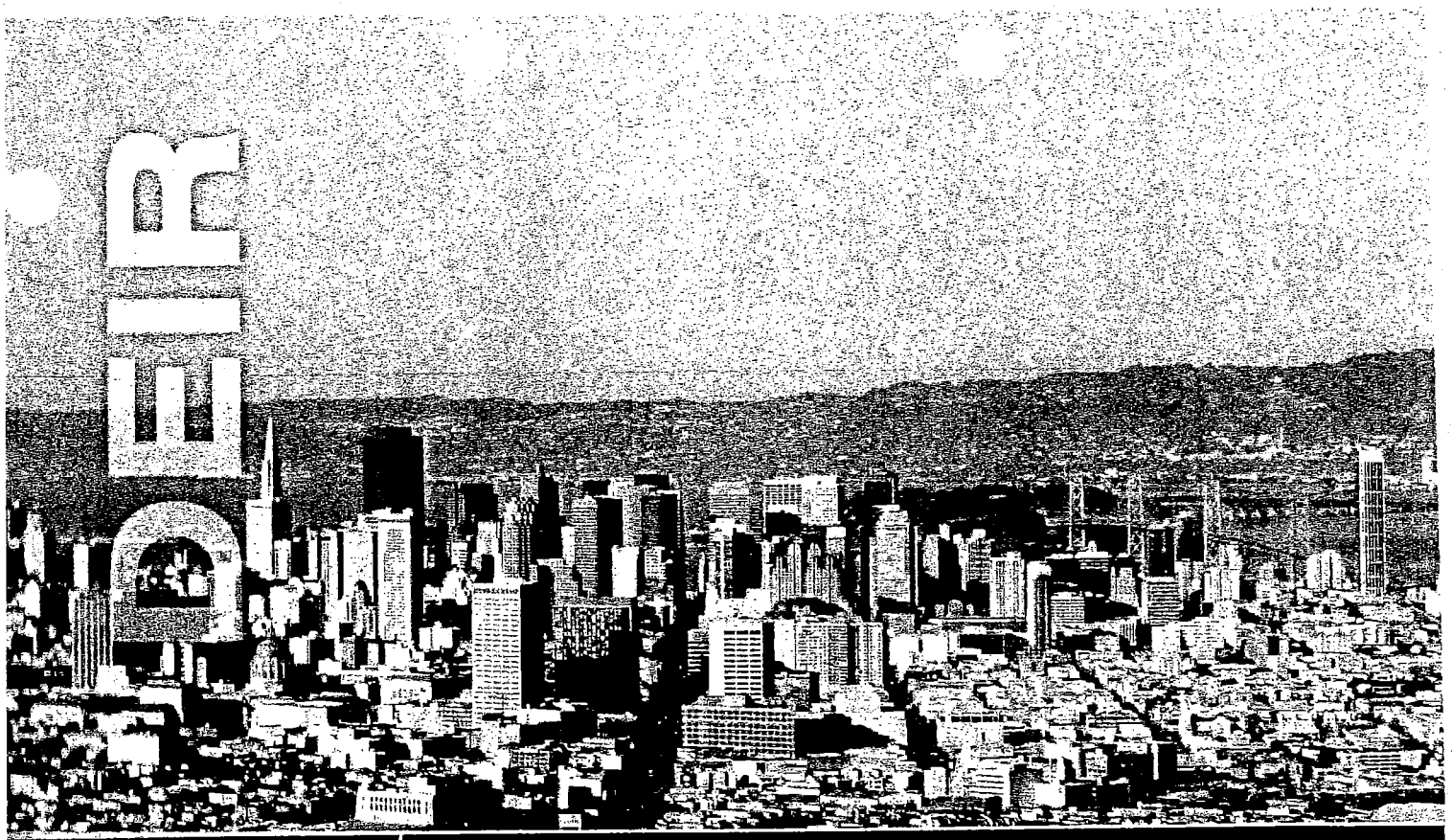
Encouragement of the use of public transit and car-sharing must be accompanied by improving the reliability and usability of public transportation and broadening access to and location of car share options, as ways to make these alternatives more attractive. Additionally, bicycle amenities can and should be an integral component to housing and supporting the City's Transit First policy. The City must maintain and improve the transportation network in coordination with new development. Long range transportation planning should consider projected growth patterns. Tools such as impact fees should facilitate the coordination of new growth with improved transportation infrastructure.

As the City has been directing planning efforts to shape housing construction in transit-rich locations through its Redevelopment, Better Neighborhoods and other community planning processes, its funding efforts should prioritize these parts of the City. To ensure that new neighborhood infrastructure, particularly transit, is provided concurrently with new growth, agencies within the City should prioritize funding or planning efforts within these planned areas, especially for discretionary funding application processes such as the state's Proposition 1C.

Policy 12.2 Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.

San Francisco's neighborhoods' support a variety of life choices through the quality of life elements they provide. Such elements include open space, child care facilities and other neighborhood services such as libraries, neighborhood-serving retail (including grocery stores), community centers, medical offices, personal services, locally owned businesses, and a pedestrian and bike-friendly environment. These elements enable residents to continue to live in their neighborhood as their needs change, and encourage neighborhood relationships. Access to these amenities and services at a neighborhood level enables residents to make many trips on foot or public transportation.

EXHIBIT 5



DRAFT ENVIRONMENTAL IMPACT REPORT

San Francisco 2004 and 2009 Housing Element

Executive Summary and Project Description

PLANNING DEPARTMENT
CASE NO. **2007.1275E**

STATE CLEARINGHOUSE NO. 2008102033

	Draft EIR Publication Date:	**June 30, 2010**
	Draft EIR Public Hearing Date:	**August 5, 2010**
	Draft EIR Public Comment Period:	**June 30, 2010 – August 16, 2010**

SAN FRANCISCO
PLANNING
DEPARTMENT

Written comments should be sent to:
Environmental Review Officer | 1650 Mission Street, Suite 400 | San Francisco, CA 94103

Table II-1
Summary of Environmental Effects and Project Requirements/Mitigation Measures

Impact(s)	Level of Significance Prior to Mitigation	Mitigation Measure(s) and/or Project Requirements	Level of Significance After Mitigation
remains, including those interred outside of formal cemeteries.			
Section V.F (Transportation and Circulation)			
Impact TR-1: The proposed Housing Elements would not result in significant impacts related to traffic, pedestrians, bicycles, loading, emergency access, or construction areas. The proposed Housing Elements would result in a significant transit impact.	**SU**	No feasible mitigation has been identified.	**SU**
Section V.G (Noise)			
Impact NO-1: The proposed Housing Elements would not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels that would occur without the proposed Housing Elements.	**LTS**	No mitigation is required.	**LTS**
Impact NO-2: The proposed Housing Elements would not result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.	**LTS**	No mitigation is required.	**LTS**
Impact NO-3: The proposed Housing Elements would not result in substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the proposed Housing Elements.	**LTS**	No mitigation is required.	**LTS**
Impact NO-4: The proposed Housing Elements would not result in exposure of persons to, or generation of noise levels in excess of, standards established in the local general plan or noise ordinance, or applicable standards of other agencies; nor would the proposed Housing Elements be substantially affected by existing noise levels.	**SI**	**Mitigation Measure M-NO-1: Interior and Exterior Noise** For new residential development located along streets with noise levels above 75 dBA L_{dn}, the Planning	**LTS/M**

EXHIBIT 6

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Informational Item

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

HEARING DATE: FEBRUARY 24, 2011

Date:	February 17, 2011
Project:	Update on the Development of the Bay Area's First Sustainable Communities Strategy (SB 375)
Staff Contact:	Sarah Dennis Phillips, Senior Planner sarah.dennis-phillips@sfgov.org
Recommendation:	None. This is an information item.

PROJECT DESCRIPTION

This staff report describes Senate Bill 375, the Sustainable Communities Strategy (SCS) and the effect of the law on local governments as well as the Bay Area as a region. This report is based on reports provided by the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG).

The SCS will be developed in partnership among regional agencies, local jurisdictions and Congestion Management Agencies (CMAs) through an iterative process. The regional agencies recognize that input from local jurisdictions with land use authority is essential to create a feasible SCS. The SCS does not alter the authority of jurisdictions over local land use and development decisions.

The purpose of this report is to provide Commissioners with an overview of the SCS in relation to local land use policies, implementation needs, and quality of life, including key policy considerations for San Francisco.

BACKGROUND

Senate Bill 375 became law in 2008 and is considered landmark legislation for California relative to land use, transportation and environmental planning. It calls for the development of a Sustainable Communities Strategy (SCS) in all metropolitan regions in California. Within the Bay Area, the law gives joint responsibility for the SCS to the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG). These agencies will coordinate with the Bay Area Air Quality Management District (Air District) and the Bay Conservation and Development Commission (BCDC).

The SCS integrates several existing planning processes and is required to accomplish the following objectives:

1. Provide a new 25-year land use strategy for the Bay Area that is realistic and identifies areas to accommodate all of the region's population, including all income groups;
2. Forecast a land use pattern, which when integrated with the transportation system, reduces greenhouse gas emissions from automobiles and light trucks and is measured against our regional target established by the California Air Resources Board (CARB).

The SCS is a land use strategy required to be included as part of the Bay Area's 25-year Regional Transportation Plan (RTP). By federal law, the RTP must be internally consistent. Therefore, the over $200 billion dollars of transportation investment typically included in the RTP must align with and support the SCS land-use pattern. SB 375 also requires that an updated eight-year regional housing need allocation (RHNA) prepared by ABAG is consistent with the SCS. The SCS, RTP and RHNA will be adopted simultaneously in early 2013.

ISSUES & DISCUSSION

Because the SCS has the potential to increase San Francisco's share of regional funding in the next Regional Transportation Plan, and to affect how affordable housing targets are assigned through the Regional Housing Needs Allocation process, it is important to understand the planning process, its related regional plans, and its implications for San Francisco.

SCS Planning Process: The final SCS will be the product of an iterative land use and transportation planning process that balances growth and supportive transportation investments and policies. ABAG and MTC expect to release an Initial Vision Scenario in February 2011, followed by more detailed SCS scenarios that refine the initial vision scenario in Spring and Fall 2011, and a final draft in early 2012. For more details about the timeline, see SCS Schedule (Attachment 1).

- *Initial Vision Scenario – February 2011.* The Vision Scenario will encompass an initial identification of places, policies and strategies for long-term, sustainable development in the Bay Area, based in large part on input from local jurisdictions. MTC and ABAG have asked local governments to identify places of great potential for sustainable development, including Priority Development Areas (PDAs), transit corridors, employment areas, as well as infill opportunity areas that lack transit services but offer opportunities for increased walkability and reduced driving (San Francisco's PDAs, which were designated by a resolution of the Board of Supervisors in June 2007, are shown on Attachment 2). City agencies, including the Planning Department, Transportation Authority (SFCTA) and Municipal Transportation Agency (SFMTA), sent a letter conveying San Francisco's input into this scenario (Attachment 3). Because San Francisco already has plans to accommodate almost the entire amount of growth expected (over 90%) by 2035 within its designated PDAs, and because significant resources are necessary to provide the infrastructure necessary to support this growth, staff elected not to identify additional areas that could take on greater levels of growth at this time.
- *Detailed Scenarios – July 2011.* By the early spring of 2011 the conversation between local governments and regional agencies will turn to the feasibility of achieving the region's goals through analysis of the Initial Vision Scenario and subsequent modifications comprising the Detailed Scenarios. The Detailed Scenarios will be different than the Initial Vision Scenario in that they will take into account constraints that might limit development potential, and

will identify the infrastructure and resources that can be identified and/or secured to support the scenario. Local jurisdictions will provide input, which will then be analyzed for the release of the Preferred Scenario by the end of 2011.

Regional Housing Needs Allocation: The RHNA is a process required under State law by which each city in the region is assigned a housing target by income level that must be accommodated in the city's Housing Element. The total housing needs number for the Bay Area region is assigned by the State Department of Housing and Community Development (HCD), and that regional target is allocated to the various Bay Area jurisdictions by ABAG with input from the RHNA methodology committee. San Francisco will have several representatives, including staff from Planning, MOH, and an elected official, seated on the RHNA methodology committee.

SB 375 requires that the RHNA consistent with the SCS (local jurisdictions must, within 3 years of the adoption of the SCS, take local action to plan for housing needs growth identified for their jurisdiction in the SCS.) The process to update RHNA will begin in early 2011, adoption of the RHNA methodology will occur by September 2011, and the Draft RHNA, including local allocations, will be released by spring 2012. ABAG will adopt the Final RHNA by the end of summer 2012. Local governments will address the next round of RHNA in their next Housing Element update, slated to begin in 2013.

Regional Transportation Plan: The regional transportation plan is the region's 25-year financially constrained program of transportation projects anticipated to be delivered with available funds – by law, all regionally significant projects must be incorporated into the RTP. Regional agencies will work closely with the Congestion Management Agencies (CMAs), transportation agencies and local jurisdictions to define financially constrained transportation priorities in their response to a call for transportation projects in early 2011 and a detailed project assessment that will be completed by July/August 2011.

The RTP will be analyzed through 2012 and released for review by the end of 2012. A key policy question will be the extent to which the region re-directs discretionary (non-formula) transportation funding toward projects that support the two major mandates of SB35 for SCS: accommodating the region's housing needs, and reducing greenhouse gas emissions from the transportation and land use sector. ABAG will approve the SCS by March 2013. MTC will adopt the final RTP and SCS by April 2013. Regional agencies will prepare one Environmental Impact Report (EIR) for both the SCS and the RTP. This EIR might assist local jurisdictions in streamlining the environmental review process for some of the projects that are consistent with the SCS by taking advantage of CEQA streamlining provisions in SB 375.

Coordination: The City's land use and transportation agencies are coordinating regularly on three levels. First, the Transportation Authority, as San Francisco's Congestion Management Agency and county representative tasked with coordinating directly with ABAG & MTC, has staffed two rounds of meetings hosted by Chair Mirkarimi, with the participation of Department heads of several City agencies. Agencies represented at the meetings include: Planning Department, Redevelopment Agency, Department of the Environment, SFMTA, Mayor's Office, Port of San Francisco, Department of Public Health, BART and Caltrain/SamTrans. Second, at the staff level, a Sustainability Working Group that meets monthly to coordinate on sustainability-related planning issues. Finally, staff anticipates convening a range of sessions to connect with stakeholders, including

meetings with regional counterparts, particularly in the Bay Bridge and Peninsula/South Bay corridors, through the "County/Corridor Working Groups"; as well as local discussion sessions.

Outreach: MTC & ABAG, as the agencies responsible for development of the SCS, have adopted a Public Participation Plan, which lays out the steps MTC will take to involve residents in decisions affecting Bay Area transportation and land use policies and investments. It includes detail on Public meetings, workshops and forums, web access, and publications that will be used to ensure the public and interested parties with reasonable opportunities to be involved in the regional planning process.

To further the ability of our local citizens to engage in this regional process, the City is pursuing several steps:

- The development of a local website to inform the public.
- The creation of an online discussion forum where staff can respond to questions and San Francisco citizens can share thoughts on the SCS process.
- Regular forums, hosted by local Agency Directors, to further City/citizen dialogue on the SCS process

KEY ISSUES FOR SAN FRANCISCO

San Francisco has been a leader within the region in planning for sustainable growth. The City has had a continuing strategy to plan for growth through community, redevelopment and other area plans, which make up the City's Priority Development Areas (PDAs), and to partner that growth with supportive infrastructure and other improvements. The resulting community planning efforts provide estimated capacity for as much as 64,000 new households in PDAs, representing over 90% of our growth targets. This is significantly higher than the next closest county, which plans to accommodate only about 40% of new households in PDAs. To support and help achieve our vision for growth, we have strongly urged the region to consider the following policies in the SCS:

1. Maintenance resources should be prioritized for jurisdictions that are currently accommodating regional growth and travel in an equitable and sustainable manner; and that demonstrate progress toward meeting RHNA affordable housing targets.
2. Expansion resources should be prioritized for jurisdictions that are proactively planning to accommodate expected growth—and particularly affordable housing—between 2010 and 2035, in a sustainable and cost-effective manner; and
3. Discretionary regional funding should be prioritized for projects that reduce regional greenhouse gas emissions equitably and cost-effectively over their life cycle; and for projects that serve TOD that includes affordable housing.

Staff is also particularly concerned about potential gentrification and displacement pressures that are often the unintended side effects of growth. The City will be advocating that the SCS & the RHNA should distribute housing across the region such that lower income households have increased access to safe and healthy neighborhoods as well as jobs and education, and simultaneously include protections to prevent displacement and facilitate preservation of the existing supply of affordable housing.

This is an opportune time to obtain input from the Commission and the public on these policies, as it is still early in the SCS development process. Going forward, our participation will be critical as the process will move quickly, with most major policy decisions expected to be discussed and formulated in mid- to late 2011.

PUBLIC COMMENT

The Department has not received any correspondence on this topic; however, we look forward to coordinating a local dialogue with stakeholders and interested parties throughout the regional planning process.

REQUIRED COMMISSION ACTION

None. This is an information item.

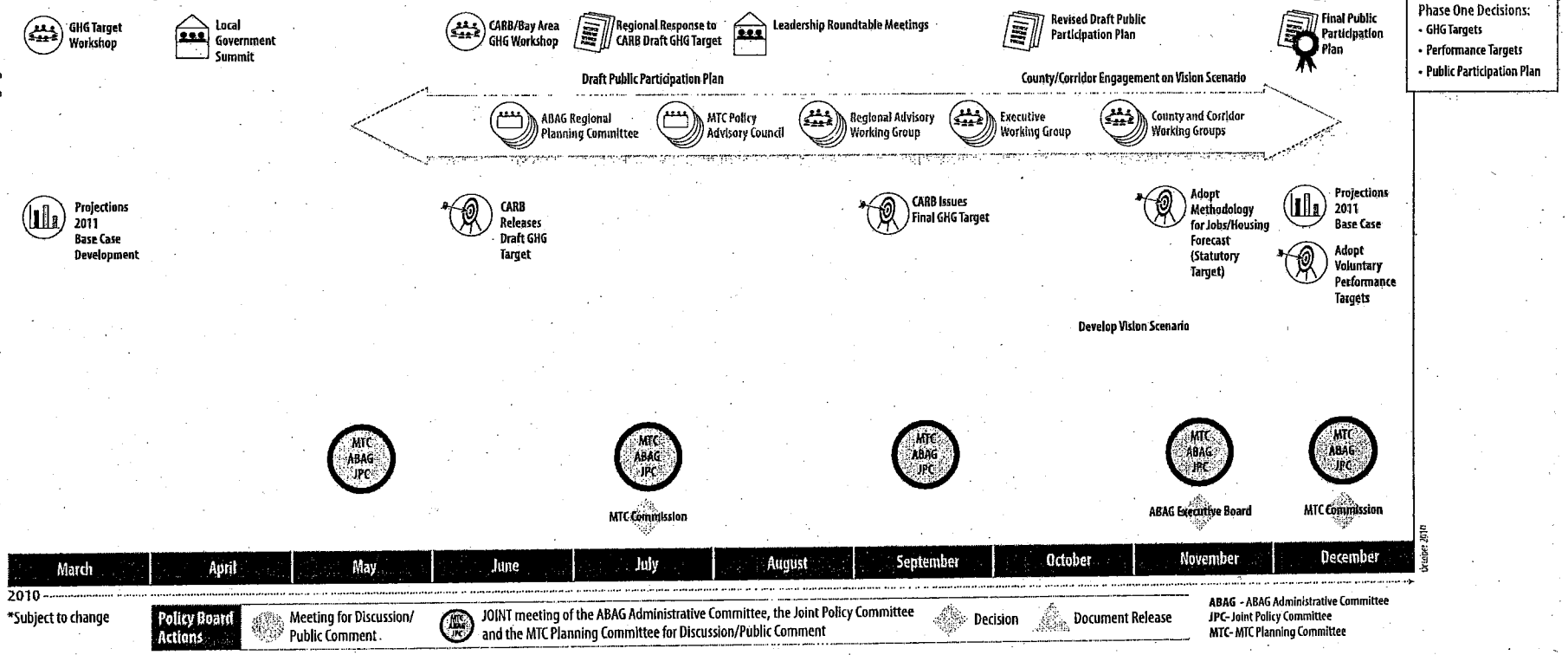
Attachments:

1. SCS Schedule, MTC/ABAG
2. San Francisco Priority Development Area Map
3. San Francisco Vision Scenario Input Letter, dated December 17, 2010

Sustainable Communities Strategy Planning Process: Phase 1 Overall for 2010*

Phase 1: Performance Targets and Vision Scenario

One Bay Area



Phase One Decisions:
- GHG Targets
- Performance Targets
- Public Participation Plan

*Subject to change

Policy Board Actions

Meeting for Discussion/ Public Comment . JOINT meeting of the ABAG Administrative Committee, the Joint Policy Committee and the MTC Planning Committee for Discussion/Public Comment Decision Document Release

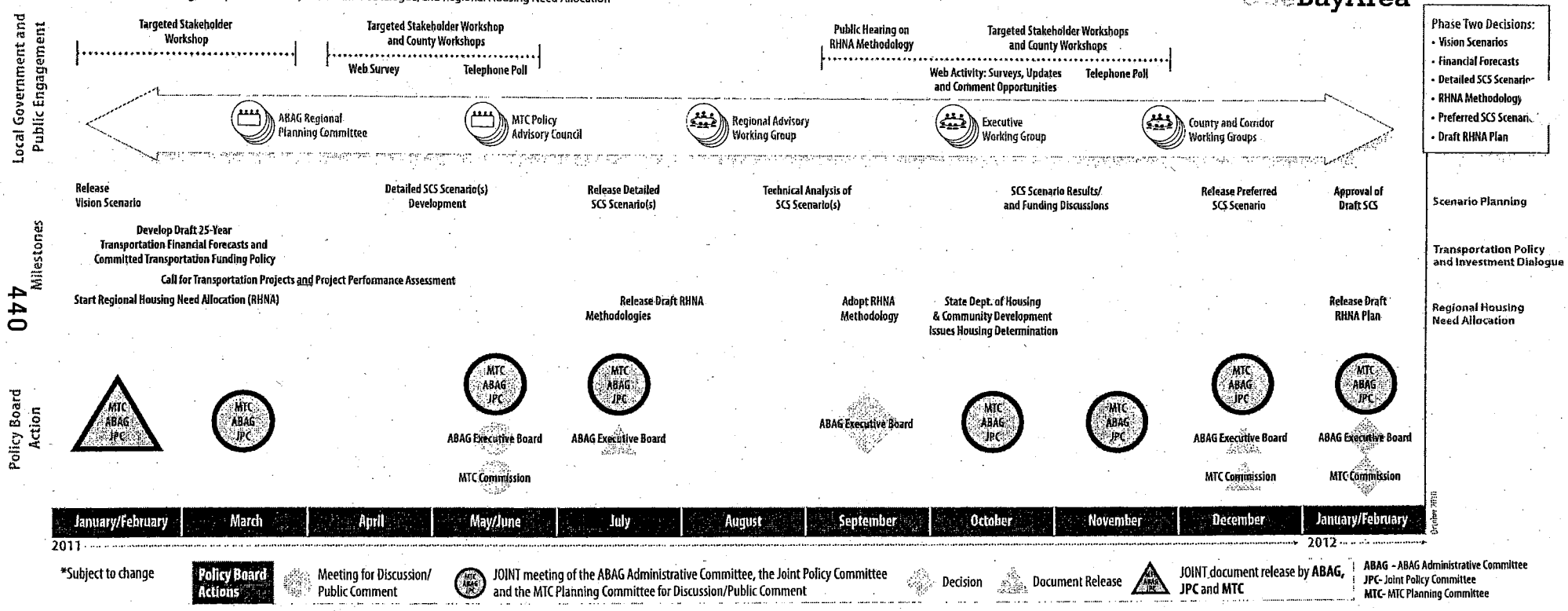
ABAG - ABAG Administrative Committee
JPC- Joint Policy Committee
MTC- MTC Planning Committee

October 2010

Sustainable Communities Strategy Planning Process: Phase 2 Detail for 2011

Phase 2: Scenario Planning, Transportation Policy & Investment Dialogue, and Regional Housing Need Allocation

OneBayArea



Phase Two Decisions:
- Vision Scenarios
- Financial Forecasts
- Detailed SCS Scenario
- RHNA Methodology
- Preferred SCS Scenario
- Draft RHNA Plan

Scenario Planning

Transportation Policy and Investment Dialogue

Regional Housing Need Allocation

440

October 2011

*Subject to change

Policy Board Actions

Meeting for Discussion/ Public Comment

JOINT meeting of the ABAG Administrative Committee, the Joint Policy Committee and the MTC Planning Committee for Discussion/Public Comment

Decision

Document Release

JOINT document release by ABAG, JPC and MTC

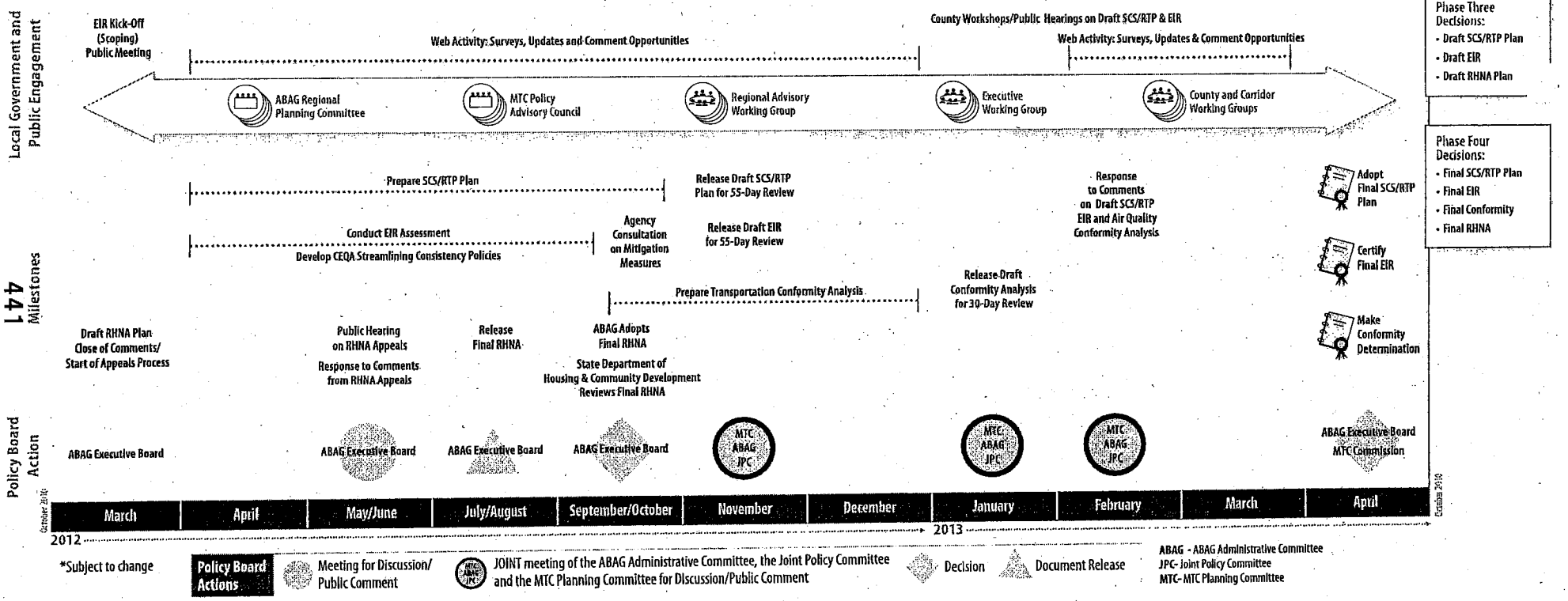
ABAG - ABAG Administrative Committee
JPC- Joint Policy Committee
MTC- MTC Planning Committee

Sustainable Communities Strategy Planning Process: Phases 3 & 4 Details for 2012-2013

OneBayArea

Phase 3: Housing Need Allocation, Environmental/Technical Analyses and Final Plans

Phase 4: Plan Adoption



*Subject to change

Policy Board Actions

Meeting for Discussion/ Public Comment

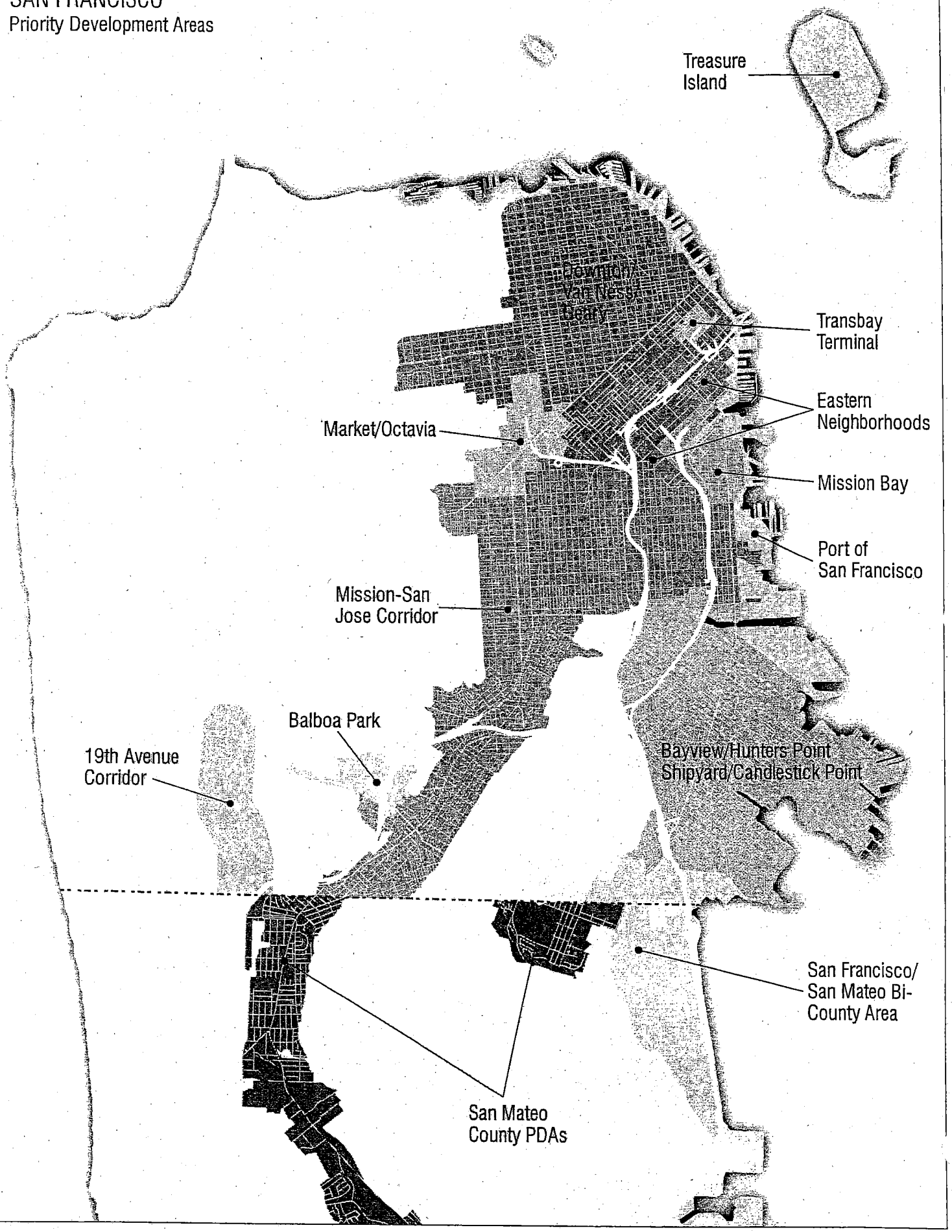
JOINT meeting of the ABAG Administrative Committee, the Joint Policy Committee and the MTC Planning Committee for Discussion/Public Comment

Decision

Document Release

ABAG - ABAG Administrative Committee
JPC- Joint Policy Committee
MTC- MTC Planning Committee

SAN FRANCISCO
Priority Development Areas



SAN FRANCISCO
PLANNING DEPARTMENT

SFMTA | Municipal Transportation Agency

December 17, 2010

Marisa Raya, Regional Planner
Association of Bay Area Governments (ABAG)
101 Eighth St.
Oakland, CA 94607

Subject: SCS Vision Scenario Place Types and Policies: San Francisco Input

Dear Marisa:

On behalf of the City and County of San Francisco, we thank you for the opportunity to provide input into the development of the "Vision Scenario" for the Bay Area's first Sustainable Communities Strategy (SCS). We have developed the information ABAG requested regarding our vision for sustainable growth, including the "Place Types" that most accurately describe the San Francisco-designated Priority Development Areas (PDAs) and the policies, incentives, and implementation strategies that will be necessary to achieve our vision.

San Francisco is planning to accommodate more than 60,000 new households in PDAs by 2035. This represents the placement of over 90% of our county growth targets (from Projections 2009) within PDAs. This is significant as the next closest county achieves only ~40% of new households in PDAs[1]. However, our willingness to plan for this growth cannot be taken for granted and, in order to be realized, must be accompanied by regional resources for core infrastructure investment and supportive policy reform. As ABAG and MTC work to develop the "Vision" scenario and initiate regional funding policy discussions in early 2011, we hope the discussion will be guided by the following principles:

1. **Maintenance resources should be prioritized for jurisdictions that are currently accommodating regional growth and travel in an equitable and sustainable manner; and that demonstrate progress toward meeting RHNA affordable housing targets.**

2. **Expansion resources should be prioritized for jurisdictions that are proactively planning to accommodate expected growth – and particularly affordable housing — between 2010 and 2035, in a sustainable and cost-effective manner;**

3. **Discretionary resources should be prioritized for projects that reduce regional greenhouse gas emissions equitably and cost-effectively over their life cycle; and for projects that serve TOD that includes affordable housing.**

[1] Based on PDA Assessment data reported at 9/2010 RAWG

Below, we provide the requested input on San Francisco's vision for growth.

Place Types

We confirm the current Place Type designation for the majority of San Francisco's PDAs, as noted below.

- Regional Centers: Downtown Neighborhoods, Transbay Terminal/Transit Center District
- Urban Neighborhoods: Market & Octavia, Eastern Neighborhoods, Bayview/Hunters Point Shipyard/Candlestick Point, Mission Bay
- Transit Neighborhoods: Balboa Park, San Francisco/San Mateo Bi-County Area (includes the Executive Park/ Visitacion Valley/ Schlage Lock Plan Areas)
- Transit Town Center: 19th Avenue Corridor
- Mixed Use Corridor: Mission-San Jose Corridor

While the current Place Type categories adequately capture residential developments, we view the lack of a Place Type category that will accommodate significant job centers outside of the Regional, City and Suburban Center types as a constraint. For example, there is no good fit for the Port of San Francisco, whose land use plan focuses on job development, due to state restrictions on development on port land.

San Francisco's PDAs generally fall on the high end of unit targets and new projected density compared to the available Place Types. The current Place Type definitions fail to capture the high proportion of jobs to housing units that many of San Francisco's PDAs offer. We request that ABAG staff notify us if these differences will be material for any uses of the place type designations in the SCS planning process or for any other purposes.

Policies and Incentives

The policies and incentives listed in the Policies and Place Types Form are all needed to some extent to support the overall level of growth in each of our Planned and Potential PDAs (except for funding to acquire open space). The policy areas of particular importance to San Francisco include:

- Enhanced funding for regional core transportation and non-transportation infrastructure such as water, sewer, utilities, and parks;
- Funding for affordable housing;
- Increased maintenance funding;
- Adequate provision of water treatment and water supply;
- Parking pricing policy;
- Improvements to school quality.

Implementation Strategies

Many of the implementation strategies listed in the Policies and Place Types Form have already been put to use in San Francisco, including:

- Zoning for increased densities and/or mix of uses;
- Provision of affordable housing through zoning;
- Funding affordable housing development;
- Retention of existing affordable units; and
- Implementation of community impact fees, commercial linkage fees.

Implementation strategies needed to support growth of particular importance to San Francisco include:

- Major regional transit capital improvements beyond Resolution 3434;
- Transit capital improvements to bring fleets, guideways and facilities to a state of good repair;
- Non-motorized and alternative mode infrastructure investments such as walking and bicycle facilities. Bicycling alone has grown 58% in the last three years in San Francisco;
- Transportation demand management strategies such as parking management, ridesharing, virtual commuting and congestion pricing;
- Value capture/redevelopment infrastructure improvement;
- Increased transit service frequencies for core trunk lines serving PDAs;
- Improvements in non-auto access to schools, job centers, and other major destinations; and
- Utility and other infrastructure improvements, including adequate provision of water and sewer.

Accommodation of Growth

San Francisco's Adopted and Planned PDAs collectively accommodate over 63,000 new housing units, and 136,000 new jobs. Healthy absorption of the city's existing vacancies in PDAs like Downtown provides the opportunity for another 23,000 or more jobs. However, new growth in San Francisco is not confined to PDAs. The city includes numerous small-scale infill opportunity sites close to transit throughout all of its neighborhoods. Such sites outside of Priority Development Areas could accommodate another 17,000 new housing units, distributed reasonably evenly throughout the city. Cumulatively, San Francisco's PDAs and other opportunities yield the potential for over 85,000 housing units and almost 160,000 more jobs, more growth than is likely to be projected for San Francisco under the SCS P2011 Projections.

The ABAG-highlighted "Other Significant Areas" do not represent particular places that should be considered within the SCS process, and the city is not proposing any new PDAs. The lion's share of city's growth will continue to be focused in its PDAs, including new plans (such as the Western SOMA Plan under development, and the pending initiation of a plan for the Central Subway alignment, within the Downtown and Eastern Neighborhood PDAs); and growth opportunities will

be pursued as appropriate at smaller scale infill opportunities along transit lines outside of the PDAs.

How people commute to work has dramatic implications for the region's overall sustainability. In major downtowns like San Francisco and Oakland, a high percentage of workers commute by means other than automobile; outside of these areas, the percentage of workers that do not drive to work is insignificant. Increasing workplace development capacity in major centers, as opposed to other localities in the region, will go further to support both local and regional goals to reduce greenhouse gas emissions.

However, with the limited information available, San Francisco cannot volunteer to accept more growth. While more funding, incentives and policy support would inevitably increase the City's ability to accommodate and to manage growth, there is no way for the City to make a fair estimate of "how much" more growth would require, nor any way for us to assess how that growth could fit within the fabric of our city.

While San Francisco has pioneered transit supportive development over the past few decades, we are at our limit in terms of transit's ability to carry more people in the peak period without significant new right-of-way, fleet and facility expansion. Our transit state of good repair backlog is over $2 billion just to maintain current service levels let alone the additional service levels from the expected growth, and similar backlogs exist for the regional transit service providers who serve San Francisco, such as BART and Caltrain. These core capital capacity constraints are regional in nature and will need a regional focus on resource prioritization for these PDAs to be successfully implemented. In addition, San Francisco needs over $750 million to bring our local streets to a state of good repair, and many PDAs have significant non-transportation infrastructure investment needs as well, lacking the community assets necessary to make them complete communities.

San Francisco uses the strategies noted above to create and preserve affordable housing. Yet despite a deep commitment to mixed-income communities, the City has been unable to achieve more than a third (34%) of our RHNA affordable housing target. In the absence of additional resources for affordable housing, the City will be unable to accommodate equitable and sustainable growth at projected levels. Under the current RHNA for San Francisco, more than 60% of our projected housing need requires subsidy. San Francisco is making tremendous efforts and is succeeding in its efforts to bring affordable units into production. However, without financial support we will not have the ability to keep up with the mandated RHNAs.

We are further challenged by needing to pace growth with new investment. While San Francisco's planning efforts aim to combine changes in zoning with proposals for new infrastructure investment, we continually face resistance from neighborhoods who are skeptical that needed infrastructure will come. There is a very real threat of neighborhood demand for legislation that meters growth according to infrastructure provision, thereby restricting zoning changes and any development under those zoning changes, until after the infrastructure is in place.

In sum, the region cannot assume, or take for granted, San Francisco's growth plans. We need support and incentives, in order to realize our vision. In doing so, San Francisco is poised to help the region realize our shared region for a more sustainable Bay Area. We hope this input is helpful in shaping the SCS "Vision" scenario. We look forward to continuing our collaboration and to

participate in the SCS/RHNA/RTP planning process.

Sincerely,

John Rahaim
Planning Director, San Francisco Planning Department

Nathaniel P. Ford, Sr.
Executive Director/CEO San Francisco Municipal Transportation Agency

José Luis Moscovich
Executive Director, San Francisco County Transportation Authority

cc: Com. Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elbsernd, Mar, Maxwell, Mirkarimi
S. Heminger, D. Kimsey, MTC
E. Rapport, K. Kirkey, ABAG
B. Strong, Capital Planning
M. Lee-Skowronek, Caltrain
B. Garcia, DPH
V. Menotti, BART
E. Reiskin, DPW
N. Kirschner-Rodriguez, Mayor's Office
M. Yarne, MOEWD
D. Shoemaker, MOH
M. Nutter, SFE
T. Papandreou, B. Yee, SFMTA
F. Blackwell, SFRA
E. Harrington, PUC
TC, MEL, ALA, RH, AC, ZB, LB, Chron, File: SCS

EXHIBIT 7

San Francisco Housing DataBook

Commissioned by:
San Francisco Board of Supervisors

Study Moderator:
Joe Grubb

Consultant:
Bay Area Economics

2002

Population Density in Selected Cities

Indicator Description: Shows a comparison of the population density of San Francisco, three other cities in California, and three other cities elsewhere in the United States.

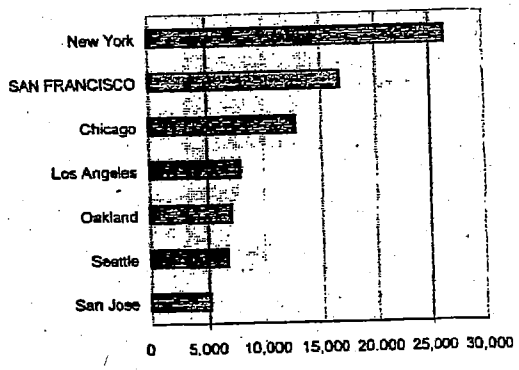
Geographic Areas Covered: Seven major U.S. cities, including San Francisco.

Key Findings:

- Among the seven selected cities, San Francisco has the second-highest population density.
- Los Angeles is only about half as densely populated as San Francisco.
- When these data are considered in combination with median home sale prices, high density does not necessarily appear to be associated with low property values.

Limitations of the Data: Population density can be affected by factors not directly related to housing density or population, such as the prevalence of other land uses (e.g., manufacturing, office, retail) or a large amount of preserved open space (e.g., parkland).

Persons per Square Mile in Selected Cities, 2000



City	Population	Land Area (Square Miles)	Persons per Square Mile
New York	8,008,278	303	26,403
San Francisco	**776,733**	**47**	**16,634**
Chicago	2,896,016	227	12,750
Los Angeles	3,694,820	469	7,877
Oakland	399,484	56	7,127
Seattle	563,374	84	6,717
San Jose	894,943	175	5,118

Source: 2000 U.S. Census SF1; BAE, 2001.

EXHIBIT 8

SPUR SAN FRANCISCO PLANNING + URBAN RESEARCH ASSOCIATION

654 Mission Street
San Francisco, California
94105
415.781.8726 t
415.781.7291 f
www.spur.org

Co-Chairs
Andy Barnes
Linda Jo Fitz

Executive Director
Gabriel Metcalf

Urban Center Director
Diane Filippi

Vice Chairs
Lisa Feldstein
Mary McCue
Tomiquia Moss
Bill Rosetti
Jim Salinas, Sr.
Lydia Tan

Treasurer
Bob Gamble

Secretary
Jean Fraser

Immediate Past Chair
Tom Hart

Advisory Council
Co-Chairs
Michael Alexander
Paul Sedway

Board Members
Jim Andrew Jr.
Carl Anthony
David Baker
Fred Blackwell
Lee Blitch
Margo Bradish
Larry Burnett
Michaela Cassidy
Charmaine Curtis
Gia Daniller
Oscar De La Torre
Kelly Dearman
Shelley Doran
Oz Erickson
Norman Fong
David Friedman
Gillian Gillett
Chris Gruwell
Anne Halsted
Dave Hartley
Mary Huss
Chris Iglesias
Laurie Johnson
Ken Kirkey
Travis Kiyota
Patricia Klitgaard
Florence Kong
Rik Kunnath
Ellen Lou
Janis MacKenzie
John Madden
Jacinta McCann
John McNulty
Chris Meany
Ezra Mersey
Leroy Morishita
Mary Murphy
Paul Okamoto
Brad Paul
Chris Poland
Teresa Rea
Byron Rhett
Victor Seeto
Elizabeth (Libby) Seifel
Chi-Hsin Shao
Raphael Sperry
Bill Stotler
Stuart Sunshine
Michael Teitz
Michael Thériault
Will Travis
V. Fei Tsen
Jeff Tumlin
Steve Vettel
Debra Walker
Brooks Walker, III
Cynthia Wilusz-Lovell

July 28th, 2010

San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Re: Housing Element Draft June 2010 Revision

Dear Ms. Dennis Phillips,

The San Francisco Planning and Urban Research Association (SPUR) has had the opportunity to review the June 2010 Draft of Part II (Objectives and Policies) of the San Francisco Housing Element. We are deeply troubled by a number of the changes that have been made to the Element since June 2009. As a member of the Community Advisory Body, I am particularly concerned that many of the changes, particularly those that undermine support for smart growth transportation and land use planning, reflect the viewpoint of only one segment of the CAB, to the exclusion of many others.

We believe that the single most important thing that the city of San Francisco can do to combat sprawl and climate change is to concentrate housing and job growth adjacent to transit. San Franciscans drive less than our suburban counterparts. The least transit-accessible parts of San Francisco offer many more options than most of the rest of the Bay Area. Those parts of our city that are near both good transit and shopping are critical regional assets that are going to be essential for rebuilding our society along more sustainable and more economically competitive lines.

The Housing Element should provide strong support for locating jobs and housing near transit. We believe that the intensity of use should be proportional to the quality of transit, where the highest intensity of use should be concentrated on regional rail transit, the next highest intensity on local rail transit, then bus rapid transit, and so on. There are many areas of the city that are within easy walking distance of great transit, both existing and planned, and this fact should be recognized in the Housing Element.

We believe that the City of San Francisco should add to its housing supply at all income levels, from housing for extremely low income households to middle income and beyond. Shortages at any level increase competition for available units in the city leading inexorably to price increases. Our high housing costs threaten our diversity and quality of life and it is essential that we encourage housing production at all levels to meet our needs.

The Housing Element should support the concept of "density equity." While some neighborhoods have undergone substantial community planning processes in recent years, each neighborhood should do its share to encourage new housing. This need not be "one size fits all" – growth can take different forms, different scales, etc. But it is important that all neighborhoods participate in meeting the city's housing needs.

For all the reasons mentioned above, we are extremely concerned about the recent revisions to the Housing Element, which seem designed to undermine the relationship between transportation and land use planning. They also seem to privilege the perspective of current neighborhood residents over citywide and regional concerns.

There are a number of specific recommendations we would like to make to this version of the Housing Element. Our recommendations are informed by our desire to have the Housing Element strongly support transit oriented development in order to reduce vehicle miles traveled (VMT) and thus climate change, and to enable San Francisco to provide new housing at all income levels.

1. **Reinstate Policy 1.4: "Through community planning processes, establish land use controls that support efficient use of land."**
   We believe that making the most of the land that we have available in San Francisco should be an important goal of the Housing Element, particularly if that land is well served by transit. As the June 2009 draft of the Housing Element stated "Efficient use of land enables additional housing, promotes walkability, supports transit use and preserves open space."

2. **Reinstate Policy 1.5 "Support new housing projects on sites that are located close to major transit lines."**
   As mentioned earlier, supporting transit oriented development is one of the most important things we can do to reduce vehicle miles traveled (VMT) and thus climate change. Supporting transit oriented development should be a core value of the Housing Element. We agree with the language in the June 2009 draft of the Housing Element that read "Locating new housing along transit served areas supports the City's Transit First policy and discourages car dependency."

3. **Reinstate the map of San Francisco's major transit lines.**
   Including a map of San Francisco's transit lines helps to transparently identify which transit lines the city considers "major."

4. **Reinstate language on page 12 that reads "Areas for future planning for the next Housing Element planning period (2014-2021) should be based on established planning principles, such as locations with necessary public infrastructure and neighborhood amenities, and where site opportunities exist...where residential use is appropriate or appropriate at higher densities. Criteria for initiation of new planning efforts should include locations near major transportation investments or future funded improvements and major opportunity sites. New planning efforts should also aim for a fair distribution of growth, so as not to disproportionately burden certain areas of the City."**
   We believe that the paragraph above outlines an appropriate approach for establishing areas for future planning in the next Housing Element period and should be reinstated.

5. **Eliminate language under new Policy 1.4: "changes that involve several parcels or blocks should always be the result of a neighborhood-supported community planning process."**
This language is problematic for several reasons. First, community plans are important not just to neighborhood stakeholders, but also to citywide and regional stakeholders. Good community plans should involve and balance the perspectives of neighborhood, citywide and regional groups. While not every group gets exactly what they want from a community plan, each group should have an equal right to participate. In a high-level policy document like the Housing Element, it does not make sense to privilege the support of one group of stakeholders over all the others.

   Our second concern is that this new language precludes rezonings that are not the result of a neighborhood-supported community planning process if they involve several parcels. Under this wording Parkmerced could not be rezoned because the proposed rezoning was not the result of a neighborhood-supported community planning process.

6. **Reinstate a revised Policy 10.2 to read: "Reform the discretionary review processes in the manner currently proposed by the Planning Department. Reduce the need for conditional use approvals, while ensuring effective decision making processes that include adequate community review where discretion is warranted."**
The Housing Element should support the Planning Department's recently proposed extensive front-loaded review process, where planners can better understand and evaluate a community's concerns regarding proposed developments. To properly implement this program, some smaller project proposals would be handled administratively, rather than automatically being heard by the Planning Commission.

   Guidelines and regulations established with new area plans should be used to reduce the need for conditional use approvals for certain types of development proposals, resulting in a more equitable review process between projects that relies more heavily on the priority policies of the Planning Code.

7. **Eliminate language regarding support for new neighborhood Covenants, Conditions and Restrictions (CC&R's).**
The strength of the citywide Planning Code should be maintained by eliminating the support for new individual neighborhood CC&R's. Additional neighborhood supported design guidelines may play a role in shaping policy, but should not trump citywide planning policies.

8. **Eliminate new policy 11.4 "Maintain allowable densities in established residential areas at levels which promote compatibility with prevailing character."**
While supporting neighborhood character is an important value, we

believe that this policy goes too far. Several of the recently adopted neighborhood plans, including the Market Octavia Plan and some of the Eastern Neighborhoods plans increased density in certain locations while capping density in other locations. We believe these rezonings were beneficial to both the affected neighborhoods and the city although they did not "maintain allowable densities" in keeping with adjacent residential areas.

9. **Reword Policy 13.3 to state "Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian and bicycle mode share."**
We believe that our land use patterns should promote the use of sustainable transportation modes over private automobile travel.

Finally, we believe that it does not make sense to shunt the basic land use-transportation linkage or the over-arching goal of increasing housing supply into a small section at the end called "Prioritizing Sustainable Development." These should be the fundamental guiding principles of the entire Housing Element, representing our strategy for moving San Francisco forward to become more sustainable and more affordable for everyone than it is today.

While our city has a wonderful inheritance of urban form to respect, nurture, and build on, its track record with regards to housing policy to actually make the city accessible to a broad range of people is nothing to celebrate. We have a lot of work to do to live up to the ideals of our city and the Housing Element is an important statement about our values and our direction.

Thank you for your consideration of our position. Should you have any questions, please do not hesitate to contact me at (415)-644-4292.

Sincerely,

Sarah Karlinsky
Deputy Director

Cc:
Director John Rahaim, SF Planning Department
Kearstin Dishinger, SF Planning Department
San Francisco Planning Commission
Michael Cohen, OEWD
Douglas Shoemaker, MOH
Kenneth Kirkey, ABAG
SPUR Board of Directors

EXHIBIT 9

San Francisco, California, Planning Code >> ARTICLE 2: - USE DISTRICTS >> SEC. 201. - CLASSES OF USE DISTRICTS. >>

SEC. 201. - CLASSES OF USE DISTRICTS.

In order to carry out the purposes and provisions of this Code, the City is hereby divided into the following classes of use districts:

Public Use Districts (P)	
Residential Districts	
RH-1 (D)	Residential, House Districts, One-Family (Detached Dwellings)
RH-1	Residential, House Districts, One-Family
RH-1 (S)	Residential, House Districts, One-Family with Minor Second Unit
RH-2	Residential, House Districts, Two-Family
RH-3	Residential, House Districts, Three-Family
RM-1	Residential, Mixed Districts, Low Density
RM-2	Residential, Mixed Districts, Moderate Density
RM-3	Residential, Mixed Districts, Medium Density
RM-4	Residential, Mixed Districts, High Density
Residential-Commercial Districts	
RC-1	Residential-Commercial Combined Districts, Low Density
RC-2	Residential-Commercial Combined Districts, Moderate Density
RC-3	Residential-Commercial Combined Districts, Medium Density
RC-4	Residential-Commercial Combined Districts, High Density
Residential Transit-Oriented Neighborhood Districts	
RTO	Residential, Transit-Oriented Neighborhood Districts
RTO-M	Residential Transit-Oriented — Mission Neighborhood Districts
Neighborhood Commercial Districts (Also see Article 7) General Area Districts	
NC-1	Neighborhood Commercial Cluster District
NC-2	Small-Scale Neighborhood Commercial District
NC-3	Moderate-Scale Neighborhood Commercial District
NC-S	Neighborhood Commercial Shopping Center District
Individual Area Districts	
Broadway Neighborhood Commercial District	
Castro Street Neighborhood Commercial District	
Inner Clement Street Neighborhood Commercial District	
Outer Clement Street Neighborhood Commercial District	
Upper Fillmore Street Neighborhood Commercial District	
Haight Street Neighborhood Commercial District	

Inner Sunset Neighborhood Commercial District	
Upper Market Street Neighborhood Commercial District	
North Beach Neighborhood Commercial District	
Polk Street Neighborhood Commercial District	
Sacramento Street Neighborhood Commercial District	
Union Street Neighborhood Commercial District	
24th Street-Noe Valley Neighborhood Commercial District	
West Portal Avenue Neighborhood Commercial District	
Neighborhood Commercial Transit Districts (NCT)	
NCT-1	Neighborhood Commercial Transit Cluster District
NCT-2	Small-Scale Neighborhood Commercial Transit District
NCT-3	Moderate Scale Neighborhood Commercial Transit District
Individual Area Neighborhood Commercial Transit (NCT) Districts	
Hayes-Gough NCT	
Upper Market Street NCT	
Valencia Street NCT	
24th Street – Mission NCT	
Mission Street NCT	
SoMa NCT	
Ocean Avenue NCT	
Commercial Districts	
C-1	Neighborhood Shopping Districts
C-2	Community Business Districts
C-M	Heavy Commercial Districts
C-3-O	Downtown Office District
C-3-R	Downtown Retail District
C-3-G	Downtown General Commercial District
C-3-S	Downtown Support District
Industrial Districts	
M-1	Light Industrial Districts
M-2	Heavy Industrial Districts
PDR-1-B	Production Distribution and Repair – Light Industrial Buffer
PDR-1-D	Production Distribution and Repair – Design
PDR-1-G	Production Distribution and Repair - General
PDR-2	Core Production Distribution and Repair – Bayview
Chinatown Mixed Use Districts (Also see Article 8)	
CCB	Chinatown Community Business District
CR/NC	Chinatown Residential/Neighborhood Commercial District
CVR	Chinatown Visitor Retail District
South of Market Use Mixed Use Districts (Also see Article 8)	

RED	Residential Enclave Districts
RSD	Residential Service District
SLR	Service/Light Industrial/Residential District
SLI	Service/Light Industrial District
SSO	Service/Secondary Office District
	Eastern Neighborhoods Mixed Use Districts (Also see Article 8)
SPD	South Park District
MUG	Mixed Use – General
MUO	Mixed Use – Office
MUR	Mixed Use – Residential
UMU	Urban Mixed Use
	Downtown Residential Districts (Also see Article 8)
RH-DTR	Rincon Hill Downtown Residential
SB-DTR	South Beach Downtown Residential
	Mission Bay Districts (Also see Article 9)
MB-R-1	Mission Bay Lower Density Residential District
MB-R-2	Mission Bay Moderate Density Residential District
MB-R-3	Mission Bay High Density Residential District
MB-NC-2	Mission Bay Small Scale Neighborhood Commercial District
MB-NC-3	Mission Bay Moderate Scale Neighborhood Commercial District
MB-NC-S	Mission Bay Neighborhood Commercial Shopping Center District
MB-O	Mission Bay Office District
MB-CI	Mission Bay Commercial-Industrial District
MB-H	Mission Bay Hotel District
MB-CF	Mission Bay Community Facilities District
MB-OS	Mission Bay Open Space District

(Amended by Ord. 443-78, App. 10/6/78; Ord. 69-87, App. 3/13/87; Ord. 131-87, App. 4/24/87; Ord. 115-90, App. 4/6/90; Ord. 63-91, App. 2/27/91; Ord. 262-00, File No. 001426, App. 11/17/2000; Ord. 217-05, File No. 050865, App. 8/19/2005; Ord. 72-08, File No. 071157, App. 4/3/2008; Ord. 298-08, File No. 081153, App. 12/19/2008; Ord. 61-09, File No. 090181, App. 4/17/2009; Ord. 85-10, File No. 091271, App. 4/30/2010)

San Francisco, California, Planning Code >> ARTICLE 2: - USE DISTRICTS >> SEC. 207.1. - RULES FOR CALCULATION OF DWELLING UNIT DENSITIES. >>

SEC. 207.1. - RULES FOR CALCULATION OF DWELLING UNIT DENSITIES.

The following rules shall apply in the calculation of dwelling unit densities under this Code:

(a) The entire amount of lot area per dwelling unit specified in Sections 207.5 or 209.1 of this Code shall be required for each dwelling unit on the lot. Fractional numbers shall be adjusted downward to the next lower whole number of dwelling units.

(b) Where permitted by the provisions of Sections 207.5, 209.1 and 209.2 of this Code, two or more of the dwelling and other housing uses specified in said sections may be located on a single lot, either in one structure or in separate structures, provided that the specified density limits are not exceeded by the total of such combined uses. Where dwelling units and group housing are combined, the maximum permitted density for dwelling units and for group housing shall be prorated to the total lot area according to the quantities of these two uses that are combined on the lot.

(c) Where any portion of a lot is narrower than five feet, such a portion shall not be counted as part of the lot area for purposes of calculating the permitted dwelling density.

(d) No private right-of-way used as the principal vehicular access to two or more lots shall be counted as part of the lot area of any such lot for purposes of calculating the permitted dwelling unit density.

(e) Where a lot is divided by a use district boundary line, the dwelling unit density limit for each district shall be applied to the portion of the lot in that district, and none of the dwelling units attributable to the district permitting the greater density shall be located in the district permitting the lesser density.

(f) In RTO and RTO-M Districts, dwelling units that are affordable (meeting the criteria of Section 326.3(h)(2)(B) or the requirements of Section 315) shall not count toward density calculations or be limited by lot area.

(Added by Ord. 443-78. App. 10/6/78; amended by Ord. 115-90, App. 4/6/90; Ord. 72-08, File No. 071157, App. 4/3/2008; Ord. 298-08. File No. 081153, App. 12/19/2008)

San Francisco, California, Planning Code >> ARTICLE 1.5: - OFF-STREET PARKING AND LOADING >> SEC. 151. - SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES. >>

SEC. 151. - SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES.

Off-street parking spaces shall be provided in the minimum quantities specified in the following table, except as otherwise provided in Section 151.1 and Section 161 of this Code. Where the building or lot contains uses in more than one of the categories listed, parking requirements shall be calculated in the manner provided in Section 153 of this Code. Where off-street parking is provided which exceeds certain amounts in relation to the quantities specified in this table, as set forth in Section 204.5 of this Code, such parking shall be classified not as accessory parking but as either a principal or a conditional use, depending upon the use provisions applicable to the district in which the parking is located. In considering an application for a conditional use for any such parking, due to the amount being provided, the City Planning Commission shall consider the criteria set forth in Section 157 of this Code.

Table 151

OFF-STREET PARKING SPACES REQUIRED

Use or Activity	Number of Off-Street Parking Spaces Required
Dwelling, except as specified below, and except in the Bernal Heights Special Use District as provided in Section 242	One for each dwelling unit.
Dwelling, in the Broadway and North Beach Neighborhood Commercial Districts and the Chinatown Mixed Use Districts	P up to one car for each two dwelling units; C up to .75 cars for each dwelling unit, subject to the criteria and procedures of Section 151.1(f); NP above 0.75 cars for each dwelling unit.
Dwelling, in the Telegraph Hill - North Beach Residential Special Use District	P up to three cars for each four dwelling units; C up to one car for each dwelling unit, subject to the criteria and procedures of Section 151.1(f); NP above one car for each dwelling unit.
Dwelling, RC-4, RSD except in the Van Ness Special Use District	One for each four dwelling unit.

Dwelling, specifically designed for and occupied by senior citizens, as defined and regulated by Section 209.1 (m) of this Code	None in districts other than RH-1 and RH-2, except, for purposes of determining spaces required by this Code in Section 204.5 the number of spaces specified above for the district in which the dwelling is located. In RH-1 and RH-2 Districts, one-fifth the number of spaces specified above for the district in which the dwelling is located.
Dwelling, in an affordable housing project as defined by Section 313.1 or 315.1 of this Code.	None in districts other than RH-1 and RH-2, except, for purposes of determining spaces required by this Code in Section 204.5, the number otherwise required in this Table 151 for a dwelling unit for the district in which the dwelling is located.
Group housing of any kind	None in districts other than RH-2, except for purposes of determining spaces required by this Code in Section 204.5 one for each three bedrooms or for each six beds, whichever results in the greater requirements, plus one for the manager's dwelling unit if any, with a minimum of two spaces required. In RH-2 Districts, for each three bedrooms or for each six beds, whichever results in the greater requirement, plus one for the manager's dwelling unit if any, with a minimum of two spaces required.
SRO units	None, except for purposes of determining spaces, required by this Code in Section 204.5 in the South of Market base area, one for each 20 units, plus one for the manager's dwelling unit, if any, with a minimum of two spaces.
Hotel, inn or hostel in NC Districts	0.8 for each guest bedroom.
Hotel, inn or hostel in districts other than NC	One for each 16 guest bedrooms where the number of guest bedrooms exceeds 23, plus one for the manager's dwelling unit, if any.
Motel	One for each guest unit, plus one for the manager's dwelling unit, if any.
Mobile home park	One for each vehicle or structure in such park, plus one for the manager's dwelling unit if any.
Hospital or other inpatient medical institution	One for each 8 beds excluding bassinets or for each 2,400 square feet of gross floor area devoted to sleeping rooms, whichever results in the greater requirement, provided that these requirements shall not apply if the calculated number of spaces is no more than two.
Residential care facility	None in districts other than RH-1 and RH-2, except for purposes of determining spaces required by this Code in Section 204.5. In RH-1 and RH-2 Districts, one for each 10 residents, where the number of residents exceeds nine
Child care facility	One for each 25 children to be accommodated at any one time, where the number of such children exceeds 24.
Elementary school	One for each six classrooms.
Secondary school	One for each two classrooms.
Post-secondary educational institution	One for each two classrooms.

Church or other religious institutions	One for each 20 seats by which the number of seats in the main auditorium exceeds 200.
Theater or auditorium	One for each eight seats up to 1,000 seats where the number of seats exceeds 50 seats, plus one for each 10 seats in excess of 1,000.
Stadium or sports arena	One for each 15 seats.
Medical or dental office or outpatient clinic	One for each 300 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Offices or studios of architects, engineers, interior designers and other design professionals and studios of graphic artists	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Other business office	One for each 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet, except one for each 750 square feet within the SSO District, where the occupied floor area exceeds 5,000 square feet.
Restaurant, bar, nightclub, pool hall, dancehall, bowling alley or other similar enterprise	One for each 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Retail space devoted to the handling of bulky merchandise such as motor vehicles, machinery or furniture	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Greenhouse or plant nursery	One for each 4,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Other retail space	One for each 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet, plus one for each 250 square feet of occupied floor area in excess of 20,000.
Service, repair or wholesale sales space, including personal, home or business service space	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

in South of Market Districts.	
Mortuary	Five
Storage or warehouse space, and space devoted to any use first permitted in an M-2 District	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 10,000 square feet.
Arts activities and spaces except theater or auditorium spaces	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet.
Other manufacturing and industrial uses	One for each 1,500 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet.
Live/work units	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet, except in RH or RM Districts, within which the requirement shall be one space for each live/work unit.

(Amended by Ord. 443-78, App. 10/6/78; Ord. 69-87, App. 3/13/87; Ord. 445-87, App. 11/12/87; Ord. 537-88, App. 12/16/88; Ord. 412-88, App. 9/10/88; Ord. 115-90, App. 4/6/90; Ord. 32-91, App. 1/25/91; Ord. 368-94, App. 11/4/94; Ord. 217-05, File No. 050865, App. 8/19/2005; Ord. 129-06, File No, 060372, App. 6/22/2006; Ord. 112-08, File No. 080095, App. 6/30/2008; Ord. 51-09, File No. 081620, App. 4/2/2009; Ord. 77-10, File No. 091165, App. 4/16/2010)

San Francisco, California, Planning Code >> ARTICLE 1.5: - OFF-STREET PARKING AND LOADING >> SEC. 151. - SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES. >>

SEC. 151. - SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES.

Off-street parking spaces shall be provided in the minimum quantities specified in the following table, except as otherwise provided in Section 151.1 and Section 161 of this Code. Where the building or lot contains uses in more than one of the categories listed, parking requirements shall be calculated in the manner provided in Section 153 of this Code. Where off-street parking is provided which exceeds certain amounts in relation to the quantities specified in this table, as set forth in Section 204.5 of this Code, such parking shall be classified not as accessory parking but as either a principal or a conditional use, depending upon the use provisions applicable to the district in which the parking is located. In considering an application for a conditional use for any such parking, due to the amount being provided, the City Planning Commission shall consider the criteria set forth in Section 157 of this Code.

Table 151

OFF-STREET PARKING SPACES REQUIRED

Use or Activity	Number of Off-Street Parking Spaces Required
Dwelling, except as specified below, and except in the Bernal Heights Special Use District as provided in Section 242	One for each dwelling unit.
Dwelling, in the Broadway and North Beach Neighborhood Commercial Districts and the Chinatown Mixed Use Districts	P up to one car for each two dwelling units; C up to .75 cars for each dwelling unit, subject to the criteria and procedures of Section 151.1(f); NP above 0.75 cars for each dwelling unit.
Dwelling, in the Telegraph Hill - North Beach Residential Special Use District	P up to three cars for each four dwelling units; C up to one car for each dwelling unit, subject to the criteria and procedures of Section 151.1(f); NP above one car for each dwelling unit.
Dwelling, RC-4, RSD except in the Van Ness Special Use District	One for each four dwelling unit.

Dwelling, specifically designed for and occupied by senior citizens, as defined and regulated by Section 209.1 (m) of this Code	None in districts other than RH-1 and RH-2, except, for purposes of determining spaces required by this Code in Section 204.5 the number of spaces specified above for the district in which the dwelling is located. In RH-1 and RH-2 Districts, one-fifth the number of spaces specified above for the district in which the dwelling is located.
Dwelling, in an affordable housing project as defined by Section 313.1 or 315.1 of this Code.	None in districts other than RH-1 and RH-2, except, for purposes of determining spaces required by this Code in Section 204.5, the number otherwise required in this Table 151 for a dwelling unit for the district in which the dwelling is located.
Group housing of any kind	None in districts other than RH-2, except for purposes of determining spaces required by this Code in Section 204.5 one for each three bedrooms or for each six beds, whichever results in the greater requirements, plus one for the manager's dwelling unit if any, with a minimum of two spaces required. In RH-2 Districts, for each three bedrooms or for each six beds, whichever results in the greater requirement, plus one for the manager's dwelling unit if any, with a minimum of two spaces required.
SRO units	None, except for purposes of determining spaces, required by this Code in Section 204.5 in the South of Market base area, one for each 20 units, plus one for the manager's dwelling unit, if any, with a minimum of two spaces.
Hotel, inn or hostel in NC Districts	0.8 for each guest bedroom.
Hotel, inn or hostel in districts other than NC	One for each 16 guest bedrooms where the number of guest bedrooms exceeds 23, plus one for the manager's dwelling unit, if any.
Motel	One for each guest unit, plus one for the manager's dwelling unit, if any.
Mobile home park	One for each vehicle or structure in such park, plus one for the manager's dwelling unit if any.
Hospital or other inpatient medical institution	One for each 8 beds excluding bassinets or for each 2,400 square feet of gross floor area devoted to sleeping rooms, whichever results in the greater requirement, provided that these requirements shall not apply if the calculated number of spaces is no more than two.
Residential care facility	None in districts other than RH-1 and RH-2, except for purposes of determining spaces required by this Code in Section 204.5. In RH-1 and RH-2 Districts, one for each 10 residents, where the number of residents exceeds nine
Child care facility	One for each 25 children to be accommodated at any one time, where the number of such children exceeds 24.
Elementary school	One for each six classrooms.
Secondary school	One for each two classrooms.
Post-secondary educational institution	One for each two classrooms.

Church or other religious institutions	One for each 20 seats by which the number of seats in the main auditorium exceeds 200.
Theater or auditorium	One for each eight seats up to 1,000 seats where the number of seats exceeds 50 seats, plus one for each 10 seats in excess of 1,000.
Stadium or sports arena	One for each 15 seats.
Medical or dental office or outpatient clinic	One for each 300 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Offices or studios of architects, engineers, interior designers and other design professionals and studios of graphic artists	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Other business office	One for each 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet, except one for each 750 square feet within the SSO District, where the occupied floor area exceeds 5,000 square feet.
Restaurant, bar, nightclub, pool hall, dancehall, bowling alley or other similar enterprise	One for each 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Retail space devoted to the handling of bulky merchandise such as motor vehicles, machinery or furniture	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Greenhouse or plant nursery	One for each 4,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.
Other retail space	One for each 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet, plus one for each 250 square feet of occupied floor area in excess of 20,000.
Service, repair or wholesale sales space, including personal, home or business service space	One for each 1,000 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

in South of Market Districts.	
Mortuary	Five
Storage or warehouse space, and space devoted to any use first permitted in an M-2 District	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 10,000 square feet.
Arts activities and spaces except theater or auditorium spaces	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet.
Other manufacturing and industrial uses	One for each 1,500 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet.
Live/work units	One for each 2,000 square feet of occupied floor area, where the occupied floor area exceeds 7,500 square feet, except in RH or RM Districts, within which the requirement shall be one space for each live/work unit.

(Amended by Ord. 443-78, App. 10/6/78; Ord. 69-87, App. 3/13/87; Ord. 445-87, App. 11/12/87; Ord. 537-88, App. 12/16/88; Ord. 412-88, App. 9/10/88; Ord. 115-90, App. 4/6/90; Ord. 32-91, App. 1/25/91; Ord. 368-94, App. 11/4/94; Ord. 217-05, File No. 050865, App. 8/19/2005; Ord. 129-06, File No, 060372, App. 6/22/2006; Ord. 112-08, File No. 080095, App. 6/30/2008; Ord. 51-09, File No. 081620, App. 4/2/2009; Ord. 77-10, File No. 091165, App. 4/16/2010)

San Francisco, California, Planning Code >> ARTICLE 1.2: - DIMENSIONS, AREAS, AND OPEN SPACES >> SEC. 134. - REAR YARDS, R, NC, C, SPD, M, MUG, MUO, MUR, UMU, RSD, SLR, SLI AND SSO DISTRICTS. >>

SEC. 134. - REAR YARDS, R, NC, C, SPD, M, MUG, MUO, MUR, UMU, RSD, SLR, SLI AND SSO DISTRICTS.

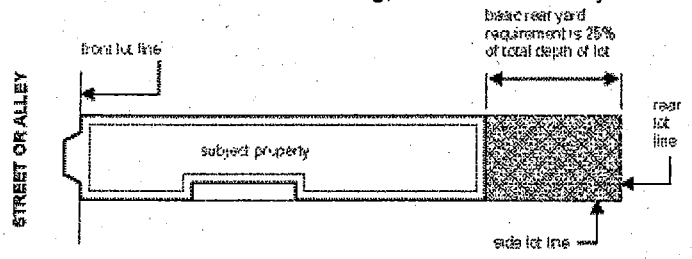
The rear yard requirements established by this Section 134 shall apply to every building in an R, NC-1, NC-2 District or Individual Neighborhood Commercial District as noted in Subsection (a), except those buildings which contain only single room occupancy (SRO) or live/work units and except in the Bernal Heights Special Use District and Residential Character Districts to the extent these provisions are inconsistent with the requirements set forth in Section 242 of this Code. With the exception of dwellings in the South of Market Mixed Use and Eastern Neighborhoods Mixed Use Districts containing only SRO units, the rear yard requirements of this Section 134 shall also apply to every dwelling in a(n) MUG, MUO, MUR, UMU, SPD, RSD, SLR, SLI, SSO, NC-2, NCT-1, NCT-2, NC-3, NCT-3, Individual Area Neighborhood Commercial Transit District, Individual Neighborhood Commercial District as noted in Subsection (a), C or M District. Rear yards shall not be required in NC-S Districts. These requirements are intended to assure the protection and continuation of established midblock, landscaped open spaces, and maintenance of a scale of development appropriate to each district, consistent with the location of adjacent buildings.

(a) **Basic Requirements.** The basic rear yard requirements shall be as follows for the districts indicated:

(1) **RH-1(D), RH-1, RH-1(S), RM-3, RM-4, RC-1, RC-2, RC-3, RC-4, NC, C, M, MUG, MUO, MUR, UMU, RED, SPD, RSD, SLR, SLI and SSO Districts.** The minimum rear yard depth shall be equal to 25 percent of the total depth of the lot on which the building is situated, but in no case less than 15 feet. For buildings containing only SRO units in the South of Market Mixed Use and Eastern Neighborhoods Mixed Use Districts, the minimum rear yard depth shall be equal to 25 percent of the total depth of the lot on which the building is situated, but the required rear yard of SRO buildings not exceeding a height of 65 feet shall be reduced in specific situations as described in Subsection (c) below.

(A) **RH-1(D), RH-1, RH-1(S), RM-3, RM-4, RC-1, NC-1, NCT-1, Inner Sunset, Outer Clement Street, Haight Street, Sacramento Street, 24th Street-Noe Valley, and West Portal Avenue Districts.** Rear yards shall be provided at grade level and at each succeeding level or story of the building.

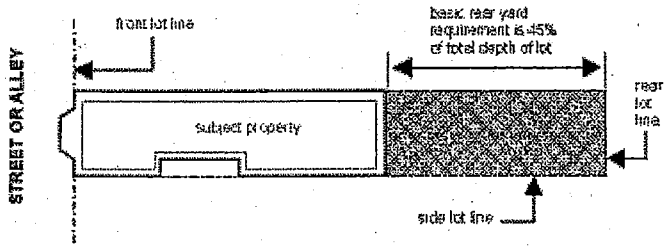
(B) **NC-2, NCT-2, Ocean Avenue, Castro Street, Inner Clement Street, Upper Fillmore Street, North Beach, Union Street, Valencia Street, 24th Street-Mission Districts.** Rear yards shall be provided at the second story, and at each succeeding story of the building, and at the first story if it contains a dwelling unit.



(C) **RC-2, RC-3, RC-4, NC-3, NCT-3, Broadway, Hayes-Gough, Upper Market Street, SoMa, Mission Street, Polk Street, C, M, RED, SPD, RSD, SLR, SLI, SSO, MUR, MUG, MUO, and UMU Districts.** Rear yards shall be provided at the lowest story containing a dwelling unit, and at each succeeding level or story of the building

(D) **Upper Market NCT.** Rear yards shall be provided at the grade level, and at each succeeding story of the building. For buildings in the Upper Market NCT that do not contain residential uses and that do not abut adjacent lots with an existing pattern of rear yards or mid-block open space, the Zoning Administrator may waive or reduce this rear yard requirement pursuant to the procedures of subsection (e).

(2) **RH-2, RH-3, RTO, RTO-M, RM-1 and RM-2 Districts.** The minimum rear yard depth shall be equal to 45 percent of the total depth of the lot on which the building is situated, except to the extent that a reduction in this requirement is permitted by Subsection (c) below. Rear yards shall be provided at grade level and at each succeeding level or story of the building.



(b) **Permitted Obstructions.** Only those obstructions specified in Section 136 of this Code shall be permitted in a required rear yard, and no other obstruction shall be constructed, placed or maintained within any such yard. No motor vehicle, trailer, boat or other vehicle shall be parked or stored within any such yard, except as specified in Section 136

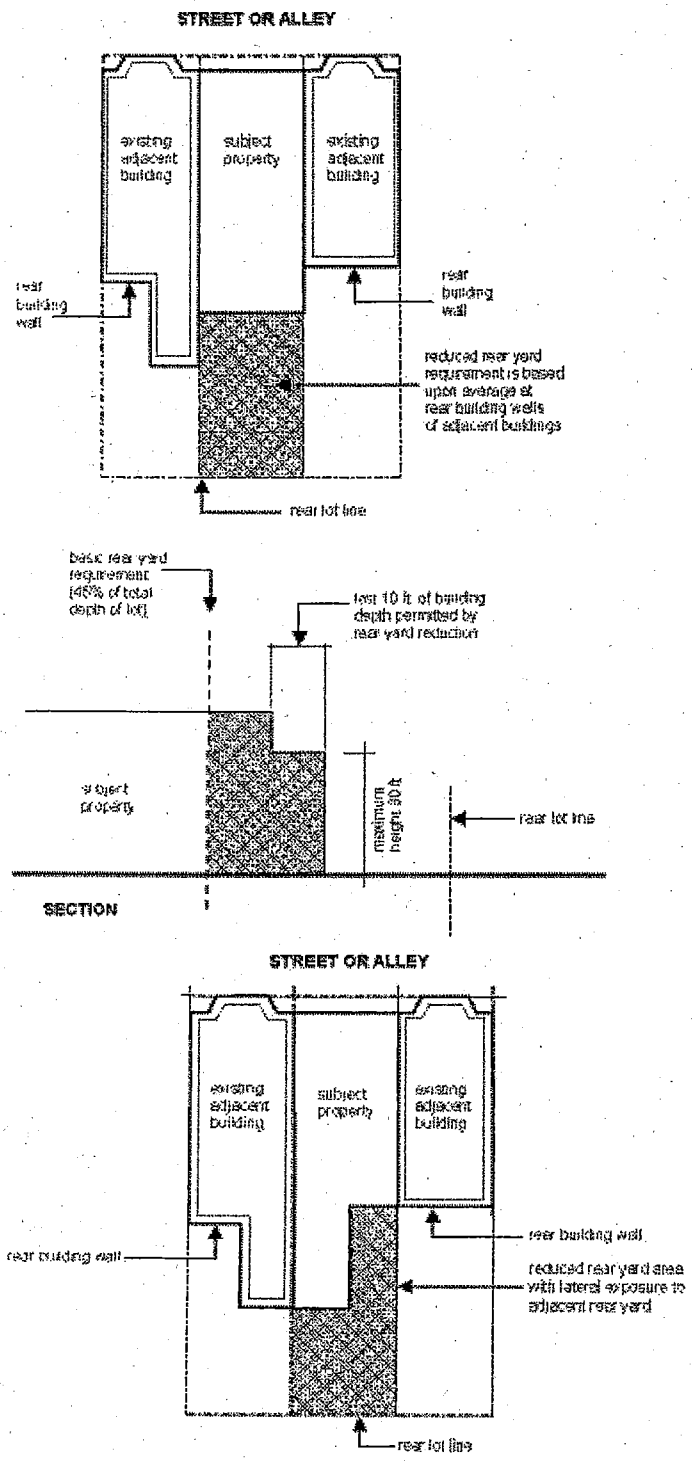
(c) **Reduction of Requirements in RH-2, RH-3, RTO, RTO-M, RM-1 and RM-2 Districts.** The rear yard requirement stated in Paragraph (a)(2) above, for RH-2, RH-3, RTO, RTO-M, RM-1 and RM-2 Districts, and as stated in Paragraph (a)(1) above, for single room occupancy buildings located in either the South of Market Mixed Use or Eastern Neighborhoods Mixed Use Districts not exceeding a height of 65 feet, shall be reduced in specific situations as described in this Subsection (c), based upon conditions on adjacent lots. Except for those SRO buildings referenced above in this paragraph whose rear yard can be reduced in the circumstances described in Subsection (c) to a 15-foot minimum, under no circumstances, shall the minimum rear yard be thus reduced to less than a depth equal to 25 percent of the total depth of the lot on which the building is situated, or to less than 15 feet, whichever is greater.

(1) **General Rule.** In such districts, the forward edge of the required rear yard shall be reduced to a line on the subject lot, parallel to the rear lot line of such lot, which is an average between the depths of the rear building walls of the two adjacent buildings. Except for single room occupancy buildings in the South of Market Mixed Use Districts, in any case in which a rear yard requirement is thus reduced, the last 10 feet of building depth thus permitted on the subject lot shall be limited to a height of 30 feet, measured as prescribed by Section 260 of this Code, or to such lesser height as may be established by Section 261 of this Code.

(2) **Alternative Method of Averaging.** If, under the rule stated in Paragraph (c)(1) above, a reduction in the required rear yard is permitted, the reduction may alternatively be averaged in an irregular manner; provided that the area of the resulting reduction shall be no more than the product of the width of the subject lot along the line established by Paragraph (c)(1) above times the reduction in depth of rear yard permitted by Paragraph (c)(1); and provided further that all portions of the open area on the part of the lot to which the rear yard reduction applies shall be directly exposed laterally to the open area behind the adjacent building having the lesser depth of its rear building wall.

(3) **Method of Measurement.** For purposes of this Subsection (c), an "adjacent building" shall mean a building on a lot adjoining the subject lot along a side lot line. In all cases the location of the rear building wall of an adjacent building shall be taken as the line of greatest depth of any portion of the adjacent building which occupies at least ½ the width between the side lot lines of the lot on which such adjacent building is located, and which has a height of at least 20 feet above grade, or two stories, whichever is less, excluding all permitted obstructions listed for rear yards in Section 136 of this Code. Where a lot adjoining the subject lot is vacant, or contains no dwelling or group housing structure, or is located in an RH-1(D), RH-1, RH-1 (S), RM-3, RM-4, RC, RED, SPD, RSD, SLR, SLI, SSO, NC, C, M or P District, such adjoining lot shall, for purposes of the calculations in this Subsection (c), be considered to have an adjacent building upon it whose rear building wall is at a depth equal to 75 percent of the total depth of the subject lot.

(4) **Applicability to Special Lot Situations.** In the following special lot situations, the general rule stated in Paragraph (c)(1) above shall be applied as provided in this Paragraph (c)(4), and the required rear yard shall be reduced if conditions on the adjacent lot or lots so indicate and if all other requirements of this Section 134 are met.

