

## Appendix A

<b>Comment Number</b>	<b>Commenter Name (Last, First)</b>	<b>Agency/Organization</b>	<b>Date</b>	<b>Media</b>
1	Lawrence, Steve		7/6/10	Email
2	Berkowitz, Judith	Coalition for San Francisco Neighborhoods	7/22/10	Letter
3	Lasky, Virginia	Department of Toxic Substances Control	8/2/10	Letter
4	Richen, Noni	The SPOSF Institute	8/2/10	Letter
5	Welch, Calvin	Council of Community Housing Organizations	8/5/10	Letters received at
6	Choden, Bernard	San Francisco Tomorrow	8/5/10	Planning
7	Warner, Richard	Jordan Park Improvement Association	8/5/10	Commission
8	Hillson, Rose	Jordan Park Improvement Association	8/5/10- updated 8/13/10	Hearing Email
9	Hill, Paul	St. Francis Homes Association	8/12/10	Letter
10	Doherty, Timothy	BCDC	8/16/10	Letter
11	Carboni, Lisa	Caltrans	8/16/10	Letter
12	Hill, Paul	St. Francis Homes Association	8/24/10	Letter
13	Fukuda, Hiroshi	Richmond Community Association	8/30/10	Letter
14	Minteer, Amy	Chatten-Brown & Carstens, Representing San Franciscans for Livable Neighborhoods	8/31/10	Letter
15	Venkatachari, MK		8/31/10	Letter
16	Devincenzi, Kathryn		8/31/10	Letter
17	Clay, Jennifer	San Francisco Tomorrow	8/31/10	Letter
18	McMillan, Edith		8/31/10	Letter
19	Bardis, John		8/31/10	Letter
20	Pfanner, Bill	California Energy Commission	11/9/10	Letter



Bill Wycko/CTYPLN/SFGOV

07/06/2010 11:42 AM

To Jessica Range/CTYPLN/SFGOV@SFGOV, Sarah B Jones/CTYPLN/SFGOV@SFGOV

cc

bcc

Subject Fw: Housing Element, draft EIR of 30 June 2010

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 07/06/2010 11:41 AM -----



"Steve Lawrence"

<splawrence@sbcglobal.net>

07/06/2010 09:13 AM

To <bill.wycko@sfgov.org>, <kearstin.Dischinger@sfgov.org>

cc

Subject Housing Element, draft EIR of 30 June 2010

Please accept this as a comment to draft 2 EIR, Housing Element.

1. The Housing Element EIR Draft 2 relies on the Urban Water Management Plan to conclude, with very little analysis or discussion, that there is sufficient water to support planned development.

Firstly, the Urban Water Management Plan of 2005 is very out of date now. When that plan was drafted it was expected that the program now called WSIP would add capacity to take, store and deliver more water by 2015 than has ever been taken. In late 2008, however, SFPUC agreed through 2018 not to take any more water than what has been taken (265 mgd), and it is likely that in 2018 the commitment will be extended. To survive the design drought posited by planners, the water system will have to buy water (called water transfers). But it has not yet made arrangements to do so. It is not accurate that existing water resources are adequate to supply the additional population implied by the Housing Element; indeed, San Francisco does not now have sufficient water to honor its Water Supply Agreement with wholesale customers and supply the City during the drought posited by planners. It is involved in negotiations and hopes to enter into purchase arrangements with irrigation districts to bridge the gap. (These arrangements are now overdue--were to have been completed in 2009.)

Secondly, there is no analysis of what happens when a catastrophe befalls San Francisco. The Spring Valley Water Company served the City adequately until April 1906. That month San Francisco suffered an earthquake, and the City burned for lack of water. We had enough water for ordinary times, but not enough to survive an earthquake. Will history repeat? Do we permit development without asking what happens when an epidemic, drought, earthquake or the like occur? During the next twenty-five years a serious earthquake is probable. Planners should prepare. The Housing Element draft 2 fails to address the matter.

Thirdly, demand for water is hardening. San Franciscans have responded to pleas and use much less water per person. Plumbing Code changes and further aggressive conservation efforts of SFPUC will lower water use per person further. While this is good, there is less flexibility. When demand goes to irrigation and inessential uses, these can be cut out in an emergency. But when irrigation is by recycled water in a separate system, and inessential use has been cut to the bone, emergencies such as earthquake (with pipe breaks and leaks) and epidemics will quickly stress the water supply system. The less flexible is more prone to breaking than the flexible. This has not been discussed or addressed by the draft 2 Housing Element.

2. The draft fails to address not only water, but also emergency response to an earthquake. It is said to be probable that San Francisco will experience a significant earthquake within the next twenty-five years.

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SFPUC designs for an earthquake of 7.9 on the Richter scale. What will happen? The Housing Element, as well as the Candlestick/Hunters Pt. proposal and others, call for a larger population, a denser concentration of people within San Francisco, and more people located in rather remote areas: Hunters Pt., Candlestick Pt., and Park Merced to give three examples. San Francisco's population is aging; by 2030 a fourth is expected to be over 65; these more vulnerable people will require more emergency help after a quake. San Francisco housing grows more expensive, and fewer emergency workers (first responders) live in the City. The City should not grow, densify, age, and become more vulnerable while its ability to respond to crisis erodes. The Housing Element should consider ability to respond to crisis, including earthquake, epidemic, and terror attack.

O-1  
Cont.

3. The Housing Element takes for granted that the City must do many politically correct things, including supply "affordable" housing. There are ways other than through intense bureaucratic management. The City employs more workers per resident than almost anywhere else. Pension and salary costs are high and may not be sustainable. In times past private enterprise used to supply housing needs of residents with much less bureaucratic involvement than is the rule today. There is little or no evidence that housing costs were higher in the past than they are today, and the Housing Element should consider avoiding so much involvement of public employees and politicians. All such involvement opens the door to the possibility of corruption and favoritism. Housing provided by something closer to a free market would likely be more efficiently provided to those who value it the most (rather than political constituents), in the form most in demand (condo, rental or whatever); in the long run, this means housing that is less expensive, as well as government that is less expensive and less corrupt. The Housing Element should not assume a system of providing housing as it does, but should honestly discuss and evaluate competing models.

10-1

Steve Lawrence

Note, this supercedes and replaces a prior submission, made before the opening date for submissions.

# Neighborhoods

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Sue Caughen

Rae Doyle

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22 July 2010

Bill Wycko  
Environmental Review Officer  
Major Environmental Analysis  
1650 Mission Street #200  
San Francisco CA 94103

RECEIVED

JUL 23 2010

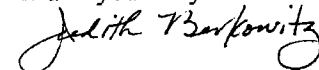
CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
RECEPTION CLERK

Mr Wycko, President Miguel, Commissioners,

Coalition for San Francisco Neighborhoods (CSFN) respectfully requests that the period for comments for the Draft Environmental Impact Report of the 2004 and 2009 Draft Housing Element be extended at least 90 days.

Such a voluminous document requires more than the current allotment of time to examine it.

Thank you for your consideration,



Judith Berkowitz  
President

Cc: Planning Commission President Ron Miguel, Vice President Christina Olague,  
Mike Antonini, Gwyneth Borden, Bill Lee, Kathrin Moore, Bill Sugaya,  
Planning Commission Secretary Linda Avery

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





Linda S. Adams  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

RECEIVED

Maziar Movassaghi  
Acting Director  
700 Heinz Avenue  
Berkeley, California 94710-2721

AUG 17 2010

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



Arnold Schwarzenegger  
Governor

July 29, 2010

Ms. Jessica Range  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, California 94013

Dear Ms. Range:

Thank you for the opportunity to review the Draft Environmental Impact Report (DREIR) for the San Francisco 2004 and 2009 Housing Element project. As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a potential Resource Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

Under Section Q (Hazards and Hazardous Materials), page V.Q-38, par. 3, line 3, please add "DTSC" as one of the regulating agencies (pursuant to Section 25358.3 for overseeing investigation and cleanup for non-petroleum, including unknown contaminated sites). Under the same paragraph, line 10, please add the following at the end of the sentence: "under the oversight of a regulatory agency."

Please contact me at (510) 540-3829 or [vlasky@dtsc.ca.gov](mailto:vlasky@dtsc.ca.gov), if you have any questions.

Sincerely,

Virginia Lasky, Project Manager  
Brownfields and Environmental Restoration Program – Berkeley Office

Q-1

Q-2

Ms. Jessica Range  
July 29, 2010  
Page Two

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P. O. Box 3044  
Sacramento, California 95812-3044

Guenther Moskat  
CEQA Tracking Center  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806



# The SPOSF Institute

THE SMALL PROPERTY OWNERS OF SAN FRANCISCO INSTITUTE

SPOSFI

P.O. Box 170669 • San Francisco, CA 94117-0669 • (415) 647-2419 • SPOSF@smallprop.org • www.smallprop.org

July 26, 2010

Mr. Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, California 94103

RECEIVED

AUG 27 2010

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
NEA

Dear Mr. Wycko:

Our organization, along with others, received your invitation to participate in developing the City's Housing Element of the San Francisco General Plan. Members of our Board of Directors made a presentation to Planners Kearstin Dishinger and Abigail Kiefer. Six or eight of our members spoke out at a public outreach meeting at the library in the Haight-Ashbury District. We made a very simple request, that you include the following wording in the Housing Element:

*The City has pursued housing policies for nearly 40 years that discourage investment in rental property. City policies need to encourage rental housing providers to remain in the rental business and encourage new investments.*

We have closely monitored your website, <http://housingelement2009.sfplanning.org>, hoping that you would include our statement, which we backed with ample statistics from San Francisco and from cities without rent and property controls. Our suggestion gives no specific course of action but highlights the fact that housing shortages are the result of present housing policies. We hope that you will set aside politics and acknowledge that California, as one of only three states that have rent control, has suffered from damaging rent control legislation.

Sincerely,

Noni Richen  
President

noni@smallprop.org

6-1

**Council of Community Housing Organizations**  
405 Shrader Street, San Francisco, CA 94117 (415) 666-0314 [sfic98@pacbell.net](mailto:sfic98@pacbell.net)

Comment on the Draft Environmental Impact Report on  
San Francisco 2004 and 2009 Housing Element  
Case No. 2007-1275E  
August 5, 2010

RECEIVED AT CPC HEARING 8-5-10  
2007-1275E  
(J. RANER)

Introduction

The 2005 and 2009 Housing Element Draft EIR (HEDEIR) is both incomplete and inaccurate in failing to analyze the environmental impacts of the City and County's:

- consistent failure to meet its affordable housing numerical goals and the preference shown by City Agencies for approving new construction market rate housing projects over affordable housing and studies showing that this creates and increased demand for affordable housing;
- failing to analyze the differing car trips generated by affordable and market rate housing resulting in an underestimate of traffic impacts ;
- failure to discuss the reduction of the number policies favoring affordable housing production between the 2004 Housing Element and the proposed 2009 Housing Element and the impacts of that reduction;
- the failure to note, discuss and analyze significant changes in public policy regarding regional sustainability that will significantly effect the San Francisco environment.

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1. Failure to discuss the significance of San Francisco's consistent failure to meet its affordable housing production goals and the failure to discuss the resultant increase n demand for affordable housing.

Department figures show that between 1999 and 2006 San Francisco met only 52% of its low income affordable housing goals, but 153% of its market rate goals. In April, 2007 Keysor Marston Associates, Inc completed a study entitled "Residential Nexus Analysis County of San Francisco" and on page 7 of that study found that 100 market rate condos produced a new demand was created for 43 affordable units to meet the needs of the workforce serving the new condos and residents.

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These two facts have a profound impact on the direction for how new residential development in the City should occur but are simply ignored by the HEDEIR. Indeed, failure to analyze these two crucial facts lead the HEDEIR writers to incorrectly state:

...The 2004 and 2009 Housing Elements would ...not create a demand for additional units” (V.D.28)

A study done for the City proves exactly the opposite, that allowing “overproduction” of market rate housing does, in fact, create a demand for additional units.

It may well be of significant importance on how new residential development should occur in the City if the HEDEIR, taking into consideration the over production and *linked* demand for affordable housing created by market rate housing development, *had suggested a linkage between the development of market rate and affordable housing production* as a way to “mitigate” the new demand for housing created by market rate development. The 2007 Keysor Marsten report must be studied and its results added to the discussion in the DEIR if this document is to be in anyway considered complete and accurate.

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## 2. Failure to analyze differing car trip generation levels between affordable and market rate housing.

