

Certificate of Determination EXEMPTION FROM ENVIRONMENTAL REVIEW

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Reception:

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Planning

Information: **415.558.6377**

Case No .:

2014.0161E

Project Address:

2201 Market Street

Zoning:

Upper Market Street NCT (Neighborhood Commercial Transit) District

60/65-X Height and Bulk District

Block/Lot:

3559/001

Lot Size:

4,082 square feet Market and Octavia

Plan Area: Project Sponsor:

Chris Foley – Polaris Pacific

(445)

(415) 361-4803, cfoley@polarispacific.com

Staff Contact:

Michael Li

(415) 575-9107, michael.j.li@sfgov.org

PROJECT DESCRIPTION

The project site is a triangular parcel on the southwest corner of Market and Sanchez streets in San Francisco's Castro/Upper Market neighborhood. The project site is occupied by a two-story, 18-foottall commercial building and surface parking for seven vehicles.

(Continued on next page.)

EXEMPT STATUS

Exempt per Section 15183 of the California Environmental Quality Act (CEQA) Guidelines and California Public Resources Code Section 21083.3

DETERMINATION

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

SARAH B. JONES

Environmental Review Officer

March 22, 2016

cc: Chris Foley, Project Sponsor

Supervisor Scott Wiener, District 8

Doug Vu, Current Planner

Doug Vu, Preservation Planner

Historic Preservation Distribution List

Distribution List

Virna Byrd, M.D.F.

Exemption/Exclusion File

The proposed project consists of demolishing the existing building and surface parking and constructing a six-story, 65-foot-tall building containing 14 dwelling units, approximately 2,650 gross square feet of ground-floor retail space, and six parking spaces. There would be two eight-foot-tall stair penthouses and a 16-foot-tall elevator penthouse on the roof of the building; the maximum building height would be 81 feet. The dwelling units would be on the second through sixth floors. All six parking spaces would be in the basement, and they would be accessed by a garage door on Sanchez Street. The two existing curb cuts on Sanchez Street would be removed and replaced with one new 12-foot-wide curb cut and driveway. A total of 16 bicycle parking spaces would be provided; 14 Class 1 spaces would be provided in the basement, and two Class 2 spaces would be provided on the Sanchez Street sidewalk adjacent to the project site. Usable open space for the residents of the proposed project would be provided in the form of terraces at the second and sixth floors and a roof deck.

Construction of the proposed project is expected to last about 14 months. The proposed building would be supported by a conventional spread footings foundation; pile driving is not required. Construction of the proposed project would require excavation to a depth of 14 feet below ground surface and the removal of about 2,106 cubic yards of soil.

PROJECT APPROVAL

The proposed project would require the following approvals:

- Rear Yard Variance (Zoning Administrator)
- **Demolition Permit** (*Planning Department and Department of Building Inspection*)
- Site/Building Permit (Planning Department and Department of Building Inspection)

The proposed project is subject to notification under Planning Code Section 312. If discretionary review before the Planning Commission is requested, the discretionary review decision constitutes the Approval Action for the proposed project. If no discretionary review is requested, the issuance of the building permit by the Department of Building Inspection constitutes the Approval Action for the proposed project. The Approval Action date establishes the start of the 30-day appeal period for this CEQA exemption determination pursuant to Section 31.04(h) of the San Francisco Administrative Code.

COMMUNITY PLAN EXEMPTION OVERVIEW

California Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 provide an exemption from environmental review for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that: (a) are peculiar to the project or parcel on which the project would be located; (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan with which the project is consistent; (c) are potentially significant off-site and cumulative impacts that were not discussed in the underlying EIR; or (d) are previously identified in the EIR, but which, as a result of substantial new information that was not known at the time that the EIR was certified, are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for the project solely on the basis of that impact.

This determination evaluates the potential project-specific environmental effects of the 2201 Market Street project described above, and incorporates by reference information contained in the Programmatic EIR for the *Market and Octavia Area Plan* (Market and Octavia PEIR).¹ Project-specific studies were prepared for the proposed project to determine if the project would result in any significant environmental impacts that were not identified in the Market and Octavia PEIR.