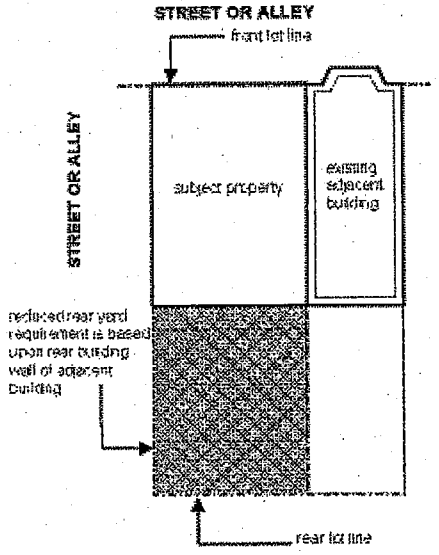


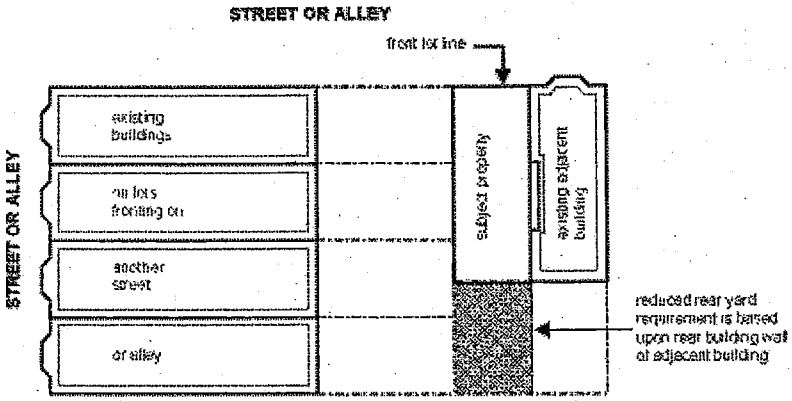
(A) **Corner Lots and Lots at Alley Intersections.** On a corner lot as defined by this Code, or a lot at the intersection of a street and an alley or two alleys, the forward edge of the required rear yard shall be reduced to a line on the subject lot which is at the depth of the rear building wall of the one adjacent building.

(B) **Lots Abutting Properties with Buildings that Front on Another Street or Alley.** In the case of any lot that abuts along one of its side lot lines upon a lot with a building that fronts on another street or alley, the lot on which it so abuts shall be disregarded, and the forward edge of the required rear yard shall be reduced to a line on the subject lot which is at the depth of the rear building wall of the one adjacent building fronting on the same street or alley. In the case of any lot that abuts along both its side lot lines upon lots with buildings that front on another street or alley, both lots on which it so

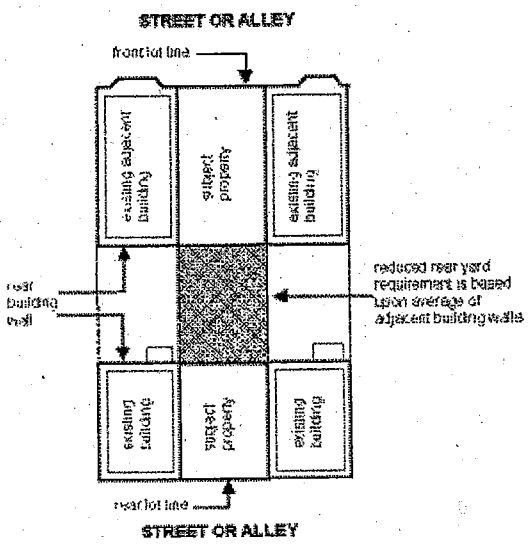
abuts shall be disregarded, and the minimum rear yard depth for the subject lot shall be equal to 25 percent of the total depth of the subject lot, or 15 feet, whichever is greater.

(C) **Through Lots Abutting Properties that Contain Two Buildings.** Where a lot is a through lot having both its front and its rear lot line along streets, alleys, or a street and an alley, and both adjoining lots are also through lots, each containing two dwellings or group housing structures that front at opposite ends of the lot, the subject through lot may also have two buildings according to such established pattern, each fronting at one end of the lot, provided all the other requirements of this Code are met. In such cases the rear yard required by this Section 134 for the subject lot shall be located in the central portion of the lot, between the two buildings on such lot, and the depth of the rear wall of each building from the street or alley on which it fronts shall be established by the average of the depths of the rear building walls of the adjacent buildings fronting on that street or alley. In no case, however, shall the total minimum rear yard for the subject lot be thus reduced to less than a depth equal to 25 percent of the total depth of the subject lot, or to less than 15 feet, whichever is greater. Furthermore, in all cases in which this Subparagraph (c)(4)(C) is applied, the requirements of Section 132 of this Code for front setback areas shall be applicable along both street or alley frontages of the subject through lot.





(d) **Reduction of Requirements in C-3 Districts.** In C-3 Districts, an exception to the rear yard requirements of this Section may be allowed, in accordance with the provisions of Section 309, provided that the building location and configuration assure adequate light and air to windows within the residential units and to the usable open space provided.



(e) **Modification of Requirements in NC and South of Market Mixed Use Districts.** The rear yard requirements in NC and South of Market Mixed Use Districts may be modified or waived in specific situations as described in this Subsection (e).

(1) **General.** The rear yard requirement in NC Districts may be modified or waived by the Zoning Administrator pursuant to the procedures which are applicable to variances, as set forth in Sections 306.1 through 306.5 and 308.2, in the case of NC Districts, and in accordance with Section 307(g), in the case of South of Market Mixed Use Districts if all of the following criteria are met for both NC and South of Market Mixed Use Districts:

(A) Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development; and

(B) The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties; and

(C) The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties.

(2) **Corner Lots and Lots at Alley Intersections.** On a corner lot as defined by this Code, or on a lot at the intersection of a street and an alley of at least 25 feet in width, the required rear yard may be substituted with an open area equal to 25 percent of the lot area which is located at the same levels as the required rear yard in an interior corner of the lot, an open area between two or more buildings on the lot, or an inner court, as defined by this Code, provided that the Zoning Administrator determines that all of the criteria described below in this Paragraph are met.

(A) Each horizontal dimension of the open area shall be a minimum of 15 feet.

(B) The open area shall be wholly or partially contiguous to the existing midblock open space formed by the rear yards of adjacent properties.

(C) The open area will provide for the access to light and air to and views from adjacent properties.

(D) The proposed new or expanding structure will provide for access to light and air from any existing or new residential uses on the subject property.

The provisions of this Paragraph 2 of Subsection (e) shall not preclude such additional conditions as are deemed necessary by the Zoning Administrator to further the purposes of this Section.

(f) **Modification of Requirements in the Eastern Neighborhoods Mixed Use Districts.** The rear yard requirement in Eastern Neighborhoods Mixed Use Districts may be modified or waived by the Planning Commission pursuant to Section 329, and by the Zoning Administrator pursuant to the procedures and criteria set forth in Section 307(h) for other projects, provided that:

(1) Residential uses are included in the new or expanding development and a comparable amount of readily accessible usable open space is provided elsewhere on the lot or within the development;

(2) The proposed new or expanding structure will not significantly impede the access to light and air from adjacent properties; and

(3) The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties.

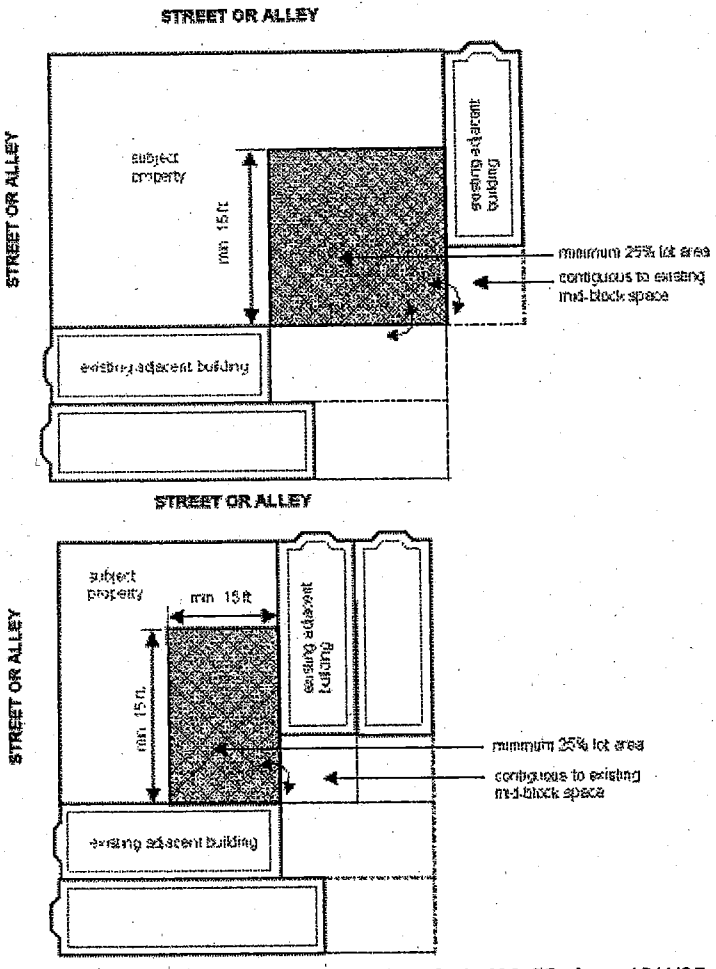
(g)

Reduction of Requirements in the North of Market Residential Special Use District. The rear yard requirement may be substituted with an equivalent amount of open space situated anywhere on the site, provided that the Zoning Administrator determines that all of the following criteria are met:

(1) The substituted open space in the proposed new or expanding structure will improve the access of light and air to and views from existing abutting properties; and

(2) The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of existing abutting properties.

This provision shall be administered pursuant to the notice and hearing procedures which are applicable to variances as set forth in Sections 306.1 through 306.5 and 308.2.



(Amended by Ord. 414-85, App. 9/17/85; Ord. 532-85, App. 12/4/85; Ord. 69-87, App. 3/13/87; Ord. 412-88, App. 9/10/88; Ord. 115-90, App. 4/6/90; Ord. 32-91, App. 1/25/91; Ord. 368-94, App. 11/4/94; Ord. 32-96, App. 1/11/96; Ord. 262-00, File No. 001426, App. 11/17/2000; Ord. 72-08, File No. 071157, App. 4/3/2008; Ord. 298-08, File No. 081153, App. 12/19/2008; Ord. 61-09, File No. 090181, App. 4/17/2009)

EXHIBIT 10

SAN FRANCISCO
PLANNING DEPARTMENT

SFMTA | Municipal Transportation Agency

December 6, 2010

Ted Droettboom, Regional Planning Program Director
Joint Policy Committee
101 Eighth St.
Oakland, CA 94607

Doug Kimsey, Planning Director
Metropolitan Transportation Commission (MTC)
101 Eighth St.
Oakland, CA 94607

Ken Kirkey, Planning Director
Association of Bay Area Governments (ABAG)
101 Eighth St.
Oakland, CA 94607

Subject: Comments on Draft Performance Targets for the Sustainable Communities Strategy

Dear Ted, Doug, and Ken:

Thank you for providing an inclusive process to develop the Draft Sustainable Communities Strategy Performance Targets. We recognize the significant amount of staff effort that is needed to facilitate the Performance Measures Ad Hoc Committee meetings, and appreciate the thorough and transparent process undertaken to consider a large number of potential measures and targets.

The City and County of San Francisco's planning, transportation, housing, and public health agencies agree that the targets generally reflect the right measurement areas, however there are several significant areas where we suggest specific new or modified measures. Most notably:

1. The housing and equity targets are not sufficient to measure the impacts that different scenarios will have in addressing the needs of low-income individuals.

2. We offer more comprehensive measures of transportation system effectiveness, that focus on the number and quality of transportation choices for households, among other considerations.

3. The transportation State of Good Repair (SOGR) targets should be weighted based on demand.

4. The economic vitality target needs a clearer focus that ties it to the overarching objectives

of improving the transportation/land use connection.

5. Targets tied to environmental and health outcomes, such as the targets for $PM_{2.5}$ collisions, and "active transportation" could be improved in several ways.

With these high-level points in mind, we offer the following comments and revisions to the targets.

1. **Modify Target 2 to, "House 100% of the region's housing need by income level without displacing low-income residents and while increasing opportunities for low-income housing in all areas."**

   We appreciate the modified housing target proposed in the 12/7 Performance Measures ad hoc packet to consider displacement impacts, however we suggest additional modifications to it. Policy decisions that affect housing must be guided by experiences from the past, and must fit within strong legal mandates, such as Fair Housing Law. As place of residence is a strong determinant of access to goods and services, health resources, school quality, employment opportunities, and related socioeconomic outcomes, the SCS should address equity goals at a neighborhood level by improving the opportunities available to people in low-income brackets. With that goal in mind, we suggest modifying the housing target to include reducing geographic disparities by increasing income diversity in predominantly high-income and moderate-income neighborhoods.

2. **Replace Target #3 with "Reduce by X% concentrations of $PM_{2.5}$ without exacerbating geographic disparities in $PM_{2.5}$ concentration within the region"**

   We propose shifting the focus of this measure from an exposure-based perspective to a definition based on concentrations. Given the growing recognition of air quality conflicts between busy roadways and infill development, careful consideration should be given to how the measure and methodology will represent trade-offs between regional emissions reductions and local adverse effects. It is also critical that the methodology, measures, and targets be consistent with the BAAQMD CEQA thresholds guidance and other State and Federal regulatory guidance. Specifically, an exposure-based target would necessitate a methodology that factors in the positive impact Community Risk Reduction Plans under development would have in mitigating exposure. In addition, given that the 11 percent reduction in premature deaths used as a numerical basis for the proposed target is contingent on *all* sources of $PM_{2.5}$ being reduced to achieve the economy-wide federal standard, the methodology would require a forecast of emissions from *all* sources of particulate matter. For these reasons, we suggest a concentration-based target is more appropriate for the SCS. In addition, we believe it is more appropriate for the numerical basis for the target to reflect the more stringent State standard for $PM_{2.5}$ rather than the federal standard. Finally, it is also important to avoid any growth in geographic disparities in pollutant exposure. For these reasons, we suggest a target to "reduce by X% particulate matter concentrations", where X% is the percentage reduction required of the transportation sector to meet the State ambient standard.

3. **Modify Target 4 to, "Reduce by 50% the number of injuries and fatalities from all collisions for each mode of transport" and work to refine the methodology to forecast injuries and fatalities disaggregated by mode.**

   Disaggregating by mode is important to avoid shifting the burden of injury and fatality from one mode to another. Focusing on all injuries dilutes safety for the most vulnerable road users.

From an equity perspective, this approach would also be protective of most vulnerable road users, including pedestrians and cyclists, who are also more likely to be low-income, transit dependent populations. The Federal Highway Administration has published recommended methodology for conducting pedestrian injury predictive modeling and there are other published approaches for collision forecasting which incorporate changes in traffic and pedestrian volumes, mode shifts, and non-linear effects. We would be glad to work with the regional agencies to refine the methodology for this target.

4. **Replace Target #5 with, "Increase the walk and bicycle mode share for all trips by X%"**

We prefer a mode share-based target to a travel time-based target because it is a more direct and intuitive measure of benefit. Recognizing the importance of this target's basis in public health outcomes, we suggest the target's numeric basis be an increase in trips comparable to about 1 non-motorized trip per person per day. Additionally, we are very supportive of MTC/ABAG's intention to complement non-motorized mode share analysis from the model with post-processing to reflect investments that cannot be modeled, such as Safe Routes to School.

5. **Add Target #7b, "Increase the share of low, very low, and extremely low income households residing within 45 minutes of their job."**

We are supportive of Target #7, to "Decrease the combined housing and transportation costs of low and lower-middle income individuals," but believe an additional equity target is necessary to advance the goal of improving opportunities available to very low, low, and moderate income households, including opportunities to live in neighborhoods with easy access to employment as well as resources like quality schools, efficient transportation, safe neighborhoods, and healthy food. We recognize that there is no reliable method to forecast a target that considers access to schools, safe neighborhoods or healthy food; in lieu of that, we suggest that access to employment begins to address this goal area.

6. **Replace Target #8 with Targets #8a, "Increase by X% the share of jobs in high quality transit-served locations" and #8b, "Increase by X % share of housing in high quality transit-served areas"**

Target #8, as originally proposed, "Increase by 10% the number of workers within 45 minutes of employment centers" could have critically counterproductive measurement outcomes. Absent a drill-down by mode, the target will bias the measure towards prioritizing roadway investments because motor vehicles are usually the fastest mode. This makes the misleading assumption that simply residing near a job center means that the journey-to-work commute will be shorter in such a multi-centric, job-dispersed region as the Bay Area. In addition, we are skeptical that the methodology for the target proposed in the 12/7 ad hoc packet, "Increase gross regional product by X%" will capture tradeoffs between different scenarios' land use distributions and transportation investments/policies. Moreover, it is unclear to what extent land use and transportation policy drive factors important to a region's or sub-region's productivity, compared with business regulations and other quality of life factors. Future SCS's may benefit from some research into this area. In the meantime, we agree that land use and transportation contribute to economic vitality by offering competitive accessibility, and the alternative targets we suggest "Increase by X% the share of jobs in high quality transit-served locations" and "Increase by X

% share of housing in high quality transit-served areas" will prioritize scenarios where accessibility is greater.

7. **We suggest Targets #9a, "Increase the number and quality of travel choices as measured by an improvement in accessibility by X%, particularly for auto and/or transit captive groups" and #9b, "Ensure that transit supply is adequate to accommodate transit demand (load factors of no more than 1.0)"**

   As the area most directly affected by the investment and policy decisions made in the regional transportation plan, transportation system effectiveness should be a core goal of the SCS, and we strongly believe this should be one of the most robust areas of performance measurement in the SCS. In order to prioritize scenarios that increase the number of attractive transportation choice to users, we offer Target #9a, "Increase the number and quality of travel choices as measured by an improvement in accessibility by X%, particularly for auto and/or transit captive groups" This could be calculated from the log sum of the mode choices in the travel demand model. Another way to capture this accessibility would by measuring the number of employment or recreational opportunities available within a given radius to a household, through the destination log sum model. We believe these measures are superior to the travel time by mode target proposed by MTC/ABAG because they consider accessibility in a more comprehensive way.

   Secondly, target #9b, "Ensure that transit supply is adequate to accommodate transit demand (load factors of no more than 1.0)" would serve to correct a serious shortcoming in past regional planning efforts. Absent a transit capacity-constrained model (which we are currently nearing completion of developing for our regional travel demand model SF-CHAMP), examining load factors allows for a reality check on the assumptions of modeled transit ridership. As the region's central core transit trunk is at capacity, it is likely that – absent adequate investment – transit riders would be turned away. In these cases, careful post-processing of model results will be needed to estimate the final mode choices of these travelers.

8. **We suggest weighting Target 10 "Maintain the Transportation System in a State of Good Repair" (SOGR) by demand to reflect the relative importance of maintenance of different parts of our transportation system.**

   While we support the region's fix-it-first policy, we recognize the need to prioritize even within this important area of our regional investment policy. Achieving SOGR in the future may require prioritizing some infrastructure and consciously letting other infrastructure become the purview of local investment policy. To help prioritize the region's needs, we propose focusing on infrastructure that is more regionally significant and/or experiences much higher levels of usage on a day-to-day basis This principle should be reflected in Target 10 by weighting each measure based on future demand.

9. **Modify Target #10c to make explicit the weighting of transit capital age by asset value, "Reduce average transit asset age, weighted by asset value, to 50% of useful life", and we offer additional comments on the transit State of Good Repair targets.**

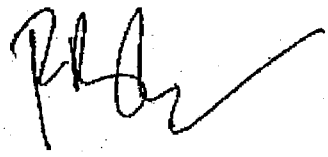
   We appreciate the suggested transit state of good repair methodology refinement over that used in Transportation 2035, to weight asset age by the replacement cost, thus emphasizing the most

costly assets which are hardest to replace. We request making this methodology change explicit in the target. Additionally, while the proposed target is an acceptable measurement for the high-level purposes of SCS performance measurement, we wanted to point out that the target departs from our municipal transit state of good repair goals, which focus on prioritizing replacement of assets beyond their useful life that have the highest impact to transit operations, and investing in asset replacement strategies with the lowest possible lifecycle costs. We encourage further discussion on potential targets that reflect and forecast life cycle costs to complement the 50% of useful life target. At a minimum, we hope this can be considered as an indicator area and that the policy can be further developed in subsequent discussions about regional investments to achieve a better transit state of good repair

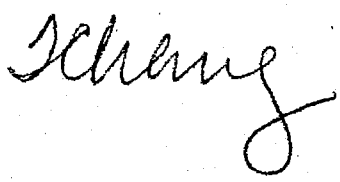
Thank you for considering our comments. We look forward to discussing them further at the December 7 ad hoc meeting as well as at a future Regional Advisory Working Group meeting.

Sincerely,

for
David Alumbaugh
Director of Citywide Planning, San Francisco Planning Department



Rajiv Bhatia
Director, Occupational and Environmental Health, San Francisco Department of Public Health



Tilly Chang
Deputy Director for Planning, San Francisco County Transportation Authority

Timothy Papandreou
Deputy Director for Planning and Sustainable Streets, San Francisco Municipal Transportation Agency

Doug Shoemaker
Director, San Francisco Mayor's Office of Housing

cc: Lisa Klein, David Vautin, MTC
Miriam Chion, Marisa Raya, ABAG
BY, DI, PA, PB SFMTA
JLM, MEL, ALA, BC, RH, AC, ZB, LB, Chron, File: SCS

EXHIBIT 11

Amendment of the whole
at Board. 4/15/08

FILE NO. 071157 ORDINANCE NO. 72-08

[Planning Code Amendments to implement the Market and Octavia Area Plan.]

Ordinance amending the San Francisco Planning Code to implement the Market and Octavia Area Plan of the General Plan by amending Section 102.5 (District); Section 121.1 (Development on Large Lots, Neighborhood Commercial Districts); Section 121.2 (Use Size Limits (Non-Residential), Neighborhood Commercial Districts); Section 124 (Basic Floor Area Ratio); Section 132 (Front Setback); Section 134 (Rear Yards); Section 135 (Usable Open Space For Dwelling Units and Group Housing); Section 144 (Treatment of Ground Story On Street Frontages); Section 145.1 (Street Frontages, Neighborhood Commercial Districts); Section 145.4 (Street Frontages Downtown and Mixed-Use Districts); Section 151.1 (Schedule of Required Off-Street Parking Spaces); Section 152. (Schedule of Required Off-Street Freight Loading Spaces in Districts Other Than C-3 or South of Market); Section 153 (Rules for Calculation of Required Spaces); Section 154 (Minimum dimensions for required off-street parking, freight loading and service vehicle spaces); Section 155 (General Standards as to Location and Arrangement of Off-Street Parking, Freight Loading and Service Vehicle Facilities); Section 156 (Parking Lots); Section 166 (Requirements for Provision of Car-Share Parking Spaces); Section 167 (Parking Costs Separated from Housing Costs in New Residential Buildings); Section 201 (Classes of Use Districts); Section 207.1. (Rules For Calculation Of Dwelling Unit Densities); Section 207.4 (Density of Dwelling Units in Neighborhood Commercial Districts); Section 208 (Density Limitations for Group Housing); Section 209.1-209.9 (Uses Permitted in RTO Districts); Section 234.2 (Requiring CU Authorization for specified uses in P Districts within the Market and Octavia Neighborhood Area); Section 253 (Review of Proposed Buildings and Structures Exceeding a Height of 40 Feet in R Districts); Section 270 (Bulk Limits:

Measurement); Section 303 (Conditional Uses: Determination); Section 304 (Planned Unit Developments: Criteria and Limitations); Section 311 (Residential Permit Review Procedures for RH and RM Districts: Applicability); Section 315 (Inclusionary Housing requirements) including adding a ~~$10 per square foot~~ fee on new residential development in the Plan Area in addition to the existing inclusionary housing requirements in a per square foot amount of $8 in the Van Ness Market Special Use District, $4 in the Neighborhood Commercial Transit (NCT) district, and $0 in the Transit-Oriented Residential (RTO) district; Section 316 (Procedures for Conditional Use Authorization in Neighborhood Commercial and South of Market Districts and for Live/Work Units in RH, RM, and RTO Districts); Section 603 (Exempted Signs); Section 606 (Residential Districts); Section 702.1 (Neighborhood Commercial Use Districts); Section 720.1 (Hayes-Gough Neighborhood Commercial Transit District) to conform these sections with the new VNMDR-SUD, NCT and RTO district controls; and adding new zoning districts and a new special use district including Section 121.5 to establish controls for Development on Large Lots in Residential Districts; Section 121.6 to restrict lot mergers in residential districts and on pedestrian-oriented streets; Section 158.1 related to Non-accessory Parking Garages in NCT and RTO Districts and the Van Ness and Market Downtown Residential Special Use District; Section 206.4 to establish the Transit-Oriented Residential District (RTO); Section 207.6 related to Required Minimum Dwelling Unit Mix and Unit Subdivision Restrictions in RTO and NCT Districts; Section 207.7 relating to Restrictions on Demolition, Conversion, and Merger of Existing Dwelling Units in RTO and NCT Districts; Section 230 establishing Limited Corner Commercial Uses in RTO Districts; Section 249.33 to establish the Van Ness and Market Downtown Residential Special Use District (VNMDR-SUD) including providing that projects in the VNMDR-SUD may exceed allowable Floor Area Ratio

(FAR) up to a certain ratio by paying $30 per gross square foot into the Citywide Affordable Housing Fund but not by acquiring Transferable Development Rights (TDRs); and providing that projects may further exceed FAR limits above a site FAR of 9:1 by paying $15 per additional gross square foot into the Van Ness and Market Neighborhood Infrastructure Fund; Section 249.34 to establish the Fulton Street Grocery Store Special Use District; ~~Section 249.35 to establish the Dubose Triangle Flexible Density Special Use District;~~ Section 261.1 related to Additional Height Limits for Narrow Streets and Alleys in RTO and NCT Districts; Section 263.18 creating a Special Height Exception: Additional Five Feet Height for Ground Floor uses in NCT 40-X and 50-X Height and Bulk Districts; Section 263.20 Special Height Exceptions: Fulton Street Grocery Store Special Use District 40-X/50-X Height District; Sections 326-326.8 establishing the Market and Octavia Community Improvements Fee and Fund including community improvement fees of $10 per square foot for certain new residential and $4 per square foot for certain new commercial developments, and a springing fee for transit and parking impacts with a maximum fee of $9 per square foot for transit impacts from residential development and $5 per square foot for impacts from new parking spaces; Sections 341-341.4 establishing a Better Neighborhoods Area Plan Monitoring Program; Sections 731 and 731.1 creating an NCT-3 Moderate-Scale Neighborhood Commercial Transit District; Sections 732 and 732.1 creating the Upper Market Street Neighborhood Commercial Transit District; adding an uncodified Section 4 adopting procedures for treatment of historic resources in the Plan Area ~~calling for a study and implementation of an additional affordable housing program, and providing that this ordinance and the aoccompanying Market and Octavia General Plan amendments and zoning map amendments will not be effective until the effective date of such a program adopted by the Board of Supervisors~~; and adopting environmental

findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Note: Additions are *single-underline italics Times New Roman*; deletions are ~~*strikethrough italics Times New Roman*~~. Board amendment additions are double underlined. Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) Under Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. 17409 recommending the approval of this Planning Code Amendment, and incorporates such reasons by this reference thereto. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. _____.

(b) Under Planning Code Section 101.1, the Board of Supervisors finds that this ordinance is consistent with the Priority Policies of Planning Code Section 101.1(b) of the Planning Code and with the General Plan as amended in Ordinance No. 246-07 and hereby reaffirms its findings as set forth in said Ordinance. ~~proposed to be amended in companion legislation and hereby adopts the findings of the Planning Commission, as set forth in Planning Commission Resolution No. 17409, and incorporates said findings by this reference thereto.~~

(c) In accordance with the actions contemplated herein, this Board adopted Planning Commission Motion No. 17407, concerning findings pursuant to the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.) and made other related findings in Ordinance 246-07. The Board reaffirms these CEQA findings as set forth in Ordinance 246-07. , which are ~~A copy of said Motion is~~ on file with the Clerk of

the Board of Supervisors in File No. 071158 and ~~is~~ are incorporated by reference herein. The Board of Supervisors has reviewed a Memorandaum from the Planning Department dated February 29, 2008 and March 19, 2008 and, based on ~~that~~ those Memorandaum, public testimony, and information in the files of the Board of Supervisor and the Planning Department, including, but not limited to, the Final EIR, together with all supporting materials, reports, documents, public correspondence, public testimony, and Memoranda, makes the following findings: Since adoption of Ordinance No. 246-07 no substantial changes have occurred in the Project proposed for approval under this Ordinance that will require revisions in the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, no substantial changes have occurred with respect to the circumstances under which the Project proposed for approval under the Ordinance are undertaken which will require major revisions to the Final EIR due to the involvement of new environmental effects or a substantial increase in the severity of effects identified in the Final EIR and no new information of substantial importance to the Project as proposed for approval in the Ordinance has become available which indicates that (1) the Project will have significant effects not discussed in the Final EIR, (2) significant environmental effects will be substantially more severe, (3) mitigation measure or alternatives found not feasible which would reduce one or more significant effects have become feasible or (4) mitigation measures or alternatives which are considerably different from those in the Final EIR would substantially reduce one or more significant effects on the environment. Moreover, based on public testimony and information in the files of the Board of Supervisor and the Planning Department, including, but not limited to, the Final EIR, together with all supporting materials, reports, documents, public correspondence, and Memoranda, the Board reiterates its findings in Ordinance No. 246-07 related to the mitigation monitoring program and statement of overriding considerations.

Section 2. The San Francisco Planning Code is hereby amended by amending Sections 102.5, 121.1, 121.2, 124, 132, 134, 135, 144, 145.1, 145.4, 151.1, 152, 153, 154, 155, 156, 166, 167, 201, 207.1, 207.4, 208, 209.1-209.9, 234.2, 253, 270, 303, 304, 311, 315.43, 316, 603, 606. 702.1, and 720.1 to read as follows:

SEC. 102.5. DISTRICT.

A portion of the territory of the City, as shown on the Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Code. The term "district" shall include any use, special use, height and bulk, or special sign district. The term "R District" shall mean any RH-1(D), RH-1, RH-1(S), RH-2, RH-3, RM-1, RM-2, RM-3, RM-4, *RTO,* RC-1, RC-2, RC-3, RC-4 or RED District. The term "C District" shall mean any C-1, C-2, C-3, or C-M District. The term "M District" shall mean any M-1 or M-2 District. The term "RH District" shall mean any RH-1(D), RH-1, RH-1(S), RH-2, or RH-3 District. The term "RM District" shall mean any RM-1, RM-2, RM-3, or RM-4 District. The term "RC District" shall mean any RC-1, RC-2, RC-3, or RC-4 District. The term "C-3 District" shall mean any C-3-O, C-3-R, C-3-G, or C-3-S District. For the purposes of Section 128 and Article 11 of this Code, the term "C-3 District" shall also include the Extended Preservation District designated on Section Map 3SU of the Zoning Map. The term "NC District" shall mean any NC-1, NC-2, NC-3, *NCT-3,* NC-S, and any Neighborhood Commercial District *and Neighborhood Commercial Transit District* identified by street or area name in Section 702.1. *The term "NCT" shall mean any district listed in Section 702.1(b), including any NCT-3 and any Neighborhood Commercial Transit District identified by street or area name.* The term "Mixed Use District" shall mean any Chinatown CB, Chinatown VR, Chinatown R/NC, or South of Market RSD, SPD, SLR, SLI or SSO District named in Section 802.1. The term "South of Market Districts" shall refer to all RED, RSD, SPD, SLR, SLI or SSO Districts contained entirely within

EXHIBIT 12

PP-6

SUMMARY OF THE PLANNING CODE STANDARDS FOR RESIDENTIAL DISTRICTS

ZONING DISTRICT	MAXIMUM DWELLING UNIT DENSITY (§207.1)	OTHER PRINCIPAL USES (Permitted as of Right) (§§200-209.9)	OTHER CONDITIONAL USES (Subject to Commission Approval) (§§209-208.0)	MINIMUM LOT SIZE (§121)	BASIC FLOOR AREA RATIO (Other than Dwellings) (§124)	FRONT SET-BACK REQUIREMENTS (§132)	REAR YARD REQUIREMENTS (§134)	USABLE OPEN SPACE REQUIREMENTS FOR DWELLING UNITS (§135)	OTHER SPECIAL REQUIREMENTS
RH-1(D) House, One-Family (Detached Dwellings) (§209.1)	One dwelling unit per lot.	Residential care facility for 6 or fewer; child care facility for 12 or fewer; open space for horticulture or passive recreation; public structure or use of non-industrial character; sale or lease sign.	Medical institution; residential care facility for 7 or more; child care facility for 13 or more; elementary school; secondary school; religious institution; community facility; open recreation area; greenhouse or plant nursery; utility installation or public service facility; community garage; access driveway to C or M district; non-accessory parking for a specific use, Planned Unit Development; C-2 use in structure on designated landmark site.	Width: 33 ft. Area: 4000 sq.ft.	1.8 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	25% of lot depth, but no less than 15 feet.	300 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§133) Side yards: requirement based on lot width. (§261) Use district height limit – 35 ft.; 30 ft. at front of property.
RH-1 House, One-Family (§209.1)	One dwelling unit per lot; up to one unit per 3000 sq.ft. of lot area (maximum of 3 units) with conditional use approval.			Width: 25 ft. Area: 2500 sq.ft.	1.8 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	25% of lot depth, but no less than 15 feet.	300 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§261) Use district height limit – 35 ft.; 30 ft. at front of property.
RH-1(S) House, One-Family with Minor Second Unit (§209.1)	Same as RH-1, or 2 dwelling units per lot with second unit limited to 600 sq.ft. of net floor area.			Width: 25 ft. Area: 2500 sq.ft.	1.8 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	25% of lot depth, but no less than 15 feet.	300 sq.ft. for first unit and 100 sq.ft. for second minor unit, if all private; common space substituted must be 1/3 greater.	(§261) Use district height limit – 35 ft., 30 ft. at front of property.
RH-2 House, Two-Family (§209.1)	Two dwelling units per lot, up to one unit per 1500 sq.ft. of lot area with conditional use approval.		Same uses as above, plus: Group housing, boarding; group housing, religious orders; group housing, medical and educational institutions; hotel up to 5 rooms.	Width: 25 ft. Area: 2500 sq.ft.	1.8 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, last 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	125 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§144) Limits on parking entrances and blank facades. (§261) Use district height limit – 40 ft., 30 ft. at front of property.
RH-3 House, Three-Family (§209.1)	Three dwelling units per lot; up to one unit per 1000 sq.ft of lot area with conditional use approval.			Width: 25 ft. Area: 2500 sq.ft.	1.8 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, last 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	100 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§144) Limits on parking entrances and blank facades.
RM-1 Mixed (Apartments and Houses), Low Density (§209.2)	Three dwelling units per lot or one dwelling unit per 800 sq.ft. of lot area	Same uses as above, plus: Group housing, boarding; group housing, religious orders.	Same uses as above, excluding those listed in previous column as principal uses.	Width: 25 ft. Area: 2500 sq.ft.	1.8 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, last 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	100 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§144) Limits on parking entrances and blank facades. (§145) Building stepping or multiple pedestrian entrances on wider lots.
RM-2 Mixed (Apartments and Houses), Moderate Density (§209.2)	Three dwelling units per lot or one dwelling unit per 600 sq.ft. of lot area			Width: 25 ft. Area: 2500 sq.ft.	1.8 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, last 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	80 sq.ft. per unit if all private; common space substituted must be 1/3 greater	(§144) Limits on parking entrances and blank facades. (§145) Building stepping or multiple pedestrian entrances on wider lots.
RM-3 Mixed (Apartments and Houses), Medium Density (§209.2)	Three dwelling units per lot or one dwelling unit per 400 sq.ft. of lot area			Width: 25 ft. Area: 2500 sq.ft.	3.6 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	25% of lot depth, but no less than 15 feet.	60 sq.ft. per unit if all private, common space substituted must be 1/3 greater	
RM-4 Mixed (Apartments and Houses), High Density (§209.2)	Three dwelling units per lot or one dwelling unit per 200 sq.ft. of lot area			Width: 25 ft. Area: 2500 sq.ft.	4.8 times lot area	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	25% of lot depth, but no less than 15 feet.	36 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	
RC-3 Residential-Commercial Combined, Medium Density (§209.3)	Three dwelling units per lot or one dwelling unit per 400 sq.ft. of lot area.	Same uses as above, plus: Hotel up to 5 rooms, open recreation area; access driveway to C or M district; The following uses at or below the ground story: philanthropic facility, childcare facility for 13 or more; elementary school; secondary school; religious institution; community facility; private recreation facility; greenhouse or plant nursery; plus any C-2-zoned commercial establishment.	Same uses as above, excluding those listed in previous column as principal uses, plus: Hotel or 6 or more rooms, uses restricted in previous column to location at or below ground story, if located above ground story; plus C-2-zoned commercial establishment above ground story	Width: 25 ft. Area: 2500 sq.ft.	3.6 times lot area	No requirement.	25% of lot depth, but no less than 15 feet. (all dwellings levels only)	60 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§209.8) Commercial establishments exclude those designed primarily for customers arriving at that establishment by private motor vehicle.
RC-4 Residential-Commercial Combined High Density (§209.3)	Three dwelling units per lot or one dwelling unit per 200 sq.ft. of lot area.			Width: 25 ft. Area: 2500 sq.ft.	4.8 times lot area	No requirement.	25% of lot depth, but no less than 15 feet. (all dwellings levels only)	36 sq.ft. per unit if all private; common space substituted must be 1/3 greater	
RED Residential Enclave District (§813)	One dwelling unit per 400 sq.ft. of lot area	SRO units, child care facility, live/work unit where work activity is an arts activity; automobile parking lot; open recreation and horticulture, walk-up facilities except ATMs	Residential care facility; educational services; religious facility; assembly or social service; automobile parking garages, retail sales and services and office uses when in a landmark building or a contributory building in a historic district.	Width: 25 ft. Area: 2500 sq.ft.	1.0 times lot area	No requirement.	25% of lot depth, but no less than 15 feet.	60 sq.ft. per unit if all private; 80 sq.ft. if common space. 36 sq.ft. per unit for live/work units.	
RTO Residential Transit Oriented Development (§206.4)	Permitted 1 dwelling unit per 600 square feet of lot area; may exceed this limit for SMR units, affordable housing, or other special uses (§209.1(m)). With a conditional use permit density may exceed 1 unit per 600 and is then limited by height, bulk and unit mix requirements.	(§230) Neighborhood serving commercial uses permitted on corner lots only. Limit 1,200 gross sq.ft. total per corner. NC-1 rules generally apply Residential care facility for 6 or fewer; child care facility for 12 or fewer; open space for horticulture or passive recreation; public structure or use of non-industrial character; sale or lease sign	(§209.4) Community facilities	Width: 25 ft. Area: 2500 sq.ft.	Not Applicable	Based upon average of adjacent buildings; up to 15 ft. or 15% of lot depth	45% of lot depth, except of reductions based upon average of adjacent buildings; if averaged, last 10 ft. is limited to height of 30 ft. and a minimum of 25% of lot depth, but no less than 15 feet.	100 sq.ft. per unit if all private; common space substituted must be 1/3 greater.	(§151.1) No residential parking required. Permitted 3 spaces for every 4 units maximum; conditional use for 1 space per unit. Not permitted above. (§207.6) Minimum dwelling unit mix – 40% 2-bedroom for buildings with 5 or more units. (§144) Limits on parking entrances and blank facades. Parking must be set back and screened.

NOTES:

This chart is only a summary of the Planning Code provisions. The Code sections referred to in the chart should be consulted for the complete requirements, and for detailed methods by which these requirements are applied to specific property situations.

For answers to questions concerning this summary chart and the Code provisions, contact the Planning Department at 558-6377 or visit the Department at 1650 Mission Street, Suite 400, San Francisco, 94103.

The chart above covers only the Residential zoning districts. Other use districts not covered by the chart are the Commercial and Industrial districts (§§210-227, Articles 7 & 8) Public Use districts (§§234-234.2) and Special Use districts (§§235-249.99 and the SU-numbered series sheets of the Zoning Map.

Other Code provisions of general application to Residential districts that are not referred to in this chart are the following:

- Height and Bulk districts (§ 122, Article 2.5 and the HT-numbered series sheets of the Zoning Map
- Review of buildings exceeding a height of 40 feet in R districts (§253)
- Legislated set-back lines, which may be more restrictive than §132 (§131 and ordinances and resolutions for specific streets.
- Obstructions permitted over streets and alleys and in required set-backs, yards and usable open space (§136)
- Requirement that all dwelling units face on an open area (§140)
- Street trees required for new development (§143)
- Screening of rooftop features (§141)
- Screening of parking features (§142)
- Off-street parking requirements (Article 1.5)
- Off-street loading requirements (Article 1.5)
- Accessory uses permitted for listed principal and conditional uses (§§204-204.5)
- Temporary uses permitted by the Commission or Zoning Administrator (§§205-205.2
- Nonconforming uses (§§180-187)
- Density limitations for group housing (§208)
- Density limitations for group housing (§209)
- Sign regulations, including Special Sign districts (Article 6, especially §608 and §§608-608.10 and the SS-numbered series sheets of the Zoning Map

Chart corrected to 09/2008

U:\SDowtech\Documents\Residential Standards Summary.xls

EXHIBIT 13

SAMPLE QUESTION:
Issues:

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS—Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☐
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☐
II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. — Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non–agricultural use?	☐	☐	☐	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☐
d) Result in the loss of forest land or conversion of forest land to non–forest use?	☐	☐	☐	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non–agricultural use or conversion of forest land to non–forest use?	☐	☐	☐	☐
III. AIR QUALITY—Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☐
IV. BIOLOGICAL RESOURCES—Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☐
V. CULTURAL RESOURCES—Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	☐	☐	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☐	☐	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☐
VI. GEOLOGY AND SOILS—Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☐	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist–Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☐
ii) Strong seismic ground shaking?	☐	☐	☐	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☐
iv) Landslides?	☐	☐	☐	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☐
VII. GREENHOUSE GAS EMISSIONS — Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☐
VIII. HAZARDS AND HAZARDOUS MATERIALS— Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☐
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☐
IX. HYDROLOGY AND WATER QUALITY—Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☐
f) Otherwise substantially degrade water quality?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Place housing within a 100–year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☐
h) Place within a 100–year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☐
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☐
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☐
X LAND USE AND PLANNING—Would the project:				
a) Physically divide an established community?	☐	☐	☐	☐
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☐
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☐
XI. MINERAL RESOURCES—Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☐
b) Result in the loss of availability of a locally–important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☐
XII. NOISE— Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐
XIII. POPULATION AND HOUSING—Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or directly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐
XIV. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	☐	☐	☐	☐
Fire protection?	☐	☐	☐	☐
Police protection?	☐	☐	☐	☐
Schools?	☐	☐	☐	☐
Parks?	☐	☐	☐	☐
Other public facilities?	☐	☐	☐	☐
XV. RECREATION—				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☐
XVI. TRANSPORTATION/TRAFFIC—Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☐
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☐
e) Result in inadequate emergency access?	☐	☐	☐	☐
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☐
XVII. UTILITIES AND SERVICE SYSTEMS— Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☐
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE—				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☐

EXHIBIT 14

FILE NO. 021598

LEGISLATIVE DIGEST

[Secondary Units]

Ordinance amending the San Francisco Planning Code by repealing Section 207.2 in its entirety, adding a new Section 207.2, and amending Section 209.1 to authorize one additional secondary unit limited to 750 square feet of gross floor area within an existing structure on a lot within 1250 feet of a Primary Transit Street or Transit Center and also within 1250 feet of a Neighborhood Commercial or Commercial zoning district, on a lot containing a qualified historical building or where the unit is specifically designed and constructed for the elderly or persons with physical disabilities and to prohibit the owner from legalizing an illegal unit pursuant to the provisions of this ordinance, and providing that the secondary unit shall not be subject to the Rent Ordinance but requiring that a secondary unit in a multi-family building shall be subject to affordability requirements; by amending Sections 135(d), Table 151 of Section 151 and amending Section 307(g) to establish the amount of open space and parking required for these secondary units; and by amending the San Francisco Traffic Code by adding Section 308.5.1 to prohibit issuance of a residential parking permit to the occupant of a secondary unit; by adding new Section 106.4.1.3 to the San Francisco Building Code to require site inspection prior to issuance of a building permit for the secondary unit to verify that no unpermitted unit exists on the property and prohibiting the issuance of a building permit or certificate of occupancy for the second unit if an unpermitted unit has operated on the property within the previous ten years, unless that unit was legally demolished prior to January 1, 2003; and by amending Section 37.9 of the San Francisco Administrative Code to require relocation assistance for persons required to vacate illegal units; and adopting findings.

Existing Law

Planning Code Section 209.1 currently permits small second units to be installed in single-family homes located in single-family zoning districts only in areas zoned RH-1(S) or where the unit is designed for and occupied by seniors or persons with physical disabilities. In other zoning districts, the number of units is limited to that authorized by the district – for example, two units in an RH-2 zoning district. Section 207.2 precludes second units from being installed in single-family homes except as authorized by Section 209.1.

Amendments to Current Law

This ordinance would repeal current Planning Code Section 207.2 and replace it with a new section that authorizes one small second unit (limited to 750 square feet of gross floor area) to be added to an existing residential building or accessory structure on the same lot under specified circumstances. Addition of the second unit would not change the official zoning classification of the lot.

Supervisor Peskin
BOARD OF SUPERVISORS

The second unit would only be permitted (1) on a lot which is within 1250 feet of a Primary Transit Street or Transit Center and also within 1250 feet of a Neighborhood Commercial or Commercial district, (2) on a lot containing a "qualified historical building," or (3) where the unit is specifically designed for and occupied by the elderly or persons with physical disabilities. Installation of a second unit may not expand the envelope of the structure either horizontally or vertically. Installation of the second unit in a qualified historical building will subject the building to the standards and procedures set forth in the Article 11 of the Planning Code for alteration of Significant Buildings; the alteration itself must meet the standards of Article 11. Units designed for the elderly or persons with physical disabilities must meet the disabled access requirements of Building Code Section 101.17.9.1 and also provide an accessible path of travel into the building for wheelchair users.

Parking requirements for the second unit would be waived. To discourage on-street parking, the Parking and Traffic Department would be prohibited from issuing a residential parking area permit for any vehicle registered to the tenant of a second unit installed pursuant to this ordinance. Required open space for the second unit is reduced and may be eliminated by the Zoning Administrator through the exception procedure authorized by Planning Code Section 307(g).

Illegal units may not be legalized by utilizing the provisions of this ordinance. Prior to approval of a building permit for the secondary unit, the Department of Building Inspection must inspect the site to ensure that an unpermitted dwelling unit does not exist on the property; DBI must also review various City records to determine that an unpermitted unit had not been in existence for the prior ten years unless the unpermitted unit was demolished with a building permit prior to January 1, 2003.

Secondary units in single-family homes will not be subject to the Rent Ordinance. Secondary units in multi-family buildings shall be subject to the maximum annual rent and Notice of Special Restrictions under Planning Code Section 315. If the owner chooses to pay an in-lieu fee, the fee shall be either $5,000 or the amount specified in Planning Code Section 315.6, whichever is less.

Background Information

San Francisco currently has a severe housing shortage, in particular a shortage of affordable units and units for persons with disabilities. The Association of Bay Area Governments (ABAG) has predicted that the number of households in the City will continue to increase at an average of 2,116 new households per year. In addition, ABAG has determined that San Francisco's share of the regional housing need for 1999 through June 2006 is 20,374 units, or 2,717 units per year. The Planning Department has found that San Francisco would need a total annual housing production rate of 2,852 units through June, 2006 to achieve a 5 percent vacancy rate over the City's housing need.

Because job growth has outpaced housing development, and housing demand remains high in San Francisco, rents in the City have increased dramatically over the past decade. While renters occupy 61 percent of housing units in the City, the Planning Department estimates

that almost 80 percent of San Francisco households could not afford the average monthly asking rent for a market-rate two-bedroom apartment in 1999. As the findings in the ordinance point out, the high cost of housing leads to numerous troublesome effects.

A Planning Department study states that both market-rate and affordable housing developers have reported that acquiring sites for housing in San Francisco is a challenge. One of the Department's recommendations for increasing the housing supply is to allow an increase in housing densities in appropriate areas. The Department has estimated that as many as 30,400 units can be constructed on sites bordering transit-preferential streets and neighborhood commercial districts. Allowing homeowners in San Francisco's transit intensive and shopping areas to add secondary rental units to their property is one of the most promising strategies for increasing the supply of housing in the City without significantly changing the aesthetic character of its neighborhoods. Studies show that secondary units added to existing homes are generally more affordable than traditional rental units because they can be installed for one-third the cost and homeowners often charge less rent in order to get and keep good tenants. Allowing owners of historic buildings to add second units will facilitate the retention of those buildings, and providing an incentive to add units accessible to the elderly and persons with disabilities will increase the supply of that much needed housing stock.

EXHIBIT G

CHATTEN-BROWN & CARSTENS
2601 OCEAN PARK BOULEVARD
SUITE 205
SANTA MONICA, CALIFORNIA 90405
www.cbcearthlaw.com

TELEPHONE:(310) 314-8040
FACSIMILE: (310) 314-8050

E-MAIL:
ACM@CBCEARTHLAW.COM

August 30, 2010

RECEIVED
AUG 31 2010
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
RECEPTION DESK

Via Email (bill.wycko@sfgov.org) and Hand Delivery

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Comments on Draft Environmental Impact Report for Updated San Francisco Housing Element; Planning Department Case No.: 2007.1275E, State Clearinghouse No. 2008102033

Dear Mr. Wycko:

On behalf of San Franciscans for Livable Neighborhoods (SFLN), we provide the following comments on the draft environmental impact report (DEIR) prepared for the 2004 and 2009 updates of the City of San Francisco's (City's) General Plan Housing Element. This DEIR is intended to serve as a Program EIR for future area plans and essentially all residential development in the City; thus, its analysis and mitigation of environmental impacts will have far reaching consequences.

SFLN is an unincorporated association that includes several neighborhood organizations: the Cow Hollow Association, the Francisco Heights Civic Association, the Greater West Portal Neighborhood Association, the Jordan Park Improvement Association, the Lakeshore Acres Improvement Club, the Laurel Heights Improvement Association of San Francisco, Inc., the Marina-Cow Hollow Neighbors & Merchants, the Miraloma Park Improvement Club, the Pacific Heights Residents Association, the Presidio Heights Association of Neighbors, the Russian Hill Neighbors, the St. Francis Homes Association, the Sunset-Parkside Education and Action Committee, Inc., and the Westwood Highlands Association.

SFLN has been actively involved in the City's process of updating the Housing Element to its General Plan for several years. In 2004, when the City first attempted to adopt the sweeping policy changes for residential development proposed in the 2004 and 2009 Housing Elements, which include massive increases in density, elimination of height restrictions and parking requirements, and reduction in setback requirements, SFLN brought a legal action challenging the City's reliance on only a negative declaration as the environmental review document supporting the approval. The California Court of Appeal agreed with SFLN that the proposed changes to the 1990 Residence Element could result in significant adverse impacts and required the City to prepare an EIR to analyze those impacts.

The City has prepared this EIR as an attempt to comply with the Court's decision. Unfortunately, the EIR is replete with the same unsupported claim the Court rejected in the *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* decision: that policies advocating increasing density, eliminating parking requirements and height restrictions, and reducing setbacks would somehow not be the driving force in those changes being enacted. (Attachment 1, *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* 2007 WL 1793881.) However, by failing to prepare a legally adequate EIR, the City has failed to comply with the Peremptory Writ of Mandate issued by the San Francisco County Superior Court in this case. The EIR must be revised to acknowledge and analyze the reasonably feasible results of the policy changes proposed in the 2004 and 2009 Housing Elements. By failing to do so, the DEIR contains and is premised upon a confusing and misleading project description. The EIR also fails to adequately analyze a reasonable range of alternatives, in particular an alternative that would address the affordable housing needs of the City without the need for rezoning or massive increases in density. Further, the DEIR fails to adequately analyze the Housing Elements' aesthetic, wastewater, water supply, land use, greenhouse gas, traffic, parking, and noise impacts. The DEIR must be revised to address all of these inadequacies, and then recirculated.

In order to assist the City in its review of this comment letter, we hereby provide a table of contents for the letter:

I. The DEIR Contains an Inadequate Project Description.....4
A. The Project Description is Confusing.....4
B. All Analysis in the DEIR is Based on the Misleading Premise that the Housing Elements Would Not Encourage an Increase in Population.....6
C. Increased Density is Not Required to Meet Regional Housing Needs Allocation.....8

II. The EIR Must Comprehensively Analyze Mitigation Measures and Alternatives to the Project....10
A. The DEIR Fails to Analyze a Reasonable Range of Alternatives....10
B. Additional Alternatives Should be Analyzed....12
1. Alternative Focused on Meeting the Regional Housing Needs Allocation for All Income Levels....12
a. RHNA Income Level Needs....12
b. RHNA Focused Alternative....13
c. RHNA Focused Alternatives Are Feasible....15
2. No Post-May 2004 Rezoning Alternative....16
3. No Additional Rezoning Alternative....17
C. The DEIR's Failure to Analyze a Reasonable Range of Alternatives Violates the City's "Precautionary Principle."....18
D. The Project Cannot be Approved if There Are Feasible Alternatives and Mitigation Measures that Would Reduce Adverse Impacts....19
III. Numerous Significant Impacts Have Not Been Adequately Addressed....19
A. The DEIR Must Use Existing Conditions as the Baseline for the Project....20
B. The DEIR's Analysis of Aesthetics Impacts is Flawed....21
1. Impacts to Scenic Views Would be Significant....22
2. Visual Resources and Neighborhood Character....23
C. The Proposed Plan Would Exacerbate Existing Wastewater System Inadequacies....26
D. Water Supply Impacts Must Be Thoroughly Analyzed....29
1. The Analysis of Water Supply Impacts is Flawed....29
2. The City Has Inadequate Water Supply....30
3. The City Cannot Rely Upon the Untested Water System Improvement Plan to Provide an Adequate Water Supply....31
E. The Housing Element Fails to Comply with Government Code Requirements....33
F. The DEIR Fails to Analyze the Housing Elements Consistency with Proposition M....34
G. Greenhouse Gas Impacts Are Not Adequately Analyzed....36
H. Traffic Impacts and Parking Reductions Are Inadequately Analyzed and Mitigated....38
I. Noise Analysis Is Flawed....42

Conclusion.....42

I. The DEIR Contains an Inadequate Project Description.

A consistent project description is an important requirement of an EIR. Courts have often stated that: "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192 93; accord *San Joaquin Raptor/Wildlife Reserve Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 730.) The concern over a stable project description goes to the heart of the EIR's value as a document of disclosure, since without a complete and stable project description, it is impossible to definitively determine what impacts the project being evaluated would have. (*McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (1988) 202 Cal.App.3d 1136, 1143 ["An accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity."].)

Failing to heed these requirements, the DEIR's project description is instead confusing and misleading, leaving the public wondering what the proposed project is and why it is being proposed.

A. The Project Description is Confusing.

First, the DEIR is unclear and inconsistent in its description of what the proposed project is. The DEIR includes analysis of both the previously approved 2004 Housing Element, including policies that were struck down by the Court of Appeal, and a separate 2009 Housing Element. The project description states that the subject of the document is the proposed update of the City's Housing Element; however, it is unclear which update is the proposed project—the 2004 Housing Element, the 2009 Housing Element, or both. In some areas of the DEIR, the 2004 Housing Element and the 2009 Housing Element are treated as if they are two alternative project proposals. For instance, the DEIR includes separate analysis of impacts from policy changes contained in the 2004 Housing Element and the impacts associated with policy changes contained in the 2009 Housing Element. The DEIR also refers to the 2004 Housing Element and the 2009 Housing Element as "project options" that will each be analyzed for the Regional Housing Needs Allocation. (DEIR p. IV-13.)

In contrast, the "Project Approvals" section of the DEIR's project description states that after certification of the EIR, the City could re-adopt the 2004 Housing Element **and in addition** could also adopt the proposed 2009 Housing Element. (DEIR p. IV-7.) Thus, it appears both the 2004 and 2009 Housing Elements could be adopted, each with

different policies and focuses. Despite this distinct possibility, the DEIR utterly fails to contain any analysis of the cumulative impacts of adopting both housing elements or whether there are inconsistencies between the 2004 and 2009 plans. The following are a few examples of potential inconsistencies:

- the 2004 Housing Element includes Policy 2.1 ("Discourage the demolition of sound existing housing"), while the 2009 Housing Element provides an exception to the preservation of existing housing, Policy 2.1 ("Discourage the demolition of sound existing housing, *unless the demolition results in a net increase in affordable housing*");
- 2004 Housing Element Policy 1.1 requires the City to "Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhoods support", whereas the 2009 Housing Element Policy 11.3 only requires that the City "Ensure growth is accommodated without significantly impacting existing residential neighborhood character;"
- the 2009 Housing Element would remove 1990 Residence Element Policy 3.6 ("Restrict the conversion of housing in commercial and industrial areas"), whereas the 2004 Housing Element would not.
- the 2009 Housing Element would remove the requirement that large housing projects include affordable housing (1990 Residence Element Policy 7.2), whereas the 2004 Housing Element would retain this policy.

A revised EIR that makes clear what the proposed project is must be recirculated for public review. The revised EIR must answer the following questions:

- Are 2004 and 2009 Housing Elements two alternative project proposals?
- Does the City intend to adopt both the 2004 Housing Element and the 2009 Housing Element?
- Why does the DEIR refer to the 2009 Housing Element as "proposed", but does not use the term "proposed" to describe the 2004 Housing Element?
- If the City intends to approve the 2004 Housing Element and then determine whether or not to approve the 2009 Housing Element at a later date, will additional environmental review be conducted to determine the cumulative impacts of 2004 and 2009 Housing Elements and whether the two elements are consistent with one another?

"By giving such conflicting signals to decision makers and the public about the nature and scope of the activity being proposed, the Project description [is] fundamentally inadequate and misleading." *(San Joaquin Raptor Rescue Center v. County of Merced*

(2007) 149 Cal.App.4th 645, 655-656.) Without clear answers to the above questions, the true impacts of the Project cannot be fully evaluated and disclosed to the public as required by CEQA.

Additionally, a revised DEIR should explain why it is using the 2007-2014 RHNA as the basis for the 2004 Housing Element. The 2004 Housing Element is a readoption of policies that were previously struck down by the Court of Appeal pending the preparation of a full EIR. The 2004 Housing Element would be the policy basis for Area Plans that were adopted between 2004 and the present; these Area Plans were part of the work programs set forth in the previously adopted 2004 Housing Element intended to meet the housing needs identified in the 1999 to 2006 RHNA. The DEIR acknowledges that the 1999 to 2006 RHNA is the planning period for the 2004 Housing Element, but fails to use the RHNA from this period to assess the 2004 Housing Element. (DEIR p. IV-10.)

B. All Analysis in the DEIR is Based on the Misleading Premise that the Housing Elements Would Not Encourage an Increase in Population.

Additionally, the entire project description and DEIR analysis is underwritten by the unsupported claim that the 2004 and 2009 Housing Elements would not result in an increase in population despite the policies encouragement of increased density. (DEIR p. V.D-27.) The 2004 and 2009 Housing Elements encourage increased density through proposals to remove density, height, and setback restrictions and parking requirements in area plans for neighborhoods within the City.

When an EIR "conceal[s], ignore[s], exclude[s], or simply fail[s] to provide pertinent information [regarding] a reasonably foreseeable consequence of [a] project", the project's description is inadequate. (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 82.) The DEIR fails to discuss any evidence to support the claim that increasing density does not increase the population size. Logically, the more residential units that are located within a city, the more persons that can live in that city. Additionally, the 2004 and 2009 Housing Elements encourage a change from mainly one and two person households, to the provision of family housing, which includes space for more persons and thereby increasing the size of the population. (DEIR IV-13, IV-24.) The DEIR assumes that the population growth is a foregone conclusion for San Francisco. Based on population data from the Census Bureau for the past 10 years, it is clear that this is not true. Between the years of 2000 and 2005, the City's population steadily decreased. (San Francisco population data is available at factfinder.census.gov, incorporated by reference.)

The City previously estimated that the policies promoting increased density, height

increases, set back decreases, and elimination of parking requirements contained in the 2004 Housing Element would allow for a 78,000 unit increase in the City's residential housing capacity. (Attachment 2, excerpts from San Francisco Planning Department Community Planning in the Eastern Neighborhoods, Rezoning Options Workbook, February 2003, 11 AR 2806[1], 2813, 2925.) More recent population estimates show an even greater population increase resulting from the change in City policies. Estimates of significant population increases resulting from the City's proposed increased density policies are available and are contained in the DEIR's water supply analyses. The October 2009 SFPUC, Final Water Supply Availability Study for City and County of San Francisco ("2009 Water Study") states at page 21 that the City recently evaluated projected demands and incorporated the updated San Francisco Planning projections for residential use and non-residential growth and that this "analysis results in a 2030 growth projection that differs from the 2005 UWMP." (DEIR Appendix H.) "As shown in Table 5-1 new residential growth is expected to increase by 29,787 units." (*Id.*) The 2005 Urban Water Management Plan residential growth projections were based on 2002 Association of Bay Area Governments ("ABAG") and City projections.

The updated 2030 City growth projection shown in Table 5-1 incorporates a fundamental shift in ABAG's projection methodology. "Rather than taking existing local land use policy as a given (as had previously been the case), in the projections following the 2002 projections, ABAG assumes that local policy will be amended in the future to adopt 'smart growth' principles. Specifically, the projections assume that higher density growth will be focused in urban core areas, and that more housing will be produced in those areas, compared to that previously assumed. The result of these assumptions is to increase the expected population in already developed areas." (DEIR Appendix H, 2009 Water Study p. 22.)

Appendix A to the 2009 Water Study is a memo from the City's Planning Department which states that based on "citywide growth expectations by 2030 designed to closely match the recently adopted ABAG Projections 2009 target, but taking into account local knowledge of projects currently in various stages of the entitlement process, commonly referred to as the development pipeline," the population of San Francisco is projected to increase from 783,441 in 2005 to 916,800 by 2030. (DEIR Appendix H, 2009 Water Study appendix A.) This is a projected increase of 133,359 residents, which amounts to a 17% increase in the City's population.

The EIR also mistakenly attempts to separate the City's rezoning efforts to

1 Where attachments include pages of the administrative record certified for use in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, SFLN has provided reference to administrative record volume and page number.

increase existing capacity in specific neighborhoods through the approval of area plans from the 2004 and 2009 Housing Elements. The DEIR claims that it is "rezoning efforts [that] will increase the existing capacity in those neighborhoods, allowing for the development of additional housing units above and beyond what is shown..." (DEIR p. IV-14.) However, without the policy changes proposed by the 2004 and 2009 Housing Elements, those rezoning efforts would be inconsistent with the existing 1990 Residence Element and 1990 Residence Element policies carried forward into the 2004 Housing Element. Specifically, the Area Plans that have been adopted by the City since the 2004 Housing Element was previously approved, including plans for the Eastern Neighborhoods, Market & Octavia, Balboa Park, Central Waterfront, Rincon Hill, and Visitacion Valley, were included as work programs in the 2004 Housing Element to implement policies and objectives of the element that were later stuck down by the Court of Appeal. (2004 Housing Element Policies and corresponding Implementation Measures struck down by the Court: 1.6, 1.7, 11.1, 11.5, 11.6, 11.7, 11.8, 11.9.) It is through these Area Plans that the City has begun rezoning efforts, and without the readoption of policies previously struck down by the Court, these Area Plans are and would continue to be inconsistent with existing plans including the applicable housing element. The proposal to adopt the 2004 Housing Element appears to be a post-hoc rationalization to provide a policy basis for Area Plans that were approved despite the fact that litigation pending at the time of approval struck down the foundation for those plans. Thus, the 2004 Housing Element is the foundation required for the City's premature rezoning efforts and should therefore be analyzed as the driving force behind any rezoning pursuant to Area Plans.

Of additional concern is the 2009 Housing Element's proposal to promote CEQA exemptions as part of the Community Plans. (2009 Housing Element Implementation Measure 74.) By failing to study the impacts of increased density now, and promoting the use of exemptions when approving the projects that would carry out the density increases, the environmental impacts may elude review.

By completely ignoring the reasonably foreseeable consequence of the project to increase population size, the DEIR's project description is inadequate and much of its impact analysis is flawed.

C. Increased Density is Not Required to Meet Regional Housing Needs Allocation.

The project description is further misleading in its claims that the purpose of the 2004 and 2009 Housing Elements are to meet the housing needs for the City set forth in the Regional Housing Needs Allocation (RHNA) prepared by the Association of Bay

Area Governments for the years 2007 to 2014. The 2004 and 2009 Housing Elements both propose policies to encourage dramatic increases in density within the city through the removal of density restrictions and parking requirements and increases in allowable building height. These changes would greatly increase the City's capacity for residential units. However, these increases in capacity are not required to meet the RHNA goals for the City.

The 2007-2014 RHNA shows a need for 31,193 additional residential units in the City by 2014. Projects already under construction in the City and those that have been issued building permits as of early 2009 would go far towards achieving this goal, adding 9,628 residential units. (DEIR Executive Summary pp. IV-22-23.) Additional "pipeline" projects that have been approved by the Planning Department or have filed for Planning Department approval or building permits would add another 46,807 residential units.[2] Thus, with pipeline projects alone, maintaining existing zoning, density, height limitations and required parking, the City could provide 56,435 residential units. (DEIR Executive Summary p. IV-23.) It is assumed by the City that not all of these units will be constructed by 2014. Those included in three major high density projects, Candlestick Point-Hunters Point Shipyard, Treasure Island, and Park Merced, are estimated to be completed by 2020. These three major high density projects would add 23,443 new residential units to the City, a portion of which would be constructed by 2014.

For the 23,364 units that are part of pipeline projects that have not begun construction or received building permits and are not part of the three major high density projects, the City estimates that between 65 and 70 percent of units would be completed within five to seven years (or between 2014 to 2016, since the data on pipeline projects is from early 2009). (DEIR Executive Summary p. IV-23.) Thus, it can be estimated that at least 15,186 of these residential units would be constructed by 2014 to 2016.

When considering the projects already under construction, the three major high density planned developments, and the additional pipeline projects, and using conservative estimates for how many pipeline projects would be fully constructed by 2014, the City would be able to exceed the RHNA goal. In fact, the DEIR admits that the "pipeline units anticipated to be developed in the City total approximately 25,000 units more than the City's share of the RHNA." (DEIR Page V.D-9.) And this does not include the additional projects that have been approved since early 2009 and undoubtedly

2 It is unclear from the DEIR whether any of the pipeline projects have been proposed pursuant to the rezoning efforts that were included in Area Plans that were adopted to implement 2004 Housing Element policies that were struck down by the Court of Appeal. If so, how many pipeline projects are there in each neighborhood if the projects proposed pursuant to post May 13, 2004 rezoning are not considered?

will be proposed and approved in the next few years. Beyond the pipeline projects, there is existing capacity for an additional 60,995 residential units in the City without any changes to zoning, density, height restrictions or parking requirements. (DEIR p. V.D-9.) In addition to being well on its way to meeting the RHNA's goal with projects already in the works, the City's existing housing capacity of approximately 117,430 is far in excess of what is required to meet the goal.

Thus, it is misleading for the DEIR to claim that the increased densities and removal of height restrictions, setback and parking requirements proposed as part of the 2004 and 2009 Housing Elements are required to meet the RHNA goals. The California Department of Housing and Community Development agreed that rezoning was not required to meet the City's RHNA in the 2004 Housing Element. (Attachment 3, letter from California Department of Housing and Community Development to the City.) Since the City is already able to exceed this goal without any changes to land use, the question becomes what is the real reason for the proposed encouragement of increased density? If the City's true goal is to make sweeping changes to the existing densities in the City for other reasons, the update of the Housing Element should not be used to obfuscate this intent. What is the City's actual goal for number of new housing units? What are the target densities for each defined area of the City? These questions must be answered in order to provide an accurate project description.

II. The EIR Must Comprehensively Analyze Mitigation Measures and Alternatives to the Project.

A. The DEIR Fails to Analyze a Reasonable Range of Alternatives.

The alternatives section has been described as the "core" of the EIR (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564), and an adequate EIR must describe a reasonable range of alternatives. (*Laurel Heights Improvement Association v. Regents of the University of California* (1993) 47 Cal.3d 376.) While "An EIR need not consider every conceivable alternative to a project, 'it must consider 'a reasonable range of *potentially* feasible alternatives...'" (Guidelines § 15126.6(a), emphasis added.) "The range of feasible alternatives [for an EIR] shall be selected and discussed in a manner to foster meaningful public participation and informed decision making." (Guidelines § 15126.6 (f).) "[T]he discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening 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." (Guidelines § 15126.6(b).) The City has a duty under CEQA to evaluate a reasonable range of alternatives to the environmentally damaging proposed Project. (*Laurel Heights*

I, supra, 47 Cal.3d at 400.) As the California Supreme Court has stated:

> Under CEQA, the public agency bears the burden of *affirmatively demonstrating* that . . . the agency's *approval* of the proposed project *followed meaningful consideration of alternatives* and mitigation measures.

(*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134, emphasis added; accord *Village Laguna of Laguna Beach v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1035.)

The DEIR fails to analyze a reasonable range of alternatives by considering what amounts to only two alternatives: the no project alternative and an increased density alternative. The DEIR claims to analyze three alternatives to the project: Alternative A-the No Project Alternative/continued reliance on the 1990 Residence Element; Alternative B-the 2004 Housing Element minus the policies that were struck down by the Court of Appeal; and Alternative C-an intensified version of the 2009 Housing Element that would promote additional density through zoning accommodations. (DEIR p. VII-5.)

It is highly misleading for the DEIR to claim that Alternatives A and B are two different alternatives; the policies established in both are currently operative (with the exception of policies and implementation actions enjoined in the Peremptory Writ of Mandate and Amendment to said writ) and should jointly be considered the no project alternative. When the 2004 Housing Element was originally adopted by the City, it included all of the policies from the 1990 Residence Element that were not specifically eliminated or modified and many new policies. The Court of Appeal struck down several of the new and modified policies and refused to allow the elimination of several policies from the 1990 Residence Element, but did not overturn the 2004 Housing Element in its entirety. Thus, the existing No Project Alternative is the combination of 1990 Residence Element policies carried forward in the 2004 Housing Element and the 2004 Housing Element policies that were not struck down by the Court. CEQA Guidelines section 15126.6(e)(3)(A) identifies the no project alternative for projects that revised land use or regulatory plans and policies to be "the continuation of the existing plan, policy or operation into the future." It is the combination of Alternatives A and B that is currently in effect within the City and should be considered the No Project Alternative, not two separate alternatives.

The City itself has treated both housing elements as being in effect when it found the Market and Octavia and Visitacion Valley plans to be consistent with policies set forth in both the 1990 Residence Element and the adjudicated 2004 Housing Element after the Court of Appeal struck down the proposed 2004 Housing Element amendments.

(See Attachment 4, City's findings of consistency with 1990 Residence Element for the Market and Octavia Neighborhood Plan, printed from the website of the City and County of San Francisco on September 23, 2008; Attachment 5, excerpts from City's Eastern Neighborhoods Rezoning and Area Plans DEIR, printed from the website of the City and County of San Francisco on September 23, 2008; Attachment 6, excerpt from Eastern Neighborhoods Rezoning and Area Plans Comments and Responses on Draft EIR setting forth comparisons between objectives and policies of 1990 and 2004 housing elements printed from the website of the City and County of San Francisco on September 22, 2008; Attachment 7, San Francisco Planning Commission Resolution 17791 listing policies and objectives of both 2004 and 1990 housing element that support proposed implementation of Visitacion Valley redevelopment plan printed from the website of the City and County of San Francisco on April 17, 2009.)

By failing to consider any alternatives beyond the No Project Alternative and an Intensified Development Alternative, the DEIR fails to provide meaningful consideration of a range of potentially feasible alternatives. To remedy this error, a revised environmental review document should fully analyze the alternatives set forth below.

B. Additional Alternatives Should be Analyzed.

CEQA's requires an EIR to focus on alternatives that can avoid or substantially lessen a project's significant environmental effects. (Public Resources Code § 21002; CEQA Guidelines § 15126.6.) By including only the No Project Alternative and an Intensified Development Alternative, the DEIR lacks the required focus. To allow for meaningful public participation and informed decision making, the DEIR needs to expand the range of alternatives that it analyzes. An EIR should consider a reduced growth alternative if it would meet most of the objectives of the project but would avoid or lessen any significant environmental impacts of the project. (*Watsonville Pilots Ass'n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1089-1090.) The following alternatives should be fully analyzed in a revised environmental review document.

1. Alternative Focused on Meeting the Regional Housing Needs Allocation for All Income Levels.

a. RHNA Income Level Needs.

The RHNA provides not only a target number of new units for the City, but also how those units should be allocated so as to be affordable for households with four different income levels: very low income (households earning up to 50 percent of the

median income)[3]; low income (households earning between 51 and 80 percent of the median income); moderate (households earning between 81 and 120 percent of the median income); and above moderate (households earning more than 120 percent of the median income). (San Francisco Bay Area Housing Needs Plan 2007-2014, p. 46 found at http://www.abag.ca.gov/planning/pdfs/SFHousingNeedsPlan.pdf, incorporated by reference.) Ensuring the affordability of the region's housing stock is one of the main goals of the RHNA.

For the previous RHNA, encompassing the years 1999 to 2006, the City was able to meet the 86 percent of overall housing production target, but achieved only 52 percent of the low income production target and a mere 13 percent of the moderate income target. The City was able to meet 83 percent of the target for very low income housing for the years 1999 to 2006 under the existing housing element policies—much more than 44 percent of very low income housing that was achieved by Bay Area cities on average. (Association of Bay Area Governments report "A Place To Call Home, Housing in the San Francisco Bay Area, 2007", p. 9 www.abag.ca.gov/planning/housingneeds/pdf/resources/A_Place_to_Call_Home_2007.pdf, incorporated by reference.)

The 2007-2014 RHNA sets the overall housing production target at 31,193 units. Targets for each income level are as follows: 6,589 units for very low income (3,294 of those units for extremely low income); 5,535 low income units; 6,754 moderate income units; and 12,315 above moderate income units. (DEIR p. V.D-5.) The DEIR must, but fails to, include a prediction regarding how many units for each income level would be provided under the 2004 and 2009 Housing Elements, or under either of the alternatives. The DEIR also fails to include an assessment of how the pipeline units would be allocated between these four income level categories.

b. RHNA Focused Alternative.

Based on past performance, the City does not need to greatly increase the number of units that are produced to meet the goals of the RHNA; instead, the City needs to focus its housing policies on achieving more moderate and low income units, units which it was not able to provide a significant portion of the target production under the existing policies. To this end, the DEIR should include analysis of a RHNA Focused Alternative,

---

3 Extremely low income households are a subset of the very low income category that is not included in the RHNA, but the City is required to analyze the need for this income level pursuant to AB 2634. These households earn less than 30 percent of the median income. Half of those in the very low income category are assumed to be extremely low income households. (San Francisco Bay Area Housing Needs Plan p. 14; DEIR p. IV-11.)

a housing element that includes policies directed at meeting the specific income level needs indentified in the RHNAs relevant to the different planning periods encompassed by each of these Housing Elements, instead of just providing wholesale density increases. This alternative would include policies designed to encourage moderate and low income housing and would not require density increases because the City can meet the total number of RHNA units with pipeline projects and existing vacant and undeveloped sites.

In its analysis of Alternatives A and B, the DEIR claims that the additional density provided by the policies in the 2004 and 2009 Housing Elements are required to meet the housing requirements for the RHNA, and in particular these density increases are required to meet the affordable housing targets identified in the RHNA. This claim is without support for two reasons. First, as discussed in section I.C above, increased density was determined to not be required to meet the 1999 to 2006 RHNA, and is also not required to meet the City's target of producing 31,193 new housing units by 2014.

Moreover, there is no evidence to support the DEIR's claim that wholesale density increases are required to meet the housing production targets for moderate, low, or very low income housing. The policies contained within the 2004 and 2009 Housing Elements would allow development with increased density and in some instances no limits on density, increased building heights, and no parking requirements **regardless of whether these developments include any on-site affordable units.** The DEIR should analyze whether providing such benefits to any type of housing could decrease the number of affordable housing units that are constructed. If a developer is able to receive these development incentives without the need to include affordable units as part of the project, profit-focused developers would logically build the unit type that would make them the most money—above median income housing. Additionally, the increased profitability of development with unrestricted density and no parking requirements could encourage individuals that own smaller and older buildings to redevelop. This could result in a removal of affordable housing units because smaller and older housing stock is more likely to be affordable. (2009 Housing Element, Part 2, p. 24.)

The RHNA Focused Alternative should include policies that only would provide incentives to development if the development includes affordable housing units. Special benefits, such as density bonuses beyond those mandated by SB 1818, should only be provided to those developments that provide large amounts of the needed affordable units.

This alternative should specifically include policies aimed at providing housing units for the most underserved income level: moderate income households. The City should also analyze whether moderate income households would pursue living in housing

units where parking is not provided before including this as an across the board incentive for all affordable housing. Other policies that should be included or expanded upon in the RHNA Focused Alternative include:

- Policies encouraging the development of rental units (based on the 2009 Housing Element's claim that market-rate rental units provide housing to moderate income households, Objective 3);
- Policies focused on limiting the conversion of rental units to condominiums;
- Policies that encourage the development of limited equity cooperatives;
- Policies focused on improving public schools to attract more moderate income families to the City.

The City should also analyze a RHNA focused alternative for the planning period relevant to the 2004 Housing Element, 1999 to 2006. This alternative should contain the same focus in its policies, but with the goal of achieving the residential needs identified in the 1999 to 2006 RHNA.

c. RHNA Focused Alternatives Are Feasible.

To be considered feasible, a project alternative needs only to meet most of the project objectives; it does not need to fully meet each one. "If there are feasible alternatives or feasible mitigation measures that would accomplish most of the objectives of a project and substantially lessen the significant environmental effects of a project subject to CEQA, the project may not be approved without incorporating those measures." (*Center for Biological Diversity, Inc. v. FPL Group, Inc.* (2008) 166 Cal.App.4th 1349, 1371 fn 19, citation to Pub. Resources Code §§ 21000(g), 21002; CEQA Guidelines § 15091.) The project objectives for the housing element update are:

1. Provide a vision for the City's housing and growth management through 2014;
2. Maintain the existing housing stock to serve housing needs;
3. Ensure capacity for the development of new housing to meet the RHNA at all income levels;
4. Encourage housing development where supported by existing or planned infrastructure, while maintaining existing neighborhood character;
5. Encourage, develop and maintain programs and policies to meet projected affordable housing needs;
6. Develop a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals; and
7. Adopt a housing element that substantially complies with California housing

element law as determined by the California Department of Housing and Community Development.

Not only would the RHNA Focused Alternatives meet all of the project objectives, they would better meet some of the objectives than the 2004 and/or 2009 Housing Elements. Since these alternatives would be directed to producing housing units specified for each income type by RHNA, they would better meet Objective 3.

This alternative would also be better designed to meet both aspects of Objective 4. The 2004 and 2009 Housing Elements would have significant and unavoidable transit impacts, due to inadequate transit for the growth that would be spurred by the policies in these plans. Thus, there is inadequate existing or planned infrastructure for the proposed project. The RHNA Focused Alternative would not provide the wholesale density increases advocated by the 2004 and 2009 Housing Elements, placing less of a burden on the City's transit infrastructure and reducing a significant impact of the project. The 2004 and 2009 Housing Elements would also fail to maintain the existing neighborhood character because they encourage increased density in all areas of the City; allowing new development that could be out of scale with existing development. By focusing on providing affordable housing instead of increasing density, the RHNA Focused Alternatives would have less of a negative impact on neighborhood character.

The RHNA Focused Alternatives would also comply with state housing element law by seeking to provide the types of housing advocated by the RHNA.

In addition to better meeting the project objectives than the proposed project would, these alternatives would also reduce many of the significant adverse impacts discussed in section III below by not encouraging the density increases, height increases, and lack of parking, unlike the 2004 and 2009 Housing Elements.

2. No Post-May 2004 Rezoning Alternative.

The DEIR should also include analysis of No Post-May 2004 Rezoning Alternative. As discussed above, the California Department of Housing and Community Development found that the City's 2004 Housing Element would still be in compliance with state housing element law once the policies and implementation measures that were struck down by the Court of Appeal were removed from the housing element. (Attachment 3.) Moreover, when adopting the Visitacion Valley Redevelopment Plan in April 2009, after the removed 2004 Housing Element policies were enjoined, the City specifically found that "San Francisco's existing zoning requirements are **not** a constraint on the development of housing, and the Housing Element identifies adequate sites for a

variety of housing types." (Attachment 8.)

The No Post-May 2004 Rezoning Alternative would include those policies and implementation that are designed to produce only the total number of units required by 2007 to 2014 RHNA allocations and no more; thus, none of the 2004 Housing Element changes enjoined in *San Franciscans for Livable Neighborhoods v. City of San Francisco* would be needed. This alternative would require the reversion to pre-May 2004 zoning in neighborhoods for which Area Plans were adopted after May 2004 to implement policies in the 2004 Housing Element that were enjoined. It would avoid rezoning established neighborhoods.

This alternative would also focus on encouraging the development of two of the City's three major projects: Candlestick Point-Hunters Point Shipyard and Treasure Island. These areas will be built from the ground up, with new and adequate infrastructure, allowing them to accept a higher rate of density. Rezoning to increase density or reduce parking requirements would not be allowed in established residential areas.

The No Post-May 2004 Rezoning Alternative would reduce many of the significant impacts the DEIR fails to acknowledge, such as: aesthetics, inadequate wastewater and water supply capacity, land use, traffic and noise. It would also reduce the significance of the one impact the DEIR does acknowledge as being significant—transit impacts.

This alternative would also meet the majority the project objectives, making it a feasible alternative. Further, it would reduce the significant transit impact acknowledged by the DEIR, as well as the impacts the DEIR fails to admit would result from the 2004 and 2009 Housing Element. (See section III below.)

3. No Additional Rezoning Alternative.

The DEIR should also include analysis of a No Additional Rezoning Alternative. The No Additional Rezoning Alternative would include those policies and implementation actions that are designed to produce only the total number of units required by the 2007-2014 RHNA allocations and no more; thus, for the reasons stated above, none of the 2004 Housing Element changes enjoined in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco* would be needed. This alternative would not require the reversion to pre-May 2005 zoning, but it would discourage further rezoning in Area Plans, Better Neighborhoods Programs, Special Use Districts or other planning measures beyond the rezoning provided in Area Plans and

other planning measures adopted between 2004 and the present.

This alternative would discourage additional rezoning of the City's established neighborhoods and focus on encouraging development of two of the City's major projects: Candlestick Point-Hunters Point Shipyard and Treasure Island. These areas will be built from the ground up, with new and adequate infrastructure, allowing them to accept a higher rate of density. Rezoning to increase density or reduce parking requirements would not be allowed in established residential areas.

Like the RHNA Focused Alternatives and the No Post-May 2004 Rezoning Alternative, the No Additional Rezoning Alternative would reduce many of the significant impacts the DEIR fails to acknowledge, such as impacts on visual resources and neighborhood character, aesthetics, views, transportation, air quality, water supply, wastewater treatment and noise. It would also reduce the significance of the one impact the DEIR does acknowledge as being significant – transit impacts. This alternative would also meet the majority of the project objectives, making it a feasible alternative.