An additional significant failure of the HEDEIR is its absence of any discussion or analysis of the differing car usage between market rate and affordable households. Indeed, it sobering to read:

...no trip generation estimates are provided as part of this study...(Appendix F, page 25)

How can decision makers be served about how new residential development can occur in this compact, transit rich city without having some analysis given them on the differing use of cars between residents of market rate housing and affordable housing? This is especially true when the City so over approves market rate development.

The objectivity of the HEDEIR on the subject of transit and transportation is placed in question when one reads:

“Increased density, particularly when located near areas rich in transit...generally produce lower vehicle ownership rates and therefore generates less parking demand than would otherwise occur ... “(page V.F-48)

How can this be known if there were no “trip generation estimates” done for this report? Is it reasonable to assume that because a million dollar condo was built adjacent to the F

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Market line the owner now rides MUNI? The failure to distinguish between market rate and affordable households, to take into account the cost of the housing and therefore the income of the resident and the use of private cars is a significant failure of the HEDEIR and must be corrected.

F-1  
Cont.

3. Failure to note and discuss the significance in the reduction of affordable housing Objectives and Policies between the 2004 and the 2009 Housing Elements

The HEDEIR is totally silent on the difference between the objectives and policies contained in the 2004 and 2009 Housing Elements resulting in an incomplete analysis of the overall policies. At the most basic level, the word “affordable” or term “permanently affordable” occurs in 7 objectives and 30 policies in the 2004 Housing Element. In the 2009 proposed Housing element the same word or term occurs in 7 objective and 28 policies. Why the reduction? Why the de-emphasis of affordable housing? What is the significance of this reduction? It is odd that there is no discussion at all for what appears to be a policy shift that would certainly effect how the City would manage the growth of even more market rate housing.

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4. The HEDEIR fails to address the significance of SB 375 and HUD’s “Sustainable Communities” planning process in setting new requirements of housing in San Francisco

The HEDEIR is totally inadequate in discussing how the California’s SB 375 requirements for new, increase green house gas emission targets will effect the City’s ability to shape new housing development contemplated in the Housing Element. By its failure to distinguish between the impacts of market rate and affordable housing transit and trip generation impacts it leaves local decision makers totally blind in meeting the new planning requirements for future housing and transportation planning. Equally silent on HUD’s new sustainable communities requirement which will require joint planning for transit and housing development , the HEDEIR inadequate analysis of household income, transit use and car ownership places the City at a major disadvantage in the future pursuit of federal and state affordable housing funding.

F-2

The HEDEIR must be fundamentally amended to detail the differing transportation impacts of various housing types and income levels.



## ***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

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“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.**

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Cont.

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.**

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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.

1-4

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

F-3



- 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 gauge 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 controlled 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.
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Cont.
- 5-2
- 5-6
- O-2
- L-4

#### MITIGATIONS:

1. Comments regarding the 2003 Housing Element are appended (B) and offer the same view as present observations.
- 1-5

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 implementation 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.

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- 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 TRACOPA 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.

1-6  
Cont.

#### 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.**

5-7

**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(l.):** 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 furnished.

**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 Planning 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.

**APPENDIX B:**

To:	San Francisco Planning Commission and Dept. of City Planning
Fr:	Bernard Choden
Re:	Problematic Scoping Hearing on the Proposed 2009 Housing Element

October 1, 2009

Yesterday I attended the EIR scoping hearing on the 2009 Housing Element, which was held in house by the staff, rather than in public before the Planning Commission. This is unfortunate because many decisions of the Commission are guided or should be guided by the content of the Housing Element. The scoping is further made problematic by the vague, often sanctimonious, policies proposed for adoption that are insufficiently accountable. The associated 101 implementation measures don't identify specific means, resources or schedules. It almost seems futile to try and scope the evaluation of an approach that primarily speaks to continuing inadequate levels of effort.

That hearing, further, was odd because it offered a recommendation to study now the impact of proposed Housing Element policies that are not expected to be completed until this January. Further the professional and probably legal misuse of the term "policy" continues to be an impediment to the production of an honest and proficient Housing Element. It seems that after 19 years of effort, the Commission and Department seem to be under the impression that continued use of erroneous processes will produce different results. I am sure that there is a psychological explanation. The Commission should demand periodic progress reports on Housing Element implementation. Such reports would make the problem evident.

Appended and resubmitted to you are suggested means for improving the Housing Element and alleviating the many housing needs of San Francisco's residents. These professionally considered techniques should be included in the Housing Element and, therefore, be part of revised EIR scoping. Their absence from the Housing Element or its EIR scoping should also be a topic for public discussion.

Again, at the root of our concerns is the practice to treat "policies and objectives" as sanctimonious, vague wishes to "consider", "foster", "promote". The 101 so-called implementation measures are similarly vague, without time lines, without full acknowledgement of human, institutional or financial resources needed. Often the

proposed implementation strategies seek only to continue past efforts which have not been publicly evaluated as required by law. Planning practice must acknowledge the legal and professional definition of policies. The State, in order to receive and pass through Federal funding, has had to accept this definition. Simply put, **"A POLICY IS AN ADMINISTRATION DIRECTIVE INTENDED TO BE IMPLEMENTED."** To be able to be implemented the language involved must be clear, specific and related to programs that are resourced, and have a measurable time line, and are included in budgets and work programs. Will you cross check the implementation programs related to the Department with the forthcoming budget?

A policy, therefore, must be actionable. 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. Much of the proposed implementation is highly bureaucratic in nature, involving an alphabet soup of agencies and entities. The text, drawing on approaches over the past 19 years dwells primarily on problems rather than creative solutions. The emperor has no clothes, and has so far conned the State, per Gov. Code 65581, to get off of the hook of undertaking an effective, actionable, public interest Housing Element. Your response and involvement is urgent.

The Environment Commission reported to San Francisco Tomorrow that housing turn-over last year in San Francisco was 20% or three times the normal rate for the city or the nation. This was primarily due to unemployment and housing unaffordability exacerbated by city planning actions that curtail employment and housing availability for middle and low income families. Where is this issue addressed?

There is the further issue of inconsistencies of projected population. The Housing Element projects a population increase of 50,000 residents, while the city officially claims for infrastructure needs a 200,000 population increase, a 25% increase in the present population, for a future total of 1,000,000 residents. Economics apparently 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 providing for the city's housing needs through Housing Element recommendations for this larger population projection. The city, therefore, must ration development.

Finally, current changes proposed for development in the city are **not** fully 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 to add, by estimates of representatives of the Mayors Office, 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. The Housing Element document is neither comprehensive enough or clear enough to evaluate adequately in an environmental review. This action provided an imprudent precedent.

I would like to recommend to the Planning Commission, under public comment, the following proposal for your urgent and necessary action.

1. Under their impress of their legal public oath, the Commission, as steward of its department, periodically evaluate and review its department's programs, processes and staffing equities. If not now, when?
2. It has been apparent, during our review of the Housing Element process, that otherwise proficient and earnest staff have been assigned to duties for which they are insufficiently qualified whether by direction or duress. This personnel matter needs your immediate attention. If not now, when?
3. The department needs full funding for its operations from the General Fund rather than, as now, substantial funding from developers fees. The pay master calls the tune and provides an impress for ethically corrupt practices. The development fees should go directly to the General Fund to probably match those earmark General Fund payments to support the Planning Department. The balance of payments would remain the same but the ethical impress would markedly change. Do this now. If not now, when?
4. The format for public review does not provide a forum for earnest public discussion with the Planning Commission concerning urgent matters such as those noted above and long overdue. This change is needed now. If not now, when?



**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.

**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.

## 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  
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. Policy 1.1 (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



## **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-collar 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 a 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.



# JORDAN PARK IMPROVEMENT ASSOCIATION

August 4, 2010

SENT VIA E-MAIL

The Honorable Ron Miguel, President  
The Honorable Michael Antonini, Member  
The Honorable Gwyneth Borden, Member  
The Honorable William L. Lee, Member  
The Honorable Kathrin Moore, Member  
The Honorable Hisashi Sugaya, Member

San Francisco Planning Commission

SUBJECT: Draft Environmental Impact Report, San Francisco 2004 and 2009 Housing Element  
Planning Department Case Number: 2007.1275E  
San Francisco Planning Commission Hearing August 5, 2010, Item 9

Dear Commissioners:

On behalf of the Jordan Park Improvement Association, I request a 90-day continuance of the deadline for comments on the EIR for the 2004 and 2009 Housing Element.

The 2009 Housing Element is in second draft and has **not been adopted**. The EIR cannot be adopted on the assumptions made on the Housing Element which is not complete.

We have retained counsel to prepare comments on this EIR. The Jordan Park Improvement Association objects to certification of the EIR and approval of the proposed project.

Please grant the 90-day continuance on this matter.

Thank you.

Richard A. Worner  
President Jordan Park Improvement Association

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2007.1275E  
(J. RANGÉ)

3-2

August 5, 2010

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2007.1275E  
(J. RANGE)

Commissioner Ron Miguel, President  
Commissioner Michael Antonini, Member  
Commissioner Gwyneth Borden, Member  
Commissioner Bill Lee, Member  
Commissioner Kathrin Moore, Member  
Commissioner Christina Olague, Member  
Commissioner Hisashi Sugaya, Member  
San Francisco Planning Commission

VIA E-MAIL

Subject: Case No. 2007.1275E, San Francisco 2004 and 2009 Housing Element Comments

The 2004 and 2009 Housing Element Draft Environmental Impact Report (DEIR) seems to be incomplete. It also relies on a draft version of the 2009 Housing Element to reach conclusions.

In order to study this document, one must read 3,441 pages which includes two volumes of hardcopy pages plus the pages that hold 70.3MB of data for the Appendices on a separate CD. Thus, a time extension for the first public hearing should be set, at minimum, 3 months after the Planning Department completes a DEIR on a complete, finalized 2009 Housing Element after holding a duly noticed public hearing or two on it.

3-3

A person of reasonable intelligence may have found the document very difficult to determine if the analysis was adequate being that many things in it appeared to have been based on suppositions, opinions and postulates rather than current concrete data to back them up.

It is also very unsettling and confusing to have both the 2004 and the 2009 HE and DEIRs being evaluated together in one fell swoop. This coupling of the two Housing Elements seems rather extraordinary and is even another reason to extend the comment period.

To present such a document in a very duplicative manner using the same objectives, policies and measures to satisfy numerous categories of environmental impact and concluding that all aspects of the Housing Elements, save for perhaps two, are of "less than significant" impact is in itself rather unusual and hard to believe. It does not appear that there is even a clear overall description of what this product should accomplish.

4-1

I had a very difficult time figuring out what the specific actions and implementation plans were but I did my best and have herein attached 40 typed pages of comments and questions which are based on the revised 2004 Housing element and the incomplete 2009 Housing Element document and the 2004/2009 DEIR that relied on it.

Sincerely,  
Rose Hillson  
Member, Jordan Park Improvement Association  
115 Parker Avenue  
San Francisco, CA 94118

cc: Linda Avery, Commission Secretary  
John Rahaim, Planning Director  
Jessica Range, Planning Department  
Bill Wycko, Planning Department

**2009 HOUSING ELEMENT**  
**CHANGES TO DRAFT 1**  
**MAY 19, 2010 DISCHINGER LETTER**  
**COMMENTS & QUESTIONS**  
**AUGUST 5, 2010**

In letter dated May 19, 2010 from Kearstin Dischinger to Community Advisory Body of Planning Department, under "Objectives & Policy Section," Page 2:

1. Describe the role of Community Planning Processes, and application of various land use controls within those processes.

Remove POLICY 1.3,

Replace with NEW POLICY: Ensure changes to land use controls are proposed through neighborhood-supported community planning processes.

"neighborhood-supported community planning" needs to be defined further. What is a "neighborhood" in terms of reach? If there are neighborhood organizations composed of residents and property owners of that area, do they have a stronger voice than the residents and property owners who are "in the neighborhood" but further away? Is this dependent on the size of the project that may have Citywide impact such as a department store? How are the "neighborhood-supporting community planning" going to affect the Area Plans such as the Downtown Plan, the EastSoMa Area Plan, Civic Center Area Plan, Chinatown Area Plan, etc. and vice versa?