On April 5, 2007, the Planning Commission certified the Market and Octavia PEIR by Motion No. 17406.^{2,3} The PEIR analyzed amendments to the *San Francisco General Plan* (*General Plan*) to create the *Market and Octavia Area Plan* and amendments to the Planning Code and Zoning Maps, including the creation of the Upper Market Street NCT (Neighborhood Commercial Transit) District. The PEIR analysis was based upon an assumed development and activity that were anticipated to occur under the *Market and Octavia Area Plan*. The proposed 2201 Market Street project is in conformance with the height, use, and density for the site described in the Market and Octavia PEIR and would represent a small part of the growth that was forecast for the *Market and Octavia Plan* area. Thus, the plan analyzed in the Market and Octavia PEIR considered the incremental impacts of the proposed 2201 Market Street project. As a result, the proposed project would not result in any new or substantially more severe impacts than were identified in the Market and Octavia PEIR.

The Upper Market Street NCT District is located on Market Street from Church to Noe streets and portions of side streets that intersect Market Street. This district is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods but also serves as a shopping district for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. This district is well served by transit and is anchored by the Market Street light rail, with underground stations at Church Street and Castro Street, and the F-Market historic streetcar line. All light rail lines in the City (the J-Church, K-Ingleside, L-Taraval, M-Ocean View, and N-Judah) travel through this district. Market Street is also a primary bicycle corridor. In order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic, off-street residential parking is not required and is generally limited. Commercial establishments are discouraged or prohibited from providing accessory off-street parking. In addition, there are prohibitions on access (curb cuts, driveways, and garage entries) to off-street parking and loading facilities on Market and Church streets. As part of the City's Better Neighborhoods Program, these concepts were fully articulated in the *Market and Octavia Area Plan*.

In May 2008, subsequent to the certification of the PEIR, the Board of Supervisors approved and the Mayor signed into law revisions to the Planning Code, Zoning Maps, and *General Plan* that constituted the "project" analyzed in the Market and Octavia PEIR. The legislation created several new zoning controls, which allow for flexible types of new housing to meet a broad range of needs, reduce parking requirements to encourage housing and services without adding cars, balance transportation by considering people movement over auto movement, and build walkable whole neighborhoods meeting everyday needs. The *Market and Octavia Area Plan*, as evaluated in the PEIR and as approved by the

¹ San Francisco Planning Department Case No. 2003.0347E, State Clearinghouse No. 2004012118.

² San Francisco Planning Department, *Market and Octavia Area Plan Final Environmental Impact Report*, Case No. 2003.0347E, certified April 5, 2007. This document is available online at www.sf-planning.org/index.aspx?page=1714, accessed January 6, 2016.

³ San Francisco Planning Commission Motion No. 17406, April 5, 2007. Available online at: http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=568, accessed January 6, 2016.

Board of Supervisors, accommodates the proposed use, design, and density of the 2201 Market Street project.

Individual projects that could occur in the future under the *Market and Octavia Area Plan* will undergo project-level environmental evaluation to determine if they would result in further impacts specific to the development proposal, the site, and the time of development and to assess whether additional environmental review would be required. This determination concludes that the proposed project at 2201 Market Street is consistent with and was encompassed within the analysis in the Market and Octavia PEIR. This determination also finds that the Market and Octavia PEIR adequately anticipated and described the impacts of the proposed 2201 Market Street project, and identified the mitigation measures applicable to the 2201 Market Street project. The proposed project is also consistent with the zoning controls and the provisions of the Planning Code applicable to the project site.^{4, 5} Therefore, no further CEQA evaluation for the 2201 Market Street project is required. Overall, the Market and Octavia PEIR and this Certificate of Exemption for the proposed project comprise the full and complete CEQA evaluation necessary for the proposed project.

PROJECT SETTING

The project site is on the southwest corner of Market and Sanchez streets in San Francisco's Castro/Upper Market neighborhood. The project vicinity is characterized by a mix of residential and commercial uses, and the scale of development in the project vicinity ranges from 15 to 65 feet in height.

The lot adjacent to and south of the project site, along Sanchez Street, is occupied by a four-story, mixed-use building featuring upper-story residential uses above a ground-floor retail use. The lot adjacent to and southwest of the project site, along Market Street, is occupied by a three-story building featuring upper-story residential uses above ground-floor retail uses. On the north side of Market Street across from the project site, there is a five-story, mixed-use building and a three-story motel. On the east side of Sanchez Street across from the project site, there are two-, three-, and four-story residential buildings. Two of these buildings have ground-floor retail spaces. Other uses in the area include the San Francisco Library's Harvey Milk Branch (one block southwest of the project site), Sanchez Elementary School (one block south), and Everett Middle School (one block southeast).