C. The DEIR's Failure to Analyze a Reasonable Range of Alternatives Violates the City's "Precautionary Principle."

The discussion of alternatives in the DEIR fails to comply with the Precautionary Principle set forth in San Francisco Environment Code section 101. That provision requires all officers, boards, commissions, and departments of the City and County to implement the Precautionary Principle in conducting the City and County's affairs. "The Precautionary Principle requires a thorough exploration and a careful analysis of a wide range of alternatives. Based on the best available science, the Precautionary Principle requires the selection of the alternative that presents the least potential threat to human health and the City's natural systems. Public participation and an open and transparent decision making process are critical to finding and selecting alternatives." (San Francisco Environment Code section 101)

As to the assessment of alternatives, subdivision (3) of that Principle provides that an " obligation exists to examine a full range of alternatives and select the alternative with the least potential impact on human health and the environment including the alternative of doing nothing."

As to the Right to Know, subdivision (2) of that principle provides that the "community has a right to know complete and accurate information on potential human health and environmental impacts associated with the selection of products, services, operations or plans. The burden to supply this information lies with the proponent, not

with the general public." The DEIR fails to analyze a reasonable range of alternatives and therefore fails to comply with the requirements of the Precautionary Principle as to assessment of alternatives and the public's right to know.

D. The Project Cannot be Approved if There Are Feasible Alternatives and Mitigation Measures that Would Reduce Adverse Impacts.

CEQA prohibits approval of projects with adverse environmental impacts if there are feasible alternatives. (Pub. Resources Code § 21002; Guidelines § 15021(a)(2).) The CEQA Guidelines require an agency to "Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved." In order to implement this policy, the Guidelines specify that:

> A public agency may approve a project even though the project would cause a significant effect on the environment *if* the agency makes a fully informed and *publicly disclosed decision* that:
>
> (a) There is no feasible way to lessen or avoid the significant effect..."

(Guidelines § 15043, emphasis added.) As set forth above, there are feasible alternatives to the Project that could reduce the Project's significant transit impacts. Therefore, the Project cannot be approved as proposed.

Additionally, the DEIR should include an in depth analysis of the capacity of the transit system for all neighborhoods within the City. This analysis should then be used to encourage development in those areas where there is adequate transit service now and in the future. For the areas that do not have adequate additional transit capacity, the housing element should not allow measures such as elimination or reduction of parking requirements and increased density. Without this analysis, many of the 2009 Housing Element's proposed policies would make no sense. The 2009 Housing Element focuses on encouraging density near transit, but if that transit cannot support the added density, there is no reason to encourage it.

III. Numerous Significant Impacts Have Not Been Adequately Addressed.

To be legally adequate, an EIR must comprehensively identify and address all of the "significant environmental effects" of a proposed project. (Public Resources Code § 21100(b)(1); CEQA Guidelines § 15126.2.) "All phases of a project," including

"planning, acquisition, development, and operation," must be addressed. (CEQA Guidelines § 15126.) And both "[d]irect and indirect significant environmental effects" must be analyzed, "giving due consideration to both the short-term and long-term effects." (CEQA Guidelines § 15126.2(a).) San Francisco is already the most densely developed city California and the second densest city in the Country. (http://www.sfdpw.org/index.aspx?page=1285, incorporated by reference.) By encouraging further density increases, the 2004 and 2009 Housing Elements would have significant adverse environmental impacts that the DEIR fails to adequately analyze or mitigate.

A. The DEIR Must Use Existing Conditions as the Baseline for the Project.

CEQA requires an EIR to analyze the impacts of a project as compared to the current, existing conditions:

> (a) An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published…
> (e) Where a proposed project is compared with an adopted plan, the analysis shall examine the existing physical conditions at the time the notice of preparation is published, or if no notice of preparation is published.

(CEQA Guidelines §15125.) The DEIR fails to follow this requirement.

For land use and aesthetic impacts, the DEIR only compares the 2004 and 2009 Housing Elements to the maximum allowable density and height requirements set forth in adopted plans, it does not compare the proposed project with the existing physical conditions. (DEIR V.B-2, V.C-9 to 10.) There is no discussion of the actual existing building heights and densities in the areas proposed for increases. CEQA requires a comparison of the project to the actual physical conditions as well, which the DEIR fails to do. The California Supreme Court recently reconfirmed this requirement, finding an oil refinery could not use at its baseline for environmental review the maximum emissions it was allowed to produce under existing permits, instead, the baseline was the actual amount of emissions it was producing as the time of the environmental review. (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 316.)

B. The DEIR's Analysis of Aesthetics Impacts is Flawed.

The DEIR acknowledges the beauty of the City, enhanced by its natural

surroundings, unique topography, and the individual character of its neighborhoods. The document even deems views from San Francisco's sidewalks to be sensitive and important. (DEIR p. V.C-3.) Even so, the proposed 2004 and 2009 Housing Elements will likely have significant impacts on neighborhood character and aesthetics because they would encourage the construction of taller and bulkier buildings, the provision of less parking, and relaxed design consistency standards. These adverse impacts include the blocking of scenic views due to the construction of tall and massive buildings in sensitive areas; reduction of neighborhood character resulting from the construction of new structures of discordant height, bulk, or architecture, the reduction of building setbacks, or the reduction of private open space; visual impacts due to vehicles parking on sidewalks; and the loss of architectural quality and historically significant structures caused by incentives to tear down older, less dense structures. (See Attachment 9, Statement of planning expert David Golick, 8 AR 1923-1928, 1919-1920, 2290.)

Scenic views, vistas, and neighborhood character within the City of San Francisco are protected by the Urban Design Element of the General Plan. The Urban Design Element protects these resources by emphasizing building forms that improve the integrity of open spaces (Policy 3.4); relating the height of buildings to the height of existing development (Policy 3.5); and relating the bulk of buildings to the prevailing scale of development to avoid overwhelming or dominating appearances (Policy 3.6). Unfortunately, policies of the 2004 and 2009 Housing Elements that encourage development of the full building envelope, increasing height and massing, reducing open space, and relaxation of neighborhood design standards conflict with the Urban Design Element.

Despite this fundamental inconsistency, the DEIR determines that neither the 2004 nor the 2009 Housing Element would have significant impacts on aesthetics. The aesthetics analysis arrives at this incorrect conclusion because the Housing Elements will not themselves relax height and density restrictions. (See, DEIR p. V.C-18, V.C-23, V.C-26.) The DEIR's justification, however, flies in the face of the Court of Appeal decision that mandated preparation of this EIR. That decision held that an EIR was required for the 2004 Housing Element because, "Although it may be technically true that the Housing Element is not linked to any specific rezoning, ordinance changes, or future development...it is not a vague policy document, completely unconnected to future development or potential physical changes to the environment." (*San Franciscans for Livable Neighborhoods v. City and County of San Francisco,* 2007 WL 1793881 at *6.) On these same grounds, the court rejected the initial study, which repeatedly emphasized that the "Housing Element 'alone' will not produce new housing" so impacts need not be considered. (*Id.* at *11.) As both the Court and the City recognize, the Housing Element will be the foundation for future area plans that may relax height and density restrictions

and increase building heights and bulk. Thus, contrary to the DEIR's conclusion, the Housing Element will likely result in increases in building height and bulk, increasing the potential for significant aesthetic impacts.

1. Impacts to Scenic Views Would be Significant.

Since the analysis concludes that no aesthetic impacts will occur, it finds impacts to scenic views and visual resources to be minimal. The DEIR's conclusion is undermined by statements in the DEIR that admit to the potential for such impacts. The DEIR acknowledges that development under the proposed Housing Elements could result in impacts to scenic vistas "if it would be developed in a manner that obstructs views [of] a scenic vista from a public area or introduces a visual element that would dominate or unset the quality of a view." (DEIR p. V.C-11.) Specifically, the 2004 Housing Element, "could...result in development to the maximum allowable height and bulk limits, resulting in taller and bulkier buildings that could result in an adverse effect on a scenic vista" (DEIR p. V.C-12) and the 2009 Housing Element "could result in an adverse effect on a scenic vista by encouraging development of properties in emphasized locations to maximum building envelopes." (DEIR p. V.C-19.)

The likelihood of such impacts of either Housing Element is increased because 13 percent of the City's new housing capacity is in areas where development of increased height or bulk could block protected views. (DEIR p. V.C-12.) An additional 10 percent of this housing capacity is located downtown, where taller or bulkier growth will alter an internationally-recognized skyline.

The DEIR further claims that the 2004 and 2009 Housing Elements will not affect aesthetics because the General Plan's maximum building heights, provided in the Urban Design Element, will not change. However, even if the General Plan already allows higher maximum building heights than existing area or specific plans, these maximum heights have not yet been reached. For analysis under CEQA, impacts must be measured in relation to the existing baseline – in this case, the existing building heights in the area – not in relation to a maximum height that has never been reached in the area. (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 316.) Moreover, the 2004 Housing Element specifically proposes to increase building heights in Implementation Measure 1.6.2: "The Planning Department and Redevelopment Agency will propose increasing height limits, eliminating density requirements, and modifying off-street parking requirements in Transbay/Rincon Hill."

In addition, the Court specifically enjoined the proposed implementation of proposed 2004 New Policy 1.2 "by a specialized type of zoning called 'Transit Oriented

Neighborhood Commercial District (NC-T) Zoning' controls that 'provide increased housing densities above the ground floor and reduced residential parking requirements on linear shopping streets and along transit corridors.' " As explained in the March 23, 2004 statement by planning expert David Golick such proposed zoning changes could result in 50-foot tall buildings in neighborhood commercial areas, and such new construction could disrupt and divide the existing predominantly 1-2 story neighborhood commercial areas and would be incompatible with prevailing neighborhood scale and character. (Attachment 9, Statement by David Golick.) Thus, existing structures in neighborhood commercial areas are lower than the current 40-foot height limit that applies to most such areas.

The DEIR's claim that policies designed to encourage preservation of existing units and promotion of existing neighborhood scale will counteract pressures to increase height and density to the detriment of views (DEIR p. V.C-21) is just as suspect. Density bonuses and policies that encourage increased heights, densities, and numbers of units provide incentives to demolish, rather than retain, smaller existing buildings. Also, Policy 11.4 of the 2009 Housing Element removes the prior requirement that new buildings or renovations be compatible with neighborhood scale. (DEIR p. V.C-20.) The requirement of compatibility with neighborhood character is retained, but "character" does not relate to height and mass the way that "scale" does. The DEIR also incorrectly claims that impacts will not be significant because the 1990 Residence Element promoted density on a broader scale than the 2009 Housing Element. However, Implementation Measure 79 removes the density compatibility component found in corresponding 1990 Residence Element Implementation Measure 2.2.1. (DEIR p. V.C-21.) Thus, this claim is not borne out by the analysis of the DEIR. The DEIR's analysis more adequately supports a conclusion that impacts on views will be significant.

In order to comply with CEQA, the DEIR should be revised to include view simulations, depicting buildings constructed to maximum general plan heights, from the key viewpoints identified in the DEIR (DEIR Fig. V.C-2), and especially those viewpoints identified in the DEIR as vulnerable: Telegraph Hill, Russian Hill, Pacific Heights, Buena Vista, and Dolores Heights.

2. Visual Resources and Neighborhood Character.

The DEIR's analysis of visual resources and impacts on neighborhood character is similarly deficient. The aesthetics analysis states, "much of the City is characterized by unique residential neighborhoods, which each exhibit their own distinctive visual character." (DEIR p. V.C-1.) It also understands that, "Buildings and structures can also be considered visual resources within the City. They can reflect the character of districts

and centers for activity, provide reference points for orientation, and add to topography and views." (DEIR p. V.C-2.)

These unique neighborhoods and other visual resources may be significantly impacted by policies of the 2004 and 2009 Housing Elements that relax neighborhood consistency requirements for construction and that could encourage the demolition of historic and architecturally significant buildings to replace them with buildings that provide greater numbers of housing units. Architectural quality may decrease and the presence of discordant development may increase, exacerbated by policies that encourage increases in building height and bulk, reduced setbacks, and diminished private open space. Policies that encourage taller buildings may turn neighborhoods into sterile, high-walled canyons. These impacts will be greatest in areas of the City with a defined architectural character, such as Japantown.

The 2004 and 2009 Housing Elements relax existing consistency requirements by using less protective language. Generally, 1990 Residence Element policies that required that development *conserve* existing neighborhood character now encourage that development *enhance* existing neighborhood character. While both words will enable development in the same architectural style as what already exists within a neighborhood, "enhance" can be read to allow development with entirely different visual characteristics. This change may have significant impacts on San Francisco's neighborhoods. For example, the 2004 Housing Element seeks to "enhance neighborhood vitality and diversity" (Policy 11.1), a policy that not only allows but promotes purposeful changes to a neighborhood's character. By contrast, the 1990 Residence Element seeks development that "conserves neighborhood character." (Policy 12.4.) Similarly, the 2004 Housing Element wants to "strongly encourage project sponsors to take full advantage of allowable building densities…while remaining consistent with character." (Policy 11.8.) However, increased density in a neighborhood may itself prove to be a conflict. With regard to parking, the 2004 plan speaks of "*respecting* neighborhood character and scale" (Policy 11.9), while the 1990 plan sought parking that "will *promote compatibility* with neighborhood character" (Policy 2.1.) (emphasis added.) Along the same lines, the 2009 policies also promote building rehabilitation that merely "respects neighborhood character." (Policy 11.1.)

The DEIR's determination that relaxation of compatibility standards will not cause significant impacts seems based on the subjective nature of aesthetic impacts. (V.C-25; See, V.C-27 not a "demonstrable adverse effect".) The subjective nature of aesthetic impacts does not even come into play here, however, because it is obvious that a much broader range of styles, heights, sizes, and parking configurations will satisfy the new language, likely to the detriment of community character. The DEIR also attempts to

justify its conclusion of no significant impact because the 2004 and 2009 policies encourage rehabilitation of existing buildings. That may be true, but why must these rehabilitation policies only encourage "respecting" neighborhood character and not "conserving" it? These rehabilitation projects, while potentially less damaging to neighborhood character than replacement projects, do not remove the threat posed by the modified consistency requirements of the 2004 and 2009 Housing Elements.

Neighborhood compatibility could be further impacted by housing element policies that encourage residential development in areas of the City currently dominated by commercial and industrial uses. (2004 Housing Element Policy 1.1 and Implementation Measures 1.3.2, 2.4.2.) New residential uses could be incompatible with existing commercial and industrial uses.

The DEIR also fails to assess any adverse visual impacts that may result from the Housing Elements' policies that allow reduced parking requirements. Cars that are unable to locate parking may park on sidewalks and block driveways, creating visual blight. The DEIR also fails to assess the shade and shadow impacts of larger buildings on the visual quality of the street itself. Although the DEIR does address impacts on outdoor recreation facilities (II-13), public street views are just as important in San Francisco. As visual quality will be reduced if the amount of light reaching the streets is reduced, the EIR must address this impact.

The draft Japantown Better Neighborhood Plan demonstrates that adoption of the 2004 and/or 2009 Housing Element would enable impacts on the environment, contrary to the findings of the DEIR. Upon the expiration of the last redevelopment area, land use in Japantown reverted to city controls established in the 1950s. As a result, some of the area's predominant uses, such as senior housing, are now nonconforming or would require a conditional use permit. The draft Japantown Better Neighborhood Plan seeks to make these uses compatible while also increasing and enhancing the pedestrian environment and vitality of the commercial core. In order to achieve these objectives, however, the plan would eliminate off-street parking standards, prohibit new parking lots, restrict parking garages, eliminate density limits for housing, and provide height bonuses. (draft Japantown Better Neighborhood Plan, p. 52, available at http://www.sf-planning.org/index.aspx?page=2425, incorporated by reference.) It would also relax requirements for new development on historic properties. (*Ibid.*) Without the adoption of the new policies included in the 2004 and 2009 Housing Elements, these proposals for Japantown could not be adopted because they are inconsistent with the existing housing element.

C. The Proposed Plan Would Exacerbate Existing Wastewater System Inadequacies.

Contrary to the assertions in the DEIR, the City of San Francisco is already at its wastewater capacity. Increases in population, derived from an increase in density, will exacerbate capacity issues and adversely impact bay and ocean water quality. San Francisco is unique on the Pacific Coast for its use of a combined sewer system that captures both runoff and sewage, treating both before discharge into the receiving waters. (DEIR p. V.L-7.) While this system operates below capacity most of the year, the system overflows during storm events, causing discharge of only primary-treated sewage into the Pacific Ocean and San Francisco Bay. According to the DEIR, this occurs one to ten times per year at each overflow location. (DEIR p. V.L-12.)

These overflows have dire consequences for the City and cause local receiving waters to violate both state and federal water quality standards. Last year, 17 percent of all water samples taken in San Francisco County exceeded the state's daily maximum bacterial standards. (Natural Resources Defense Council, Testing the Waters 2010, p. CA.2, available online at http://www.nrdc.org/water/oceans/ttw/sumcal.pdf, herein incorporated.) These standards measure enterococcus, E. coli, and total coliform. (*Ibid.*) Many of San Francisco's water quality standard exceedences were traceable to heavy first flush rain events in October 2009 that led to system overflows. Not surprisingly, testing sites near combined sewer overflows failed to meet state daily maximum bacterial standards most frequently. Several beaches located south of a discharge site (See, DEIR Fig. V.L-1) near Candlestick Point failed 46 percent, 26 percent, and 35 percent of the time. (Natural Resources Defense Council, Testing the Waters 2010, p. CA.18.) Baker Beach, located northeast of a discharge site, saw 36 percent of its samples exceed state bacterial standards. (*Ibid.*) Ocean Beach saw 40 percent of its water samples exceed standards, at two different locations. (*Ibid.*) Consequently, the DEIR's assertion that the City is currently in compliance with all permit requirements and water quality standards is incorrect. (DEIR p. V.L-8.)

Adoption of the Housing Elements will compound the City's existing wet weather sewage problems by increasing the City's population, water use, and wastewater discharge. The 2004 Housing Element has been estimated to enable the addition of up to 78,000 housing units to the City and could be as high as 133,359 units.[4] (See Section I.B.) The similar policies of the 2009 Housing Element would result in a similar addition to the City's housing stock. This addition would encourage capacity far beyond the

4 As discussed above, the DEIR should disclose the City's true target number of new housing units. This amount should then be used to more accurately calculate the project's wastewater impacts.

population growth of 31,000 units predicted in the RHNA. This increase in capacity could allow for a resultant population increase of more than 78,000 residents and water users. SFPUC currently serves 800,000 customers, so the increased development of housing units that would be promoted by the 2004 Housing Element could represent an increase in water use and discharge of nearly 10 percent. The true population increase would likely be much higher, given the Housing Elements' emphasis on providing family and multiple-unit housing, as well as its emphasis on retaining existing housing. If system operations are already having significant impacts on water quality during times of wet weather, a ten percent increase in inflows will certainly have significant impacts.

Even so, the DEIR incorrectly finds that the Housing Elements would have no significant impacts related to wastewater because implementation would not exceed the wastewater treatment requirements of the regional water quality control board (DEIR p. II-14); would not require new or expanded treatment facilities (DEIR p. II-15); would not overwhelm wastewater treatment capacity (DEIR p. II-15); and would not violate existing water quality or waste discharge requirements or otherwise substantially degrade water quality (DEIR p. II-18). Considering that system is already periodically overwhelmed, leading to discharge of water that does not meet state requirements and that causes receiving waters to exceed state bacterial limits, these conclusions are suspect. A recirculated EIR must admit the significance of these impacts and mitigate them to the greatest extent feasible.

The DEIR again justifies its finding of no significant impact with the assertion that the Housing Elements will not result in construction of residential units. (V.L-23.) How can a plan drawn up specifically to increase the City's housing capacity, by encouraging density bonuses and relaxed height and setback requirements, not lead to such a result? Similarly, the DEIR claims that no construction or expansion of existing treatment facilities would be needed to meet increased demand (V.L-24), yet the DEIR also states that SFPUC is formulating a Sewer System Master plan to address future needs. (V.L-23.) This plan is needed, in part, to handle projected population increases. The DEIR then recognizes that new construction could result in environmental impacts (V.L-24), but then declares these impacts to be less than significant because "the proposed Housing Elements do not propose new development." (*Ibid.*) This reasoning is as circular as it is incorrect.

Despite the DEIR's premise that the Housing Elements will not cause an increase in construction or population, the analysis points to policies in the proposed Elements that will reduce water consumption. However, relevance and applicability of these policies is unclear because the DEIR fails to quantify future water use, expected water usage and discharge, or any other metrics that can be used to determine whether the policies will

truly offset the anticipated water demand and discharge of 78,000-plus new residents.

The 2004 Housing Element will encourage conversion of higher-quantity industrial water uses to lower-quantity residential uses, which intuitively may decrease City water consumption if those high water uses are not replaced. The analysis fails to explain, however, how increasing building heights and envelope usage and reducing required building setbacks will reduce water consumption. It is true that multifamily housing, on average, uses less water per unit than single-family housing (DEIR p. V.L-32), but the DEIR fails to explain how gains in water conservation will not be offset by increases in population. Additionally, the DEIR neglects to mention that the vast majority of housing in San Francisco already consists of attached housing, much of it multi-family, so any gains in this area would likely be modest, at best. The DEIR's assurance that new construction will use more water-efficient fixtures and appliances than currently exist (V.L-32) is similarly deficient. The decrease in water use per person, while admirable, will not offset a 78,000 person-plus increase in the City's population. The analysis also seems to refer only to water and sewer hookups, not to treatment capacity. The DEIR's claims that wastewater-caused impacts will be offset by compliance with city code, a waste pretreatment program, the green building ordinance, and other existing plans (V.L-32) is too vague and devoid of quantification to be useful.

The correlation between the 2009 Housing Element policies and their ability to mitigate the water demand of an increasing population is unclear. After noting that the 2009 plan "could result in an increased demand on water or wastewater treatment facilities by promoting intensification of uses on undeveloped or underdeveloped sites" (DEIR p. V.L.33), the DEIR claims that the same policies will reduce water demand and infrastructure impacts by identifying suitable housing sites, considering service ability, ensuring sustainable infrastructure capacity, and encouraging water conservation measures. The identified policies, however, merely encourage placing greater density near transit. Aside from the green building ordinance, which requires water efficient fixtures, the connection between the policies and wastewater production is not explained. The same is true for local, state, and federal policies. (DEIR p. V.L-40.) As with its analysis of the 2004 plan, the DEIR is correct that multifamily housing units use less water per unit than single family homes, but it fails to address the fact that any gains in water efficiency will likely be outstripped by the water demands of numerous new units it promotes.

Global climate change and aging infrastructure will place additional stresses on the City's wastewater treatment system. The City is already planning to face "...certain challenges, including 1) aging infrastructure ... 2) readiness for climate change (e.g. rising sea levels, changes in storm intensity and frequency), 3) operational efficiency

related to changes in land use conditions..." (DEIR p. V.L-8.) Capacity challenges should not be added to the system's burdens unless all feasible mitigation measures have been exhausted.

The City has long been a leader in the implementation of green planning policies and should be commended for embracing low impact development, green building ordinances, and water conservation requirements. However, even the full implementation of these policies will not prevent the incorporation of 78,000 additional housing units from significantly impacting the City's wastewater treatment capacity and the water quality of its receiving waters. A thirty percent reduction in water use is not enough. In addition requiring additional water conservation measures for new residential development – dual flush toilets, lower flow showers, cisterns for water capture, graywater reuse, and low impact development strategies – the DEIR should discuss caps on development pending implementation of the SFPUC sewer system master plan and stormwater control program.

The DEIR also incorrectly concludes that the Housing Elements' cumulative impacts on wastewater treatment will not be significant because growth will occur with or without the proposed housing elements. (DEIR p. V.L-50.) First, as set forth above, population growth within the City is not a foregone conclusion; the population of the City could and has decreased at times. Moreover, the 2004 and 2009 Housing Elements allow for at least three times the amount of growth forecast in the RHNA, and the City already exceeds state water quality standards due to sewage system overflows. The DEIR's reliance on connection fees as mitigation is misplaced. Although the City may collect fees as mitigation, the arrangement does not negate the requirement that the DEIR disclose potential impacts.

D. Water Supply Impacts Must Be Thoroughly Analyzed.

1. The Analysis of Water Supply Impacts is Flawed.

The DEIR's analysis of water supply impacts is based on the assumption that implementation of the policies contained in the 2004 and 2009 Housing Elements would not lead to an increase in the City's population. There is no support for this claim. As discussed above in sections I.B and C, the policies in the 2004 and 2009 Housing Elements promote an increase in density and the number of residential units far above what would be required to meet the demand predicted by ABAG in the RHNA.

The DEIR also claims multi-family housing uses less water than single-family housing as one of the bases that the adoption of the 2004 and/or 2009 Housing Elements

would not result in a significant water quality impact. This statement is misleading. While one unit in a multi-family housing building would use less water than one single family home, multi-family housing buildings obviously include more than one unit. Thus, if you had site with a single family home, and that single family home was torn down and replaced with a 20 unit multi-family housing building, the water usage for the site would increase because 20 multi-family units use more water than one single family home. (DEIR p. V.L-44.) The 2009 Water Supply Availability Study included in Appendix H of the DEIR estimates a water usage rate of 98.7 gallons per day per multi-family residential unit. How many gallons per day do single family residences use?

The DEIR's flawed assumptions lead to an inaccurate analysis of impacts to the City's water supply and an underestimation of the water supply impacts associated with the 2004 and 2009 Housing Elements.

2. The City Has Inadequate Water Supply.

The DEIR's analysis of water supply and the 2009 Water Study upon which it is based acknowledges that demand would exceed the City's water supply in multiple drought years in 2030. These multiple dry-year events may be even more common due to increasing impacts of climate change. Does the City have a plan for acquiring additional water in these conditions as required by Water Code section 10911? It appears that instead of identifying alternative sources of water, the City's solution to a future lack of water supply is water rationing. (DEIR Appendix H, 2009 Water Study pp. 29-30.) This is a significant adverse impact that the DEIR fails to acknowledge.

The 2009 Water Study also identifies an inadequate water supply for the years 2010-2015, prior to the City's proposed Water Supply Improvement Program coming online. The DEIR's water supply assessment overlooks these water supply inadequacies, claiming that the City's use of water in years 2007-2008 was actually below predicted demand, so demand would likely be less in the 2010-2015 as well. (2009 Water Study p. 29, DEIR p. V.L-6.) If the demand does exceed the supply, the SFPUC is authorized to implement a surcharge so it can purchase additional water. However, the Water Supply Assessment does not identify the sources of additional water for purchase.

3. The City Cannot Rely Upon the Untested Water System Improvement Plan to Provide an Adequate Water Supply.

The DEIR states that total retail demand in 2010 is 91.81 mgd and 93.42 mgd in 2030 (p. V.L.-5) and admits that current water supply sources amount to 84.5 mgd (p. V.L.-3). Therefore, there is a current water shortage of 7.31 mgd. The DEIR claims that the "SFPUC's retail water supplies increase to 94.5 mgd in 2015 when the SFPUC's Water System Improvement Plan (WSIP) water supply sources are readily available." (DEIR p. V.L-3.) However, this overly optimistic projection lacks adequate factual support and is based on water supply improvements that have not been approved or implemented. The DEIR's projection that "the SFPUC's retail water supplies increase to 94.5 mgd in 2015" is admittedly based on "the SFPUC's Water System Improvement Plan (WSIP) water supply sources" being "readily available." (DEIR p. V.L-3)

The WSIP is nothing more than an unrealized plan that relies upon construction of groundwater extraction facilities and recycled water treatment facilities, none of which have been built, in addition to increased conservation to save a total of 10 mgd, without which there would clearly be a water shortage. The 2009 Water Study admits that '[c]urrent gross per capita water use within San Francisco is 91.5 gallons per capita per day (gpcd) with residential water use calculated to be approximately 57 gpcd, the lowest use of any major urban area in California." (2009 Water Study p. 8.) Significant water conservation has already been implemented and there is no support for the conclusion that "local conservation programs implemented through 2030 could cumulatively reduce Retail purchases from the SFPUC RWS by 4.5 mgd in year 2030." (2009 Water Study p. 11) These new conservation programs include high-efficiency toilet replacement in low-income communities, plumbing retrofits and water efficient irrigation systems in municipal parks. What factual support is there for the conclusion that "[t]hrough its conservation program, the SFPUC anticipates reducing gross per capita consumption from 91.5 gpcd to 87.4 gpcd by 2018 for an average daily savings of nearly 4.0 mgd"? (2009 Water Study p. 11.) Which of these conservation programs have been approved, funded and implemented and which have not? According to SFPUC's website, it does not appear that any of the conservation programs are even in the design phase yet. (SFPUC's description of WSIP projects and programs http://sfwater.org/mto_main.cfm/MC_ID/35/MSC_ID/393/MTO_ID/649, incorporated by reference.) Is it feasible to expect City residential water users to conserve more water when they have already achieved the lowest usage of any major urban area in California? What proof is there that the purported additional conservation will be achieved for each potential conservation program? How much water can realistically be potentially saved in each such program?

Another major component of the WSIP is a groundwater supply project which proposes the construction of up to six wells and associated facilities in the western part of San Francisco to extract up to 4 mgd of groundwater from the Westside Groundwater

Basin for distribution to the City. (2009 Water Study p. 10) "The extracted groundwater, which would be used both for regular and emergency water supply purposes, would be disinfected and blended in small quantities with imported surface water before entering the municipal drinking water system. " (*Id.*) Has environmental review for this project been completed? The 2009 Water Study states that it was to have begun in November 2009. According to the SFPUC's website, the San Francisco Groundwater Supply Program is still in the initial design phase, meaning the program is already at least a year behind schedule. (http://sfwater.org/mto_main.cfm/MC_ID/35/MSC_ID/393/MTO_ID/649.) Is the groundwater program still in the design phase? If not, what is the status of that project? If it has been approved, what is the status of its implementation and has any funding been committed to its implementation? If not already funded, what are the funding sources expected for this project? If additional facilities would be needed to disinfect extracted groundwater, are there committed funding sources for these facilities, and if so, please describe them.

Another major component of the WSIP is the proposed construction of three recycled water treatment facilities which would provide 4 mgd of recycled water to a variety of users in San Francisco. (2009 Water Study p. 11) The 2009 Water Study asserts that only the Harding Park Project has completed environmental review. (*Id.*) What is the status of the implementation of the Harding Park Project and has any funding been committed to its implementation? According to the SFPUC's website, the Westside Project is in the design phase, and the Eastside Project is only in the planning process; environmental review documents have not yet been released for either of these Projects. Have any of these projects been funded? If not, what is the status of these projects? If not already funded, what are the funding sources expected for all three of these projects?

The other component of the WSIP, the Lake Merced Water Level Restoration Project is planned to protect and balance the beneficial uses of Lake Merced, but the 2009 Water Study does not assert that it is intended to produce water savings for the use of the City. (2009 Water Study p. 10)

The City has unlawfully relied upon potential projects that are not in place as mitigation for a highly significant water supply deficit in years 2015 to 2030. In 2030 there would be an 8.92 mgd deficit in the water supply, when 93.42 mgd would be needed and currently only 84.5 mgd can be supplied without the WSIP.

The lack of certainty as to the implementation of the WSIP and the ability of the WSIP to obtain the claimed water savings is particularly significant in light of the July 2009 Master Water Sales Agreement. If the City is not able to provide the estimated 10

mgd via the WSIP, it would not be able to make up the difference in water supply requirements with additional Hetch Hetchy water because the Wholesale Customers in the suburbs of San Francisco have priority to a specific supply. "The amount of water made available to the Wholesale Customers may not be reduced, however, **merely because the water recycling and groundwater projects which the WSIP envisions to be constructed within San Francisco, or the conservation programs intended to reduce water use by Retail Customers that are included in the WSIP, do not generate the yield or savings (10 MGD combined) anticipated by San Francisco**." (July 2009 Master Water Sales Agreement, pp. 8-9 http://www.bawsca.org/docs/FINAL_WSA_with_Attachments.PDF, included by reference) In drafting the 2009 Master Water Sales Agreement, the City and Wholesale Customers clearly considered the possibility that the WSIP may not be able to provide the anticipated water savings and yield, yet the DEIR completely fails to consider this possibility. How would the City provide adequate water supply to residents in normal rainfall years, let alone drought years, in 2015 and beyond if the WSIP does not provide the anticipated water use reductions or the groundwater supplies? The 2009 Water Study merely states that the City is investigating the possibility of dry-year water rights transfers from two senior water rights holders and construction of a proposed regional groundwater storage and recovery project which is currently undergoing environmental review and a potential regional desalination project which appears to be in conceptual stage only. Are there any committed funding sources for any of these projects or any contractual commitment by senior water rights holders to provide certain amounts of water to City residents in dry years? (2009 Water Study p. 13-14.)

E. The Housing Element Fails to Comply with Government Code Requirements.

The 2004 and 2009 Housing Elements fail to comply with Government Code section 65583. The Government Code requires much more detail regarding sites for potential development than has been provided. Section 65583(a) requires that the City's Housing Element "shall contain all of the following:... (3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites." Government Code section 65583.2 details this requirement further:

> The inventory of land shall include all of the following:
> (1) A listing of properties by parcel number or other unique reference.
> (2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of ***each property***.

> (3) For nonvacant sites, a description of the existing use ***of each property.***
> ...(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

The City must then use this detailed information to "determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period..." (Government Code section 65583.2(c).)

The 2004 and 2009 Housing Elements do not include the required detailed inventories of each property where housing could be located. A good example of how these inventories should be prepared is provided by the City of San Diego at http://www.sandiego.gov/planning/genplan/pdf/housingelement/heasigridmap.pdf. San Diego divides the city up into sections 94 sections and includes a detailed map pinpointing the parcels were housing development could or should be located. This analysis is required before the City makes such sweeping policy changes to promote density, height increases, and lack of parking. Thus far, the City has provided no evidentiary support for the need to make these changes in order to meet its housing needs.

F. The DEIR Fails to Analyze the Housing Elements Consistency with Proposition M.

Planning Code section 101.1, commonly known as Proposition M, requires the City's master plan to be "an integrated, internally consistent and compatible statement of policies for San Francisco," and establishes the following Priority Policies which shall be included in the preamble to the master plan and shall be the basis upon which inconsistencies in the Master Plan are resolved:

> (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;
> (2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;
> (3) That the City's supply of affordable housing be preserved and enhanced;
> (4) That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;
> (5) That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office

development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

(6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

(7) That landmarks and historic buildings be preserved; and,

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

Subdivisions (c) and (d) of Proposition M prohibit the City from adopting any zoning ordinance or development agreement authorized pursuant to Government Code Section 65865 after November 4, 1986, unless prior to that adoption it has specifically found that the ordinance or development agreement is consistent with the Priority Policies established above.

Subdivision (e) of said provision provides that prior to issuing a permit for any project or adopting any legislation which requires an initial study under the California Environmental Quality Act, and prior to issuing a permit for any demolition, conversion or change of use, and prior to taking any action which requires a finding of consistency with the Master Plan, the City shall find that the proposed project or legislation is consistent with the Priority Policies established above, and that for any such permit issued or legislation adopted after January 1, 1988 the City shall also find that the project is consistent with the City's Master Plan.

The DEIR fails to analyze whether the proposed changes set forth in 2004 and 2009 housing element policies and implementation actions are consistent with the priority policies set forth above.

The 2004 and 2009 Housing Element policies which propose reduced protection for existing neighborhood character and open space and increased height limits significantly conflict with the priority principles which require that existing housing and neighborhood character be conserved and open space and access to sunlight and vistas be protected from development.

In addition, the 2004 and 2009 Housing Element proposals to direct additional growth to neighborhood commercial areas conflicts with the priority policy which requires that existing neighborhood-serving retail uses be preserved, since the proposals would encourage demolition of existing low level structures and construction of taller, bulkier new structures that independent local businesses would not be able to afford to rent.

The 2004 and 2009 Housing Element policies encouraging construction of taller, denser structures with reduced or eliminated parking would encourage demolition of existing structures and thus conflict with the priority policies which require that the City's supply of affordable housing be preserved and that landmarks and historic buildings be preserved. Existing structures provide substantial affordable housing and highly attractive architectural styles such as Victorians which are historically significant in the urban environment.

The 2004 and 2009 Housing Element proposals to convert land currently used for industrial purposes to mixed use commercial and residential use conflict with the priority principle which requires that a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The proposed project would significantly conflict with applicable priority land use policies and plans set forth above and have a substantial adverse impact upon the existing character of many areas and public vistas. The DEIR failed to analyze the conflicts between the proposed changes set forth in the 2004 and 2009 Housing Elements and the priority policies set forth in Proposition M and, thus, utterly fails as an informative document.

G. Greenhouse Gas Impacts Are Not Adequately Analyzed.

The DEIR's greenhouse gas (GHG) analysis declares that adoption of the 2004 or 2009 Housing Elements will have less than significant impacts on the environment with regard to the generation of GHG emissions or conflicting with a GHG emission reduction plan. (DEIR p. II-13.) In doing so, the DEIR carries forward the mistaken conclusions that adoption of the Housing Elements would not result in (1) an increase in growth beyond that predicted by ABAG projections; or (2) any changes to the City's land use objectives and policies. (DEIR p. V.I-17.)

These assertions are incorrect and an improper basis for environmental analysis. First, the Housing Elements would allow much more population growth than deemed necessary by the RHNA. Consequently, the projects' DEIR GHG emission estimates, calculated based on ABAG population projections (DEIR p. V.I-18), are far too low. The DEIR grossly understates impacts by eliminating the impacts generated by a majority of the new people that will inhabit the City after plan implementation. The analysis should be repeated prior to the final EIR, taking into account the Housing Elements' growth-

inducing impacts. This new information should then be recirculated prior to the City's consideration and possible adoption.

Second, the 2004 and 2009 Housing Elements do propose changes to the City's land use objectives and policies that will have environmental impacts. These changes will be implemented in the City's area plans. Specifically, the Housing Elements propose removing minimum parking requirements from areas targeted for increased housing. The goal is to encourage density in transit-served areas that would be otherwise barred from increasing density. In Japantown, for example, the City's draft Better Neighborhood Plan suggests removal of minimum parking standards and outright prohibition of new parking lots. (Draft Japantown Better Neighborhood Plan, p. 52.) This change, which would be enabled only by the Housing Elements, will have impacts on transportation and circulation, with corresponding impacts on greenhouse gas emissions. CEQA requires the disclosure, analysis, and mitigation of these impacts.

Moreover, when parking spaces are scarce, vehicles spend more time circling seeking parking, and cars traveling at low rates of speed cruising for parking emit more air pollutants than cars traveling at higher rates of speed. (See Attachment 10, September 10, 2008 Declaration of Golick paragraph 24 and Exhibit K thereto and Exhibit J thereto, a study finding that about thirty percent (30%) of the cars in the traffic flow were cruising for parking and the average time it took to find a curb space was eight minutes.) Although reduction or elimination of on-site parking spaces is a principal goal of the Housing Elements, the DEIR fails to analyze the potential effect of increased vehicle emissions from displaced vehicles seeking parking spaces. According to the analysis of an expert planner, the effect on air quality could certainly be significant, since the City Planning Department previously projected that "130 acres of land" would be needed for parking if one parking space were required for every dwelling unit needed by 2020 and a City study showed that 64% of residents living within four blocks of transit still own automobiles. (Attachment 9, pp. 13-14; Attachment 11, excerpts from City parking studies, 8 AR 2278, 10 AR 2667-68, 2760, 2768-2772.) Moreover, according to that City study, vehicle ownership is relatively higher for new housing than for existing housing, and location near transit has produced no conclusive evidence of lowering vehicle ownership. (*Id.*) The EIR should analyze the potentially significant impact on air quality resulting from reducing parking spaces and causing displaced vehicles to circle and emit significant amounts of pollutants while seeking parking.

Another potential impact of the Housing Elements' parking policies is that the elimination of on-site parking would discourage the use of ultra-low emission and zero emission electric cars, which require overnight parking in order to recharge their batteries. The market share of these vehicles is expected to increase dramatically in the near future

with the release of the Chevy Volt and Nissan Leaf. These cars are expected to perform best in areas such as the City of San Francisco, where the cars' distance limitations will not impact commutes. If new residents are unable to park, the incentive for purchasing an electric vehicle is reduced because the owners of the vehicles would be unable to charge them overnight. Higher GHG emission vehicles may also be retained with the corresponding GHG emissions, instead of replaced. Thus, the parking reduction policies may arrest the growth of the electric car market in the City, with GHG emissions impacts that should have been discussed in the DEIR.

The 2004 and 2009 Housing Elements also contain policies that encourage increasing height limits and reducing setback requirements as means for achieving increased density. Increased building heights and setback reductions could result in GHG impacts if these taller and larger buildings are built adjacent to shorter buildings with rooftop solar power systems. The new buildings could block the sunlight relied upon by these systems, limiting their ability to reduce GHG emissions. The City must prohibit the construction of buildings that would block sunlight to rooftop solar powered systems. The City of West Hollywood has adopted such an ordinance. (Attachment 12, West Hollywood Municipal Code section 19.20.170.)

H. Traffic Impacts and Parking Reductions Are Inadequately Analyzed and Mitigated.

The EIR should adequately analyze the potentially significant impacts on traffic flow and intersection conditions which could result from the project's proposed concentration of new residential construction in neighborhood commercial areas, along transit corridors, and in the areas in the Housing Element work programs or implementation actions. The DEIR identifies numerous intersections and areas where existing conditions are already operating at unacceptable service levels and future conditions are predicted to be worse. (DEIR, pp. V.F-31 to -32.) However, the DEIR fails to correlate where its policies direct growth with impacts to these intersections and areas. Instead, the DEIR claims "the degraded service levels are expected due to proposed development and expected growth trends" and that the "proposed Housing Elements are not expected to result in additional growth beyond the projected amount reflected in the cumulative analysis." (DEIR, p. V.F-33.) This is insufficient analysis. Instead the DEIR must analyze the impacts from growth that would occur in response to Housing Element policies redirecting growth to certain areas.

Contrary to this requirement, the EIR claims that Housing Element policies "would not directly generate new trips" so "no trip generation estimates are provided as part of this EIR." (DEIR, p. V.F-23 and p. V.F-47.) Instead the EIR claims that "The

cumulative scenario" for various area plans "would not change as a result of the proposed Housing Elements" and that future residential growth from the plans has been incorporated into the traffic analysis for "Cumulative 2025 Conditions in this EIR." (DEIR, V.F-23.) This type of analysis is insufficient and fails to inform the public of how the change in Housing Element policies might lead to changes in area plans, which in turn would lead to changes in future traffic impacts. The DEIR must address the way in which policy changes could lead to impacts. The Court of Appeal has already pointed out the following:

> Taken together the changes to the Housing Element cited above reflect a shift away from preserving existing housing density and a movement toward allowing denser housing development, and decreased off-street parking, which *in turn could lead to increased traffic congestion, air pollution, and noise, as well as a change in the aesthetic quality of City neighborhoods.*

(*San Franciscans for Livable Neighborhoods v. City and County of San Francisco* (2007) nonpub. opn., Case No. A112987, 2007 WL 1793881, p. 11, emphasis added.) Likewise, the Court of Appeal concluded "it is beyond dispute that specific developments will be proposed in the future, and developers would be able to argue that taller buildings are consistent with the Housing Element." (*Id.*, p. 13.) The DEIR improperly fails to address the increased impacts that would result from Housing Element changes.

As noted above, the City's 2009 water supply analysis admits that significant increases in population are expected to result from the City's proposed increased density policies. Rather than taking existing local land use policy as a given (as had previously been the case), the projections in the 2009 water supply study assumed that local policy will be amended in the future to adopt 'smart growth' principles, that higher density growth will be focused in urban core areas, and that more housing will be produced in those areas, compared to that previously assumed. The result of these assumptions is to increase the expected population in already developed areas. (2009 Water Study p. 22)

A 2003 EIR prepared by the San Francisco Transportation Authority also projected that as a result of population and employment growth, time spent in congested traffic conditions in the City (vehicle miles traveled at level of service F) is expected to double by 2025. (Attachment 13, excerpts from 2003 San Francisco Transportation Authority EIR, 20 AR 5502-03, 5507-08, 5510-11; Attachment 10, Golick Declaration, paragraph 22.) These projections were consistent with the projected and planned growth identified by ABAG and were "designed to compliment and support the city's proposals to concentrate future development along transit routes and transfer points as set forth in the Citywide Land Use Action Plan and proposed rapid transit network. (Attachment 13.)

SFLN's October 5, 2009 scoping comment letter stated there must be baseline conditions of peak traffic, morning, and afternoon. However, the EIR only provides baseline conditions and impact analysis for p.m. peak traffic on weekdays. (DEIR, p. V.F-19.) In order to provide a complete analysis of impacts, the DEIR must also address morning and afternoon peak hours and weekend traffic.

SFLN noted that the 2004 Housing Element's work programs include new area plans and rezoning for downtown areas such as the Transbay Terminal and Rincon Hill areas and requested that the EIR analyze all traffic impacts from construction of new residential units or mixed use developments in these areas, including potential impacts on bridge approaches and arteries leading into the downtown area in both the morning and afternoon peak traffic periods. The DEIR completely fails to address these types of impacts.

The DEIR fails to meaningfully identify significant impacts from Housing Element policy changes. With regard to significant traffic impacts from directed growth, the DEIR states directing growth to certain areas of the City "could reduce the overall number of vehicle trips to the Downtown area, as compared to the 1990 Residence Element." (DEIR, p. V.F-60.) However, the traffic within the areas where the additional growth is directed would inevitably increase. Therefore, the DEIR must address traffic impacts within the areas where growth is directed, not just the traffic that occurs between those areas and Downtown.

There must be mitigation for potentially significant impacts. The DEIR admits that impacts to transit are significant (DEIR, p. V.F-61 and -80), but claims that they are unavoidable and no feasible mitigation measures or improvement measures have been identified (DEIR, p. V.F-81). The DEIR states the City could implement various measures such as additional bus runs or providing more buses, but then states funding shortfalls make such service uncertain. There are numerous measures other than increasing bus service that should be analyzed. When the City of Los Angeles evaluated a Transportation Improvement Mitigation Plan, its TIMP included "several proposals to improve the existing transportation infrastructure and increase its capacity, provide additional rail and bus transit, and encourage greater use of public transit and telecommuting." (*Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1256.) The DEIR must analyze measures including improving transportation infrastructure and encouraging greater use of public transit and telecommuting before declaring impacts to transit to be significant and unavoidable. The DEIR should also analyze the capacity of transit for each area of the City and the Housing Elements should not encourage increases in density in areas of the City where transit

cannot serve that growth.

The City could also develop a program to charge development impact fees to mitigate traffic impacts, rather than imposing them on a project-by-project basis. The Court of Appeal has noted:

> We also note that the City [of San Francisco] required the developer, Foster City, to pay $1.5 million for the development of parking solutions in SOMA, and at least $1.25 million more for improvements to the BART/MUNI station at Powell Street and other improvements to help facilitate use of public transit. Although not termed as such by the EIR, this nearly $3 million in funds to alleviate the traffic and parking impacts of the Project constitutes a significant mitigation measure in and of itself. (Cf. *Save Our Peninsula, supra,* 87 Cal.App.4th at pp. 139 142, 104 Cal.Rptr.2d 326 [upholding EIR calling for developer payments to government fund as mitigation measure for traffic impacts].)

(*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 698.)

Furthermore, given the uncertainty of mitigating transit impacts, the DEIR may not rely on transit measures to reduce traffic in areas along transit corridors. If transit is significantly impacted and those impacts are not mitigated, people will be dissuaded from using transit and likely resort to private transportation, thus causing increased congestion impacts in areas where growth is directed.

There must be mitigation for the Transit Oriented Neighborhood Commercial District (NC-T) Zoning that could utilize less than one on-site parking space for each new residential unit. One means to mitigate this impact would be to retain the requirement of at least one parking space per residential unit. The DEIR states the City "does not consider parking supply as part of the permanent physical environment and therefore, does not consider changes in parking conditions to be environmental impacts as defined by CEQA." (DEIR, p. V.F-76.) However, the DEIR should consider the extent that shortages of parking supply can lead to physical impacts such as on traffic and air quality. (*San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 697 ["the secondary effect of scarce parking on traffic and air quality" is an environmental impact.]) Programmatic mitigation measures to address these secondary impacts should be addressed through the Housing Element EIR rather than addressed as each individual project is proposed.

I. Noise Analysis Is Flawed.

The DEIR states "In 2008, the San Francisco Department of Public Health (SFDPH) produced a comprehensive map showing the transportation noise levels on every street throughout the City, as shown in Figure V.G-1, as well as the areas subject to noise levels over 60 dBA (Ldn)." (DEIR p. V.G-17.) Therefore, the DEIR should analyze how noise would be expected to increase in areas where development is encouraged by the change in policies in the proposed Housing Element. The DEIR should show this information on comprehensive map showing noise levels on every street throughout the City and how they would be anticipated to change.

CONCLUSION

SFLN objects to the certification of the EIR and adoption of the project as proposed. For the reasons set forth in this letter, the DEIR must be revised to correct the inadequacies and inaccuracies in the project description, alternatives analysis and the analysis of many of the impacts associated with the proposed 2004 and 2009 Housing Elements. The City's failure to prepare a legally adequate EIR is also a failure to comply with the Peremptory Writ of Mandate issued in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*. Once the DEIR is revised, it must be recirculated to allow the public the opportunity to review the true impacts of the proposal.

Additionally, SFLN urges the City to consider adoption one of the less impactful alternatives we have recommended. The vast increases in density and removal of land use restrictions are unnecessary to provide the type of housing ABAG has determined the City is lacking, and may actually hurt the City's ability to increase the needed moderate and low income housing stock.

Thank you for your time and consideration in this matter.

Sincerely,

Amy Minteer

cc: San Franciscans for Livable Neighborhoods

Attachments:

1. Unpublished decision in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, 2007 WL 1793881;
2. Excerpts from San Francisco Planning Department Community Planning in the Eastern Neighborhoods, Rezoning Options Workbook;
3. Letter from California Department of Housing and Community Development to the City;
4. City's findings of consistency with 1990 Residence Element for the Market and Octavia Neighborhood Plan;
5. Excerpts from City's Eastern Neighborhoods Rezoning and Area Plans DEIR,;
6. Excerpt from Eastern Neighborhoods Rezoning and Area Plans Comments and Responses on Draft EIR;
7. San Francisco Planning Commission Resolution 1779;
8. City's adoption of Visitacion Valley Redevelopment Plan;
9. March 2004 statement by planning expert David Golick;
10. September 10, 2008 Declaration of David Golick, with Exhibits K and J;
11. Excerpts from City parking studies;
12. West Hollywood Municipal Code section 19.20.170;
13. Excerpts from 2003 San Francisco Transportation Authority EIR.

ATTACHMENT 1

Westlaw

Not Reported in Cal.Rptr.3d, 2007 WL 1793881 (Cal.App. 1 Dist.)
Nonpublished/Noncitable (Cal. Rules of Court, Rules 8.1105 and 8.1110, 8.1115)
(Cite as: 2007 WL 1793881 (Cal.App. 1 Dist.))

Only the Westlaw citation is currently available.

California Rules of Court, rule 8.1115, restricts citation of unpublished opinions in California courts.

Court of Appeal, First District, Division 4, California.
SAN FRANCISCANS FOR **LIVABLE NEIGHBORHOODS**, Plaintiff and Appellant
v.
CITY AND COUNTY OF SAN FRANCISCO, Defendant and Respondent.
No. A112987.
(San Francisco County Super. Ct. No. 504780).

June 22, 2007.

Kathryn R. Devincenzi, San Francisco, CA, for Plaintiff and Appellant.

Audrey Williams Pearson, Office of the City Attorney, San Francisco, CA, for Defendant and Respondent.

SEPULVEDA, J.

***1** Appellant **San Franciscans** for **Livable Neighborhoods** (SFLN) challenges the denial of its petition for a writ of mandate to compel respondent City and County of San Francisco (the City) to set aside the approval of the housing element of its general plan and to prepare an environmental impact report (EIR) pursuant to the California Environmental Quality Act (**CEQA**). (Pub. Resources Code, § 21000 et seq.) [FN1] Appellant claims that there is substantial evidence to support a fair argument that amendments to the housing element may have a significant impact on the environment, thus requiring the preparation of an EIR. We agree and reverse.

FN1. All statutory references are to the Public Resources Code unless otherwise specified.

I.

FACTUAL AND PROCEDURAL BACKGROUND

The City is required by state law to prepare a general plan for the development of the City that includes, among other elements, a housing element that analyzes "existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing." (Gov.Code, § 65583; see also Gov.Code, §§ 65300, 65302, subd. (c).) The housing element must be updated at least every five years. (Gov.Code, § 65588, subd. (b).)

The City revised its housing element in 1990, when it adopted the 1990 Residence Element (Residence Element). An EIR was prepared to evaluate the revision. Meeting the housing goals in the Residence Element would reduce traffic congestion and thus improve air quality, according to the EIR, because people who work in the City would have shorter commutes. The EIR concluded that reaching the housing goals in the Residence Element could be achieved without any significant adverse effects to the environment.

The Residence Element was not updated again until May 13, 2004, when the City's planning commission adopted a revision following nearly three years of public comment and draft revisions. The revised element, now called the 2004 Housing Element (Housing Element), is the subject of the current appeal.

The Association of Bay Area Governments (ABAG) projected that the population of San Francisco would increase by almost 32,500 people by 2010 to about 809,200. ABAG determined that San Francisco's share of the regional housing need for January 1999 through June 2006 would be 20,374 units, or 2,717 units annually. The Housing Element was designed to address those housing needs.

The City's planning department (Department) prepared an initial study to evaluate whether proposed changes to the Housing Element would have a significant effect on the environment. As part of its analysis, the Department examined only new policies that were being added to the Housing Element; it apparently did not evaluate the effects of policies that contained no text change or that were modified, or the effect of removing certain policies from the 1990 Residence Element. The initial study emphasized that although proposed revisions to the Housing Element were meant to promote increased housing production, no environmental effects would result from the adoption of the element because it did not specify any development, rezoning, or area plans. In evaluating whether the Housing Element would affect various aspects of San Francisco's environment, the initial study repeatedly stated that any environmental impact analysis would be conducted in connection with the approval of any future development projects, area plans, or rezoning. The Department then prepared a negative declaration, which concluded that revisions to the Housing Element could not have a significant effect on the environment. SFLN [FN2] appealed a preliminary negative declaration, but the planning commission voted unanimously to uphold the negative declaration on the same day it adopted the Housing Element.

FN2. SFLN is an unincorporated association that includes several neighborhood organizations: the Cow Hollow Association, the Francisco Heights Civic Association, the Greater West Portal Neighborhood Association, the Jordan Park Improvement Association, the Lakeshore Acres Improvement Club, the Laurel Heights Improvement Association of San Francisco, Inc., the Marina-Cow Hollow Neighbors & Merchants, the Miraloma Park Improvement Club, the Pacific Heights Residents Association, the Presidio Heights Association of Neighbors, the Russian Hill Neighbors, the St. Francis Homes Association, the Sunset-Parkside Education and Action Committee, Inc ., and the Westwood Highlands Association.

*2 SFLN appealed the approval of the negative declaration to the Board of Supervisors. The Board of Supervisors denied the appeal on June 29, 2004, and the 2004 Housing Element was thereafter approved by operation of law. (S.F. Charter, § 4.105 [proposed general plan amendment deemed approved by Board of Supervisors if board fails to act within 90 days of receiving amendment]; S.F. Planning Code, § 340, subd. (d) [same].) The City filed a notice of determination on November 2, 2004.

The revised Housing Element describes several projects that already have been approved by the Department, and for which permit applications either have been approved or filed with the department of building inspection. One such project is the "Better Neighborhoods Program," a program currently planned for three "pilot neighborhoods" to link land use and transportation development so that each element supports the other. The Housing Element identifies areas for potential housing development, and it includes specific policies and implementation strategies to increase building densities, especially in areas well served by transit, and to advocate reducing or removing minimum parking requirements in order to increase the land available for housing development. The Housing Element also includes a list of future actions to implement the element's objectives and policies.

SFLN filed a petition for writ of mandate with the trial court challenging the City's decision to adopt the Housing Element without preparing and considering an EIR. The petition sought to vacate and set aside the City's decision to approve the Housing Element and to order the City to prepare and consider an EIR.

The trial court denied the petition on the grounds that the 2004 Housing Element did not vary greatly from the 1990 Residence Element, and that SFLN had not provided sufficient evidence to support a fair argument that the revised Housing Element might significantly affect the environment. SFLN timely appealed the subsequent judgment.

II.

DISCUSSION

A. General Legal Principles and Standard of Review.

A government agency shall prepare an EIR on any proposed project that may have a significant effect on the environment. (§ 21100, subd. (a); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927, 21 Cal.Rptr.3d 791.) The purpose of an EIR is "to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment." (§ 21061; see also *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354, 182 Cal.Rptr. 317.) The amendment of an element of a general plan is considered a "project" for purposes of the statute. (Cal.Code Regs., tit. 14, § 15378, subd. (a)(1); [FN3] see also *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 202, 55 Cal.Rptr.2d 625; *Black Property Owners Assn. v. City of Berkeley* (1994) 22 Cal.App.4th 974, 985, 28 Cal.Rptr.2d 305; *City of Santa Ana v. City of Garden Grove* (1979) 100 Cal.App.3d 521, 526, 534, 160 Cal.Rptr. 907.)

FN3. The Guidelines for the Implementation of the California Environmental Quality Act, hereafter Guidelines, are found in California Code of Regulations, title 14, section 15000 et seq. All subsequent regulatory citations to the

Guidelines are to title 14 of the Code of Regulations. "[C]ourts should afford great weight to the Guidelines except when a provision is clearly unauthorized or erroneous under **CEQA**." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391, fn. 2, 253 Cal.Rptr. 426, 764 P.2d 278.)

*3 A "significant effect on the environment" is defined as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project." (Guidelines, § 15382.) " 'If there is a possibility that the project may have a significant environmental effect, the agency must conduct an initial threshold study. [Citation.] If the initial study reveals that the project will not have such effect, the lead agency may complete a negative declaration briefly describing the reasons supporting this determination. [Citations.] However, if the project may have a significant effect on the environment, an EIR must be prepared.' [Citations.]" (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 304-305, 248 Cal.Rptr. 352; see also Guidelines, §§ 15002, subd. (k)(1)-(2), 15063, subd. (a), 15365.) The initial study is designed to inform the choice between a negative declaration and an environmental impact report, as well as eliminate unnecessary EIRs. (Guidelines, § 15063, subd. (c)(1), (6).) "The initial study must include a description of the project. The study must also '[p]rovide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment.' " (*City of Redlands v. County of San Bernardino*, (2002) 96 Cal.App.4th 398, 406, 117 Cal.Rptr.2d 582, fns. omitted.)

Absent substantial evidence of any significant environmental impact, the agency shall adopt a negative declaration. (§ 21080, subd. (c); *City of Redlands v. County of San Bernardino, supra*, 96 Cal.App.4th at p. 405, 117 Cal.Rptr.2d 582.) A negative declaration is "a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental report." (§ 21064; see also Guidelines, § 15371.) "[S]ubstantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact." (§ 21080, subd. (e)(1); see also Guidelines, § 15384, subd. (b); *City of Redlands v. County of San Bernardino, supra*, 96 Cal.App.4th at p. 410, 117 Cal.Rptr.2d 582.) Substantial evidence "means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency." (Guidelines, § 15384, subd. (a).) Substantial evidence does not include "argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment." (§ 21080, subd. (e)(2); see also Guidelines, §§ 15064, subd. (f)(5), 15385, subd. (a).)

"In reviewing an agency's decision to adopt a negative declaration, a trial court applies the 'fair argument' test. 'Under this test, the agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a proposed project may have a significant effect on the environment....' If such evidence exists, the court must set aside the agency's decision to adopt a negative declaration as an abuse of discretion in failing to proceed in a manner as required by law." (*City of Redlands v. County of San Bernardino, supra*, 96 Cal.App.4th at p. 405, 117 Cal.Rptr.2d 582, fns. omitted; see also § 21082.2, subd. (d).) "The 'act or decision' we review here is not the decision that the project may or may not have a significant environmental impact, but the decision that it can or cannot be *fairly argued* that the project may have a significant environmental impact." (*City of Livermore v. Local Agency Formation Com.* (1986) 184 Cal.App.3d 531, 541, 230 Cal.Rptr. 867.) "The fair argument standard is a 'low threshold' test for requiring the preparation of an EIR. [Citations.] It is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination. Review is de novo, *with a preference for resolving doubts in favor of environmental review.* [Citations.]" (*Pocket Protectors v. City of Sacramento, supra*, 124 Cal.App.4th 903 at p. 928, 21 Cal.Rptr.3d 791.)

B. CEQA Favors Early Review of Environmental Issues.

*4 We agree with SFLN that the City should not be excused from conducting an EIR simply because the Housing Element is a policy document, with more specific developments to follow. "The general plan is atop the hierarchy of local government law regulating land use. It has been aptly analogized to 'a constitution for all future developments.' [Citation.]" (*Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1183, 203 Cal.Rptr. 401.) "A general plan embodies an agency's fundamental policy decisions to guide virtually all future growth and development." (*City of Redlands v. County of San Bernardino, supra,* 96 Cal.App.4th at p. 409, 117 Cal.Rptr.2d 582.) This was acknowledged in the initial study here, which noted that "the revised Housing Element would be used to frame the discussion of future Area Plans, rezoning proposals and specific development proposals, in the same way that all of the elements of the General Plan provide a framework for decision-making about the future of the City."

"Even if a general plan amendment is treated merely as a 'first phase' with later developments having separate approvals and environmental assessments, it is apparent that an evaluation of a 'first phase-general plan amendment' must necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment. Only then can the ultimate effect of the amendment upon the physical environment be addressed." (*Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 194, 228 Cal.Rptr. 868 [EIR required for general plan amendment, even though amendment required a special use permit and additional EIR before any specific development could take place].) **CEQA** mandates that environmental considerations "not become submerged by chopping a large project into many little ones-each with a minimal potential impact on the environment-which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284, 118 Cal.Rptr. 249, 529 P.2d 1017.) "Generally, in cases involving general plan amendments, the local agency has either prepared an EIR or was required to do so. [Citations.]" [FN4] (*Christward Ministry, supra,* at pp. 193-194, 228 Cal.Rptr. 868.)

> FN4. Citing a May 6, 2004, Department memorandum, the City claims that "amendments to a Housing Element are often analyzed properly in a negative declaration," as at least five other Bay Area counties and sixteen other Bay Area cities issued negative declarations for their housing elements (on some unspecified dates). The cited memorandum noted that the Department conducted "a limited survey" of other Bay Area jurisdictions and found that the use of a negative declaration for a housing element update "is not in any way unusual." The relevant housing elements apparently are not in the record, as the City does not cite to them. We therefore do not know whether the other housing elements contained any material changes, or whether there were any legal challenges to the adoption of the negative declarations.

Because San Francisco's population will increase whether or not the City plans for it, the City argues, the Housing Element will not *cause* any population growth, as SFLN claims. The City argues that determinations about its housing needs are "statutorily exempt from environmental review" under Government Code section 65584, subdivision (f), which provides that determinations made by the state's Department of Housing and Community Development, ABAG, or the City about existing and projected housing needs are exempt from **CEQA**. (See also Gov.Code, § 65582, subds. (b) & (c).) Just because the specific determinations about existing and projected housing needs are exempt, that does not necessarily mean that environmental review of the planning efforts to accommodate those needs also are exempt. We agree with the general proposition that the Housing Element is not designed to induce population growth, and that this case is therefore distinguishable from those cited by SFLN, where approvals of projects clearly would result in population growth in previously undeveloped areas. (*Arviv Enterprises, Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333, 1345, 1347-1348, 125 Cal.Rptr.2d 140 [approval of 21-house project in area with limited services]; *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 352, 371, 110 Cal.Rptr.2d 579 [development of airport industrial area expected to add nearly 10,000 employees to area].) It does not follow, however, that planning for growth in a major urban area

automatically should be exempt from environmental review.

*5 The City argues that it would be "entirely speculative" to "guess" where any new area plans, zoning changes, or development might occur in the future as a result of the revised Housing Element. The Guidelines recognize that an EIR on an amendment to a general plan may lack specificity, and indicate that it should thus focus on any foreseeable secondary effects on the environment. (Guidelines, § 15146, subd. (b); see also *Christward Ministry v. Superior Court, supra,* 184 Cal.App.3d at p. 195, 228 Cal.Rptr. 868 [difficulty in assessing environmental impact of general plan affects specificity of, not requirement to conduct, EIR].) The City also suggests that it is excused from conducting an EIR because any developments that occur under the revised Housing Element would "necessarily require their own environmental review." Again, the Guidelines recognize that "the EIR need not be as detailed as an EIR on the specific construction projects *that might follow.*" (Guidelines, § 15146, subd. (b), italics added; *City of Redlands v. County of San Bernardino, supra,* 96 Cal.App.4th at p. 412, 117 Cal.Rptr.2d 582 [environmental study of general plan will not have same degree of specificity as for specific construction project]; *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 625, 263 Cal.Rptr. 813 [environmental studies on general plan amendments usually general in nature].) In other words, just because future EIRs may be conducted, that does not *automatically* excuse the City from conducting an EIR now.

The City's reliance on *Pala Band of Mission Indians v. County of San Diego* (1998) 68 Cal.App.4th 556, 80 Cal.Rptr.2d 294 (*Pala Band*), which did not involve the amendment of a general plan, is misplaced. In that case, San Diego County designated potential landfill sites as " 'tentatively reserved' " when it adopted an integrated waste management plan pursuant to the Integrated Waste Management Act of 1989 (§ 40000 et seq.) (Waste Act). (*Pala Band* at pp. 560, 566, 575, 80 Cal.Rptr.2d 294.) The court noted that the " 'tentatively reserved' " designation did not make it reasonably foreseeable that any development would actually occur. (*Id.* at pp. 575-576, 80 Cal.Rptr.2d 294.) The court upheld a negative declaration, and held that the county was not required to conduct an EIR because to do so would be "premature" as "any analysis of potential environmental impacts would be wholly speculative." (*Id.* at p. 576, 80 Cal.Rptr.2d 294.)

The City claims that it would likewise be premature to evaluate any potential environmental effects of the Housing Element because any such effects would be "speculative." The City's actions in amending the Housing Element, however, are far different from the actions taken by the county in *Pala Band.* There, the county designated 10 proposed landfill sites as " 'tentatively reserved' " pursuant to specific provisions of the Waste Act. (*Pala Band, supra,* 68 Cal.App.4th at p. 575, 80 Cal.Rptr.2d 294; see also § 41710.) The court concluded that it was not reasonably foreseeable that any of the sites would actually be developed, because a " 'tentatively reserved' " designation under the Waste Act could be made before an *actual commitment* to develop a specific landfill was made. (*Pala Band* at pp. 575-576, 80 Cal.Rptr.2d 294.) In order to actually develop a landsite, the county would be required to take additional steps under the Waste Act, and environmental review could be undertaken when a specific site was proposed. (*Id.* at pp. 576-578, 80 Cal.Rptr.2d 294.)

*6 Here, by contrast, the Housing Element identifies specific housing goals and implementing strategies. As the court recognized in *City of Santa Ana v. City of Garden Grove, supra,* 100 Cal.App.3d at page 532, 160 Cal.Rptr. 907, "general plans now embody fundamental land use decisions that guide the future growth and development of cities and counties. The adoption or amendment of general plans perforce *have a potential for resulting in ultimate physical changes in the environment* and were properly included in [the Guidelines] as projects subject to **CEQA**." (Italics added; see also § 21080, subd. (a); Guidelines, § 15378, subd. (a)(1).) "**CEQA** and its guidelines focus on the ultimate impact of a project, not on whether the project is tangible or intangible." (*City of Livermore v. Local Agency Formation Com., supra,* 184 Cal.App.3d at p. 539, 230 Cal.Rptr. 867 [ordering preparation of EIR where county amended sphere of influence guidelines].)

The City also relies on *Atherton v. Board of Supervisors* (1983) 146 Cal.App.3d 346, 351, 194 Cal.Rptr. 203, for the

proposition that "no purpose can be served by requiring an EIR [that forces the agency] to engage in sheer speculation as to future environmental consequences." In fact, the agency in *Atherton* actually *completed* an EIR in connection with an amendment to the transportation element of a general plan. (*Id.* at p. 349, 194 Cal.Rptr. 203.) The court upheld a challenge to the adequacy of the EIR, finding that the degree of specificity in the EIR was appropriate for the "conceptual" nature of the amendment. (*Id.* at pp. 350-351, 194 Cal.Rptr. 203.)

Because the Housing Element is not "linked" to any specific plan, legislation, or development, the City argues, the cases cited by SFLN are distinguishable as they involve specific rezoning or development. (*Bozung v. Local Agency Formation Com., supra,* 13 Cal.3d at p. 281, 118 Cal.Rptr. 249, 529 P.2d 1017 [annexation of agricultural land proposed to be used for development]; *Christward Ministry v. Superior Court, supra,* 184 Cal.App.3d at p. 190, 228 Cal.Rptr. 868 [general plan amendment authorized potential new use at specific landfill site]; *City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 235, 246, 227 Cal.Rptr. 899 [rezoning that would permit development near wetlands]; *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 156-157, 217 Cal.Rptr. 893 [general plan amendment in connection with proposed shopping center].) Although it may be technically true that the Housing Element is not linked to any specific rezoning, ordinance changes, or future development,[FN5] as the City emphasizes, it is not a vague policy document, completely unconnected to future development or potential physical changes to the environment. The Housing Element identifies areas for potential development, encourages development in neighborhood commercial areas, promotes the construction of "well-designed housing that enhances existing neighborhood character," "[s]trongly encourage[s] housing project sponsors to take full advantage of allowable building densities," and advocates reducing or removing minimum parking requirements in order to increase the land available for housing development. While no specific developments are connected with these policies, given the expected population growth and the number of construction projects already underway, the possibility of future development is not merely theoretical. (Cf. *Pala Band, supra,* 68 Cal.App.4th at pp. 575-576, 80 Cal.Rptr.2d 294.) The initial study recognizes that the updated Housing Element is "one component of a comprehensive planning effort called the Citywide Action Plan (CAP)," and that the Housing Element was "updated to provide a policy basis *for more specific planning efforts,* such as Better Neighborhoods Program, the Eastern Neighborhoods Community Plans for the Mission District, Bayview, Showplace Square/Potrero Hill, and the Downtown Neighborhoods, such as the C-3-O District and Rincon Hill district." (Italics added.)

> FN5. For this reason, *Laurel Heights Improvement Assn. v. Regents of University of California, supra,* 47 Cal.3d 376, 253 Cal.Rptr. 426, 764 P.2d 278, is less helpful than SFLN suggests. In *Laurel Heights,* the court concluded that an EIR must analyze the effects of future expansion if it is a "reasonably foreseeable consequence of the initial project." (*Id.* at p. 396, 253 Cal.Rptr. 426, 764 P.2d 278.) Laurel Heights did not involve the amendment of a general plan, but instead addressed the sufficiency of an EIR that was prepared in connection with the proposed relocation of the School of Pharmacy at the University of California, San Francisco (UCSF). (*Id.* at p. 387, 253 Cal.Rptr. 426, 764 P.2d 278.) It was undisputed that UCSF intended to expand its use of a specific facility once space became available, and the "general type of future use" was therefore reasonably foreseeable. (*Id.* at p. 396, 253 Cal.Rptr. 426, 764 P.2d 278.)

*7 Moreover, consistent with the mandate of Government Code section 65583, subdivision (c), that a housing element contain "a five-year schedule of *actions* " that the City is undertaking or plans to undertake to implement the element, the Housing Element includes an appendix titled "preliminary work program for implementing the housing element" that lists various "[i]mplementation *[ia]ction[s]* " for the element's objectives and policies, including beginning a "Geary Boulevard Better Neighborhood program." [FN6] (Italics added; see also *Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4th 1098, 1108, 64 Cal.Rptr.2d 684 [housing element shall include schedule of actions].) The planning commission resolution adopting the Housing Element likewise stressed that the Housing Element contained "an action program to implement the policies and achieve the

goals and objectives of the Housing Element." In other words, the City anticipates future action based on the Housing Element. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 794, 38 Cal.Rptr.2d 699, 889 P.2d 1019 [general plans have " 'potential for resulting in ultimate physical changes to environment' "].) In short, an EIR would not be premature.

FN6. Citing *Northwood Homes, Inc. v. Town of Moraga* (1989) 216 Cal.App.3d 1197, 1204, 265 Cal.Rptr. 363, the City attempts to downplay the importance of the Housing Element, noting that "[t]he housing needs identified in the general plan are simply goals, not mandated acts." *Northwood Homes* is inapposite. There, the court rejected appellant's argument that an open space ordinance which limited the density of development on certain lands was invalid because it would cause Moraga to fall short of the housing needs identified in its general plan. (*Id.* at pp. 1200, 1203-1204, 265 Cal.Rptr. 363.) The court acknowledged that municipalities are required to adopt housing elements that analyze housing needs and schedule development programs; however, it held that appellant failed to meet its burden to show that the ordinance at issue would have a significant effect on the regional housing supply. (*Id.* at pp. 1202-1204 & fn. 6, 265 Cal.Rptr. 363, citing Gov.Code, § 65583.)

C. EIR Required Only For Changes To General Plan.

As the City correctly emphasizes, we must determine whether there were any *changes* to the Housing Element that were significant enough to warrant conducting an EIR. "[W]hen a proposed amendment to a general plan is the subject of an initial study, in most cases the agency will not be required to assess the environmental effects of the entire plan or preexisting land use designations. Instead, the question is the potential impact on the existing environment of *changes* in the plan which are embodied in the amendment. [Citations.]" FN7 (*Black Property Owners Assn. v. City of Berkeley, supra,* 22 Cal.App.4th at p. 985, 28 Cal.Rptr.2d 305.)

FN7. We disagree with SFLN's characterization of this passage of *Black Property Owners* as dicta. The court cited two cases where general plan amendments were passed in connection with a particular development project or land use designation, and concluded in the next sentence that "a similar approach to the scope of the required environmental review is appropriate" where a general plan amendment is required by statute. (*Black Property Owners Assn. v. City of Berkeley, supra,* 22 Cal.App.4th at p. 985, 28 Cal.Rptr.2d 305.) The cited passage was essential to the court's decision.

In *Black Property Owners,* the City of Berkeley revised its housing element to include the possible construction of 747 additional housing units over 5 years. (*Black Property Owners Assn. v. City of Berkeley, supra,* 22 Cal.App.4th at p. 978, 28 Cal.Rptr.2d 305.) Although no party disputed an initial study's conclusion that the new housing construction would have positive environmental effects, a property owners' association challenged the adoption of the housing element revision, alleging that the city should have been required to prepare an EIR on the adverse consequences of its housing policies in general. (*Id.* at pp. 978, 985 & fn. 7, 28 Cal.Rptr.2d 305.) The appellate court held that because no changes were proposed to the city's housing-related ordinances, **CEQA** did not require any assessment of the ordinances' environmental effects. (*Id.* at p. 985, 28 Cal.Rptr.2d 305.) Further, a rent control ordinance that was "ratified and acknowledged" in the housing element update was exempt from **CEQA**. (*Id.* at p. 986, 28 Cal.Rptr.2d 305.) "To require an EIR on the policies embodied in the rent control ordinance, which was not subject to **CEQA** when it was enacted 13 years ago by the voters of [Berkeley], and which [Berkeley] has taken no action to change, would not further" the statutory purpose of **CEQA**. (*Ibid.*)

*8 We disagree with SFLN insofar as it argues that any amendment of the Housing Element necessarily requires an EIR to

evaluate each of the element's policies, or that a review of the *entire* Housing Element is necessary. Again, Government Code section 65588, subdivision (b) requires that a housing element be updated every five years. In doing so, local governments may simply "ratif[y] and acknowledge[ ]" previously adopted ordinances and policies, and evaluating policies left unchanged would not further the purpose of **CEQA**. (*Black Property Owners Assn. v. City of Berkeley, supra,* 22 Cal.App.4th at p. 986, 28 Cal.Rptr.2d 305; see also *Christward Ministry v. Superior Court, supra,* 184 Cal.App.3d at p. 189, 228 Cal.Rptr. 868 [no environmental evaluation necessary based on land use designation unchanged by amendment to general plan]; 1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2006) § 13.12, p. 638.) Indeed, several Housing Element policies incorporated no text change whatsoever from the 1990 Residence Element, and no purpose would be served in conducting environmental review on policies that were evaluated before the adoption of the 1990 Residence Element. The City need only conduct an EIR on any potential effects to the existing environment that may result from *changes* in the general plan which are embodied in the amended element. (*Black Property Owners Assn. v. City of Berkeley, supra,* 22 Cal.App.4th at p. 985, 28 Cal.Rptr.2d 305; *Christward Ministry v. Superior Court, supra,* 184 Cal.App.3d at pp. 186-187, 228 Cal.Rptr. 868.)

SFLN relies on cases where courts stressed that when an agency reviews a new project or change to a general plan, it must evaluate the effect of the project or amendment to the existing environment. For example, in *Environmental Planning & Information Council v. County of El Dorado, supra,* 131 Cal.App.3d at pages 352-353, 182 Cal.Rptr. 317, the El Dorado County Board of Supervisors certified EIRs prepared to evaluate two area plans that were amendments to the board's general plan. The EIRs compared the proposed plans with the existing general plan, which was misleading because it made it appear as if the population capacities of the areas would decrease under the plans. (*Id.* at pp. 355, 357-358, 182 Cal.Rptr. 317.) In fact, the existing populations were so small that the amendments actually called for substantial increases in population in each area, and the EIRs thus did not evaluate the impacts of the proposed plans on the environment in its then-current state. (*Id.* at p. 358, 182 Cal.Rptr. 317.) It makes sense that when an agency considers a *change* to a general plan, it should evaluate how that change may affect the existing environment, not how the amendment compares with the previous general plan.

Here, by contrast, it does not make sense to evaluate policies from the 1990 Residence Element that were left unmodified, even if the physical environment in San Francisco has changed since 1990. This case is distinguishable from other cases SFLN relies on to support its argument that the entire Housing Element should be subject to environmental review, as the courts in those cases stressed that when evaluating *new* plans or *changes* to general plans, agencies must focus on the possible effect to the existing environment. (*Christward Ministry v. Superior Court, supra,* 184 Cal.App.3d at pp. 186-187, 228 Cal.Rptr. 868 [agency must assess effect of amendment to general plan on existing physical environment, not simply compare proposed amendment and existing general plan]; *Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 697, 711, 58 Cal.Rptr.3d 102 petn. for review pending, petn. filed May 24, 2007, S152886 [EIR improperly compared proposed project with theoretical construction permitted by existing zoning, rather than with actual existing vacant lot].) [FN8]

FN8. *Meridian Ocean Systems, Inc. v. State Lands Com.* (1990) 222 Cal.App.3d 153, 164-165, 271 Cal.Rptr. 445, likewise does not support SFLN's argument that the entire Housing Element is subject to environmental review. The case did not involve the amendment of a general plan. Instead, it analyzed whether the State Lands Commission improperly ordered an EIR for certain geophysical research that previously had been statutorily exempt from environmental review. (*Id.* at pp. 160, 162-165, 271 Cal.Rptr. 445.) The court addressed the invocation of an exception to a specific statutory exemption that is not at issue here. (*Id.* at pp. 164-165, 169, 271 Cal.Rptr. 445.)

*9 With these general legal principles in mind, we now consider whether an EIR is required here.

D. Housing Element Contains Changes That Necessitate an EIR.

The City relies on *Black Property Owners, supra,* 22 Cal.App.4th 974, 28 Cal.Rptr.2d 305 when it states that it "did not analyze the effects of the policies and objectives in the 2004 Housing Element that remain consistent with those policies and objectives contained in the 1990 Resident Element and other elements of the General Plan." It stresses that any changes to the Housing Element were "so minor in scope" that a full environmental review was unnecessary. SFLN argues that unlike in *Black Property Owners,* the Housing Element here was "significantly modified" and calls for "a broad range of future development," necessitating environmental review. We agree with SFLN that the Housing Element contains changes, that some of those changes are not "minor" (as the City argues), and that there is substantial evidence to support a fair argument those changes may have a significant impact on the environment.

For example, policy 11.9 of the Housing Element now provides that densities and "parking standards" should be set at levels "that promote the City's overall housing objectives while *respecting* neighborhood scale and character"; the Residence Element policy was to set allowable densities at levels that will "*promote compatibility with* prevailing neighborhood scale and character." (Italics added.) A Residence Element policy to adopt specific zoning districts that would set density categories has been eliminated from the Housing Element.

Other Housing Element policies make more significant changes. Policy 11.8, a new policy, provides: "Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character." Its explanatory text provides that the "Department should strongly support projects that creatively address residential parking and open space requirements, resulting in higher densities with a full range of unit sizes." The Department will "study the impacts of reduced parking and private open space provisions and will consider revising the Planning Code accordingly." With respect to "neighborhood character," new policy 11.1 is to "[u]se new housing development as a means to enhance neighborhood vitality and diversity." Its interpretive text states that "[m]inimum density requirements and maximum parking standards should be used to encourage a mix of unit sizes in areas well served by transit and neighborhood retail." Whereas a previous Residence Element policy was to "[p]romote construction of well designed housing that *conserves* existing neighborhood character," policy 11.5 of the Housing Element now "[p]romote[s] the construction of well-designed housing that *enhances* existing neighborhood character." (Italics added.)

***10** The 1990 Residence Element contained a policy to "[r]elate land use controls to the appropriate scale for new and existing residential areas." The interpretive text stated that "zoning envelopes should be tailored to the prevailing built pattern to maintain the low density character [of single- and two-family neighborhoods]." One stated objective of the policy was to "allow some expansion" of height and depth controls in one- and two-family areas "to accommodate contemporary living space needs and still be compatible with the neighborhood scale." Modified policy 11.6 of the Housing Element now states: "Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit." Its implementation action states: "The City will continue to promote increased residential densities in areas well served by transit and neighborhood compatible development with the support and input from local neighborhoods."

New policy 1.7 is to "[e]ncourage and support the construction of quality, new family housing." Finally, although policy 1.6, to "[c]reate incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects," is almost identical to a policy in the 1990 Residence Element, an implementation provision now calls for reviewing the possibility of removing parking and density requirements as "incentives."

The City argues that "for purposes of **CEQA**, there was no change to the City's policy of increasing density while maintaining neighborhood character that was significant." We disagree. Taken together, the changes to the Housing Element cited above reflect a shift away from preserving existing housing density and a movement toward allowing denser housing development, and decreased off-street parking, which in turn could lead to increased traffic congestion, air pollution, and noise, as well as a change in the aesthetic quality of City neighborhoods. (*Pocket Protectors v. City of Sacramento, supra,* 124 Cal.App.4th at pp. 936-937 [**CEQA** addresses enjoyment of aesthetic qualities].) FN9

FN9. This case is distinguishable from *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 592, 18 Cal.Rptr.3d 814, where this court held that "[t]he aesthetic difference between a four-story and a three-story building on a commercial lot on a major [urban] thoroughfare" was "not a significant environmental impact, even under the fair argument standard." Here, changing density requirements in San Francisco could theoretically affect a much larger area, and have a much larger impact, increasing noise, air pollution, and congestion.