2. Consideration of NEW INDIVIDUAL POLICIES on the types of land use controls to be considered during a neighborhood-supported community planning process, from 2004 Housing Element:

Again, need to define "neighborhood-supported community planning." One definition could be the following:

**NEIGHBORHOOD-SUPPORTED PLANNING:**

The act of envisioning, designing, locating and building structures that are embraced by the majority of the residents and property owners who are within, e.g., 2,000 ft. (this figure will be dependent on the neighborhood -- e.g. Twin Peaks may have a different radius from a proposed project site than another area) -- of a particular project plan and which plan is approved by the President of one or more closely proximate neighborhood associations and with notice to the district supervisor. A project plan could also be "neighborhood supported" on a more narrow scope of immediately adjacent neighbors -- neighbor to the left and right of the project and the neighbor directly across the street -- again, with the approval of the President of a proximate neighborhood association and with notice to the district supervisor. Any neighborhood-supported planning projects will conform to applicable Planning Code, Residential Design Guidelines, and other City codes to maintain existing neighborhood character.

In addition, as part of such "neighborhood-supported" planning, notification procedures need to be created. Neighborhood associations should be notified of a proposed project under the "early access and notification" procedures. Such procedures may be something along the lines of the Planning Department shall notify the proximate neighborhood organization(s), or where residents and

property owners are not part of an official neighborhood organization area, notify the list of people on the neighborhood organizations proximate to the proposed project via written letter at a minimum of e.g. 6 months (pick a timeframe) in advance for residential projects and e.g. 12 months in advance for commercial projects. For projects with Citywide impact like a sports stadium, where people from all over the City would congregate to use the building or area, there could be an even longer timeframe for advanced notice.

- Secondary units where neighborhood support and when other neighborhood goals can be achieved (2004 HE Policy 1.8).
- Flexibility in number and size of units within permitted volumes (2004 HE Policy 4.5)
- Appropriate scale and density for new and existing residential areas (2004 HE Policy 11.9)

3. Emphasize “permanently affordable” housing.

- Modify OBJECTIVE 1: Add the clause: especially permanently affordable housing.

Definition of “affordable” housing should explain that “affordable” can run from “extremely low income” to “low income.” Please put in the exact definitions for each income category and cite dollar amounts for sample years used throughout the Housing Element document.

Modify POLICY 12.1: Encourage new housing that relies on transit use and environmentally sustainable mode choices.

- Clarify that any closer look at areas served by transit will only occur through a neighborhood-supported community planning process.

The same issue exists as above in defining “neighborhood-supported community planning process.” This process needs clarification. What does this mean exactly?

4. Strengthen preservation of neighborhood character:

- MODIFY OBJECTIVE 11: Support and promote the diverse and distinct character of San Francisco’s neighborhoods.

The phrase “Support and promote” does not give the sense of actually having to preserve the existing neighborhood character. If a modern style building goes in next to a Victorian, e.g., and this proposed building is basically an all-glass structure save for one Ogee lug double-hung window in the front, it should not be said to “support and promote” the Victorian style because of one element. “Support and promote” is a very vague phrase; and a better word would be to “maintain,” especially in established neighborhoods already with distinct character for decades and even a century.

5. NEW POLICY: Maintain allowable densities in established residential areas at levels which promote compatibility with prevailing neighborhood character.

This is a good start. The word “prevailing” should be changed to “existing.” It should also down zone the height limits on those parcels that are truly anomalous to the specific neighborhood. If most of the residential areas are 40-X height limit, it makes no sense to build something any higher than the zoning that exists for the majority of the lots on that street, especially on an adjacent lot to the residentially zoned lots. And this dovetails into the next bullet which makes sense...

- Introduce strategy of a “neighborhood livability initiative,” focused on protecting the character of RH-1 and RH-2 urban village areas.

More work is needed to define these residential villages that lie near higher zoned areas.



SEE SEPARATELY ATTACHED DOCUMENT FOR DETAILED COMMENTS ON BOTH PARTS I & II OF THE 2009 HOUSING ELEMENT (DRAFT 2).

**2009 HOUSING ELEMENT (Draft 2) – PART I**  
**DATA AND NEEDS ANALYSIS**  
**COMMENTS AND QUESTIONS**  
**AUGUST 5, 2010**

1. The 2009 HE (Draft 2) "Introduction," Page 1, states that Part I contains information that is "in compliance with Section 65583(a) of the state Housing Element Law" and that the "primary data sources" used to analyze and determine the types and locations of housing required in San Francisco are "the Census Bureau and State Department of Finance for existing conditions, projections published by the Association of Bay Area governments (ABAG), and independent analysis by the Planning Department." In Footnote 1, it states that "ABAG projections are the official projections of growth for the Bay Area and are used by numerous (with emphasis) local governing agencies to identify potential needs and problems, both locally and regionally." What other "numerous local governing agencies" would those be?
2. **Page 3** states "Families with children constitute a small portion of San Francisco households. Under 13% of the City's total population is 14 years old and younger, giving San Francisco the distinction of having the fewest children of all major cities." There should be a reference to a source on what this is based.
3. **Page 5** states "In 2000, San Franciscans 14 years and younger constituted only 12% of the city's population." Source? for this and No. 2, above, see my Comment No. 18 for Part II of the 2009 HE-Draft 2, Objectives and Policies, Page 27.
4. **Page 7: Table I-4**, "Household Growth Trends and Projections, san Francisco, 1990-2030" shows that the "Average Household Size" is between 2.27 and 2.30, a fairly steady average in San Francisco. In the Bay Area, the "Average Household Size" is between 2.61 and 2.70, still a fairly low size. The source of this data is from the Census Bureau, ABAG, Projections 2009. What is a "household"? Is it the same as "family"? Does the City of San Francisco, ABAG and the U.S. Census Bureau all use the same definition? If so, what would that be? If the growth of a household is shown as these fairly steady numbers, how does the City come to "acknowledge that the need for housing for families with children, particularly low and very low family needs" exists? What part of the number of households in Table I-4 for 2010, i.e. 346,680, are low and very low (income) family needs? Please also refer to Part II, Page 27, Comment No. 18 for Part II and Comments Nos. 2 and 3, above for Part I.
5. **Page 8:** In addition to the above Comment/Questions for No. 7 above, this 2009 "HE Data and Needs Analysis" document on this page states, "As shown in Table I-4, the average household size in San Francisco has been relatively constant, hovering at 2.3 persons and tending to be smaller than the Bay Area average. ABAG also projects that the number of persons per Bay Area household will be leveling off in the next 20 years."

To what does this statement attribute the notion that the number of persons per Bay Area household will be leveling off?

It further states, "San Francisco continues to have a comparatively small number of family households and this proportion is shrinking." One would think that families are leaving the City; however, the HE states, "This decline does not necessarily indicate that families are leaving, as there were over 3,000 more family households in 2000; rather it indicates that non-family households are increasing at a much more rapid rate. However, as mentioned in my Comment No. 17 for Part II of the HE "Objectives and Policy," Page 26, the following statement is made:

"While currently families with children constitute a small portion of San Francisco households, with only 12% of the City's total population being 14 years old and younger, the changing demographics of the City illustrate that the need for family housing is growing, as larger, extended families increase and as more and more households desire to stay in the City as they have children."

So if "non-family" households are increasing more than "family" households, how is there such a greater need for housing for "family" households?

6. **Page 9:** The HE states, "Average household size varies by ethnicity. Table I-7 below shows that households falling under the 'Other Race' and the 'Native Hawaiian/Pacific Islander' categories tend to be larger, averaging 3.7 and 3.5 people per household, respectively. Hispanic or Latino households are similarly larger than the citywide average, with 3.2 people per households. There are, on average, three people in an Asian household, while Black households are generally on par with the citywide average. White households are smallest in size, averaging less than two persons per household."
7. **Page 30:** The HE states, "Single-family homes represented over a quarter of residential units demolished from between 2000 and 2008 (316 units)." Per my Comment No. 12 regarding Policy 2.1 on Page 19 of Part II of the HE "Objectives and Policies" attached, to demolish single-family dwellings so long as it is for affordable housing, this policy based on this data may in fact be creating a problem for by removing them as potential entry-level homes for some groups of people.
8. **Page 78: Paragraph 2:** "Swér" should be "sewer."

How important is the City-owned power plant that is planned for San Francisco to operate during periods of peak demand for new housing development? How many units of residential housing relies on this newly planned power plant?

**Pages 78 -79:** "The relationship between Discretionary Review requests and building permit applications (as a percentage of total permits filed) has been relatively constant with a recent high of 9% in 2005 and 6% in 2007. The current Discretionary Review

process does not produce consistent or fair results, makes the development process more lengthy and costly for all involved, and takes time away from the Commission to address larger planning issues.

I do not think that Discretionary Review should be referenced in this paragraph under "community Acceptance." Delete all reference to Discretionary Review. If the neighborhood opposition is considered to be such an impediment, it may be because the neighborhood does not want it. Although this section states, "The city is committed to the involvement of citizens in the planning process and to the need to expound on the importance of working towards citywide housing objectives," new policies and changes in internal procedures strive to undermine the neighborhood citizenry from keeping their neighborhood character intact. That is the crux of the problem.

Also, by stating that the discretionary review filings have dropped indicates that the Planning Commission already is making up time for addressing "larger planning issues." What specifically are these larger planning issues? Are they duties that were previously not under the jurisdiction of the Planning Commission?

9. **Page 80:** The document states, "This increases flexibility for development on all sites in the project areas, and has resulted in an expanded development capacity which is detailed in Appendix D."

Which Appendix D is this?

10. **Page 81: Parking Requirements:** "Parking is not required for housing designed for and occupied by senior citizens, for group housing or for single-room occupancy dwellings; parking requirements for 100% affordable housing projects can be modified as a "variance" to reduce the 1:1 parking ratio requirement."

In some areas, the draw of a particular piece of real estate is that there exists 1:1 parking. It is part of that neighborhood's character. That is the nature of many RH-1, RH-2 and RH-3 lots. I do not believe in changing parking ratios for such established neighborhoods. Also, changing the existing parking into residential space can affect buildings that are historic. Many buildings in the City are not part of an official survey such as the "Here Today," or "Inner Richmond," or "Heritage." Some of these buildings, especially in the older neighborhoods, are over 100 years old. These buildings, in particular, should be studied for historic potential before changing the parking/residential ratio. The age of a building as it relates to whether it can be considered "historic" and be put on an historic register is 50 years, from my understanding. Although there are buildings that are historic at 50 years of age, it behooves the Planning Department/Historic Preservation Commission to carefully scrutinize changes to buildings double that age, whether on previous surveys or not. This should be a new policy that gets implemented.

11. **Page 83: No. 6, Discretionary Review:** This category comes under sub-category "Entitlements" under category "Governmental Constraints." In regards to, "In 2008, almost 8% of all building permits reviewed by the Planning Department had Discretionary Reviews filed by a member of the public. The additional time and costs caused by Discretionary Review Applications are absorbed into the price of new or renovated dwelling units, and therefore, the Discretionary Review process acts as a constraint to housing development and increases the overall cost of housing." The Discretionary Review process is a tool for the neighborhood citizens who have paid for their properties and who rent in the area to have a say on what gets built there. It strives to protect neighborhood character and catches those projects that have also missed conforming to the minimum Planning Code standards. The developers say that it kills their projects but in reality, since the neighbors are the long-term residents of the area, it should be understood that any developer's project will impact them for at least 20 years into the future. In some cases, the project will chisel away at a neighborhood's character.

It states, "There are no barriers to file a Discretionary Review Application – other than a nominal fee of \$300." The Board of Supervisors had approved the Discretionary Review fee to be raised to \$500. Sure, to a developer, the fee may be "nominal" but to an elderly or disabled person on a fixed income or a "regular" person, this is substantial. The Planning Department should not characterize the fee as "nominal" in this HE document as it is only their opinion that it is nominal and perhaps there are fees that the developers pay that the neighborhood people feel are "nominal" and which need to be raised for equity sake.

Further, regarding the last paragraph which starts, "The Discretionary Review process is most frequently used as a response to development in the City's low density districts, (RH – one, two-, or three-family housing districts)" ... there is a likely reason for this. These districts (i.e. RH-1, RH-2, RH-3) have the most to lose in terms of neighborhood character. Most of these are in the Northwest and Southwest quadrants...and sure enough, in the next sentence in this document, it states, "From 2001 through 2008, the Southwest quadrant of the City received the most Discretionary Reviews, with the Northwest quadrant receiving the second most number of Discretionary Review filings."

Page 85: "Variances are required to deviate (even slightly) from dwelling unit exposure requirements and parking minimums, and a Discretionary Review in order to demolish and existing dilapidated building."

Change "and" after "demolish" to "an." Insert "is required" after "Discretionary Review."

12. **Page 90:** Under "Quantified Housing Goal," how do you arrive at "5,750 units affordable to moderate income households"?

If moderate income includes in Table I-64, the data indicates that there will be a surplus of 6,766 “market” rate housing for the 2007-2014 period in San Francisco but only a surplus of 842 “extremely low” and 843 “very low” income housing.