The project site fronts Market Street, which is a major transportation corridor through downtown San Francisco that runs northeast to southwest from the Ferry Building on The Embarcadero to the Castro, Upper Market, and Twin Peaks neighborhoods. The project site is well served by public transportation. The San Francisco Municipal Railway (Muni) operates the F Market historic streetcar plus a number of surface buses that run on Castro, Church, and Market streets. Muni also operates the Muni Metro light rail system, which runs underground beneath Market Street in the project vicinity. There are two Muni Metro stations within two blocks of the project site; the Church Street station is one block northeast, and the Castro Street station is two blocks southwest.

⁴ Adam Varat, San Francisco Planning Department, Community Plan Exemption Eligibility Determination, Citywide Planning and Policy Analysis, Case No. 2014.0161E, 2201 Market Street, March 18, 2016.

⁵ Jeff Joslin, San Francisco Planning Department, Community Plan Exemption Eligibility Determination, Current Planning Analysis, Case No. 2014.0161E, 2201 Market Street, February 25, 2016.

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POTENTIAL ENVIRONMENTAL EFFECTS

The Market and Octavia PEIR analyzed environmental issues including: plans and policies; land use and zoning; population, housing, and employment; urban design and visual quality; shadow and wind; cultural (historic and archeological) resources; transportation; air quality; noise; hazardous materials; geology, soils, and seismicity; public facilities, services, and utilities; hydrology; biology; and growth inducement. The proposed 2201 Market Street project is in conformance with the height, use and density for the site described in the Market and Octavia PEIR and would represent a small part of the growth that was forecast for the area covered by the *Market and Octavia Plan*. Thus, the plan analyzed in the Market and Octavia PEIR considered the incremental impacts of the proposed 2201 Market Street project. As a result, the proposed project would not result in any new or substantially more severe impacts than were identified in the Market and Octavia PEIR.

The Market and Octavia PEIR identified significant impacts related to shadow, wind, archeology, transportation, air quality, hazardous materials, and geology. Mitigation measures were identified for these impacts and reduced all of these impacts to less-than-significant levels with the exception of those related to shadow (impacts on two open spaces: the War Memorial Open Space and United Nations Plaza) and transportation (project- and program-level as well as cumulative traffic impacts at nine intersections; project-level and cumulative transit impacts on the 21 Hayes Muni line). A shadow fan analysis prepared by the Planning Department determined that the proposed project would not shadow any public parks or open spaces.⁶ At a height of 65 feet, the proposed project is not tall enough to substantially alter ground-level wind currents in a manner that would adversely affect public areas and result in a significant wind impact. Implementation of the proposed project would involve the demolition of a building that was determined not to be a historic resource.⁷ In addition, the architectural design of the proposed project would be compatible with the character of the Upper Market Street Commercial Historic District.⁸ For these reasons, the proposed project would not result in a significant impact on historic resources. Traffic and transit ridership generated by the project would not make a considerable contribution to the traffic and transit impacts identified in the Market and Octavia PEIR.

The Market and Octavia PEIR identified feasible mitigation measures to address significant impacts related to noise, air quality, archeological resources, historic resources, hazardous materials, and transportation. **Table 1** lists the mitigation measures identified in the Market and Octavia PEIR and states whether each measure would apply to the proposed project.

⁶ San Francisco Planning Department, Shadow Fan Analysis for 2201 Market Street, March 24, 2014.

⁷ San Francisco Planning Department, Preservation Team Review Form, 2201 Market Street, February 22, 2013.

⁸ Tina Tam, San Francisco Planning Department, email to Michael Li, San Francisco Planning Department, March 21, 2016.

Table 1 – Market and Octavia PEIR Mitigation Measures

Mitigation Measure	Applicability	Compliance
A. Shadow		
A1. Parks and Open Space Not Subject to Section 295	Applicable: Project exceeds a height of 50 feet.	Completed: The Planning Department generated a shadow fan and determined that the proposed project would not shadow any public parks or open spaces.
B. Wind		
B1: Buildings in Excess of 85 Feet in Height	Not Applicable: Project does not exceed a height of 85 feet.	Not Applicable
B2: All New Construction	Applicable: Project involves new construction of a 65-foottall building.	Completed: The project sponsor has designed the proposed project to minimize its effects on ground-level wind conditions.
C. Archeological Resources		
C1: Soil-Disturbing Activities in Archeologically Documented Properties	Not Applicable: Project site is not an archeologically documented property.	Not Applicable
C2: General Soil-Disturbing Activities	Applicable: Project would include soil-disturbing activities.	The Planning Department has conducted a Preliminary Archeological Review. The project sponsor has agreed to implement a mitigation measure related to the accidental discovery of archeological resources (see Project Mitigation Measure 1).
C3: Soil-Disturbing Activities in Public Street and Open Space Improvements	Not Applicable: Project would not include soil-disturbing activities associated with public street or open space improvements.	Not Applicable
C4: Soil-Disturbing Activities in the Mission Dolores Archeological District	Not Applicable: Project site is not in the Mission Dolores Archeological District.	Not Applicable