We find *City of Redlands v. County of San Bernardino, supra,* 96 Cal.App.4th 398, 117 Cal.Rptr.2d 582 instructive. There, a county board of supervisors adopted general plan amendments relating to the county's "sphere of influence" over future land use planning and development. (*Id.* at pp. 403-404, 117 Cal.Rptr.2d 582.) The trial court disagreed with the county's characterization of the amendments as mere clarifications of existing policy. (*Id.* at p. 404, 117 Cal.Rptr.2d 582.) The appellate court affirmed the issuance of a writ of mandate to set aside the amendments, noting that the county had replaced mandatory language with more permissive or discretionary language, that the amendments granted the county more discretion in land use matters relating to unincorporated territory, and that the amendments made substantive changes to the county's policies and procedures. (*Id.* at pp. 406-407, 117 Cal.Rptr.2d 582.) In fact, the difference in policies before and after the amendments, standing alone, constituted substantial evidence of a fair argument that the amendments could have a significant effect on the environment. (*Id.* at p. 414, 117 Cal.Rptr.2d 582.)

***11** Similarly, here, the Housing Element does more than simply clarify or affirm existing policies with respect to housing density. It now "encourage[s]" developers to take "full advantage of allowable building densities," and stresses the enhancement of neighborhood character instead of conservation of neighborhood character. Although we are sympathetic to the City's argument that this case is distinguishable because the amendments to the Housing Element are not as " 'drastic' " as those in *City of Redlands, supra,* 96 Cal.App.4th at page 414, 117 Cal.Rptr.2d 582, it does not follow that the amendments will not lead to changes to the physical environment. In fact, any future housing promoters could argue that a high density development was compatible with the revised Housing Element. "Not only does **CEQA** apply to revisions or amendments to an agency's general plan, but **CEQA** reaches beyond the mere changes in the language in the agency's policy to the ultimate consequences of such changes to the physical environment." (*Id.* at p. 409, 117 Cal.Rptr.2d 582.)

Moreover, the City fails to distinguish *City of Redlands* in another important respect. The court found that the initial study in *City of Redlands* was inadequate because it "fail[ed] to provide sufficient evidence or analysis of the potential environmental effects of the [general plan] amendments." (96 Cal.App.4th at p. 408, 117 Cal.Rptr.2d 582.) Instead, for each environmental factor, the county simply stated that no changes were proposed for any goals, policies, or action items, and that the proposed amendments were not expected to result in any significant change to the environment. (*Ibid.*) The court concluded that the initial study was "an impermissible attempt to evade environmental review by failing to address the consequences of the revisions to its policy and procedures," and that the county's efforts were " 'a token observance of regulatory requirements.' " (*Id.* at pp. 408-409, 117 Cal.Rptr.2d 582.)

We conclude that the City here likewise failed to adequately address in the initial study the consequences of the revisions to the

Housing Element. The initial study repeatedly emphasizes that the Housing Element "alone" will not produce new housing, and that environmental review will be deferred until any specific development, rezoning, planning code revision, or area plan is proposed. The same theme is repeated under each of the environmental factors considered in the initial study, with the City concluding that it would be premature to analyze any possible environmental effects of the proposed amendments. For several of the environmental factors, the City simply includes the following conclusion, with slight variations: "[T]he proposed new policies of the Housing Element would encourage the provision of additional housing in the City. However, at the policy level, it would be speculative to estimate the level and location of new residents that would result from their adoption. Again, the amount of new housing cited in the Data Needs and Analysis section of the revision represents the City's share of housing calculated by ABAG, and is not a proposed new policy or stated goal of the Housing Element. Thus, while [various] effects of the proposed revisions cannot be accurately predicted, future plans, rezoning and specific development proposals that arise out of the City's comprehensive effort to encourage more housing could lead to increased [various] impacts, and these would be analyzed and reported in the environmental documents that would be prepared for them."

***12** As we explained above, however, the City may not defer analysis of general plan amendments simply because more specific proposals may come later. "**CEQA** advances a policy of requiring an agency to evaluate the environmental effects of a project *at the earliest possible stage* in the planning process. We conclude that, by failing to accurately describe the agency action and by deferring full environmental assessment of the consequences of such action, the [City] has failed to comply with **CEQA's** policy and requirements." (*City of Redlands v. County of San Bernardino, supra,* 96 Cal.App.4th at p. 410, 117 Cal.Rptr.2d 582, fn. omitted.) By simply indicating that the City would defer environmental review until specific developments are proposed, the City failed to provide sufficient information to determine whether significant environmental impacts may occur. (*Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo, supra,* 172 Cal.App.3d at p. 171, 217 Cal.Rptr. 893 [initial study "far too conclusionary" and inadequate for failure to reveal what evidence, if any, was relied on in reaching conclusions].)

We likewise agree with SFLN that the City failed to adequately analyze the entire "project" for purposes of **CEQA**. (§ 21100, subd. (a).) The initial study *must* consider "[a]ll phases of project planning, implementation, and operation." (Guidelines, § 15063, subd. (a)(1).) Here, however, the City analyzed only new policies that were added to the Housing Element. The City did not analyze, for example, the potential environmental effects of eliminating the policy of increasing the housing supply "without overcrowding or adversely affecting the prevailing character of existing neighborhoods." (*City of Redlands v. County of San Bernardino, supra,* 96 Cal.App.4th at p. 407, 117 Cal.Rptr.2d 582 [general plan amendments eliminated provisions containing various requirements or limitations].) The City likewise did not analyze the effect of eliminating a Residence Element policy to adopt specific zoning districts that would set density categories. Moreover, the initial study did not analyze policies that were modified, such as the policy that now promotes construction of housing that "enhances" rather than "conserves" neighborhood character. (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1200, 31 Cal.Rptr.3d 901 [initial study inadequate because it failed to consider or assess effect of revisions of off-leash dog policy].)

As in *City of Redlands v. County of San Bernardino, supra,* 96 Cal.App.4th at page 410, 117 Cal.Rptr.2d 582, we conclude that because there was substantial evidence of a significant environmental impact, an EIR (as opposed to a revised initial study) is appropriate here. In fact, we may discern reasonable assumptions of the Housing Element's impact simply from reviewing the language of the amendments themselves, because the amendments now call for possibly removing parking and density requirements as incentives to developers, promoting the construction of housing that enhances (as opposed to conserves) neighborhood character, supporting projects that result in higher densities, and studying the impacts of reduced parking and private open space provisions. (*Id.* at p. 414, 117 Cal.Rptr.2d 582.) In short, the amendments do more than simply clarify existing policies. (*Id.* at p. 407, 117 Cal.Rptr.2d 582.)

*13 Moreover, SFLN provided substantial evidence to support a fair argument that the Housing Element amendments may have a significant impact on the environment. It relies primarily on a 22-page letter (with attachments) by David Golick, a planning consultant. Golick concluded that the Housing Element "contains policies encouraging substantial high-density housing development, which in turn could cause a number of potentially significant effects upon visual quality/neighborhood character, transportation, land use and utilities/public services in San Francisco." For example, he wrote that the revisions could lead to "high-density, bulky, potentially 50-foot tall buildings in neighborhood commercial areas and along transit corridors throughout the City [which] could cause myriad environmental effects," including incompatibility with neighborhood character, and a transformation of San Francisco's unique neighborhoods into "high-walled canyons."

The City argues that SFLN's evidence does not amount to substantial evidence, because it is speculative. But the City again falls back on its argument that the Housing Element lacks any specific development proposal or zoning change. The City chides SFLN for failing to point to "any factual evidence that anyone, anywhere in the City, is proposing" specific developments with taller buildings, or residential units above commercial structures. But it is beyond dispute that specific developments will be proposed in the future, and developers would be able to argue that taller buildings are consistent with the City's general plan. Likewise, the proponent of any new zoning ordinance that calls for denser developments would be able to argue that the ordinance was consistent with the Housing Element. (E.g., S.F. Planning Code, § 101.1, subd. (d) [City may not adopt zoning ordinance or development agreement authorized by Government Code section 65865 unless development or ordinance is consistent with general plan].) Moreover, because the initial study lacked any analysis of the potential effects of the revised Housing Element, it is understandable that the evidence cited by SFLN also lacked specificity. As in *City of Redlands v. County of Bernardino, supra,* 96 Cal.App.4th at page 414, 117 Cal.Rptr.2d 582, we find it ironic that the City complains about SFLN's lack of evidence, considering "it initially set the stage by failing to gather facts and evidence in conducting its initial study of the amendments' potential environmental effects ."

"**CEQA** places the burden of environmental investigation on government rather than the public. If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." (*Sundstrom v. County of Mendocino, supra,* 202 Cal.App.3d at p. 311, 248 Cal.Rptr. 352 [inadequate initial study of proposed private sewage treatment plant]; see also *Christward Ministry v. Superior Court, supra,* 184 Cal.App.3d at p. 197, 228 Cal.Rptr. 868 [city's position there was no fair argument of significant impact to environment based, in part, on failure to complete adequate initial study]; *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1597, 27 Cal.Rptr.3d 28.) Here, SFLN was permitted to draw "reasonable inferences" about the possible environmental effects of the amendments, based on facts and reasonable assumptions from those facts. (*City of Redlands v. County of San Bernardino, supra,* 96 Cal.App.4th at pp. 410-411, 117 Cal.Rptr.2d 582 [no requirement that expert testimony support fair argument that project may have significant effect on the environment].)

*14 Because there was substantial evidence in the record to support a fair argument that the amendments to the Housing Element may have a significant impact on the environment, the City was required to prepare an EIR, and the trial court erred in denying SFLN's petition for a writ of mandate.

III.

DISPOSITION

The judgment is reversed, and the trial court is ordered to issue a writ of mandate directing the City to set aside its adoption of the negative declaration and to order the preparation of an EIR. Appellant shall recover its costs on appeal.

We concur: REARDON, Acting P.J., and RIVERA, J.

Cal.App. 1 Dist.,2007.

San Franciscans for Livable Neighborhoods v. City and County of San Francisco

Not Reported in Cal.Rptr.3d, 2007 WL 1793881 (Cal.App. 1 Dist.)

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

ATTACHMENT 2

to industrial lands for residential re-use and allowing live/work development to happen haphazardly without providing necessary infrastructure and supportive urban amenities unfortunately breaks from the pattern of desirable neighborhoods upon which the City's economy depends.

Land Supply for Housing

The City Planning Department recently looked at land availability and suitability for housing development as part of its efforts to ensure adequate, appropriate and affordable housing in San Francisco. Ongoing planning and rezoning efforts could provide space for about 66,000 to 78,000 housing units.

Major Areas	Potential Housing Development under Ongoing Rezoning Efforts
Eastern Neighborhoods	17,000 to 29,000
Better Neighborhoods / Transit Corridors	16,000
Downtown / Mission Bay	22,000
Residential Neighborhoods / Rest of City	10,000
Total	66,000 to 78,000

Residential districts, where most housing – especially family housing – is already located, still contain a number of vacant and developable lots. Construction of as many as 9,200 new units in single-family homes, duplexes or flats in vacant lots scattered around established residential neighborhoods will have very minimal cumulative effect on infrastructure needs. Secondary units, perhaps the least invasive approach to additional housing production, will be encouraged by pending legislation and could possibly add a significant amount to the City's housing inventory.

Current planning initiatives launched under the Citywide Action Plan are providing a comprehensive approach to balance housing and jobs needs without diminishing the City's and its neighborhoods' livability. The Better Neighborhoods Program is increasing the supply and diversity of housing, in neighborhoods where new housing makes sense, as central objectives. Their proximity to transit and essential services, are ideal for additional housing, especially in upper stories above commercial uses. A soon to be launched program will focus on housing in Downtown neighborhoods including Rincon Hill, Transbay Terminal and the Mid-Market area. Downtown districts and its surrounding areas are increas-

Today, the City has the opportunity to design zoning controls that can guide future development through cycles of growth and decline in a more efficient and appropriate manner than the current industrial zoning or market forces have allowed over the past few years. The amount of land assigned to PDR uses in the rezoning effort of the Eastern Neighborhoods will define how many of the existing PDR businesses and jobs stay in the city, how many new ones will come, and what kind of PDR activities will be available in the City.

Growth 2000-2025: Where can we House People? Where and What Kinds of Jobs can we Accommodate?

The development of policy guidelines and zoning controls for the future use of land in this community planning effort is informed by an analysis of past, present, and future urban conditions. Past and present conditions are realities reported in various documents and data sources or collected through fieldwork. Future conditions are scenarios developed under certain economic and demographic assumptions informed by past trends, changing industries, social events, national and global trends, among other factors. The Association of Bay Area Governments is the key regional agency that develops population and job growth projections for the San Francisco Bay Area. Its regional model allocates growth to local jurisdictions based on regional and state trends as well as local policies. ABAG forecasts are used to inform how the new zoning rules in the Eastern Neighborhoods relate to future jobs and households as well as to place the Eastern Neighborhoods in a citywide perspective.

According to the ABAG's Projections 2002, San Francisco would add about 20,000 households and 135,000 jobs between 2000 and 2025. For the purpose of this analysis, we are assuming that San Francisco will grow by 30,000 households based on the annual average housing production of 1,200 units that the City experienced over the last 20 years. This assumption also takes into account various community plans and rezoning initiatives that will greatly expand housing potential capacity throughout the City. However, there is every expectation that if all aspects of the Citywide Action Plan are successfully and aggressively implemented, this rate of production can be accelerated. If this happens more than 30,000 units could be built over the same time period.

Overall, the total potential capacity for new housing development under proposed plans and rezoning efforts ranges from 66,000 to 78,000 new housing units. These housing potential capacity estimates are based on an inventory of the City's vacant or underutilized lands suitable for housing development. Land availability, however, is not the only factor determining new housing production. Given the City's finite supply of land and strong development pressures, landowners can expect high prices for parcels they own, if they choose to sell for housing development at all. Availability of capital, costs of labor and materials, neighborhood opposition, and building regulations are some of the additional factors that constrain the production of housing. But while this much higher household growth assumption – equivalent to 50% more than the ABAG estimate – constitutes an optimistic scenario, it is quite reasonable under appropriate policy guidelines and market conditions.

002813

Housing and Job Allocation by Neighborhood

As a result of the soft site and pipeline analysis, the total capacity for new housing construction was found to be 60,000 to 79,000 housing units, depending on the rezoning results in the Eastern Neighborhoods, and space for 158,000 to 161,000 jobs. Since the forecasts, which are based on larger economic trends, assume that San Francisco will produce only 30,000 new housing units and 135,000 jobs by 2025, the crux of the Land Use Forecast becomes the allocation of development, which can be supported. Because of the differences among the three Eastern Neighborhoods zoning scenarios, the land use future of the City could develop in three very distinct ways. (See table below.) The Option A alternatives in the Eastern Neighborhoods leave more housing units to allocate to richly transit-served areas like the Better Neighborhoods, Downtown, and designated Transit Corridors. Option A would also result in less replacement of PDR jobs by office and retail jobs in the Eastern Neighborhoods. The Option C alternatives would result in more housing growth in the Eastern Neighborhoods, with less housing left over for heavily transit-served areas, and a relatively high PDR job loss. Option B is a compromise between the two. The numbers allocated for other parts of the city vary as a result of policy changes in the Eastern Neighborhoods.

Housing and Job Growth Allocation – 2025

					Option B (Expanding Neighborhoods)							
Region of City					Housing Units	PDR Jobs	Non-PDR Jobs	Total Jobs				
Eastern Neighborhoods					8,250	-2,800	15,000	12,200				
Better Neighborhoods/ Transit Corridors					7,300	2,600	11,000	13,600				
Downtown/Mission Bay					10,000	1,900	63,000	64,900				
Rest of City					4,450	3,600	30,000	33,600				
Total	29,830	7,750	19,000	126,750	30,000	5,300	119,000	124,300	30,000	23,600	119,000	116,400

002925

ATTACHMENT 3

City and County of San Francisco
Office of the Clerk of
BOARD OF SUPERVISORS

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

Your attention is hereby directed to the following:

I, Angela Calvillo, Clerk of the Board of the City and County of San Francisco, California do hereby certify that the annexed document in File 090202, a letter from Department of Housing and Community Development to Mr. John Rahaim Director of Planning dated April 29, 2009. RE: San Francisco's Adopted Housing Element is a full, true and correct copy of the original thereof on file in this office.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of the City and County of San Francisco, California this 30th day of April, A.D., 2009.

Angela Calvillo
Clerk of the Board
City and County of San Francisco

By Madeleine Licavoli

STATE OF CALIFORNIA-BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
FAX (916) 327-2643

090202
222
223
224

April 29, 2009

Mr. John Rahaim
Director of Planning
San Francisco Planning Department
1650 Market Street, Suite 400
San Francisco, CA 94102

RE: San Francisco's Adopted Housing Element

Dear Mr. Rahaim:

Thank you for submitting correspondence dated April 9, 2009 regarding the status of San Francisco's housing element as it relates to the unpublished decision of the California Court of Appeals, in the case of *San Franciscans for Livable Neighborhoods v. City and County of San Francisco.*

As you know, the Department is responsible for administering State housing element law (Article 10.6 of the Government Code) and reviewing local housing elements for compliance with the law. The Department reviewed San Francisco's housing element adopted September 28, 2004 and found the element in compliance with State housing element law on October 28, 2004.

At the City's request, the Department reviewed the adopted element for compliance with housing element law in light of Policies 1.6, 1.7, 11.1, 11.5, 11.6, 11.7, 11.8 and 11.9, being inoperative or repealed. In the April 2, 2008 correspondence, the Department found the element could continue to substantially comply with State housing element law in the absence of the above listed policies.

Your April 9, 2009 correspondence explains the San Francisco Superior Court has issued a Peremptory Writ of Mandate in response to the unpublished Court of Appeal decision in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco.* The Peremptory Writ of Mandate Order prohibits the City from implementing the above listed policies in addition to three new policies: Policy 1.1 (allowable densities), Policy 1.2 (encourage development without discouraging new employment), and Implementation Measure 1.1 (citywide action plan guidance).

Based on the Department's review of the 2004 adopted housing element, excluding the Policies listed beforehand, and excluding the three new policies set forth in the Peremptory Writ of Mandate Order, the Department finds the element continues to substantially comply with State housing element law.

The Department looks forward to working with San Francisco to implement current housing strategies and the next update of the housing element. As outlined in the Department's April 2, 2008 letter, the update shall include a complete analysis of potential governmental constraints and a detailed schedule of actions to implement the policies, goals, and objectives of the housing element. If you have any questions, please feel free to call Paul McDougall, of our staff, at (916) 322-7995.

Sincerely,

Cathy E. Creswell

Cathy E. Creswell
Deputy Director

cc: Douglas Shoemaker, Director, Mayor's Office of Housing
Audrey Pearson, Deputy City Attorney, City Attorney's Office
Sarah Dennis, Senior Planner, Planning Department

STATE OF CALIFORNIA-BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
FAX (916) 327-2643

April 2, 2008

Mr. John Rahaim
Director of Planning
San Francisco Planning Department
1650 Market Street, Suite 400
San Francisco, CA 94102

RE: San Francisco's Adopted Housing Element

Dear Mr. Rahaim:

Thank you for submitting correspondence dated August 1, 2007 and February 14, 2008 regarding the City's commitment to its housing goals in the current and upcoming planning period. The Department also appreciates updated information about the status of San Francisco's housing element as it relates to the unpublished decision of the California Court of Appeals, First Appellate District, in the case of *San Franciscans for Liveable Neighborhoods v. City and County of San Francisco*, No. A112987. That decision held the adoption of portions of the City's element violated the requirements of CEQA.

As you know, the Department is responsible for administering State housing element law (Article 10.6 of the Government Code) and reviewing local housing elements for compliance with the law. The Department reviewed San Francisco's housing element adopted September 28, 2004 and found the element in compliance with State housing element law on October 28, 2004.

Pursuant to the February 2008 correspondence, San Francisco intends to seek permission from the San Francisco Superior Court to continue to rely on those provisions of the 2004 Housing Element that, according to the Appellate Court decision, do not require additional environmental review. At the City's request, the Department has reviewed the adopted element for compliance with housing element law in light of Policies 1.6, 1.7, 11.1, 11.5, 11.6, 11.7, 11.8 and 11.9, being inoperative or repealed, either by order of the Superior Court on remand, or by other action by the City.

Based on the Department's review of the 2004 adopted housing element, excluding the Policies listed above, the Department would find the element continues to substantially comply with State housing element law. In addition, as you know, San Francisco's continued compliance is dependent on implementation of commitments for the housing element update outlined in the February 14, 2008 correspondence, including:

- An improved detailed analysis of potential governmental constraints on the development of housing, particularly with respect to land-use controls, permit processing and potential constraints on housing for persons with disabilities.
- A more detailed schedule of actions to implement the policies and goals and objectives of the housing element including detailed actions with timelines and steps toward objectives and outcomes and entities responsible.

The Department looks forward to working with San Francisco to implement current housing strategies and in the next update of the housing element. If you have any questions please feel free to call Paul McDougall, of our staff, at (916) 322-7995.

Sincerely,

Cathy E. Creswell

Cathy E. Creswell
Deputy Director

cc: Matthew Franklin, Director, Mayor's Office of Housing
Audrey Pearson, Deputy City Attorney, City Attorney's Office
Sarah Dennis, Senior Planner, Planning Department

ATTACHMENT 4

SAN FRANCISCO
PLANNING DEPARTMENT

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

August 1, 2007

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

Re: **Market and Octavia Neighborhood Plan**
Transmittal of Planning Case No. 2003.0347EMTUZ
Consistency Findings with the 1990 Residence Element

Dear Ms. Calvillo:

Under separate cover the Planning Department has transmitted to the Board of Supervisors ("the Board") the Market and Octavia Neighborhood Plan approved by the Planning Commission ("the Commission") on April 5, 2007, in resolutions 17406, 17407, 17408, 17409, 17410, and 17411.

As part of the resolutions adopted by the Planning Commission, the Commission found that the Market and Octavia Neighborhood Plan is consistent with the San Francisco General Plan, including the 2004 approved Housing Element. The Department finds, however, that the Market and Octavia Neighborhood Plan is consistent with both the 2004 Housing Element as well as with the following objectives and policies found in the 1990 Residence Element:

OBJECTIVE 1

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT GROWTH

POLICY 1.1
Promote development of permanently affordable housing on surplus, underused and vacant public lands.

POLICY 1.3
Create incentives for the inclusion of housing, including permanently affordable housing in commercial developments.

EXHIBIT T

POLICY 1.4

Locate infill housing on appropriate sites in established neighborhoods.

POLICY 1.5

Allow new secondary units in areas where their effects can be dealt with and there is neighborhood support, especially if that housing is made permanently affordable to lower income households.

POLICY 1.6

Discourage development of new housing in areas unsuitable for residential occupancy, or on sites containing existing housing worthy of retention.

OBJECTIVE 2

TO INCREASE THE SUPPLY OF HOUSING WITHOUT OVERCROWDING OR ADVERSELY AFFECTING THE PREVAILING CHARACTER OF EXISTING NEIGHBORHOODS.

POLICY 2.1

Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character.

POLICY 2.2

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are permanently affordable to lower income households.

POLICY 2.3

Allow flexibility in the number and size of units within permitted volumes of larger multi unit structures, especially if the flexibility results in creation of a significant number of dwelling units that are permanently affordable to lower income households.

POLICY 2.4

Adopt specific zoning districts which conform to a generalized residential land use and density plan and the Master Plan.

OBJECTIVE 3

TO RETAIN THE EXISTING SUPPLY OF HOUSING.

POLICY 3.1

Discourage the demolition of sound existing housing.

POLICY 3.2

Control the merger of residential units.

POLICY 3.3

Consider legalization of existing illegal secondary units where there is neighborhood support and the units can conform to minimum Code standards of safety and livability and the permanent affordability of the units is assured.

OBJECTIVE 5

TO MAINTAIN AND IMPROVE THE PHYSICAL CONDITION OF HOUSING WHILE MAINTAINING EXISTING AFFORDABILITY LEVELS.

POLICY 5.5

Preserve landmark and historic residential buildings.

OBJECTIVE 7

TO INCREASE LAND AND IMPROVE BUILDING RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING.

POLICY 7.1

Create more housing opportunity sites for permanently affordable housing.

POLICY 7.2

Include affordable units in larger housing projects.

POLICY 7.4

Promote more economical housing construction to achieve affordable housing

POLICY 7.7

Allow construction of unconventional housing types that reduce cost, if quality can be maintained.

OBJECTIVE 8

TO EXPAND FINANCIAL RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING

POLICY 8.1

Enhance existing revenue sources for permanently affordable housing.

POLICY 8.2

Create new sources of revenue for permanently affordable housing.

OBJECTIVE 10

TO PROTECT THE EXISTING AFFORDABILITY OF HOUSING.

POLICY 10.1

Preserve affordability of existing affordable units.

POLICY 11.2

Support new affordable ownership programs.

OBJECTIVE 12

TO PROVIDE A QUALITY LIVING ENVIRONMENT.

POLICY 12.1

Assure housing is provided with adequate public improvements, services and amenities.

POLICY 12.2

Allow appropriate neighborhood-serving commercial activities in residential areas.

POLICY 12.4

Promote construction of well designed housing that conserves existing neighborhood character.

POLICY 12.5

Relate land use controls to the appropriate scale for new and existing residential areas.

OBJECTIVE 13

TO PROVIDE MAXIMUM HOUSING CHOICE.

POLICY 13.5

Encourage economic integration in housing by ensuring that new permanently affordable housing is located in all of the City's neighborhoods, and by requiring that all new large market rate residential developments include affordable units.

OBJECTIVE 16

TO ADDRESS AFFORDABLE HOUSING NEEDS THROUGH A COORDINATED STATE AND REGIONAL APPROACH.

POLICY 16.1

Encourage the balancing of regional employment growth with the development and growth of affordable housing in the region.

POLICY 16.2

Encourage development of housing in the bay area which will meet regional housing needs and contribute to the quality of life in the region.

These affirmative findings, in concert with the findings referencing other General Plan sections in Planning Commission resolutions 17406, 17407, 17408, 17409, 17410, and 17411, demonstrate the Market and Octavia Plan's consistency with the City of San Francisco's General Plan.

Sincerely,

Dean Macris

ATTACHMENT 5

Policy 15.5: Encourage consideration of energy use issues when making transportation investment decisions.

Policy 15.6: Promote alternative work arrangements which will contribute to more efficient transportation use.

The proposed Eastern Neighborhoods Rezoning and Area Plans project would allow for greater densities and a more transit-oriented, mixed-use urban form. By realigning the geography of jobs and housing to encourage greater integration between the two, the project would create the foundation upon which many of the above-listed policies and objectives can be realized. For example, by virtue of the emphasis placed upon mixed-use these principles in the draft area plans, neighborhoods could become more energy efficient. With regard to transportation noise impacts, the impact analysis described in Section IV.F, Noise, reveals that while the proposed rezoning under all options would not result in significant increases in traffic noise, the cumulative increase in traffic noise, including background growth to 2025, would be significant. However, compliance with state noise standards for multi-family residential uses would ensure that interior noise levels would be appropriate for residential units. (See Appendix B for draft area plan policies.)

Housing Element

In May 2004, the Planning Commission adopted an updated and amended Housing Element of the *General Plan* to replace the existing Residence Element adopted by the Board of Supervisors in 1990. The updated Housing Element was approved by the Board of Supervisors in September 2004, and certified by the State Department of Housing and Community Development in October 2004 for compliance with State law regarding the content and scope of *General Plan* housing elements. The updated 2004 Housing Element contains objectives and policies that would expand land capacity necessary to increase housing production; direct new housing to appropriate locations, especially in areas well served by transit and other urban amenities; and emphasize design and density controls that enhance existing neighborhood character. These objectives and policies are instructed by the two *General Plan* Priority Policies: that the City's supply of affordable housing be preserved and enhanced and that existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of San Francisco's neighborhoods.

The following objectives and policies of the Housing Element are relative to the Eastern Neighborhoods Rezoning and Area Plans project.

Objective 1: Provide new housing, especially permanently affordable housing, in appropriate locations which meets identified housing needs and takes into account the demand for affordable housing created by employment demand.

Policy 1.1: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to

EXHIBIT R

housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households. Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhoods support.

Policy 1.2: Encourage housing development, particularly affordable housing, in neighborhood commercial areas without displacing existing jobs, particularly blue-collar jobs or discouraging new employment opportunities.

Policy 1.3: Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.

Policy 1.4: Locate in-fill housing on appropriate sites in established residential neighborhoods.

Policy 1.5: Support development of affordable housing on surplus public lands.

Policy 1.6: Create incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects.

Policy 1.7: Encourage and support the construction of quality, new family housing.

Policy 1.8: Allow new secondary units in areas where their effects can be dealt with and there is neighborhood support, especially if that housing is made permanently affordable to lower-income households.

Policy 1.9: Require new commercial developments and higher educational institutions to meet the housing demand they generate, particularly the need for affordable housing for lower income workers and students.

Objective 2: Retain the existing supply of housing.

Policy 2.1: Discourage the demolition of sound existing housing.

Policy 2.4: Retain sound existing housing in commercial and industrial areas.

Policy 2.5: Preserve the existing stock of residential hotels.

Policy 3.6: Preserve landmark and historic residential buildings.

Objective 4: Support affordable housing production by increasing site availability and capacity.

Policy 4.1: Actively identify and pursue opportunity sites for permanently affordable housing.

Policy 4.2: Include affordable units in larger housing projects.

Policy 4.4: Consider granting density bonuses and parking requirement exemptions for the construction of affordable housing or senior housing.

Policy 4.5: Allow greater flexibility in the number and size of units within established building envelopes, potentially increasing the number of affordable units in multi-family structures.

Policy 4.6: Support a greater range of housing types and building techniques to promote more economical housing construction and potentially achieve greater affordable housing production.

Objective 6:	Protect the affordability of existing housing.
Policy 6.2:	Ensure that housing developed to be affordable is kept affordable.
Policy 6.4:	Achieve permanent affordability through community land trusts and limited equity housing ownership and management.
Policy 7.1:	Enhance existing revenue sources for permanently affordable housing.
Policy 7.2:	Create new sources of revenue for permanently affordable housing, including dedicated long-term financing for housing programs.
Policy 8.1:	Encourage sufficient and suitable rental housing opportunities and emphasize permanently affordable rental units wherever possible.
Objective 11:	In increasing the supply of housing, pursue place making and neighborhood building principles and practices to maintain San Francisco's desirable urban fabric and enhance livability in all neighborhoods.
Policy 11.1:	Use new housing development as a means to enhance neighborhood vitality and diversity.
Policy 11.2:	Ensure housing is provided with adequate public improvements, services, and amenities.
Policy 11.3:	Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing affordable housing displacement.
Policy 11.5:	Promote the construction of well-designed housing that enhances existing neighborhood character.
Policy 11.6:	Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit.
Policy 11.7:	Where there is neighborhood support, reduce or remove minimum parking requirements for housing, increasing the amount of lot area available for housing units.
Policy 11.8:	Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.
Policy 11.9:	Set allowable densities and parking standards in residential areas at levels that promote the City's overall housing objectives while respecting neighborhood scale and character.

A primary goal of the Eastern Neighborhoods Rezoning and Area Plans project is to encourage new housing while retaining sufficient lands for PDR businesses and jobs. The project would permit housing development in some areas currently zoned for industrial use, as well as preparing and adopting new area plans for each neighborhood. New districts mixing residential and commercial uses and residential and PDR uses, as well as new residential-only districts would be a key attribute of the proposed rezoning. The Eastern Neighborhoods project area would thus become a new source of land for housing development that, as a result of the planning process,

would reflect the self-identified needs of the communities themselves. Moreover, the proposed area plans include draft policy language that reflects many of the Housing Element's objectives and policies in support of production of affordable housing. The proposed project would thus advance the objectives and policies set forth in the Housing Element. (See Appendix B for draft area plan policies.)

As discussed in Section IV.D, Population and Housing, because the proposed rezoning would almost double the housing development potential in San Francisco, there would be less pressure in the Eastern Neighborhoods than would be expected in the absence of the project, giving existing residents and newcomers alike a greater choice of housing options. However, absent programs to preserve potential affordable housing sites in the Eastern Neighborhoods, the proposed rezoning would reduce the number of such sites available. Moreover, it is likely that new financial resources and programs, and more coordination among agencies would be required, in conjunction with the proposed rezoning, to further affordable housing development.

In accordance with state housing law, and in conjunction with the state Department of Housing and Community Development, the Association of Bay Area Governments (ABAG) periodically calculates a regional housing need for the nine Bay Area counties, and then allocates that need among the counties and their cities. For the recently concluded period of January 1999 through June 2006,[52] ABAG had determined that San Francisco should produce 20,374 units, or 2,717 units per year (2,850 units per year, assuming 5 percent vacancy).[53] Some 36 percent of these units, according to ABAG, should be affordable to low- and very-low—income households (those earning less than 80 percent and 50 percent, respectively, of the area median income), while another 28 percent were to be available to households of moderate income (80 to 120 percent of the area median income).[54] Added together, these figures indicate that 64 percent of San Francisco's housing built over the last seven years (assuming the total housing production figure was reached) should have been affordable to keep pace with regional housing need in San Francisco per ABAG's estimate.

Because of a number of factors, including the cost and limited availability of land, increasing construction costs, and the length and sometimes uncertain nature of the approval process, among others, the City did not attain ABAG's goal in the recent analysis period: between 1999 and 2006, San Francisco permitted 17,146 new dwelling units, or 84 percent of the ABAG target of 20,374 units. In terms of actual production of units, the City fell farther short: 13,696 units were constructed (67 percent of the target). However, and as evidence of the regional nature of the difficulty in producing housing, San Francisco's performance virtually mirrored that of the nine-county Bay Area, where the total number of units permitted was 80 percent of ABAG's target of

52 The effective dates of the Regional Housing Needs "January 1999 through June 2006" Allocation cycle has been extended into 2007.

53 San Francisco Planning Department, "Housing Element Part I: Data and Needs Analysis," *Housing Element of the San Francisco General Plan*; Adopted May 13, 2004; p. 65.

54 Housing Element (see Footnote 53); p. 80.

230,743 units, and the total number of units built was 73 percent of the target. (The City was slightly higher regarding number permitted and somewhat lower as to number built.) In addition to the above noted barriers to housing production in general, affordable housing production is further hindered in the City by a relative lack of funding sources to offset the high costs of housing production and the lesser return generated by affordable units, and San Francisco fell farther short of the region as a whole in the production of affordable housing. During the same 1999-2006 period, the City permitted 8 percent of its target of 5,639 moderate-income units and 15 percent of its target of 2,126 low-income units, compared to regional achievements of 29 percent and 70 percent, respectively. The City did fare better than the Bay Area in terms of very-low-income units, permitting 36 percent of its target of 5,244 such units, compared to 34 percent for the region as a whole.[55]

As described in detail in Section IV.D, Population, Housing, Business Activity, and Employment, there are numerous obstacles to the City's attaining the Housing Element's housing production percentage targets, and the City's experience in this regard has not demonstrated a clear pattern of success. In the absence of the provision of much grater resources—particularly financing—it cannot be stated with any certainty that these targets will be met in the project area.

However, the proposed area plans each include objectives and policies that would encourage the production of more affordable housing through means such as identification of appropriate sites, including publicly owned sites, for below-market-rate housing; increasing the percentage of affordable housing units required in new projects in certain areas, particularly where rezoning permits increased density; requiring a certain percentage of residential units be family-sized; promoting alternative homeownership models; encouraging increased residential density and mixing housing with other uses in appropriate locations; and taking specific steps to reduce the cost of housing production, such as through separating the cost of parking from that of housing by revising or eliminating parking requirements, encouraging accessory dwelling units in certain areas, promoting "location-efficient mortgages" in transit-accessible, mixed-use neighborhoods in East SoMa, the Mission, and the Central Waterfront, requiring that new single-room occupancy units be affordable, and clarifying zoning rules to encourage housing production. Implementation of these objectives and policies would improve the City's ability to comply with the affordable housing production goals in the Housing Element. (See Appendix B for a complete list of draft area plan objectives and policies.)

[55] All figures in this paragraph are from ABAG, *A Place to Call Home: Housing in the San Francisco Bay Area*, 2006 (http://www.abag.ca.gov/planning/housingneeds/pdf/resources/ABAG_housing_report_2006_FINAL1.pdf). Because of the variability of data sources, the 17,146 housing units permitted in San Francisco, as reported by ABAG, is lower than the total of 19,849 reported by the City in its *2005 San Francisco Housing Inventory*, October 2006, (http://www.sfgov.org/site/uploadedfiles/planning/Citywide/pdf/Housing_Inventory_2005_web.PDF), which reports that 19,849 units received building permits from 1999 through 2005. (The City data do not include the first six months of 2006 that are included in the ABAG data.) The City total of 13,345 units completed in 1999-2005 is comparable to ABAG's 13,696 units completed for the period through June 2006.

Recreation and Open Space Element

The Recreation and Open Space Element of the *General Plan* contains objectives and policies for maintaining, creating, and enhancing recreational and open space resources in the city. The Recreation and Open Space Element states that "access is a key factor in park utilization," and proclaims, Every San Franciscan should be served by a park within walking distance of their home." Beginning prospectively in late 2007, the Planning Department, in conjunction with the San Francisco Recreation and Park Department is planning an update to the Recreation and Open Space Element. The primary focus of this update would be to identify opportunity areas for the acquisition of new park and recreational facilities, to examine methods to acquire future and to maintain existing facilities, such as through the development of impact fees or though public/private partnerships as well as to link open space and recreation planning to ongoing greening efforts in other city departments along public streets and right-of-ways ("living streets"). The update would occur through a public process that would provide opportunity for public comment and input.[56]

The following objectives and policies of the Recreation and Open Space Element are relevant to the project area as a whole.

Objective 2:	Develop and maintain a diversified and balanced citywide system of high quality public open space.
Policy 2.1:	Provide an adequate total quantity and equitable distribution of public open spaces throughout the City.
Policy 2.2:	Preserve existing public open space.
Policy 2.7:	Acquire additional open space for public use.
Policy 3.5:	Provide new public open spaces along the shoreline.
Objective 4:	Provide opportunities for recreation and the enjoyment of open space in every San Francisco neighborhood.
Policy 4.4:	Acquire and develop new public open space in existing residential neighborhoods, giving priority to areas which are most deficient in open space.
Policy 4.6:	Assure the provision of adequate public open space to serve new residential development.
Policy 4.7:	Provide open space to better serve neighborhood commercial districts.

The Eastern Neighborhoods Rezoning and Area Plans project recognizes existing recreational and open space deficiencies and address the potential impacts of the influx of residents to areas of the city characterized by formerly industrial land uses. In light of the difficulty and cost of developing large new open spaces, the draft plans propose non-traditional solutions such as small "pocket parks," widened sidewalks, and shared alleyways, in addition to new neighborhood parks

[56] Personal conversation, Sarah Dennis, Senior Planner, San Francisco Planning Department, March 14, 2007.

where sites for these new parks can be acquired. Other objectives and policies of the draft area plans to provide for open space include requiring them as a part of major new private developments. (See Appendix B for draft area plan policies.)

Transportation Element

The Transportation Element of the *General Plan* is composed of objectives and policies which relate to the nine aspects of the citywide transportation system: General, Regional Transportation, Congestion Management, Vehicle Circulation, Transit, Pedestrian, Bicycles, Citywide Parking and Goods Movement. The Transportation Element contains several objectives and policies relevant to the Eastern Neighborhoods planning process, discussed below.

Objective 1:	Meet the needs of all residents and visitors for safe, convenient and inexpensive travel within San Francisco and between the city and other parts of the region while maintaining the high quality living environment in the Bay Area.
Policy 1.2 :	Ensure the safety and comfort of pedestrians throughout the city.
Policy 1.3:	Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.
Policy 1.6:	Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.
Objective 2:	Use the transportation system as a means for guiding development and improving the environment.
Policy 2.1:	Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.
Policy 2.3:	Design and locate facilities to preserve the historic city fabric and the natural landscape, and to protect views.
Objective 11:	Establish public transit as the primary mode of transportation in San Francisco and as a means through which to guide future development and improve regional mobility and air quality.
Policy 11.3:	Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.
Objective 20:	Give first priority to improving transit service throughout the city, providing a convenient and efficient system as a preferable alternative to automobile use.
Policy 20.9:	Improve inter-district and intra-district transit service.
Policy 21.1:	Provide transit service from residential areas to major employment centers outside the downtown area.
Objective 23:	Improve the city's pedestrian circulation system to provide for efficient, pleasant, and safe movement.
Objective 24:	Improve the ambience of the pedestrian environment.

Policy 24.1:	Preserve existing historic features such as streetlights and encourage the incorporation of such historic elements in all future streetscape projects.
Policy 24.4:	Preserve pedestrian-oriented building frontages.
Objective 30:	Ensure that the provision of new or enlarged parking facilities does not adversely affect the livability and desirability of the city and its various neighborhoods.
Policy 30.1:	Assure that new or enlarged parking facilities meet need, locational and design criteria.
Policy 30.2:	Discourage the proliferation of surface parking as an interim land use, particularly where sound residential, commercial or industrial buildings would be demolished pending other development.
Policy 30.3:	Maximize the efficient use of land devoted to parking by consolidating adjacent surface lots and garages into a parking structure, possibly containing residential, commercial or other uses.
Objective 34:	Relate the amount of parking in residential areas and neighborhood commercial districts to the capacity of the city's street system and land use patterns.
Policy 34.1:	Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.
Policy 34.2:	Use existing street space to increase residential parking where off-street facilities are inadequate.
Policy 34.3:	Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.
Objective 38:	Provide efficient and direct routes for trucks/service vehicles into and through San Francisco without disturbing neighborhood areas and inhibiting the safe movement of transit vehicles, bicycles and pedestrians.
Policy 38.1:	Improve the existing regional network of truck routes by making designated routes in San Francisco convenient for non-local freight trips with the aim of making the routes direct and connected to other routes.

Transit First Policy

The City of San Francisco's Transit First policy, adopted by the Board of Supervisors in 1973, was developed in response to the damaging impacts over previous decades of freeways on the city's urban character. The policy is aimed at restoring balance to a transportation system long dominated by the automobile, and improving overall mobility for residents and visitors whose reliance chiefly on the automobile would result in severe transportation deficiencies. It encourages multi-modalism, the use of transit and other alternatives to the single-occupant vehicle as modes of transportation, and gives priority to the maintenance and expansion of the local transit system and the improvement of regional transit coordination.

The following ten principles constitute the City's Transit First policy:

ATTACHMENT 6

EASTERN NEIGHBORHOODS REZONING AND AREA PLANS

Comments and Responses on Draft EIR

Planning Department Case No. 2004.0160E
State Clearinghouse No. 2005032048

Draft EIR Publication Date: June 30, 2007
Draft EIR Public Hearing Date: August 9, 2007
Draft EIR Public Comment Period: June 30 – September 14, 2007
Final EIR Certification Date: June 19, 2008

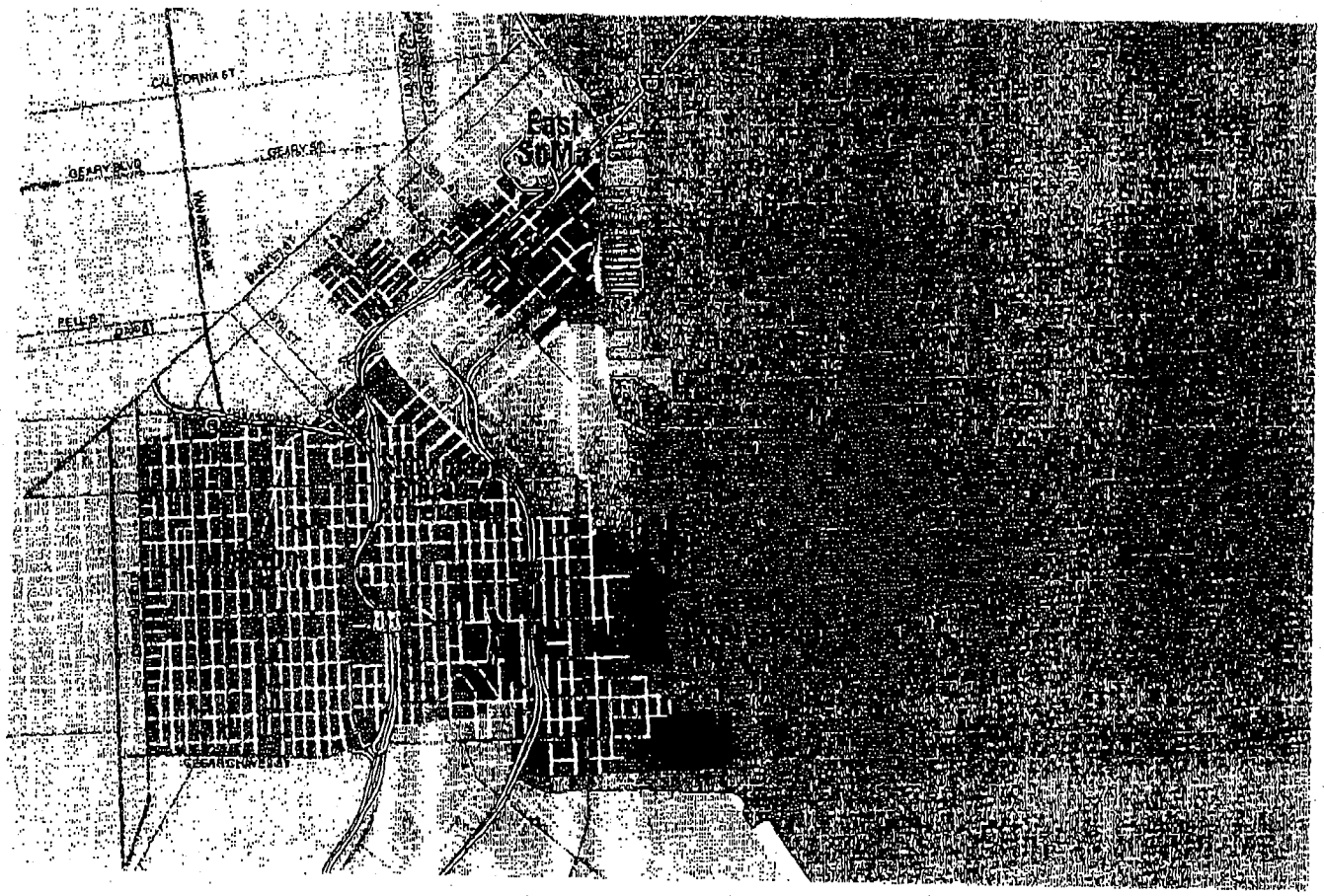


EXHIBIT Q

On pages S-53 – 54, Mitigation Measure K-2 is revised in response to a comment from the Landmarks Preservation Advisory Board. (See text changes for pp. 520 – 521 for revisions.)

On page S-55, Mitigation Measure K-3 is revised in response to a comment from the Landmarks Preservation Advisory Board. (See text changes for pp. 521 – 522 for revisions.)

On page S-56, Mitigation Measure K-1: Hazardous Building Materials is renumbered as follows to correct an editorial error:

Mitigation Measure ~~K~~ L-1: Hazardous Building Materials

On page 91, the text under the heading "Housing Element" is revised as follows to describe the status of the *San Francisco General Plan* Housing Element, which was the subject of a lawsuit decided at approximately the same time that the DEIR was published:

> In May 2004, the Planning Commission adopted an updated and amended Housing Element of the *General Plan* to replace the existing Residence Element adopted by the Board of Supervisors in 1990. The updated Housing Element was ~~approved by the Board of Supervisors in September~~ adopted in May 2004, and certified by the State Department of Housing and Community Development in October 2004 for compliance with State law regarding the content and scope of *General Plan* housing elements. The updated 2004 Housing Element contains objectives and policies that would expand land capacity necessary to increase housing production; direct new housing to appropriate locations, especially in areas well served by transit and other urban amenities; and emphasize design and density controls that enhance existing neighborhood character. These objectives and policies are instructed by the two *General Plan* Priority Policies: that the City's supply of affordable housing be preserved and enhanced and that existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of San Francisco's neighborhoods.
>
> Subsequent to adoption of the Housing Element, the district appeals court found the Mitigated Negative Declaration prepared for the element to be inadequate, invalidating the 2004 Housing Element. Therefore, the Planning Department is initiating preparation of an EIR assessing the environmental effects of the changes from the 1990 Residence Element. The EIR is scheduled to be certified by June 30, 2009. Until an EIR has been completed and certified for the 2004 Housing Element, the 1990 Residence Element represents to most current adopted General Plan language.
>
> The following is a comparison between the 1990 Residence Element and the objectives and policies of the Housing Element ~~are~~ relative to the Eastern Neighborhoods Rezoning and Area Plans project.
> 1990 Residence Element Objective 1: Provide new housing, especially permanently affordable housing, in appropriate locations which meets

identified housing needs and takes into account the demand for affordable housing created by employment demand.

2004 Housing Element Objective 1: Identify and maximize opportunities to increase the potential supply of housing in appropriate locations citywide.

~~Policy 1.1: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households. Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character where there is neighborhoods support.~~

1990 Residence Element Policy 1.1: Promote the development of permanently affordable housing on surplus, underused and vacant public lands.

2004 Housing Element Policy 1.5: Support development of affordable housing on surplus public lands.

2004 Housing Element Policy 1.2 (new): Encourage housing development, particularly affordable housing, in neighborhood commercial areas without displacing existing jobs, particularly blue-collar jobs or discouraging new employment opportunities.

1990 Residence Element Policy 1.2: Facilitate the conversion of underused industrial and commercial areas to residential use giving preference to permanently affordable housing uses.

2004 Housing Element Policy 1.3: Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.

1990 Residence Element Policy 1.3: Create incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects.

2004 Housing Element Policy 1.6 (no change): Create incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects.

1990 Residence Element Policy 1.4: Locate in-fill housing on appropriate sites in established residential neighborhoods.

2004 Housing Element Policy 1.4 (no change): Locate in-fill housing on appropriate sites in established residential neighborhoods.

2004 Housing Element Policy 1.7 (new): Encourage and support the construction of quality, new family housing.

1990 Residence Element Policy 1.5: Allow new secondary units in areas where their effects can be dealt with and there is neighborhood support.

especially if that housing is made permanently affordable to lower-income households.

2004 Housing Element Policy 1.8 (no change): Allow new secondary units in areas where their effects can be dealt with and there is neighborhood support, especially if that housing is made permanently affordable to lower-income households.

1990 Residence Element Policy 1.7: Obtain assistance from office developments and higher educational institutions in meeting the housing demand they generate, particularly the need for affordable housing for lower income workers and students.

2004 Housing Element Policy 1.9: Require new commercial developments and higher educational institutions to meet the housing demand they generate, particularly the need for affordable housing for lower income workers and students.

1990 Residence Element Policy 2.1: Set allowable densities in established residential areas at levels which will promote compatibility with prevailing neighborhood scale and character.

2004 Housing Element Policy 11.9: Set allowable densities and parking standards in residential areas at levels that promote the City's overall housing objectives while respecting neighborhood scale and character.

1990 Residence Element Objective 3: Retain the existing supply of housing.

2004 Housing Element Objective 2 (no change): Retain the existing supply of housing.

1990 Residence Element Policy 3.1: Discourage the demolition of sound existing housing.

2004 Housing Element Policy 2.1 (no change): Discourage the demolition of sound existing housing.

1990 Residence Element Policy 2.2: Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are permanently affordable to lower income households.

2004 Housing Element Policy 1.1: Establish higher residential densities in appropriate areas near Downtown, and near certain transit corridors and neighborhood commercial districts, where dependence on cars could be reduced because of proximity to neighborhood services and access to sufficient and reliable transit service.

1990 Residence Element Policy 2.3: Allow flexibility in the number and size of units within permitted volumes of larger multi unit structures, especially if

the flexibility results in creation of a significant number of dwelling units that are permanently affordable to lower income households.

2004 Housing Element Policy 4.5: Allow greater flexibility in the number and size of units within established building envelopes, potentially increasing the number of affordable units in multi-family structures.

1990 Residence Element Policy 3.6: Retain sound existing housing in commercial and industrial areas.

2004 Housing Element Policy 2.4 (no change): Retain sound existing housing in commercial and industrial areas.

1990 Residence Element Policy 3.7: Preserve the existing stock of residential hotels.

2004 Housing Element Policy 2.5 (no change): Preserve the existing stock of residential hotels.

1990 Residence Element Policy 5.5: Preserve the existing stock of residential hotels.

2004 Housing Element Policy 3.6 (no change): Preserve landmark and historic residential buildings.

1990 Residence Element Objective 6: To protect the existing affordability of housing.

2004 Housing Element Objective 6: Protect the affordability of existing housing.

1990 Residence Element Objective 7: To increase land and improve building resources for permanently affordable housing.

2004 Housing Element Objective 4: Support affordable housing production by increasing site availability and capacity.

1990 Residence Element Policy 7.1: Create more housing opportunities for permanently affordable housing.

2004 Housing Element Policy 4.1: Actively identify and pursue opportunity sites for permanently affordable housing.

1990 Residence Element Policy 7.2: Include affordable units in larger housing projects.

2004 Housing Element Policy 4.2 (no change): Include affordable units in larger housing projects.

1990 Residence Element Policy 7.3: Grant density bonuses for construction of affordable or senior housing.

2004 Housing Element Policy 4.4: ~~Consider~~ Granting density bonuses and parking requirement exemptions for the construction of affordable housing or senior housing.

1990 Residence Element Policy 7.4: Promote more economical housing construction to achieve affordable housing.

1990 Residence Element Policy 7.5: Encourage energy efficiency in new residential development and weatherization in existing housing to reduce overall housing cost.

1990 Residence Element Policy 7.6: Encourage industrialized housing production techniques where such techniques result in compatible quality of design at lower cost.

2004 Housing Element Policy 4.6: Support a greater range of housing types and building techniques to promote more economical housing construction and potentially achieve greater affordable housing production.

1990 Residence Element Policy 8.1: Enhance existing revenue sources for permanently affordable housing.

2004 Housing Element Policy 7.1 (no change): Enhance existing revenue sources for permanently affordable housing.

1990 Residence Element Policy 8.2: Create new sources of revenue for permanently affordable housing

2004 Housing Element Policy 7.2: Create new sources of revenue for permanently affordable housing, including dedicated long-term financing for housing programs.

1990 Residence Element Policy 9.2: Make affordable housing permanently affordable.

2004 Housing Element Policy 6.2: Ensure that housing developed to be affordable is kept affordable.

1990 Residence Element Policy 11.1: Encourage non-profit and limited equity ownership and management of housing.

2004 Housing Element Policy 6.4: Achieve permanent affordability through community land trusts and limited equity housing ownership and management.

1990 Residence Element Objective 12: To provide a quality living environment.

2004 Housing Element Objective 11: In increasing the supply of housing, pursue place making and neighborhood building principles and practices to maintain San Francisco's desirable urban fabric and enhance livability in all neighborhoods.

1990 Residence Element Policy 12.1: Assure housing is provided with adequate public improvements, services and amenities.

2004 Housing Element Policy 11.2: Ensure housing is provided with adequate public improvements, services, and amenities.

1990 Residence Element Policy 12.2: Allow appropriate neighborhood-serving commercial activities in residential area.

2004 Housing Element Policy 11.3: Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing affordable housing displacement.

1990 Residence Element Policy 12.4: Promote the construction of well-designed housing that conserves existing neighborhood character.

2004 Housing Element Policy 11.5: Promote the construction of well-designed housing that enhances existing neighborhood character.

1990 Residence Element Policy 12.5: Relate land use controls to the appropriate scale for new and existing residential area.

2004 Housing Element Policy 11.6: Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit.

1990 Residence Element Policy 13.6: Provide adequate rental housing opportunities.

2004 Housing Element Policy 8.1: Encourage sufficient and suitable rental housing opportunities and emphasize permanently affordable rental units wherever possible.

2004 Housing Element Policy 11.1 (new): Use new housing development as a means to enhance neighborhood vitality and diversity.

2004 Housing Element Policy 11.7 (new): Where there is neighborhood support, reduce or remove minimum parking requirements for housing, increasing the amount of lot area available for housing units.

2004 Housing Element Policy 11.8 (new): Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.

On page 111, the following text is added prior to the heading "Central Subway Planning" to incorporate information about recently initiated planning efforts:

Transit Center District Plan and Fourth and King Rail Yards Study

The Transbay Transit Center will build upon the City's 1985 Downtown Plan, which envisioned the area around Transbay as a local and regional multi-modal transit core. The proposed Transit Center District area covers approximately 40 acres, and encompasses portions of East SoMa and the Financial District. The Transit Center District Plan area is generally bounded to the north by Market Street, to the south by

ATTACHMENT 7

SAN FRANCISCO
PLANNING DEPARTMENT

EXHIBIT M-1

Planning Commission Resolution No. 17791

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Adoption of General Plan Amendment in order to implement the Visitacion Valley/Schlage Lock Redevelopment Plan

SAN FRANCISCO

PLANNING COMMISSION

RESOLUTION NO. 17791

WHEREAS, Section 4.105 of the Charter of the City and County of San Francisco provides to the Planning Commission the opportunity to periodically recommend to the Board of Supervisors for approval or rejection of proposed amendments to the General Plan.

The Planning Department ("Department"), Redevelopment Agency ("Agency"), the Board of Supervisors, the Mayors Office, and other City Departments have been working on a plan to transform the vacant Schlage Lock site and support revitalization of the Visitacion Valley neighborhood and transform the vacant Schlage Lock site into a Transit-Oriented Development (TOD) to take advantage of existing public transit resources and encourage infill development and improvements in the Visitacion Valley neighborhood, via the *Visitacion Valley/Schlage Lock Redevelopment Program*.

The Schlage Lock Company began operations in the Visitacion Valley neighborhood in the 1920's, and was one of the City's largest industrial employers. The Ingersoll Rand Corporation acquired the Schlage Lock Company in 1974 and operated the plant until 1999, when it closed down the plant and relocated manufacturing operations. The 20 acre site has been vacant since 1999. After Home Depot proposed to develop a retail store on the vacant Schlage site in 2000, the Board of Supervisors imposed interim zoning controls on the site to prevent construction of a large retail use and to encourage the long-term planning of the site. Since that time, a number of planning processes and actions have helped to envision the future of the site, including most recently a new community design process to refine the site plans for the Schlage Lock site, and develop permanent land use and development controls for Visitacion Valley.

Building upon all of these efforts, and with extensive consultation with the Visitacion Valley Citizens Advisory Committee ("CAC"), the *Visitacion Valley / Schlage Lock Redevelopment Program* was developed. The program includes the *Visitacion Valley Redevelopment Plan*, the *Design for Development* document, and associated amendments to the General Plan and Planning Code. This program represents the culmination of many years of community participation from Visitacion Valley residents, business owners, workers and stakeholders, towards a plan for redevelopment of the long-vacant Schlage Lock site into a true part of its larger neighborhood, as a vibrant, transit-oriented mixed use development that will

meet the community's goals and objectives for the project. The plan calls for the creation of as many as 1200 new residential units, a mid-sized grocery store, and other neighborhood commercial ground floor retail on the Schlage site. It also includes three new interconnected neighborhood parks of different sizes, requires the extension of the Visitacion Valley street grid throughout the Schlage Lock property, and integrates the commercial backbone of the community, Leland Avenue, into the site. Finally, the plan supports strategic infill development and a number of community improvements outside the Schlage site, along Bayshore Boulevard and Leland Avenue.

These goals for the project are to:

1. Create a livable, mixed use urban community that serves the diverse needs of the community and includes access to public resources and amenities.
2. Encourage, enhance, preserve and promote the community and city's long term environmental sustainability.
3. Create pedestrian-oriented environment that encourages walking as the primary transportation mode within the Project Area.
4. Encourage the use of alternative modes of transportation by future area residents, workers and visitors and support the development of the Caltrain Station as a major multi-modal transit facility.
5. Create well designed open spaces that enhance the existing community and new development.
6. Develop new housing to help address the City's and the region's housing shortfall, and support regional transit use.
7. Establish the project area and surrounding neighborhoods as a gateway to the City of San Francisco.
8. Encourage private investment by eliminating blighting influences and correcting environmental deficiencies.

The goals of the *Visitacion Valley Redevelopment Plan* are, on the whole, consistent with San Francisco General Plan Objectives and Policies. However, the General Plan contains a number of maps and figures that reflect the former industrial uses at the former Schlage Lock site, and do not acknowledge the proposed redevelopment goals above. Planning staff therefore recommend that the Planning Commission consider adopting a number of minor conforming amendments to the General Plan, so that the General Plan more closely reflects present conditions, opportunities and neighborhood revitalization efforts. A draft ordinance, attached hereto as Exhibit M-2, would amend Maps and Figures in the General Plan. The City Attorney's Office has reviewed the draft ordinance and approved it as to form.

The Proposed General Plan Amendment would include conforming amendments to Maps and Figures, contained in the Arts, Commerce and Industry, Community Safety, Housing, Recreation and Open Space, Transportation, Urban Design Elements, and Land Use Index of the General Plan. Staff

recommends adoption of the draft Resolution of Intention to initiate these proposed minor amendments to the General Plan.

The Planning Commission will consider certification of the Visitacion Valley / Schlage Lock Environmental Impact Report on or after November 20, 2008 prior to considering relevant amendments to the General Plan, Planning Code and the Zoning Map. It will also consider adopting California Environmental Quality Act Findings at that hearing.

Planning Code Section 101.1(b) establishes eight priority policies and is a basis by which differences between competing policies in the General Plan are resolved. The project is consistent with the eight priority policies in that:

1. The General Plan amendment will not negatively affect existing, neighborhood-serving retail. The Project will provide space for additional neighborhood-serving retail uses that will complement existing retail outlets, and include development of approximately 1,200 new residential units that will increase the demand for neighborhood commercial services.

2. The General Plan amendment will not affect existing housing or neighborhood characters because it allows infill development that will be consistent with the adjacent neighborhood commercial character, and will also provide opportunities to construct additional housing on the vacant Schlage Lock site, which currently has no residential uses.

3. The General Plan amendment will not decrease the City's supply of affordable housing because it will facilitate a project that will include approximately 1,200 new dwelling units, including approximately 25% (300) affordable units at the site.

4. The Project has been planned to reduce impacts to MUNI, to improve the pedestrian qualities of streets and to reduce neighborhood parking needs. Because of the existing and numerous transit routes serving the area, residents and visitors will be encouraged to utilize transit and alternate modes of transportation for trips, increasing Muni's viability by increasing ridership. Numerous pedestrian improvements, such as new interconnected streets, signalized intersections with timed traffic lights, raised or specially paved crosswalks, and sidewalk bulb-outs will increase the ability of residents to walk as a mode of transportation. And the Plan will require a parking management study that will manage business and resident parking, and limit long-term/commuter parking.

5. The General Plan amendment will not result in displacement of the City's industrial and service sectors for commercial office development because there the Schlage Factory site, which formerly supported industrial use, has been vacant since 1999.

6. The General Plan amendment will improve the City's preparedness for an earthquake by facilitating a project that will replace vacant industrial buildings with a mixed-use

development, in which all buildings will be constructed to meet modern building and seismic codes.

7. An Historic Structures Technical Report for the existing structures on the Schlage Lock site has been completed, concluding that a number of structures on the site may be eligible for historic status. However, given the overriding concerns for public health and safety, most buildings cannot be preserved. The California Department of Toxic Substances Control (DTSC) requires the property owner to remediate soils and ground water on the site contaminated with Volatile Organic Compounds (VOC's), and has dictated that the Project sponsor will have to remove most of the structures on the site to do so. In order to mitigate impacts to historic structures, the Project sponsor will conserve the Schlage office building and convert it to community use. The Project Sponsor will also be required to document all buildings on site through architectural drawings and/or photographs, salvage and reuse recyclable materials onsite, and commemorate the site's industrial history by retaining some of the remaining industrial machinery and installing it in public spaces throughout site. Taken together, these actions will memorialize the site's industrial past while enabling site remediation to proceed and utilizing the site to revitalize the Visitacion Valley neighborhood with a variety of residential, commercial, open space and community land uses.

8. The General Plan amendment will not affect any City parks or open spaces nor their access to sunlight. The project will provide at least three new public open spaces for public use, as well as a plaza connecting the Visitacion Valley neighborhood with the new mixed-use development east of Bayshore Boulevard.

The proposal will promote the following relevant objectives and policies of the General Plan. Analysis of applicable General Plan Objectives and Policies has determined that the proposed action is, on balance, consistent with the General Plan, as it proposed to be amended. Below are specific policies and objectives that support the proposed actions.

AIR QUALITY ELEMENT

Objectives and Policies

Objective 3:
DECREASE THE AIR QUALITY IMPACTS OF DEVELOPMENT BY COORDINATION OF LAND USE AND TRANSPORTATION DECISIONS.

Policy 3.2:
Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.

The Project establishes a mixed-use housing development including neighborhood commercial development near existing transit lines, including MUNI Metro and MUNI coach service providing service to a

number of city neighborhoods, as well as Caltrain, providing service to the San Mateo, the Peninsula and San Jose.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:
Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:
Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:
Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

Redevelopment of the site as a mixed-use residential area with supportive commercial, open space and institutional uses will provide substantial benefits to the Visitacion Valley neighborhood and the City as a whole. The project will provide approximately 1,200 new residential units, including 25% (300) affordable units as part of the Project.

OBJECTIVE 2:
MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:
Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Schlage Lock Company, was one of the City's largest employers at one time, with up to 1,600 employees. However, industrial use of the site ended in 1999 and the site has been vacant since that time, providing no employment. Given national trends and local projections for the continued decline of manufacturing uses, the City does not foresee industrial use returning to the site.

OBJECTIVE 6:
MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:
Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.2:
Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

Leland Avenue is Visitacion Valley's existing commercial center. As part of the project, the sponsor will extend the Visitacion Valley street grid east across Bayshore Boulevard. Neighborhood commercial uses are planned for the new Leland Avenue extension, and the Project also includes a site that will accommodate a medium sized market, desired by the community.

Policy 6.4
Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

Policy 6.6
Adopt specific zoning districts, which conform to a generalized neighborhood commercial land use and density plan.

As part of the Project, The Planning Commission will consider amending the Planning Code to establish the Visitacion Valley Special Use District (SUD). The SUD will call for a distribution of land use, density and building height consistent with plans contained in the "Visitacion Valley/Schlage Lock Design for Development" document..

POLICY 6.7
Promote high quality urban design on commercial streets.

The Project will enhance Visitacion Valley's existing neighborhood commercial core by extending Leland Avenue east of Bayshore Boulevard to the Schlage site, and incorporating retail uses along much of the street frontage. Additional neighborhood-commercial uses will be developed along Bayshore Boulevard and at other Project areas. Existing residential uses will not be lost to commercial development; infill development will include primarily retail and small office uses on the ground level with residential uses above the ground story. New streets will incorporate streetscape features that will encourage active street life throughout the Project area, by incorporating well designed street furniture, and improvements will be made to increase safety for pedestrians crossing Bayshore Boulevard.

Policy 6.10
Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The Project will help to revitalize the Visitacion Valley neighborhood by redeveloping the former Schlage Lock Company site, that has been vacant since 1999. The Project will restore the site to active use and will help to revitalize the neighborhood, with new neighborhood commercial activity both in the Schlage site and in surrounding areas, with infill development along Leland Avenue and Bayshore Boulevard. The new activity will generate new customers and more vibrant round-the-clock activity, which will benefit existing neighborhood commercial establishments as well. Neighborhood commercial uses in the area will also benefit from streetscape improvements to Leland Avenue.

COMMUNITY FACILITIES ELEMENT

OBJECTIVE 3
ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES.

Policy 3.1
Provide neighborhood centers in areas lacking adequate community facilities.

Policy 3.4
Locate neighborhood centers so they are easily accessible and near the natural center of activity.

Policy 3.5
Develop neighborhood centers that are multipurpose in character, attractive in design, secure and comfortable, and inherently flexible in meeting the current and changing needs of the neighborhood served.

The Project will retain the existing Schlage Office Building and renovate the building for use as a community facility. Programming of the facility will allow for a number of uses that may change over time, based on community interests and input. The site for the community facility is easily accessible to the Visitacion Valley community by transit, bicycle; pedestrian access will be facilitated by access from surrounding streets as well as via a mid-block pedestrian walkway from the south.

THE ENVIRONMENTAL PROTECTION ELEMENT

Objective 13:
ENHANCE THE ENERGY EFFICIENCY OF HOUSING IN SAN FRANCISCO.

Policy 13.1:
Improve the energy efficiency of existing homes and apartment buildings.

OBJECTIVE 15
INCREASE THE ENERGY EFFICIENCY OF TRANSPORTATION AND ENCOURAGE LAND USE PATTERNS AND METHODS OF TRANSPORTATION WHICH USE LESS ENERGY.

Policy 15.1
Increase the use of transportation alternatives to the automobile.

Policy 15.2
Provide incentives to increase the energy efficiency of automobile travel.

Policy 15.3
Encourage an urban design pattern that will minimize travel requirements among working, shopping, recreation, school and childcare areas.

OBJECTIVE 16
PROMOTE THE USE OF RENEWABLE ENERGY SOURCES.

Policy 16.1
Develop land use policies that will encourage the use of renewable energy sources.

The Project calls for reducing energy demand by site design,

The Project will encourage compact moderate density residential development with good access to transit facilities. All of the new development will be within walking distance of a mix of commercial, institutional and open space. The project planning and design would promote reduced car use. The Project establishes development controls and design guidelines that will encourage development to reduce energy demand, and to incorporate energy generation on site. This may include passive and active solar heating, solar hot water and renewable energy generation on site with photovoltaic and other technologies. The Project will also require reduced use of potable water through low water-use faucets, toilets and appliances, and through reduced use of potable water for irrigation. In addition, the Project establishes streets and a public realm amenities that will encourage walking, bicycling, and discourages high speed driving by incorporating traffic calming measures.

HOUSING ELEMENT / RESIDENCE ELEMENT

Objectives and Policies

This section refers to both the 2004 Housing Element and the 1990 Residence Element in parenthesis.

OBJECTIVE 1 (*Modified Objective 1*):
INDENTIFY AND MAXIMIZE OPPORTUNITIES TO INCREASE THE POTENTIAL SUPPLY OF HOUSING IN APPROPRIATE LOCATIONS CITYWIDE.

Policy 1.4 (*Policy 1.4*):
Locate in-fill housing on appropriate sites in established residential neighborhoods.

Policy 1.7 *(New)*:
Encourage and support the construction of quality, new family housing.

The Project will create 1,200 – 1,500 units of new market rate and affordable housing units, including rental and home ownership units, of which 25% will be affordable units.

OBJECTIVE 3 *(Modified Objective 5)*:
ENHANCE THE PHYSICAL CONDITION AND SAFETY OF HOUSING WITHOUT JEOPARDIZING USE OR AFFORDABILITY.

Existing housing in the Visitation Valley neighborhood will not be lost or impacted by the Project.

Policy 3.3 *(Policy 5.4)*:
Maintain and improve the condition of the existing supply of public housing.

OBJECTIVE 4 *(Modified Objective 7)*:
SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE AVAILABILITY AND CAPACITY.

Policy 4.2 *(Modified Policy 7.2)*:
Include affordable units in larger housing projects.

Policy 4.6 *(Merged Policies 7.4, 7.5, 7.6, and 7.9)*:
Support a greater range of housing types and building techniques to promote more economical housing construction and achieve greater affordable housing production.

OBJECTIVE 8 *(Modified Objective 13)*:
ENSURE EQUAL ACCESS TO HOUSING OPPORTUNITIES.

Policy 8.1 *(Modified Policy 13.6)*:
Encourage sufficient and suitable rental housing opportunities and emphasize permanently affordable units wherever possible.

Policy 8.4 *(Modified 13.6)*:
Encourage greater economic integration within housing projects and throughout San Francisco.

OBJECTIVE 9 *(Modified Objective 14)*:
AVOID OR MITIGATE HARDSHIPS IMPOSED BY DISPLACEMENT

Policy 9.1 *(Modified Policy 14.1)*:
Minimize the hardships of displacement by providing essential relocation services.

OBJECTIVE 11 *(Modified Objective 12)*:
IN INCREASING THE SUPPLY OF HOUSING, PURSUE PLACE MAKING AND NEIGHBORHOOD BUILDING PRINCIPLES AND PRACTICES TO CONTINUE SAN

FRANCISCO'S DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL NEIGHBORHOODS.

Policy 11.1 *(New)*:
Use new housing development as a means to enhance neighborhood vitality and diversity.

Policy 11.3 *(Modified Policy 12.2)*:
Encourage appropriate neighborhood-serving commercial activities in residential areas, without causing affordable housing displacement.

The Project will provide approximately 1,200 – 1,500 units of market rate and affordable housing, with 25% affordable units. Up to 1,250 new dwelling units will be constructed in Zone 1 (the Schlage Lock site), and p to 335 dwelling units will be constructed as infill development in Zone 2. The Project also includes development of a mix of commercial land uses at grade level, including a full service grocery store and other retail space to serve the neighborhood.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 4
IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 4.3
Carefully consider public actions that displace existing viable industrial firms.

The Project incorporates the former Schlage Lock Company site, acquired by Ingersoll Rand Corporation in the 1920's. Ingersoll Rand closed the industrial facility in 1999 and the site has been vacant since that time. The Project will not displace an existing industrial use, but converts it into a mixed-use development with housing, commercial, institutional and open space uses, consistent with the surrounding neighborhood. The Project will also take advantage of excellent public transit immediately adjacent to the site to establish a Transportation-Oriented Development (TOD).

OBJECTIVE 6
MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1
Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.3
Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

Policy 6.4
Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

POLICY 6.7
Promote high quality urban design on commercial streets.

The Project will enhance Visitacion Valley's existing neighborhood commercial core by extending Leland Avenue east of Bayshore Boulevard to the Schlage site, and incorporating retail uses along much of the street frontage. Additional neighborhood-commercial uses will be developed along Bayshore Boulevard and at other Project areas. Existing residential uses will not be lost to commercial development; infill development will include primarily retail and small office uses on the ground level with residential uses above the ground story. New streets will incorporate streetscape features that will encourage active street life throughout the Project area, by incorporating well designed street furniture, and improvements will be made to increase safety for pedestrians crossing Bayshore Boulevard.

Policy 6.6
Adopt specific zoning districts, which conform to a generalized neighborhood commercial land use and density plan.

As part of the Project, The Planning Commission will consider amending the Planning Code to establish the Visitacion Valley Special Use District (SUD). The SUD will call for a distribution of land use, density and building height consistent with plans contained in the "Visitacion Valley/Schlage Lock Design for Development" document.

Policy 6.10
Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The Project will help to revitalize the Visitacion Valley neighborhood by redeveloping the former Schlage Lock Company site, that has been vacant since 1999. The Project will restore the site to active use and will help to revitalize the neighborhood, with new neighborhood commercial activity both in the Schlage site and in surrounding areas, with infill development along Leland Avenue and Bayshore Boulevard. The new activity will generate new customers and more vibrant round-the-clock activity, which will benefit existing neighborhood commercial establishments as well. Neighborhood commercial uses in the area will also benefit from streetscape improvements to Leland Avenue.

COMMUNITY FACILITIES ELEMENT

OBJECTIVE 3
ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES.

Policy 3.1
Provide neighborhood centers in areas lacking adequate community facilities.

Policy 3.4
Locate neighborhood centers so they are easily accessible and near the natural center of activity.

Policy 3.5
Develop neighborhood centers that are multipurpose in character, attractive in design, secure and comfortable, and inherently flexible in meeting the current and changing needs of the neighborhood served.

The Project will retain the existing Schlage Office Building and renovate the building for use as a community facility. Programming of the facility will allow for a number of uses that may change over time, based on community interests and input. The site for the community facility is easily accessible to the Visitacion Valley community by transit, bicycle; pedestrian access will be facilitated by access from surrounding streets as well as via a mid-block pedestrian walkway from the south.

RECREATION AND OPEN SPACE ELEMENT

Objectives and Policies

OBJECTIVE 2:
PRESERVE EXISTING PUBLIC OPEN SPACE

Policy 2.3:
Preserve sunlight in public open spaces

OBJECTIVE 4:
PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

Policy 4.5:
Require private usable outdoor open space in new residential development.

Policy 4.6
Assure the provision of adequate public open space to serve new residential development.

The Project will not negatively impact existing public parks managed by the Recreation and Park Department. In addition, it will result in development of additional high quality open space, including approximately 2.5 acres of new public open space in the form of three public parks. The Project will also establish a public plaza at the northeast corner of Bayshore Boulevard and Leland Avenue (extension), establishing a connection and meeting place at the intersection of the existing Visitacion Valley neighborhood and the new residential and mixed-use development at the Schlage Lock site. Public Open Space, whether managed and maintained by the City or the Project sponsor, will be accessible to members of the public 24 hours a day. The Project will also provide common or private open space, in the form of rooftop common open space, interior block courtyards and open space, terraces and balconies that will be directly accessible to dwelling units. New residential development will be required to provide private open space accessible from each unit and/or common open space available to building residents.

Policy4.7
Provide open space to serve neighborhood commercial districts.

The Project will also establish a public plaza at the northeast corner of Bayshore Boulevard and Leland Avenue (extension), establishing a connection and meeting place at the intersection of the existing Visitacion Valley neighborhood and the new residential and mixed-use development at the Schlage Lock site. In addition, the Project will establish pedestrian walkways or mews that will connect neighborhood commercial development throughout the Schlage Lock site.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 2
USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1
Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

Policy 2.4
Organize the transportation system to reinforce community identity, improve linkages among interrelated activities and provide focus for community activities.

The Schlage site is a former industrial site with no internal roadways. The Project will extend the Visitacion Valley east/west street grid to the Schlage site, strengthening the connection between the existing community and the mixed-use development at the Schlage site. Careful attention will be given to the design of the new streetscapes, implementing many of the design improvements established for Leland Avenue as part of the Leland Avenue Streetscape Plan, created in June, 2006. The Project will also encourage bicycle use and reduced use of the private automobile.

POLICY 2.5
Provide incentives for the use of transit, carpools, vanpools, walking and bicycling and reduce the need for new or expanded automobile and automobile parking facilities.

The Project takes advantage of its location well served by transit services, including the recently constructed MUNI Metro T-Third light rail line providing service between Visitacion Valley, the Eastern Neighborhoods and downtown San Francisco, the Caltrain Bayshore Station, immediately adjacent to the Project Area, which provides service between downtown San Jose and downtown San Francisco, as well as a number of MUNI Coach lines. The Project will provide incentives for use of transit by area residents, and will also encourage bicycle use and alternative transportation modes, including car share and will establish a streetscape system that will encourage residents and visitors to walk to desired services.

OBJECTIVE 11
ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

Policy 11.3
Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

The Project supports the City's Transit First Policy. The Project will establish a mixed-use residential development well – served by neighborhood commercial uses in an area that is well served by transit including regional transit, citywide and local transit services.

Policy 18.1
Wherever feasible, divert through automobile and commercial traffic from residential neighborhoods onto major and secondary arterials, and limit major arterials to nonresidential streets wherever possible.

Policy 18.2
Design streets for a level of traffic that serves, but will not cause a detrimental impact on adjacent land uses, or eliminate the efficient and safe movement of transit vehicles and bicycles.
New streets will be designed to accommodate neighborhood traffic and incorporate traffic calming measures such as corner sidewalk bulbs to reduce the distance pedestrians have to cross the street, and incorporation of street trees and street furniture that will encourage an active pedestrian life.

Policy 21.1
Provide transit service from residential areas to major employment centers outside the downtown area.

Policy 21.3
Make future rail transit extensions in the city compatible with existing BART, CalTrain or Muni rail lines.

The Project location adjacent to the MUNI Metro T-Third Street line and Caltrain Bayshore station provides transit service to major employment centers in the City, on the Peninsula (including SFO) and in the South Bay. It will also enable future plans for extension of the MUNI Metro line to the Caltrain station, to create a multi-modal center with convenient multimodal service connections.

OBJECTIVE 23
IMPROVE THE CITY'S PEDESTRIAN CIRCULATION SYSTEM TO PROVIDE FOR EFFICIENT, PLEASANT, AND SAFE MOVEMENT.

Policy 23.6
Ensure convenient and safe pedestrian crossings by minimizing the distance pedestrians must walk to cross a street.

OBJECTIVE 24
IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.1
Preserve existing historic features such as streetlights and encourage the incorporation of such historic elements in all future streetscape projects.

Policy 24.2
Maintain and expand the planting of street trees and the infrastructure to support them.
Policy 24.3
Install pedestrian-serving street furniture where appropriate.

The Project will establish new streets and sidewalks on the Schlage Site that will be designed to accommodate and encourage pedestrian use through incorporation of street trees pedestrian-scale street lights and handsome street furniture, and include sidewalk and corner bulbs to provide additional space for pedestrians to cue and reduce the distance pedestrians must travel when crossing a street.

OBJECTIVE 27
ENSURE THAT BICYCLES CAN BE USED SAFELY AND CONVENIENTLY AS A PRIMARY MEANS OF TRANSPORTATION, AS WELL AS FOR RECREATIONAL PURPOSES.

OBJECTIVE 28
PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

POLICY 28.1
Provide secure bicycle parking in new governmental, commercial, and residential developments.

The Project encourages bicycle use. New development will be required to provide secure bicycle parking, including new residential development and commercial uses.

OBJECTIVE 34:
RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.4:
Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Policy 34.3:
Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

The Project will establish and design a new street grid system that will serve the former Schlage site and be consistent with Visitacion Valley's existing east/west street grid and block size pattern. The Project will also redesign some of the existing street intersections to improve circulation and to improve bicycle and pedestrian facilities, thereby improving safety conditions.

The Project will also assure that any new parking facilities provided for the residential uses meet design criteria. The Project will take into account issues such as parking needs, design and access. The amount of parking on the site will relate to the capacity of the City's street system and land use patterns.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:
EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE AND A MEANS OF ORIENTATION.

Policy 1:
Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3:
Recognize that buildings, when seen together, produce a total effect that characterizes the City and its districts.

Policy 6:

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

OBJECTIVE 3:
MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

POLICY 3.1
Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 5:
Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

Policy 6:
Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

The Project specifies Development Controls and Design Guidelines to ensure continuation of the existing fabric of the Visitacion valley and adjacent Little Hollywood neighborhoods. The Project respect the area's characteristic pattern by establishing new blocks and a street grid consistent with the neighborhood pattern, by extending existing Visitacion Valley streets onto the Schlage Lock site, and by enforcing Design Guidelines based on the historic nature and unique aesthetic of the area. While some portions of buildings will be permitted to exceed existing building heights, those heights have been carefully located so as not to affect views or aesthetics of the overall environment, and have also been designed to include features like setbacks, stepbacks and other moderating elements adjacent to existing development. Development controls and design guidelines call for building facades to be modulated to establish building scale similar to surrounding development, by incorporating façade articulation, maximum building lengths and bulk controls.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKINIG ENVIRONMENT.

Policy 1.2:
Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:
Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The Project will reutilize a former industrial site that has been vacant since 1999 which has been a drain on the community. The Visitacion Valley Redevelopment Plan calls for the extension of Leland Avenue, Visitacion Valley's commercial core, east of Bayshore Boulevard, and the provision of new ground floor retail space along the street extension should help to encourage increased pedestrian traffic. Plans to improve the existing Leland Avenue commercial core will be implemented as part of the Leland Avenue Streetscape Plan, published in June, 2006. The Redevelopment Plan also designates a site for a medium-sized market and retail at other ground-floor locations.