If more and more housing is built for “market” rate housing, less locations will be available for the lower income categories and the vicious cycle will continue as long as the population keeps increasing and people live and work in San Francisco. It is also given that the higher the property values, the more property tax gets into the City’s coffers, so larger and more expensive building will be built, further marginalizing the “very low income,” “low income” and “moderate income” people.

13. **Page 94:** In the section “San Francisco Municipal Transportation Agency,” “Presidio Trolley Coach Division (at Geary and Masonic),” there is mention of rezoning from P (Public) to NC-3 (Neighborhood Commercial – Moderate Scale).

Firstly, there needs to be neighborhood support from those who own and live property directly next to this lot. The documents states that this lot should be zoned as NC-3 “like the adjacent properties along Geary Boulevard.” However, the lot abuts Masonic, Euclid (residential with RH-1 and RH-2, e.g.) and Presidio Avenue. Consideration must be given to the number of units already on Geary Boulevard and those on surrounding streets, including California, where the majority of people will be doing their errands and shopping if residences are built on this location. This needs to be reviewed with the proximate neighborhood association(s). In fact, any of these lands including those of the San Francisco Unified School District (SFUSD) should go through very intensive and careful neighborhood scrutiny.

Need a map and listing of all the potential SFUSD sites which were supposedly completed by January 2009.

Also need to update Table I-68 to show SFUSD sites with acreage and number of potential units.

If this data is not available, how can one determine how many units are going to be met for each income category?

14. **Page 118:** Policy 1.4 should read, “locate infill housing on appropriate sites in established residential neighborhoods where there is neighborhood support.”
15. **Page 120: Policy 2.1:** “Discourage the demolition of sound existing housing.”  
Add new policy under it: “Rehabilitate unsound housing to prevent demolition.”
16. **Page 133:** “B. Public Participation” is blank through Page 136 and then “Section C” begins.

Throughout this HE document, the needs of the people who do not fall into certain special use categories in response to livability and character of the neighborhood seem to be falling through the cracks. I am talking about the residents and property owners who are not in any neighbor-specific area plan (e.g. Downtown Plan) or a special use district and do not belong to any neighborhood organization. These people may not be given as much decision-swaying power as a group that could represent them. So I think there is a big gap in this area. Some of these people may be on the periphery of a neighborhood organization's boundaries and may not be so economically well-off. In that respect, the properties around them may be demolished or altered more than those surrounding neighborhood organization people's properties. I am not so sure this is equal treatment for all. What processes does Planning have in place or will in the future to address these marginalized people? And why is this "Section B" on public participation left blank?

**17. Page 137: "C. Implementing Programs"**

What are they? How have they been or how will they be implemented?

**18. Page 146: Table D-2: "Buildout Calculation Algorithm by Zoning District"** Although "FAR" is defined in the "Glossary" in Volume I, Page I-4, it would assist the reader of this table to have a footnote defining it on the same page – i.e. " FAR means floor-to-area ratio."

**19. Page 147: Under "Exceptions," what is "softness"? It is not in the "Glossary" in Volume I. Is there a formula that determines if a site is "soft"? What parcels are "soft"?**

**20. Page 149: Attachment D-1 (Visual Basic program functions):**

The Planning Department uses the Visual Basic program for Microsoft Access to calculate the following:

- Mixed Use Capacity (total square feet to potential envelope w/ subtraction of units if greater than 1; rear yard in calculation)
- C-3 (sq. ft. by assuming envelope = FAR (floor-area-ratio) x lot size where height allows and having 90% of sq. ft. go to commercial use; lot sizes less than 7500 sq. ft. must use  $\frac{1}{2}$  x FAR)
- SoMa (1 unit per 200 sq. ft. lot area, uses average size, leaves out rear yard usage in calculations)

Why is the rear yard usage omitted?

- Tower (upper, lower, podium calculated)
- Eastern neighborhoods (commercial square footage calculated)
- NC lots (number of units without density control calculated)
- Parking per unit calculated

- C-2 (residential units calculated, rear yard requirement for residential not included)

Why is the rear yard requirement not included in this function?

- What is the “MUR\_DTR\_S\_Comsqft” function? What does it calculate?
- Residential -- RH-1, RH-1(D), RH-2, RH-3 (number of units calculated for lot depending on size of lot – 3000 for RH-1, 1500 for RH-2, 1000 for RH-3) – Function “RH\_units” calculates if conditional use units can be put into lots
- RM units (number of units that fit onto RM-zoned lots is calculated)
- Residential (number of units on residential-zoned lots calculated via “RTO\_Units”)  
What does “RTO” stand for? Would it stand for “Residential Transit Oriented Development” here?
- Height calculations in number of stories
- Square footage of existing units

Why is “765” used in assumptions for calculating square footage of existing units? How was the constant “1.2” selected for the multiplier?

- Softness  
In what scenario(s) is/are 0.05 to 0.3 used as a multiplier?  
In what scenario(s) is/are 0.31 to 0.4 used as a multiplier?  
In what scenario(s) is/are 0.41 to 0.5 used as a multiplier?

**21. Page 163: Attachment D-2: “Summary of Residential Development Standards by Zoning District”**

Put a footnote at the bottom of the page defining “du/acre” which I think means “dwelling unit per acre.”



**2009 HOUSING ELEMENT (Draft 2) – PART II**  
**OBJECTIVES AND POLICIES**  
**COMMENTS AND QUESTIONS**  
**AUGUST 5, 2010**

1. **Page 2:** Affordable housing includes from very low to moderate incomes from my understanding of the document. It would be easier to state also the actual income amount in parenthesis in the “Objectives & Policies” document even though the “Data and Needs Analysis” document exists to reference. Information should be made so it is immediately available to the reader of the document rather than having to hunt through various volumes, especially when the location of the citation, e.g. “Part I: Objectives & Policies, Page XYZ” is not used.

2. **Page 3: No. 1:** Define “market rate.”

**No. 2:** Delete “Recognize and preserve” to “Maintain” where it says, “Recognize and preserve neighborhood character.”

Add “s” to make “neighborhood” plural.

The HE states, “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 (sic) are not only maintained, but strengthened.”

Define “community planning” – how big a swath of the City is a community? Would the community be only for people around a project site as represented by a neighborhood organization? Is a “neighborhood” smaller than a “community” or vice versa?

**No. 4:** The HE states, “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.”

Housing development near transit that has been improved as being the sole criteria to develop should be deleted. Sentence should be modified to include “with proximate neighborhood association support.” See my comments on the **HOUSING ELEMENT** document attached in regards to neighborhoods. This goes with Point 2, above, regarding input from neighbors/residents.

3. **Page 4:** Add “to” between “projected” and “add” in the sentence that starts with “Together these recently adopted...” and for the same sentence, put a comma after “potential” and change “provide” to “will provide.”

In the sentence that starts with “Even with very successful policies and programs, and an...,” change “production” to “income” after “very low and low (production). In the following sentence, “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," one must change the capital "B" to small case to combine it with the previous sentence because it is an adverbial clause rather than a complete sentence. Also, change "a unit" to "units" (as there is more than one unit) and change "ranges " to start with "for whom the income ranges from...".

4. **Page 5:** Add period after "infrastructure" in the first sentence of the last paragraph.
5. **Page 6:** For uniformity, the issues stated in bold font should either spell out the numbers or use the Arabic numerals. Pick "1" since all subsequent issues in this document use the numerals rather than the number spelled out. Also use consistent boldface font of same size for easier readability throughout because the later pages changes to smaller less boldface font.
6. **Page 7:** "To enable easy access and movement throughout the City, housing should be located close to transit, ...

Per my comments on the **HOUSING ELEMENT** attached. The 2009 Housing Element needs to be more inclusive of the neighborhoods in the policy statements. The land is owned neighbors so they should rightfully have a say on what goes in around them.

**Policy 1.1:** Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Delete this policy. Instead say, "Build higher density structures where there already exists very high buildings in zones that currently are zoned for structures over ABC feet in height in Downtown, Transbay Terminal, South of Market areas that are more industrial and commercial than in the low-rise residential areas.

The 2009 Housing Element needs to identify these areas more specifically. Also define "affordable housing" here again with figures (vs. having the reader rely on referencing a different volume of this document – at least put it in a footnote.

7. **Page 11: Policy 1.3:** Delete "For example, certain Muni fleet storage sites located in dense mixed-use or residential areas could be relocated, thereby allowing in-fill mixed use or residential development." If not deleted, add "where there is proximate neighborhood support" at the end.

**Policy 1.4:** "Ensure neighborhood-supported community planning processes are used to generate changes to land use controls."

This statement is too vague. Please refer to my **HOUSING ELEMENT** document attached about "neighborhood-supported planning" and its definition. Add at the end, "without impacting existing neighborhood character."

8. **Page 12:** Under **Policy 1.5**, put in beginning quotation marks between the parenthesis and the “I” of “in-law.”

As for the general statement made, “Consider secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved especially if that housing is made permanently affordable to lower-income households,” add “while respecting the input of the proximate neighborhood organization.”

9. **Page 13: Policy 1.6:** “Consider greater flexibility in number and size of units within established building envelopes in community plan areas, especially if it can increase the number of affordable units in multi-family structures.”

This Policy states “Within a community supported 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 protect neighborhood character.” The neighborhood should determine whichever method of determining the building envelope would best fit in because the “existing patterns” could mean patterns from farther away than closer to the proposed site in established neighborhoods.

10. **Page 17: Implementation Measure 5:** “...MOH shall work with MTA to identify Muni sites that can serve as potential housing sites.”

Put in a reference to “2009 HE (Draft 2) “Data and Needs Analysis” under “Opportunity Sites on Public Land,” Page 94 that specifies these locations. Create a map of them indicating proposed zoning and number of units on each parcel.

**Implementation Measure 12:** “Planning shall require integration of new technologies that reduce the space required for non-housing functions, such as parking, and shall consider requiring parking lifts to be supplied in all new housing developments seeking approval for parking at a ratio of 1:1 or above.” Add at the end, “except in RH-1, RH-2 and RH-3 zoned areas where there exists 1:1 parking.”

**Implementation Measure 14:** “Planning staff shall prioritize support for projects which are located within a reasonable walking distance of stops along major transit lines, including BART, MUNI rail lines and Muni’s “24-hour Rapid Network.”

Please either capitalize "MUNI" or not in this sentence. Define "reasonable" for walking distance. Some distances are not reasonable if more than 500 feet, perhaps, depending on terrain. Define "24-hour Rapid Network." What is this? It is not in the Glossary of the 2009 HE DEIR nor in Part I, Draft 2, 2009 Housing Element. Is this the same as that used in the 2004 Housing Element in that these are Muni lines F, J, K, L, M and N lines that are rail? And does it include BART rail lines? The lines need to be explicitly stated here. with a map of these lines; and if there are projects in the pipeline that will change these lines, a proposed map of the change in lines.

**11. Page 18: "Strategies for Further Review"**

In the sentence, "To further this objective, the city should further explore the following options, and examined (sic) their potential to address Housing Element goals:"  
Delete the "d" in "examined."

**12. Page 19: Policy 2.1: "Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing."**

To enable the net increase of affordable housing should not be an excuse to demolish a building. Half the issue of Issue 2 is to conserve the existing stock and Policy 2.1 works to "improve" existing housing stock. The housing that is demolished may still be "affordable" to some class of people as is. Replace with "Prevent demolition of sound existing housing."

Too often sound housing is destroyed because the building is not the "best use" of the land based on how the lot is zoned. That is a speculative perception of the value of a building and emphasis should be place on whether or not the unit is affordable housing to any class of people. Some older single-family dwellings, usually of smaller square footage, when they are demolished, are forever removed as a possible starter or entry home purchase from those with less means. So the demolition of single-family homes merely to make more units should not occur. See also my Comment No. 7 regarding 2009 HE (Draft 2) Part I "Data and Needs Analysis," Page 30.

**13. Page 20: Policy 2.2: "Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing." Add "or can logically be seen by an ordinary person to create a less affordable unit as compared to the surrounding properties and takes away unit(s) of affordable housing that could be used by lower income groups."**

What is the definition of "family housing"? If a policy exists, should not the term be defined first? Otherwise, how will anybody know what kind of building this is? Please clarify.

**Policy 2.3:** “Prevent the removal or reduction of housing for parking.” I elaborate below...

The HE states, “... the City should encourage the conversion of ground floor space to housing, provided such a conversion does not impact the long term seismic sustainability of the existing structure.” This statement is basically to allow in-fill housing to occur. This policy should only be allowed based on neighborhood support, especially in residentially zoned areas (e.g. RH-1, RH-2 & RH-3). Again, I go back to the definition of “neighborhood support” – see my **HOUSING ELEMENT** document comments on this definition of “neighborhood.”