Mitigation Measure	Applicability	Compliance
D. Transportation		
D3: Traffic Mitigation Measure for Laguna/Market/Hermann/Guerrero Streets Intersection (LOS D to LOS E PM peak-hour)	Not Applicable: Automobile delay removed from CEQA analysis.	Not Applicable
D4: Traffic Mitigation Measure for Market/Sanchez/Fifteenth Streets Intersection (LOS E to LOS E with increased delay PM peak-hour)	Not Applicable: Automobile delay removed from CEQA analysis.	Not Applicable
D5: Traffic Mitigation Measure for Market/Church/Fourteenth Streets Intersection (LOS E to LOS E with increased delay PM peak hour)	Not Applicable: Automobile delay removed from CEQA analysis.	Not Applicable
D6: Traffic Mitigation Measure for Mission Street/Otis Street/South Van Ness Intersection (LOS F to LOS F with increased delay PM peak-hour)	Not Applicable: Automobile delay removed from CEQA analysis.	Not Applicable
E. Air Quality		
E1: Construction Mitigation Measure for Particulate Emissions	Not Applicable: Superseded by Construction Dust Control Ordinance.	Not Applicable
E2: Construction Mitigation Measure for Short-Term Exhaust Emissions	Not Applicable: Project site is not in an Air Pollutant Exposure Zone.	Not Applicable
F. Hazardous Materials		
F1: Program- or Project-Level Mitigation Measures	Not Applicable: Superseded by Construction Dust Control Ordinance and federal, state, and local regulations related to abatement and handling of hazardous materials.	Not Applicable
G. Geology, Soils, and Seismicity		
G1: Construction-Related Soils Mitigation Measure	Not Applicable: Superseded by San Francisco Public Utilities Commission's Construction Site Runoff Ordinance (Public Works Code, Ordinance No. 260-13).	Not Applicable

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Please see the attached Mitigation Monitoring and Reporting Program for the complete text of the applicable mitigation measures. With implementation of these mitigation measures, the proposed project would not result in significant impacts beyond those analyzed in the Market and Octavia PEIR.

PUBLIC NOTICE AND COMMENT

A "Notification of Project Receiving Environmental Review" was mailed on March 9, 2015 to adjacent occupants and owners of properties within 300 feet of the project site. Comments received from the public expressed concerns over the proposed project's impacts related to traffic, shadow, and water usage. These concerns are considered and addressed in the CPE Checklist for this project under the topics of Transportation and Circulation; Wind and Shadow; and Utilities and Service Systems, respectively. The proposed project would not result in significant adverse environmental impacts associated with the issues identified by the public beyond those identified in the Market and Octavia PEIR.

The Planning Department also received comments related to the proposed project's height and scale and its impacts on views. Public Resources Code Section 21099(d), effective January 1, 2014, provides that "aesthetics ... impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment." Accordingly, aesthetics is no longer to be considered in determining if a project has the potential to result in significant environmental effects for projects that meet all of the following three criteria:

- a) The project is in a transit priority area;
- b) The project is on an infill site; and
- c) The project is residential, mixed-use residential, or an employment center.

The proposed project meets each of the above criteria; therefore, this checklist does not consider aesthetics in determining the significance of project impacts under CEQA.⁹ At a height of 65 feet, the proposed project complies with the height limit for the project site. Comments related to the height and scale of the proposed project may be considered by City decision-makers during their deliberations on whether to approve or disapprove the proposed project.

The proposed project originally contained nine dwelling units, which was below the threshold that triggers the requirement to provide below-market-rate housing set forth in Planning Code Section 415. The Duboce Triangle Neighborhood Association contacted the project sponsor to discuss this issue. In response to comments from the Duboce Triangle Neighborhood Association, the project sponsor increased the total unit count from nine to 14. The proposed project is now required to provide below-market-rate housing pursuant to the requirements set forth in Planning Code Section 415.

CONCLUSION

As summarized above and further discussed in the attached Community Plan Exemption (CPE) Checklist:

1. The proposed project is consistent with the development density established for the project site in the *Market and Octavia Area Plan*;

SAN FRANCISCO
PLANNING DEPARTMENT

San Francisco Planning Department, Eligibility Checklist for CEQA Section 21099: Modernization of Transportation Analysis, 2201 Market Street, March 14, 2016.