OBJECTIVE 2:
MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:
Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:
Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The redevelopment project will help to retain existing retail and neighborhood-commercial uses on Leland Avenue and Bayshore Boulevard in part by providing additional sites for new retail uses, including a mid-sized market, long-desired by area residents. By increasing space available for new neighborhood-commercial uses, the Project will provide opportunities for small business ownership and employment. The additional residential density will increase the demand for neighborhood-commercial services and will help the neighborhood as a whole.

Policy 6.2:
Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

The Redevelopment Project will help to retain existing retail and neighborhood-commercial uses on Leland Avenue and Bayshore Boulevard in part by providing additional sites for new retail uses, including a mid-sized grocery, long-desired by area residents. By increasing space available for new neighborhood-commercial uses, the Project will provide opportunities for small business ownership and employment.

EXHIBIT M-1
Resolution No. 17791
Hearing Date: December 18, 2008

Case NO. 2006.1308EMTZRUU
Visitacion Valley Redevelopment Project
General Plan Amendment

The Project will increase the supply of housing, including low-cost housing. This in turn will increase the demand for neighborhood-commercial services and will help the neighborhood as a whole.

WHEREAS, per Planning Code Section 340, that on November 20, 2008, the Planning Commission adopted Resolution No. 17767, a Resolution of Intention to initiate amendments to the General Plan in response to changing physical, social, economic, and environmental conditions in the Visitacion Valley neighborhood, and

WHEREAS, prior to considering relevant amendments to the General Plan, Planning Code and Zoning Map on December 18, 2008, the Planning Commission adopted Motion No.17786. In that action, the Commission certified the Visitacion Valley Redevelopment Program EIR. The Planning Commission also adopted Motion No.17790, adopting California Environmental Quality Act Findings related to the *Visitacion Valley/Schlage Lock Redevelopment Program.*

NOW THEREFORE BE IT RESOLVED, the Commission adopts and incorporates by reference the CEQA findings in Commission Motion No. 17790; and

BE IT FURTHER RESOLVED, That on December 18, 2008, the Planning Commission held a public hearing on the *Visitacion Valley / Schlage Lock Redevelopment Plan and Program.* including the Redevelopment Plan, the Design for Development and other documents, and considered the written and oral testimony of Planning Department staff, representatives of other City Departments and members of the public concerning the proposed General Plan Amendment; and

BE IT FURTHER RESOLVED, That pursuant to Planning Code Section 340, the Planning Commission does hereby find that the public necessity, convenience and general welfare require the proposed amendments and therefore adopts amendments to the General Plan contained in the attached ordinance, approved as to form by the City Attorney in Exhibit M-2, and recommends approval of these amendments to the Board of Supervisors.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on December 18, 2008.

Linda Avery
Commission Secretary

AYES: Commissioners Olague, Antonioni, Borden, Lee, Moore, Sugaya

NOES: None

ABSENT: None

ADOPTED: 12/18/2008

EXHIBIT M-1
Resolution No. 17791
Hearing Date: December 18, 2008

CASE NO. 2006.1308EMTZRUU
Visitacion Valley Redevelopment Project
General Plan Amendment

I:\Citywide\Community Planning\Other Community Planning\Vis Val\Commission Packet 12_18_08\M-1 2006.1308 Gen Plan Amendment Resolution.doc

ATTACHMENT 8

City and County of San Francisco
Office of the Clerk of
BOARD OF SUPERVISORS

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

Your attention is hereby directed to the following:

I, Angela Calvillo, Clerk of the Board of the City and County of San Francisco, California do hereby certify that the annexed document in File 090222, Redevelopment Plan for the Visitacion Valley Redevelopment Project And Associated Actions. Housing Element/Government Code Article 10.6 Consistency Findings San Francisco Board of Supervisors dated April 21, 2009 is a full, true and correct copy of the original thereof on file in this office.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of the City and County of San Francisco, California this 30th day of April, A.D., 2009.

Angela Calvillo
Clerk of the Board
City and County of San Francisco

By Madeleine Iavarone

File 090222

cc: Land Deputies
City Attorney

Redevelopment Plan for the Visitacion Valley Redevelopment Project
And Associated Actions

Housing Element/Government Code Article 10.6 Consistency Findings
San Francisco Board of Supervisors

April 21, 2009

File No. 090222

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2009 APR 21 PM 1:11
BY

The San Francisco Housing Element, as adopted by the Board of Supervisors in 2004 and modified by the San Francisco Superior Court by Peremptory Writ of Mandate dated April 6, 2009 in case number 504-780, substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code in that:

1) The 2004 Housing Element as originally adopted by the San Francisco Board of Supervisors was found in substantial compliance with state housing element law, Article 10.6 of the Government Code, by the State of California Department of Housing and Community Development, by letter dated October 28, 2004.

2) The California Department of Housing and Community Development, by letter dated April 2, 2008 found that the 2004 Housing Element without Policies 1.7, 11.1, 11.5, 11.6, 11.7, 11.8, 11.9 and Implementation Measure 1.6 continued to comply with state housing element law.

3) The April 6, 2009 Peremptory Writ of Mandate enjoined the reliance and implementation of only three additional policies – Policy 1.2, part of Policy 1.1 and Implementation Measure 1.1 – which are similar to the above policies and implementation measure, and the addition of these three policies does not materially change the 2004 Housing Element's compliance with state housing element law.

4) The Housing Element, as modified by the San Francisco Superior Court in its April 6, 2009 Peremptory Writ of Mandate, continues to assess the housing needs of all San Franciscans, and inventories the resources and constraints relevant to the meeting of those housing needs pursuant to Government Code section 65583(a)(1)-(9), in the Housing Element's Part One, Data and Needs Assessment. This section was not modified by the Court.

5) The Housing Element, as modified by the San Francisco Superior Court in its April 6, 2009 Peremptory Writ of Mandate contains a statement of San Francisco goals, quantified objectives and policies relative to the maintenance, preservation, improvement and development of housing, pursuant to Government Code 65583(b)(1) because San Francisco can continue to rely on the majority of the adopted policies, goals and implementation measures contained in the Housing Element's Part Two, Objectives, Policies and Implementation Programs.

6) San Francisco's existing zoning requirements are not a constraint on the development of housing, and the Housing Element identifies adequate sites for a variety of housing types. Therefore, San Francisco's Housing Element did not need to identify any required rezoning or other programmatic commitments pursuant to Government Code Section 65583(c)(1).

7) Without the policies and implementation measures specifically enjoined by the Court's Peremptory Writ of Mandate, the Housing Element and the remainder of the San Francisco General Plan continue to encourage increased housing supply and choices beyond San Francisco's fair share of housing needs through various zoning regulations and development standards.

ATTACHMENT 9

David Golick
Planning Consultant
4241 Dubhe Court
Concord, CA 94521

(925) 798-6276
dlgolick@msn.com

March 23, 2004

San Francisco Planning Department
Attn.: Rick Cooper, Senior Environmental Planner
1660 Mission Street, Suite 500
San Francisco, CA 94103

Re: ***Appeal of Preliminary Negative Declaration***
Housing Element of the San Francisco General Plan
Case No. 2000.465E

Dear Mr. Cooper:

On January 29, 2003, a group of citywide Appellants appealed to the Planning Commission the proposed adoption of a Preliminary Negative Declaration (ND) for the revised Housing Element of the San Francisco General Plan, as first published on December 20, 2003. The appeal is set for hearing before the Planning Commission on April 1, 2004. This letter supplements the appeal and provides facts supporting a fair argument that the adoption of the Housing Element may have significant environmental impacts. My résumé, reflecting my experience as a professional planner, is attached for your review. (Exhibit (Exh.) 1: Résumé of David Golick.)

The proposed Housing Element contains policies encouraging substantial high-density housing development, which in turn could cause a number of potentially significant effects upon visual quality/neighborhood character, transportation, land use and utilities/public services in San Francisco. However, the Planning Department contends that adoption of the Housing Element "could not have a significant effect on the environment." (Exh. 2: San Francisco Planning Dept. Packet Including Preliminary Negative Declaration (Dec. 20, 2003) and Initial Study (Dec. 19, 2003), p. 1 of Preliminary Negative Declaration.)

The Planning Department's claim is disingenuous, beginning with the fact that the Initial Study includes no environmental analysis to support a conclusion of

no significant impact. The document asserts that "environmental review is not practical, nor meaningful for theoretical housing production allowed by maximum zoning capacity as that capacity is not fully realized and environmental review of that maximum capacity would be misleading." (Exh. 2: San Francisco Planning Dept. Packet Including Preliminary Negative Declaration (Dec. 20, 2003) and Initial Study (Dec. 19, 2003), p. 14 of Initial Study.) This statement directly contradicts the Planning Department's own procedures for preparing negative declarations. In preparing such documents, Planning Department policy requires staff to "**cover maximum build out unless there is a reasonable basis to use a lesser intensity of development.**" (Exh. 3: San Francisco Dept. of City Planning Office of Environmental Review, Reviewer's Instructions (For Preparation of Negative Declarations, Nov. 6, 1998, p. 16, emphasis in original.) Furthermore, the EIR prepared for 1990 amendments to the Residence Element (the precursor to the current Housing Element) emphasizes that the "EIR does assume that the Residence Element would be successful in achieving the housing goals. It is primarily concerned with the physical, environmental consequences of achieving the housing goals." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. C&R-37.) If the Planning Department prepared in 1990 an EIR assessing maximum housing build-out under the proposed Residence Element, it can do that again in 2004.

The Initial Study also claims that "it would be improper and misleading to attempt to speculate what the results, in terms of planning and rezoning efforts, and ultimately in terms of levels and locations of development would occur as a result of adoption of the Housing Element, or to further speculate about indirect or secondary effects from planning and rezoning responses that are presently unknown." (Exh. 2: San Francisco Planning Dept. Packet Including Preliminary Negative Declaration (Dec. 20, 2003) and Initial Study (Dec. 19, 2003), p. 14 of Initial Study.) These statements are inaccurate.

First, the Planning Department has already proposed rezoning the City to accomplish its Housing Element goals. (Exh. 5: Memorandum to Planning Commission from Planning Dept., "The General Plan and Planning Initiatives Slide Presentation," Oct. 2, 2003, pp. 5-6.) The Planning Department also concedes that "[s]tudies are already being conducted to look into appropriate [density] controls" for neighborhoods "where additional housing make[s] sense." (Exh. 6: Memorandum to Planning Commission from Planning Dept., Oct. 2, 2003, p. 5.) Similarly, the November 2003 draft Rincon Hill Plan notes that the Planning Department is already preparing "[n]ew permanent controls" for housing

use in surplus industrial lands. (Exh. 7, The Rincon Hill Plan, Draft for Public Discussion, November 2003, p. 7.) Also, the Planning Department admits that "[p]reliminary studies of other potential transit and service rich areas are currently being conducted by the Department as a prelude to the soon-to-be launched specific area transit corridors programs." (Exh. 6: Memorandum to Planning Commission from Planning Dept., Oct. 2, 2003, p. 6.) Of even greater concern, in December 2002 the Planning Department admitted that the Board of Supervisors had sponsored numerous initiatives that implement Housing Element policies before that document has been approved, including "recent legislation to exempt housing in the downtown from FAR calculations, special zoning for transit-oriented neighborhood commercial (NCT) districts, legislation to allow secondary units without parking in areas well-served by transit and neighborhood services, revisions to the city's inclusionary housing policy, and changes to fees for transit impacts, housing . . . and inclusionary housing." (Exh. 8: The Market and Octavia Neighborhood Plan, Draft for Public Review, Dec. 2002, p. 191.) Also at that time, the Planning Department stated that it "is in the midst of rezoning Rincon Hill" – a move that "is intended to encourage the development of thousands of new housing units close to the Transbay Terminal downtown." (*Ibid.*) Therefore, the Planning Department has information as to the "results, in terms of planning and rezoning efforts" that would occur and should prepare an EIR analyzing the draft Housing Element accordingly.

Second, the 1990 EIR cites CEQA Guideline 15146 that "An EIR on a project such as the adoption or amendment of . . . a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. C&R-17.) If the Planning Department could analyze secondary effects stemming from the 1990 revisions to the Residence Element, it can do so in 2004.

The Planning Department prepared an environmental impact report (EIR) for both the 1983 and 1990 revisions of the Residence Element. (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. II-1.) For similar reasons that prompted San Francisco to prepare those EIRs, the Planning Department must prepare an EIR for the proposed Housing Element update.

- The 1990 EIR notes that "the proposed amendments to the Residence Element describes [sic] current and proposed future implementation [of] the Objectives and Policies" in the Element. Therefore, the 1990 EIR

"concentrates on new programs which would be undertaken as a result of the proposed amendments to the Residence Element." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. I-4.) The proposed Housing Element follows the same format, so the same EIR process should apply today.

- The 1990 EIR states that the proposed Residence Element revisions are "not a proposal for specific housing development, or for specific zoning reclassifications or other specific action." Yet an EIR was appropriate because the Element's "Objectives and Policies would establish City policies which could encourage certain private and public development or rehabilitation of housing" and the "resulting development could cause environmental impacts." Consequently, "this EIR will assume that the proposed Objectives and Policies would result in meeting the [Association of Bay Area Governments'] housing goals . . . and that the resulting housing units will be spread over the potential housing sites identified in the Needs Assessment." Using that assumption, the EIR "will then assess quantitatively and qualitatively, as appropriate, the potential environmental impacts of meeting the goals." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, pp. III-1, III-2.) The same rationale applies here and the Planning Department must prepare an EIR accordingly.

- The 1990 EIR addressed impacts on land use, employment, population, neighborhood character and visual quality, transportation, air quality, geologic and seismic impacts, and biology. (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. III-3.) This appeal concentrates on the issues of neighborhood character and visual quality, transportation, land use, and public services/utilities, but the Planning Department may find additional impacts that require discussion in an EIR.

- The 1990 EIR concedes that "[a]ll environmental review must take into account cumulative environmental impacts, if there are any." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. C&R-13 (citing CEQA Guideline 15130).) The Citywide Action Plan

(CAP) emphasizes that the Housing Element, Land Use Element, revised Urban Design Element and CAP "are all proceeding at the same time" and "will inform and reinforce one another" as the City "grapples with the challenges of growth and change." (Exh. 9: Overview of the Citywide Action Plan, Aug. 2002, p. 5.) The Planning Department should prepare an EIR to evaluate the cumulative effects of all of these policies.

- The 1990 EIR states that the "model of environmental analysis which is mandated by CEQA requires that the analysis begin with a set of baseline conditions which measure the existing environmental situation. The incremental changes likely to occur as a result of proposed public actions can then be assessed against this background. The City is not free to adopt another theoretical model for its environmental analyses." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. C&R-19.) Thus, the Planning Department must create an environmental baseline and analyze the secondary effects expected to follow from implementing the proposed Housing Element.

- Responding to a public comment, the 1990 EIR emphasized that "[b]ecause the purpose of the environmental review process is to inform the public and the decision-makers of the consequences of actions before there is a commitment to a course of action, the process must be completed and the EIR certified before any City agency can commit itself to adopting any of the objectives and policies, or implementing programs to carry out the objectives and policies. City agencies cannot commit to adopting policies or implementing programs until the environmental review process is complete. The City must complete the environmental review process before adopting the Residence Element or implementing its programs. CEQA encourages the dissemination of information about environmental consequences early in the public review process of proposed projects, and encourages public review of environmental documents during the time that projects are in the public forum. This enables any environmental considerations to be given full weight before projects reach their final form, increasing opportunities to revise projects to make them more environmentally sensitive." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. C&R-12, C&R-13.) Substantial evidence shows that a Negative

Declaration for the proposed Housing Element is improper and that the legally required environmental review is incomplete. Taking its own 1990 advice, the Planning Department should prepare a full EIR for the proposed Housing Element.

* * * * *

The items listed below and the attached exhibits provide substantial evidence supporting a fair argument that the proposed Housing Element may have significant environmental impacts. Therefore, the Planning Department must prepare an EIR.

Visual Quality/Neighborhood Character.

The proposed Housing Element encourages builders "to take full advantage of allowable building densities." (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policy 11.9, p. 199.) Building secondary units and high-density, bulky, potentially 50-foot tall buildings in neighborhood commercial areas and along transit corridors throughout the City could cause myriad environmental effects. (Exh. 11: Proposed Ordinance Making Conforming Changes to the Planning Code to Implement Companion Legislation Establishing Controls for Two Newly-Created Zoning Districts, Transit-Oriented Neighborhood Commercial (NC-T) Districts and Transit-Intensive Special Use Districts (File No. 020966), May 20, 2002, p. 3.) Such construction could disrupt and divide the existing predominantly 1-2 story neighborhood commercial areas and the generally low-rise areas along transit corridors. These new buildings would be incompatible with prevailing neighborhood scale and character. Implementing the proposed Housing Element would transform San Francisco's unique, diverse, low-density existing neighborhoods into high-density, high-walled canyons.

- The proposed Housing Element calls for building a substantial number of new residences throughout the City – perhaps 29,190 units. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policies 1.1, 1.3, 1.5, pp. 88, 132, 135, 137; Exh. 2: San Francisco Planning Dept. Packet Including Preliminary Negative Declaration (Dec. 20, 2003) and Initial Study (Dec. 19, 2003), p. 12 of Initial Study.) Yet April 2001 maps prepared by the Planning Department proclaim that 45,700 new units could be built in the City and that 18,900 units are "in the pipeline" from 2000 to 2005. (Exh. 12: April 2001 Planning

Department housing maps.) As explained below, the Planning Department repeatedly uses outdated and even conflicting data in the proposed Housing Element. The Planning Department must reconcile all of these unit estimates and provide a 2004 picture of San Francisco's long-term housing projections.

- Contrary to the Initial Study's claim that "it would be improper and misleading" to speculate about planning and rezoning efforts and development levels and locations, no such speculation is necessary. (Exh. 2: San Francisco Planning Dept. Packet Including Preliminary Negative Declaration (Dec. 20, 2003) and Initial Study (Dec. 19, 2003), p. 14 of Initial Study.) The City is already considering draft ordinances and zoning proposals for transit-oriented and transit-intensive districts, which appear specifically designed to implement the proposed Housing Element. (Exh. 13: Summary of Transit Corridor Ordinances; Exh. 11: Proposed Ordinance Making Conforming Changes to the Planning Code to Implement Companion Legislation Establishing Controls for Two Newly-Created Zoning Districts, Transit-Oriented Neighborhood Commercial (NC-T) Districts and Transit-Intensive Special Use Districts (File No. 020966), May 20, 2002; Exh: 14: City and County of San Francisco Master Report for File No. 020966; Exh. 15: Proposed Ordinance to Create and Establish Controls for Two New Zoning Districts, Transit-Oriented Neighborhood Commercial Districts and Transit-Intensive Special Use Districts (File No. 020967), May 20, 2002; Exh. 16: City and County of San Francisco Master Report for File No. 020967.) The Planning Department has ample evidence of potential environmental impacts and must analyze them properly in an EIR.

- Ensuring that many aspects of the proposed Housing Element would escape public scrutiny, the City has already exempted the proposed zoning ordinances for Transit-Oriented Neighborhood Commercial (NC-T) Districts and Transit-Intensive Special Use Districts from environmental review. (Exh.17: Certificate of Determination of Exemption/Exclusion From Environmental Review for Project Title 2002.0643E and 2002.0644E, Nov. 7, 2002.) If the Preliminary Negative Declaration is approved, no meaningful environmental review will ever occur.

- The Housing Element's proposals for secondary units and high-density residences would encourage demolition of single family homes and their

replacement with more intensive uses. This would forever change the visual and architectural character of the City's neighborhoods. The Planning Code contains findings describing numerous adverse environmental effects that would result from constructing secondary units, including without limitation that the "addition of second units in single-family houses throughout the City will irrevocably deplete its limited supply of single-family homes and discourage families from living in the City by removing the type and size of dwelling units most suitable for families." (Exh. 18: Planning Code § 207.2(b)(10).) Implementing the proposed Housing Element will cause these negative environmental and quality of life effects, contrary to the Planning Code's admonitions.

- San Francisco already has the highest population density in California and one of the highest densities in the country. (Exh. 18: Planning Code § 207.2(b)(2) and (3); Exh. 19: San Francisco Housing DataBook, 2002, p. 9.) Citing these density problems, the Planning Code finds that "once single-family homes are converted into multiple dwelling structures by the addition of a second unit, single-family housing stock is eliminated from the existing supply of single-family homes. The irrevocable loss of the limited supply of single-family housing stock throughout the City will adversely affect the health, safety and welfare of San Francisco residents." (Exh. 18: Planning Code § 207.2(b)(4).) This finding directly contradicts the proposed Housing Element's support for legalizing existing illegal secondary units. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policy 2.6, p. 148.) The finding also shows that the City is already too dense to support the Housing Element's proposal for increased density.

- The City is considering a proposed revision to the Secondary Units Ordinance that directly contradicts the proposed Housing Element's support for legalizing existing illegal secondary units. The draft Secondary Units Ordinance "precludes legalization" of approximately 20,000 illegal housing units. (Exh. 20: Proposed Ordinance: Secondary Units, File No. 021598, April 9, 2003, p. 5.) In contrast, the proposed Housing Element hopes to legalize such units. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policy 2.6, p. 148.) The City must reconcile these divergent policies.

- The Planning Department's "Analysis of Secondary Unit Legislation" estimates that 26,167 lots "with two-story structures with one unit, located in RH-1 districts and in proximity to transit" in San Francisco would have "the most housing potential" to add a secondary unit. (Exh. 21: Analysis of Secondary Unit Legislation, Planning Dept. Case File No. 2002.0418T, p. 2.) It estimates that 20% or 5,233 lots already have illegal secondary units; therefore, the "total development potential, or maximum possible supply, of new units under the secondary legislation" would be 20,934 lots. (*Ibid.*) First, this 5,233 illegal unit estimate is drastically different from the Secondary Unit Legislation's estimate of 20,000 illegal units citywide. (Exh. 20: Proposed Ordinance: Secondary Units, File No. 021598, April 9, 2003, p. 5.) These two divergent figures must be reconciled. Second, if the proposed Housing Element calls for building approximately 29,190 new units total (including secondary units) and full build-out of 20,934 new secondary units occurs – perhaps only 8,256 of the units projected by the Housing Element would be developed outside of the secondary unit context. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policies 1.1, 1.3, 1.5, pp. 88, 132, 135, 137; Exh. 2: San Francisco Planning Dept. Packet Including Preliminary Negative Declaration (Dec. 20, 2003) and Initial Study (Dec. 19, 2003), p. 12 of Initial Study.) Given the Housing Element's emphasis on high-density development, it is unlikely that the City would like this result. Furthermore, the Planning Department's secondary unit analysis estimates that only 150-200 secondary units would be built per year (approximately 3,000-4,000 units over 20 years), even though more than 20,000 lots could accommodate such units. (Exh. 21: Analysis of Secondary Unit Legislation, Planning Dept. Case File No. 2002.0418T, p. 3.) Indeed, on an annual basis, thousands of homeowners seeking supplemental income may well jump at the chance to add secondary units. The Planning Department's projections are unfounded and may drastically underestimate the creation of secondary units. Implementing the Housing Element and the secondary units legislation may result in significant environmental impacts, and an EIR is required.

- The Planning Department has given contradictory estimates of how many housing units can be built along transit-preferential streets and neighborhood commercial districts. The Secondary Units Ordinance estimates that as many as 15,660 housing units could be constructed in those areas. (Exh. 20: Proposed Ordinance: Secondary Units, File No.

021598, Apr. 9, 2003, p. 3.) Yet the Legislative Digest for the revised ordinance estimates that 30,400 units could be constructed in those areas. (Exh. 22: Legislative Digest for File No. 021598, May 29, 2003, p. 3.) The proposed Housing Element estimates that 5,744 units could be built in "transit corridors" but does not delineate a number of units to be built in "neighborhood commercial districts." (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, p. 85.) The proposed Housing Element and EIR must provide an accurate analysis of this critical issue.

- Construction of substantial numbers of new residential units in established neighborhoods would degrade existing visual quality and neighborhood character. Planning Department documents acknowledge that "[b]uilding units to accommodate the population and household growth forecast for the City will necessarily involve raising height and density limits in certain neighborhoods." (Exh. 6: Memorandum to Planning Commission from Planning Dept., Oct. 2, 2003, p. 5.) Placing these high-density, excessively tall and bulky buildings in residential neighborhoods directly conflicts with a San Francisco Planning Code priority policy. (Exh. 11: Proposed Ordinance Making Conforming Changes to the Planning Code to Implement Companion Legislation Establishing Controls for Two Newly-Created Zoning Districts, Transit-Oriented Neighborhood Commercial (NC-T) Districts and Transit-Intensive Special Use Districts (File No. 020966), May 20, 2002, p. 3.) The code mandates that "existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods." (Exh. 23: Planning Code section 101.1(b)(2).) Therefore, the proposed Housing Element would create a significant adverse impact on visual quality/neighborhood character.

- The 1990 EIR noted "public concern . . . focused on the scale and character of development in areas which were predominantly composed of one and two unit dwellings and on the demolition of single family homes in these districts." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. III-8.) The Planning Code now contains a strong mandate for protecting low-density neighborhood scale and character. The proposed Housing Element threatens these very neighborhoods and could destroy their protected scale and character.

The Planning Department must prepare an EIR to analyze potential impacts.

- In a letter to San Francisco Planner Catherine Bauman regarding the Regional Housing Needs Assessment (RHND) prepared by the Association of Bay Area Governments (ABAG), ABAG emphasized that the "severity of the Bay Area's housing crisis requires all of us to take up the challenge of finding innovative ways in which to *construct and preserve housing of all types without compromising the economic health or quality of life of our communities*." (Exh. 24: Letter to Catherine Bauman from Association of Bay Area Governments, Oct. 24, 2000, p. 1, emphasis added.) Furthermore, ABAG notes that the "RHND process is not a mandate to construct housing units." (*Ibid.*) Therefore, although San Francisco should shoulder its burden to provide housing, it must not degrade residents' quality of life in the process. Nor should it sacrifice the City's threatened single-family housing to accommodate huge numbers of multi-unit residences.

- The 1990 EIR concedes that "[i]ndividual residential development projects or City programs such as zoning reclassifications which could occur in the future, and which could be encouraged by the current and proposed policies of the Residence Element, might have site-specific significant impacts." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, pp. V-1, V-2.) Implementing the proposed Housing Element could also have "site-specific significant impacts" and the Planning Department must prepare an EIR.

Transportation.

The proposed Housing Element encourages construction of substantial numbers of new residences with reduced or no associated parking. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policies 1.1, 2.6, 4.4, 11.6, 11.7, 11.9, 11.10, pp. 132, 148, 159, 197, 198, 200.) Implementing these policies would cause a substantial increase in transit demand along transit corridors. Existing transit capacity cannot accommodate this demand.

- Proposed revisions to the Secondary Units Ordinance emphasize that "San Francisco currently experiences a high level of automobile congestion that degrades air quality, threatens pedestrian safety, and

detracts from the character and function of residential neighborhoods. Also, many neighborhoods in the City suffer from an imbalance of supply and demand for on-street parking, in which inadequate on-street parking spaces exist to serve residents." (Exh. 20: Proposed Ordinance: Secondary Units, File No. 021598, Apr. 9, 2003, p. 7.) The proposed Housing Element exacerbates these problems without justification. An EIR is in order.

- The parking and traffic issues growing out of the Housing Element are only the beginning of the problem – they will contribute to pollution, pedestrian injuries and death, and quality of life issues. The 1990 EIR concluded that "[e]missions of particulates resulting from construction and from vehicle trips associated with new residential development in San Francisco could increase the frequency of particulate standard violations, with concomitant health effects and reduced visibility." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. III-42.) Similar pollution and adverse health effects will accompany implementation of the proposed Housing Element. The Planning Department must analyze these effects in an EIR.

- MUNI's Short Range Transit Plan acknowledges that the City's 12 major transit corridors "have high volumes of riders, but suffer from chronic capacity and reliability problems." (Exh. 25: San Francisco Municipal Railway FY2004-FY2023 Short Range Transit Plan, Final Draft for Adoption, Sept. 16, 2003, p. 52.) The proposed Housing Element would aggravate this problem – an EIR would address alternatives to combat such issues.

- The proposed Housing Element policies could cause a substantial increase in vehicle trips on already-congested streets. Existing projections show that the predicted population and employment growth in San Francisco and the Bay Area will cause traffic on already-clogged roads to "grow significantly by 2025." (Exh. 26: San Francisco County Transportation Authority, Expenditure Plan and Sales Tax Reauthorization Draft Environmental Impact Report, June 2003, p. 4-5.) Specifically, "By 2025, a substantial increase is expected for vehicle miles traveled at LOS F." In this document, level of service F represents "roadways with congestion." (*Ibid.*) Thus, estimations of significant cumulative transportation impacts resulting from projected population

— and employment growth were available but omitted from the Planning Department's "analysis" of the environmental impacts of the draft Housing Element. If the Transportation Authority can analyze these impacts in an EIR, so can the Planning Department. CEQA requires that public agencies use information that is reasonably available.

- DataMart Regional Indicators projects that average weekday daily vehicle miles of travel will increase by more than 1.3 million miles in the City and County of San Francisco, between the years 2000 and 2025. (Exh. 27: San Francisco Bay Area Vehicle Miles of Travel (VMT), Population and Employment, 1990-2025. Presumably, these extra miles are traveled at least in part by new residents – who need space to park their cars. Since the proposed Housing Element strongly discourages vehicle use and additional parking, an EIR must discuss these issues.

- San Francisco has the highest density of vehicle ownership in the entire Bay Area and the number of zero vehicle San Francisco households is expected to decrease 3.8% by the year 2020. Total household vehicles in the Bay Area are expected to increase by 20.5% by the year 2020 (924,000 new vehicles). (Exh. 28: Metropolitan Transportation Commission, Vehicle Ownership Forecasts for the San Francisco Bay Area 1990-2020, Data Summary, July 2000, pp. ii, iii.) These numbers do not justify or support the proposed Housing Element's reliance on reduced parking needs.

- A study of residential parking demand in San Francisco showed that vehicle ownership is relatively higher for new housing than for existing housing and location near transit has produced no conclusive evidence of lowering vehicle ownership. (Exh. 17: Certificate of Determination of Exemption/Exclusion From Environmental Review for Project Title: 2002.0643E and 2002.0644, Nov. 7, 2002, p. 3.) In the City, 64% of residents living within 4 blocks of transit still own automobiles. (Exh. 29: San Francisco Dept. of City Planning, Parking Demand for Affordable Housing in San Francisco (Draft), Jan. 1992, Table 7.) Thus, the proposed Housing Element's emphasis on reduced or no parking for new units will only increase San Francisco's traffic and parking congestion.

- The Planning Department projects that building one parking space for every dwelling unit needed by 2020 would require "130 acres of land just for parking." (Exh. 6: Memorandum to Planning Commission from Planning Dept., Oct. 2, 2003, p. 7.) In the absence of those 130 acres, the Housing Element's proposals to eliminate or reduce parking would cause a severe and highly significant adverse impact on existing parking conditions. It would also cause a potential significant increase in vehicle trips traveling on City streets seeking parking spaces, as well as illegal parking on sidewalks.

- The policies in the proposed Housing Element that eliminate or reduce parking spaces for new units conflict with the Transit First (not "Transit Only") policies of the General Plan's Transportation Element. For example, Transportation Element Policy 11.3 requires that "developers address transit concerns as well as mitigate traffic problems." (Exh. 30: Transportation Element of the General Plan of the City and County of San Francisco, July 1995, p. I.4.25.) The proposed Housing Element should not conflict with an adopted element of the General Plan – such a conflict with an adopted policy is another significant adverse environmental impact which would result from the proposed Housing Element. An EIR would suggest mitigation measures to address these transit concerns.

- The proposed Secondary Units Ordinance prohibits tenants of secondary units from acquiring parking permits. It then states that no-off street parking is required for secondary units. (Exh. 20: Proposed Ordinance: Secondary Units, File No. 021598, Apr. 9, 2003, p. 17.) This circular reasoning is unsupportable and will not guarantee a decreased demand for parking. Secondary unit tenants can park in local garages or on streets that do not require a parking permit, thus displacing other residents from parking spaces.

- Ensuring that many aspects of the proposed Housing Element would escape public scrutiny, the City has exempted the Secondary Units Ordinance from environmental review. The Certificate of Determination of Exemption/Exclusion From Environmental Review admits that since no off-street parking would be required for secondary units permitted by the proposed legislation, the proposed Secondary Units Ordinance "could result in or exacerbate a deficiency in parking." (Exh. 31: Certificate of Determination of Exemption/Exclusion From

Environmental Review for Project Title 2002.0418E, Secondary Units Ordinance, Apr. 23, 2003, pp. 4-5.) If the Preliminary Negative Declaration is approved, no meaningful environmental review will ever occur.

- MUNI already recognizes that existing capacity is insufficient and major improvements need to be made in the City's transit network. A summary of a 2002 MUNI report noted that "[e]ven with buses running every two minutes on Geary, in peak times, capacity is still insufficient." (Exh. 32: San Francisco Planning and Research Association newsletter, "MUNI's Vision for Rapid Transit in San Francisco," January 2002, p. 4.) Also, although Market Street boasts several transit options, "[c]ongestion on Market results in reliability issues" and competition between public transit and "pedestrians, bicyclists, delivery vehicles, taxis and private transit vehicles" causes delays that "reverberate throughout the system." (*Id.* at 5.) Also, the existing rail corridors along Judah, Taraval, Church, Oceanview and Ingleside "have the highest ridership in the system and require special treatment to improve service for passengers." (*Id.* at 7.) Furthermore, rail vehicles along these lines "are particularly prone to delays due to automobile interference, since they cannot maneuver around obstacles." (*Id.* at 7.) The proposed Housing Element proposes additional housing units in all of these locations, including 5,744 units in transit corridors and 5,160 units in Downtown/Civic Center. (Exh.10: Housing Element: Final Draft For Public Review, Sept. 2003, pp. 85-86 (N.B., the housing numbers on pp. 85-86 are inconsistent).) Yet the Planning Department maintains that new housing development in these areas could not have significant environmental impacts.

- The San Francisco Planning Department prepared a map in 2003, apparently defining primary transit corridors and residential lots within 1,250 feet of transit and commercial areas where secondary units would be allowed. (Exh. 33: San Francisco Planning Dept., 2003 color map of Transit Nodes and Primary Transit Street, and Residential Lots within 1250 feet of transit and commercial; Exh. 20: Proposed Ordinance: Secondary Units, File No. 021598, April 9, 2003, p. 1.) The transit corridors identified on this 2003 map do not match the transit corridors identified in the draft Housing Element. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, p. 86.) The Planning

Department must use accurate maps and realistic expectations when analyzing parking and transit needs associated with new housing.

- The 1990 EIR acknowledges that "the city experiences serious parking problems within some residential areas" and that "[d]espite an efficient transit network, San Francisco also experiences moderate to severe traffic congestion problems." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, p. III-28.) San Francisco's traffic congestion and parking problems have worsened since 1990. The Planning Department must prepare an EIR to analyze the proposed Housing Element's policy of providing reduced or no parking associated with 29,190 or more new housing units.

Land Use.

The proposed Housing Element calls for building 29,190 new residences throughout the City. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policies 1.1, 1.3, 1.5, pp. 88, 132, 135, 137; Exh. 2: San Francisco Planning Dept. Packet Including Preliminary Negative Declaration (Dec. 20, 2003) and Initial Study (Dec. 19, 2003), p. 12 of Initial Study.) This unprecedented explosion in housing unit production could cause the City to rezone land from heavy commercial or industrial use to residential use and change the complexion of existing neighborhoods, forever altering the landscape of San Francisco. Indeed, the Planning Department encourages building housing in former industrial areas and on surplus public lands. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policies 1.3, 1.5, pp. 135, 137.) With less industrial land available, the City could potentially lose existing or new jobs.

- The proposed Housing Element envisions 2,754 new housing units in industrial areas plus 6,000 new units in Mission Bay and 1,779 new units in South Bayshore. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, p. 85.) In another document, the Planning Department asserts that "[p]roposed rezoning scenarios estimate an additional potential of 12,100 to 24,200 new housing units in industrial lands." (Exh. 6: Memorandum to Planning Commission from Planning Dept., Oct. 2, 2003, p. 22.) Yet the Citywide Action Plan (CAP) warns that "housing built in the city is often built in the wrong places" and it opposes the "current market" trend of "locating housing in industrial areas where land is cheap and there is less opposition." (Exh. 9:

Overview of the Citywide Action Plan, Aug. 2002, p. 2.) The Planning Department must prepare an EIR analyzing this significant adverse impact on land use.

- The CAP's Eastern Neighborhoods plan projects that 17,000-29,000 new housing units would be built in those neighborhoods alone, with the potential for 78,000 or 79,000 units citywide. To accommodate these new units, the Planning Department would consider development options that could result in a "relatively high" loss of jobs in the commercial and industrial sectors. (Exh. 34: Community Planning in the Eastern Neighborhoods: Rezoning Options Workbook, San Francisco Planning Dept., Feb. 2003, pp. 4, 117, 123.) An EIR should analyze potential impacts from such a change in employment and land use.

- The 1990 EIR noted that "[p]ursuing a public policy which results in devoting land currently available to heavy commercial, industrial uses or large scale institutional uses to residential uses or mixed residential/ commercial uses could have an impact on the space available to existing and potential firms engaged in industrial activities, and perhaps on the future economic vitality of this sector of San Francisco's economy." The EIR also stated that "[p]ursuing a City policy of encouraging the construction of substantial amounts of housing in areas which are not traditional residential neighborhoods would almost invariably result in changes to the area's character and to its overall visual aspect." (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, pp. III-20, III-21.) The same rationale holds true now, and the Planning Department should prepare an EIR to address potential impacts.

- Among the irreversible environmental changes noted in the 1990 EIR are the use of non-renewable resources to build new housing units, and the irreversible devotion of heavy industrial or commercial lands to residential use. (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, pp. V-4.) With almost 30,000 new units projected in the proposed Housing Element, these irreversible environmental changes would continue to accumulate.

Utilities/Public Services.

The proposed Housing Element encourages the construction of substantial numbers of new residential units – a move that would cause a potentially significant increase in demand for schools, police, fire, medical, power, water, sewer, landfill, MUNI and BART services. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, Policy 1.1, pp. 88, 132.)

- In his November 13, 2003 letter to the Board of Supervisors, the San Francisco Chief of Police argued that the addition of upwards of 23,000 housing units would increase requests for police and other public safety services. Without additional officers, this could cause citizens to wait longer for delivery of police services. The Police Chief also was concerned about greater parking and traffic congestion and the potential for overcrowding on MUNI. (Exh. 35: Letter to Clerk of Board of Supervisors from Police Chief Alex Fagan, Nov. 13, 2003.) With almost 30,000 new units proposed in the Housing Element, the need for such services will dramatically increase.

- Proposed revisions to the Secondary Units Ordinance state that the "development of market-rate secondary units in multi-family buildings . . . encourages new residents to move to the City. These new residents place demands on services provided by both public and private sectors." (Exh. 20: Proposed Ordinance: Secondary Units, File No. 021598, Apr. 9, 2003, p. 6.) The draft Housing Element does not account for these increased demands for services.

- In his December 24, 2003 letter to the Board of Supervisors, the San Francisco Chief of the Fire Department warned that the approval of the Secondary Units Ordinance "would increase the population density within the approved areas and thus increase the Fire and emergency medical services (EMS) incidents." Furthermore, the Bureau of Fire Protection "would be impacted with the additional review of plans for fire alarms and sprinkler systems, along with the district inspectors performing additional field inspections." (Exh. 36: Letter to Clerk of Board of Supervisors from Fire Department Chief Mario Trevino, Dec. 24, 2003.) Combined with the increased pressure on the Police Department, noted above, approval of the proposed Housing Element would drastically affect the provision of fire protection and other public services within the City. An EIR should address these critical issues.

- A June 2003 Legislative Analyst Report on "San Francisco Housing Development" emphasizes that "Housing development regulation allows the City to control traffic and congestion and protect the environment. Regulation also allows the City to pace and prepare for the new infrastructure and public services costs associated with new residential development. *If the City cannot provide the infrastructure and services new residents will need, for example, it may be beneficial to slow growth through regulation.* Finally, many of San Francisco's regulations on housing development benefit current residents by granting them the power to maintain their neighborhood character through development reviews." (Exh. 37: Office of the Legislative Analyst, Legislative Analyst Report to Board of Supervisors on "San Francisco Housing Development," June 11, 2003, section on "Effects of Regulation on Housing Prices and Supply," emphasis added.) Because the City has a duty to "protect the environment" and to provide infrastructure and services to new residents, it must prepare an EIR to analyze the City's ability to satisfy all of these goals.

- The February 2001 Final Urban Water Management Plan for the City and County of San Francisco Public Utilities Commission projects that through 2020, "forecasted water demands of single-family and multi-family residential sectors" will be less than current demands because "population density within housing units will decline in the future." (Exh. 38: Final Urban Water Management Plan for the City and County of San Francisco Public Utilities Commission, February 2001, p. 20.) This statement directly contradicts the Housing Element's call for substantially increased density. An EIR should address the environmental effects of this policy conflict.

- The 1990 Residence Element EIR acknowledged that the "construction of substantial numbers of new residential units in San Francisco . . . would result in increased demand for other public services." These include police and fire services, public schools, water, sewer and solid waste. (Exh. 4: Environmental Impact Report: Amendments to the Residence Element of the Master Plan of the City and County of San Francisco, 1990, pp. III-53, III-54.) The result is no different now. An EIR on the proposed Housing Element would address and analyze these environmental impacts.

- In addition, the Planning Department projects that the increased demand for water which would occur in the City after the projected population growth to the year 2020 could only be met through implementation of a variety of conservation measures, including substitution of recycled water and groundwater for various non-potable water uses (landscaping, for example) and anticipated replacement of inefficient fixtures and appliances over time. (Exh. 39: Staff Response to Planning Commissioners' Comments on Feb. and July Drafts, Housing Element, San Francisco Planning Dept., Sept. 18, 2003, p. 29.) Therefore, since there is no evidence as to whether the various conservation measures would actually be implemented to a degree which would mitigate the anticipated shortage in water or as to the effectiveness of said conservation measures, there is certainly a potential that there would not be enough water to serve the projected increased population of the City.

* * * * *

In addition to the evidence cited above, the proposed Housing Element bases its housing need projections on out-of-date data. For example, ABAG formulated its projections of needed housing based on expected job growth predicted before the September 11, 2001 terrorist attacks and the dot-com bust. (Exh. 40: Regional Housing Needs Determination (RHND) for the San Francisco Bay Area, Association of Bay Area Governments (ABAG), attached July 13, 2001 letter to City Managers/Town Managers from Alex Amoroso, stating ABAG completed the RHND process in March 2001.) Other examples of outdated data are cited in this letter.

For example, in August 2003, citizen Richard Worner advised the Planning Commission that the Planning Department "bases ALL of its proposed changes in the General Plan on information that was formulated in an unprecedented and unrealistic time in San Francisco history (the year 2000)." (Exh. 41: Letter to Larry Badiner, Amit Ghosh and Dr. Miriam Chion, Aug. 22, 2003; Fax to Planning Commission from Richard Worner, Aug. 19, 2003, p. 2, emphasis in original.) The data and assumptions in the proposed Housing Element are outdated, including average rents, rent increases, average income and number of jobs in the City. (Exh. 41: Letter to Larry Badiner, Amit Ghosh and Dr. Miriam Chion, Aug. 22, 2003; Fax to Planning Commission from Richard Worner, Aug. 19, 2003, pp. 2-7.) Mr. Worner provided current data to support his conclusions and asked the Planning Department to revise the proposed Housing Element accordingly. (*Ibid.*) City Administrator William Lee agreed and advised the

Planning Department that "I believe his up to date information should be included in the next Housing Element Draft." (Exh. 41: Letter to Larry Badiner, Amit Ghosh and Dr. Miriam Chion, Aug. 22, 2003.) Yet when the Planning Department published the September draft, it continued to include the outdated figures and ignored City Administrator Lee's letter. (Exh. 10: Housing Element: Final Draft For Public Review, Sept. 2003, pp. 14, 53 and 54.) It is not possible for the Planning Department to accurately predict housing needs if it uses out-of-date data. Thus, the proposed Housing Element employs a false rationale in claiming that a massive amount of new housing is needed in San Francisco.

A document entitled "EIR Instructions and Guidelines" prepared by the City of San Francisco states that "When an EIR uses data – other than census data – older than two years, there must be a brief explanation of why the data are considered accurate. For example, during the period between 1979-1981, even one year old traffic counts near Pier 39 could have been inaccurate and therefore inappropriate for use in an EIR. Older data can be used with recent confirming environmental data." (Exh. 42: EIR Instructions and Guidelines, 1988, Chapter 5, p. 5.3) If San Francisco considers one-year old data inappropriate in an EIR, four-year old data are inappropriate in a proposed Housing Element. Therefore, before preparing an EIR (or even adopting the Preliminary Negative Declaration), the Planning Department must update the data and projections in the proposed Housing Element.

The Legislative Analyst Report on "San Francisco Housing Development" specifically encourages the preparation of EIRs for housing development proposals. It concludes that if a "neighborhood-level EIR is funded, developers will have the advantage of greater certainty about development costs. Developers will save a significant amount of time and money by knowing that an EIR has been completed. Furthermore, they will know that extensive community outreach has already taken place, and that the community is generally supportive of the neighborhood plan. This will reduce the probability of a project being held up through appeals and permit approval problems." (Exh. 37: Office of the Legislative Analyst, Legislative Analyst Report to Board of Supervisors on "San Francisco Housing Development," June 11, 2003, section on "Comprehensive Approaches to Housing Development.")

The rationale that preparing an EIR for housing development proposals increases gives comfort to developers and increases neighborhood support holds true for an EIR on the proposed Housing Element, which will drive the neighborhood-level housing developments that implement the Element's policies.

Preparing an EIR for the proposed Element will also make it more efficient to prepare neighborhood-level EIRs in the future.

The proposed housing policies contained in the Preliminary Negative Declaration lack the two General Plan priority policies set forth at page 2 of the September 2003 Final Draft For Public Review Housing Element as follows: "That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods" and "That the City's supply of affordable housing be preserved and enhanced." The Planning Department apparently failed to perform environmental review of the potential effects of these two priority policies and their conflicts with other proposed policies, which, as set forth above, would degrade neighborhood character and encourage demolition of single-family residences. The conflicts between the two priority policies and other policies of the proposed Housing Element constitute additional significant environmental effects that must be analyzed in an EIR.

The substantial evidence listed above supports a fair argument that the proposed Housing Element may cause significant impacts on the environment. The Planning Department prepared an EIR for proposed revisions to the Residence Element in both 1983 and 1990. It must also prepare an EIR for the proposed revisions to the Housing Element it considers in 2004.

Very truly yours,

David Golick
Planning Consultant

Attachments: Fact Exhibits
Résumé of David Golick

cc: San Francisco Planning Commission
Appellants

ATTACHMENT 10

KATHRYN R. DEVINCENZI (SB #70630)
22 Iris Avenue
San Francisco, CA 94118
Telephone: (415) 221-4700
Facsimile: (415) 346-3225

Attorney for Petitioner/Plaintiff
San Franciscans for Livable Neighborhoods

ENDORSED
FILED
Superior Court of California
County of San Francisco
SEP 10 2008
GORDON PARK-LI, Clerk
BY: CAROLYN BALISTRERI
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

SAN FRANCISCANS FOR LIVABLE NEIGHBORHOODS,

Petitioner and Plaintiff,

v.

CITY AND COUNTY OF SAN FRANCISCO, and DOES I-X,

Respondents and Defendants.

No. CPF04 504 780

DECLARATION OF DAVID GOLICK IN SUPPORT OF PETITIONER'S MOTION FOR ISSUANCE OF PEREMPTORY WRIT OF MANDATE AND IN OPPOSITION TO RESPONDENT CITY'S MOTION FOR ENTRY OF JUDGMENT AND PEREMPTORY WRIT OF MANDATE

Action Filed: November 30, 2004

Hearing Date: October 2, 2008
Time: 9:30 a.m.
Dept. 302
Honorable Patrick J. Mahoney

Accompanying Declarations of David Golick and Kathryn R. Devincenzi

DECLARATION OF DAVID GOLICK

I, DAVID GOLICK, declare as follows:

1. I have been a professional city planner for nearly forty years and have practiced in the Bay Area for over thirty years. During that time I served as Chief of Planning for the City of Concord, the largest city in Contra Costa County, for ten years. During my career, I have either prepared or reviewed approximately 1,000 Initial Studies and Environmental Impact Reports. I have become familiar with and have a deep working knowledge of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines. I have coached subordinate employees regarding CEQA requirements and have addressed CEQA issues at conferences of the American Planning Association. The City of San Francisco retained me to participate in oral board examinations of candidates for planning positions, such as the position of Planner III, Environmental Review. As Chief of Planning for the City of Concord, my duties included overseeing the activities of the planning department staff in updating the housing element of Concord's general plan as periodically required by the State of California Department of Housing and Community Development. A copy of my resume is attached hereto as Exhibit A.

PROPOSED SUBSTANTIAL EXPANSION OF LAND CAPACITY

2. The 2004 amendments to the San Francisco Housing Element are intended to accelerate new housing construction, as the Housing Element itself states that its "[n]ew policies strive to expand land capacity necessary to increase housing production, will direct new housing to appropriate locations, especially in areas well served by transit and other urban amenities." (1 AR 82) The Housing Element also states that "meeting the estimated housing need will require a rate of housing production far greater than what has been achieved in previous years." (*Ibid.*)

3. The above statements were confirmed by sworn deposition testimony of Paul McDougall, a manager at the California Department of Housing and Community Development ("HCD") who reviewed the City's 2004 Housing Element and found it to be in compliance with the requirements of state housing element law, which I have reviewed. Mr. McDougall testified that the

City's 2004 Housing Element contained development standards designed to encourage further development or change the zoning to increase housing capacity and that such "actions to increase the buildable envelope were beyond the regional housing need allocation"allocated to the City of San Francisco. (McDougall Deposition [hereafter "McDougall"], p. 12, lines 10-14, p. 13, lines 3-8; p. 34, lines 7-18, p. 60, lines 1-25, p. 61, lines 1-25, p. 62, lines 1-25, p. 63, lines 1-25) Standards to increase capacity are found throughout the Housing Element, and Housing Element programs intended to increase the capacity of the City's zoning include "different development standards, heights, bulk requirement, floor-area ratios"and "parking." (McDougall p. 60, lines 14-25, p. 61, lines 1-3, p. 62, lines 18-25, p. 85, lines 9-25, p. 86, lines 1-25, p. 87, lines 1-8) The City's 2004 Housing Element went further than required by HCD to show movement toward attainment of the regional housing need allocation. (McDougall, p. 146, lines 19-23) If the City's proposals to increase housing capacity or rezoning were omitted from the Housing Element, the Housing Element would still be in compliance with state housing element law because these "further encouragement policies" went "beyond the regional housing need allocation." (Mc Dougall p. 76, lines 10-14, p. 61, lines 11-25, p. 62, lines 1-25, p; 127, lines 20-24) Mr. McDougall explained that the City is able to demonstrate a buildable envelope sufficient to accommodate the regional housing need allocation without changes to zoning, land use, et cetera. (McDougall, p. 58, lines 25, p. 59, lines 1-25, p. 60 lines 1-25, p. 61, lines 1-25, p. 62, lines 1-16) In the Data and Needs analysis of the Housing Element, the City presented an assessment of adequate sites that demonstrated the ability to accommodate the regional housing need allocation by relying on the existing capacity of zoning. (McDougall p. 126, lines 5-25, p. 127, lines 1-24, p. 66, lines 7-17, p. 67, lines 8-12, p. 145, lines 8-25, 146, lines 1-9) If the land inventory in a housing element demonstrates adequate sites, then programs to make additional capacity available are not required. (McDougall, p. 58, line 25, p. 59, lines1-15) Also, the City's Housing Element did not identify constraints that required a State-mandated program to address constraints. (McDougall p. 72, lines 4-8) If text encouraging increased capacity and rezoning is omitted from the Housing Element, it will still continue to comply with the 2004 requirements of state

housing element law. (McDougall, p. 127, lines 20-24)

4. The Housing Element itself admits that "there are more than enough in-fill housing sites to meet projected housing needs and aggressive housing policies and programs are set to encourage housing development." (1 AR 212) Government Code §65583 (a)(1) requires that a housing element contain an "analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels," and these "existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584." However, a locality's Housing Element can go further than required to meet the state HCD requirements, as the City did in the 2004 Housing Element.

5. The Negative Declaration explains that "[a]s part of the CAP, the Housing Element is being updated to provide a policy basis for more specific planning efforts, such as Better Neighborhoods Program, the Eastern Neighborhoods Community Plans for the Mission District, Bayview, Showplace Square/Potrero Hill, and the Downtown Neighborhoods, such as the C-3-O District and Rincon Hill district. (15 AR 4186) Housing Element work programs also call for a new Land Use Element and an amended Urban Design Element to "establish the policy basis" for the CAP. (1 AR 328)

6. The Housing Element describes rezonings as designed to achieve the Housing Element goal of increased capacities. The Housing Element estimates the "additional potential capacity with re-zoning to be introduced in the Better Neighborhoods Program and Eastern Neighborhoods Community Planning Area processes" as increasing "these neighborhoods' capacity by some 18,300 to 38,800 more housing units. (1 AR 179, 178) The accompanying table lists the estimated increased capacity for the Better Neighborhoods Program areas of Balboa Park, Central Waterfront and Market Octavia and the Eastern Neighborhoods Community Planning Area of South of Market, Mission, Potrero/Showplace Square, South Bayshore, and Visitacion Valley. (1 AR 180) The capacity of these areas under current zoning is only 8,628 units. (*Ibid.*)

7. Each of these areas is listed along with others such as "[b]egin Geary Boulevard Better Neighborhood Program" as work programs for implementing the Housing Element. (1 AR 328) The target date for approval of each of these work programs (except Visitacion Valley) is after Housing Element approval. Since San Francisco Planning Code §101.1(d) requires all new zoning to be consistent with the City's general plan (Slip Op. p. 23), all the new zoning adopted in these Housing Element work program areas would have to be consistent with the policies and objectives of the adopted 2004 Housing Element. Also, pursuant to San Francisco Charter §4.105, the Planning Department "shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan."

8. Thus, the City's 2004 Housing Element amendments call for a substantial expansion of housing capacity which is greater than required by the state HCD.

GRANTING THE CITY'S REQUEST TO RELY UPON ALL PROVISIONS OF THE 2004 HOUSING ELEMENT EXCEPT SEVEN POLICIES AND ONE IMPLEMENTATION ACTION WOULD PREJUDICE THE CONSIDERATION OF ALTERNATIVES AND MITIGATION MEASURES AND FACILITATE AN INADEQUATE PROJECT DESCRIPTION IN THE EIR ORDERED BY THE COURT.

9. In its decision, the Court of Appeal cited various examples of significant changes proposed in the 2004 Housing Element which triggered the need for a full environmental impact report. Since the Court used the terms "[f]or example," the cited changes were not an exclusive list of the significant changes which the City had made to the Housing Element.

10. Examples of other important changes to its housing element that the City set forth in the 2004 Housing Element, and which should be subject to the EIR, include the following. The Housing Element states that "the Planning Department will address the housing targets developed by HCD-ABAG through initiatives of a Citywide Action Plan (CAP)." (1 AR 210) Housing Element Implementation 1.1 adopts the CAP to "provide a comprehensive framework for the allocation of higher density, mixed-use residential development in transit-rich areas with stable urban amenities in place" where "specific CAP strategies should include: higher densities and reduced parking

requirements in downtown areas or through a Better Neighborhoods type planning process." (1 AR 216) The Housing Element discusses the CAP as a means to implement its strategy of increasing densities in areas well served by transit:

> "The CAP promotes housing by increasing densities in areas well served by transit. Specific strategies in these areas include: reducing parking requirements; floor-to-area ratio (FAR) exemptions; removing density caps in certain areas; increasing height limits; utilizing air-rights for housing; and increasing density and height limits at key corner lots. These strategies will be applied throughout the City. Generally, increased housing densities and reduced parking requirements will be proposed in areas well served by transit. In the Central Waterfront area, a mix of uses is being planned to accommodate housing in a largely industrial area. Lands occupied by the former Central Freeway around Market Street and Octavia Boulevard are being programmed for new housing while increasing existing residential densities. In Balboa Park, new housing is planned capitalizing on city owned land and an existing transit node. In the Downtown area, dense housing is planned on underutilized parcels....The Eastern Neighborhoods, representing roughly one-quarter of the City, are being studied and re-zoned ...In the Mission District and South of Market, residential densities will be increased along transit corridors and additional land will be re-zoned for housing....These rezoning efforts can boost the City's housing capacity by as much as 12,000 additional housing units." (1 AR 210-211).

Each of the programs described above is a Housing Element work program scheduled by the City to be approved after the adoption of the 2004 Housing Element. (1 AR 328) A 2002 version of the CAP in the administrative record is a Planning Department plan which states that:

> "The planning department is developing the CAP along two fronts:
>
> - Clarifying and updating *General Plan* policy including a revised Housing Element, a new Land Use Element, and revisions to the Urban Design Element.
> - Preparing implementation measures including revisions to zoning, review procedures, and Planning Code provisions that would implement the CAP." (1 AR 2310-2311-Exhibit B attached hereto, San Francisco Planning Department August 2002 CAP)

During the appeal of the preliminary negative declaration for the subject Housing Element amendments, the City's environmental review staff characterized the CAP as a "pamphlet." (12 AR 3323, 3332-Exhibit C hereto, pertinent excerpts)

11. To achieve higher densities, the Housing Element also uses the Better Neighborhoods program to "generate community support" for area plans and "specialized zoning" including the

"Transit Oriented Neighborhood Commercial District (NC-T) Zoning" which will provide for "increased housing densities" and "reduced residential parking requirements **on linear shopping streets and along transit corridors.**" (1 AR 204, emphasis added) Plans for the first three Better Neighborhoods Program areas will facilitate construction of "between 3,500 and 8,200 new residential units." (1 AR 303) On a citywide level, the Better Neighborhood Program aims to encourage "new housing at an urban scale in transit-rich areas with good neighborhood services." (1 AR 321) The specialized "Transit Oriented Neighborhood Commercial District (NC-T) Zoning" was not proposed or used as implementation in the City's 1990 Residence Element and should be subject to the Housing Element EIR.

12. The CAP and Better Neighborhoods program were not mentioned or used as implementation in the City's 1990 Residence Element and should be addressed in the Housing Element EIR.

13. I have reviewed the August 1, 2007 letter from City representatives to the Deputy Director of the State of California Department of Housing and Community Development which contains an attachment referred to as a "Revised San Francisco Housing Element" which consists of Part II of the Housing Element with certain text struck out and much remaining text, some of which is highlighted. Among the highlighted remaining text on page 135 of the document is Implementation 1.1 which adopts the CAP "for the allocation of higher density, mixed-use residential development in transit-rich areas with stable urban amenities in place," and the detailed discussion of the CAP including proposed rezonings on pages 130-131 of the Housing Element was also retained in the "revision."

14. I have also reviewed a second August 1, 2007 letter from City representatives to Deputy Director of the Department of Housing and Community Development which contains a discussion of the CAP and a list of area planning efforts "underway" including the Market and Octavia Better Neighborhoods Plan, the Transbay plan, the Eastern Neighborhoods rezoning, the Balboa Park Better Neighborhoods Plan, and the Visitation Valley Redevelopment Plan. Each of

these area plans is identified in the Housing Element as a "Work Program for Implementing the Housing Element." (1 AR 328) All, except Visitacion Valley, were scheduled to be approved after adoption of the Housing Element.

15. I have also reviewed the e-mail from Sarah A. Dennis of the Planning Department that is marked as combined Exhibits 5 and 3 to the Deposition of Paul McDougall. That e-mail states that the City is "submitting to the Court that we would render the 7 policies and one implementation measure that were cited as objectionable in the Court's decision as inoperative pending environmental review" and that **"the substance of these policies and implementation measures continue to exist elsewhere in our General Plan, and in our City's continuing programs, so we would continue to pursue them in other ways."** (Emphasis added)

16. In its August 1, 2007 proposal that new policies calling for increased density and reduced parking be excised from one portion of the Housing Element but that the City be permitted to rely upon language to the same effect in other portions of the Housing Element (including reliance upon the Planning Department's Citywide Action Plan and programs identified as Housing Element work programs), the City seeks to evade CEQA's requirements that the "project" under evaluation constitutes the "whole of the action" which has a potential for resulting in a "reasonably forseeable indirect physical change in the environment" and that the local agency consider a reasonable range of alternatives to the proposed project.

17. Public Resources Code §21002 states the policy of the Legislature that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (14 CCR §15126.6(a); Public Resources Code §21002.1 (a) and (b)) Under 14 CCR §15378(a), a "project" is defined as "the whole of an action, which has a

potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment."

18. The City's August 1, 2007 correspondence indicates that the City would urge the Court to restrict the scope of the Housing Element amendments that must be considered in the EIR to seven policies and one implementation action, while omitting the remainder of the Housing Element and all its work programs from the scope of the project under environmental review. Language would remain in the Housing Element which is to the same effect as the stricken text. Granting the City's request would result in an inaccurate "project" description and would severely prejudice consideration of alternatives to the project as proposed, since the City admits that the substance of the stricken amendments is repeated elsewhere in the Housing Element which the City would deem itself free to implement. In essence, the City seeks to be permitted to rely upon and implement, without inclusion in the Housing Element EIR, expansionist changes in Housing Element language which exist throughout the Housing Element and are to the same effect as the stricken changes. Under this tactic, virtually all the implementation for the Housing Element amendments would be omitted from the scope of the project under environmental review. However to comply with CEQA, all the implementation for the Housing Element's new expansionist policies must be subjected to an EIR since the implementations are the means by which the forseeable physical changes to the environment would occur. A Housing Element policy does not implement itself.

19. Further, if the Court were to permit the City to rely upon and implement the CAP strategies or work programs identified in the 2004 Housing Element before the EIR process on the Housing Element amendments is completed, the City would claim to be entitled to grant project approvals which implement the Housing Element's increased capacity policies. The momentum for such policies and work programs could build, increased capacity structures could be built and cited as precedent, and physical impacts on the environment could begin to appear. If the City were to permit a developer to build new residential units according to the Housing Element's new policies and increased capacity strategies prior to the certification of the Housing Element EIR, other

applicants will likely point to what the City permitted, and additional pressures will be put on City decision-makers to approve similar projects under similar circumstances. While area plans or new zoning could be modified, it would be very difficult to overturn a final entitlement or permit which the City could grant for a project which would implement such Housing Element expansionist strategies or programs. In view of the City's assertion that it "would pursue" such work programs and CAP strategies in other ways, the City could prejudice the EIR's consideration of alternatives to the full set of Housing Element work program area plans and rezonings by attempting to omit some of them from the alternatives analysis and project description. To make an informed decision as to the environmental consequences of the Housing Element and alternatives thereto, the general plan decision-makers would need information on all the areas of the City that had not yet been built upon according to the Housing Element's expansionist policies so that they could decide which areas should be chosen for expanded capacity, the appropriate amount of increased capacity which should be imposed on each area and the types of development strategies that should be employed in the various areas.

20. The Housing Element EIR's definition of the "project" and consideration of alternatives would also be prejudiced if the City's assertion of housing need based on 2004 economic conditions and population projections available in 2004 was excluded from the EIR. The City's projected housing need would then be asserted in the EIR based on out-of-date data. Since 2004, there has been a significant change in the economic climate and housing market, where housing prices have dropped. Also, according to the U.S. Census Bureau, San Francisco's population declined from 776,733 in 2000 to 764,976 in 2007. (See Exhibit E attached hereto) One purpose of the EIR process is to provide the public with the opportunity to review and contest inaccurate data and analyses in the draft EIR. If the City's Housing Element EIR were to base its objectives as to the amount of housing needed, and analyses of alternatives thereto, on 2004 economic and population data, analyses of alternatives calling for lesser or no expansion of the City's housing capacity based on current population projections and economic data could be prejudiced because the City could be expected to

claim that the population and economic data set forth in the 2004 Housing Element is not included within the seven policies and one implementation measure which the City asserts should define the scope of the EIR

21. The Housing Element EIR's consideration of alternatives would also be prejudiced if the scope of the EIR did not include the potential impact of the new language in the Housing Element calling for extracting public benefits in return for increasing the permitted density or intensity of housing. The Housing Element states that "these density increases must be combined with the capture of some of the added development value through the provision of public benefits." (1 AR 211) This statement follows the discussion of the CAP and various areas proposed to receive increased density housing and reduced parking requirements. The approach of extracting public benefits in return for increasing permitted density of housing can create a powerful incentive for the City to increase densities to generate additional revenues beyond the growth that they would permit absent such an economic incentive. An example of the types of significant public benefits that can result from this approach are the new Community Improvement Impact Fees for additional residential or commercial capacity recently adopted for the Market and Octavia Community Improvements Fund in San Francisco Planning Code §§326-326.8 and the fees charged for exceeding the allowable floor area ratio in the Van Ness and Market Downtown Residential Special Use District as recently adopted in San Francisco Planning Code §§249.33, as summarized in the excerpts from the agenda of the April 15, 2008 meeting of the San Francisco Board of Supervisors, attached hereto as collective Exhibit F.

22. Notably, a draft EIR issued by the City's Transportation Authority projects that the time spent in congested traffic conditions in the City will double as a result of projected population and employment growth and planned growth that is "designed to complement and support the city's proposals to concentrate future development along transit routes and transfer points" according to the "Citywide Land Use Action Plan." (20 AR 5503, 5508, 10 AR 2741, 2746-Exhibit G hereto) Traffic impacts should be addressed in the forthcoming EIR.

23. Reducing on-site parking spaces is a key component of the Housing Element's increased capacity strategy since parking space reduction coupled with other proposed housing policies would increase the amount of space available for housing development and permit taller structures. San Francisco Planning Code §151 implements the traditional requirement of one parking space per dwelling unit citywide, except in the downtown area or for senior and group housing arrangements. (8 AR 2278-Exhibit H attached hereto) As explained by the Legislative Analyst to the Board of Supervisors, the "1:1" parking requirement can reduce the height or density of developments because only a limited number of parking spaces can be economically constructed given the geometry of the land parcel, thus limiting the units accompanying them. (11 AR 2941-Exhibit I attached hereto) The requirement can impede the ability to build up to the height limit on a given parcel since the "total number of housing units can be limited by the number of parking spaces that fit on the first level." (11 AR 2942) Relaxation of these requirements could cause potential impacts because "[h]ousing development regulation allows the City to control traffic and congestion and protect the environment." (11 AR 2937)

24. It is well established that when parking spaces are scarce, vehicles spend more time circling seeking parking. A study of eleven cities found that about thirty percent (30%) of the cars in the traffic flow were cruising for parking and the average time it took to find a curb space was eight minutes. (Donald Shoup, *Cruising for Parking*, 2007-Exhibit J attached hereto) Further, cars traveling at low rates of speed cruising for parking emit more pollutants than cars traveling at higher rates of speed. The attached tables produced by Illingsworth and Rodkin, an air quality consulting firm, demonstrate that the worst speed for pollutants from cars (reactive organic gases, carbon monoxide, oxides of nitrogen, carbon dioxide, sulfur dioxide and PM 10) is up to about 15 miles per hour. (See Exhibit K attached hereto)

25. Allowing the City to implement its reduced parking policies in areas identified as Housing Element work plans would permit the City to approve projects with reduced on-site parking spaces that could result in adverse impacts on traffic conditions and resulting air pollution, give

momentum to the new parking reduction policies and prejudice the consideration of mitigation measures that could be advocated for the "Transit Oriented Neighborhood Commercial District (NC-T) Zoning" that could be applied citywide and for all Housing Element work programs in the citywide Housing Element EIR. Such mitigation measures would include consideration of retaining the traditional requirement of at least one parking space per residential unit to mitigate the potential impact on City traffic conditions and air emissions from displaced cars cruising for parking that could result from implementing the City's change in parking policy. There is a greater likelihood that alternatives and mitigation measures will be adequately presented in the citywide EIR process on the important Housing Element revision than if the City were permitted to pursue a divide and conquer strategy of implementing the new parking reduction strategies area by area, where citizen groups likely would possess less resources to adequately participate in the environmental review process.

26. The Housing Element EIR should consider alternatives to the greatly increased amount of housing capacity which Housing Element goals, work programs and implementation actions seek to achieve. Alternatives which achieve the City's share of the regional housing need without any of the rezonings proposed by the Housing Element should be evaluated.

27. Such an alternative could analyze whether increases in density, if warranted at all, should be limited to the areas served by heavy-rail transit such as Cal-Train and BART stations. An article by a former BART director explains that such areas in Rincon Hill and the Central Waterfront may be appropriate for increased density, but that the Housing Element's proposal to ignore neighborhood character and squeeze additional population into existing neighborhoods is based on a fundamental misunderstanding of the concept of transit-based communities. (Michael Bernick, *San Francisco's Housing Element - Built on misunderstanding*, November 23, 2004, San Francisco Chronicle-Exhibit D attached hereto)

28. Alternatives should also analyze whether all the City's neighborhood commercial districts should be subject to the Housing Element's one-size-fits-all policies designed to increase densities and reduce required on-site parking in neighborhood commercial areas or whether some

of the City's established neighborhood commercial districts are unsuited to increases in density and reduced parking and should be excepted from such policies. The Planning Department map of residential lots within 1,250 feet of "transit and commercial" depicts vast residential areas as potentially impacted by such increased density and reduced parking policies. (10 AR 2797-Exhibit L hereto)

29. Alternative growth proposals such as those described above should be evaluated in the EIR regarding proposed amendments to the City's Housing Element. Such EIR should evaluate alternate scenarios of where capacity for housing could be increased through rezoning, if at all, in a citywide process with all the stakeholders present, instead of evaluating various areas separately without all the stakeholders present.

30. The City's argument that increasing residential densities in urban areas well served by transit might significantly decrease impacts from suburban sprawl is questionable. The City has not submitted any data indicating that such strategy has successfully persuaded significant numbers of families to give up the "suburban home with the white picket fence." It is highly unlikely that the types of families whose values lead them to live in large residences in outlying suburbs such as Brentwood would choose to live in a densely populated urban area such as San Francisco. Such a family would more likely choose to live in an alternative suburb closer to employment rather than in a densely populated urban area. The City has not pointed to any data showing that substantial numbers of people have migrated from outlying suburbs to densely populated urban areas or changed their preference for suburban living as a result of an opportunity to locate in dense housing in an urban center.

THE MEANING OF DEVELOPMENT STRATEGIES SET FORTH IN A GENERAL PLAN HOUSING ELEMENT IS GLEANED FROM POLICIES, INTERPRETATIVE TEXT, IMPLEMENTATION ACTIONS AND WORK PROGRAMS

31. A housing element is legally required to contain more than policies. Under Government Code §65583 (c), the Housing Element must contain a "program which sets forth a five-

year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available" and other means. Government Code §65583(b)(1) requires the Housing Element to set forth a "statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing."

32. Interpretative text and implementation actions are often very important to understanding the meaning of housing element policies. For example, the Court of Appeal cited as a significant change, and subject to the EIR, new Policy 11.8, which provides: "Strongly encourage housing project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character." The Court of Appeal noted that its explanatory text provides that the "Department should strongly support projects that creatively address residential parking and open space requirements, resulting in higher densities with a full range of unit sizes." (Slip Op. p. 17-18; 1 AR 284-285) The Department will "study the impacts of reduced parking and private open space provisions and will consider revising the Planning Code accordingly." (*Ibid.*)

33. With respect to "neighborhood character," the Court of Appeal cited as a significant change new policy 11.1 to "[u]se new housing development as a means to enhance neighborhood vitality and diversity" and noted that its interpretive text states that "[m]inimum density requirements and maximum parking standards should be used to encourage a mix of unit sizes in areas well served by transit and neighborhood retail." (Slip Op. p. 18) A maximum parking standard is a limitation on the number of permitted parking spaces. An example of a maximum permitted parking space standard would be one space for every two new residential units where the applicant could have less, but not more parking. In contrast, the traditional requirement in San Francisco of at least one parking space for each residential unit is a minimum standard that permits more than one parking space. (See also

McDougall Deposition p. 138, lines 6-25, p. 139, lines 1-13) The interpretative text calling for "maximum parking standards" is very important to understanding the meaning of new Policy 11.1. The City's 1990 Residence Element did not propose to utilize new zoning containing maximum parking standards for residential units.

34. Under the new implementation for new Housing Element Policy 1.7, cited by the Court of Appeal, to encourage the construction of new family housing, the "Planning Department will also propose eliminating density requirements within permitted building envelopes in downtown areas and areas subject to a Better Neighborhoods type planning process to maximize family units constructed." (1 AR 142) Eliminating density requirements would be a major change because the absence of a density requirement and only using floor area ratio standards would permit the City to allow very high density housing with many small units. An example of what could result from high density and/or a high floor area ratio is the 250 square foot condominium units which the City recently permitted be built in the South of Market area of the City. (See James Temple, *Home, small home: 250 square feet in SoMa*, San Francisco Chronicle, August 24, 2008-Exhibit M attached hereto) Such condominiums are unsuitable for families and certainly have the potential for bringing large numbers of people and cars into the area.

35. As the Court of Appeal also noted, interpretative text for new Housing Element Policy 11.1, to "[u]se new housing development as a means to enhance neighborhood vitality and diversity," explains that new "in-fill housing development should be compact, mixed-use." (1 AR 196) The clarification that mixed-use development is intended is important to understanding the meaning of the policy.

36. The 1990 Residence Element contained a policy to "[r]elate land use controls to the appropriate scale for new and existing residential areas." The Court of Appeal noted that its interpretive text stated that "zoning envelopes should be tailored to the prevailing built pattern to maintain the low density character [of single- and two-family neighborhoods]." One stated objective of the policy was to "allow some expansion" of height and depth controls in one- and two-family

areas "to accommodate contemporary living space needs and still be compatible with the neighborhood scale." Modified policy 11.6 of the 2004 Housing Element now states: "Employ flexible land use controls in residential areas that can regulate inappropriately sized development in new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type planning process while maximizing the opportunity for housing near transit." The Court of Appeal noted that its implementation action states: "The City will continue to promote increased residential densities in areas well served by transit and neighborhood compatible development with the support and input from local neighborhoods." (Slip Op. p. 18)

In contrast, the City's housing policy in the 1980s and 1990s led to the "adoption of zoning controls that retain existing residential densities in more established neighborhoods." (1 AR 203) Under 1990 RE policy II-4, density was only to be changed in the "Mission Bay area." (RE p. 175) The Court of Appeal held the Housing Element's elimination of a 1990 Residence Element policy to adopt specific zoning districts that would set density categories was a significant change that was subject to the EIR which it ordered. (Slip Op. p.17, 22) This 1990 policy as to density categories is not the equivalent of, or substantially similar to, the general priority policy set forth in San Francisco Planning Code §101.1(b)(2) that "existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods."

37. Also, the Court of Appeal noted that, although policy 1.6, to "[c]reate incentives for the inclusion of housing, particularly permanently affordable housing, in new commercial development projects," is almost identical to a policy in the 1990 Residence Element, an implementation provision now calls for reviewing the possibility of removing parking and density requirements as "incentives." (Slip Op. p.19) The appellate court stated that this implementation measure is subject to the EIR.

38. There are additional examples of interpretative text and implementation actions which are important to understanding the meaning of policies. Changes made to Housing Element Policy 1.1 call for "allowable densities in established residential areas" to be set "at levels which will

promote compatibility with prevailing neighborhood scale and character where there is neighborhoods [sic] support," and its new interpretative text states that "along transit-preferential streets" "residential parking requirements" "should be, if appropriate, modified," and that there "is a reduced need for automobile use" in "neighborhood commercial districts" where "parking and traffic problems can be further addressed by community parking facilities and car-sharing programs, and other creative transportation programs." (1 AR 215) New Implementation 1.1 —utilizes---adopts the "citywide action plan(CAP)" to "provide a comprehensive framework for the allocation of higher density, mixed-use residential development in transit-rich areas" and explains that in these areas "specific CAP strategies should include: higher densities and reduced parking requirements in downtown areas or through a Better Neighborhoods type planning process." (1 AR 215-216)

39. Similarly, new Housing Element Policy 1.2, to "[e]ncourage housing development, particularly affordable housing, in neighborhood commercial areas" contains interpretative text stating that in "many cases, additional floors can be constructed to make full and efficient use of appropriately scaled height limits" and "[i]f necessary, private open space requirements could also be modified" and that "[i]n the long term, neighborhood commercial district controls and standards should be revised." (1 AR 216) In contrast, 1990 implementation for policy 2.2 only called for "[m]ore study" in "neighborhood Commercial districts on how to accommodate residential parking and transportation needs without weakening the cohesiveness of ground level commercial activities." (RE p. 135, 175)

40. New Housing Element Policy 11.7, to "reduce or remove minimum parking requirements for housing, increasing the amount of lot area available for housing units" where "there is neighborhood support" contains Implementation stating that the "Planning Department will work to reduce parking in older neighborhoods and in other areas through a Better Neighborhoods type planning process with the support and input from local neighborhoods." (1 AR 284)

41. New Implementation 1.3 for modified Housing Element policy 1.3 states that "[d]owntown areas and areas subject to a Better Neighborhoods type planning process will be

expected to absorb major office and residential developments over the next decade" and that "[p]lanning and zoning changes should include floor-to-area ratio exemptions." (1 AR 217) That implementation further states that the "Planning Department will introduce zoning changes in the traditionally industrial eastern part of the City" and identifies the "areas under study" as the "Mission, South of Market, Showplace Square/Potrero Hill, Bayview Hunters Point and Visitacion Valley." (1 AR 217)

42. Implementation measures are described throughout the Housing Element. For example, in the Housing Element's Part I. Data and Needs Analysis, among the "policies and programs under development" to "further facilitate housing production" is a specialized type of zoning called "Transit Oriented Neighborhood Commercial District (NC-T) Zoning"controls that "provide increased housing densities above the ground floor and reduced residential parking requirements on linear shopping streets and along transit corridors." (1 AR 204) In addition, "[n]eighborhood based Specific Plans that establish development profiles with completed program EIRs," "rezoning certain former industrial areas near downtown to mixed use" and encouraging "the development of high density housing,""[a]llowing increases in housing densities in appropriate areas citywide" and [r]educing parking requirements on residential projects" were tools that should be used through planning processes such as the Better Neighborhoods program to increase availability of land for housing. (*Ibid.*) Also, permit processing was to be facilitated by "[p]reparing master environmental impact reports covering all potential new housing in a selected area to streamline the approval and construction processes." (1 AR 205) NC-T zoning was not used or proposed in the 1990 Residence Element.

43. Further, a discussion of approaches to meet housing needs in Part I of the 2004 Housing Element proclaims that the "Planning Department is dedicated to zoning changes citywide that encourage new housing in areas particularly close to transit." (1 AR 203)

//

//

//

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

Executed on September 8, 2008, at Concord, California.

DAVID GOLICK

PROOF OF PERSONAL SERVICE

I, KATHRYN R. DEVINCENZI, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My business address is 22 Iris Avenue, San Francisco, CA 94118.

On September 10, 2008, I served by hand a true and correct copy of:

DECLARATION OF DAVID GOLICK IN SUPPORT OF PETITIONER'S MOTION FOR ISSUANCE OF PEREMPTORY WRIT OF MANDATE AND IN OPPOSITION TO RESPONDENT CITY'S MOTION FOR ENTRY OF JUDGMENT AND PEREMPTORY WRIT OF MANDATE

by delivering a copy thereof to the following persons:

Audrey Williams Pearson
Deputy City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-5408

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 10, 2008, at San Francisco, California.

Kathryn R. Devincenzi
KATHRYN R. DEVINCENZI

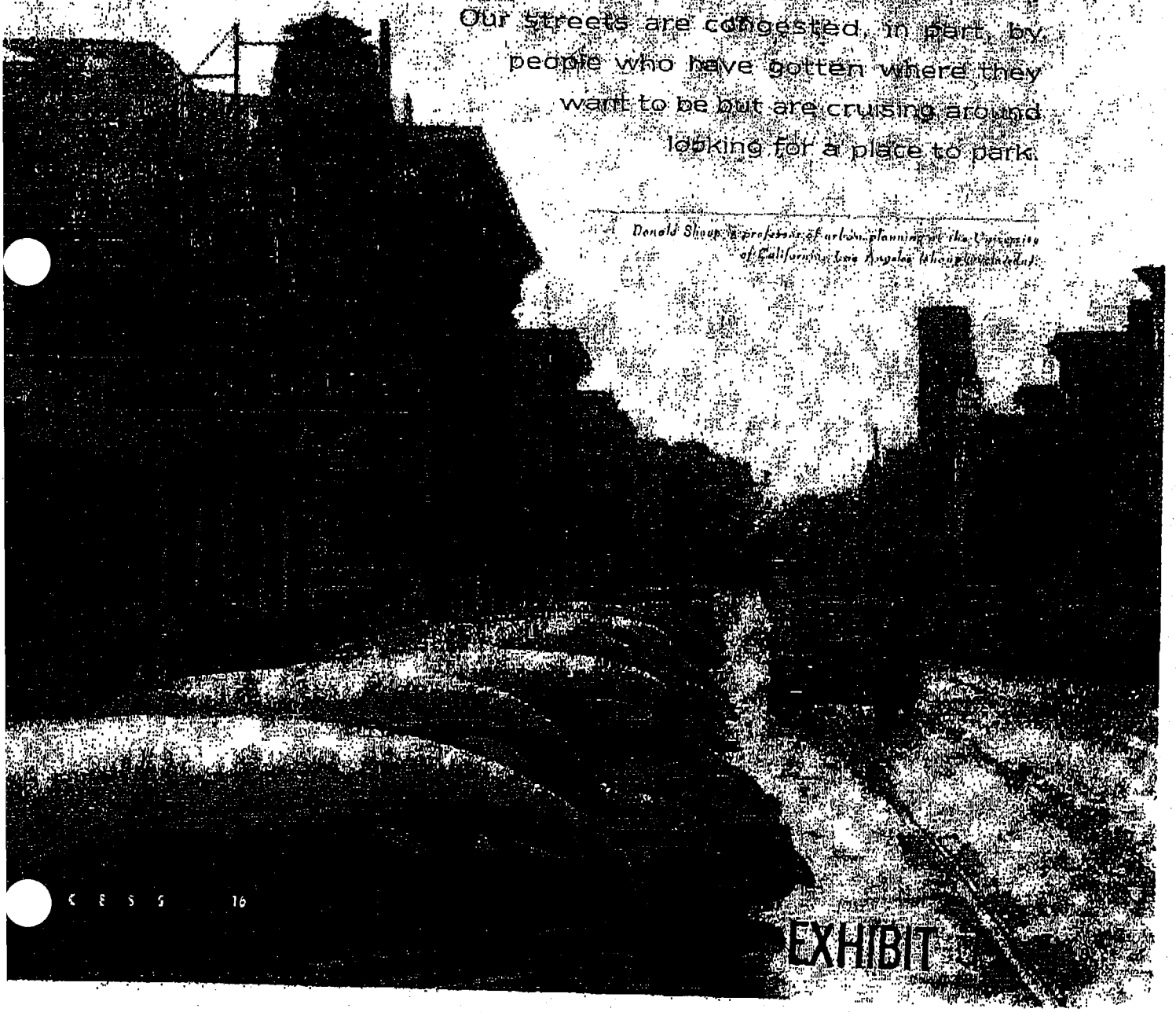
Cruising for Parking

BY DONALD SHOUP

My father didn't pay for parking, my mother, my brother, nobody. It's like going to a prostitute. Why should I pay when I can park myself, maybe I may get it for free?
—George Costanza

A surprising amount of traffic isn't caused by people who are on their way somewhere. Rather it is caused by people who have already arrived. Our streets are congested, in part, by people who have gotten where they want to be but are cruising around looking for a place to park.