**Policy 2.4:** The text that starts with “The majority of San Francisco housing...” could be deleted since it was already mentioned on the previous page, first paragraph. Otherwise it seems very redundant.

14. **Page 21: Implementation Measure 21:** Please define “soft-story” buildings.
15. **Page 22: Objective 3:** “Protect the affordability of the existing housing stock, especially rental units.”  
Whether the units are rental or not, they should be protected for affordability so there is no need to put in “especially rental units.” These last three words should be deleted.
16. **Page 24: Policy 3.4:** “Preserve ‘naturally affordable’ housing types, such as smaller and older ownership units.” There seems to be a conflict with this policy and Policy 2.1 (Discourage the demolition of sound existing housing, unless the demolition results in a net increase in affordable housing.) as well as Policy 2.2 (Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.) Policy 2.1 gives an excuse (net increase in affordable housing) to demolish and build two newer units that are “affordable” but probably are not as affordable as the unit that got demolished; and Policy 2.2 gives another out to demolish an existing, older, “naturally affordable” housing unit by stating that mergers can be done where new “family housing” is created. All three policies need to be looked at with the proximate neighborhood character in mind, with neighborhood association support.
17. **Page 26: Under Issue 3: “Equal Housing Opportunities,” Policy 4.1:** “Develop new housing, and encourage the remodeling of existing housing, for families with children.” Replace with “Encourage and support the construction of quality housing for families.” Also need to define what is a “family”? It seems to include “extended families” so that also must be defined. Is a family the parents/guardians, any children adopted or born to them, the grandparents of both the guardians/parents included? Will the term “family” also include the aunts and uncles and great-grandparents of those families? Please clarify. Also, it makes a difference if the “family” member who want the larger units themselves already live in a unit of their own as a primary residence or own

property and live in a place within the City elsewhere and are not giving up the unit to a non-relative family. The assumption is that family-sized units are larger and therefore more expensive for purchase and rental than non-family-sized units. This will spur on the destruction of smaller older buildings with smaller units such as studios, 1-bedroom units and 2-bedroom units.

And, from this "Policies and Objectives" Part II of the 2009 HE (Draft 2), Page 26, it states, "While currently families with children constitute a small portion of San Francisco households, with only 12% of the City's total population being 14 years old and younger, the changing demographics of the City illustrate that the need for family housing is growing, as larger, extended families increase and as more and more households desire to stay in the City as they have children."

Please provide a map of the changing demographics of each district in the City from 1990, 2000, 2010, 2020 and 2030 with a corresponding table with the number for each ethnicity (i.e. White, Black, American Indian/Alaska Native, Asian, Native Hawaiian/Pacific Islander, Other Race, Two or More Race and Hispanic/Latino) for each year category.

18. **Page 27:** While all agencies in the City acknowledge the need for housing for families with children, particularly low and very low family needs, there still is no accepted definition of family housing." Would like to know what data indicates that there is a need for large residential units with 3-bedrooms or more in San Francisco. Also what percentage of the residents in San Francisco and in what districts.

Planning Department shall work with neighborhood groups and residents to arrive at a definition that will be codified for "family housing." The definition may suggest square footage maximums for areas where housing units are small (usually older units); otherwise, the tendency is to build larger "family housing" that translates into "monster homes" depending on the neighborhood character. It also will cram more people into some quaint village-like areas of town and therefore destroy the ambiance of those locations. Families can and still exist in smaller homes in older existing neighborhoods. These current "family-sized" housing units are much more affordable than the new mega-structures that are seen popping up in almost all districts. As these larger family-sized units are built, there must be some caution given to reduction of green open space as well. And, if we take the stated data that San Francisco's median income as \$73,798 per year as determined by the U.S. Census Bureau's 2008 American Community Survey (ACS), perhaps there needs to be a definition in terms of square footage, income and number of people in the household for "family housing." The definition should also be based on the existing neighborhood building square footage, income and number of people in the household as well. Refer also to comments on Pages 3 and 5 of 2009 HE-Draft 2, Part I, "Data and Needs Analysis" regarding the number of children aged 14 years and younger in San Francisco. See also my comments on 2009 HE-"Data and Needs Analysis" on "family" housing.

Also, for the sentence, "While all agencies in the City acknowledge the need for housing for families with children, particularly low and very low family needs, there still is no accepted definition of family housing." Add "income" after "very low."

19. **Page 30:** Where is "Map II-2: Below Market Rate Housing Projects"? And where is "Map II-3: Affordable Housing Projects"? Add "or" before "rehabilitation projects." Delete apostrophe in "resident's" because it should not be possessive case in the paragraph that begins with "Whether in existing or new neighborhoods..."
20. **Page 31: Implementation Measure 36:** "Planning shall continue to implement Planning code Section 209, which allows a density bonus of twice the number of dwelling units otherwise permitted as a principal use in the district, when the housing is specifically designed for and occupied by senior citizens, physically or mentally disabled persons." The Board of Supervisors recently amended this double-density bonus issue in Section 209 code which deleted "physically or mentally disabled persons." So delete to match up with current revision of Planning Code Section 209.
21. **Page 42: Policy 7.7:** "Support housing for middle income households, especially through programs that do not require a direct public subsidy." Delete "especially through...direct public subsidy" and add "through direct public subsidy as well as through programs that do not require a subsidy such that 50% of the units go for each group."
22. **Page 46: Implementation Measure 65:** "Planning staff shall support affordable housing projects in the development review process, including allowing sponsors of permanently affordable housing to take full advantage of allowable densities provided their projects are consistent with neighborhood character." Delete "are consistent with" and add "maintains."
23. **Page 49:** "However, providing clarity of planning and permitting requirements, processing time, application and review procedures, and environmental review requirements, can reduce unnecessary delays, participation and public comment processes." There seems to be some words missing between "delays" and "participation" in this sentence.
24. **Page 53: Objective 11:** "Support and respect the diverse and distinct character of San Francisco's neighborhoods." Delete "Support and respect" and replace with "Continue to maintain."
25. **Page 54: Policy 11.1:** "Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character." Delete "respects" and replace with "preserves."

Also, change “complements” to “maintains” for the sentence that reads, “The City should continue to improve design review to ensure that the review process results in good design that complements existing character.” In “For all new buildings and major additions, the fundamentals of good urban design...respecting the existing neighborhood character, while...,” delete “respecting the” and replace with “conforming to.” Delete “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.”

As for the text “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,” delete “and respects.” Delete “And buildings should represent...timeless.”

26. **Page 55: Policy 11.3:** “Ensure growth is accommodated without significantly impacting existing residential neighborhood character.” Replace “significantly impacting” with “detracting from.”

**Policy 11.4:** “Maintain allowable densities in established residential areas at levels which promote compatibility with prevailing neighborhood character.” Change “promote compatibility with prevailing” with “emphasizes existing.”

The sentence under this Policy 11.4 states, “Residential densities should continue to be applied where appropriate to maintain building types in established neighborhoods. Particularly in RH-1 and RH-2 areas, density limits should be maintained to protect neighborhood character.” Add “RH-3” after “RH-2.” It should be these three primary residential zone categories.

**Policy 11.5:** Text below it... delete “s” from “encourages.”

27. **Page 56: Policy 11.6:** “Respect San Francisco’s historic fabric, by preserving landmark buildings and ensuring consistency with historic districts.” Delete “ensuring consistency with historic districts” and add “historic residential structures.”

Delete “new buildings adjacent to...and materials.”

**Policy 11.7:** Delete “services” and add “neighborhood considerations” so that the sentence reads, “Analysis should include needs generated for housing, transportation, pedestrian amenities, and other neighborhood considerations.”

28. **Page 57: Implementation Measure 78:** “Planning staff shall continue to implement the Residential Design Guidelines as standards (including renaming these guidelines to emphasize their role in project review and entitlement) and shall reform the Planning



Department's internal review process to ensure consistent application of design guidelines and enhance the internal role of a 'Residential Design Team' who shall oversee application of the Guidelines."

Replace with "Planning staff should follow the Residential Design Guidelines and work with the residents/property owners/neighborhood affected most by the project to ensure an equal and transparent review process that emphasizes a strong Pre-application Process to produce neighborhoods that reflect the existing neighborhood character."

Any renaming of the "guidelines" as "standards" is premature. Therefore, delete "as standards (including renaming these guidelines to emphasize their role in project review and entitlement)" as the sentence stands; else, change "shall continue to implement" to "should follow the" before "Residential Design Guidelines. The 1989 Residential Design Guidelines protected the historic architectural styles of buildings much better than the 2003 version. In the 2003 Guidelines, pictures and wording were changed so that even an incompatible and disruptive building such as a modern building between two old style buildings was deemed acceptable. Then today we find ourselves trying to make that which is not compatible as a standard. The 2003 changes were OK'd even though the pictures showed such a violation of consistent character because the document was still called "Guidelines." Guidelines are just that – they are not rules or principles established by authority and are not legally fixed where there is no wiggle room. Guidelines have wiggle room. That is the nature to the objection of changing the "2003 Residential Design Guidelines" from an architectural-style-preserving document to one that allows structures of a style that were not allowed to maintain neighborhood character; and then in 2010 there is this attempt to call these "Guidelines," "Standards." Again, we have no wiggle room to preserve long-standing existing neighborhood character should this occur. People may say it is only a mere nomenclature change but it is much more important than that. For example, we do not say that the guideline is 16 ounces equals a pound. It is a standard that it is so. There is no wiggle room. Planning staff needs to work more closely with established neighborhood residents to come up with potential standards but to call the existing 2003 guidelines in its existing state should not occur.

**Implementation Measure 80:** Add "and guidelines" after "standards."

**Implementation Measure 81:** Add "and guidelines" after "standards."

**29. Page 59: Policy 12.1:** "Encourage new housing that relies on transit use and environmentally sustainable patterns of movement."

Add "while respecting the height and bulk and square footage limits of lower density residential lots adjacent to these lots and not decreasing the parking ratio of 1:1 in residentially zoned lots unless supported by the neighborhood."

30. **Page 61:** Implementation Measure 90: "Planning shall continue implementing the City's requirement set forth in Planning Code Section 167 that units be sold and rented separately from parking so as to enable the resident the choice of owning a car.

**Comments and Questions on SF 2004/2009 Housing Element**  
**Volume I: Draft EIR (Section I - V.G)**  
**Volume II: Draft EIR (Section V.H – VIII)**  
**Planning Dept. Case No. 2007.1275E**  
**State Clearinghouse No. 2008102033**  
**Draft EIR Publication Date: June 30, 2010**  
**for SF Planning Commission Meeting of Aug. 5, 2010**

1. **Page II-2:** Per the DEIR (Draft Environmental Impact Report), following certification of EIR:

- a. City could adopt the entire 2004 HE (Housing Element)
- b. City can adopt the proposed 2009 HE concurrently with a., above
- c. Changes to either must be approved by the Planning Commission (per Planning Code Section 340) and the Board of Supervisors
- d. The HE must be certified as compliant with state housing element law by the California Department of Housing and Community Development (HCD)

If the 2004 and 2009 DEIR is not certified, would that mean that the 1990 HE stands?

Can the 2004 DEIR be disjoined from the 2009 DEIR due to No. 5 below?

It seems like a special situation in that this DEIR wants to be certified and adopted when the HE (2009) – Item D, above – has not been certified.

2. Purpose of DEIR (should say “Purposes” in plural):

- a. Identify alternatives to proposed 2004 and 2009 HEs
- b. Indicate how those significant effects could be mitigated or avoided
- c. Page II-3: Address environmental issues known or raised by people during the Notice of Preparation (NOP) review periods that commenced on October 8, 2008 and on September 2, 2009

Another purpose/alternative that is not stated is that which occurs when a project proceeds based only on known or raised issues through the comment review periods stated in No. 2, above, and does not consider the environmental issues that are hidden and that could be significant nor even those environmental issues that people of reasonable intelligence can reasonably surmise would contain environmental impacts due to the previous historic use of the area or based on other previous findings reported elsewhere. Would not these points be a consideration?

Another purpose should state that this DEIR addresses the changes of the proposed 2004 and 2009 Housing Elements as compared to the 1990 Housing Element and the 1990 Residence Element.

3. **Page II-3:** Please define “densification” on this page since your Glossary defines it as “Increasing the density of soil” and I do not think “densification” is used in this way. Please define what it means here, specifically.