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2. The proposed project would not result in effects on the environment that are peculiar to the project or the project site that were not identified as significant effects in the Market and Octavia PEIR;

- 3. The proposed project would not result in potentially significant off-site or cumulative impacts that were not identified in the Market and Octavia PEIR;
- 4. The proposed project would not result in significant effects, which, as a result of substantial new information that was not known at the time the Market and Octavia PEIR was certified, would be more severe than were already analyzed and disclosed in the PEIR; and
- 5. The project sponsor will undertake feasible mitigation measures specified in the Market and Octavia PEIR to mitigate project-related significant impacts.

Therefore, the proposed project is exempt from further environmental review pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183.

EXHIBIT 1: MITIGATION MONITORING AND REPORTING PROGRAM

	MONITORING AND REPORTING PROGRAM			
	Responsibility	Mitigation		
	for	Action and	Monitoring/Reporting	Monitoring
Adopted Mitigation/Improvement Measures	Implementation	Schedule	Responsibility	Schedule
MITIGATION MEASURES				
Project Mitigation Measure 1: Accidental Discovery	Project sponsor,	Prior to and	Project sponsor, project	During soils-
(Implementing Market and Octavia PEIR Mitigation	project	during all	archeologist, ERO.	disturbing and
Measure C2)	archeologist.	soils-		construction
		disturbing and		activities.
The following mitigation measure is required to avoid any	7	construction		
notential adverse effect from the proposed project or		activities.		

potential adverse effect from the proposed project on accidentally discovered buried or submerged historical resources as defined in CEQA Guidelines Section 15064.5(a) and (c). The project sponsor shall distribute the Planning Department archeological resource "ALERT" sheet to the project prime contractor; to any project subcontractor (including demolition, excavation, grading, foundation, pile driving, etc. firms); or utilities firm involved in soils disturbing activities within the project site. Prior to any soils disturbing activities being undertaken each contractor is responsible for ensuring that the "ALERT" sheet is circulated to all field personnel including, machine operators, field crew, pile drivers, supervisory personnel, etc. The project sponsor shall provide the Environmental Review Officer (ERO) with a signed affidavit from the responsible parties (prime contractor, subcontractor(s), and utilities firm) to the ERO confirming that all field personnel have received copies of the Alert Sheet.

MONITORING	AND REF	PORTING	PROGRAM

	Responsibility	Mitigation		
	for	Action and	Monitoring/Reporting	Monitoring
Adopted Mitigation/Improvement Measures	Implementation	Schedule	Responsibility	Schedule

Should any indication of an archeological resource be encountered during any soils disturbing activity of the project, the project Head Foreman and/or project sponsor shall immediately notify the ERO and shall immediately suspend any soils disturbing activities in the vicinity of the discovery until the ERO has determined what additional measures should be undertaken.

If the ERO determines that an archeological resource may be present within the project site, the project sponsor shall retain the services of an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archeologist. The archeological consultant shall advise the ERO as to whether the discovery is an archeological resource, retains sufficient integrity, and is of potential scientific/historical/cultural significance. If an archeological resource is present, the archeological consultant shall identify and evaluate the archeological The archeological consultant shall make a resource. recommendation as to what action, if any, is warranted. Based on this information, the ERO may require, if warranted, specific additional measures to be implemented by the project sponsor.

Measures might include: preservation in situ of the archeological resource; an archeological monitoring program; or an archeological testing program. If an archeological monitoring program or archeological testing program is required, it shall be consistent with the

MONITORING	AND REF	PORTING	PROGRAM

	Responsibility	Mitigation		
	for	Action and	Monitoring/Reporting	Monitoring
Adopted Mitigation/Improvement Measures	Implementation	Schedule	Responsibility	Schedule

Environmental Planning Division guidelines for such programs. The ERO may also require that the project sponsor immediately implement a site security program if the archeological resource is at risk from vandalism, looting, or other damaging actions.

The project archeological consultant shall submit a Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describing the archeological and historical research methods employed in the archeological monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Copies of the Draft FARR shall be sent to the ERO for review and approval. Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy, and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning Division of the Planning Department shall receive one bound copy, one unbound copy, and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In

MONITORING AND REPORTING PROGRAM

	Responsibility	Mitigation		
	for	Action and	Monitoring/Reporting	Monitoring
Adopted Mitigation/Improvement Measures	Implementation	Schedule	Responsibility	Schedule

instances of high public interest or interpretive value, the ERO may require a different final report content, format, and distribution than that presented above.