Donald Shoup is professor of urban planning at the University of California, Los Angeles (shoup@ucla.edu).



EXHIBIT

DRIVING IN CIRCLES

Perhaps because cruising is a disguised source of congestion, most transportation planners and engineers have ignored it. Cruising creates a mobile queue of cars waiting for curb vacancies, but cruisers are mixed with traffic that is going somewhere, so no one can see how many cars are in the cruising queue. Nevertheless, a few researchers have analyzed cruising by videotaping traffic flows, interviewing drivers who park at the curb, or driving test cars to search for a curb space. Sixteen studies of cruising behavior were conducted between 1927 and 2001 in the central business districts of eleven cities on four continents (see Figure 1). The average time it took to find a curb space was eight minutes, and about thirty percent of the cars in the traffic flow were cruising for parking. The data varied widely around these averages, however; on some uncrowded streets no cars were cruising, while on some congested streets most of the cars were cruising.

Cities have changed since these observations were made, and the data are selective because researchers study cruising only where they expect to find it. Nevertheless, cruising itself has not changed, and the studies show that cruising for parking has wasted time and fuel for many decades.

Even a small search time per car can create a surprising amount of traffic. Consider a congested downtown where it takes three minutes to find a curb space and the parking turnover is ten cars per space per day. For each curb space, cruising thus results in thirty extra minutes of vehicle travel per day (3 minutes x 10 cars). If the average cruising speed is ten miles an hour, cruising creates five vehicle miles traveled per space per day (10 mph x 0.5 hour). Over a year, this driving in circles amounts to 1,825 VMT for each curb space (5 miles x 365 days), greater than half the distance across the United States. ➢

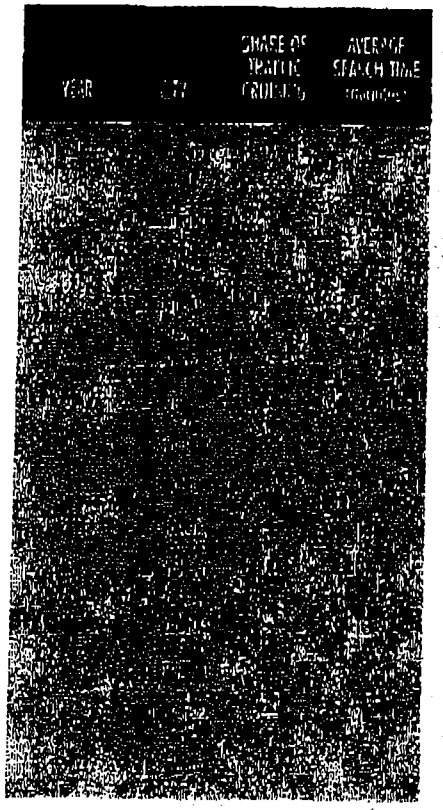
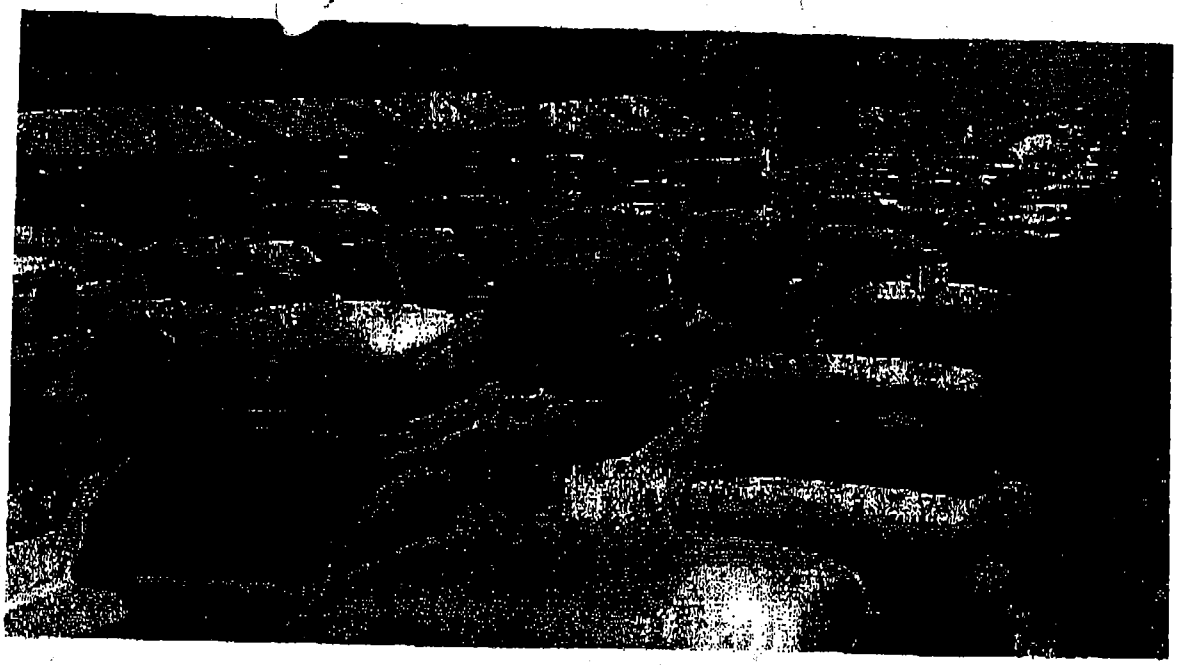


FIGURE 1

Twentieth-century cruising

Note: The numbers in parentheses after Detroit, London, and New York refer to different locations within the same city.

Sources: Simpson (1927), Hogendoegler, Willis, and Kelley (1934), Huber (1962), Inwood (1966), Bus + Bahn (1977), Solomon (1984), O'Malley (1985), Clark (1993), Fakacchio, Dorsin, and Prassas (1995), Saltzman (1997), and Hensher (2001).



CHOOSING TO CRUISE

Suppose curb parking is free but all the spaces are occupied, so you have to cruise until you find a space being vacated by a departing car. Off-street parking is available but you have to pay the market price for it. How do you decide whether to cruise or to pay?

If off-street parking is expensive, many drivers will hunt for curb parking, an entirely rational response to prices. Thus, by underpricing their curb parking, cities create an economic incentive to cruise. To study this incentive, I collected data on the price of curb and off-street parking for an hour at noon at the same location—City Hall—in twenty cities throughout the United States. The average price of curb parking was only twenty percent of the price of parking in a garage. Cruising saved drivers the most money in New York, where the price of off-street parking was $14.38 for the first hour, but curb parking was only $1.50.

Consider the high price of off-street parking in downtown Boston ($11 for the first hour), which stems in part from the city's cap on the number of off-street parking spaces. This supply cap drives up the market price of off-street parking and produces an unintended outcome: the combination of low prices for curb parking and high prices for off-street parking increases the incentive to cruise. Boston limits the private off-street parking supply, but fails to charge the market price for its own public curb parking. A survey in 2006 found the average price for off-street parking in the Boston central business district was $31 a day. In contrast, Boston charges a flat rate ($1 an hour) for all metered parking spaces in the city.

Boston's off-street parking cap makes sense as a way to reduce congestion on routes *to* the city, but the failure to follow through with market prices for curb parking increases congestion *in* the city. Everyone would criticize off-street parking operators if long lines of cars regularly spilled into the streets and snarled traffic because the lots and garages were always full. Cities create the same result with underpriced curb parking, but the cruising cars are hidden in the general traffic flow.

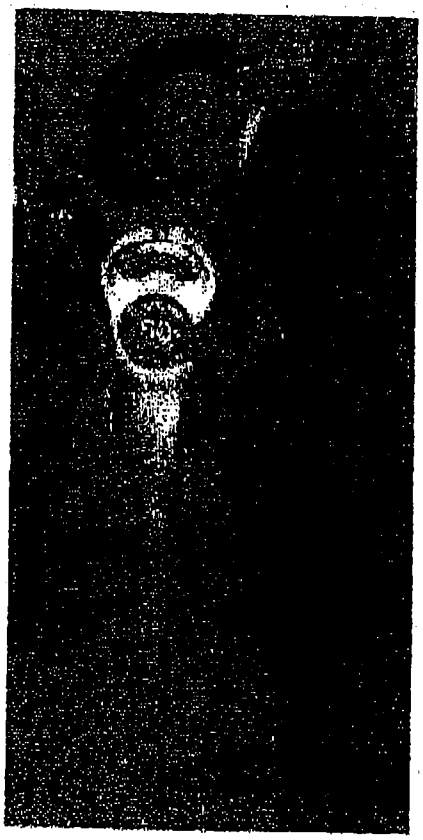
Cruising in Los Angeles

To learn more about cruising, my students and I made 240 observations of how long it takes to find a curb parking space at four sites in Westwood Village, a commercial district next to the UCLA campus. Curb parking in metered spaces was only fifty cents an hour during the day and free in the evening, while the cheapest off-street parking was $1 an hour. For each observation we drove to the site and then circled the block until we found a curb space. Because the curb spaces were occupied almost all the time, we rarely found a vacant space when we arrived. Instead, we usually searched until we found a parked car about to vacate a space, and then waited for it to leave.

Most drivers who are cruising for parking try to avoid following directly behind another car that appears to be cruising, so as to maximize the chance of being the first to see a vacant spot. Driving a car to measure cruising times may therefore influence the behavior being studied. To avoid this potential pitfall and to get some exercise, we decided to make most of the observations by bicycle. The average cruising speed by car in Westwood is only eight to ten miles an hour because every intersection has a stop sign or traffic light, so a cyclist can easily keep up with vehicle traffic. For the tests, we equipped each bicycle with a cyclometer to measure elapsed travel time, distance traveled, and average speed.

The average cruising time to find a curb space was 3.3 minutes, and the average cruising distance was half a mile (about 2.5 times around the block). The small distances cruised by individual drivers add up quickly, because the turnover rate for curb parking was seventeen cars per space per day. With 470 metered parking spaces in the Village, almost 8,000 cars park at the curb each day (17 x 470). Because so many cars park at the curb, a short cruising time for each driver creates an astonishing amount of traffic. Although the average driver cruises only half a mile before parking, cruising around the fifteen blocks in the Village creates almost 4,000 VMT every weekday (8,000 x 0.5).

Over a year, cruising in Westwood Village creates 950,000 excess VMT—equivalent to 38 trips around the earth, or four trips to the moon. The obvious waste of time and fuel is even more appalling when we consider the low speed and fuel efficiency of cruising cars. Because drivers average about ten miles an hour in the Village, cruising 950,000 miles a year wastes about 95,000 hours (eleven *years*) of drivers' time every year. And here's another inconvenient truth about underpriced curb parking: cruising 950,000 miles wastes 47,000 gallons of gasoline and produces 730 tons of CO_2 emissions in a small business district.



The Right Price for Curb Parking

When drivers compare the prices of parking at the curb or in a garage, they usually decide the price of garage parking is too high, but instead the reverse is true. The price of curb parking is too *low*. Underpriced curb spaces are like rent-controlled apartments: they are hard to find, and once you find a space you'd be crazy to give it up. This makes curb spaces even harder to find, and increases the time cost (and therefore the congestion and pollution costs) of searching for them. Like rent-controlled apartments, curb spaces go to the lucky more than to the deserving. One person might find a curb space and park there for days, while others are left to circle the block.

The left panel of Figure 2 shows a typical commercial block in Westwood where curb parking is underpriced and all the curb spaces are occupied. The block has ➢

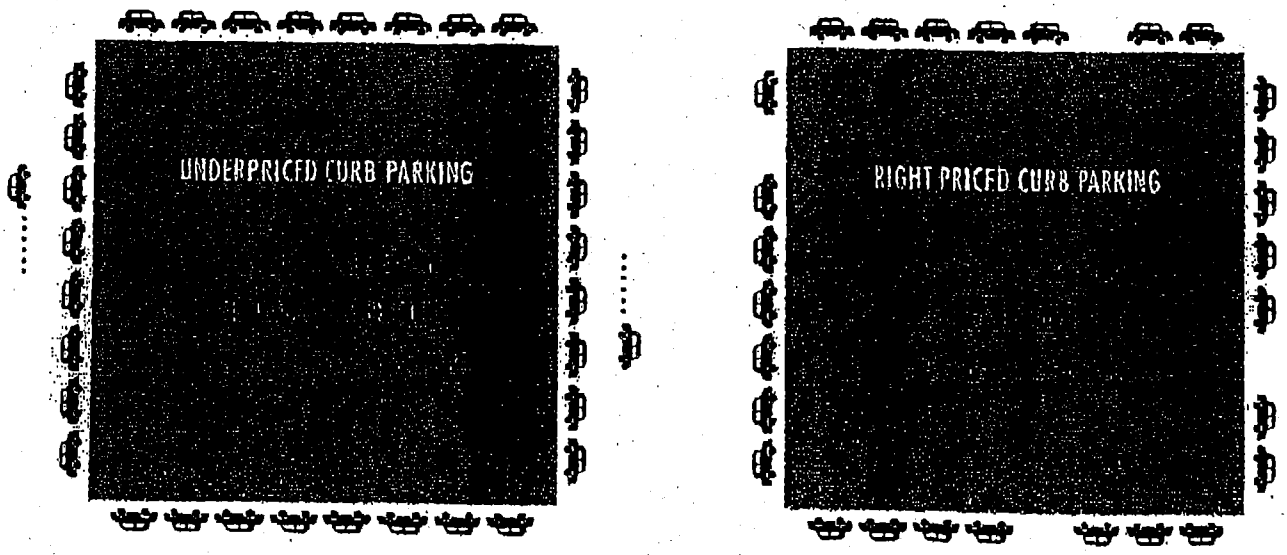
eight curb spaces on each side, the average cruising time to find a curb space is 3.3 minutes, and two cruisers are circling the block. In contrast, the right panel shows what happens if a city charges the lowest price that will produce a few vacant spaces. Drivers have no reason to cruise because they can always find a vacant curb space near their destination, search time is zero, and cruising cars do not add to traffic congestion.

Only trial and error will reveal the right price for curb parking. Initially, if all the curb spaces are always occupied, a city might periodically raise the meter rate by 25-cent increments until occupancy at some hours is about 85 percent. If spaces are still full during other hours, the city could continue to nudge meter rates upward during those times until the occupancy is about 85 percent all day. We can call this balance between the varying demand for parking and the fixed supply of curb spaces the Goldilocks Principle of parking prices: the price is too high if too many spaces are vacant, and too low if no spaces are vacant. When only a few spaces are vacant, the price is just right, and everyone will see that curb parking is both well used and readily available.

Pricing curb parking to ensure a few vacancies does not mean that travel will become unaffordable. Drivers can use several strategies to economize on curb parking without reducing their travel. They can (1) drive at off-peak hours when curb parking is cheaper, (2) park where prices are lower and walk farther to their destinations, (3) park for a shorter time, (4) park off-street, (5) carpool and split the cost of parking, or (6) take public transit, ride a bike, or walk all the way to their destinations. Diverting some trips to carpools, public transit, cycling, and walking will reduce *vehicle* travel without reducing *human* travel, and all real travel is by people, not cars.

FIGURE 2

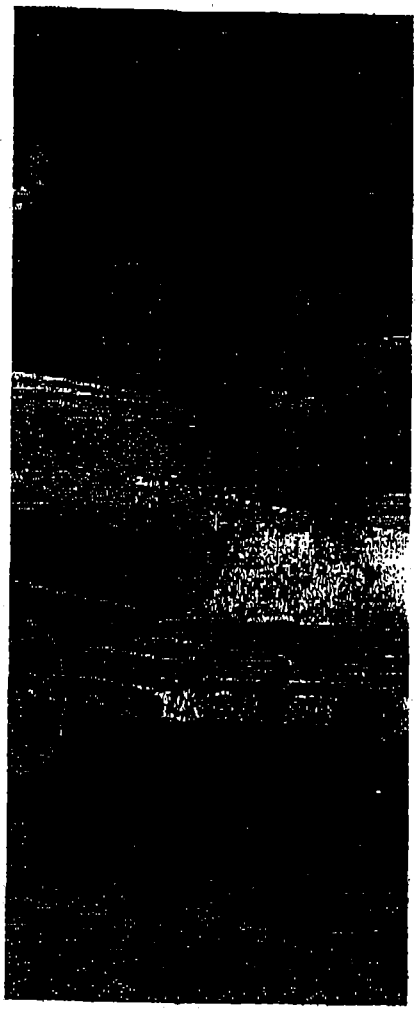
Curb parking prices and cruising



Cruising in New York

In 2006, surveyors interviewed drivers stopped at a traffic signal in the SoHo district of Manhattan, and 28 percent reported they were cruising for curb parking. A similar study in Brooklyn found that 45 percent of drivers were cruising. The same results might be found on many other streets in New York because off-street parking is generally far more expensive than on-street parking. In midtown Manhattan, for example, the price for the first hour of off-street parking is often about $20, while curb parking is only $1. Parking for an hour at the curb saves $19, but drivers first have to cruise to find a space on the street.

The high price of off-street parking in midtown Manhattan doesn't mean the right price for curb parking is also $20 an hour. Private operators can charge a disproportionately high price for short-term parking only because the curb spaces are always full. If the city charges the lowest price for curb parking that will yield a few vacant spaces everywhere, the price of short-term parking off-street will fall to compete with the curb rate.



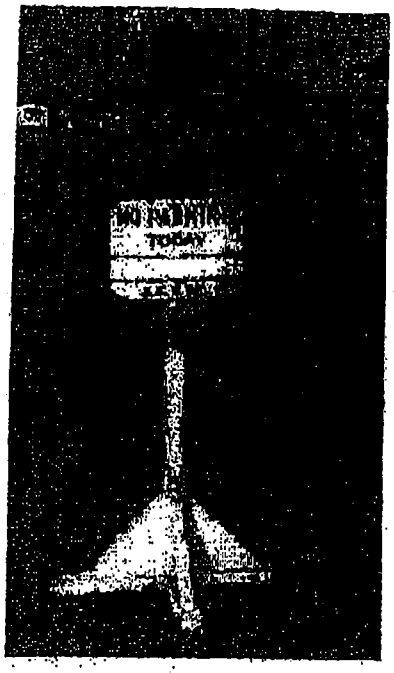
Local Revenue Return

In addition to its transportation and environmental benefits, right-priced curb parking can yield ample revenue. If a city returns some of this revenue to pay for added public services on the metered streets, residents and local merchants will be more likely to support charging the right price for curb parking. The added funds can pay to clean and maintain the sidewalks, plant trees, improve lighting, remove graffiti, bury overhead utility wires, and provide other public improvements.

Consider the case of a Business Improvement District (BID) in an older area where curb parking is free and customers complain about a parking shortage. Suppose the city installs meters and charges the lowest prices that will produce a few vacancies. Everyone who wants to shop in the district can park quickly, and the meter money pays to clean the sidewalks and provide security. These added public services make the business district a place where people want to be, rather than merely a place where anyone can park free after they cruise long enough to find a space. No one can say this policy will drive customers away if almost all the curb spaces are always occupied.

When meter revenue goes into a city's general fund rather than going back to the BID or neighborhood that generated it, the city can be careless about collecting it. In downtown San Francisco where the curb spaces always seem full, an audit in 2006 found that drivers paid for less than an hour a day per meter. A similar audit in Los Angeles in 2002 found that 96 percent of the vehicles parked at expired meters did not receive citations. If every BID received a share of the meter revenue it generated, business leaders would pay closer attention to enforcement. Consistent parking enforcement will create a culture of compliance with parking regulations.

Some cities have begun to charge performance-based prices for curb parking and return the meter revenue to its source. In Redwood City, California, for example, the city sets meter rates to achieve an 85 percent occupancy rate for curb parking downtown; the rates differ by location and time of day, depending on demand. The city returns the ➤



FURTHER READING

Richard Arnott and Eren Inci, "An Integrated Model of Downtown Parking and Traffic Congestion," *Journal of Urban Economics*, vol. 60, no. 3, 2006.

Douglas Kolozsvari and Donald Shoup, "Turning Small Change into Big Changes," *Access*, no. 23, Fall 2003. http://shoup.bol.ucla.edu/SmallChange.pdf

Schaller Consulting, "Curbing Cars: Shopping, Parking and Pedestrian Space in SoHo," Report prepared for Transportation Alternatives, New York City, 2006. http://transalt.org/campaigns/reclaiming/soho_curbing_cars.pdf

Donald Shoup, *The High Cost of Free Parking* (Chicago: Planners Press, 2005).

Donald Shoup, "Cruising for Parking," *Transport Policy*, vol. 13, no. 3, 2006. http://shoup.bol.ucla.edu/Cruising.pdf

revenue for added public services in the metered district, and downtown Redwood City will receive an extra $1 million a year to pay for increased police protection and clean sidewalks. The merchants and property owners all supported the new policy when they learned the meter revenue would pay for added public services in the downtown business district, and the city council adopted it unanimously. Performance-based prices create a few curb vacancies so visitors can easily find a space, the added meter revenue pays to improve public services, and these public services create political support for the performance-based prices.

Most cities keep their meter rates constant throughout the day and let occupancy rates vary in response to demand. Instead, cities can charge different prices at different times of day to keep occupancy at about 85 percent. In Redwood City, the meter rates are higher in the central spaces because demand is higher there. The goal is to balance supply and demand everywhere, all the time.

Most cities also limit the length of stay at meters so long-term parkers won't monopolize the underpriced curb spaces. But after Redwood City adjusted meter rates to guarantee the availability of curb spaces, it removed the time limits at meters. This unlimited-time policy has turned out to be popular with some drivers, who can now park for as long as they are willing to pay. The demand-determined meter rates create turnover at convenient curb spaces, and most long-term parkers tend to choose cheaper spaces in off-street lots.

PARKING INCREMENT FINANCE

Most cities now put parking meter revenue into the city's general fund. How can a city return meter revenue to business districts without shortchanging the general fund? The city can keep all the *existing* meter revenue and return a share of the subsequent *increment* in meter revenue—above and beyond the current meter revenue—that arises from right-priced curb parking. We can call this arrangement *parking increment finance*. More meters, higher rates, longer hours of operation, and better enforcement will increase the parking revenue in business districts. The added public services paid for by increased parking revenue will promote business activity, and the increased demand for parking will further increase meter revenue.

GET THE PRICES RIGHT

Where curb parking is underpriced, drivers cruise for a curb space rather than pay to park off-street. Charging the right price for curb parking can eliminate this cruising and all its harmful side effects. Because city governments set the prices for curb parking, they choose whether drivers will cruise.

Because its curb parking is underpriced, Westwood Village generates almost a million miles of cruising every year. And because its curb parking is value-priced, Redwood City will generate $1 million a year for added public services. Which is the better policy? If cities want to reduce congestion, clean the air, save energy, reduce greenhouse gas emissions, improve neighborhoods, and do all this quickly, they should charge the right price for curb parking and spend the resulting revenue to improve local public services. Getting the price of curb parking right will do a world of good. ◆

KATHRYN DEVINCENZI

08/30/2010 12:38 4153463225

EXHIBIT K

from EMFAC2007 v2.3
2010 Emission Rates - San Fraciaco Bay Area

Pollutant Name: Reactive Organic Gases Temp 45deg

Speed MPH	Light Duty Autos LDA ALL	Light Duty Trucks LDT1 ALL	LDT2 ALL	Delivery Trucks MDV ALL	Small Heavy LHD1 ALL	LHD2 ALL	Medium Heavy MHD ALL	Large Heavy HHD ALL	Bus OBUS ALL	UBUS ALL	Motorcycle MCY ALL	SBUS ALL	Motor Home MH ALL	Composite of All Vehicles ALL
0	0	0	0	0	19.449	15.272	6.856	13.69	11.936	0	0	5.98	0	0.732
5	0.53	0.906	0.528	0.55	0.628	1.288	1.144	12.071	1.571	3.546	6.315	1.674	3.336	0.678
10	0.362	0.628	0.358	0.376	0.427	0.881	0.823	6.823	1.082	2.471	4.919	1.178	2.192	0.579
15	0.258	0.459	0.256	0.266	0.303	0.629	0.615	3.398	0.777	1.792	4.016	0.863	1.502	0.392
20	0.195	0.35	0.192	0.198	0.224	0.468	0.476	1.86	0.581	1.352	3.441	0.658	1.073	0.286
25	0.154	0.28	0.151	0.155	0.173	0.362	0.382	1.498	0.452	1.06	3.09	0.519	0.799	0.229
30	0.128	0.234	0.125	0.127	0.138	0.291	0.316	1.206	0.364	0.864	2.907	0.424	0.62	0.192
35	0.111	0.205	0.108	0.109	0.114	0.242	0.269	0.994	0.305	0.722	2.865	0.359	0.503	0.169
40	0.101	0.187	0.098	0.098	0.098	0.209	0.237	0.856	0.263	0.643	2.958	0.313	0.423	0.154
45	0.096	0.179	0.093	0.093	0.088	0.187	0.214	0.768	0.236	0.587	3.2	0.281	0.371	0.149
50	0.096	0.179	0.092	0.092	0.081	0.172	0.199	0.709	0.218	0.556	3.626	0.261	0.339	0.152
55	0.101	0.188	0.096	0.096	0.077	0.165	0.19	0.858	0.208	0.547	4.304	0.249	0.323	0.163
60	0.111	0.206	0.105	0.106	0.076	0.162	0.187	0.994	0.205	0.558	5.352	0.245	0.32	0.184
65	0.128	0.237	0.12	0.12	0.078	0.165	0.189	1.196	0.209	0.591	6.971	0.246	0.331	0.218

Pollutant Name: Carbon Monoxide

Speed MPH	LDA ALL	LDT1 ALL	LDT2 ALL	MDV ALL	LHD1 ALL	LHD2 ALL	MHD ALL	HHD ALL	OBUS ALL	UBUS ALL	MCY ALL	SBUS ALL	MH ALL	ALL ALL
0	0	0	0	0	112.457	90.644	44.168	48.454	72.712	0	0	39.385	0	3.783
5	5.515	10.64	6.017	5.683	6.071	12.196	13.718	25.311	18.348	24.137	41.58	22.712	65.433	7.38
10	4.649	8.699	5.141	4.891	4.058	8.15	9.275	17.905	12.307	15.607	34.405	15.272	43.543	6.021
15	4.022	7.344	4.488	4.295	2.862	5.748	6.598	12.829	8.705	10.697	29.877	10.821	30.613	5.076
20	3.552	6.371	3.966	3.833	2.13	4.278	4.936	9.639	6.491	7.77	27.209	8.078	22.738	4.409
25	3.193	5.66	3.594	3.466	1.673	3.36	3.868	7.962	5.102	5.98	25.984	6.352	17.843	3.931

30	2.815	5.139	3.283	3.172	1.387	2.765	3.22	6.704	4.227	4.876	26.029	5.263	14.702	3.578	
35	2.702	4.765	3.037	2.936	1.213	2.436	2.805	5.774	3.682	4.211	27.376	4.583	12.955	3.326	
40	2.544	4.516	2.847	2.75	1.119	2.248	2.571	5.121	3.4	3.852	30.267	4.223	11.967	3.168	
45	2.436	4.381	2.708	2.609	1.09	2.169	2.478	4.72	3.3	3.732	35.222	4.091	11.718	3.075	
50	2.381	4.389	2.62	2.514	1.12	2.251	2.515	4.565	3.378	3.628	43.19	4.177	12.102	3.063	
55	2.387	4.499	2.598	2.47	1.215	2.442	2.668	4.596	3.647	4.18	56.854	4.485	13.206	3.207	
60	2.472	4.819	2.627	2.469	1.392	2.798	3.022	5.049	4.154	4.786	78.214	5.1	15.222	3.482	
65	2.669	5.414	2.762	2.595	1.883	3.385	3.58	5.774	4.991	5.828	109.739	6.104	18.539	4.021	

Pollutant Name: Oxides of Nitrogen

Speed MPH	LDA ALL	LDT1 ALL	LDT2 ALL	MDV ALL	LHD1 ALL	LHD2 ALL	MHD ALL	HHD ALL	OBUS ALL	UBUS ALL	MCY ALL	SBUS ALL	MH ALL	ALL ALL
0	0	0	0	0	20.783	33.548	69.551	104.133	44.611	0	0	66.571	0	3.616
5	0.511	0.963	0.876	0.978	2.06	4.213	11.653	38.782	9.34	36.024	1.332	15.453	3.124	1.797
10	0.447	0.829	0.764	0.841	1.772	3.61	9.752	28.892	8.011	27.696	1.338	12.884	2.927	1.414
15	0.398	0.734	0.684	0.739	1.561	3.206	8.459	19.597	7.121	22.379	1.358	11.152	2.617	1.255
20	0.363	0.665	0.598	0.685	1.457	2.945	7.6	16.657	6.545	18.019	1.379	9.964	2.788	1.035
25	0.338	0.619	0.55	0.61	1.385	2.78	7.067	16.172	6.208	16.983	1.41	9.238	2.798	0.87
30	0.32	0.598	0.516	0.571	1.354	2.722	6.797	15.636	6.056	15.928	1.447	8.881	2.802	0.827
35	0.309	0.57	0.493	0.545	1.359	2.729	6.758	15.246	6.074	15.675	1.49	8.797	2.87	0.804
40	0.302	0.564	0.481	0.531	1.4	2.81	6.944	15.005	6.256	15.169	1.537	9.038	2.971	0.809
45	0.301	0.57	0.478	0.528	1.479	2.97	7.373	14.911	6.611	17.542	1.59	9.601	3.106	0.912
50	0.305	0.586	0.484	0.535	1.603	3.225	8.09	14.986	7.176	19.65	1.647	10.535	3.283	0.947
55	0.315	0.616	0.501	0.553	1.786	3.602	9.179	15.168	8.01	23.824	1.71	12.009	3.512	1.006
60	0.33	0.661	0.528	0.583	2.049	4.145	10.775	15.515	9.211	29.888	1.779	14.145	3.814	1.095
65	0.352	0.725	0.569	0.629	2.425	4.925	13.096	18.012	10.938	39.418	1.853	17.255	4.219	1.227

Pollutant Name: Carbon Dioxide

Speed MPH	LDA ALL	LDT1 ALL	LDT2 ALL	MDV ALL	LHD1 ALL	LHD2 ALL	MHD ALL	HHD ALL	OBUS ALL	UBUS ALL	MCY ALL	SBUS ALL	MH ALL	ALL ALL
0	0	0	0	0	4598.308	4481.15	4204.169	6223.086	4378.872	0	0	4176.273	0	262.99

5	957.5	1161.664	1186.576	1616.611	1892.29	1851.234	1662.717	3780.492	1922.237	2854.583	242.441	1621.276	2403.583	1169.374	
10	723.757	880.374	898.62	1221.885	1371.107	1176.462	1531.158	3082.72	1574.201	2550.658	204.829	1524.285	1854.035	893.276	
15	587.831	692.73	703.528	958.702	1004.277	898.093	1453.468	2526.773	1388.674	2489.248	176.991	1467.009	1211.401	708.544	
20	462.361	565.643	572.821	780.98	780.92	725.38	1408.184	2119.348	1243.531	2451.921	156.377	1432.134	841.888	583.486	
25	390.788	479.688	484.073	659.806	642.107	619.285	1376.765	1976.558	1165.758	2428.698	141.282	1410.48	774.89	501.428	
30	342.798	421.924	424.57	576.763	555.638	553.188	1358.45	1858.173	1117.305	2414.229	130.572	1396.957	670.039	448.183	
35	312.07	384.945	386.478	526.962	503.588	513.416	1347.429	1763.011	1088.148	2405.823	123.526	1388.832	607.248	410.638	
40	284.837	354.207	355.115	497.767	476.197	492.48	1341.628	1690.427	1072.802	2400.941	119.751	1384.555	574.195	390.239	
45	269.082	357.282	357.982	486.071	468.634	486.7	1340.026	1640.102	1068.585	2398.576	119.126	1383.374	565.07	383.82	
50	294.15	383.38	384.263	496.026	478.813	495.081	1342.351	1611.953	1074.716	2401.512	121.825	1386.068	578.317	388.155	
55	310.516	383.195	384.575	524.427	511.008	519.068	1349	1606.102	1092.306	2408.765	128.363	1389.99	616.198	405.308	
60	340.404	419.043	421.602	574.721	568.397	562.949	1361.155	1622.818	1124.46	2416.396	139.717	1398.951	685.448	439.672	
65	387.163	475.313	478.568	653.668	662.75	635.063	1381.137	1663.124	1177.323	2432.151	157.558	1413.683	799.289	492.406	

Pollutant Name: Sulfur Dioxide

Speed MPH	LDA ALL	LDT1 ALL	LDT2 ALL	MDV ALL	LHD1 ALL	LHD2 ALL	MHD ALL	HHD ALL	OBUS ALL	UBUS ALL	MCY ALL	SBUS ALL	MH ALL	ALL ALL
0	0	0	0	0	0.048	0.045	0.041	0.059	0.043	0	0	0.04	0	0.003
5	0.009	0.011	0.011	0.016	0.019	0.016	0.016	0.036	0.018	0.028	0.003	0.016	0.024	0.011
10	0.007	0.009	0.009	0.012	0.013	0.011	0.015	0.03	0.015	0.025	0.003	0.015	0.017	0.009
15	0.006	0.007	0.007	0.009	0.01	0.009	0.014	0.024	0.013	0.024	0.002	0.014	0.012	0.007
20	0.004	0.006	0.006	0.008	0.008	0.007	0.013	0.02	0.012	0.023	0.002	0.014	0.009	0.005
25	0.004	0.005	0.005	0.006	0.008	0.006	0.013	0.019	0.011	0.023	0.002	0.014	0.008	0.005
30	0.003	0.004	0.004	0.006	0.005	0.005	0.013	0.018	0.011	0.023	0.002	0.013	0.007	0.004
35	0.003	0.004	0.004	0.005	0.005	0.005	0.013	0.017	0.01	0.023	0.002	0.013	0.006	0.004
40	0.003	0.004	0.004	0.005	0.005	0.005	0.013	0.016	0.01	0.023	0.002	0.013	0.006	0.004
45	0.003	0.003	0.003	0.005	0.005	0.005	0.013	0.016	0.01	0.023	0.002	0.013	0.006	0.004
50	0.003	0.004	0.004	0.005	0.005	0.005	0.013	0.015	0.01	0.023	0.002	0.013	0.006	0.004
55	0.003	0.004	0.004	0.005	0.005	0.005	0.013	0.015	0.01	0.023	0.002	0.013	0.006	0.004
60	0.003	0.004	0.004	0.006	0.005	0.006	0.013	0.016	0.011	0.023	0.003	0.013	0.007	0.004
65	0.004	0.005	0.005	0.006	0.006	0.006	0.013	0.016	0.011	0.023	0.003	0.014	0.008	0.005

Pollutant Name: PM10

Speed MPH	LDA ALL	LDT1 ALL	LDT2 ALL	MDV ALL	LHD1 ALL	LHD2 ALL	MHD ALL	HHD ALL	OBUS ALL	UBUS ALL	MCY ALL	SBUS ALL	MH ALL	ALL ALL
0	0	0	0	0	0.206	0.441	0.817	1.758	0.581	0	0.051	0.779	0.078	0.054
5	0.05	0.098	0.109	0.108	0.05	0.088	0.805	2.241	0.429	0.836	0.041	0.747	0	0.124
10	0.033	0.044	0.071	0.071	0.037	0.066	0.474	1.521	0.334	0.808	0.033	0.588	0.057	0.084
15	0.023	0.031	0.049	0.049	0.028	0.051	0.38	0.996	0.268	0.455	0.028	0.47	0.044	0.058
20	0.017	0.023	0.036	0.036	0.022	0.041	0.311	0.695	0.217	0.353	0.028	0.385	0.035	0.043
25	0.013	0.018	0.027	0.027	0.017	0.033	0.261	0.583	0.181	0.285	0.028	0.323	0.029	0.034
30	0.01	0.015	0.022	0.022	0.015	0.028	0.223	0.5	0.155	0.257	0.025	0.276	0.025	0.029
35	0.009	0.012	0.019	0.018	0.012	0.024	0.198	0.446	0.136	0.205	0.024	0.242	0.021	0.025
40	0.008	0.011	0.017	0.016	0.011	0.021	0.175	0.421	0.121	0.183	0.025	0.217	0.019	0.023
45	0.007	0.01	0.016	0.015	0.01	0.019	0.16	0.424	0.111	0.17	0.027	0.199	0.017	0.022
50	0.007	0.01	0.015	0.015	0.009	0.018	0.15	0.456	0.104	0.163	0.031	0.188	0.016	0.022
55	0.007	0.01	0.016	0.016	0.009	0.017	0.144	0.517	0.099	0.162	0.037	0.178	0.015	0.023
60	0.008	0.011	0.018	0.017	0.009	0.017	0.141	0.606	0.097	0.167	0.046	0.174	0.015	0.026
65	0.008	0.013	0.02	0.02	0.009	0.017	0.141	0.724	0.097	0.178	0.06	0.174	0.016	0.03

Pollutant Name: PM10 - Tire Wear

Speed MPH	LDA ALL	LDT1 ALL	LDT2 ALL	MDV ALL	LHD1 ALL	LHD2 ALL	MHD ALL	HHD ALL	OBUS ALL	UBUS ALL	MCY ALL	SBUS ALL	MH ALL	ALL ALL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
10	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
15	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
20	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
25	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
30	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
35	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
40	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
45	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
50	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009
55	0.008	0.008	0.008	0.008	0.012	0.012	0.012	0.035	0.012	0.008	0.004	0.012	0.012	0.009

ATTACHMENT 11

place provisions allowing for secondary units. The State HCD also decrees that housing elements address the merits of secondary units in the provision of new, affordable housing. The Staff therefore, endorses retaining Policy 1.8 as proposed.

Parking Requirements: The draft *Housing Element* is not recommending an end to parking as many fear. But revisiting residential parking requirement is critical to meeting the City's projected housing need. The draft Element is simply putting forth that parking should be made available in the places where it makes sense and not required where it may not be necessary.

The Planning Code currently takes a "one size fits all" approach to parking, requiring one parking space per dwelling unit citywide, except in the downtown C-3 office districts, where the requirement is one parking space for every four units. Parking requirements are also reduced for senior and group housing arrangements. This "one size fits all" requirement poses a major obstacle to increasing housing production. Given that San Francisco has scarce land available for housing, space devoted to parking substantially reduces space available for housing. Simply put, if we build just one parking space for every new dwelling unit needed by 2020, we will need 130 acres of land just for parking.

Providing for parking also makes housing less affordable. A parking space adds $20,000 to $30,000 to the cost of building a unit of housing—upwards of $50,000 in some parts of the City. These costs are passed directly on to residents, even in areas well served by transit and services, and where existing vehicle ownership rates are far below one car per household. Building one parking space per unit of housing also elevates the importance of cars as a way of moving about, encouraging increased traffic and congestion.

The draft *Housing Element* advocates expanding the place-based approach to parking established for the downtown office districts. This stance would consider relaxing parking requirements in selected districts – especially those well served by transit and services, where people can realistically rely less on private automobiles. By enabling more housing without parking to be built within the prevailing character and scale of these areas, this approach will allow us to meet our citywide housing needs more efficiently.

If new residential parking standards are set, developers will have the option of building more housing for people and offer residents the choice to live without a car in areas well served by transit and services. Those who must drive will still have parking, while those who choose not to drive will have a dignified and real alternative means of getting around.

4. Linking the Provision of Neighborhood Amenities and Public Benefits to Increased Development Densities

A number of the Planning Commissioners and numerous members of the public have cited the need to link the provision of neighborhood amenities and other residential

NC-T Districts are intended to be transit-oriented high-density mixed-use neighborhoods of moderate scale concentrated near transit services. The District's form can be either linear along transit-priority corridors, concentric around transit stations, or broader District-like areas where transit services cross the neighborhood. Because of the rich mix of retail and services with high residential populations in these Districts with many alternatives to automobiles, walking is the primary means of transportation and automobile-free housing is encouraged. Residential parking is limited and commercial establishments are discouraged or prohibited from building accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic.

Moderate sized commercial establishments are permitted as-of-right and businesses cater to both the immediate population as well as to a citywide context. A wide range of commercial activity is permitted on the first two stories of buildings, with active retail, eating, and entertainment activities encouraged on the ground floor. Less-intense commercial uses, such as offices and institutions are permitted on the second story to buffer housing located above. Along significant pedestrian streets, public-oriented retail is required on the first floor and non-active commercial uses, such as offices or institutions, are limited to the second floor in order to foster engagement of the sidewalk realm. Commercial establishments are limited to those compatible with housing and auto-oriented uses are not permitted. Residential uses are permitted at all stories of buildings (except on the ground floor of designated significant streets), and above the second story residential use only is permitted to increase the population of the area within proximity of transit and services.

The proposed ordinances would also add Section 249.20: Transit Intensive Special Use District. The designations, locations, and boundaries of these Special Use Districts would be shown on Sectional Maps of the Zoning Map. For the Transit Intensive Special Use District, the proposed ordinances would:

- establish no requirement for off-street parking spaces for any dwelling unit and a maximum of one off-street parking space for each dwelling unit

The Department of Parking and Traffic (DPT) reviewed the proposed ordinances and recommended some provisions. From DPT's experience, many residents of housing approved with variances or exceptions to provide less than Planning Code and/or parking demand subsequently petition DPT to be considered in the City's Residential Permit Program (RPP) or otherwise use public right-of-way for parking. DPT recommends that if the purpose of the ordinances is to discourage new residents from owning automobiles, then they should be prohibited from participating in City's RPP, administered by DPT. DPT also recommended, at minimum, that developers inform residents that the price of their unit is lower than it would be if off-street parking had been provided, with the intent that they would not own an automobile. Furthermore, DPT wanted to ensure that these ordinances do not affect bicycle parking requirements. Currently, one bicycle parking space is required for each 20 automobile parking spaces provided. Given the ordinances, DPT suggests that bicycle parking spaces be required based on the number of residential units rather than automobile parking spaces.

The proposed ordinances are designed to encourage the construction of new housing in areas that have good access to public transit and to encourage the use of public transportation in lieu of private automobiles in those districts.

A study[1] of residential parking demand in San Francisco showed that vehicle ownership is relatively higher for new housing than existing housing and the effect of location near transit had no conclusive evidence of lowering vehicle ownership. However, the effects of units size, renting versus owning, and type of housing did have significant effects. Those who rented housing had a lower probability of owning

[1] San Francisco Department of City Planning. "Parking Demand for Affordable Housing in San Francisco," January 1992.

002667

vehicles than those who owned. Automobile ownership is even lower for renters in affordable housing. Furthermore, the study found that increasing the number of rooms within a dwelling unit (not number of dwelling units) increased parking demand and vehicle ownership.

However, Census tract data shows that the general existing pattern in San Francisco is that vehicle ownership is lower when housing is located in transit-rich areas of the City. According to a recent study[2] of residential parking demand in San Francisco, the higher the density of residential buildings, the lower the probability of having vehicle ownership. Furthermore, it was found that neighborhoods that have the highest numbers of buses or trains per hour had the lowest vehicle ownership.

If there were less vehicle ownership or vehicle availability in the proposed districts, an increase in public transit trips would be likely in areas where public transit is readily available and accessible. The proposed districts would be located in transit corridors where public transit occurs frequently and is readily available and accessible.

The proposed ordinances would be less restrictive than the current zoning regulation and would promote an increase in residential density potential, increased height limit, and reduced parking supply for future developments. The proposed ordinances could result in an intensification of residential uses along with commercial uses within the City. However, at this time, the proposed ordinances would create changes to the Planning Code only and are not proposed to be mapped on the City's Zoning Maps. In other words, no specific mapping of, or location for these districts has been proposed at this time by these pieces of legislation. Without any mapping of these districts, no development project could take advantage of these controls, even if the controls become a part of the Planning Code.

Additionally, in the absence of any mapping of the proposed controls, it is unknown at this time how large of an area the controls may cover, how much new development potential could result, or where that development and its associated effects would be felt. As such, it is premature and too speculative at this time to analyze such development potential and its potential environmental impacts.

Any future proposal to amend the City's Zoning Map to include these districts in a specific location would be subject to environmental review at the time of such proposal. At that future time, the development potential and corresponding environmental impacts of buildout in the areas proposed for the new controls would be fully analyzed prior to any decision whether to amend the Zoning Map.

The proposed ordinances are consistent with the Priority Policies of Section 101.1(b) of the Planning Code and the City's "Transit First" policy.

For the reasons describe above, the proposed legislation would have no significant environmental effects and thus is appropriately exempt from environmental review under the General Rule Exclusion.

---

[2] Jeffrey Tumlin, Nelson/Nygaard Consulting Associates. "Vehicle Ownership in San Francisco," Technical Memorandum, November 2001.

PLANNING DEPARTMENT
City and County of San Francisco 1660 Mission Street, Suite 500 San Francisco, CA 94103-2414
(415) 558-6378 PLANNING COMMISSION FAX: 558-6409 ADMINISTRATION FAX: 558-6426 CURRENT PLANNING/ZONING FAX: 558-6409 LONG RANGE PLANNING FAX: 558-6426

PARKING DEMAND FOR AFFORDABLE HOUSING IN SAN FRANCISCO

(DRAFT)

SAN FRANCISCO DEPARTMENT OF CITY PLANNING

JANUARY 1992

002760

PARKING DEMAND FOR AFFORDABLE HOUSING

A central purpose of the affordable housing surveys was to determine the relationships between parking demand and the size of units. Two thirds of all respondents lived in multiple bedroom units. Forty-five percent of respondents lived in affordable ownership housing, and 55 percent lived in affordable rental housing. Table 4 summarizes the patterns for parking demand related to studio/one bedroom units compared to multiple bedroom units grouped according to ownership and rental housing character.

TABLE 4
AFFORDABLE HOUSING PARKING DEMAND

TYPE OF AFFORDABLE HOUSING	NO AUTOS	ONE AUTO	TWO AUTOS	THREE OR MORE AUTOS	AVERAGE NUMBER OF AUTOS
RENTAL HOUSING					
STUDIO/ ONE BEDROOM	45.7%	47.8%	4.3%	2.2%	0.45/unit
TWO OR MORE BEDROOMS	23.1%	64.4%	9.6%	2.9%	0.92/unit
OWNERSHIP HOUSING					
STUDIO/ ONE BEDROOM	26.3%	57.9%	15.8%	0.0%	0.89/unit
TWO OR MORE BEDROOMS	5.7%	52.9%	37.6%	3.8%	1.39/unit

These figures indicate that the parking demand for affordable ownership multiple bedroom housing is very similar to the rate of 1.4 per unit for the downtown perimeter and and 1.5 per unit for representative outlying neighborhoods. Parking demand for affordable rental housing was considerably lower. Parking demand for affordable rental housing averaged 0.92 per multiple bedroom unit and only 0.45 per studio/one bedroom unit.

These findings seem to reflect the generally higher income levels for affordable ownership residents compared to affordable rental residents. Table 5 compares parking demand to differences in income levels.

In general, there is a strong positive relationship between parking demand and income levels. Half of the lowest income category residents have no autos, while 58% of the highest affordable

002763

income category residents owned two or more autos. One-quarter of respondents in the 3rd and 4th quintiles also owned two autos. Many assisted affordable housing projects are targeted to specific income categories, and these findings support adjustments to parking demand estimates based on income. This would be warranted, however, only when there are firm commitments to restrict proposed affordable housing units to the lowest income categories.

TABLE 5
PARKING DEMAND BY TYPE OF AFFORDABLE HOUSING

PARKING DEMAND	VERY LOW INCOME (50% OF MEDIAN)	LOWER INCOME (60% OF MEDIAN)	LOW INCOME (80% OF INCOME)	MEDIAN INCOME	MODERATE INCOME (120% OF MEDIAN)
NO AUTOS	50%	35%	14%	7%	3%
ONE AUTO	43%	59%	59%	65%	39%
TWO AUTOS	7%	5%	25%	24%	51%
THREE OR MORE AUTOS	0%	0%	0%	4%	7%

The income ranges for each affordable housing category at the time of survey administration were as follows: very low income = $22,800 or less; lower income = $22,801 to $27,360; low income = $27,361 to $36,480; median income = $36,481 to $45,600; moderate income = $45,601 to $55,000. There have been subsequent adjustments to the affordable housing categories and to the income ranges.

PARKING DEMAND IN RELATION TO OTHER TRANSPORTATION FACTORS

The relationships between affordable housing auto ownership and other transportation factors were also investigated. The following specific variables were examined:

- availability of parking;
- proximity to transit;
- number of adults in household;
- presence of children in household;
- travel mode to work.

TABLE 6
AUTO OWNERSHIP IN RELATION TO PARKING AVAILABILITY

002763

LOCATION FOR AUTO PARKING	NO AUTOS OWNED	ONE AUTO OWNED	TWO OR MORE AUTOS OWNED
ON-SITE PARKING ONLY	2.5%	72.5%	25.0%
ON-SITE & OFF-SITE PARKING	2.6%	64.4%	33.0%

TABLE 7
AUTO OWNERSHIP IN RELATION TO PROXIMITY TO TRANSIT SERVICE

DISTANCE TO TRANSIT	NO AUTOS	ONE AUTO	TWO AUTOS	THREE OR MORE AUTOS
WITHIN FOUR BLOCKS	36%	44%	18%	2%
MORE THAN FOUR BLOCKS	13%	58%	26%	4%

TABLE 8
AUTO OWNERSHIP IN RELATION TO NUMBER OF ADULTS AND CHILDREN

NUMBER OF ADULTS AND CHILDREN	NO AUTOS	ONE AUTO	TWO OR MORE AUTOS
NO CHILDREN			
ONE ADULT	43%	49%	8%
TWO OR MORE ADULTS	27%	44%	29%
ONE OR MORE CHILDREN			
ONE ADULT	22%	67%	11%
TWO OR MORE ADULTS	15%	47%	38%

002770

Responses concerning the availability of parking exhibited in Table 6 were somewhat ambiguous. The responses do seem to indicate that only one-quarter of respondents with autos fully satisfied all parking needs on-site. Almost 60 percent of respondents indicated that one or

more autos were parked on-street. The extent of correspondence between availability of on-site parking and auto ownership was not strong.

Proximity to transit was assessed according to whether or not residences were within four blocks of transit service. Table 7 reveals that 36 percent of residents who lived within four blocks of transit did not own autos. Only 13 percent of residents who lived further than four blocks from transit had no autos. The extent of parking demand was somewhat lower for residents within four blocks of transit, but the strength of the correlation was relatively weak aside from those with no autos.

Table 8 indicates that the number of adults and the presence of children each influenced parking demand. Forty-three percent of one adult households with no children owned no autos. Among one adult households with one or more children, 22 percent had no autos and 67 percent owned one auto. The presence of children in households with two or more adults had less conclusive results. Twenty-seven percent of multiple adult households without children owned no autos compared to 15 percent with children, but parking demand rates were otherwise very similar.

The final relationship investigated was work commute mode compared to parking demand. Table 9 summarizes these findings.

TABLE 9
WORK COMMUTE MODE BY AUTO OWNERSHIP

AUTO OWNERSHIP	DRIVE ALONE	RIDESHARE	TRANSIT	WALK	OTHER
NO AUTOS	0%	0%	77%	20%	3%
ONE AUTO	36%	13%	40%	8%	2%
TWO AUTOS	61%	9%	17%	9%	3%
THREE OR MORE AUTOS	50%	10%	20%	0%	20%

There is a strong positive relationship between auto ownership and the likelihood of driving alone to work. Conversely, there is an inverse relationship between auto ownership and transit use. Transit share declines markedly from 77 percent for those with no autos to 40 percent for one auto to 17-20 percent for two or more autos. Drive alone share jumps from 36 percent with one auto to 61 percent with two autos. No inquiry was made concerning the destination of work trips nor the quality of transit service available, so the specific character of causality may not be direct. Modal findings were also not controlled by unit size, income, and other household characteristics which may affect results. Whether residents choose to own autos due to differences in job destinations or other factors, the availability of one or more autos does appear to influence modal choices in affordable housing projects. This finding is generally inconsistent

002771

with Census evidence through 1980 which shows a steady climb in auto ownership in San Francisco while transit's modal share has remained constant or even increased.

CONCLUSIONS

The investigation of affordable ownership housing has yielded parking demand findings of about 1.4 per multiple bedroom unit and about 0.9 per studio/one bedroom unit which are broadly consistent with earlier surveys of market rate housing on the perimeter of downtown and in outlying San Francisco neighborhoods. Parking demand for affordable rental housing was markedly lower at 0.92 for each multiple bedroom unit and 0.45 for each studio/one bedroom unit.

Adjustments in estimated parking demand for affordable housing firmly targeted to lower income residents appear to be warranted. The influence on parking demand of proximity to transit and availability of on-site parking was mixed. The presence of two or more adults or children in a household seem to each increase parking demand.. There are only small apparent differences in parking demand, however, for households with children based on differences in the number of adults present.

The results of previous surveys and the affordable housing survey have yielded remarkably similar findings regarding parking demand. Only affordable rental units and units for households in the very low and low income categories have a parking demand rate for multiple bedroom units which is fully satisfied by current Planning Code requirements for one parking space per unit.

The policy implications if parking requirements were adjusted to fully meet parking demand are less obvious. The affordable housing survey shows a positive relationship between auto ownership and residents' tendencies to drive alone to work. It can not be determined from the available evidence whether autos are owned because of where residents work or serve as a direct inducement to drive alone irrespective of work destinations. Further investigations are needed to better understand the effects of increased auto ownership and its policy implications. Work travel and auto ownership data from the 1990 Census when they become available should be particularly useful for further research efforts.

002772

ATTACHMENT 12

19.20.170 Solar Access and Solar Equipment.

These provisions are intended to ensure that solar energy systems are protected from shading and to facilitate their safe operation. The standards may be modified by the Director in the case where compliance would demonstrably reduce the operating efficiency or performance of the solar energy system and compliance will not adversely impact public health and safety.

A. *Protection of* Solar *Access.* A structure, fence, or wall shall not be constructed or modified in a residential zoning district, and vegetation may not be placed or allowed to grow, so as to obstruct more than 10 percent of the absorption area of a solar energy system on a neighboring parcel at any time.

B. Solar *Energy Systems Standards.* The following installation standards shall apply to solar energy systems.

1. Solar Collectors.

a. Roof-mounted collectors shall be placed in the location least visible from public streets and, where feasible, be integrated into the design of the structure as an architectural element.

b. Wall-mounted and ground-mounted collectors shall be screened from public view.

2. Appurtenant Equipment. Where Feasible, appurtenant equipment, plumbing, and related fixtures, shall be installed in the attic. Appurtenant Equipment, plumbing, and related fixtures shall comply with the setback requirements of Section 19.20.150 and shall be screened from public view.

(Ord. 08-794 § 8, 2008: Ord. 01-594 § 2 (Exh. A (part)), 2001)

ATTACHMENT 13

EXPENDITURE PLAN AND SALES TAX REAUTHORIZATION

DRAFT ENVIRONMENTAL IMPACT REPORT

STATE CLEARINGHOUSE NO. 2003052035

Prepared for

San Francisco County Transportation Authority

by

DYETT & BHATIA
Urban and Regional Planners

In association with

Environmental Science Associates • *Environmental Consultants*
DKS Associates • *Transportation Consultants*

June 2003

005502

Methodology and Assumptions

The transportation impact analysis is based on modeling and numerous assumptions about future conditions. In order to assess the impacts of the proposed Expenditure Plan on the existing transportation network, it is necessary to develop a future transportation scenario that is based on projected growth in the city and future employment trends. In addition, it is important to look at the future 2025 baseline conditions, without the proposed Expenditure Plan, as a means to determine the significance of the various transportation improvements and programs in the Plan in either improving or exacerbating current traffic flow conditions.

To examine future year conditions, the most reasonable horizon year available is 2025. This is the horizon year for the RTP, as well as for the Countywide Plan analysis. While the Expenditure Plan horizon is 2034, the year 2025 is the most reliable year that incorporates adopted regional plans and growth forecasts, and is thus the appropriate horizon for quantitative evaluation for all future scenarios. For years beyond 2025, a qualitative analysis is used to estimate future conditions.

Future Growth Patterns

As San Francisco grows, transportation problems will continue to develop. Not only will the City need to accommodate new residents and workers, but the existing system will still need extensive upkeep, including the need to acquire new transit vehicles and repave and rehabilitate streets.

Significant growth in employment in the City between 2000 and 2025 is expected. MTC predicts over 110,000 new jobs will be created in San Francisco, growing from approximately 630,000 to 740,000. Figure 3.2-2 shows the growth in employment in 26 neighborhoods across the city. This figure demonstrates that, while all neighborhoods experience some growth in employment, the vast majority and intensity in employment growth is expected in the existing Downtown and South of Market core, around Mission Bay, in Bayview/Hunters Point, and in the Mission District.

005503

Vehicle hours traveled

Because San Francisco population and employment are projected to increase, the total number of vehicle trips increases by the year 2025, compared to year 2000. As a result, the amount of vehicle miles and vehicle hours traveled on San Francisco roadways will also increase. The results for all alternatives are summarized in Table 4-2.

The Expenditure Plan Alternative results in a significant reduction in vehicle trips and the fewest vehicle hours of travel, though the amount of vehicle hours of travel is only slightly higher in the One Cent Alternative. However, as vehicle miles of travel are higher in the Expenditure Plan Alternative than in the One Cent Alternative, this implies higher average speeds in the Expenditure Plan.

Table 4-2: Daily Vehicle Miles and Vehicle Hours Comparison – San Francisco Links

	2000	*2025*		
Attribute	*Base*	*No Project Alternative*	*Expenditure Plan Alternative*	*One Cent Alternative*
Total Daily Vehicle Trips	1,323,400	1,423,600	1,403,000	1,400,700
Daily Vehicle Miles of Travel	9,342,200	10,638,100	10,556,000	10,545,800
Daily Vehicle Hours of Travel	482,100	621,600	617,400	617,600

Source: SF-TDM, SFCTA, May 2003

Vehicle miles traveled (VMT) at level of service (LOS) F

By 2025, a substantial increase is expected in vehicles miles traveled at LOS F as a result of population and employment growth. Table 4-3 describes the anticipated measures for all alternatives. Although the aggregate VMT is only projected to grow a small amount, the VMT on roadways with congestion (defined as Level of Service F) are anticipated to grow significantly by 2025.

The Expenditure Plan Alternative results in almost two percent less VMT at level of service "F" compared with the No Project Alternative. The One Cent Alternative results in a slight improvement over the Expenditure Plan.

Table 4-3: VMT and VMT LOS F Comparisons – San Francisco Links

	2000	*2025*		
Measure	*Base*	*No Project Alternative*	*Exp Plan Alternative*	*One Cent Alternative*
VMT	9,342,200	10,638,100	10,556,000	10,545,800
VMT LOS F	920,900	2,039,400	2,002,500	1,993,000
% of VMT	9.9%	19.2%	19.0%	18.9%

Source: SF-TDM, SFCTA, May 2003. Percentages may not be exact due to rounding.

005507

5.1.2 GROWTH-INDUCING ANALYSIS

With respect to population growth, San Francisco is likely to continue experiencing population changes with or without major transportation improvements. The factors most affecting potential growth include housing cost and availability, as well as in-migration, birth and death rates, and job opportunities, etc. The quality of the local transportation system has a lesser impact on overall growth compared to these other factors.

All factors considered, it is unlikely that the transportation improvements proposed in the Expenditure Plan will be of sufficient magnitude to stimulate growth beyond the projected population and employment increases. There are three main reasons for this:

First, it is evident that transportation investment in general – and increased capacity in particular – currently lag behind the growth that has already occurred in San Francisco and in the Bay Area. This situation exists because of the general constraint on transportation funding available for system capacity expansion given other priorities for maintaining and sustaining the vast transportation network, as well as physical constraints to expanding roadway capacity in San Francisco. At an aggregate level, while improvements identified in the Expenditure Plan will have slightly beneficial transportation impacts compared to baseline, these impacts are small compared to changes in population and employment - for example, population and employment in the City are projected to grow 2.8 percent and 16.4 percent respectively between 2000 and 2025, while difference between the 2025 Expenditure Plan and 2025 Baseline for average travel time (see Table 3.2-4) and total vehicle hours of travel (see Table 3.2-5) are less than one percent. Thus, improvements featured in the Expenditure Plan will help support the projected population and employment growth, rather than induce it.

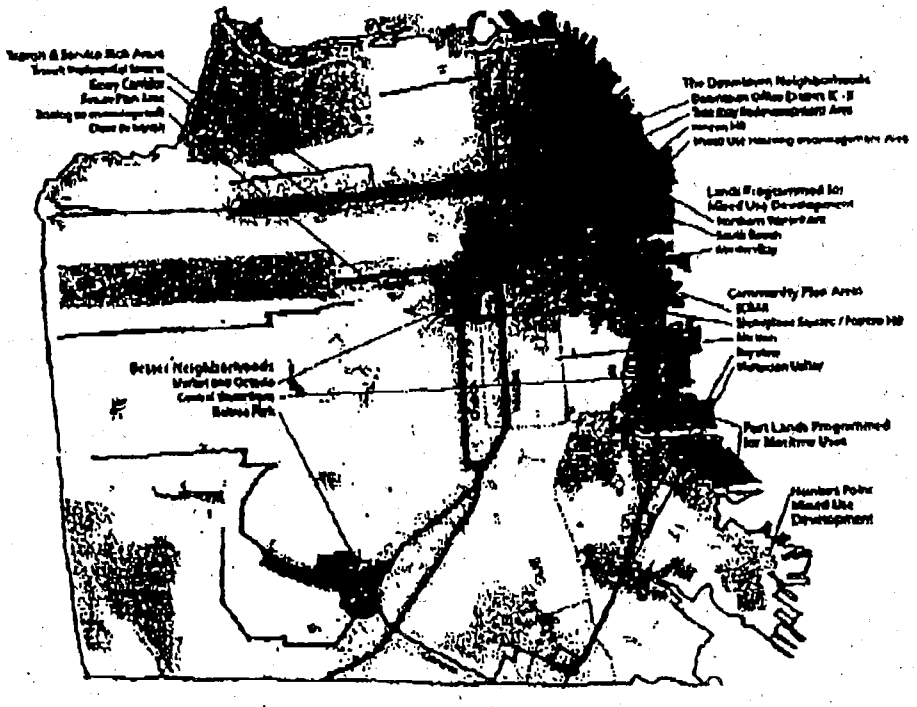
Second, increased congestion may actually discourage an increase in employment in San Francisco beyond current projections. For example, the percent of vehicle miles traveled at LOS F (see Table 3.2-8) are projected to increase over the next 25 years, with or without the Expenditure Plan.

Finally, the transportation improvements identified are consistent with the projected and planned growth in the Bay Area as identified by ABAG through consultation with the City and County of San Francisco, which determines the land available for new development. The Project would not alter the amount of land identified by the city for future development; rather, it is designed to compliment and support the city's proposals to concentrate future development along transit routes and transfer points (see Figure 5.1. Proposed Citywide Land Use Action Plan and Figure 5.2 Proposed Rapid Transit Network).

In general, enhanced transportation capacity does not per se create more growth, but rather can affect the timing and distribution of growth. Furthermore, land use distribution effects of transit changes (as opposed to roadway improvements) are likely to be somewhat limited. Thus, there may be some localized effect relating to the timing and location of development in areas of the city that need more direct, convenient routes and expanded transit service. However, this situation

005508

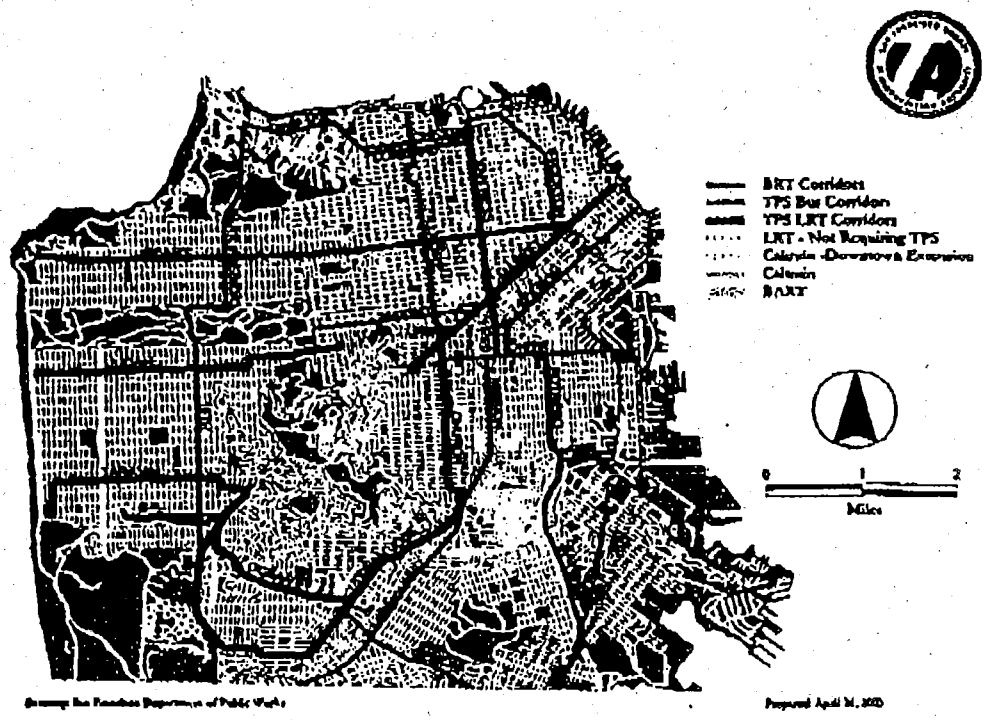
Figure 5.1: Proposed Citywide Land Use Action Plan



Source: "Overview of the Citywide Action Plan, San Francisco Planning Department, August 2002.

005510

Figure 5.2: Proposed Transit Priority Network Action Plan



Source: Transportation Authority, 2003

003511

SAN FRANCISCO
PLANNING DEPARTMENT

NEIGHBORHOOD ORGANIZATION FEE WAIVER REQUEST FORM

Appeals to the Board of Supervisors

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

This form is to be used by neighborhood organizations to request a fee waiver for CEQA and conditional use appeals to the Board of Supervisors.

Should a fee waiver be sought, an appellant must present this form to the Clerk of the Board of Supervisors or to Planning Information Counter (PIC) at the ground level of 1660 Mission Street along with relevant supporting materials identified below. Planning staff will review the form and may sign it 'over-the-counter' or may accept the form for further review.

Should a fee waiver be granted, the Planning Department would not deposit the check, which was required to file the appeal with the Clerk of the Board of Supervisors. The Planning Department will return the check to the appellant.

TYPE OF APPEAL FOR WHICH FEE WAIVER IS SOUGHT

[Check only one and attach decision document to this form]

- ☐ Conditional Use Authorization Appeals to the Board of Supervisors
- ☒ Environmental Determination Appeals to the Board of Supervisors (including EIR's, NegDec's, and CatEx's, GREs)

REQUIRED CRITERIA FOR GRANTING OF WAIVER

[All criteria must be satisfied. Please check all that apply and attach supporting materials to this form]

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

APPELLANT & PROJECT INFORMATION [to be completed by applicant]	
Name of Applicant: Greg Scott, President	Address of Project: citywide - EIR for 2004 and 2009 Housing Element
Neighborhood Organization: Pacific Heights Residents Association	Planning Case No: 2007.1275E and 2007.1275EM
Applicant's Address: 2434 Jackson St., S.F., CA 94115	Building Permit No: n/a
Applicant's Daytime Phone No: 498-6270	Date of Decision: March 24, 2011
Applicant's Email Address: greg.scott@us.pwc.com	

DCP STAFF USE ONLY

- ☐ Appellant authorization
- ☐ Current organization registration
- ☐ Minimum organization age
- ☐ Project impact on organization

Planner's Name: _____

Date: _____

Planner's Signature:

■ **WAIVER APPROVED** ■ **WAIVER DENIED**

PACIFIC HEIGHTS RESIDENTS ASSOCIATION

2585 PACIFIC AVENUE
SAN FRANCISCO, CA 94115
TELEPHONE: (415) 922-3572

April 12, 2011

City and County of San Francisco
c/o San Francisco Planning Department

Re: Neighborhood Organization Fee Waiver Request
Appeal of Certification of Final Environmental Impact Report for the 2004 and 2009 Housing Elements and Related CEQA Findings, Environmental Findings and Statement of Overriding Considerations

Case Nos. 2007.1275E and 2007.1275EM

I am President and a member of Pacific Heights Residents Association (PHRA) and am authorized to file the above-described appeal on behalf of PHRA. PHRA is a member of San Franciscans for Livable Neighborhoods (SFLN), an unincorporated association.

PHRA is appealing to the San Francisco Board of Supervisors the San Francisco Planning Commission's March 24, 2011 certification of the Final Environmental Impact Report (EIR) for the 2004 and 2009 Housing Elements and related CEQA findings described above.

PHRA is a neighborhood organization which is registered with the Planning Department and which appears on the Department's current list of neighborhood organizations.

PHRA is a neighborhood organization which was in existence at least 24 months prior to the submittal of the fee waiver request, as established by the attached copy of a PHRA newsletter dated Autumn 2008, which discusses PHRA's activities at that time.

PHRA is appealing the certification of the EIR for the 2004 and 2009 Housing Elements because PHRA's members are affected by the project which establishes policies for housing development within the City of San Francisco and within PHRA's boundaries, and the consistency of projects that will be proposed for development within PHRA's boundaries will be measured against the policies of the Housing Element. The Housing Element also sets forth strategies for development that will be pursued throughout the City including within PHRA's boundaries. PHRA is a member of SFLN which has secured a peremptory writ of mandate which enjoins, in pending litigation, the City's implementation of certain policies and implementation measures contained in the 2004 Housing Element.

PACIFIC HEIGHTS RESIDENTS ASSOCIATION
2585 PACIFIC AVENUE
SAN FRANCISCO, CA 94115
TELEPHONE: (415) 922-3572

Please do not hesitate to contact me if you need further information.

Very truly yours,

Pacific Heights Residents Association

By _____
L. Gregory Scott, President
2434 Jackson Street
San Francisco, CA 94115
Telephone: (415) 498-6270

Attachment

Pacific Heights News

Vol. XVI No. 3 *Autumn 2008*

PHRA, Supervisors Act To Restore Streetsweeping

Mohammed Nuru, Deputy Director of the Department of Public Works, is trying to sell the idea that the city will save money by reducing street sweeping from weekly to twice a month.

Pacific Heights residents aren't buying.

Nuru said the cut, and the failure to give any warning or accept any neighborhood input, was the result of significant budget cuts imposed on his department. Residents pointed out the net saving would be small, considering the corresponding reduction in parking ticket income.

Nuru told PHRA's board at its September meeting that national studies show San Francisco is "overcleaning." The city hired a consultant that looked at 17 cities; of those, only San Francisco and Alameda sweep their streets weekly.

However, in determining whether a street is clean, the consultant counted only paper wrappers, cigarette butts and the like. Leaves were not counted and on many streets in Pacific Heights leaves are a considerable problem.

Directors and residents bombarded Nuru with reasons the decision was a mistake. the Directors contacted District 2 Supervisor Michela Alioto-Pier and District 5 Supervisor Ross Mirkarimi to seek a delay in the change. Alioto-Pier toured some leaf-laden streets and

Continued on page 2

Come to the Annual Meeting

San Francisco Planning Director John Rahaim will be the featured speaker Oct. 22 at the annual meeting of the Pacific Heights Residents Association. District 2 Supervisor Michela Alioto-Pier will also attend. Most of the PHRA area is within District 2.

The gathering will take place at the Schools of the Sacred Heart, 2222 Broadway, starting with a wine-and-hors d'oeuvres reception at 6 p.m.

Director Rahaim's remarks will be his own, but PHRA has suggested he comment on the new Housing Element, what the Planning Department is doing to rebuild a relationship with the neighborhoods and two hot-button topics: lax enforcement of the city's ordinances and codes and dwelling unit mergers.

PHRA President Greg Scott will provide a quick summary of the association's activities and accomplishments during the past year. The meeting will include a brief session to transact PHRA's "housekeeping" matters.

Vino, at 2425 California Street, has generously arranged for the wine. PHRA is also grateful to the Schools of the Sacred Heart for providing the venue.

Cost is $35 per member prior to October 15 and $40 per member after that and at the door. Guests are an additional $10 on those rates.

Newspaper Article Spotlights Residence Used for Business

YBR Advisors has been so successful in helping clients achieve their financial goals that it was listed by the San Francisco Business Times this spring as one of the Bay Area's top 75 wealth advisors.

The Business Times article documents what neighbors have long suspected and complained about: a full-fledged business is operating from Suite 1 at 2221 Pacific Avenue, a residential property. It has a steady stream of clients in and out.

The Business Times quoted president John Ohmer as saying that he "starts every new client relationship with an intensive discovery interview phase totaling 40 to 50 hours spread over multiple meetings."

Ohmer is assisted by a staff of six, according to the article.

The article states that YBR has 184 clients who visit "annually, quarterly or as often as they'd like to drop by YBR's Pacific Heights office to discuss their financial lives."

The fact that there are six employees disqualifies YBR (which stands for Yellow Brick Road) from any legitimacy as a "home office." In fact, neighbors doubt that the unit is used as a residence at all. They have noted the license numbers of vehicles that park there and in Bromley Alley from about 8:30 a.m. to about 6 p.m. Monday through Friday, but lights are turned off during the evenins and weekends.

Continued on page 3

PHRA Continues Effort to Keep Business Out of a Residence

wners of the home at 1969 California Street have apparently succeeded in getting the building designated as a San Francisco landmark.

With that designation, and the claim that business income is necessary in order to maintain the property, the owners are seeking a Conditional Use Permit (CU) under a little-known city ordinance that would legalize the art galley that has long been operating in the residence zoned RH-2. The business is known as Anthony Meier Fine Arts.

A petition opposing any permit is being drafted for circulation.

It states, in part,

"Home offices are not intrusive in residential zones but businesses that require loading and unloading of merchandise: valet parking for customers; after hours (evening) events; and multiple employees are inappropriate and change the character of the neighborhood as well as impact property and rental values. . . . The art gallery at 1969 California regularly and constantly adds and removes major pieces of merchandise on a weekly basis."

Neighbors previously described instances in which e cranes parked in the street to hoist large pieces in or out of the building and grounds.

PHRA's position is that this case is precedent-setting. Because virtually every block in Pacific Heights has landmark-worthy homes, approval of the CU would open the entire area to businesses in residences.

According to the web site of Anthony Meier Fine Arts (www.anthonymeierfinearts.com), there is a steady stream of exhibits, each lasting about four to six weeks. The most current, for example, was scheduled September 9-October 3, preceded by a reception with the artist on September 5 from 6-8 p.m.

Neighbors say that the gallery, to show its wares, has frequent disruptive events characterized by Meier as fund-raisers for various non-profit organizations.

. In addition to openings of its shows, the gallery is the venue for many large gatherings that Meier has said are fund-raisers for various non-profit organizations.

PHRA Directors
Judith Duffy
J. P. Harbour
Noel Kirshenbaum
Connie Tompkins McCole
Joe Murphy
Margot Parke
Alice Piccus
Lynne Newhouse Segal
Carola Shepard
Greg Scott, President
Paul Wermer
Administration
Hennie Wisniewski
PHRA Hotline
922-3572
PHRA Web Site
www.phra-sf.org
Pacific Heights News
donlangley@sbcglobal.net

Residents Want Streets Swept

Continued from page 1

agreed with residents. She agreed to write a resolution for the Board of Supervisors. District 1 Supervisor Jake McGoldrick has also introduced a resolution asking for reconsideration.

Among the points PHRA directors made:

- Pacific Heights is a tourist area; unswept streets will create a bad impression that will eventually cut into tourist revenue.
- Litter isn't restricted to commercial streets; it spills over into adjacent blocks
- Flat tires from nails in the streets around construction sites is a continual problem.
- The high level of construction throughout the area results in literal dirt as well as debris, which contractors are cleaning insufficiently.
- When sweeping does occur, it will be less effective because there will be more cars on the streets; people won't remember when sweeping is due. n Holidays will mean some blocks will be swept only once a month, a particular problem for streets swept on Monday.

Landmarks Open for Tour

Glorious buildings in Pacific Heights and Presidio Heights, including the Petit Trianon, a variety of classically-styled townhomes, and a renowned Bernard Maybeck residence which is still the home of its original family, will be open for view October19 during the Victorian Alliance Home Tour.

Proceeds of the self-guided tour will benefit restoration of Maybeck's masterpiece, the Palace of Fine Arts. The tour is scheduled 1-5 p.m..

Tickets may be ordered in advance for $40 through October 11, if ordering by mail, or through October 17, if ordering by Internet (www.victorianalliance.org) with PayPal. A discount is available for groups of ten or more. Tickets will be mailed out for mail orders only, Internet orders will be confirmed by a PayPal receipt to be used for entry to the tour. Tickets may be purchased for $50 on the day of the tour at 3240 Jackson Street. (Advance ticket holders are given a different starting point.)

New Tenant for 'Newcomer'

The Chinese Education Center is the new occupant of the Pacific Heights School (aka Newcomer) at Jackson and Webster Street and PHRA is attempting to enlist a cadre of volunteers to help.

The CEC needs a home while its Chinatown campus is being retrofitted. The elementary school students are all recent arrivals in this country, studying English as a second language. They are also being taught American customs. Typically they enroll at CEC for only one year before being placed in a regular elementary school. Alice Piccus, who is spearheading PHRA's efforts for the school, said the school was top last year in the increase in test scores.

Part of the American customs curriculum will be a big Thanksgiving party for the kids and their parents and that's one of the efforts for which volunteers are sought. The kids, Piccus said, end up helping the parents with translation and so forth. The kids are eligible for the breakfast and lunch programs."

Other activities for volunteers:

- Reading on Read Aloud Day (Volunteers choose a grade appropriate book and read for 30 minutes in each classroom)
- Individual or small group tutorial on reading: helping English language learners, basic math; or chaperoning field trips
- Recess yard supervision-11:50 am to 12:50 pm daily (A staff member will always be there. It would be good to have another adult to help out in case a student gets hurt from the uneven yard surface.)

Potential volunteers may call the PHRA hotline, 922-3572, or email info@phra-sf.org.

Business Finds a Home

Continued from page 1

As one neighbor complained to PHRA, "My concerns are primarily around the number of cars parked there and the amount of traffic created as employees are coming and going during the day. They are constantly shuffling cars in and out and it's not appropriate for a residential neighborhood. It's the very reason we have commercial vs. residential zoning!"

Another neighbor said, "If we do not address issues of this nature, it will result in the deterioration of our community. In addition, the City of San Francisco should take issues of this nature very seriously, since it is taking San Francisco rental inventory off the market."

Thanks to the details provided by the Business Times, PHRA is now able to take action against what appears to be a strictly business operation where it doesn't belong.

Wanted: PHRA Directors

Are you concerned about the many pressures that affect our quality of life in Pacific Heights? Are you passionate about issues such as uncontrolled contractors totally disrupting some blocks for an extended period, or businesses operating illegally in homes? Are you bothered by lack of enforcement of city codes, including zoning?

If you said yes to any of the questions above, you may be a candidate for a seat on PHRA's Board of Directors.

Due to the huge amount of current neighborhood issues (CPMC, The housing element, building permits, Presidio, CAMP and many more) PHRA needs people who are willing to get involved and give back to their neighborhood.

If that prospect interests you, please contact us, telling us your primary interests and something about what experience you may bring to the Board.

You may send write to PHRA at 2585 Pacific Avenue, San Francisco 94115, or send an email to PHRA President Greg Scott at info@phra-sf.org.

Comment Period Extended On Presidio Expansion

The Presidio Trust has extended the comment period for its expansion plans until October 20, 2008, to give more people time to express their opinions on the proposed development at the Presidio's historic Main Post.

At issue are construction of a 100,000-square-foot contemporary art museum (CAMP), construction of a 125-room hotel, and expansion of the historic theater into a three-screen complex.

Before the close of the comment period there will be a second public meeting of the Presidio Board to hear all those who could not get into the first hearing on July 14. This meeting is scheduled Tuesday, October 14 at 6:30 p.m. in the Palace of Fine Arts Theater, 3301 Lyon Street.

It is the position of the neighborhood associations surrounding the Presidio that the design and scope of the new construction is totally inappropriate for the historic Main Post and will create traffic and parking problems that will extend out of the Presidio. CAMP in particular expects to draw thousands of people to the site daily.

Further, all the construction and activity will impinge upon the open space and all of the recreational potential of the Presidio.

Pacific Heights Residents Association
2585 Pacific Avenue
San Francisco, CA 94115

District-Wide Forum to Cover Many Issues; Supervisor Will Attend

2gether, the organization formed to deal with issues concerning all of District 2, will hold its Autumn General Meeting Oct 16 at 6:30 p.m. in Calvary Presbyterian Church at the corner of Fillmore and Jackson streets. Everybody is welcome.

District 2 Supervisor Michela Alioto-Pier has confirmed that she will attend and speak.

The Contemporary Art Museum in the Presidio (CAMP), the Fisher family project to house their art collection, was the number one concern at 2gether's June meeting and will be discussed again in October, along with the new hot topic, cutbacks in street sweeping.

Lynne Newhouse Segal, a PHRA director who founded 2gether along the lines of a similar operation in District 5, said she expected residential safety and traffic and parking issues will probably be heard.

Segal emphasized that the forum is for all individuals and merchants in District 2, as well as the area's neighborhood associations, such as PHRA. "There is no hierarchy of membership," she said. "The program is unstructured. It's a way for all of us to come together and to be with our supervisor, who will be listening as well as speaking.

Alioto-Pier earlier welcomed the formation of 2gether as a means of hearing what the constituents' interests and concerns are.

#3 Jackson Bus Still in Limbo

A decision on the fate of the #3 Jackson trolley was expected at a meeting of the Municipal Transportation Agency directors on September 30. Muni has planned to eliminate the route, but is taking one more look because of public protest.

The future of the #24 Divisadero line, however, is clearer. After proposing to extend the route down Scott Street to the Marina, the MTA has decided to keep the status quo. PHRA had asked that if the line was to go to the Marina, it should get their via the existing wires down Fillmore and Steiner streets. That would avoid turns at Jackson and Scott streets, site of the Town School.

Residents opposed to the elimination of the #3 Jackson bus may appeal to the Board of Supervisors.

BOARD of SUPERVISORS

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

April 14, 2011

Kathryn R. Devincenzi
Attorney at Law
22 Iris Avenue
San Francisco, CA 94118-2727

Subject: Appeal of Certification of Final Environmental Impact Report - 2004 and 2009 Housing Elements

Dear Ms. Devincenzi:

The Office of the Clerk of the Board is in receipt of your appeal filed on behalf of Pacific Heights Residents Association, Cow Hollow Association, Francisco Heights Civic Association, Greater West Portal Neighborhood Association, Jordan Park Improvement Association, Lakeshore Acres Improvement Club, Laurel Heights Improvement Association of San Francisco, Inc., Marina-Cow Hollow Neighbors & Merchants, Miraloma Park Improvement Club, Presidio Heights Association of Neighbors, St. Francis Homes Association, Sunset-Parkside Education and Action Committee, Inc., and Westwood Highlands Association on April 12, 2011, from the decision of the Planning Commission's March 24, 2011, Certification of a Final Environmental Impact Report identified as Planning Case No. 2007.1275E, through its Motion No. 18307, for the 2004 and 2009 Housing Elements. (NOTE: The Planning Commission's CEQA Findings are not appealable to the Board of Supervisors.)