4. **Page II-5:** What is “M-NO-1”? I’d be guessing that the “NO” portion has to do with noise as in Table II-1, Page II-9; and that the “M” stands for “mitigated” but I’m not sure. Please clarify.
5. **Page III-3:** The Planning Department asked the public to comment on the impact of the 2009 DEIR which is based on the 2009 HE. The DEIR says, “Subsequent to adoption of the 2004 Housing Element, the California Court of Appeal determined the Negative Declaration prepared for the 2004 Housing Element inadequate, and directed the City to prepare an EIR for the 2004 Housing Element. The City has undergone a comprehensive planning process and prepared the next update of the housing element, the 2009 Housing Element. This EIR will satisfy the City’s legal requirements for preparing an EIR on the 2004 Housing Element and will also analyze the environmental effects of the 2009 Housing Element.”

The problem is that the 2009 HE is only in draft form (NOT finalized – “Draft 2”). Since the 2009 HE is not finalized, I do not think we can say that the 2009 HE DEIR could be adopted. I think we are prematurely trying to decide if the 2009 DEIR can be adopted concurrently with the 2004 HE DEIR.

Why ask for comments and questions on whether this 2009 HE DEIR should be adopted if the 2009 HE on which it is based is not finalized nor complete? This seems rather unusual, exceptional and extraordinary.

The public was given the timeframe for review on the 2004/2009 HE/DEIR as from June 30, 2010 through August 15, 2010. That is 45 calendar days. This timeframe is not adequate as it makes it a fulltime job to analyze and comment on even 100 pages of a well-written technical document let alone on these 3,441 pages which includes the two volumes of hardcopy pages plus the pages that constitute 70.3MB of Appendices on an additional separate CD. Thus, a time extension for the first public hearing should be set at minimum, 3 months after the Planning Department completes a DEIR on a finalized 2009 HE.

In general, the document seems to be written by the what I refer to as the “Department of Redundancy Department” in that tables, sentences, parts of paragraphs are repeated throughout and re-used for different sections for certain different objectives, policies and implementation measures, some of which appear to be based on opinions and postulates rather than on concrete data. Even the data extrapolations seem to be based on such suppositions without any clear explanations based on fact.

These suppositions have lead to the conclusion that the Housing Element has “less than significant” impact in 16 of the 18 sections to be analyzed for environmental impact:

- Land Use and Land Use Planning
- Esthetics
- Population and Housing

- Cultural and Paleontological Resources
- Air Quality
- Greenhouse Gases
- Wind and Shadow
- Recreation
- Utilities and Service Systems
- Public Services
- Biological Resources
- Geology and Soils
- Hydrology and Water Quality
- Hazards and Hazardous Materials
- Mineral and Energy Resources
- Agricultural and Forest Resources

The category of “Noise” has a “less than significant with mitigation” (LTS/M) impact. And the category of “Transportation and Circulation” has a “significant” (S) impact on “Transportation and Circulation.”

6. **Page III-4:** States that that the impacts to the 2004 and 2009 HEs are analyzed concurrently to avoid redundancy. As mentioned above, this 2004 & 2009 HE DEIR takes up two volumes of approximately 1,000 pages plus a CD for the Appendices because of the repetitive presentation style. A lot of this reading is very time consuming and most regular people cannot finish it in 30 – 45 calendar days. In addition, to have comments on this DEIR during the summer vacation season bars people who are on vacation so their comments and concerns are mute. If the Planning Department wants the input from the neighborhoods and the residents, I strongly urge the time extension.
7. **Page IV-10 & Page IV-11:** The DEIR shows Table IV-1 and defines the categories of “Very Low,” “Low,” etc. for “Household Income Category” and this table is for the 2004 HE Housing Allocation for the Region. Then in Table IV-2 for 2009 HE Housing Allocation for the Region, there are five categories as opposed to the four from the 2004 table with the addition of “Extremely Low” as the new category of Income. Why does the 2009 HE needs show a fifth category of “Extremely Low”?
8. **Page IV-9:** Under “Sites Inventory and Analysis,” the DEIRs do not include a detailed land inventory and analysis. The inventory must include site specific inventory listing the properties. I could not find that in this DEIR. If not in this DEIR, I thought it was in the HE document itself and am unable to find any specific inventory listing, e.g. Please provide.
9. **Page IV-14:** The DEIR gives a “generalized” zoning map (Figure IV-3) of the City. DEIR should contain the specific land zoning maps available to Planning Department to really analyze data in a detailed fashion as per No. 8, above. Please attach more detailed

zoning maps with a key (even if it means more pages of maps so people do not have to strain to see the details in microprint).

**Figure IV-4:** Again, a “generalized” Citywide Height Map. Please provide detailed maps, perhaps by district (?).

**Figure IV-5:** The “Potential Residential Unit Capacity” map gives a total number of housing units on “vacant or underutilized sites” and fails to state where exactly those are via more detailed maps or a detailed inventory list. Please provide.

**Figure IV-6:** The “Pipeline Units” map shows total number of units proposed, approved or under construction but it does not show where they are or provide a detailed listing. Please provide.

10. **Page IV-27: Policy 11.7** states that where there is “neighborhood support,” the minimum parking requirements for housing would be reduced or even removed. I think you 1) need to define “neighborhood support” and 2) need to realize the impact on existing neighborhood character when trying to accomplish reduced or elimination of parking. And, the mere fact that “affordable housing” is being built should not automatically guarantee the reduction of parking or the elimination of parking. What is the Planning Department’s definition of “neighborhood support”?
11. **Policy 11.8** has the Planning Department “strongly encourage(ing)” project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.” While some areas may have zoning that allows more units to be built, building to the maximum of the zoning designation does not always match up with neighborhood character, especially in residential areas. I think the term used here, “remaining consistent” is not a good phrase to use as many areas of the City should “maintain” rather than “remain consistent” because of the uniqueness of the neighborhood which is part of the character in these areas. I do not think the Policy should “encourage” developers to build to the maximum allowable limits as this will instigate neighborhood opposition from the opening gate.
12. Per No. 5, above, the DEIR, **Page IV-31**, states that it was subsequent to the NOP of the 2004 HE DEIR that the 2009 HE draft was completed. This 2009 HE draft must have been “Draft 1” since today there is “Draft 2”. And then somehow the Planning Department decided that this second draft of the 2009 Housing Element would also be included with the 2004 HE DEIR document to get both the second draft 2009 HE and the 2009 HE DEIR based on the latest draft adopted. How did this come about? And should not the DEIR base its findings on a finalized version of the 2009 Housing Element which should go before a public hearing on its own?

13. **Page V.A-2 – Page V.A-5:** What is meant by “community planning efforts”? My concern is the definition of “community” because the whole of the City could be the “community” or it could be a “community” of a group of only a narrow portion of a district or association residents and property owners.
14. **Page V.A-11:** Objective 28 is a good idea but has unintended consequences if implemented in ways that create congestion with vehicles looking for parking taken away by bicycle locking areas. I find this can also create more air pollution. In practice, curb bulb-outs and bicycle racks exist that take away from neighborhood parking. In the real world, people still drive, especially those who cannot take public transportation or ride bicycles, and these people will not be able to go to places they once visited. Why do the bicycle racks need to be placed where street parking space is eliminated? Pretty soon the residents who live in buildings with no parking (because they are somehow built that way), cannot drive at all or park in their own neighborhood. What steps can be taken to resolve this issue?
15. **Page V.A-12: Policy 28.1** needs to be sensitive to the existing street parking that is available today rather than to carve out bike racks that take away from neighbors’ parking. This is a bad idea if you combine it with trying to build many new housing units with very little or no parking. Up to a certain point, it may work; but beyond it, there will be problems between bicyclists and motorists and residents with housing that does not have parking but who continue to drive because not everybody can survive on public transportation alone. See No. 14, above.
16. **Policy 28.2** is a good idea if such amenities can be done without taking away from street parking or as long as it does not put more cars out on the street. See Nos. 14 & 15, above.
17. **Page V.A-23 “Western Shoreline Area Plan”** says that it is “not possible to provide an accurate estimate of the housing units in the City’s pipeline or additional capacity for housing units that is available within the exact boundaries of the Western Shoreline Area Plan.” And this area is comprised of several neighborhoods such as the Ingleside, Outer Sunset, and Richmond. So going back to Figure IV-5 and Figure IV-6, would these units that are not accounted for change? Would the total units of housing proposed in these areas change if there were a precise count done on this Western Shoreline? Without an accurate picture of the housing units in the pipeline here, how can projections and assumptions be made for the other areas of the City?
18. **Page V.A-29:** I do not agree with altering the existing historic character of San Francisco’s Japantown as it is only one of three left in the United States. The very nature of the low-rise buildings is evocative of a distinct period of Japanese architecture. The DEIR suggests to build residential towers and to make the single-use structures into mixed-use structures (i.e. more square footage). People do not visit Japantown to see Manhattan-style buildings. People go there for the distinctive ambiance created by the

low-rise single-use historic buildings that currently stand in Japantown. It is a more relaxed feeling. Nothing should be as high as the pagoda on Peace Plaza. It is fairly difficult to park in Japantown so this idea of putting in more units in higher buildings in Japantown will add to the congestion. The mere fact that Geary, a street that borders Japantown, is served by the Muni 38 line should not be the basis for additional height and density that will forever destroy the special existing character of Japantown. Japantown is a long-established community and increasing zoning and additional height will substantially impact the existing character and flavor of it. Nobody would think to change the flavor of historic San Francisco Chinatown, the largest in the United States. People visit both places for their unique character.

19. **Page V.B-11:** Is there a description of the “Western Shoreline Area Plan”? If so, what is it? If not, what assumptions are being made in relation to the 2004 and 2009 HE DEIR?
20. **Page V.B-22:** Where are these “Pipeline Projects”? Street parcel block/lot numbers? Addresses? Would like to know where these 45,430 new residential units will be.
21. **Page V.B-39:** 2004 HE/Policy 1.1: I do not think that pushing higher density in all areas of residential development where they provide a significant number of units affordable to affordable and lower income households will fit in with maintaining existing neighborhood character in certain areas of town like Jordan Park, Laurel Heights, some parts of the Richmond and Sunset, parts of the Western Addition, parts of Pacific Heights and the Marina. Although the key sentence to modulating the higher density development is to set the densities in a way that “promote compatibility with prevailing neighborhood scale and character where there is neighborhood support,” what exactly is the definition of “prevailing” (more than 50%? or within the block? e.g.)? What is “neighborhood”? How big is a neighborhood? Is it the district? Is it a homeowner’s association neighbors? Is it residents or just property owners? Is it property owners who live in the building or does it include absentee property owners? Will SF registered voter residents get more say than those who are not registered who live in the “neighborhood”? The decision should be based on who has more at stake and on input from people who are not so transient or removed from the location of the proposed project.
22. **Page V.B-39:** Implementation measure 1.1.1: The idea of a mixed-use residential development in “transit-rich” areas may be problematic if the transit near a neighborhood is comprised of residential buildings only going the maximum of 40 feet and where there is neighbor opposition. This needs to be put into the implementation of this policy.
23. **Page V.B-40: Policy 1.4:** Locating in-fill housing on appropriate sites in established residential neighborhoods must have neighbors’ support and must not take away off-street parking nor cause any additional vehicular congestion and thus pollution to occur. What is an “established” residential neighborhood? Please define.



**Page V.B-48: 2004 HE Policy 11.8:** “Encouraging project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with character” should be changed to “...echoing existing character.”