A hearing date has been scheduled on **Tuesday, May 10, 2011, at 4:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, Legislative Chamber, Room 250, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Please provide 18 copies to the Clerk's Office **by**:

8 days prior to the hearing:	any documentation which you may want available to the Board members prior to the hearing;
11 days prior to the hearing:	names of interested parties to be notified of the hearing in label format.

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

Sincerely,

Angela Calvillo
Clerk of the Board

c:
Cheryl Adams, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Audrey Williams Pearson, Deputy City Attorney
Scott Sanchez, Zoning Administrator, Planning Department
Bill Wycko, Environmental Review Officer, Planning Department
AnMarie Rodgers, Planning Department
Tina Tam, Planning Department
Nannie Turrell, Planning Department
Linda Avery, Planning Department
Jessica Range, Planning Department
Project Sponsor, San Francisco Planning Department, Kearstin Dischinger, 1650 Mission Street, Suite 400, San Francisco, CA 94103

SAN FRANCISCO
PLANNING DEPARTMENT

Appeal of Planning Case No. 2007.1275E San Francisco 2004 and 2009 Housing Element

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

DATE:	May 2, 2011
TO:	Angela Calvillo, Clerk of the Board of Supervisors
FROM:	Bill Wycko, Environmental Review Officer- (415) 575-9048 Jessica Range, Planning Department- (415) 575-9018
RE:	BOS File No. 110452, Planning Department Case No. 2007.1275E –Appeal of the Environmental Impact Report "EIR" Certification for the San Francisco 2004 and 2009 Housing Element
PROJECT SPONSOR:	San Francisco Planning Commission
APPELLANT:	Kathryn R. Devincenzi, Attorney at Law On behalf of Pacific Heights Residents Association, Cow Hollow Association, Francisco Heights Civic Association, Greater West Portal Neighborhood Association, Jordan Park Improvement Association, Lakeshore Acres Improvement Club, Laurel Heights Improvement Association of San Francisco, Inc., Marina-Cow Hollow Neighbors & Merchants, Miraloma Park Improvement Club, Presidio Heights Association of Neighbors, St. Francis Homes Association, Sunset-Parkside Education and Action Committee, Inc., and Westwood Highlands Association
HEARING DATE:	May 10, 2011
ATTACHMENTS:	A – Draft Environmental Impact Report (submitted under separate cover on March 31, 2011 and April 18, 2011) B – Comments and Responses Document (submitted under separate cover on March 31, 2011 and April 18, 2011) C- Planning Commission Motion 18307 (EIR Certification) (submitted under separate cover on March 31, 2011 and April 18, 2011) D- Planning Commission Motion 18308 (CEQA Findings) (submitted under separate cover on March 31, 2011) E- Planning Commission Resolution 18309 (Resolution recommending the Board adopts an Amendment to the General Plan) (submitted under separate cover on March 31, 2011)

F- Letter from Appellant, Kathy R. Devincenzi (April 12, 2011)

G- Transcript of the Planning Commission EIR Certification Hearing

H- San Francisco Public Utilities Commission (SFPUC) Memorandum Regarding Water Supply Effects of Alameda Creek and San Mateo Creek Fishery Flows (August 10, 2010)

INTRODUCTION:

This memorandum and the attached documents are a response to the letter of appeal to the Board of Supervisors (the "Board") of the Planning Commission's (the "Commission") certification of an Environmental Impact Report pursuant to the California Environmental Quality Act ("CEQA Determination") for the 2004 and 2009 Housing Element (the "Project").

The Planning Department (the "Department"), pursuant to CEQA, the CEQA Guidelines, and Chapter 31 of the *San Francisco Administrative Code*, presented a final environmental impact report ("FEIR") for the 2004 and 2009 Housing Element to the Commission. The proposed project is the 2009 Housing Element. On March 24, 2011, the Commission certified the EIR, finding that the FEIR was adequate, accurate and fulfilled the City's requirements pursuant to CEQA, the CEQA Guidelines, and Chapter 31 of the *San Francisco Administrative Code*. The Commission also adopted CEQA Findings, including a Statement of Overriding Considerations, prior to approving the project.

The decision before the Board is whether to uphold the Commission's decision to certify the EIR and deny the appeal, or to overturn the Commission's decision to certify the EIR, and return the project to the Department for staff to conduct additional environmental review.

PROJECT DESCRIPTION:

San Francisco is a consolidated city and county (the City). The City is made up several distinct planning districts and plan areas (areas which have undergone, or are in the process of, a comprehensive community planning effort). Although San Francisco is densely developed, there remain developable vacant parcels for new housing construction, as well as underused parcels available for increased development, in various locations throughout the City.

The 2004 Housing Element and proposed 2009 Housing Element contains a description and analysis of the City's population and employment trends, existing housing characteristics, overall

housing need, and capacity for new housing based on land supply. The City is projected to experience continued population growth through 2025, for a total of 411,514 housing units, which equates to an overall household population increase of approximately 85,350 between 2009 and 2025. As of 2010, the City of San Francisco contained approximately 372,467 housing units, 353,843 households, 836,785 people, and 2.29 persons per household.

Housing Elements Analyzed in the EIR

The Housing Element is a policy document that consists of goals and policies to guide the City and private developers in providing housing for existing and future residents to meet projected housing demand, as required under Government Code section 65580 et seq. ("State housing element law"). State housing element law requires cities and counties to update their housing elements periodically, usually every five years, based on the regional housing needs allocation (RHNA) provided by the Association of Bay Area Governments (ABAG). The most recent update of the housing element occurred in 2004, when the City adopted the 2004 Housing Element, an update to the 1990 Residence Element. Subsequent to adoption of the 2004 Housing Element, the California Court of Appeal determined the environmental document prepared for the 2004 Housing Element inadequate, and directed the City to prepare an EIR for the 2004 Housing Element. The City must also comply with state housing element law and prepare a periodic update (usually every five years) of the Housing Element. The City has undergone a comprehensive planning process and prepared the next update of the housing element, the 2009 Housing Element. The 2004 and 2009 Housing Element EIR will satisfy the City's legal requirements for preparing an EIR on the 2004 Housing Element and also analyzes the environmental effects of the 2009 Housing Element.

Under state law, the California Department of Housing and Community Development (HCD) is required to allocate the region's share of the projected statewide housing need to Councils of Government based on the Department of Finance population projections and regional population forecasts. ABAG is the regional authority charged with preparing the RHNA for local jurisdictions in the San Francisco Bay Area. San Francisco's fair share of the RHNA for the current Housing Element period, January 2007 through June 2014, shows a need for 31,193 housing units, or 4,159 units per year.

In order for a Housing Element to be in compliance with state housing element law, a housing element must include an updated Data and Needs Analysis; therefore, each Housing Element analyzed in the EIR utilizes the most recent data on citywide housing found in the Draft 2009 Housing Element Part I Data and Needs Analysis. Further, in order to meet the project objectives

of having a housing element that substantially complies with state housing element law, the Housing Elements must meet the most recent regional housing needs assessment. Therefore, both the 2004 and 2009 Housing Elements utilize the updated 2007-2014 RHNA.

2004 Housing Element

The purpose of the revisions in the 2004 update of the City's Housing Element was to reorganize, clarify, and update the 1990 Residence Element in order to guide the City in addressing its housing production. The update was one component of a comprehensive planning effort called the Citywide Action Plan (CAP) that was undertaken by the Planning Department. As part of the CAP, the Housing Element was updated in a manner intended to articulate a common policy basis for more specific planning efforts, including the Better Neighborhoods Program; the Eastern Neighborhoods Community Plans for the Mission, Central Waterfront, East SoMa, and Showplace Square/Potrero Hill districts; and the Downtown Neighborhoods Community Plans for the C-3-O and Rincon Hill districts. The 2004 Housing Element update did not include any specific proposals for future development, but was rather a set of policies intended to guide the City's consideration of future development plans and proposals with regard to housing.

The objectives and policies in the 2004 Housing Element were revised in the following ways: (1) Part II was reorganized; (2) 52 policies and nine objectives also included in the 1990 Residence Element were at least partially re-worded; (3) five policies and three objectives found in the 1990 Residence Element were removed; (4) seven new policies were added; and (5) a series of Implementation Measures were added to serve as a tool for implementing the policies and objectives. In general, the policies contained in the 2004 Housing Element were intended to encourage increased residential density, especially in areas well served by transit, improve the livability of existing neighborhoods, protect the affordability of housing, streamline the housing production process, create mixed-income communities, provide more family housing, and manage homelessness. The 2004 Housing Element also identified areas for potential housing development throughout the City. The 2004 Housing Element objectives and policies are included in Appendix B-2 of the Draft EIR.

The 2004 Housing Element focused on the following themes: housing supply; housing retention; housing condition; housing affordability; housing choice; homelessness; housing density, design, and quality of life; and regional and state housing needs. Some objectives, policies, and implementation measures, such as those focused on housing affordability, would not result in physical environmental impacts. Other policies, such as those which could result in increased density, could result in physical environmental impacts to transit, transportation, and cultural

resources (depending on the site). Policies, such as those that encourage modification of physical controls, such as height and bulk, could impact neighborhood character and aesthetics. Those objectives, policies, and implementation measures that could result in significant physical environmental impacts are the subject of the 2004 and 2009 Housing Element EIR.

Proposed 2009 Housing Element

Part II of the proposed 2009 Housing Element sets forth the objectives, policies, and implementing strategies intended to address the City's housing needs based on the RHNA provided by ABAG in 2007. The objectives and policies are revised from the 1990 Residence Element in the following ways: (1) Part II is reorganized by grouping policies under different broad themes and objectives (see Table IV-8 on page IV-33 of the Draft EIR); (2) 18 policies and one objective found in the 1990 Residence Element are removed; (3) 16 policies and one objective not found in the 1990 Residence Element are added; and (4) a series of Implementation Measures are added to serve as a tool for implementing the policies and objectives of the proposed 2009 Housing Element. In general, the policies contained in the proposed 2009 Housing Element are intended to prioritize the creation of permanently affordable housing; recognize and preserve neighborhood character; integrate planning of housing, jobs, transportation and infrastructure; and maintain the City as a sustainable model of development. The 2009 Housing Element also identifies where development capacity exists under existing zoning (referred to as "soft sites") for future potential housing throughout the City. A complete list of the policies and objectives in the 2009 Housing Element are presented in Appendix B-3 of the Draft EIR.

The proposed 2009 Housing Element also includes a series of "Strategies for Further Review." These strategies are ideas which were raised over the course of development and outreach for the 2009 Housing Element. Most of the strategies require further examination, and potentially long-term study, before they can be directly implemented. In some instances, the strategies are more concrete and could potentially become implementation measures.

The 2009 Housing Element focuses on themes such as adequate housing sites; conservation and improvement of existing housing stock; equal housing opportunities; affordable housing; removing constraints to the construction and rehabilitation of housing; maintaining the character of neighborhoods; and balancing construction and infrastructure. Some objectives, policies, and implementation measures focused on such issues as affordable housing would not result in physical environmental impacts. Other policies, such as those related to balancing development with infrastructure, could result in physical environmental impacts. Those objectives, policies,

and implementation measures that could result in significant physical environmental impacts are the subject of the 2004 and 2009 Housing Element EIR.

PROCEDURAL BACKGROUND:

Notice of Preparation

In compliance with Section 15082 of the CEQA Guidelines, a Notice of Preparation (NOP) as prepared by the City and County of San Francisco and distributed to the State Clearinghouse, Office of Planning and Research, responsible agencies, and other interested parties on October 8, 2008.

Subsequent to the circulation of the NOP a draft of the proposed 2009 Housing Element was completed. The scope of the EIR was therefore revised to include the 2004 Housing Element and the 2009 Housing Element. Therefore, the Planning Department reissued and recirculated an NOP on September 2, 2009 that solicited comments regarding the content of the environmental analysis for the 2004 and 2009 Housing Elements.

Both NOPs for the Draft EIR were circulated for 30 days in accordance with CEQA Guidelines Section 15082(b). Eighteen responses to the first NOP were received and sixteen responses to the recirculated NOP were received.

Draft EIR

The San Francisco 2004 and 2009 Housing Element Draft EIR was published and distributed for public review and comment in accordance with CEQA on June 30, 2010. A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on June 30, 2010.

The public review period for the Draft EIR began on June 30, 2010 and ended August 31, 2010. On June 30, 2010, copies of the Draft EIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list for the Draft EIR, and to government agencies, the latter both directly and through the State Clearinghouse. During the public comment period, the document was reviewed by various State, regional, and local agencies, as well as by interested organizations and individuals. On August 5, 2010, the Commission held a duly advertised public hearing to receive public comments on the Draft EIR. Notices of availability of the Draft EIR and of the date and time of the public hearing were sent to interested individuals by Department staff on June 30, 2010.

Issues raised regarding the Draft EIR included the following main topics:

1. Population and Housing;
2. Land Use and Land Use Planning;
3. Transportation;
4. Aesthetics;
5. Air Quality;
6. Biological Resources;
7. Cultural Resources;
8. Geology and Soils;
9. Hazards and Hazardous Materials;
10. Hydrology and Water Quality;
11. Noise
12. Public Services and Utilities;
13. Recreation; and
14. Alternatives.

Comments and Responses

The Planning Department prepared a Comments and Responses document that includes responses to comments on environmental issues received at the public hearing and in writing during the 60-day public review period for the Draft EIR, prepared revisions to the text of the Draft EIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the Draft EIR.

The Comments and Responses document was published on March 9, 2011, distributed to the Commission and all parties who commented on the Draft EIR, and made available to others upon request at Department offices. The Department fully responded to all comments that had been received as of that date.

On March 24, 2011, the Commission held a hearing to consider certification of the EIR. At the hearing, the Commission found that the Final EIR reflected the independent judgment and analysis of the City and County of San Francisco. The Commission found that the FEIR was adequate, accurate and objective, and that the Comments and Responses document contained no

significant revisions to the Draft EIR. The Commission certified the completion of the FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31 of the *San Francisco Administrative Code.*

Project Impacts

The EIR concludes that both the 2004 and 2009 Housing Elements would result in significant and unavoidable environmental impact with respect to transportation and circulation (associated with transit service) and a significant impact with respect to noise (exposure of persons to, or generation of noise levels in excess of, standards established in the local general plan or noise ordinance, or applicable standards of their agencies). The Draft EIR includes Mitigation Measure M-NO-1, which applies to areas of the City that exceed traffic-generated noise levels of 75 Ldn (an average noise level over 24 hours). With implementation of M-NO-1, the EIR concluded that the significant noise impact was reduced to less than significant. Other impacts were found to be less than significant or to have no impact, including those related to land use and land use planning, aesthetics, population and housing, cultural and paleontological resources, air quality, greenhouse gas emissions, wind and shadows, recreation, utilities and service systems, public services, biological resources, geology and soils, hydrology and water quality, hazards and hazardous materials, mineral and energy resources, and agricultural and forest resources.

CEQA Findings and Statement of Overriding Considerations

As described in *CEQA Guidelines* Section 15093, if a proposed project has significant effects that are identified in the FEIR, but which are not avoided or reduced to a less-than-significant level, the City must indicate that any such unavoidable significant effects are acceptable due to overriding financial, technological, social, or other policy considerations. This is known as a Statement of Overriding Considerations. In preparing such a statement, the City must balance the prescribed types of benefits of the proposed project against its unavoidable environmental risks. If the benefits of a project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable (*CEQA Guidelines* Section 15093).

Following certification of the EIR on March 24, 2011, the Commission considered and approved the CEQA Findings with a Statement of Overriding Considerations (transmitted under separate cover on March 31, 2011).

CEQA GUIDELINES

The FEIR has been prepared in accordance with CEQA, as established under the Public Resources Code 21000 et seq., the *CEQA Guidelines* (a part of the California Code of Regulations), and local CEQA procedures under Chapter 31 of the *San Francisco Administrative Code.* The

purpose of this EIR is to disclose any potential impacts on the physical environment resulting from implementation of the proposed project, and allow a time for public review and comment, before decision makers decide to approve or deny the project.

APPELLANTS' ISSUES AND PLANNING DEPARTMENT RESPONSES:

The Appellant's concerns in the appeal letter dated April 12, 2011 may be summarized in seven issues. Each concern will be listed and responded to in detail below.

In sum, the Appellant has not raised any substantial new issues, aside from the Appellant's issues related to new instream flow release requirements for downstream fish (addressed under Issue 2a-2d, below). For each point raised in the Appellant's appeal letter and attachments, the Board is directed to the particular pages in the Draft EIR and the Comments and Responses document where the issue was addressed. These documents, Attachments A and B respectively, were provided to the Board of Supervisors under separate cover on March 31, 2011 and again on April 18, 2011. The issues raised are presented in full below and are followed by the Department's responses.

ISSUES RAISED AND PLANNING DEPARTMENT RESPONSES:

This section of the appeal response contains the Department's discussion of the points raised in the appeal letter submitted on April 12, 2011.

Issue 1: Substantial changes were made to the 2009 Housing Element after the EIR was circulated. The Appellant asserts that substantial changes were made to the 2009 Housing Element after the EIR was circulated and that those changes could have additional impacts on transit service and neighborhood character not addressed in the EIR. Responses to these issues are addressed below under Response 1.A and 1.B, respectively. The Appellant also states that changes in policy language were designed to weaken the effect of neighborhood opposition, a response to this concern is included below in Response 1.C.

Issue 1.A: Increased severity of the impact on transit services. The explanatory text for Policy 1.10 in the February 2011 draft of the 2009 Housing Element ("Draft 3") defined "major transit lines" as areas near BART stations, MUNI Metro light rail lines, and major arterial bus lines, whereas the previous draft ("Draft 2") did not include any bus lines in this definition. Major transit lines are areas where Policy 1.10 supports new housing development. The Appellant

states that the addition of bus routes to the definition of "major transit lines" from Draft 2 to Draft 3 would increase the Housing Element's transit impact beyond that evaluated in the EIR.

Response 1.A: The addition of major bus lines to the definition of "major transit lines" in Policy 1.10 does not increase the severity of the Housing Element's impacts to transit.

Although the explanatory text of the referenced policy changed over time, the draft versions of the 2009 Housing Element all included major bus lines in the overall network of transit service locations, as evidenced by these bus lines having been included consistently via text and/or map references in all three drafts. There was no expansion of the areas in which greater development density would be supported over the course of the Housing Element process.

As more fully explained below, the modifications to the Housing Element as approved by the Planning Commission would not resulted in an increased impact beyond that analyzed in the EIR for the following reasons: 1) the transit service analysis in the Transportation Impact Study (TIS) assumed that transit service areas included both bus lines and rail infrastructure; 2) the EIR recognized that the Housing Elements could make a considerable contribution to a cumulative impact but did not quantify that contribution; and 3) the EIR also analyzed a "2009 Housing Element – Intensified" alternative that called for greater emphasis on housing development along the Transit Effectiveness Project (TEP) Rapid Network, thereby analyzing a range of alternatives that incorporates the changes to Draft 3.

First, the TIS concluded that the 2004 and 2009 Housing Elements could result in a significant unavoidable impact on transit services. Under cumulative conditions, development of housing currently in the development pipeline and projected development on capacity sites would bring transit services on the California Street corridor and the MUNI Metro streetcar lines close to the Municipal Transportation Agency's (MTA) capacity utilization level of 85%. Exceedance of the 85% capacity level is considered a significant impact. The TIS concluded that Housing Element policies which support new housing development along transit lines could have the potential to increase transit use in excess of this 85% level. To mitigate this potentially significant impact on transit service, the MTA could increase service levels; however, because the Planning Department cannot ensure that transit service would increase, the EIR could not conclude with certainty that the impact would be mitigated. Therefore, the EIR identified cumulative impacts to transit service as significant and unavoidable.

The 2009 Housing Element Draft 3 defines "major transit lines" as the Rapid Network in the MTA's proposed TEP. The transportation impact study (TIS) for the EIR analyzes transit

screenlines that consider all major transit routes within corridors extending from the downtown area (Southeast, Northeast, Southwest, and Northwest), including both bus and rail lines. The analysis does not differentiate between bus and rail lines as locations for future development. Therefore the impact analysis reflects Policy 1.10 as it was articulated in Draft 3.

Second, due to the nature of the Housing Elements, which are policy documents that do not directly enable housing development, it was not possible to identify the exact contribution of the project to the potential cumulative impact. The EIR conservatively concluded that the Housing Elements could contribute considerably to the identified transit impact, and identified this as a significant impact for which a statement of overriding considerations was adopted, but did not quantify this contribution. Because this impact as characterized in the EIR included transit corridors served by both bus and rail, the changes to Draft 2 of the Housing Element would not increase the severity of the impact beyond its qualitative characterization in the EIR.

Finally, the EIR's transit impact analysis adequately discusses impacts along major transit lines as defined in Draft 3, due to the inclusion of a higher intensity alternative in the EIR. Alternative C, the "Housing Element – Intensified" alternative would actively emphasize residential development specifically along the TEP Rapid Network, and included Housing Element policies requiring use of full allowable zoning building envelope, and height and density bonuses along the TEP Rapid Transit Network. Due to the additional policies requiring increased development along TEP Rapid Transit Network streets in Alternative C, this alternative would be expected to result in greater residential development along the TEP Rapid Network than would occur under the 2009 Housing Element Draft 3 which supports, but does not require, increased development on these streets to the extent they are consistent with current zoning and design guidelines. The TIS concluded that Alternative C would result in a significant impact on transit services. The 2009 Housing Element Draft 3 falls within the range of alternatives analyzed in the TIS and the EIR, and the transit impact is adequately characterized in the EIR.

In addition to contending that the EIR understates the project's impact on transit services, the Appellant also contends that the changes to the draft 2009 Housing Element were not necessary to accommodate the RHNA. This discussion addresses the merits of the project as proposed and is not relevant to the Board's decision regarding the adequacy of the EIR.

Issue 1.B: Increased Effect on Neighborhood Character. The Appellant expressed concern about the change in the text of Policy 1.6 between the 2009 Housing Element Draft 2 and Draft 3, and indicated that the change from the statement: "[i]n some areas, such as RH-1 and RH-2, density limits should be maintained to protect neighborhood character" to "[i]n some areas, such

as RH-1 and RH-2, existing height and bulk patterns should be maintained to protect neighborhood character" would result in a significant impact not identified in the EIR. The Appellant argues that this change in text would cause an increase in second units, which could "substantially degrade the quality of RH-1 and RH-2 Districts and their surroundings."

Response 1.B: The change in policy language would not result in a new significant impact. Because the 2009 Housing Element does not propose any rezoning, or propose other changes to existing density limits in RH-1 and RH-2 areas, any changes in density in these areas that could be attributed to the changes in the Housing Element would be limited to the creation of second units on an incremental basis in RH-2 areas. As per 2009 Housing Element policy 1.6 (Draft 3), changes in density controls in any zoning district would only be made through a community based planning process, which would include both a community planning component and a specific Planning Code or zoning map amendment that would require environmental evaluation under CEQA. The incremental development of second units in areas zoned for two units per parcel would not be expected to result in a significant impact or a substantial change in neighborhood character, nor would the change in language in Policy 1.6 be considered a material change in Housing Element policy. As noted in the Draft EIR on Page V.B-55, the 1990 Residence Element Policy 1.5 allowed secondary units in areas where their effects can be dealt with and encouraged where the units could be accommodated within the existing building or within the permitted building envelope. Therefore, the change in the language of the 2009 Housing Element Policy 1.6 does not represent a change in housing element policy.

Any additional residents resulting from the incremental increase in second units would be within the range of normal population fluctuations that occur over time in a neighborhood, and the population density of RH-2 neighborhoods minimizes the potential for small changes in residential population to be noticeable in the neighborhood context. Such development constitutes a class of projects that has been determined not to have a significant impact on the environment, and therefore would be categorically exempt under CEQA,

While density changes from additional secondary units would be minimal in the context of a block or neighborhood, an increase in the height or bulk to residential buildings could have the potential to have a noticeable effect to the immediate surroundings. For example, increases in height or bulk of residential buildings could be significant impacts under CEQA when the increases would materially impair historical resources. However, policies supporting the maintenance of prevailing height and bulk would help reduce the potential for such impacts to occur. Policy 1.6 as stated in Draft 2 would not have a significant impact on the environment and the impact of the 2009 Housing Element on neighborhood character would remain less than

significant under the Draft 3 revisions. Moreover, the policy might provide greater protection to neighborhood character as stated in Draft 3 by explicitly supporting retention of prevailing height and bulk.

The Appellant has provided no demonstrable evidence to support the contention that Policy 1.6 as revised would result in a significant impact not analyzed in the EIR. The EIR analysis of Policy 1.6 is adequate and applicable to the policy as revised.

Issue 1.C: Policy language changes were intended to weaken zoning change opposition. The Appellant contends that the 2009 Housing Element Draft 3 modified the language of some policies (e.g. 1.2 and 1.4) in a manner that de-emphasized the concept of "neighborhood support," and now refers to the use of "community-based" planning processes. The Appellant contends that such changes would allow for zoning changes that are not in keeping with neighborhood interests.

Response 1.C: The changes in policy language would not affect the conclusions of the EIR. The appeal letter does not explain how the changes in policy language would result in any impacts beyond those analyzed in the EIR. The EIR indicated that the Housing Elements would not result in any zoning changes, and that future area plans or other projects involving rezoning would be subject to further planning efforts, including community outreach, public hearings, and approval from the Planning Commission, Board of Supervisors and Mayor. Therefore, no rezoning would occur as a direct result of the Housing Elements and there would be no significant impacts resulting from rezoning. The conclusion in the EIR that the Housing Elements would not have a significant impact on neighborhood character, visual character, aesthetics, scenic resources or parking were not based on any assumptions regarding "neighborhood support" or "community-based support" for any future planning efforts. The Appellant's issue addresses the merits of the language in the 2009 Housing Element as modified in Draft 3, and does not raise any topics relevant to the adequacy of the EIR.

Issue 2: The San Francisco Public Utilities Commission (SFPUC) has a newly projected 7.4 million gallons per day (mgd) shortfall in water supply that presents new information that could change the conclusions in the Final EIR. The Appellant states that the City has a newly projected water supply shortfall and that these findings would affect the conclusions reached in the EIR. This issue is discussed below in Responses 2.A and 2.B, respectively. The Appellant also states that the SFPUC Memorandum dated March 14, 2011 does not identify alternative water supply sources that would likely become available to supply the projected shortfall. A response to this concern is included below in Response 2.C. The appellant also states that there are

alternatives not analyzed in the EIR that could reduce the significant impacts to water supply. This concern is addressed below in Response 2.D.

Issue 2.A: The SFPUC has a projected 7.4 mgd shortfall in water supply that presents new information that could change the conclusions in the Final EIR. The Appellant cites to a March 14, 2011 SFPUC memorandum regarding Maintaining Water Supply Levels of Service to assert that San Francisco's projected 7.4 mgd shortfall in water supply presents new information not addressed in the EIR's analysis of water supply and constitutes new significant effects not addressed in the EIR. This memorandum is included in the appeal letter as Attachment E.

Response 2.A: The projected water supply shortfall would not change the conclusions in the Final EIR. The Draft EIR for the 2004 and 2009 Housing Element was published on June 30, 2010 and the Comments and Responses was published on March 9, 2011, before the March 14, 2011 SFPUC memorandum regarding Maintaining Water Supply Levels of Service (hereafter referred to as SFPUC March 14, 2011 Memorandum). Although the SFPUC March 14, 2011 Memorandum was circulated after the publication of the Comments and Responses document, the SFPUC March 14, 2011 Memorandum was addressed during the Final EIR certification hearing. (See transcript of March 24, 2011 Planning Commission hearing, Attachment G.) The information contained in the SFPUC March 14, 2011 Memorandum does not present any new information that would change the conclusions in the EIR. The remainder of this response addresses the SFPUC March 14, 2011 Memorandum and the conclusions reached in the EIR.

The discussion of water supply in the EIR is based upon the SFPUC's *Final Water Supply Availability Study for City and County of San Francisco, October 2009,* (WSAS). The WSAS was prepared in 2009 to provide an updated evaluation of the SFPUC's water supply, taking into account proposed major projects and ABAG's growth projections, in light of the Water System Improvement Program (WSIP). The WSAS growth projections are consistent with the growth projections identified in the Housing Element EIR. The WSAS concludes that in years with average or above average precipitation, the SFPUC has sufficient supplies to serve 100 percent of normal, single dry and multiple dry year events up to year 2030.

Subsequent to the WSAS, staff from the SFPUC presented to the SFPUC Commission the SFPUC March 14, 2011 Memorandum regarding available water supply. This memorandum was prepared in response to concerns regarding the effects of instream flow releases on available water supply as required for the Lower Crystal Springs Dam Improvement Project and the Calaveras Dam Replacement Project. As discussed in this memorandum, the SFPUC will incur slight decreases (7.4 mgd in total) in available water supply associated with increased water

releases to improve conditions for downstream fish.[1] Increased water releases would only be required at the completion of the Lower Crystal Springs Dam Improvement Project in 2013 and the completion of the Calaveras Dam Replacement Project in 2015.[2]

The SFPUC fully evaluated the effects of the instream flow releases in a previous memorandum dated August 10, 2010 (hereafter referred to as SFPUC August 10, 2010 Memorandum), and in the Final EIRs for the Calaveras Dam Replacement Project and Lower Crystal Springs Improvement Project.

The conclusions in the 2004 and 2009 Housing Element Final EIR would not substantially change based on the SFPUC March 14, 2011 and August 10, 2010 Memorandums or the analysis of water supply contained in the Calaveras Dam Replacement and Lower Crystal Springs Dam Improvement Project Final EIRs. As discussed above, the SPFUC will incur slight decreases (7.4 mgd in total) in available water supply associated with increased water releases to improve conditions for downstream fish.[3] This decrease in available water supply was already addressed in the Final EIRs for the Calaveras Dam Replacement and Lower Crystal Springs Dam Improvement Projects. To support the conclusions in those Final EIRs, the SFPUC prepared the SFPUC August 10, 2010 Memorandum. The SFPUC August 10, 2010 Memorandum addresses the increase in instream flow release requirements agreed to as part of Section 7 Endangered Species Act consultation for the Calaveras Dam Replacement and Lower Crystal Springs Dam Improvement projects, and provides an analysis as to how these flow release requirements affect available water supply. Furthermore, the general types of effects associated with these actions were also assessed in the WSIP Program EIR (PEIR) for greater water supply shortfalls than those identified for the fishery flow releases, as discussed below. Therefore, any further action on part of the SFPUC to address the potential water supply shortfall has already received environmental review.

The following is a summary of the impacts of instream flow increases, as analyzed in the Calaveras Dam Replacement Project Final EIR and the SFPUC August 10, 2010 Memorandum. These documents identify three approaches for addressing the potential water shortfall: 1)

---

[1] San Francisco Public Utilities Commission (SFPUC). Memorandum Regarding Maintaining Water Supply Levels of Service. March 14, 2011. At pages 2-3. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E.

[2] Ibid. At page 3.

[3] Ibid. At pages 2-3.

reduction in water demand, 2) development of supplemental water supplies, and 3) additional water rationing in drought years. These three options are further discussed below.

Reduction in Water Demand

As discussed in the Calaveras Dam Replacement Project Comments and Responses document on page 9-45 and the SFPUC August 10, 2010 Memorandum on page 2, in developing the adopted WSIP, the SFPUC restricted deliveries from the watersheds to an annual average of 265 mgd through 2018.[4,5] Although the current projections for water deliveries from the watersheds through 2018 remain at 265 mgd, in the last few years, SFPUC deliveries have been below the projected levels. In 2010, total water deliveries approached approximately 227.1 mgd.[6] As discussed in Response to Comment L-18, on C&R page 221 of the Housing Element Comments and Responses document, water demand under current conditions is also lower than predicted demand. For example, water use in 2010 for the City was 81.8 mgd whereas the projected demand from the SFPUC water model in 2010 was 91.8 mgd, nearly 10 mgd lower than predicted demand. Current water use in the City, 81.8 mgd (as reported in 2010), is also less than the current supply of 84.5 mgd. If this trend continues, the SFPUC would not need an annual average of 265 mgd from its watersheds to meet purchase requests through 2018.[7] As a result, the need for supplemental water supplies or other actions (such as increased rationing) to offset the water supply loss of 3.5 mgd beginning in 2013 and increasing to 7.4 mgd in 2015 associated with the fishery flow releases could be unnecessary or less than anticipated.[8] If this lower-than-projected demand level persists, then the instream fishery flow releases to Alameda, Calaveras, and San Mateo Creeks would not affect the SFPUC's ability to meet the adopted WSIP water

---

[4] San Francisco Planning Department. Calaveras Dam Replacement Project, Environmental Impact Report Comments and Responses. January 5, 2011. Volume 4. At page 9-45. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2005.0610E.

[5] SFPUC. Memorandum Regarding Water Supply Effects of Alameda Creek and San Mateo Creek Fishery Flows. August 10, 2010. At page 2. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E.

[6] Ibid. At page 7.

[7] Ibid. At page 7.

[8] Ibid. At page 7.

supply objectives through 2018.[9]

Supplemental Water Supplies

If purchase requests begin to approach 265 mgd from the watersheds by 2018, then the SFPUC would be able to manage the water supply loss associated with the fishery flow releases between 2013 and 2018 by implementing additional conservation, recycling, and/or groundwater conjunctive-use programs before 2018. Such actions were analyzed in the WSIP PEIR, Section 9.2.4 – Aggressive Conservation/Water Recycling and Local Groundwater Alternative (WSIP PEIR, Vol. 4, Chapter 9, pages 9-47 to 9-59).[10] Additionally, SFPUC's wholesale customers could choose to undertake actions identified in the WSIP PEIR, including more aggressive water recycling, conservation, local groundwater, or desalination projects or water transfers.

To address the potential water shortfall, the SFPUC March 14, 2011 Memorandum outlines the various projects that SFPUC staff is actively pursuing to resolve the potential shortfall, including water recycling, desalination, and water transfer projects. SFPUC staff committed to providing its Commission with an update on these water supply projects at the end of August 2011.

Additional Water Rationing in Drought Years

As discussed in the SFPUC March 14, 2011 Memorandum, to overcome the potential water supply deficit during drought events, the SFPUC has in place a Retail Water Shortage Allocation Plan (RWSAP), which allows the SFPUC to reduce water deliveries to customers during periods of water shortage to achieve a positive balance of supply and demand.[11] The SFPUC Level of Service goals allow the SFPUC to impose 20 percent system-wide water rationing during periods of extended drought.[12] Under the adopted WSIP, the SFPUC will update demand projections for its wholesale and retail customers and reevaluate customer water delivery needs in the years

---

[9] San Francisco Planning Department. Calaveras Dam Replacement Project, Environmental Impact Report Comments and Responses. January 5, 2011. Volume 4. At page 9-45. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2005.0610E.

[10] Ibid. At page 9-46.

[11] SFPUC. Memorandum Regarding Maintaining Water Supply Levels of Service. March 14, 2011. At page 2. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E.

[12] Ibid. At page 2.

approaching 2018.[13]

If water deliveries reach 265 mgd between 2013 and 2018 and the SFPUC did not develop a supplemental water supply in dry years to offset the effects of the proposed fishery flow releases on water supply, the SFPUC could increase water rationing during dry years. Under this scenario, rationing during the design drought would increase by approximately 1 percent in rationing years due to the instream fishery flow releases.[14] The environmental impacts of increased water rationing above the 20 percent level of service goal identified by the SFPUC has already received environmental review, as discussed below. In sum, the Calaveras Dam Replacement Project Final EIR, which addressed the potential for a 7.4 mgd water supply shortfall during model-projected drought years, found that the instream flow release requirements discussed in the SFPUC March 14, 2011 Memorandum would not result in new significant impacts, increase the severity of an impact or require new mitigation measures.[15] At most, should water demand reach 265 mgd during periods of prolonged drought conditions, the SFPUC would increase water rationing by one percent. The Calaveras Dam Replacement Project Final EIR did not find any significant environmental effects from a potential increase in water rationing.[16]

In the WSIP PEIR, the alternatives analysis included the No Project Alternative as well as an Aggressive Conservation/Water Recycling and Local Groundwater Alternative. These alternatives assumed that in order to meet customer demand by 2030, rationing during dry years could be increased up to 25 percent system-wide, and the effects of the increased level of rationing is discussed in the PEIR (WSIP PEIR, Vol. 4, Chapter 9, pages 9-28 to 9-31 and 9-47 to 9-59). Thus, the WSIP PEIR addressed the effects of increased rationing beyond the 21 percent level

---

[13] San Francisco Public Utility Commission (SFPUC). Memorandum Regarding Water Supply Effects of Alameda Creek and San Mateo Creek Fishery Flows. August 10, 2010. At page 2. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E.

[14] SFPUC. Memorandum Regarding Water Supply Effects of Alameda Creek and San Mateo Creek Fishery Flows. August 10, 2010. At page 8. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E.

[15] San Francisco Planning Department. Calaveras Dam Replacement Project, Final Environmental Impact Report. January 27, 2011. Volume 3. At page 9-41. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2005.0610E.

[16] Ibid. At page 9-41.

that could occur with implementation of the instream fishery flow releases; thus increased water rationing above the 20 percent level of service goal has already received adequate environmental review. [17]

In summary, the SFPUC is projecting a 3.5 mgd water shortfall beginning in 2013 increasing to 7.4 mgd in 2015, however current decreased levels of demand keep this shortfall from becoming an immediate problem.[18] If a reduction in water demand persists, then the instream fishery flow releases to Alameda, Calaveras, and San Mateo Creeks would not affect the SFPUC's ability to meet the adopted WSIP water supply objectives through 2018.[19] As discussed in the SFPUC March 14, 2011 Memorandum, SFPUC staff is actively pursuing a number of projects to resolve the potential water supply shortfall, including water recycling, desalination, and water transfer projects. If the SFPUC experiences a drought between 2013 and 2018 in which rationing would need to be imposed, rationing would increase by approximately one percent in years with water shortage.[20] The effects of additional water rationing beyond the 21 percent level that could occur with implementation of the instream fishery flow releases were already addressed in the WSIP PEIR.[21]

The EIR for the 2004 and 2009 Housing Element addresses the environmental impacts of proposed changes in housing policies, including whether the policies would result in an

---

[17] San Francisco Planning Department. Calaveras Dam Replacement Project, Environmental Impact Report Comments and Responses. January 5, 2011. Volume 4. At page 9-47. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2005.0610E.

[18] SFPUC. Memorandum Regarding Maintaining Water Supply Levels of Service. March 14, 2011. At page 1. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E..

[19] San Francisco Planning Department. Calaveras Dam Replacement Project, Environmental Impact Report Comments and Responses. January 5, 2011. Volume 4. At page 9-45. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2005.0610E.

[20] SFPUC. Memorandum Regarding Water Supply Effects of Alameda Creek and San Mateo Creek Fishery Flows. August 10, 2010. At page 8. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E.

[21] San Francisco Planning Department. Calaveras Dam Replacement Project, Environmental Impact Report Comments and Responses. January 5, 2011. Volume 4. At page 9-47. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2005.0610E.

insufficient water supply to serve the project from existing entitlements and resources, or require new or expanded water supply resources or entitlements. The EIR found that none of the proposed changes in housing policy would be likely to result in an increase in water use beyond that assumed in the 2009 WSAS. The EIR concluded that the Housing Elements would not affect the overall quantity of projected residential growth – one of the assumptions in the WSAS - and that housing element policies would not be expected to increase water demand. At the same time, as discussed in the Draft EIR on page V.L-44, the EIR found that denser housing requires less water use than single-family homes. Moreover, all new development would be required to comply with City regulations, including the City's Green Building Ordinance, Article 21 of the San Francisco Public Works Code (use of recycled water for construction), and the Residential Water Conservation Ordinance, all of which promote water conservation. The Green Landscaping Ordinance and Stormwater Management Ordinance would further reduce potable water use in the City. The EIR concluded that overall, the changes in the Housing Element policies would not result in an increase in water demand beyond that assumed in the SFPUC's WSAS; therefore the EIR found impacts of the Housing Element policies with respect to water supply to be less than significant.

The proposed changes to the Housing Element policies would not result in an increase in water use beyond that already projected and analyzed in the WSIP PEIR, the WSAS, and the FEIRs for the Calaveras Dam Replacement and Lower Crystal Springs Improvement Projects. The SFPUC March 14, 2011 Memorandum does not present any new information that discloses a new significant impact from the Housing Elements, nor does the information change the conclusions in the EIR. As discussed above, the proposed changes to Housing Element policies would not be likely to result in an increase in water use, therefore impacts of the Housing Element policies on available water supply would remain less than significant. As such, the information contained in the EIR is accurate and complete and recirculation of the EIR is not required.

Issue 2.B: The projected 7.4 mgd water supply shortfall would result in insufficient water supply and would require new or expanded water entitlements or resources not addressed in the EIR. The Appellant asserts that in light of the findings of the March 14, 2011 SFPUC Memorandum, the Housing Element could have a significant impact on the environment because there would not be sufficient water supplies available to serve the project from existing entitlements and resources and the City would need new or expanded entitlements or resources, the construction of which could cause significant environmental effects.

Response 2.B: The newly projected water supply shortfall would not change the conclusions in the Final EIR. The EIR analyzes the physical environmental impacts of the changes in the 1990

Residence Element embedded in the 2004 and 2009 Housing Elements and a cumulative scenario that reflects both the development pipeline and the housing capacity analysis. Where the cumulative analysis considers a long term (2025) scenario, the EIR assesses the impacts of the project in light of the development projections for the City, which are based on ABAG Projections 2009. The EIR's conclusions regarding the potential for the Housing Elements to result in increased water demand that cannot be met by existing entitlements or resources are discussed above in the Response to Issue 2.A. Housing Element policies would not increase growth beyond that already assumed by regional growth projections, and the changed Housing Element policies would not be anticipated to require new or expanded water entitlements or resources.

As discussed in Response 2.A, above, the model-projected shortfall in available water supply as a result of instream flow increases is addressed in detail in the appropriate environmental review documents. Current water demands are below demand projected in the WSAS and below current water supply. If this trend continues, the increase in instream flows for fish habitat would have no effect on the SFPUC's ability to meet water demands. Furthermore, the SFPUC March 14, 2011 Memorandum outlines a number of potential projects for the SFPUC to pursue to meet projected shortfalls in water supply availability. If water deliveries reach 265 mgd between 2013 and 2018 and the SFPUC did not develop a supplemental water supply in dry years to offset the effects of the fishery flow releases on water supply, rationing would increase by approximately one percent in years with a water shortage. As demonstrated in the WSIP PEIR and the Calaveras Dam Replacement Project Final EIR, this minor increase in rationing would not have a significant impact on the environment. Because current conditions are showing that water demand is much lower than modeled demand, current demand is lower that current supply, the SFPUC is actively engaged in development of additional water supply sources as outlined in the SFPUC March 14, 2011 Memorandum, and that if future water demand increases and the SFPUC did not develop additional water supply sources, the SFPUC could increase water rationing by approximately one percent to account for the additional instream flow release requirements, it is reasonable to assume that the SFPUC will be able to ultimately meet its water supply goals and fulfill its contractual obligations. Thus, this potential shortfall does not pose any new issues related to the environmental analysis of the Housing Element EIR or implementation of the proposed Housing Element. The Housing Element would not contribute to any cumulative impact associated with the potential water shortfall.

Issue 2.C: Alternative water supply sources to address a projected water shortfall are not identified. The Appellant claims that the March 14, 2011 SFPUC Memorandum does not identify an alternative source of water that is likely to become available to supply the total projected

shortfall at the time all instream flow releases are implemented, and relies on potential new water treatment and other facilities that have not been approved or funded or are in early conceptual stages.

Response 2.C: The SFPUC March 14, 2011 Memorandum outlines a number of mechanisms to address the potential water supply shortfall. The SFPUC March 14, 2011 and August 10, 2010 Memorandums were prepared in response to concerns regarding the effects of instream flow releases on available water supply as required for the Lower Crystal Springs Dam Improvement and the Calaveras Dam Replacement Projects. As discussed in Response 2.A, it is correct in that the SFPUC is projecting a potential shortfall of available water supply to meet its water supply goals and contractual obligations only during periods of prolonged drought. The SFPUC August 10, 2010 Memorandum identifies three approaches for addressing the potential water shortfall: 1) reduction in water demand, 2) development of supplemental water supplies, and 3) additional water rationing in drought years.[22]

The SFPUC March 14, 2011 Memorandum identified numerous potential projects and options for meeting projected water shortfalls. Although many of these projects are in the preliminary planning phases, three recycled water projects are under construction or under environmental review.[23] Combined, these three projects could result in 2.31 mgd of additional water supply. As discussed in the SFPUC March 14, 2011 Memorandum, various activities are underway to resolve the potential shortfall.[24]

As discussed in Response 2.A, the SFPUC has reported that current decreased levels of demand keep the projected 7.4 mgd water supply shortfall from being an immediate problem.[25] Additionally, the SFPUC is engaged in a number of projects to increase water supply, as described in the SFPUC March 14, 2011 Memorandum. Furthermore, in the event that water deliveries reach 265 mgd between 2013 and 2018 and the SFPUC did not develop a supplemental water supply in dry years to offset the effects of the fishery flow releases on water supply,

---

[22] SFPUC. Memorandum Regarding Water Supply Effects of Alameda Creek and San Mateo Creek Fishery Flows. August 10, 2010. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E.

[23] SFPUC. Memorandum Regarding Maintaining Water Supply Levels of Service. March 14, 2011. At page 5. This document is presented as Exhibit E in the Appeal letter.

[24] Ibid. At page 9.

[25] Ibid. At page 1.

rationing could increase by approximately 1 percent during dry years, depending on the severity of the drought, to offset the reduction in water supply as a result of instream fishery flow releases.[26] Therefore, it is reasonable to assume that the SFPUC will be able to ultimately fulfill its water supply obligations.

As discussed in Response 2.A and 2.B., the SFPUC March 14, 2011 Memorandum would not change any of the conclusions reached in the EIR concerning the Housing Elements' potential to impact water supply. Furthermore, both the Final EIRs for the Calaveras Dam Replacement and Lower Crystal Springs Dam Improvement projects evaluated the affects of these instream flow release requirements on available water supply. In addition, the general types of effects associated with these actions were also assessed in the WSIP Program EIR (PEIR) for greater water supply shortfalls than those identified for the fishery flow releases. The Calaveras Dam Replacement Project Final EIR did not find the impacts of the instream flow release requirements to result in additional significant effects.[27] The SFPUC March 14, 2011 Memorandum does not present new information that discloses a new significant impact, nor does the information change the conclusions in the EIR and as discussed in Response 2.A, the proposed changes to Housing Element policies would not result in an increase in water use, or a shortfall in available water supply; therefore impacts of the Housing Element policies on available water supply would remain less than significant.

Issue 2.D: Alternatives not addressed in the EIR could reduce the effects of the Housing Element on water supply. The Appellant asserts that an alternative that meets, but does not exceed, the 1999-2006 RHNA and an alternative that meets the 2007-2014 RHNA could reduce the significant effects of the Housing Element on water supply.

Response 2.D: The projected water supply shortfall discussed in Responses 2.A-2.C would not change the conclusions in the Final EIR and CEQA does not require alternatives for less than significant effects. The RHNA-focused alternative suggested by the Appellant is discussed in detail in the response to Issue 3. The policies in the Housing Element are designed to meet the

---

[26] SFPUC, Memorandum Regarding Water Supply Effects of Alameda Creek and San Mateo Creek Fishery Flows. August 10, 2010. At page 8. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.12752E

[27] San Francisco Planning Department. Calaveras Dam Replacement Project, Final Environmental Impact Report. January 27, 2011. Volume 3. At page 9-41. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2005.0610E.

RHNA allocation at all income levels. State housing element law requires local jurisdictions to show, through their housing element, that they have adequate capacity to accommodate the RHNA. As discussed in the Comments and Responses document, Response to 5-33 and 5-34, on C&R-64, the RHNA is prepared by ABAG and is based on many factors, such as water and sewer capacity, available suitable land, distribution of household growth and market demand for housing, housing costs and employment.[28] (ABAG's adoption of the RHNA is exempt from CEQA under CEQA Guidelines Section 15283.) The purpose of the Housing Element is to identify and analyze the City's existing and projected housing needs by income category, as identified by the RHNA, through available capacity and housing policies. This analysis, contained in Part I of the 2009 Housing Element, was used to conclude that the 2009 Housing Element did not require rezoning to meet the 2007-2014 RHNA targets (2004 and 2009 Housing Element Draft EIR, page V.D-8).

The Housing Element EIR analyzes long term growth projections to understand the potential impacts of the Housing Element. The Housing Element itself does not provide for projected growth; its goal is to maximize the City's ability to meet the 2007-2014 RHNA. The Appellant mischaracterizes the intent of the changes in the Housing Element by stating that they would accommodate the amount of growth projected to occur by 2025, and therefore is mistaken in suggesting that an alternative structured to ensure development of either 31,193 units (the 2007-2014 RHNA) or 20,372 units (the 1999-2006 RHNA) would reduce future water use. Projected growth – for which there is available water supply – is not due to the changes in the Housing Element. As discussed in the Comments and Responses document on page C&R-88, long-term growth projections are based on ABAG's 2009 population projections. ABAG produces long-term forecasts for population, housing, and employment for the Bay Area to assist local governments. The City has found that ABAG projections have been generally consistent with actual growth. The EIR analysis acknowledges projected increases in housing and population in San Francisco from current levels, but finds no basis for attributing quantitative impacts from these increases to the policies and objectives in the Housing Elements.

As discussed in Responses 2.A through 2.C, the conclusions in the Housing Element EIR would not change as a result of the March 14, 2011 SFPUC Memorandum and neither the 2004 or 2009 Housing Elements would result in significant impacts with respect to water supply. According to CEQA Guidelines Section 15126.6(b), "...the discussion of alternatives shall focus on alternatives

---

[28] Original citation: Association of Bay Area Governments, San Francisco Bay Area Housing Needs Plan 2007-2014, pages 21-23. June 2008. Website: http://www.abag.ca.gov/planning/pdfs/SFHousingNeedsPlan.pdf. Accessed February 14, 2011.

to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project." Therefore, an alternative to the Housing Element that identifies additional water reduction policies, beyond the policies in the 2004 and 2009 Housing Element is not required by CEQA.

Issue 3: The EIR failed to analyze a reasonable range of alternatives that would reduce the significant effects identified in the EIR.

Issue 3.A: The Appellant claims that Alternative A and Alternative B are the same, and therefore the EIR analyzes only two alternatives, a No-Project Alternative and Alternative C- an intensified version of the 2009 Housing Element. The Appellant claims that Alternatives A and B should be considered the "No Project" alternative since both are currently operative.

Response 3.A: The Housing Element Comments and Responses document, on page C&R-244 fully addresses the Appellant's concerns regarding the distinction between Alternatives A and B as a "No Project Alternative." The Project Description, in Section IV of the Draft EIR, clearly establishes that the projects to be evaluated are the substantive changes embedded in the 2004 Housing Element and the 2009 Housing Element, as compared to the policies in the 1990 Residence Element. Thus, the basis for determining if a 2004 or 2009 Housing Element policy or objective is new or modified is the 1990 Residence Element. The 1990 Residence Element is the proper baseline for this analysis and, in combination with the revised Data and Needs Analysis as required under State law, is the appropriate No Project alternative. No environmental review has been conducted or Department approval has ever adopted a combination of the 1990 Housing Element policies and the 2004 Housing Element adjudicated policies and there is no basis for any such combination to be analyzed as a No Project Alternative.

It is acknowledged that, in an abundance of caution when evaluating proposed area plans for consistency with the General Plan, the Department referenced policies from the 2004 Housing Element, in addition to those from the 1990 Residence Element during the limited time that the 2004 Housing Element was making its way through the judicial process. The City has relied on the 2004 Housing Element without the disputed policies subsequent to the Court of Appeal's issuance of the writ of mandate ordered in April 6, 2009 and amended on June 1, 2009.

Table VII-1 (Alternatives) of the Draft EIR illustrates in redline/strikeout how the policies among the three alternatives evaluated in the Draft EIR differ. Continuation of the 1990 Residence Element (No Project/Alternative A) and the 2004 Housing Element – Adjudicated (Alternative B) are distinct alternatives. The 2004 Housing Element – Adjudicated includes the entire 2004

Housing Element except for the objectives and policies enjoined by the Court. These remaining objectives and policies include those which do not have the potential to impact the environment, such as the policies related to affordability or social mechanisms to address housing affordability and distribution. In addition, upon further analysis of the 2004 Housing Element, the EIR determined that policies in the 2004 Housing Element – which remained part of the 2004 Housing Element Adjudicated because they were not enjoined by the Court – could have a lesser impact on historic resources than the objectives and policies in the 1990 Residence Element. Thus, the 2004 Housing Element Adjudicated and the 1990 Residence Element differed as to the potential impacts on historic resources. This is fully discussed on pages VII-20 through VII-21 (Alternatives) of the Draft EIR.

The Department maintains that the EIR contains a legally adequate, reasonable range of alternatives, including a distinct No Project alternative (Alternative A), and a reduced project alternative (Alternative B), consistent with CEQA requirements. In addition, because the EIR analyzed both the 2004 Housing Element and the 2009 Housing Element, each Element could be used as an "alternative" to the other.

Issue 3.B: The EIR should include a RHNA focused Alternative. The Appellant asserts that the EIR should include a reduced growth alternative that is focused on meeting the RHNA, since the City has not met the RHNA for the 1999-2006 allocation period, particularly for moderate income housing.

Response 3.B: A RHNA-focused alternative is not required under CEQA. The Housing Element Comments and Responses document on pages C&R 246-257 fully addresses the Appellant's concerns regarding a reduced growth alternative and an alternative that meets the RHNA at all income levels.

As noted in Response 3.A, the 2004 and 2009 Housing Element EIRs analyzed a reasonable range of alternatives. An alternative that focuses on achievement of the RHNA's income goals would not be required under CEQA, as the affordability of housing is a socioeconomic issue that does not have different environmental impacts to a demonstrable degree. Consistent with state law, the Housing Element establishes that there is adequate capacity within San Francisco to accommodate enough housing to achieve the RHNA, and contains policies and programs intended to encourage the development of housing affordable to each designated income. The EIR recognizes that both the City's capacity for new residential development and the residential development pipeline exceed the 31,193 units called for in the 2007-1014 RHNA, but the Housing Element itself does not directly enable development of any new units.

An alternative in the EIR intended to ensure the development of the full complement of units called for under the RHNA would not meet CEQA requirements for alternatives analysis, as it would not be expected to reduce the significant impacts identified in the EIR (noise and transit) and would address socioeconomic issues that are not significant under CEQA.

As discussed in the responses referenced above, the policies in the Housing Elements are intended to do what the commenter suggests: maximize the City's ability to support housing production that meets the RHNA targets at all income levels. Although the City has not achieved production of the full allotment of its RHNA allocation in the past, especially for moderate and lower income levels, it would be speculative to presume that the 2004 or 2009 Housing Elements would or would not achieve its stated purpose and that such a pattern would or would not continue in the future under the proposed Housing Element policies. Because under State law an adequate Housing Element must demonstrate that the City has the capacity to meet the RHNA, all alternatives in the EIR consider the ability to meet the current, 2007-2014 RHNA. Without the expectation that the RHNA must be met, the City would not have an adequate Housing Element. Thus, the proposed Housing Elements are focused on meeting the 2007-2014 RHNA. As discussed previously, the affordability of housing is a socioeconomic issue that does not differentiate potential environmental impacts to a demonstrable degree. As noted in response 2.D, any alternative for "reduced growth" could restrict the City's ability to meet the RHNA and was not included as it would not meet the primary objective of a Housing Element that meets HCD requirements.

Table IV-8 (Project Description) of the Draft EIR identifies the policies in the 2004 and 2009 Housing Elements that would have the potential to result in physical environmental impacts, which are appropriately the focus of the EIR analysis. Because those policies and programs in the 2004 and 2009 Housing Elements that specifically focus on mechanisms to improve the affordability of existing and future housing would not have physical environmental impacts, it would not provide useful information to the public or decision-makers to analyze alternatives to these policies in the context of the Draft EIR. Any such alternative policies could be considered within the context of project approval, but would have no different impacts on the environment, and would not change the conclusions in the EIR. Table VII-1(Project Description) in the Draft EIR addresses this point and identifies those policies across the alternatives that could result in physical environmental impacts.

As the Housing Elements, the Draft EIR, and the Appellant recognize, the total number of units identified in the RHNA can be accommodated under the existing zoning capacity and/or through development currently in the City's pipeline, and accordingly, neither Housing Element contains

policies which specifically recommends any citywide increases in allowable residential density. However, the 2004 and 2009 Housing Elements do discuss increasing density in certain, broadly identified areas or in the context of a community planning process. As discussed in detail in Response to Comment 7-4 on page C&R-86, these policies encourage the development of affordable housing.

The Appellant has not provided any substantial evidence to support the claim that a reduced growth alternative focused on meeting 2007-2014 RHNA allocation would reduce the significant transit and noise impacts that were identified in the EIR, would meet the Project Sponsors objectives, or would be feasible.

Issue 3.C: The EIR should analyze a No-Post May 2004 Rezoning Alternative. The Appellant states that the EIR should analyze a No Post May 2004 Rezoning Alternative and that such an alternative would reduce significant impacts that the EIR fails to acknowledge.

Response 3.C: A No-Post May 2004 Rezoning Alternative would not be feasible and is not required under CEQA. The Appellant suggests that the EIR should include an alternative that analyzes potential residential development without the rezoning that occurred under the Rincon Hill, Market Octavia, Eastern Neighborhoods, Visitacion Valley, or Balboa Park planning processes. The Comments and Responses document addresses this alternative in Response to T-13 on C&R-258-259. Figure IV-5 in Section IV (Project Description) of the Draft EIR shows the City's capacity for new residential development by planning district. Certain areas of the City would have reduced capacity for new residential development if the previous zoning designations were restored, including Rincon Hill, East South of Market (SoMa), the Mission, and Market-Octavia. The planning districts that could continue to accommodate substantial amounts of residential development include Bayview Hunters Point, South Central, Western Addition, Northeast, Downtown, and Richmond. It is reasonable to assume that, in the absence of the residential capacity established through recent rezoning, residential development would occur throughout those areas of the City with capacity to accommodate additional housing.

The Appellant has provided no substantial evidence to support the conclusion that a No Post-May 2004 Rezoning alternative would result in a reduction in significant environmental impacts identified in the EIR, or that there would be significant impacts from the 2004 Housing Element or 2009 Housing Element that were not analyzed in the EIR. The impacts of the area plans and rezoning that occurred between 2004 and the preparation of the EIR were analyzed in the environmental review documents prepared for each area plan, and these impacts are not attributable to the 2004 and/or 2009 Housing Elements. The impacts were recognized in the

cumulative analysis for the Housing Elements EIR, and the Housing Element's contribution to these cumulative impacts was recognized.

In addition, the Department concludes that a No Post May 2004 Rezoning Alternative would not be feasible, as the new zoning constitutes the regulatory baseline and the appropriate environmental setting for analysis of the 2004 and 2009 Housing Elements. Any change to these controls in the Rincon Hill, Market Octavia, Eastern Neighborhoods, Visitacion Valley, or Balboa Park areas would require additional community planning processes to rezone those areas back to previous planning controls. Therefore, for these legal and social reasons, a No Post-May 2004 Rezoning Alternative can reasonably be considered infeasible and not appropriate for inclusion as an alternative in the EIR.

Issue 3.D: The EIR should analyze a No Additional Rezoning Alternative. The Appellant asserts that the EIR should include an analysis of a No Additional Rezoning Alternative that allows for no further rezoning beyond adopted area plans and focuses development within two areas of the City: the Candlestick Point-Hunters Point Shipyard area and Treasure Island. The Appellant contends that such an alternative would reduce the significant impacts that the EIR fails to acknowledge.

Response 3.D: A No Additional Rezoning Alternative would not be feasible and is not required under CEQA. The Comments and Responses document on pages C&R-260 to C&R-261 fully address a No Additional Rezoning Alternative.

As discussed in Response to Comment T-14 on page C&R-260, it is unclear how such an alternative would substantially differ from the Housing Elements, which do not propose any changes to zoning or any development standards. Furthermore, an alternative that assumes no future rezoning would not have the potential to direct residential growth toward Treasure Island and Candlestick Point-Hunters Point, as the Appellant suggests, because the proposed residential development in both of these areas assumes and relies on substantial area-wide rezoning, which had not occurred at the time the Draft EIR was prepared (a redevelopment plan for Candlestick-Hunters Point Shipyard has since been adopted, accommodating approximately 10,750 housing units).

The capacity analysis included in the revised Part I of the Housing Elements and represented in Figure IV-5 (Project Description) of the Draft EIR is based on the existing zoning designations throughout the City. Major development proposals requiring rezoning would include Park Merced (6,001 housing units), Candlestick Point-Hunters Point Shipyard (approximately 10,750

housing units), and Treasure Island (8,000 housing units). These proposals were not included in the capacity analysis performed for the Housing Element planning effort because they did not reflect allowable residential development under current zoning. The development pipeline, including these large projects requiring rezoning, constitutes reasonably foreseeable future development and accordingly was analyzed in the EIR as a cumulative development scenario, not as part of the existing conditions.

The Appellant suggests that the No Additional Rezoning alternative should prohibit rezoning that would increase allowable density or change parking requirements in "established" residential areas. As the project did not propose any such rezoning, no significant impacts associated with such actions were identified and there would be no necessity under CEQA to consider such an alternative in the EIR. In addition, such a prohibition is beyond the scope of the Housing Element EIR and may not accomplish the project objectives. However, City decision-makers could consider such policies in their approval of the project.

As discussed in the Comments and Responses document, specifically Response to 8-4 and 8-5, 8-8, and T-6 on pages C&R-94, C&R-97, and C&R-245, respectively, the EIR did not identify significant impacts to visual resources, neighborhood character, aesthetics, views, air quality, water supply and wastewater treatment. The EIR did identify impacts to transit (significant and unavoidable) and noise (significant but mitigatable). The commenter has not provided any substantial evidence supporting the statement that impacts in areas other than transit and noise would be significant. There is no basis for the conclusion that a No Additional Rezoning Alternative would avoid a considerable contribution to the cumulative significant impact to transit service that was identified in the EIR. The potentially significant cumulative transit impact is projected to occur at the California Street corridor and MUNI Metro streetcar screenlines as a result of Housing Element policies that promote an increased use of the City's transit network, and is not attributable to any rezoning. Therefore, a No Additional Rezoning Alternative would not be expected to reduce the significant impacts to the City's transit network that were identified in the EIR.

Issue 4: The Commission unlawfully approved the project. The Appellant asserts that the Planning Commission unlawfully approved the project because there are feasible alternatives that would reduce adverse impacts, as presented in the appeal letter. These alternatives include:

1. A RHNA-Focused/Reduced Growth Alternative,

2. A No Post May 2004 Rezoning Alternative; and

3. A No Additional Rezoning Alternative.

Response 4: The Appellant has provided no evidence to support a conclusion that any of the alternatives presented herein would reduce the significant transit impact identified in the EIR. As discussed above in Responses 3.B, 3.C, and 3.D, these alternatives were determined to be either infeasible or would not reduce the significant and unavoidable transit impact identified in the EIR. The Department has determined that there are no feasible mitigation measures for, or alternatives to, the Housing Elements that would reduce the potentially significant cumulative transit impact to a less-than-significant level. This impact to transit is described in detail in the EIR, and although potential mitigation measures are discussed in the EIR that could reduce potential impacts to transit, the EIR concludes that due to funding and other uncertainties, such measures are infeasible and beyond the Planning Department's control to implement or require.

The contribution of the Housing Elements toward the potentially significant cumulative transit impacts is described in the Draft EIR on pages V.F-66 and V.F-74, for the 2004 and 2009 Housing Element, respectively. A significant impact could occur if transit ridership exceeds MUNI's capacity utilization standard of 85 percent. The degree to which Housing Element polices might increase transit ridership is not quantifiable. In other words, while it can be assumed that Housing Element policies supporting housing development near transit will result in some increased use of transit, the actual amount of such increase cannot be determined. Therefore, for the purpose of a conservative analysis, the EIR analysis assumed that Housing Element policies that could result in a mode shift towards transit would result in a considerable contribution to this cumulative impact.

As discussed in the EIR, the cumulative 2025 transit impact could be addressed through the implementation of mitigation measures aimed at increasing transit service and/or frequency. However, this mitigation is dependent on actions by MUNI that are not within the control of the Planning Department and cannot be assumed or guaranteed to occur, particularly in an environment of fiscal uncertainty and service reductions. Section 15126.4(a)(2) of the CEQA Guidelines specifies that mitigation measures must be fully enforceable. The Planning Commission adopted a statement of overriding considerations in accordance with CEQA Guidelines section 15093, which allow for approval of a project that would cause a significant effect on the environment if expected economic, legal, social, technological or other benefits, including region-wide or statewide environmental benefits, outweigh the unavoidable adverse significant impacts.

Issue 5: The EIR lacks an accurate, stable and finite project description because it fails to state the amount of increased capacity for new housing units that it seeks to encourage and claims that its policies would not foster population growth in the City.

Issue 5.A: The Project Description in the Draft EIR is inadequate. The Appellant states that the Project Description is inadequate because it identifies vague project objectives and does not disclose the amount of additional housing units that the 2009 or 2004 Housing Elements seek to encourage. The Appellant also asserts that environmental review of a General Plan amendment must "necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment. Only then can the ultimate effect of the amendment upon the physical environment be addressed" (*San Franciscans for Livable Neighborhoods v. City and County of San Francisco* 2007, at p.12). (This reference is included as Exhibit C in the Appellant's submittal.) The Appellant also states that because the City has not provided an adequate project description, it has prepared a legally inadequate EIR and failed to comply with the Peremptory Writ of Mandate issued by the San Francisco County Superior Court.

Response 5.A: The Draft EIR provides a clear project description and identifies one of the objectives of the project as meeting the 2007-2014 RHNA. Pages C&R-48 and C&R-49 of the Comments and Responses document fully address the Appellant's concern in Response to 5-21 and 5-22. As stated in this response, the Housing Elements propose housing objectives and policies that are intended to support the City's ability to meet the 2007-2014 RHNA, as required by State Housing Element Law. Pursuant to Housing Element law, a housing element must show that the local jurisdiction has available land capacity to meet the RHNA targets at all income levels. Part I of the Housing Element identifies available land capacity, showing that the City has current capacity for approximately 60,000 housing units, almost twice the RHNA allocation for the Housing Element planning period. Based on this analysis, the City is not required to rezone any land to increase housing capacity to comply with State Housing Element law; therefore the objectives and policies of the 2004 and 2009 Housing Elements do not propose any rezoning; instead, they are primarily focused on meeting the RHNA affordability requirements. As discussed below, because the Housing Element do not propose or identify any rezoning, it would be speculative to identify exactly where new housing might be developed within the Housing Element planning period.

Pages IV-13 through IV-36 (Project Description) of the Draft EIR describes the 2004 Housing Element project and the 2009 Housing Element project. These pages outline the details of the project, including the RHNA numbers and project objectives. The Appellant's assertion that the objectives are vague is unclear and unsubstantiated. The project objectives listed in the EIR are

consistent with Section 15124 of the CEQA Guidelines, which state that the objectives in the EIR must help the Lead Agency develop a reasonable range of alternatives and should include the underlying purpose of the project.

The purpose of the EIR is to analyze the potential physical impacts of the changes from the 1990 Residence Element to the 2004 and 2009 Housing Elements. Neither the 2004 or 2009 Housing Element programs future housing by number, type, location or characteristic, therefore there is no basis for the EIR to assume a specific configuration of housing types and/or locations, and it would not be appropriate to include this information in the Project Description. A parcel-level discussion of the location of future housing would be wholly speculative because the Housing Elements themselves do not propose any specific housing development on a parcel-level basis. Therefore, such a discussion is not required for the EIR analysis. The Draft EIR illustrates in Figures IV-5 and IV-6 (Project Description [pages IV-20, and IV-25, respectively]) the capacity for new residential units and the number of pipeline projects by the City's planning districts and plan areas. The EIR assumed that housing could occur within those areas where capacity for new housing exists. This level of detail is appropriate for the programmatic nature of the analysis for a citywide Housing Element, with citywide housing policies.

The Appellant is correct that an EIR must consider the "whole of the project" and must analyze development enabled by a programmatic document such as a General Plan amendment. Neither the 2004 or the 2009 Housing Element enable any residential development. It would be inappropriate and speculative to attribute any quantity of residential development to the Housing Elements. Similarly, the Housing Elements do not propose any changes in land use regulations, and the potential for residential development to occur would not change because of the Housing Elements. The Housing Elements conclude that there is adequate capacity within the City to accommodate the RHNA, and that if any area-wide rezoning were to occur, it would occur as part of a separate planning process and not because of the direction of the Housing Element.

As discussed above, the City has prepared an EIR that contains legally adequate CEQA project objectives and has analyzed, at a level appropriate to the project, the potential for changes to the 1990 Residence Element embedded in the 2004 and 2009 Housing Elements to result in physical environmental effects. A parcel-level discussion of the location of future housing would be speculative, and therefore, not required for the EIR analysis because the Housing Elements themselves do not propose any specific housing development on a parcel-by-parcel basis, nor do they recommend any specific changes to the Planning Code or zoning map. (Any future development proposal would require additional environmental review under CEQA.) The EIR

assumed that housing could occur within those areas where capacity for new housing exists due to existing regulatory controls. This level of detail is appropriate for the programmatic nature of the analysis. As such, the Planning Department disagrees with the Appellant's statement that the City has prepared an inadequate EIR and that the EIR does not comply with the Peremptory Writ of Mandate.

Issue 5.B: The EIR would result in an increase in population that was not addressed in the EIR. The Appellant states that the 2004 and 2009 Housing Elements would result in an increase in population that was not addressed in the EIR.

Response 5.B: The Appellant's concerns are addressed in full in the Comments and Responses document, Response to 7-2, on page C&R-82 to C&R-84. The Appellant states that "[t]he 2004 and 2009 Housing Elements encourage increased density through proposals to remove density, height, and setback restrictions and parking requirements in area plans for neighborhoods within the City." This is an inaccurate characterization of the changes in the Housing Elements. The Housing Elements indicate that any changes in land use restrictions and development controls would occur through an area plan process or a specific amendment to the zoning or planning code, and that these types of changes are not necessary to provide adequate capacity for the City to meet its RHNA goal. The Housing Elements promote residential development in order to achieve the RHNA at all income levels, and seek to encourage new housing in appropriate locations.

The EIR concludes that the implementation of Housing Element policies would not directly result in increased population above that projected by regional entities. The EIR's population projections are not based on the changes to the Housing Elements. The population increases are projected to occur even without the adoption of either Housing Element. The Appellant compares the population projections for the 2009 WSAS with the 2005 Urban Water Management Plan (UWMP) to support the contention that the EIR disregards population increases. The population increase between these projections would not be attributable to the Housing Elements, as asserted by the Appellant. The 2009 WSAS population projections were updated to account for more recent population projections provided by ABAG and taking into account local knowledge of projects currently in various stages of the entitlement process. The EIR analysis acknowledges projected increases in housing and population in San Francisco from current levels, but finds no basis for attributing quantitative impacts from these increases to the policies and objectives in the Housing Elements.

As discussed in the Comments and Responses document, Response to 7-5 on page C&R-88, in formulating Projections 2009, ABAG assumed that growth on a regional level will be directed toward established central cities. The policy reasons behind ABAG Projections 2009 and the RHNA do not change the analysis of potential environmental impacts in the EIR. Adoption or rejection of either Housing Elements would not modify regional growth projections, as suggested by the Appellant.

It is assumed in the EIR that the Housing Elements could have some influence on the locations in which projected new housing might be located, and the affordability of that housing. However, as the Housing Elements do not identify or propose any changes to current zoning, development controls, or other mechanisms that would result in measureable changes in the amount of future development, it is speculative to attribute a specific increment of residential growth to the changes in the Housing Element policies. Accordingly, the EIR analyzes the physical environmental impacts of the changes in the 1990 Residence Element embedded in the 2004 and 2009 Housing Elements at a general level and a cumulative scenario that reflects both the development pipeline and the housing capacity analysis. Where the cumulative analysis considers a long term (2025) scenario, the EIR assesses the impacts of the changes in light of the development projections for the City, which are based on ABAG Projections 2009.

Issue 5.C: The EIR does not sufficiently address the potential secondary effects of the Housing Element policies. The Appellant states that the EIR attempts to separate the City's rezoning efforts to increase existing capacity in specific neighborhoods through the approval of area plans from the 2004 and 2009 Housing Elements and by doing so, does not sufficiently address potential secondary effects of the Housing Element policies. To support the statement, the Appellant cites to the zoning changes that were approved in connection with the Market and Octavia Area Plan.

Response 5.C: EIR appropriately analyzes the potential environmental impacts of the policy changes from the 1990 Residence Element to 2004 and 2009 Housing Elements. The Appellant's concerns have been addressed in the Comments and Responses document, Response to A-6 on page C&R-119.

The EIR has been prepared consistent with Section 15126.2 of the CEQA Guidelines, which state that the EIR should normally limit its examination to changes in the existing physical conditions in the affected areas that exist at the time the notice of preparation (NOP) is published.

The baseline for the EIR analysis is the existing conditions at the time the NOP was published in accordance with State CEQA Guidelines Section 15125(a). At the time the NOP was issued, October 8, 2008, a number of areas within the City had been recently rezoned and the Draft EIR acknowledges the changes in zoning and the number of units that could be accommodated in those areas. A more detailed analysis of the physical environmental impacts of land use changes in those specific areas where rezoning has taken place is contained in the respective CEQA documents for those area plans.

The Draft EIR contains a detailed analysis of each of the CEQA environmental topics and discusses the potential changes to the physical environment as a result of policy implementation. The Market and Octavia Area Plan underwent extensive environmental review and was adopted and determined to be consistent with the General Plan.

As discussed in Response 3.C, above, the rezoning efforts in Rincon Hill, Market/Octavia, Balboa Park, Visitacion Valley, and the Eastern Neighborhoods constitute the regulatory baseline for analysis. Ongoing rezoning efforts were identified in the Draft EIR and include West SoMa, Treasure Island, Japantown, Parkmerced, and the Transit Center. Specific proposals for Planning Code and zoning map changes have been identified for each of these area/community plans, and each plan is undergoing environmental review to analyze the specific Planning Code and zoning map changes proposed by those plans. It would be speculative for the Housing Element EIR to suggest specific Planning Code or zoning map changes that could occur as a result of future community planning processes. As such, the EIR appropriately analyzes the potential environmental impacts of the policy changes from the 1990 Residence Element to 2004 and 2009 Housing Elements programmatically and the potential increased density resulting from 2004 Housing Element policies or 2009 Housing Element policies are discussed in each section of the EIR.

Issue 6: The EIR Inadequately Analyzed the Project's Impacts on Water Supply.

Issue 6.A: The EIR inadequately analyzed the Project's impact on water supply. The Appellant states that the EIR overlooks the conclusions of the WSAS that identifies an inadequate water supply for the years 2010 and 2015 and claims that the EIR does not identify the sources of additional water required in the event that water supplies are exceeded.

Response 6.A: The Appellant's concerns are fully addressed in Response to Comment L-18 of the Housing Element Comments and Responses document, page C&R-221. As discussed on page V.L-6 of the Draft EIR, the deficit shown in the WSAS for 2010 is the result of reducing the

SFPUC Regional Water Supply to 81 mgd as per the Phased WSIP, without full development of the additional 10 mgd of new water supplies. According to the WSAS, no deficits are projected for the year 2015.[29] (For a discussion of water supply shortfalls anticipated by instream flow release requirements agreed to as part of SFPUC Section 7 Endangered Species Act consultation, please refer to Response 2.A, above.) Furthermore, the model assumes a higher level of water use than actual demand has demonstrated.

The Appellant is correct that the projected increase in water supply in 2015 is based on the WSIP sources being readily available. The conclusions in the EIR that such sources will be readily available are based on the findings of the 2009 WSAS, which captures the most current water supply planning and demand information and is the latest published information on San Francisco's water supply and demand through 2030. This study indicates that the WSIP will be completed within the timeframe indicated, and that water supplies will be available by 2015. As discussed in the Comments and Responses document, Response to L-17 on page C&R-220, the WSAS concludes that in years 2015 and beyond, with average or above average precipitation, the SFPUC has sufficient supplies to serve 100 percent of normal, single dry and multiple dry year events up to year 2030. Only during a multiple dry year event beginning in 2030, does the WSAS find that it is possible that the SFPUC may not be able to meet 100 percent of its retail water demand. Additionally, to address any shortages in water supply, the SFPUC has in place a Retail Water Shortage Allocation Plan that allows the SFPUC to reduce water deliveries to customers during periods of water shortage.

Given that the WSAS's growth projections are consistent with the Housing Element EIR growth projections and that the WSAS concludes that there is sufficient water supply for the 2007-2014 planning period of the 2009 Housing Element, and that a water shortage allocation plan is in place to address any water shortfalls, the EIR concludes that there is sufficient water to supply the City's projected population growth.

The potential for significant environmental effects of the SFPUC's instream flow release requirements are addressed in Responses 2.A through 2.D, above. As discussed in Responses 2.A and 2.C, because current conditions are showing that water demand is much lower than modeled demand, current demand is lower that current supply, the SFPUC is actively engaged in development of additional water supply sources as outlined in the SFPUC March 14, 2011

[29] San Francisco Planning Department, 2004 and 2009 Housing Element Draft EIR. June 30, 2010. At page V.L-6. This document is available at the San Francisco Planning Department, 1650 Mission Street, Suite 4000, as part of Planning Department Case File 2007.1275E.

Memorandum, and that if future water demand increases and the SFPUC did not develop additional water supply sources, the SFPUC could increase water rationing by approximately one percent to account for the additional instream flow release requirements, Department staff has no reason to believe that the SFPUC will not be able to ultimately meet its water supply obligations.

Issue 7: The EIR inadequately analyzed the Project's impacts on the City's wastewater system, aesthetics/scenic resources/visual resources and neighborhood character, Proposition M, greenhouse gas impacts, traffic impacts and parking reduction, and noise impacts and fail to use existing conditions as the baseline for analysis.

Issue 7.A: The EIR failed to use existing conditions as the baseline for analysis of the Proposed Project's Impacts. The DEIR compares the 2004 and 2009 Housing Element impacts to the maximum allowable density and height requirements, and not the existing physical conditions.

Response 7.A: The existing physical setting was used as the baseline for analysis. The Department did not analyze the impacts of the 2004 and 2009 Elements relative to allowable development under zoning, as the Appellant asserts. The baseline for the EIR analysis is the existing conditions at the time the NOP was published in accordance with State CEQA Guidelines Section 15125 (a). As discussed in the Comments and Responses document, specifically Response to 11-2 and 11-3 on page C&R-114 and C&R-115, the Draft EIR appropriately compares the impacts from the changes in the policies and objectives in the Housing Elements to the existing setting. The Draft EIR discusses the existing setting of each area of the City in Section V.B (Land Use and Land Use Planning). Due to the programmatic, citywide nature of the EIR, the discussion in Section V.B gives an appropriate level of detail by presenting the prevailing zoning restrictions in an area and, where appropriate, also discussing the character of the area and how the prevailing character may differ slightly from what zoning controls allow. In many cases, for example, residential uses are not built to the maximum existing height limits. Existing zoning constitutes the regulatory setting for analysis, and therefore is appropriately described in the EIR.

The determination of significance for potential impacts related to land use and aesthetics considered the change to the existing setting resulting from implementation of the Housing Elements. The parameters of the existing setting included existing Planning Code controls and General Plan policies, including the existing policies of the 1990 Residence Element as well as prevailing development on the ground. The analysis in the EIR concluded that overall, implementation of 2004 and 2009 Housing Element policies would result in a less-than-

significant impact on land use and aesthetics because any new residential development would be required to be consistent with existing neighborhood character, as required by other policies in the Housing Elements, and because all new development would continue to be controlled by existing regulations including the City's Residential Design Guidelines, the Urban Design Element of the General Plan and governing land use plans. Additionally, future development would be required to undergo separate environmental review that would consider the design of the development in the context of the existing setting to determine whether adverse aesthetic impacts could result. In other words, the significance of the environmental impacts from changes in the policies and objectives in the 2004 and 2009 Housing Elements cannot be analyzed in a vacuum, but instead must be analyzed within the context of the existing regulatory setting, including other, sometimes competing, policies found in the Planning Code or other elements of the General Plan.

Issue 7.B: The EIR inadequately analyzed the Project's impacts. The Appellant states that for the reasons stated in the San Franciscan's For Livable Neighborhood's (SFLN) comments that the EIR inadequately analyzed the project's impacts on wastewater system inadequacies, Proposition M, greenhouse gas impacts, traffic impacts and parking reductions, and noise impacts and failed to use existing conditions for the analysis of the proposed project's impacts. The Appellant cites to their comment letter on the Draft EIR to support this contention, and further expands on the issue of the analysis of the Housing Elements' aesthetic impacts (see Issue 7.C, below).

Response 7.B: All previously submitted comments on the Draft EIR have been adequately addressed in the Comments and Responses document. The Appellant does not raise any additional concerns beyond those articulated in the comments submitted on the Draft EIR. No substantial evidence has been provided to support the Appellant's contention that the EIR analysis of these issues is inadequate. Responses regarding the issues raised are provided as follows:

1. *Wastewater*: Comments are addressed in Responses L-7, L-8, L-9, L-11, L-12, and L-13 on pages C&R-204-209, C&R-209-210, C&R-210-211, C&R-213, C&R- 214-215, and C&R -215 -217, respectively. As discussed in these responses, all discharges, treatment plants, combined sewer discharges and outfalls are currently in full compliance with the Environmental Protection Agency (EPA) and State-mandated criteria and the system is currently considered to be without deficiencies, and no significant impacts would occur as a result of the Housing Elements.

2. *Greenhouse Gases (GHG)*: GHG impacts are analyzed in Section V.I of the Draft EIR and addressed in the Comments and Reponses document, in particular Response to I-5, on page C&R-191. The GHG analysis was based on population growth projections provided by the Planning Department and is consistent with regional ABAG growth projections. A cumulative 2025 analysis of GHG emissions associated with growth anticipated to occur within the City was conducted. The EIR concludes that neither Housing Element would result in GHG emissions that would have a significant effect on the environment, nor would either Housing Element conflict with AB 32 or the City's GHG Reduction Strategy.

3. *Traffic*: Transportation issues are analyzed in Section V.F of the Draft EIR and further addressed in the Comments and Responses document. As discussed repeatedly in the EIR's Transportation Impact Study (TIS) and in the EIR, the transportation analysis considered expected impacts on the transportation network resulting from projected growth to 2025, and analyzed the effect of the 2004 and 2009 Housing Elements in that context, recognizing the potential for the Housing Element to affect the location of growth, development density, and parking. Because of the nature of the Housing Element policies, the EIR concludes that the Housing Element would be expected to direct the general location and affordability of new development but would not itself enable residential growth. The TIS therefore qualitatively analyzes the impacts of the Housing Element policies upon the transportation network and acknowledges that the 2004 and 2009 Housing Elements encourage housing in areas of the City that may experience increased congestion. The EIR acknowledges that any mode shift to transit as a result of the Housing Element policies which support development in areas well served by transit could result in an increase in transit ridership, above Muni's 85 percent capacity utilization standard on certain transit corridors and as such, impacts to the transit network were determined to be significant.

4. *Parking*. Parking impacts, as they relate to physical environmental effects are fully addressed in the EIR (Draft EIR pages V.F-61 to V.F-63 [2004 Housing Element analysis] and pages V.F-75 to V.F-77 [2009 Housing Element analysis]). As discussed in Response to 9-2, Comments and Response page C&R-102 and C&R-103 and on page V.F-63 (Transportation and Circulation) of the Draft EIR, the Planning Department does not consider parking supply as part of the permanent physical environment, and therefore does not consider changes in parking conditions to be environmental impacts as defined by CEQA. Furthermore, the CEQA Guidelines exclude parking deficits as a potential

significant impact for analysis. The transportation analysis accounts for the physical effects of parking shortages, such as congestion and air quality impacts of drivers circling in search of parking.

5. *Noise.* Noise impacts are fully addressed in the Draft EIR and in the Comments and Responses document, specifically Responses G-1 to G-7, on pages C&R-178 to C&R-184. The Draft EIR found that both the 2004 and 2009 Housing Elements contain policies that direct new housing toward transit lines. Many of the City's transit lines are also some of the busiest roadways and therefore, new residences along heavily travelled roadways could be affected by existing and future noise levels. To protect residential uses from excessive noise levels, the EIR includes Mitigation Measure M-NO-1, which applies to areas of the City that exceed traffic-generated noise levels of 75 Ldn (an average noise level over 24 hours). With implementation of this mitigation measure, the EIR found noise impacts to be less than significant (Draft EIR page V.G-48).

6. *Proposition M.* As discussed in Response to A-7 though A-12 in the Comments and Responses document on C&R Page 122, consistency of the Housing Element with the City's Priority Policies as they relate to environmental topics are analyzed in the appropriate sections of the EIR. The case report and approval motions for the 2009 Housing Element contain the Planning Department's comprehensive project analysis and findings regarding consistency of the 2009 Housing Element with the City's Priority Policies.

Issue 7.C: Housing Element policies could have significant impacts on neighborhood character and aesthetics not addressed in the EIR. The Appellant states that the Housing Element policies could affect aesthetics and neighborhood character because the Housing Elements would encourage the construction of taller and bulkier buildings, the provision of less parking, and relaxed design consistency standards that could have adverse impacts including blocking scenic views, degradation of neighborhood character, visual impacts of vehicles parked on sidewalks, and the loss of architectural quality and historically significant structures caused by incentives to tear down older, less dense structures.

Response 7.C: The EIR fully discloses the environmental effects of the Housing Element policies on neighborhood character and aesthetics. Comments concerning aesthetics, scenic views, visual resources and neighborhood character are adequately addressed in Sections V.B and V.C of the Draft EIR and in the Comments and Responses document on pages C&R-136 through C&R-146.

Neighborhood character is discussed in the Draft EIR under Impact LU-2 on page V.B-33 with respect to impacts of the projects on the character of the vicinity, and under Impact AE-3, on page V.C-25 with respect to impacts of the projects on the visual character or quality of San Francisco. For both the 2004 and 2009 Housing Elements, the Draft EIR found these impacts to be less than significant.

The Appellant is mistaken in asserting that the EIR's conclusions regarding significance rely on the maintenance of existing zoning controls. In making these determinations, the EIR analyzes the impacts of the changes from the 1990 Residence Element as proposed for the 2004 and 2009 Housing Elements. Each Housing Element contains policies that would ensure that there would be no demonstrable adverse impact to neighborhood character, or that any impact would be less-than-significant, including 2004 Housing Element policies 1.4, 11.1, 11.8 and 11.9 and 2009 Housing Element Policy 11.1, 11.3 and 11.5. The Draft EIR acknowledges that increases in density could result in visual or neighborhood character impacts. However, in concluding that any impacts would be less-than-significant, the Draft EIR also relies on the fact that any proposed new development would be required to adhere to other General Plan Element policies and other requirements of the Planning Code and design review process, such as the Residential Design Guidelines, Section 317 of the Planning Code which discourages demolition of residential units, and Historic Preservation Bulletins Nos. 1-21. As such, the EIR found that the neither the 2004 nor 2009 Housing Elements would result in demonstrable adverse impacts to neighborhood character.

A stated in the Comments and Responses document in Response C-7, on page C&R-136, there are no policies in either the 2004 or 2009 Housing Element that promote taller and bulkier buildings, or relaxed design consistency standards beyond those currently allowed by the Planning Code. The 2009 Housing Element does not promote the provision of less parking; however, the 2004 Housing Element does include policies that promote less parking (See 2004 Housing Element policies 1.1, 1.6, 1.8, 4.4, 11.7, and 11.8). The impacts of these policies are addressed in the EIR. Both Housing Elements support the continued mandatory use of the City's Residential Design Guidelines, and promote the creation and use of neighborhood-specific design guidelines. As discussed in the Comments and Responses document in Response C-12 on page C&R-142, actual building heights and bulks would be influenced not only by existing Planning Code height and bulk requirements, but also by other Planning Code requirements for open space, setbacks, and the Residential Design Guidelines, which can limit developable building envelopes. For example, although maximum heights in a residential area may be 40 feet, the City's Residential Design Guidelines also require consideration of adjacent building heights, and building setbacks above

the ground floor to maintain compatibility with neighborhood scale and form. Design guidelines and other Planning Code requirements would continue to influence building scale and neighborhood compatibility.

As discussed on page V.C-17 (Aesthetics) of the Draft EIR, it is acknowledged that increases in density could affect a scenic vista, but the Draft EIR also lists policies that would serve to reduce such impacts, such that remaining impacts would be less than significant. The City cannot approve a project that is inconsistent with the City's General Plan. The Urban Design Element of the General Plan develops the parameters for height and bulk in the City and zoning is developed to be consistent with that Element. Thus, projects that are developed to existing zoning limits are consistent with the Urban Design Element.

Regarding historic preservation, the Housing Element EIR found that both the 2004 and 2009 Housing Elements contain some polices that could encourage inappropriate alterations, inappropriate new construction, or demolition by neglect, but also found that both Housing Elements contain other policies that also protect historic resources. The Draft EIR also concludes that new development and effects to historic resources are most appropriately addressed at the project level and that project level review includes an evaluation of compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties, CEQA, Section 106 of NEPA, San Francisco Preservation Bulletins 1-21, the Urban Design Element and Residential Design Guidelines and therefore neither the 2004 or 2009 Housing Elements would result in significant impacts to historic resources.

As discussed in Response C-13 on page C&R-143 of the Comments and Responses document, there is no evidence that implementation of Housing Element policies would reduce architectural quality throughout the City or otherwise result in the physical conditions described by the Appellant. The Planning Department has well developed design review procedures, and where necessary, future projects may be brought before the design review team for input.

Lastly, as discussed in the Comments and Responses document in Response to C-15 on page C&R-144, any analysis of aesthetic impacts associated with illegal activity such as parking on sidewalks and driveways would be speculative. There is no evidence that sidewalk parking would occur as a result of promoting reduced parking requirements, as identified in the 2004 Housing Element (the 2009 Housing Element does not promote the provision of less parking). The Department of Parking and Traffic enforces requirements regarding sidewalk parking and no aspect of the Housing Elements would preclude continued enforcement. Moreover, sidewalk parking is a temporary activity that would not result in a significant impact.

CONCLUSION:

The Appellant has not raised any new issues relative to CEQA review that were not previously addressed in the Draft EIR and/or in the Comments and Responses document or at the EIR certification hearing, nor has the Appellant provided any substantial evidence to refute the conclusions of the Department with respect to the project's physical environmental effects under CEQA.

For the reasons stated above, the Commission's certification of the EIR complies with the requirements of CEQA, the CEQA Guidelines and Chapter 31 of the *San Francisco Administrative Code*. The Department, therefore, recommends that the Board uphold the Commission's decision to certify the EIR and deny the appeal.

KATHRYN R. DEVINCENZI
ATTORNEY AT LAW
22 IRIS AVENUE
SAN FRANCISCO, CALIFORNIA 94118-2727
Telephone: (415) 221-4700
Facsimile: (415) 346-3225

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2011 MAY -3 AM 11:46
BY

BY HAND DELIVERY

May 1, 2011

Ms. Angela Calvillo
Clerk of the Board of Supervisors
City of San Francisco
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102

Re: Supplement to Appeal of Certification of Final Environmental Impact Report for the 2004 and 2009 Housing Elements and Related CEQA Findings, Environmental Findings and Statement of Overriding Considerations

Planning Department Case Nos. 2007.1275E and 2007.1275EM

On behalf of Pacific Heights Residents Association, Cow Hollow Association, Francisco Heights Civic Association, Greater West Portal Neighborhood Association, Jordan Park Improvement Association, Lakeshore Acres Improvement Club, Laurel Heights Improvement Association of San Francisco, Inc., Marina-Cow Hollow Neighbors & Merchants, Miraloma Park Improvement Club, Presidio Heights Association of Neighbors, St. Francis Homes Association, Sunset-Parkside Education and Action Committee, Inc., and Westwood Highlands Association (herein collectively referred to as Appellants), I hereby supplement the appeal to the San Francisco Board of Supervisors filed on April 12, 2011 as to the San Francisco Planning Commission's March 24, 2011 certification of the Final Environmental Impact Report (EIR) for the 2004 and 2009 Housing Elements and adoption of related CEQA findings described above. Appellants are members of San Franciscans for Livable Neighborhoods (SFLN), an unincorporated association.

1. **The EIR Failed to Adequately Analyze the Environmental Effects of the Reasonably Forseeable New Housing Development That Would Result From Implementing Housing Element Policies.**

In *San Franciscans for Livable Neighborhoods v. City and County of San Francisco,* the Court of Appeal ordered the City to evaluate the secondary or indirect effects of the Housing Element amendments, stating:

"Although it may be technically true that the Housing Element is not linked to any

> specific rezoning, ordinance changes, or future development... **it is not a vague policy document**, completely unconnected to future development or potential physical changes to the environment. The Housing Element identifies areas for potential development, encourages development in neighborhood commercial areas, promotes the construction of 'well-designed housing that enhances existing neighborhood character,' '[s]trongly encourage[s] housing project sponsors to take full advantage of allowable building densities,' and advocates reducing or removing minimum parking requirements in order to increase the land available for housing development." (*San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, at p. 12, emphasis added)

Similarly, the Court explained that:

> "The Housing Element identifies areas for potential housing development, and it includes specific policies and implementation strategies to increase building densities, especially in areas well served by transit, and to advocate reducing or removing minimum parking requirements in order to increase the land available for housing development. The Housing Element also includes a list of future actions to implement the element's objectives and policies." (*Id.*, p. 4)

"Even if a general plan amendment is treated merely as a 'first phase' with later developments having separate approvals and environmental assessments, it is apparent that an evaluation of a 'first phase-general plan amendment' must necessarily include a consideration of the larger project, i.e., the future development permitted by the amendment. Only than can the ultimate effect of the amendment upon the physical environment be addressed." (*Id.*, p. 8; see also acknowledgment of this requirement in Ex. C - excerpts from EIR for Treasure Island/Yerba Buena Island Redevelopment Project, p. V.1)

The requirement that an EIR analyze the effects of reasonably forseeable future development is also recognized in CEQA Guidelines section 15126.2 (d), which requires an EIR to discuss "the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth."

The 2009 Housing Element states that housing growth will be focused in plan areas that have been approved and that the City should continue planning efforts for new area plans. (2009 Housing Element, Part II (2009 Housing Element), p. 7) The areas and major projects which are underway but not yet approved are identified as Japantown, Glen Park, Western SoMa, Executive Park, Treasure Island, Park Merced and the Transbay Transit Center, and these areas are expected to provide 18,200 new housing units. (*Id.*, p. 7-9)

The Board of Supervisors has acknowledged by resolution that the Housing Element

establishes a Plan Area "as a target area in which to develop new housing to meet San Francisco's identified housing projection target" and that the "Housing Element delineates specific policies and objectives to guide housing development in the Plan Area.." (Ex. L, January 9, 2007 Resolution of the Board of Supervisors as to Eastern neighborhoods, p. 1)

Although the EIR admits that the 2009 Housing Element promotes new housing development through community planning processes near transit and other infrastructure, it fails to discuss the potential effects on the existing environment of focusing growth on these targeted plan areas, repeating, as before, that the 2009 Housing Element itself "would not change allowable land uses or increase allowable building height and bulk." (DEIR p. V.B-57) The City thus sidesteps the CEQA requirement that the EIR evaluate the effects on the existing environment of reasonably forseeable future development by asserting that the Housing Element approval did not concurrently change zoning or include adoption of area plans, an argument which the Court of Appeal squarely rejected.

Moreover, the 2009 Housing Element calls for zoning changes to accommodate affordable housing. 2009 Housing Element Policy 7.3 encourages granting "zoning accommodations" for affordable housing including granting exceptions to open space requirements, exposure requirements or density limits and states that current City policy allows affordable housing developers to pursue these zoning accommodations "through rezoning and application of a Special Use District." (2009 Housing Element p. 30) As an example, the proposed Special Use District for a mixed-use affordable housing project at 800 Presidio Avenue deviated from Planning Code requirements as to height limit, density limits, rear yard requirements, usable open space requirements, and sunlight and dwelling unit exposure, and was proposed to provide no on-site parking spaces for residents of the approximately 48 affordable units in the project. (Ex. O - excerpts from documents relating to proposed Special Use District at 800 Presidio Avenue.) Structures constructed pursuant to such exceptions could significantly clash with existing neighborhood character and patterns, yet the EIR did not analyze the potential impacts of pursuing this policy.

Similarly, the EIR fails to evaluate the impacts on the existing environment from population growth indirectly generated by the proposed project as required by CEQA, asserting that impacts would only occur "if new housing would generate more residents than planned for by ABAG projections." (Draft EIR p. V.D-9) The EIR thus improperly uses the ABAG new housing production target as the baseline against which environmental effects are assessed rather than the existing environment and also incorrectly claims that "the RHNA process does not necessarily encourage or promote growth, but rather requires communities to anticipate projected growth." (Draft EIR p. V.D-7) The EIR admits elsewhere that the "intent of the Housing Element policies is to accommodate future housing growth, as anticipated by ABAG regional projections" and describes objectives of the proposed Housing Elements as to "[p]rovide a vision for the City's housing and growth management through 2014," to "[e]nsure capacity for the

development of new housing to meet the RHNA at all income levels" "[d]evelop a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals, and "[a]dopt a housing element that substantially complies with California housing element law as determined by the California Department of Housing and Community Development." (Draft EIR p. V.D-20, II-2) Since the Housing Element Plan Areas and proposed Plan Areas are intended to increase the City's capacity for new housing units in order to move toward attainment of the RHNA allocation, and Government Code section 65583 (c) requires the Housing Element to set forth a "schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls," it is forseeable that the City will implement the Housing Element policies and take actions designed to achieve the RHNA allocation, and the EIR should have evaluated the effects on the existing environment of the population increases induced by the City's efforts to achieve the RHNA allocation.

The City's refusal to comply with CEQA requirements is especially blameworthy because abundant evidence of significant environmental impacts resulting from new housing development in the plan areas was available, but ignored, before the EIR for the 2004 and 2009 Housing Elements was released for public comment on June 30, 2010. For example, the 2009 Draft EIR prepared for the Candlestick Point-Hunters Point project identified significant unavoidable impacts from a substantial increase in traffic relative to the existing and proposed capacity of the street system, contribution to significant cumulative traffic impacts at four freeway segments, significant impacts at four freeway on-ramp locations, increased traffic congestion at intersections and streets in the vicinity of the project, increased congestion on US-101 mainline and ramps which would increase travel times and impact operations of buslines, unaccommodated transit demand during secondary events, substantial contribution to an existing or projected air quality violation at full build-out in the year 2029 from mass criteria pollutant emissions from mobile and area sources, excessive groundborne vibration levels in existing residential neighborhoods adjacent to the project due to construction activities, excessive vibrations from rock removal, and a substantial permanent increase in ambient noise levels from increased local traffic volumes. (Ex. A, excerpts from November 12, 2009 DEIR for Candlestick Point-Hunters Point Shipyard Phase II, pp, ES-14, 16, 19-24, 37, 40, 41, 42)

The Draft EIR for the Parkmerced project published May 12, 2010, identified significant unavoidable impacts on a visual/scenic resource due to the proposed demolition of the existing garden apartment buildings and removal of the existing landscaping, impairment of the historical significance of the Parkmerced historic district due to the previously described proposed demolition, transportation impacts in the proposed project vicinity due to construction vehicle traffic and road construction, significant traffic impacts at study intersections, considerable traffic contributions at study intersections that operate at LOS E or LOS F under existing conditions, significant traffic impacts at two freeway segments that operate at LOS E or LOS F under existing conditions, impacts from exceeding the available transit capacity of transit routes serving

the project study area, impacts from contributing traffic to existing traffic volumes at intersections along the 19th Avenue corridor and along Sunset Boulevard and other streets, increased noise levels above existing ambient conditions from project-related traffic and light rail and operation of stationary noise sources, and effects on regional air quality and cumulative air quality. (See Ex. B, excerpts from Draft EIR for Parkmerced Project, pp, II.3-4, 11-34)

The Draft EIR for the Treasure Island/Yerba Buena Island Redevelopment Project published on July 12, 2010, before the comments and responses were prepared for the EIR for the 2004 and 2009 Housing Elements, identified significant unavoidable impacts on adversely altering scenic vistas from public vantage points, traffic impacts on operating conditions at the eastbound off-ramp and the Bay Bridge toll plaza and on queuing on San Francisco streets approaching the Bay Bridge at various times, significant impacts at various intersections in San Francisco, exceeding the available transit capacity of the Muni bus line serving the islands, increased traffic congestion in downtown San Francisco due to the project which would increase travel times and impact certain Muni bus line operations, significant cumulative queuing impacts at the Bay Bridge toll plaza during AM and PM peak hours, significant project and cumulative impacts at several intersections in San Francisco, project-related traffic substantially increasing ambient noise levels in the project vicinity above existing ambient noise levels, project operations violating an air quality standard or contributing substantially to an existing or projected air quality violation, and wind hazards occurring at publicly accessible locations in the Development Plan Area. (Ex. C - excerpts from Draft EIR for the Treasure Island/Yerba Buena Island Redevelopment Project , pp. S.7, 16–18, 20-23, 25, 29, 31)

The EIR for the 2004 and 2009 Housing Element did not present any of this information as to significant impacts of proposed plan areas to decisionmakers, and thus failed as an informative document.

In addition, the 2009 Housing Element contains a new Objective 13 prioritizing sustainable development in constructing new housing, new Policy 13.1 supporting "smart" regional growth that locates new housing close to jobs and transit and new Policy 13.3 that promotes sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle share and limit "the need for a private car." However, the EIR fails to adequately analyze the effects of implementing these new policies, which are clearly intended to support the Sustainable Communities Strategy promulgated by the Association of Bay Area Governments (ABAG) to encourage substantial new housing development in Priority Development Areas and other areas served by transit. The EIR fails to acknowledge the fact that by resolution adopted on August 14, 2007, the San Francisco Board of Supervisors designated as Priority Development Areas that are planned "for more housing" the areas described as plan areas or major projects in the 2009 Housing Element. (Ex. J. - August 14, 2007 Resolution of the San Francisco Board of Supervisors; 2009 Housing Element p. 9) On October 28, 2008, the Board of Supervisors adopted a subsequent resolution authorizing the

San Francisco County Transportation Authority to apply on behalf of the City and County of San Francisco for amendments to the PDA designation for San Francisco to add the 19th Avenue corridor between Sloat Boulevard and the San Mateo County line. (Ex. K - October 28, 2008 Resolution of the Board of Supervisors, noting that the City had been awarded over $3 million in State Bond funds for planning and construction of projects within the designated PDAs in 2008.) Although, as demonstrated below, the 19th Avenue Corridor has been designated as a potential Priority Development Area, the Housing Element fails to discuss the potential that new increased density housing development will be concentrated in this area, and the EIR fails to analyze impacts of encouraging transit-oriented development in this area. Further, the City's acceptance of $3 million in State Bond funds for planning and construction of projects within the designated PDAs constitutes an unlawful commitment to concentrate increased density development in these areas before analysis of environmental impacts is performed pursuant to CEQA requirements.

The Sustainable Communities Strategy planning process is currently being implemented, and began with designating Priority Development Areas (PDAs) before the Draft EIR was prepared for the Housing Elements. The City had to apply for designation of areas as PDAs, by completing an application submitted to ABAG, and the application guidelines require that to qualify for PDA designation, an area must have "plans for a significant increase in housing units" and be near transit, which is defined to include an area served by a bus corridor with minimum headways of 20 minutes during peak weekday commute periods. (See Ex. D, application and guidelines for Priority Development Area designation, p. 3) The recommended area size is 100 acres, which is approximately a 1/4 mile radius. (*Id.*) PDAs have been approved for numerous areas in San Francisco and the type of housing development planned for each is described. (Ex. E, FOCUS Priority Development Showcase) Maps projecting household growth by PDA and Growth Opportunity Areas show substantial household population growth at designated place types in PDAs in San Francisco and substantial planned future population density increases in various areas of San Francisco from 2010-2040. (See Ex. F, maps provided to me by ABAG on April 25, 2011 at a Plan Bay Area workshop.) An ABAG representative also told me at this workshop that the areas shaded light purple in the Growth Share by Priority Development Areas and Growth Opportunity Areas map, which are in the western, southern and northern parts of San Francisco, correspond to areas where the City of San Francisco informed ABAG that secondary units could be constructed "in the backyard" or elsewhere on the property. In a telephone voice-mail message, this ABAG representative stated on May 2, 2011 that the City told ABAG that it could expect to see through additional units or very small-scale infill like a 4-unit apartment building or a "house turned into a duplex" about 17,000 total units throughout the rest of the City by 2035 and that this projected development is shown on the map in purple as a mixed-use corridor and applied to the entire area. (See also Ex. P, December 17, 2010 City letter to ABAG, p. 3, referring to 17,000 small-scale infill opportunity sites close to transit throughout all City neighborhoods outside PDAs; and identifying "[z]oning for increased densities and/or mix of uses" as a strategy to implement the Sustainable Communities Strategy policies and place types.)

The Plan Bay Area Initial Vision Scenario published by the Association of Bay Area Governments and Metropolitan Transportation Commission show that the Sustainable Communities Strategy is based on projections that population is projected to grow by over 2 million people in the Bay Area by 2035, which would require 902,000 new housing units. (Ex. H - excerpts from Plan Bay Area, Initial Vision Scenario, March 11, 2011, p. 1) According to this plan, "San Francisco is an appropriate location for a significant portion of the region's future housing." (*Id.*, p. 29) Thirty-two percent (32%) of the forecast and proposed housing growth for the Bay Area is to occur in San Jose, San Francisco and Oakland. (*Id.*, p. 2) San Francisco households are projected to grow from 346,700 in 2010 to 436,800 in 2035, a projected increase of 90,100 households, which is a 26% increase. (*Id.*, p. 29) Eighty-one percent (81%) of these new households will be in the city's varied PDAs. (*Ibid.*) The Downtown-Van Ness-Geary PDA, a regional center, will take on the greatest share of growth at 19,000 households, while the Bayview/Hunters Point Shipyard/Candlestick Point PDA, an urban neighborhood, will contribute 11,200 households. (*Ibid.*) Treasure Island will add 7,200 households, and a new 4,100 households are expected in the Transbay Terminal PDA. (*Ibid.*) In the Initial Vision Scenario, the regional economy is expected to grow at a higher rate than the nation, and San Francisco jobs are projected to grow from 544,800 in 2010 to 713,700 in 2035, a projected increase of 168,900 jobs, which would be a 31% increase. (*Id.* p. 34-35) Transit improvements would include "more dedicated bus lanes in San Francisco." (*Ibid.*) The adopted Sustainable Communities Strategy (SCS) land development pattern is intended to inform the distribution of housing at the local level, and the adopted SCS land development pattern will help guide regional policies and investments that are made pursuant to the Regional Transportation Plan. (Ex. H, p. 3) These regional policies and investments are intended to create financial and other incentives to implement the adopted land pattern in the SCS. (Ex. H, p. 3-4) The Initial Vision Scenario emphasizes growth along transit corridors. (*Id.* p. 11)

The Initial Vision Scenario acknowledges that this aggressive growth strategy will transform neighborhoods:

> "In the Initial Vision Scenario, San Francisco by 2035 will have seen a great increase in new residents, businesses, and jobs...Downtown will continue to grow...There will be many more high-rise residential buildings, transforming the financial district into a mixed-use neighborhood with shops, services, and amenities that cater to residents, employees, and visitors. The new Transbay Center will be home to 2,600 new households, a 5.4-acre rooftop park, and the Transit Tower, the tallest building on the West Coast. This hub will anchor a new mixed-use neighborhood in the South of Market area....
>
> Small-scale infill buildings will have sprung up close to transit lines, especially in transit town centers, such as 19th Avenue and along the Mission-San Jose mixed-use corridor." (*Id.* p. 61)

The total projected household growth of 90,114 new San Francisco households includes the projected growth of 17,376 new households citywide in Growth Opportunity Areas. (*Id.* p. 63) Under the Initial Vision Scenario, "transit priority projects" are defined as projects "that contain at least 50 percent residential use; have a minimum net density of 20 units per acre; have a floor-area ratio for the commercial portion of the project at 0.75; and are located within ½ mile of either a rail stop, a ferry terminal, or a bus line with 15-minute headways." (*Id.* p. 94)

An ABAG/MTC Planning Committee Plan Bay Area document shows that the Initial Vision Scenario "[b]rings more people into the region," and describe this effect as both "good" and "bad" for the targets because new residents ride transit, walk and bike more than existing residents and "GHG/capita and VMT/capita go down. But they still drive. As a result, total VMT goes up, which increases collisions and particulate emissions from autos." (Ex. N - excerpts from March 11, 2011 Plan Bay Area, Release of the Initial Vision Scenario, p. 22) No significant increase in bicycle travel is projected from 2005 through 2035. (*Id.*, p. 25) While San Francisco is projected to experience a decrease in roadway capacity between 2005 and 2035, all other counties in the Bay Area are projected to maintain the same roadway capacity during this period. (*Id.*, p. 18) The housing growth distribution criteria call for '[g]reater housing density proximate to significant transit investments (Existing Transit or Resolution 3434 Transit Expansions)" and "[m]ajor mixed-use corridors with high potential for transit-served, infill development." (*Id.*, p. 5)

In contrast, there is no high density regional center in all of San Mateo County to the south of San Francisco. (*Id.* p. 30, 66) The Regional Housing Needs Allocation adopted May 15, 2008 for the twenty cities in San Mateo County totals only 15,738 new units, whereas San Francisco's allocation is 31,193 new units. (Ex. I - excerpt from Final Regional Housing Needs Allocation Adopted May 15, 2008)

San Francisco County Transportation Authority efforts to support the Sustainable Communities Strategy show the number of housing units planned in various areas of San Francisco and San Francisco's progress toward achieving its share of the regional housing needs allocation. (Ex. G, excerpts from Development of the Bay Area's First Sustainable Communities Strategy & San Francisco's Input, pp. 10 and 12) From 1999-2009, San Francisco met 156% of its market rate housing production target, 80% of its very low, 52% of its low and 12% of its moderate housing unit production targets. (*Ibid.*) This document also shows the type of new construction, or place types, planned for PDAs in San Francisco as well as expected "Citywide Scattered Infill" of 17,376 units from 2010-2035. (*Id.* p. 13)

Given the objective of the 2009 Housing Element to support sustainable regional and state housing and environmental goals and new Policy 13.1 that supports "smart" regional growth that locates new housing close to jobs and transit, it is apparent that supporting the Sustainable Communities Strategy effort is a paramount goal of the 2009 Housing Element. The EIR's

failure to analyze the impacts of focusing increased density housing production in PDAs adopted pursuant to the Sustainable Communities Strategy planning process, which was in progress when the DEIR was published, constitutes a blatant violation of CEQA requirements. The EIR deliberately ignores available information as to the increased density building types and population growth that will be encouraged in PDAs and growth opportunity areas throughout the City through the Sustainable Communities Strategy process, and thus fails as an informative document.

2. Other Relevant Information

With respect to the list of potential sources of additional water to make up the projected shortfall in available water supply discussed in SFLN's appeal, the June 12, 2007 Resolution of the San Francisco Board of Supervisors states that increasing diversion of water from the Tuolumne River watershed could further damage the health of the watershed and jeopardize the fish and wildlife species that depend on the Tuolumne for their survival and urges the San Francisco Public Utilities Commission to explore and develop water supply options that will not divert more water from the Tuolumne River. (Ex. M, June 12, 2007 Resolution of the San Francisco Board of Supervisors, p. 1-2)

Very truly yours,

Kathryn R. Devincenzi

Kathryn R. Devincenzi

cc: Bill Wyco, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Attachments:

Ex. A - Excerpts from November 12, 2009 DEIR for Candlestick Point-Hunters Point Shipyard Phase II
Ex. B - Excerpts from Draft EIR for Parkmerced Project
Ex. C - Excerpts from EIR for Treasure Island/Yerba Buena Island Redevelopment Project
Ex. D - Application and Guidelines for Priority Development Area Designation
Ex. E - FOCUS Priority Development Showcase
Ex. F - Maps provided by ABAG on April 25, 2011 at a Plan Bay Area workshop

Ex. G - Excerpts from Development of the Bay Area's First Sustainable Communities Strategy & San Francisco's Input
Ex. H - Excerpts from Plan Bay Area, Initial Vision Scenario, March 11, 2011
Ex. I - Excerpt from Final Regional Housing Needs Allocation Adopted May 15, 2008
Ex. J.- August 14, 2007 Resolution of the San Francisco Board of Supervisors; 2009 Housing Element
Ex. K - October 28, 2008 Resolution of the Board of Supervisors
Ex. L - January 9, 2007 Resolution of the Board of Supervisors
Ex. M - June 12, 2007 Resolution of the San Francisco Board of Supervisors
Ex. N - Excerpts from March 11, 2011 Plan Bay Area, Release of the Initial Vision Scenario
Ex. O - Excerpts from documents relating to proposed Special Use District at 800 Presidio Avenue
Ex. P - December 17, 2010 City letter to ABAG

File No. 110452, Re: Planning Commission's March 24, 2011 Certification of a Final Environmental Impact Report for the 2004 and 2009 Housing Elements (Citywide).
Miraloma Park Improvement Club
to:
Eric Mar, Mark Farrell, David Chiu, Carmen Chu, Ross Mirkarimi, Jane Kim, Sean Elsbernd, Scott Weiner, David Campos, Malia Cohen, John Avalos, Angela Calvillo, Rick Caldeira
05/03/2011 02:28 PM
Show Details

File 110452
Cpage

From: Miraloma Park Improvement Club

To: San Francisco Board of Supervisors

Re: File No. 110452, Re: Planning Commission's March 24, 2011 Certification of a Final Environmental Impact Report identified as Planning Case No. 2007.1275E, through its Motion No. 18307, for the 2004 and 2009 Housing Elements (Citywide)

Dear Supervisors:

This correspondence is to inform you that the Miraloma Park Improvement Club supports the appeal of the certification of this EIR. We urge you to de-certify the EIR and send the Housing Element (2004 and 2009) back to the Planning Commission for reasons summarized in the attached letter. Briefly, the EIR was performed on Draft 2 of the Housing Element, but the Commission subsequently changed language and issued Draft 3 of the document, which was not reviewed by the EIR or subject to public review. This new language has profound implications for San Francisco's zoning, architectural and residential character, and quality of life. Therefore, we strongly urge you to reject the flawed EIR and instruct the Planning Commission to restore Draft 2 of the Housing Element. Please refer to the attached letter for details of our concerns about the EIR and the Housing Element.

Sincerely,

Dan Liberthson, Corresponding Secretary, MPIC

Attachment: detailed letter

350 O'Shaughnessy Boulevard • San Francisco, California 94127
Telephone: (415) 281-0892

Miraloma Park Improvement Club

May 3, 2011

From: Miraloma Park Improvement Club

To: San Francisco Board of Supervisors

Re: File No. 110452, Re: Planning Commission's March 24, 2011 Certification of a Final Environmental Impact Report identified as Planning Case No. 2007.1275E, through its Motion No. 18307, for the 2004 and 2009 Housing Elements (Citywide)

Dear Supervisors:

This correspondence is to inform you that the Miraloma Park Improvement Club supports the appeal of the certification of this EIR. We urge you to de-certify the EIR and send the Housing Element (2004 and 2009) back to the Planning Commission for reasons summarized in the attached letter. Briefly, the EIR was performed on Draft 2 of the Housing Element, but the Commission subsequently changed language and issued Draft 3 of the document, which was not reviewed by the EIR or subject to public review. This new language has profound implications for San Francisco's zoning, architectural and residential character, and quality of life. Therefore, we strongly urge you to reject the flawed EIR and instruct the Planning Commission to restore Draft 2 of the Housing Element. Our specific concerns about the Housing Element (HE) in addition to the EIR are detailed below.

1. Draft 3 of the 2009 HE was certified and approved by the Planning Commission on March 24, 2011. It was not reviewed by the EIR. Last-minutes changes were not reviewed and vetted.

2. It is unacceptable that density zoning instead of precise square foot ratios as currently set forth in the Planning Code such as for residential areas will be used to determine neighborhood character. The HE changed maintaining the density limits to protect RH-1 and RH-2 districts.

3. The HE changed the definition of "major transit lines" to include major bus lines that run throughout the City and this means that increased density can occur not just along light-rail and BRT lines but rather along any of these transit lines -- a quarter mile on each side. Such "transit corridors" will overwhelm the residential neighborhood with secondary and multi-unit buildings especially on residentially zoned lots adjacent to these transit lines.

4. In the latest HE iteration, "neighborhood-based" decisions will be trumped by "community-based" decisions which can include entities from out of state and beyond. Immediate neighbors' input to changes to Planning Code for housing near transit lines and other Planning Code changes will carry less weight in decisions when weighed in amongst the outside interests such as developers, non-profits, religious institutions, lobbyists, etc.

5. There is no need for new units as defined by RHNA. There are excessive growth projections for the whole City in general as the new numbers represent much more than RHNA requirements.

6. San Francisco is taking on far more than even the projected RHNA targets for funding dollars rather than be concerned with the livability and character of the City. The HE will wreck the town with greater noise, air pollution and traffic congestion. EIRs on recent projects show these negative effects cannot be mitigated but that the development will be welcomed due to the funding stream it brings with it.

7. San Francisco residents did not choose the areas for higher density. Neighborhoods did not get to choose. This Citywide HE document that will be the roadmap for all future development is based on the City choosing for the residents where the Priority Development Areas (PDAs) will be. These PDAs will be on vacant or underused land which can be designed for high density. They can be areas that need to be redeveloped due to "blight". This will all lead to health risks for the entire city from additional traffic congestion and air pollution. A new map shows that practically all of SF is ripe for these increased in-fill units near transit.

8. No reduced density alternative is studied in the last iteration of the HE. The City violated the court order to have the reduced density alternative studied by not doing one and continuing to push on full steam ahead and to add last minute changes to exacerbate an already disastrous policy document of which the average person in this City is unaware. Do people know that their neighbor will be able to add in-law units practically anywhere in this City including in RH-1 and RH-2 residentially zoned areas?

9. The HE EIR did not analyze a reasonable range of other alternatives that could reduce the negative effects of a full-blown buildout above and beyond the RHNA guidelines.

10. There is no preservation of residential areas. It is about livability, each distinct neighborhood speaking for their needs in their own areas. The Mission has a different character than the Sunset. Chinatown is different than West of Twin Peaks. Each distinct neighborhood has its own precious qualities that will be diminished. This will also diminish and even eliminate the cultural diversification of neighborhoods.

11. The HE policies will allow only the very rich and the very poor to live in this City where only 12% of the middle class housing is being built. The HE is anti-middle class.

12. The HE does not allow for the needs of the disabled, the elderly and the sick when it densifies all of the City when the water, sewer and other utilities are inadequate. Muni cannot handle additional riders let alone handle today's ridership load. with additional traffic congestion, people may not be able to seek emergency medical care. Since the HE is also anti-parking, the disabled, sick and elderly will again not be able to get places in private vehicles which are faster than public transit.

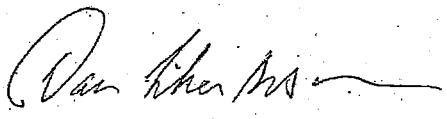
13. The HE is anti-parking. It will not allow 1:1 parking in SF; but Oakland is allowing 1:1 parking. SF is taking the bonus dollars it will get for being the leader in this new growth scenario to the detriment of the RH-1 and RH-2 neighborhoods whose family-oriented character with more open space will not be maintained. It will also be to the detriment of the entire City.

14. Per the SFPUC's March 14, 2011 memorandum, SFPUC has a projected shortfall of available water supply to meet its LOS goals and contractual obligations. The water studies show that there will not be sufficient amounts for SF's future population based on the projected housing units.

The HE does not use the most recent information on projected water supplies and therefore is inadequate and inaccurate. These future residents will not have the same high-quality unmodified drinking water as the people today are enjoying. When one resorts to drinking distilled second-hand water for the projected population, then the people and the housing units should not be built here. Other areas need to step up and take off the load from SF. SF has an overly aggressive plan to squeeze in 60,000 to 90,000 more housing units.

15. CEQA prohibits approval of projects with adverse environmental impacts if there are feasible alternatives such as for water and transit. Even so, this HE was approved.

Sincerely yours,



Dan Liberthson, Corresponding Secretary, MPIC

San Francisco Tomorrow

Since 1970, Working to Protect the Urban Environment

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2011 APR 18 AM 11:20
BY _____

BY HAND DELIVERY April 18, 2011

Ms. Angela Calvillo
Clerk of the Board of Supervisors
City of San Francisco
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102

Re: Support for Kathryn R. Devincenzi's Appeal of Certification of Final Environmental Impact Report for 2004 and 2009 Housing Elements and Related CEQA Findings, Environmental Findings and Statement of Overriding Considerations per Planning Dept. Case 2007.1275E and 2007.1275EM.

San Francisco Tomorrow hereby supports the appeal to the Board of Supervisors by Pacific Heights Residents Association, et. al., by Kathryn R. Devincenzi on April 12, 2011 regarding Certification of the Housing Element EIR.

The appended SFT supportive appeal documents are submissions to the Planning Commission of March 7, 2011 with appendices followed by that of March 21, 2011. These cite relevant state codes stipulations regarding Housing Element requirements that have not been met by the Planning Commission Housing Element (H.E.) current submission to the BOS.

Troubling is the absence of Planning Commission responses to the concerns raised by SFT that require reasonable objective, professional discussion. For example, a continual omission from the proposed H.E. is the lack of specific implementation program proposals as required by state codes. Without the provision of specific means there cannot be implementation. Further, an assertion by the H.E. that adequate resources are available for implementation of housing needs continues to be conflated by a lack of specific indications that the city has sufficient control of those resources and mitigation means to enforce the necessary means of mitigation. Good intentions are insufficient for implementation.

Sincerely,
Bernard Choden for SFT

Will you want to live in San Francisco – tomorrow?
41 Sutter Street, Suite 1579 . San Francisco CA 94104-4903 . (415) 566-7050
Recycled Paper

San Francisco Tomorrow

Since 1970, Working to Protect the Urban Environment

April 13, 2011

John Rahaim
Director of City Planning
1650 Mission St., Ste. 400
San Francisco, CA 94103

RE: Request for Fee Waiver as a neighborhood organization

Dear Director Rahaim,

I am writing this letter to confirm that San Francisco Tomorrow (SFT) is a neighborhood organization according to the definition specified by your department. Our organization was established in 1971 to protect and preserve San Francisco's neighborhoods, and have frequently acted in that role. We have been listed on the Planning Department's list of neighborhood organizations for many years.

In the matter of the appeal of the Housing Element, I have also authorized Bernard Choden to act on behalf of our organization supplementing Kathryn R. Devincenzi Appeal of certification of Final Environmental Impact Report for the 2004 and 2009 Housing Elements and Related CEQUA Findings, Environmental Findings and Statement of Overriding Considerations for Case #'s 2997.1275E and 2007.1275EM.

Sincerely,

Jennifer Clary
President

To: SAN FRANCISCO PLANNING COMMISSION
Fr: Bernie Choden, representing SFT
Re: Further specification of State Housing Element requirements.

March 21, 2011

The following further specify the requirements for the city's Housing Element in response to the Planning staff's responses to my comments.

I state that a requirement of the H.E. is that policies be an "an administrative directive intended to be enforced", I emphasize that the H.E. contain professional suggestions for implementation of policies through objectives, programs, codes and ordinances to the BOS. The responsibility of deciding whether these suggestions for implementation meet the city's priorities and resources capabilities lies with the BOS and **not** with the Planning Commission. Per the State Government Code, I note:

65580: "(d) Local and state governments has a responsibility to use powers vested in them to facilitate the improvement and development of housing to make adequate provision for housing needs of all economic segments of the community."

"(e) The Legislature recognizes that in carrying out this responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the General Plan and cooperate with other local governments and the state in addressing regional housing needs."

The key word in the above citation is FACILITATE. That means the H.E. must recommend means to enforce the H.E.. Further, the Planning Commission intent to implant "transit villages" upon the H.E. priorities is a means of avoiding the clear intent of the state legislation that implementation of the H.E. "is a priority of the highest order."

65581: "(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of state housing goals, provided such a determination is compatible to with the state housing goal and regional housing needs."

The key words in the above citation are "ATTAINMENT OF STATE HOUSING GOALS."

65583: "The housing element shall consist of an identification and analysis of existing and projected housing needs and statement of goals policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing."

This states the clear intent for the H.E. to suggest means of implementation within the constraints of the city's resources.. Additionally, the city's H.E. lists series of institutions and their finances without clearly stating what their object obligations

must be. Missing also are programs to deal with code compliance, overcrowding and preservation.

State Code element (3) deals with an inventory of land suitable of residential development. While the city's provides an inventory of vacant land, it is not a full inventory of all suitable land. Further, the Code specifies that means to make such lands available by means of identified five year funded programs to be presented in the H.E.; this requirement is fully ignored by the city H.E.. The vacant inventory is so much wasted paper given no further intent as to promote its use.

As a further comment regarding H.E. requirements, Planning staff comments that housing related to employment is not fully specified by me although staff fully ignores that relationship, required by Code, in indicating employment location relevancy to housing. With consistency, the Planning Commission has changed the occupational modality of the city's blue collar workers by eliminating their jobs through unwarranted BNP approvals such as in the Eastern neighborhoods. There testimony indicated upwards of 7,000 such workers will lose employment through land use changes that cannot be fully justified by application of the General Plan and previous laws. Those workers will need to migrate out of town to less dense areas using their autos because transit will not suffice for getting to "foot-loose" blue collar employment. The records of the MTC are available to staff and, therefore, it is not incumbent upon me to provide them as staff suggests.

Given the above, I believe that the city H.E. is not complete.

San Francisco Tomorrow

Since 1970, Working to Protect the Urban Environment

TO: SAN FRANCISCO PLANNING COMMISSION
ATTENTION: R. MIGUEL, PRESIDENT
RE: HOUSING ELEMENT ADOPTION

MARCH 7, 2011

Dear President Miquel:

San Francisco Tomorrow believes that the proposed Housing Element does not meet the requirements indicated by state law or for purposes of professional recommendations that can provide the Board of Supervisors with necessary tools to make a "good faith effort" within the scope of the city's priorities and resources. A summary of our objections to the present Housing Element proposal follows:

1. The H.E. must be implementable as to means and resources to meet the variety of housing needs by means of directive policies. Nominally, "policies" are statements that are an "administrative directive intended to be enforced." The H.E. still lacks the required work programs by which its policies would be implemented.
2. The state requires an analysis of past H.E. performances that is entirely absent in the proposed H.E..
3. The background data lacks the scope and correlated analysis necessary to identify variety of housing needs by households, seismically unsafe locations, access to employment / investments and services.
4. The ability of the city/county to provide services and infrastructure is greatly misstated and left without implementation means and alternative resources.
5. The H.E. does make proposals regarding zoning and parking that are unfounded regarding how they would specifically provide for affordable housing and also meets the tests of necessary location and special needs.
6. The H.E. lacks implementation correlation to other General Plan elements.

The above criteria was provided to the Planning Commission and you by SFT; yet none of our concerns and suggestion received acknowledgement or response.

Thank you for your attention to our concerns.

Sincerely,

Jennifer Clary, President

San Francisco Tomorrow

Since 1970, Working to Protect the Urban Environment

To: San Francisco Dept. of Planning
Attention: Bill Wycko, Environmental Review Officer
Fr: Bernard Choden
Re:DEIR Housing Element 2010
Aug. 31, 2010

San Francisco Tomorrow has submitted a review of the draft DEIR that is expert, objective and in conformity with the purposes of state law. It is our conclusion, that a delay of approval is necessary in order that others may review the DEIR as fully and as objectively as we have. To this end we suggest appointment of a panel of non-conflicted experts who would use the extended time to evaluate those many portions of DEIR that do not provide either a sufficient analysis of needs nor effective mitigations for action by the Board of Supervisors.

In order to assure the city of its due subventions, we suggest that the city send the Department of Housing and Community Development a letter of intent regarding the city's commitment to meet the objectives noted above within the additional time.

SFT is the oldest city's environmental organization and it is distinguished by its many highly relevant proposals for the city. SFT is not a "stake-holder"; we believe our views are objective and expert regarding the needs of the city's people. We hope to assist you with suggestions for a review panel and its relevant agenda.

Sincerely,
Jennifer Clary, President

San Francisco Tomorrow

Since 1970, Working to Protect the Urban Environment

To: San Francisco Dept. of Planning
Attention: Bill Wycko, Environmental Review Officer
Fr: Bernard Choden (em: Choden@sbcglobal.net)
Re: Review of the Housing Element EIR
Aug 5, 2010

The Housing Element EIR and its underlying Housing Element document are deficient and premature in meeting objective professional and legal requirements for state Government Codes 65580 thru 65583. The over arching purpose of a Housing Element is to create and sustain localities capacity to adequately house its present and projected workforce and population, with a balance of housing types, sizes of units, ranges of affordability and land reserves.

San Francisco faces unusual challenges including its relatively high residential density, high costs, and its geographic position in relation to surrounding suburban highly urbanized counties. The existing draft Housing Element lacks reality and is particularly deficient in meeting legal requirements as detailed below. This severely compromises the foundation and adequacy of the environmental review.

An evaluative comparison, as required, of the effectiveness of actions promoted by the Housing Elements of 1990 to the present.

Sufficient data as to the scale and type of diverse housing needs, mitigating resources and institutional means to meet those needs.

Mitigation recommendations, as required, for a five year action plan as to costs, location, scale, diversity, ordinances, codes, resources and intended implementation means.

Infrastructure and service resources available for the identified life of the mitigations.

Health, welfare and safety concerns relevant to housing such as structural and life loss through seismic events and an inability of the locality to provide acute hospital care during disasters.

Contributing to the weakness of the draft DEIR, is the "policy" lexicon of 'promote, encourage, enable, ensure, vision, consider and support'-none of which provide specific action recommendations for the mitigation of unmet needs. The correct definition of

"policy" is an "administrative directive intended to enforced." Without the proper use of the term "policy", the EIR/Housing Element document lacks both appropriate mitigation measures and enforcement. **In sum, it is not possible to measure the impact of platitudes.**

Detailed commentary:

BACKGROUND:

1. Efficacy comparisons for Housing Element proposals from 1990 to the present is absent from the draft EIR/Housing Element and would likely indicate a major shortages of accomplishments. Clearly, far more market rate housing has been constructed or approved or is now in the pipeline, often on endangered sites, than needed housing for low and moderate income residents. The process obviously lacks the means to establish a commitment to professional and legal requirements of a Housing Element. The lessons to learned by the comparison process and identified shortages of accomplishments must be part of any acceptable draft.
2. The draft needs a "best practices" data abstract to be added to lessons learned from prior year comparisons. How do other entities achieve housing betterment?
3. The population basis for needed housing mitigations is flawed. Reliance on the state Dept. of Finance limits the draft to an insufficient analysis that is short of economic substance. More substantial, professional resources need to be considered that take into account current jobs/investment probability such as the current, prolonged recession. Projections from the current population base estimates of growth vary wildly. For example, the CCSF Dept. of Environment assesses current population at 841,000, far more than the draft assessment. When coupled to the draft's estimate of (mostly market rate) 65,000 new dwellings in the pipeline is added to the current stock, we reach a population potential approaching 1,000,000 persons in the short run. That is a current potential that already exceeds the draft's estimate for a population twenty years into the future. That and the unacknowledged potential increase of on-site employment in the city and regionally will place far more stress on the city's capability to provide infrastructure and services. **The city's "holding capability" will be stressed beyond our capabilities.**

   The DEIR does not provide cost estimates for infrastructure improvements needed for substantial population growth and the constraints on population to the city/county financing such improvements. Further, such finances requires significant front end loading because most such infrastructures are high capacity systems requiring large terminus investments that must be acknowledged by the DEIR as requiring funding commitments by various means of mitigation.

4. The draft seeks a jobs/ housing assessment of need that ignores the regional realities that exist beyond the political boundaries that affect both opportunities for mitigation and deficiencies in likely resources and means. For example, more lower paid workers are forced to travel from the city to lower density areas with

less public transit. These are areas with necessarily less public transit. Because much of this employment often is short term, workers must be able to use their automobiles. Although such areas have limited affordable housing, outbound workers must continue to reside in San Francisco. Yet this unfortunate but necessary process is inhibited by the city's indiscriminate policies of car less housing developments abetted by the DEIR's indiscriminate recommendations.

5. The population analysis lacks **correlated** information regarding family size, incomes, job skills and locations, and special physical needs. Unless we can specify the diversity of needs, we cannot guage the type and level of housing that must be produced or conserved.

   The Mayor's Office of Housing has provided some of this information in its reports to the federal government regarding its use of federal subventions. The draft ignores this subsidiary and, often conflicting, data resource.

6. Data is missing on units that are obsolete or deteriorated beyond minor rehabilitation by size, location and income occupancy and probable costs of replacement.
7. The approximately 30,000 illegal housing units identified by survey in the 1990 Housing Element are unacknowledged in the 2010 draft as to present day disposition and condition.
8. The seismic endangerment study, "Preventing a Catastrophe," by the Dept. of Building Inspection identified approximately 4,900 soft story residential buildings with five or more units subject to retrofit needs. Of these, about 3,000 buildings have rent controled units. Involved, therefore, is more than 10% of the housing stock for which there is no assistance program to protect both seismic safety and affordability.
9. High rise residential structures are insufficiently protected against seismic survivability especially with the delay in adoption of CAPS II. Yet, the Planning Commission continues to approve construction of such buildings often on unstable land. This issue is a prime example of the lack of government actionable commitment to the policies of past Housing Elements.
10. The holding capability of city for residence and commerce is more limited than acknowledged by the draft. For example, water availability at an affordable cost is limited both by source limitations, especially with regard climate change, and the increased service demands of its 2,500,000 service populations in the Central Valley and San Mateo County. The continued upgrades of this service is further impaired by severe costs overruns. Waste disposal is constrained by cost limitations imposed by the need to improve its digester treatment with regard to secondary and tertiary treatment and reuse principally for residentially associated uses.

MITIGATIONS:

1. Comments regarding the 2003 Housing Element are appended (B) and offer the same view as present observations.

2. Mitigation recommendations for the 2010 draft derived from the state Government Code and professional assessments submitted to the draft scoping hearing are appended (A) and appear in the draft DEIR CD. These and others previously submitted to this process follow in more detail.
3. The draft must be in accord with the General Plan(GP); however, this plan is both obsolete and lacks integrated planning and implemention actions especially with regard the Capital Program and Economic Program. Further, the GP is not consistent with the city's zoning code. This GP is now under legal challenge with regard its applicability to the Market/Octavia BNP. Piecemeal additions to the G.P. have no cumulative impact analysis or mitigations and, therefore, lack legal substance with regard integration with the Housing Element.
4. In order for the housing program to conform to the holding capability of the city for its limited resources a "**Quota Zoning**" system of public priorities, bidding processes and public use criteria should be imposed on neighborhood regions of the city. The ability to build in such areas would be governed by each area's holding capacity for infrastructure and services. The incremental costs of providing specific holding capacity needs must be identified. Entry for developers would be by a bidding process. Since individual lot zoning would not be involved the process would be legal.
5. Surcharges should be imposed by the city on zoning density increases based upon the value of the development on the parcels. The derived revenue could then be allocated as a public benefit for making housing affordable or for mitigating associated cumulative community impacts. The legal basis for this proposal is that land, especially urban, is a "monopoly in space." Urban land is not a "free market" commodity that can be bought and sold nor was that intention of the Supreme Court in creating the Health, Safety and Welfare basis for zoning in America. Land is an inelastic commodity that in urban areas, by Common Law, is considered "public goods." Its use then can be prioritized and directed for the common good. Further, this proposal has the virtue of reducing the prospects for land speculation. This discussion calls for removal of the DEIR recommendation for zoning bonuses. Such bonuses has a regressive cost implication for the support of housing and, further, has no indicated process for the developers' profit to be retrieved for the creation of affordability of housing.
6. A "PROSPECTUS FOR AFFORDABLE HOUSING," 2005, is appended (C) as a means to achieve large scale housing rehabilitation and new development using the example of the cities of Boston, Ma, and NYC.Urban Development Corporations(UDC). A corollary to this proposal is the movement of the San Francisco Redevelopment Agency to such an agency, all of which would be under the aegis of the Board of Supervisors as permitted the state Housing and Safety Code 33200 through 33206. As noted in the appended prospectus, this new agency would permit both NGO's and for profit developers to collaborate in mutual assistance for both rehabilitation and new development. In doing so, the following can be achieved:
    a. Pre-development underwriting and insurance that could save up to 5% of costs.

b. Industrialized construction that could save up to 25% of costs. Further, the construction technique modeled on European practices could establish a local industry with sales throughout the region and a growth in construction employment on large scale projects. The example of Newark's (N.J.) work with TRACOBA of France is offered.
c. Encourage worker/management joint participation .
d. Enable economical use and development of public land trusts and REIT's that would provide the following benefits:
    i. Ground rents that provide internal subsidies.
    ii. Environmental and aesthetic placement of construction without hindrance of lot ownerships.
    iii. Long term renewal.

7. Use of federal Stimulus funding to underpin the above UDC and the seismic safety retrofit through the above organization could provide a means of preserving affordable housing for soft story residential buildings and providing needed employment.
8. Consideration of the use of the state's New Communities Act should be re-considered as a means of creating new regional communities where resources and new job growth exists. Ancillary to this need and antidote to central city infilling is the strengthening of regional planning as to scope and authority including use of inter-governmental redevelopment powers.

IMPLEMENTATION:

It is the purpose of the EIR/Housing Element to recommend to the BOS feasible, affordable recommendations for meeting housing needs projected for five year terms. It then becomes the duty of the BOS to adopt these recommendations in a manner that commits the city/county to the implementation of its suggested mitigations. **Without adoption of mutually supportive, comprehensive mitigations there cannot be a legal Housing Element or an adequate environmental review.**

APPENDIX A:

To: San Francisco Dept. of Planning
Att: Wm.Wycko, Env. Review Officer 1650
Mission St. Suite 400 San Francisco, Ca.
94103

Fr: Bernard Choden
85 Cleary Ct., # 11
San Francisco, Ca. 94109

Re: Scoping Hearing on EIR for 2004 Housing Element of the General Plan response.

Nov. 6, 2008

The following are from the California Gov. Code 65580-65589.8 as violations of the clear directives from that code. (H.E. in initial form refers to the Housing Element.) that affect the EIR requirements for mitigation.

65580: The purposes of the H.E. cited are variously unmet particularly with regard the diversity of needs and mitigations required.

65581: The limitations permitted local government require clearly defined competitive priorities and resource limitations. The department's claim to resolve mitigations primarily through market forces clearly ignores the possible use of ground rents from almost $ 4 billions in public land equities and other subsidy resources. A regional HUD finding in 2003 indicated that 95% of households could not enter the rental or ownership market with a form of public subsidy.

As previously testified, the 2004 H.E. does not sufficiently identify the diversity in housing needs by cross-tabulation of household incomes with such variables as disabilities, ages, tenure, occupations, location of occupations and condition of facilities that would identify special occupancy and vocational needs. For example, the 1990 H.E. cited about 30,000 units occupied without permits; did they disappear in 2004 and what might one surmise about the condition of those units?

65582(I.): Requires a sufficiency of water and sewer hookup. Current PUC hearings indicate

that the city lacks sufficient infrastructure and resources to accommodate current and expanded populations. What is the holding capacity of the city as to infrastructure, services and income/job generation? Clear commitment to such sufficiency in advance is required but is not funlished.

65583: Analysis is needed as to needs and mitigation for all income levels with inclusion for dwelling requirements for conservation and rehabilitation.

65583(2): Again, this requirement refers to the "availability of financing" and the "price of land." If below market households cannot maintain themselves in the open market because of they lack financing and because of the increasing price of land, then there are environmental displacement issues not addressed in the H.E.. That issue is exacerbated directly by City Planning policy to increase the price of land through upscale zoning without mitigating for the effect such price increases have on housing availability for ALL HOUSEHOLD INCOMES GROUPS REQUIRING HOUSING. To be perfectly clear, the administration's desire to obtain increased property tax revenues through an increase in the price of land violates in some degree the ability of most households to afford housing in their city. The legal equivalent of such action is **"inverse condemnation."**

The department further indicates that an adequate supply of land exists to meet current and future needs. This is a non sequitur. Such sites are not identified to be suitable as to safety (say seismic events), adequate services, employment location and infrastructure. Secondly, all city land has other usage claims on it, some of which have more substantial economic verity and community needs. Further, the city deliberately lacks a commitment to the institutional and fiscal resources needed to make such land available, by priority, for household developments when and where they are needed.

65583 (B): There are no stipulations for housing replacements resulting from public actions or approvals.

65583 (D): The H.E. must identify all actions needed to make land available (as noted above) during the five year period of the General Plan implementation. Given that the General Plan is both obsolete and lacks an implementation policy mechanism, one cannot have an operable H.E. within, in effect, a General Plan that lacks policy implementation means and, therefore, the General Plan cannot provide a mechanism for mitigation particularly with regard such other required elements of the General Plan as transportation and capital programs. That is, the Plainning Department determines "policies" to be a "goal", an encouraging wish. A legal and professional definition of "policy" is **"an administrative order intended to be enforced."**, If you can't enforce the General Plan, it doesn't exist. Without a General Plan, there cannot be a H.E..

The proposed H.E. EIR is not a good faith document.

EXHIBIT A;

Definitions, professional and legal, for use in Housing Elements:

a. **Background**: Current information, inter-related, in such a manner as to provide the construction of program strategies and priorities through an assessment of housing conditions and personal needs regarding incomes, family size, occupation and place of work and infirmities.

b. **Goals**: The achievements intended to be gained for housing regardless of time and resource constraints.

c. **Strategies**: Provide decision makers with choices among varied approaches possible for efficient and effective programs for supportable affordable housing policies in a timely manner.

d. **Programs**: What is to be done; who is to do it, and; what are the resources to be committed.

e. **Objectives:** The time in which programs are to be carried out.

f. **Policies:** These are "administrative directives intended to be enforced" with regard specific programs and objectives as necessary to create an efficient, effective affordable housing program.

APPENDIX B:

To: San Francisco Planning Commission and Dept. of City Planning
Fr: Bernard Choden
Re: Scoping Hearing on the Proposed 2009 Housing Element
Sept. 30, 2009

Appended and resubmitted to you are suggested means for the alleviation of the many housing needs of San Francisco's residents. These professionally considered techniques, or mitigations, should be included in the Housing Element and, therefore, be part of the EIR scoping. Their absence from the Housing Element or its EIR scoping should also be a topic for public discussion.

At the root of our concerns is the practice to treat "policies" as a vague wish, a goal without implementation specifics. Planning practice must acknowledge that the state, in order to receive federal funding, has acquiesced to the federal "Great Society" legislation which defines "policy" to accord with the professionally accepted definition is "A **POLICY IS AN ADMINISTRATION DIRECTIVE INTENDED TO BE IMPLEMENTED.**"

A policy, therefore, must be actionable and effectively time based. The Housing Element excludes, for the most part, remediable, actionable, proposals, regardless of political feasibility, that can alleviate the city's housing needs in terms of ordinances, institutions, techniques and resources. The department over the past 19 years has taken an approach of "MANY PROBLEMS BUT NO SOLUTIONS" so that the city can. be permitted by the state, per Gov. Code 65581, to get off of the hook of undertaking an effective, actionable, public interest Housing Element. Your response is urgent:

The Environment Commission reports that housing turn-over last year was 20% or three times the normal rate for the city or the nation. This was primarily due to unemployment and housing unaffordable exacerbated by city planning actions that curtail employment and housing availability for middle and low income families.

While the Housing Element prognosticates a population increase of 50,000 residents, the city officially claims for infrastructure needs a 200,000 population increase, a 25%

increase, for a future total of 1,000,000 residents. Economics dictate that these new residents will be affluent. Circumstances involving competing demands for infrastructure resources during an era of climate change and the city's inability to afford either current or future infrastructure requirements must be a vital part of devising means of providing for the city's housing needs through recommendations provided in the Housing Element for this larger population projection. The city must ration development.

Current changes proposed for development in the city are **not** considered in the Housing Element. For example, the Planning Commission and BOS approved an EIR for a dysfunctional, unaffordable Central Subway that would Manhattanize Chinatown that, by estimates by representatives of the Mayors Office, would add 30,000 affluent residents without public requirements for mitigation of these effects on the displacement of many poor, elderly residents as well as many merchants. **This is poor precedent.**

APPENDIX B:

To: City County of San Francisco Department of City Planning
Fr: Bernard Choden
Re: Policies Proposals for the Housing Element Required under current State Law

Nov. 19, 2008

The following documents are submitted for your consideration of policies for the Housing Element.

1. Prospectus for Affordable Housing, a policy proposal document.
2. San Francisco Tomorrow Housing Plan 2000.
3. "The question of the Sale of Development Rights."
4. Comments to the Planning Commission regarding the requirements, program and objectives, June 2, 03 & Oct. 9, 02.
5. Comments to the Plan. Dept. EIR scoping meeting of Nov. 6, 08 reiterated.

The use of the redevelopment process is necessary for an effective implementation of the Housing Element. As an added policy, I also suggest the redevelopment process be under the aegis of the BOS that as a more trustworthy agency that would better conform to state law in full protection of the equitable rights of our citizens and the safeguarding of the city's social and economic interests. As oversight, I suggest the creation of an urban development "ombudsperson."

The legal and professional definition of "policy" is "an administrative directive that is intended to be enforced." Policy proposals that do not include an implementation means are not policies. Such means must include legal and codified basis, resources and institutional aegis. Anything less is a wish without procreation.

San Francisco Tomorrow

Since 1970, Working to Protect the Urban Environment

June 2, 2003

Planning Commission
1660 Mission St.
San Francisco, CA 94103

Dear Commissioners:

San Francisco Tomorrow is deeply concerned that the Draft Housing Element is inadequate, and asks you to delay approval until its problems have been addressed. Our substantive comments are below.

State law requires that a Housing Element must have specific recommendations (e.g. a road map) to enable the conservation and development of affordable housing, within a specified time frame. It must do so for all of the city's present and future residents in terms of their specifically identified needs. **The San Francisco Planning Department's Housing Element does not do this.**

A principal reason for this failure is a persistent attempt by the department to mis-define policies as a general goal. The department thus seeks to avoid its legal and professional responsibilities. The Housing Element should be organized in format and respond to the following appropriate and legally accepted definitions:

- **Goals: broadly defined future achievements, 'general in nature.'**
- **Policies: administrative directives intended to be enforced.**
- **Objectives: goals intended to be implemented within a specific time frames.**
- **Programs: methods to accomplish goals and objectives.**
- **Projects: specific actions to accomplish programs within time frames.**

BACKGROUND

1. **The Element does not identify needs clearly enough to set priorities for proposed programs.** For example, citing the incomes of households without estimating the corresponding character of these households (i.e., size, ages, occupations and work of household members, disabilities or consanguineous relationships) in specific numbers is a programmatically unuseable statistic.
2. **The data for the Element are inadequate and often obsolete.** For example, stating that the city's economy lost 30,000 jobs early in the decade, then grew by 50,000 jobs later in the decade and, then well before the Element was complete failed mention the known loss of 30,000 certain jobs during 2000 through 2002. Some of the most recent job loss is due directly to the Planning Department's policies. For example, the rising costs of

land in areas invaded by so-called 'live-work' developments have made use of such land less profitable for use by blue-coller industries. The department's administrative policies have been blinded by a lack of economic insight and able planning.

Another example lies within the report regarding illegal units. The 1990 Housing Element estimated, with evidence, that the City had over 30,000 illegal dwellings. About four years ago, a former member of the Planning Department's housing planning staff surveyed several hundred new homes constructed in the western half of the city and found that at least 1/3 of them had illegal units. On page 36, the Element states that there is no known number of illegal units and on page 128 cites, unsupported by evidence, the existence of 20,000 illegal dwellings today. This contradiction between Department records, and within the Element itself, needs to be resolved.

3. **The Housing Element does not adequately identify resources**: The Element wrongly states that there is sufficient land for housing needs without specifically indicating what and how many housing needs can be placed into play on these sites in a timely and affordable manner. Why does the economic market not rush to build upon this land? Are there constraints that programmatically need to be addressed?
4. **The report does not, as required by the State, evaluate why the prior Housing Element did not succeed in providing fully effective programs.**
5. **The basis for addressing San Francisco's affordable housing needs is specious**: The determination of San Francisco's long-term housing needs, the Element's goals, is primarily determined by the need for new units determined, speciously, by an formulaic allocation determined by ABAG as to the City's growth.

STRATEGY

1. **A coherent strategy is needed.** Given problems and opportunities (in so far as the report provides them) what are the various approaches that could achieve a workable program ("General Approach", p. 76) and, then, which would be the preferred ones and why?, we need to know why the report prefers one process or program over others. Further, the section of the report that might be an attempt at a strategy, "Terms and Methodology," does not pick up on most of the serious problems identified in the background part of the report.
2. There needs to be a strategic discussion of the institutional roles and collaboration necessary to achieve an effective, unified affordable housing program including the roles and efficacy and efficiency of existing institutions as follows:
    a. **New development, involving their use of eminent domain, the freezing of acquisition costs for infill lands and for bolstering the efficacy of a public lands trust.**: This process could have explored use of ground-rents and the sale of development rights using lands remaining in public trust as a means of lowering

land costs, providing collateral for bond sales and the provision of internal project subsidies.

b. **Conservation of affordable housing**: processes unmentioned at all.
c. **Departments involved in the capital improvement process** associated with the enforcement of the General Plan (of which the Housing Element is a part) as required by the City Charter and Administrative Code. For example, the use of the City's good faith and credit as means of underwriting private financing of affordable housing could provide financing cheaper, faster and with fewer hooks than use of the State's bond money. Further, public capital expenditures could be used for co-development of affordable housing with public works such as civil servant housing.

The Element's negative declaration of infrastructure needs related to expanding the expansion of the City's housing stock is wrong. For example, the city's high-pressure fire lines require several hundred million dollars for repair (especially in high-density seismically prone areas) may require a substantial expenditure of $4.5billion for these system needs. Also, regional transportation studies of comparable areas indicate expensive, socio-economic positive impacts regarding the Element's presumption of forgiveness of home parking requirements.

3. **The report does not identify strategies which could ameliorate housing costs for each cost component**.. For example, land costs (an inelastic cost), construction costs and finance costs could be reduced using well known techniques such industrialized building processes and collaborative private/public co-development processes that were not **operationally** examined.

IMPLEMENTATION

The proposals are significantly lacking in several areas; regarding legislative changes (what specific changes are needed); institutional requirements (who must do what, when and where); finance (the necessary techniques and resources) and; in recommending formal working inter-departmental relationships. Outside of on-going programs (which are not critically examined), the Department principally describes actions within the Department's purview, such as zoning, as if that is really all that is necessary to attain an effective Housing Element.

1. The Element uses far too many devices limited to persuasion (encouragement or discouragement of resident and developer actions). The Element indicates a lack of timely expertise in regard to many cost- lowering techniques .
2. The major Element recommendations are increases in **(a)** permitted increased densities, **(b)** parking forgiveness and **(c)** (continued and wider use of the Department's CAP. None of these recommendations are preceded by analysis indicating that these actions would result in more or better targeted affordable housing or less demand for parking.

The premises used for these proposals are totally unsupported by evidence that normally would be addressed in an EIR, and other impact studies involving the holding capacity of the city (with regard infrastructure, services and public/private resources) and socio-economic impacts.

CONCLUSIONS

1. **It is recommended that the Planning Commission delay approval of this Housing Element.** Staff has attempted to intimidate the Commission into the Element's approval by insinuating that the City will loose access to State housing bond money unless the Element is approved by July 1.
    a. The private finance market can provide housing revenue bond monies at less cost, faster and with less encumbrance than the State, **provided that the City underwrites the bond.**
    b. An unworkable Housing Element will prove far more costly to the City than the cost of waiting for an effective Element.
2. **The Planning Commission should hire expertise.** This expertise should be free if political or economic ties to **(a)** prepare a work program for a Housing Element that would be programmatic, effective and efficient and **(b)** supervise the preparation of a new Housing Element utilizing the cost savings and work force (from a reorganization plan) from a new, single, responsible conservation and development agency for the City/County.
3. **The Commission should recommend that there be a single, responsible coordinating agency for the conservation and production of affordable housing and other public development interests.**

Thank you for you consideration of this matter

Sincerely,

Bernie Choden, Housing Chair
(415) 929-7714

Jennifer Clary, President
(415) 585-9489

PROSPECTUS FOR AFFORDABLE HOUSING: APPENDIX C

Proposal:

Suggested is the use of Commercial Bonds under the aegis of an Urban Development Corporation to create and maintain affordable housing for diverse households in diverse areas of the City. This approach must be creative, multi-faceted and coordinated with all parties involved with affordable housing. Speed and need are the underlying motives.

Needs:

HUD's region IX indicated that only five percent of the households within the City could afford to enter the housing market today. Yet, this five percent of the City's households who already possess homes are the principal target today for home creation and conservation. To add to this small market ready minority are those who seek in this city corporate and speculative vacation housing.

Those engaged in the creation and preservation of affordable housing do so by informal means hindered by very limited resources including the scarcity of low-cost funds and a strong, consistent, coordinated public program. The City needs to change its housing priorities by dramatically changing how it assists in the creation and preservation of affordable housing.

Process:

Proposed is the creation of an Urban Development Corporation that would be invested with right to create private/public partnerships for the development and conservation of affordable housing and associated uses on public lands. The resources for this effort are:

1. A development entity that can coordinate and ensure available resources.
2. Resources on a sustained basis for land, financial assistance and technical assistance.

3. Cost savings through agglomeration and industrialized techniques.

Strategy:

Recent elections have demonstrated that Obligation Bonds for affordable housing cannot obtain public support and that the strife among proposal participants has been destructive of public support and investment efficacy. While property taxes have virtues as a means of spreading the underwriting costs of housing bonds and deepening the level of public support for such bonds they have notable limitations. First, G.O. bonds conflict with the City's other G.O. bond priorities, which are many and, perhaps, for some- un-fundable. Secondly, their use is less flexible than would be desired due to the constraints of law than use of commercial bonds.

However, the effective use of commercial bonds requires a highly coordinate program and direction; thus, the City needs an Urban Development Corporation (UDC)to be, first, a locus for setting public policy and evaluation and, secondly, a sustainable means of assuring and insuring implementation. A UDC would provide cooperative grounds for effective, high quality development for a diverse population and provide the modus for underwriting housing costs by many possible means. Through the aegis of an UDC, the prospect of leaseholds on public lands offers a cost effective and timely sharing of infrastructure and environmental needs together with cost effective design and construction methods.

Use of commercial bonds for affordable housing has several advantages now. They do not require an election; they can be speedily issued by the Mayor and Board of Supervisors subject only to their fiscal viability. Their cost is historically low, a cost assisted by public underwriting, development rights sales and a pledge from the use of derivative revenues from development to assist in the repayment of the bonds and provide substantial subsidies needed to make housing affordable.

Cheaper bonds can be used to lower the cost of construction and/or provide other development benefits that can further reduce the costs for development and maintenance. Raising the cost of the bonds for market rate housing through increased arbitrage can be viewed as income redistribution or/and a means of providing front-end development cost savings that could, and should, benefit both market-rate and subsidized housing users.

Resources:

Revenues: Proposed is issuance of Commercial Bonds assisted by :

1. Public underwriting using either "letters of credit" or letters of participation."
2. Existing public lands bundled together as collateral.
3. A pledge of derivative revenues to fund a second commercial bond that would be used to subsidize housing and development costs from:
    a. Ground rents from the values created on land.
    b. Surcharges above the administrative costs of the bonds.

c. Use of the allowable "possessory interest tax" on land and improvements.

4. Sale of leaseholds and development fees.

Implementation:

Through the aegis of an UDC, create a management board comprised of profit & non-profit developers, professional experts, the Redevelopment Agency, citizens and representatives of the Board of Supervisors. The Board of Supervisors, co-extensively, would create an evaluation commission with oversight authority. Procedures might be as follows utilizing city agencies for staff where warranted and objectively possible:

1. Create an investment and management program:
   a. Development management.
   b. Funding management.
   c. Design and Planning.
   d. Assistance
   e. Subsidy process.
   f. Construction.
   g. Approvals

2. City and Redevelopment plan approvals **en-masse.**
3. Evaluation and alteration processes.

Example of Construction and Cash flow Process

The sample process indicates the original cost of the bonds can be subsidized through issuance of a second bond that is financed by revenues from bond surcharges, ground-rents and possessory interest taxes that, in total, amounts to more than 30% of the original cost of the bonds. Utilizing mass construction techniques (industrialized construction) provides more costs savings.

The revenue calculations are appended. Because, at this time, it would be too difficult to estimate the market absorption rate for use of the bonds, the table reflects revenue from both arbitrage and ground-rents simultaneously. As a result, the table indicates bond cost savings, roughly, of 60%, half of this amount would reflect reality, because the revenues from arbitrage would decrease as the bonds were sold and retired while ground-rents, in a greater amount would increase as the projects were built out depending upon the absorption rate of new development.

A further caveat, is that the costs of commercial bonds would remain competitive with the market, again roughly, because the costs of carrying a higher bond surcharge would be off-set by interest rate savings obtained through public underwriting either as letters of credit or participation. An additional savings is reflected in the table due to public price control of the land that would, in turn, prevent speculative land prices resulting from the relative inelasticity of land market prices.

Conclusions:

It is presumed that a mix of market rate and subsidized housing will be constructed and/or preserved. Further presumed, is that the subsidies would vary as a mode of income redistribution, through internal subsidies, a means of developing self-sustaining diverse communities.

It is presumed that the feedback of this form of derivative financing can be used in a number of ways.

1. Lower the costs for all subsidized housing using a needs formula.
2. Lower the costs for all subsidized housing and subsidizing Urban Development Corporation front-end services for subsidized housing development.
3. Providing the equivalent of Section 8 individual housing subsidies.
4. Creation of Mass Production factories and sales to the region including investment and employment services.
5. Public acquisition of other development sites in fee-simple or as private/public partnerships. Explore the creation of regional joint-development of new-communities.

Steps Required:

1. **A Resolution of Intent by the Board of Supervisors:**

   - Limit City land sales to Trust Deeds and uses essential to City's long-term needs including the objectives of this proposal.

   - Undertake expedited studies of this proposal by Bond Counsel as to legal steps, risk analysis, efficiency and efficacy utilizing LAFCO as the coordinating agency.

   - By administrative directive, amalgamate the City/County agencies involved in issues related to the operations of an "Urban Development Corporation." and a "Housing First Fund" capital holding corporation.

   - Create a Citizens Advisory Review Committee to monitor and evaluate the process on half of the Supervisors, the Mayor and the LAFCO process.

2. **Implement the Process.**

   - Incorporate a "Housing Development Corporation" and its ancillary "Housing First Fund."

- Create a staff, principally through amalgamation of existing staff from related programs and an organizational and operational program.

- Transfer operational assess and implement the program.

- Authorize the operation to enter into contracts involving private-partnerships for all aspects of the program, the creation of a mass construction agency involving all modes of construction and joint-development operations with other constituencies within the region that promote the City/County's public benefit goals.

APPENDIX B:

To: San Francisco Planning Commission
Re: Comments on the Draft Housing Element

July 21, 2002

SFT believes that this draft still is a document with major short-comings. While the Housing Element will be probably be approved by the Commission soon, we suggest, at least, that there be stronger, clearer enforceable policies in these subjects of concern:

- A central authority for facilitating affordable housing especially for larger households.
- Provision of adequate Capital budgeting for increased to housing density especially with to regard available resources.
- Provide neighborhood holding capacity analysis in devising density standards especially with regard to adequate infrastructure and services.
- Provide mitigations for reduced residential parking.

In detail our implementation suggestions for amendments to the Housing Element are:

1. Policy 7.2 (p. 149) **City Organization Framework:** Create a single local government source for the implementation of housing development and housing conservation. Amalgamation of various housing organizations into a single agency is needed to more effectively finance the implementation of housing policies. A new agency will enhance the formation of private/public partnerships, the use of cost-saving construction techniques and the pro-active acquisition of appropriate housing sites, a process that will alleviate payments for speculative land and materials prices.
2. Policy 11.2 (p.169) **Capital Budgeting Needs:** Require extensive infrastructure improvements and innovative financing particularly with regard to water, sewer and transit needs, all to be integrated with neighborhood housing.
3. Policy as above, **Holding Capacity Analysis:** Relate residential density to an analysis of each neighborhood's holding capacity regarding infrastructure and services, (such as schools, parks, health and safety) with especial reference to item 2, above.

4. Policy1.1 (p. 113), **Mitigation for Parking Reduction**: Mitigate the impacts of reduced parking requirements for housing especially in transit/commercial corridors and, where warranted, provide for car share and public transit disability services.

Sincerely,

Jennifer Clary, President Bernard Choden, Housing Committee

APPENDIX B:

January 27, 2009
To: San Francisco Planning Department
From: Bernie Choden

RE: FATAL FLAWS IN PROPOSED HOUSING ELEMENT POLICIES AND FINDINGS

In relation to State requirements for Housing Elements and recent pending court writs related to environmental review of prior housing element work, MUCH IS INADEQUATE OR MISSING:

- Holding Capacity Analysis for San Francisco. No basic analysis has been done of environmental and infrastructure constraints for San Francisco in terms of proposed densities. Seismic risks have been ignored.

- Needs Analysis Fully Recognizing Diversity of San Francisco's Population. Who can pay and who can't? And what are the detailed characteristics of those needing subsidy? Are existing and proposed resources allocated fairly among the various groups?

- Evaluation of Past Efforts. State law requires evaluation of past Housing Element policies and programs. What worked and what didn't? What was left out that now should be added?

- Policies Clear Enough to Be Implemented and Evaluated. The intent and implementation for policies must be identified and progress must be measurable. Policies should not be so vague as to be meaningless.

- Emphasis on Financial Tools and Institutional Changes. Too much attention is focused on zoning and too little on variety of financial tools and institutional innovations. Particularly missing is intelligent use of publicly owned land and resources including the imposition of appropriate ground rents, as is done in Los Angeles.

APPENDIX B:

To: J. Clary
Fr: B. Choden
Re: SFT BOS HSG PROPOSALS.
3/12/09

1. **Development should not exceed the city's holding capacity for infrastructure or services as measured by law and best practices for health, safety and welfare.**

   Currently the city does not have adequate holding capacity for its residents for infrastructure, such as sewer and water, or services such as schools. The city has indicated that it is not willing or unable to finance such capacity on a sustainable basis nor is the city willing to commit to such funding and other necessary development resources to such future needs.

   Therefore, the city should not commit to further development in the absence of such holding capacity.

   Should holding capacity be made available on a long-term, sustainable basis, then development should only be granted on a measurable pro-quid-pro basis by priority quota as determined overall by public needs criteria for housing and employment inter-related citywide and by neighborhoods either on a first come basis or by lottery and by development as best relates to the development pattern of each area. This method of land control is termed "quota zoning."

   Development should contribute to the resource and funding of the holding capacity needs of the city in accord with the city's needs for such development including subsidies or surplus values.

2. **Seismic safety assistance for rent controlled below market housing should be subsidized in a manner that preserves the affordability of those housing units.**

Approximately 3,000 residential buildings with about 9,000 units under rent control and that are presently affordable require seismic retrofit subsidies in order to both achieve seismic safety and affordability of that housing. It is unlikely that most of these units would remain affordable with such assistance that might include:

1. Rehabilitation pooling of construction resources and techniques such "mass production" and builders' insurance and architectural and permit assistances.
2. Applying for federal stimulus assistance for aid to contractors and owners to offset costs given guarantees of tenant affordability. These projects would be shovel ready and income

APPENDIX B:

February 11, 2004

Proposed Board of Supervisor Resolutions for Amendment to the Housing Element.

WHEREAS:

The City/County requires a Housing Element that meets State legal requirements and that also provides an effective road map for its implementation. That Element of the General Plan must programmatically provide an assessment of housing needs and the means to meet those needs in terms of specific strategies, policies and objectives as directed by the General Plan and constrained by possible resources.

Approval of the Housing Element is urgent as directed by Section 33333.7 of the Health and Safety Code in order to preserve the City's redevelopment processes. An approved element must also be effective and efficient with regard the timely provision of urgently needed affordable housing for the great majority of San Francisco's residents.

The Draft Housing Element is inadequate with regard background, strategies, programs and objectives. It is also harmful with regard the location, procurement and conservation of affordable housing in a manner that preserves and sustains the quality of life and resources within our communities.

THEREFORE, BE IT RESOLVED:

The following resolutions are proposed to amend the Draft Housing Element so that, (1), a reliable commitment remains to provide a detailed, varied and fundable affordable housing program and (2) commensurate changes be made with regard City policies necessary for the effective implementation of the Housing Element

1. The Housing Element, upon approval by the Board of Supervisors as amended here, shall immediately be scheduled and funded for revision in a manner that

provides a timely, efficient and effective housing program for the preservation and creation of needed, varied, affordable housing

2. The Zoning Ordinance of the City/County of San Francisco shall be made consistent the General Plan of the City/County of San Francisco in accord with the requirements of State Health and Safety Code of Section 65860.
3. The placement of housing, within the context of the Housing Element, shall be in accord with the proven, fundable holding capacity of the city and each area of the city with regard infrastructure and community facilities and in a manner that conforms to an enforceable and approved General Plan.
4. It shall be the policy of this City/County to permanently retain title to all lands it owns or will acquire.

- Such land may be made available for private development through the sale of development rights or the use of private/public development partnerships.
- Title to such lands shall be held, financed and administered by a public lands trust in accord with policies set by General Plan as approved by the Board of Supervisors.
- Revenues derived by the trust from such sources as ground rents and fees and operational charges shall be deposited in the General Fund.

5. All actions proposed by the Housing Element for further study shall have within the Housing Element specific work programs, funding and staffing required and due dates.
6. Policies and programs related to the granting of benefits to developers including higher densities and the alleviation of parking requirements resulting in savings to the developers should be refunded in the form of benefits to the community.