24. **Page V.B-53: 2009 HE Implementation Measure 14:** What is a “reasonable” walking distance of stops along major transit line, including BART, Muni rails lines and “Muni’s 24-hour Rapid Network? What are the major transit lines? What are Muni rail lines? What is Muni’s 24-hour Rapid Network? Could this be what is shown on **Page VII-73, Figure VII-1?** It would help to put a footnote for explanation since the terminology is neither referenced via abbreviation/acronym nor in the “Glossary” of Volume I.
25. **Page V.B-55: 2009 HE Policy 1.4:** In order to promote increased density-related development standards, the DEIR states that the 2009 HE will ensure that changes to the land use controls are proposed through “neighborhood-supported community planning processes.” This will have to be defined. I do not believe that non-residents of a particular area should say how a project is done if he or she does not live within a certain distance of the project. Some property owners may not have a say if they do not reside there, such as absentee landlords. Perhaps the tenants have more say in this regard. There will be exceptions such as a very large commercial project or a project that is built for a sports stadium or some other such large project. In the end, this policy should be modified to include neighborhood organizations approval close to the proposed project.
26. **Page V.B-55:** How does Planning Department/City & County of San Francisco intend to make housing “permanently affordable to lower-income households” as stated in 2009 HE Policy 1.5 about putting in secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved? I thought any NSRs or CC&Rs used by Planning and Department of Building Inspection do not have enough teeth to guarantee such a permanent use? Then that will allow perhaps the initial affordable and lower-income households to get into the units but after that, they become market rate and there will again not be enough affordable and lower-income units built. This cycle will repeat.
27. **Page V.B-56: Implementation Measure 13:** I would like to see the “Design Manual” on how these secondary units are proposed to be developed. Would you please let me know when this is available in draft form, when the public outreach on this is, and when the final document is delivered? Thank you.
28. **Page V.B-56: Implementation Measure 64:** The DEIR states that the 2009 HE will allow project sponsors to “take advantage of allowable densities provided their projects are consistent with neighborhood character.” I think that in certain areas, it may be appropriate to go to the allowed densities, but in the Jordan Park area and most areas of the Richmond District, going the maximum allowed density will not be “consistent with neighborhood character.” What exactly is “consistent”? And to what degree? Is it

consistent in regards to number of units? Is it consistent in regards to style of architecture, i.e. Victorian, Edwardian? Is it consistent with the views of the neighborhood association? Please define.

29. **Page V.B-57: Implementation Measure 79, HE 2009:** Why is it that there is not a definitive manual on what buildings can go where based on input from the residents? What does it mean that "Planning staff shall continue to use community planning processes to develop policies, zoning and standards"? Community may be those people on the SE side of town who make decisions for those on the NW side of town. Would you please clarify.

30. **Page V.C-3:** First full paragraph talks about panoramic views and dramatic inclines. Please mention Lone Mountain and University of San Francisco areas as significant incline and view areas. Prominent viewsheds also include Laurel Heights at Laurel and Euclid, Masonic at Geary and Presidio at Geary.

When talking about the western areas of the City, including the Richmond and Sunset neighborhoods, mention is made of buildings that range from traditional to modern and from "early twentieth century to contemporary styles." This is erroneous because there are also 19<sup>th</sup> century buildings in these areas and should be noted.

31. **Page V.C-4** refers to streets important to the perception of the City and for their quality of views. Please refer to No. 30, above, for streets not included in this description and also for the map, figure V.C-1 "Street Areas Important to the Perception of the City." I cannot tell from the map if Mount Sutro and all the streets that can see it are on the map. I cannot tell from the map if Lone Mountain and USF and its views from all the streets that see it are on the map. If the DEIR does not make mention of these prominent western inclines and view areas, how can the 2004 and 2009 DEIR be certified? It has left these out.

32. **Page V.C-14: Implementation Measure 1.7.1:** Family units should be built if there is neighborhood support and where there will be no additional impact on street parking. If a 1:1 off-street parking is enforced, that may not be enough for these larger homes with more bedrooms. I have seen 5 to 6 vehicles for a family in a 2-bedroom unit. They took up (5 X 17ft/car = 85 linear feet of parking taken up on the street with one vehicle in the garage. This is an additional burden on the neighbors and causes people to circle around looking for parking. Just because these units are on or near a transit street does not make it a fact that nobody will have cars in these units. That idea that they will not is a myth. So these proposed zoning amendments that the Planning Department is proposing for the 2004 HE is fallacious. This Implementation Measure should state that neighborhood organizations need to be consulted prior to these family-sized housing going in.

33. **Page V.C-16: 2004 HE: Policy 11.7:** The DEIR states “Where there is neighborhood support, reduce of (sic) remove minimum parking requirements for housing, increasing the amount of lot area available for housing units.” And add, “For residential zoned lots, i.e. RH-1, RH-2 and RH-3, as of July 2010, maintain a parking ratio of 1:1 on units to parking in established neighborhoods.” And also add a list of “established” neighborhoods.
34. **Page V.C-17: Policy 2.1 under 2004 Housing Element:** Instead of “discourage” the demolition of sound existing housing, it should be “eliminate” the demolition of sound existing housing. This will keep the neighborhood scale intact rather than create higher buildings with more units in areas where it is not wanted by the neighbors. Higher densities in buildings should not be based on the mere fact that the units are for affordable or not. This language of “especially if the higher density provides a significant number of units that are affordable to lower income households” should be revised to include the input of the neighborhood association(s) stance on a particular project in residential and neighborhood commercial areas adjacent to residentially zoned lots (RH-1, RH-2 & RH-3). So the existing language under the 2004 HE to retain existing neighborhood scale will not work with what is written here.
35. In general, the 2009 HE will impact scenic vistas because it will allow more density via two avenues:
- a. increased density if the project is for affordable housing
  - b. increased density if the project is approved through community planning process
- The problem with these two ideas is that each little portion of a neighborhood is different and making the blanket statement that a project that is for affordable housing makes it OK to densify and affect scenic vistas and neighborhood residential character is a significant effect.

**Policy 1.4** for the 2009 HE says that such controls will be handled via “neighborhood-supported community planning processes.” Yet, that is not defined. This 2009 HE DEIR cannot be approved with such a vague concept for determining where new units are to be built in this City. More work is needed here.

In fact, throughout this DEIR document (whether for 2004 or for 2009), the terms “neighborhood” and “community” are not finely defined and need to be for the public to see exactly what is being planned for the build-out of these units. As mentioned, “neighborhood character” also needs to be defined. **Policy 11.4:** See No. 21, above, regarding the term “prevailing.” Prevailing should not mean “popular” or “widespread” because different areas of town have little quirky buildings that may involve an “extraordinary and exceptional” circumstance that defines that specific location.

36. Although on **Page V.C-21** it states that the 2009 HE policies would not be anticipated to promote development to the maximum building envelope, when compared with the

1990 Residence Element it will because of the definition of “neighborhood” and the “community planning processes.” To which specific processes are we referring?

37. **Page V.C-28: 2009 HE Policy 11.1** says to promote “...well-designed housing...respects existing neighborhood character.” “Respects” should be changed to “maintain.”
38. **Page V.D-1:** It would be helpful to see in dollars that correspond to the percentages of AMI in Table V.D-5. For example, for “Extremely Low” income category, next to “<30%,” put “<\$22,139 (for single person household) and put “<\$88,557” (for four person household). The figures in this example may be wrong because it is confusing what AMI and from what year it is based. The DEIR cites the CCSF Planning Department Part I: Data and Needs Analysis, June 2010, Page 41. Does the EIR rely on the figure of \$73,798 AMI from the U.S. Census 2008 survey? or a different year HUD AMI figure? or something else? It would be helpful to incorporate the 2009 HE into the 2009 HE DEIR so everything is in one document. Since everything in the 2009 HE DEIR is based on the 2009 HE Draft 2 document, and since this document could potentially change, I still do not see how to accurately say that the 2009 HE DEIR can be adopted. Again, the 2009 HE is still in draft form. See No. 5, above.
39. No page in particular but the entire DEIR is peppered with the phrase “affordable housing.” What is it? If defined by income level, please state what income levels match up with home prices.

I referred to Page 43 in the 2009 HE Draft 2, Part I: Data and Needs Analysis. Based on the chart on this page, Table I-42, the “Extremely Low” income category people can only afford a unit with a maximum purchase price ranging from \$50,000 to \$78,000 depending on the number of bedrooms. At the other end of the spectrum, for the “Moderate Income” category, the maximum purchase price ranges from \$228,711 to \$359,723 depending on the number of bedrooms in a unit. When the 2009 and the 2009 HE DEIR refers to building affordable housing, based on the cost of land and construction, what kind of buildings would be built to house units in these price ranges? How many units, for example, would have to be built on a typical 25x120 ft. lot that would sell for these amounts on Page 43 to satisfy the 31,193 units needed by the City?

40. **Page V.D-19:** The DEIR states that the land in the City is a “finite supply.” Yet the HE proposes to keep building more units. In the historically high-density commercial sections such as in Downtown, perhaps it is appropriate, but not in the long-standing neighborhoods with unique character. So the 2004 HE and the 2009 HE cannot ensure that there is adequate land available to meet future housing needs. SF is only about 49 square miles in total so the burden of the additional housing should be on some of the other nearby cities as well.
41. **Page V.D-28:** Although the DEIR states that the 2004 HE “contains policies that promote the preservation of existing housing units” and has “policies that are intended to

mitigate the impacts of displaced individuals by providing relocation services and the right of first refusal to occupy replacement units.” Tenants who have had rent-controlled units and are paying below market-rate rent, even if given funds to relocate, usually do not have the down payment on the new unit (if condominiumized) or enough funds to move back into the new unit at market rate and so are actually displaced. Then these new units have tenants that are not paying rent-controlled price rents and then the City needs to build more housing for the lower spectrum people and the cycle goes on so that there is never enough housing to accommodate the State requirements. So the “Impact PH-3: The proposed Housing Elements would not displace substantial numbers of people necessitating the construction of replacement housing elsewhere” is 1) very general in nature, 2) does not define “substantial,” and 3) not true; otherwise, this City would already have enough low- or extremely-low income housing. Although landlords are supposed to report when a tenant has been evicted for such purposes, this may not be happening and a new policy needs to be in place to ensure that deals behind the scenes are not occurring so the City is not always under pressure to build units for these displaced people. What data is provided for the tenants that have been displaced to support the “Impact PH-3” statement?

42. **Page V.E-32:** The DEIR states that **Figure V.E-1 “Potential Housing Units: Capacity and Pipeline Units within Article 10 and Article 11 Areas”** shows units that will have a high potential for the need to establish a historic APE (Area of Potential Effect). Would it be possible to list the addresses of the potential units in each Article 10 and Article 11 area?
43. **Figure V.E-2:** This map shows potential housing units within sites surveyed for potential historic resources (capacity/No. of units in the pipeline). The key states that the map does not show buildings not counted in previous or ongoing surveys. It also does not show buildings that are 50 years or older that could be historic resources. Before we can truly tell the historic resource areas, I think a survey of the entire City is required. It should not be up to various small neighborhood organizations to take on this survey. Some neighborhoods had a survey done because of some grant money. Other areas were left to their own resources. This is not equitable since those areas that are not surveyed are likely targets for development. To correct this inequality in determining where buildings can be built on sites that have not been surveyed for potential historic resources, the Planning Department should start with the oldest buildings in the neighborhood and those that are obviously known to have historical significance per National Register Criteria. The figures shown on this map is based on the assumption that all the buildings in the count for housing unit capacity are not historical resources and then stating that there are 26 within the surveyed sites. If one does not know, one cannot make a valid statement. Does the Planning Department or the Department of Building Inspection or any other department in the City have a list of buildings with addresses or block/lot numbers that show when they were built? Then make a map of these buildings starting from the earliest dates forward. I respectfully request such data prior to being asked to adopt DEIR document.

44. **Page V.E-49: 2009 HE Policy 1.6:** “affordable units” needs to be defined, and if it is a change from the 1990 Residence Element Policy to allow additional units that are affordable to “lower income households,” then the 2009 policy should say “low income or extremely low income units” vs. “affordable.” The idea of Policy 1.6: “Consider greater flexibility in the number and size of units within established building envelopes in community plan areas, especially if it can increase the number of affordable units in multi-family structure” means well if the units are truly affordable to the low income; otherwise this is another way to get more market-rate units into the neighborhoods.
45. **Page V.E-50: 2009 HE Policy 2.1:** The addition of the phrase, “unless the demolition results in a net increase in affordable housing,” is going to open the door to demolitions of older buildings, typically smaller structures that could be historic in nature. I do not think that allowing a reason for demolition of sound housing for this sole purpose of building “affordable” housing should be allowed. This phrase should be deleted. Some of these small existing sound structures are “affordable” for someone to purchase or rent so they should not be demolished for the sake of new “affordable housing.” Also, if a building is not sound but can be rehabilitated so that a non-green alternative can be avoided, the rehabilitation should be pursued prior to demolition.
46. Nos. 43 and 44, above, will impact neighborhood character if carried out. Smaller homes with a neighborhood of people of the working class will be supplanted by people of greater economic means.
47. **Page V.E-51: 2009 HE Policy 11.2:** Change “standards” to “guidelines and standards.”
48. **Page V.E-51: 2009 HE Policy 11.6:** Add “and historic residential buildings.”
49. **Page V.E-52: 2009 HE Policy 11.1:** Change “respects” to “conserves existing.”
50. **Page V.E-54: 2004 HE Policy 1.1:** Delete “areas adjacent to,” add “in the South of Market, and newly developed neighborhoods” after “harmful effects,” delete “especially if the higher density provides....are affordable to lower income households,” delete “prevailing” with “existing” and define “neighborhood support.”
51. **Page V.E-55: 2004 HE Implementation Measure 1.1.1:** Add “downtown” between “areas” and “with stable...”.
52. **Page V.E-55: 2004 HE Policy 1.2:** Add “where there is neighborhood support” after defining “neighborhood.”
53. **Page V.E-56: 2004 HE Policy 1.4:** Add “where there is neighborhood support” after “neighborhoods.”

54. **Page V.E-69: 2009 HE Implementation Measure 36:** Reference is made to Planning Code Section 209 which allows double density bonus of twice the number of units for “senior citizens, physically or mentally disabled persons.” But the Board of Supervisors passed the Ordinance to only allow the “senior citizens” for this and deleted the “physically or mentally disabled persons.” Please check and revise.
55. **Page V.F-58: Implementation Measures 11.7.1:** Change “with the support and input from local neighborhoods” to “with the support and input from adjacent neighborhoods to the proposed project” because local neighborhoods is too broad a term and will start to change the historic fabric and neighborhood character of a particular part of the City.
56. **Page V.G-6: Table V.G-3:** Reference is made to this Table that is on Page V.G-9. It shows HUD noise acceptability standards and shows “Normally unacceptable” as >65-75db and “Unacceptable” as >75db. (Source cited is the Code of Federal Regulations (CFR), Part 51, Section 51.100 – 51.105.) Based on this information, many streets in the City are already at the “normally unacceptable” and “unacceptable” mark already. What is not seen in the DEIR is that the noise level is not in relation to the noise generated by just the construction of the projects but also the traffic associated with building the structures. Dump trucks, cement trucks, water trucks, re-routed traffic for larger construction, etc. do not seem to be accounted for in this DEIR. Where the noise levels on the streets are already in the “normally unacceptable” or “unacceptable” ranges, there should be a policy and implementation measure to get special approvals for environmental review prior to plan approval on those streets per the Figure V.G-1 map of “Background Noise Levels, 2009.” Please put into the HEs and DEIR.
57. **Page V.G-42:** The DEIR states, “...new residential uses are generally discouraged in areas where ambient noise levels exceed 75dB.” It states that both the 2004 HE and the 2009 HE encourages the building of new units “near transit” and that there will be significant impact due to exposure to higher noise levels in these areas but that since these units will be near transit, there will be fewer vehicles that would make the noise level increase. I think that with greater number of units, i.e. taller buildings, the fact that noise echoes has not been considered in this study of impacts. There will be significant impact even with mitigation measures M-NO-1: Interior and Exterior Noise.

The requirement of the Planning Department for the preparation of an “analysis of potential noise-generating uses within two blocks of the project site” does not consider the physics of sound. Some sound is not generated. They are deflected off various surfaces. So the analysis must also take into account all noises whether being generated or deflected. Also, the number of blocks set at a random “two,” may not work if the project is located on a slope and noise from a source farther than two blocks is impacting it. How is the number of blocks determined?

It appears that an assumption is being made that all the blocks are of equal length in San Francisco and that is not true. The distance sound travels diminishes as one gets farther

from the source (originating source or source at deflection point) so it would be better to study the noise issue based on noises around the project site that fall into the “normally unacceptable” and “unacceptable” categories determined by the Code of Federal Regulations at minimum.

Another point on noise is that it is not clear from the analysis in this DEIR that the direction of the wind is being considered. On the western side of town as in the Richmond area, and to the same extent for the Sunset District, the prevailing winds come from the west to the east except perhaps during winter storms when the wind comes predominantly from the south to the north during rain storms.

What this DEIR fails to study is how the sounds borne on air waves will impact the project site and its surrounding properties.

Additionally, the Planning Department requirement to mitigate the significant impact of noise by having “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” is only taking into consideration the noise that impacts the occupants of that building. One suggestion mentioned is the “use of a site design that uses the building itself to shield on-site open space from the greatest noise sources.” This will deflect any noise toward other neighboring structures and open areas so then those neighbors will have to “shield” their “on-site open space” and then a domino effect arises.

Another suggestion mentioned for noise mitigation is the “construction of noise barriers between noise sources and open space.” Again, the fact that these barriers take into account only the inhabitants and their use of their open space in order to prevent noise pollution on their site but does not address the noise pollution that could be deflected onto adjacent and other properties lead one to believe that even a basic non-technical perspective has not been addressed. Other stronger mitigation measures must be in place.

Additionally, putting up these barriers so a proposed building itself will block noise from bothering its occupants is also going to likely impact the stylistic integrity of the building within the character of the neighborhood. How would this impact historic resources and landmark buildings?

Moreover, in Appendix D, “Noise Data,” there does not appear to be any reference to data on noise other than light duty trucks, heavy trucks and other vehicles. The City has other noise generating sources such as landscaping equipment, Muni bus audible signals, vehicle horns, loading dock buzzers and audible signals, etc. Existing surround noise where a project is being proposed must be studied prior to approval of building.



58. **Page V.H-7:** Explanations are given in the DEIR on “sensitive receptors” and who they are: children, elderly, acutely and chronically ill. Previous chapters of the DEIR spoke about building units along transit corridors. Many residential lots abut next to these areas “well served by transit.” If there is an pre-school, elementary or middle school within 4 City blocks of a new project, there should be a mitigation measure to not allow as many housing units along these corridors.

59. **Page V.H-37:** The DEIR states, “Although the 2009 HE would not result in the construction of residential units, it would shape how new residential development should occur and ensure that there is adequate land available to meet future housing needs.” The HE itself would not result in the construction, but it will influence strongly where and what kinds of housing is put in the City. In that regard, it has a major impact on the outcome of the design and makeup and character of the City going forward.

60. **Page V.H-38:** Landscape maintenance: The DEIR states, “Landscape maintenance emissions are assumed to occur only during the summer (i.e., non-winter) days.” I think this is a false pretense to work off of because in San Francisco, the weather is mild. People continue landscape maintenance tasks that add to the air pollution in this City year-round. Defining “non-winter” days as only summer days is wrong because Spring and Fall days are also “non-winter” days and are not accounted for in this study to generate the data on air pollution emissions in Table V.H-6 and on Page V.H-39.

61. **Page V.I-20: Table V.I-3:** “Baseline Greenhouse Gas (GHG) Emissions from Residential Development (2009)” shows Total Operational greenhouse gas emission in metric tons of carbon dioxide equivalent per year as 4,350,988. Then, on Page V.I-21, Table V.I-4: “Projected Greenhouse Gas Emissions from Residential Development (2020 and 2025)” shows 4,689,835 and 4,840,481 respectively. The majority of the GHG emissions are from vehicular use. If, as the DEIR states that all the vehicles will mostly be off of our City streets due to less off-street or no parking requirements and practically everybody using bicycles or walking or public transit, please explain the assumptions used to arrive at the higher values for the total GHG (MT CO<sub>2</sub>e per year). I could not find them in the Appendices.

Also, “form” should be “from” under “Landscaping Equipment,” second paragraph.

62. Are all the “Emission Sources” in Table V.I-3 through V.I-7 based on year-round? If not, which ones are not and what are their basis? Please clarify.

63. **Page V.I-42: Policy 3.2:** “Promote voluntary housing acquisition and rehabilitation to protect affordability for exiting occupants.” Change “exiting” to “existing.” Also add “low income” before “occupants.”

**Page V.J-4: Wind: Section 148:** The DEIR states, “Section 148 of the Planning Code establishes an equivalent wind speed of seven miles per hour (mph) for seating areas

and 11 mph for areas of substantial pedestrian use. New buildings and additions to buildings may not cause ground-level winds to exceed these levels more than 10 percent of the time year round between 7:00AM and 6:00PM.” On the western part of the City, where the wind speeds are the highest due the land being so close to the Pacific Ocean, the encouragement of building along streets on such an intense scale as to have tall buildings that form a canyon effect, should not be pursued without input from the neighbors. The conclusion on...

64. **Page V.J-7** which states, “Impact WS-1: The proposed Housing Elements would not alter wind in a manner that substantially affects public areas. (Less than Significant)” is silly. When the HE is worded so that the intent is to densify the City, and especially along the transit corridors, of course the wind is funneled through the alley created by the taller buildings. And, it should be noted that for livability, such wind alterations with the construction of these buildings should not affect the rear yards of the residents either. The rear yards are places of respite in an otherwise concrete jungle and should not be made so the wind prevents the quiet enjoyment of the rear yards. Since the 2009 HE states that density will be increased in two scenarios -- 1) where family sized housing is on transit-oriented commercial areas and 2) for affordable housing – there would be more impact in this iteration of the HE than the 2004 HE so those two exceptions must be looked at more closely.
65. **Page V.J-28** states, “Because the 2009 Housing Element does not propose increased height limits in any areas, the effect of shadows would be less than significant.” The Housing Element contains policies and implementation measures that would likely result in increase of height limits so to say that the “effect of shadows would be less than significant” is baseless unless nothing was built.
66. **Page V.K-7:** Please provide “Map 9” of the “General Plan Recreation and Open Space Element” for easy reference.
67. **Page V.K-21:** “SFRPD would continue to acquire new open space/recreation facilities pursuant to Proposition C. Therefore, the 2004 HE would have a less than significant impact with respect to the construction or expansion of recreational facilities or the need for new or expanded park or recreational facilities.” So when there is no “open space” available for acquisition by SFRPD, would the expansion and/or construction of recreational facilities stop?
68. **Page V.K-29: Impact RE-2:** “The proposed Housing Elements would not physically degrade existing recreational resources. (Less than Significant)”

“The proposed Housing Elements do not propose any zoning changes and Public Districts, where much of the City’s open space and recreational facilities are located, and would therefore not be at risk for conversion to residential uses.”

Although it is stated that there is a “Less than Significant” impact since the City’s open space is mostly on publicly zoned land (zoned “P”) will not be at risk for conversion to residential uses, the Housing Element does not state that with the increase in units built, there could be an impact depending on what open space one is addressing in a particular neighborhood. It does not analyze according to planning districts, e.g.

69. **Page V.L-31:** I do not think that just because a neighborhood is established that one can assume those areas have “adequate existing levels and types of wastewater treatment capacity.”

Prior to allowing any new development or an addition of a unit or a bedroom, there needs to be an analysis made on the maximum capacity of that proposed building’s block. This may have to be a new policy.

70. **Page V.L-47: Impact UT-5:** “The proposed Housing elements would not be served by a landfill without sufficient permitted capacity to accommodate the project’s solid waste disposal needs. (Less than Significant)”

“Additional collection trucks and personnel could be required to provide services to new housing.”

Perhaps these additional garbage truck trips should also be a consideration for the section on Air Quality (Section V.H).

71. **Page V.L-53:** Please explain specifically how the increase in density that will result from the Housing Element policies and implementation measures and thus increase the population of San Francisco will result the “potential to decrease solid waste generation.” This makes no sense to me.

72. **Page V.M-39:** “Increasing the residential population could potentially reduce crime, as criminal activity is more likely to occur in isolated and hidden.”  
This is not a complete sentence. How is it that the denser areas of town would have less crime? In San Francisco, the densest part of town is the Tenderloin and Downtown areas. Crime is the highest in these areas. Look at San Francisco Police Department Crime Maps.

73. **Page V.N-2:** In this “Biological Resources” section, it states that for the species listed in **Tables V.N-1 and V.N-2**, “it is improbable that any of the aforementioned species occur on or in the immediate vicinity of developable areas of the City. Many occurrences are confined to areas in the Presidio or are located on lands under the control of the Department of Recreation and Parks.” And on **Page V.N-19, Table V.N-3** lists the “Features of Natural Areas in San Francisco.” What data is used to determine what species occur in the “developable” areas of the City? Have surveys been done to

determine what grows in the "Natural Areas in San Francisco"? Without this kind of data, how can one draw conclusions?

74. For the section on "Geology and Soils," **Page V.O-4**, "Naturally Occurring Asbestos (NOA)," please provide a map of the specific areas in SF where it is known to exist?
75. For "Hydrology and Water Quality," concludes with similarly to that of other sections: No mitigation or improvement measures are warranted by the proposed Housing Elements. If the City of San Francisco has not identified any special flood hazard areas (SFHA), would it not be premature to base any conclusions in regards to the impact on hydrology and water quality? If so, what steps will be taken to determine such SFHA areas? Refer to **Page V.P-46** and **Figure V.P-3** ("Potential Housing Units: Capacity and Pipeline Units within Flood Prone Areas") and **Figure V.P-4** ("Potential Housing Units: Capacity and Pipeline Units in Areas at Risk of Inundation Due to Rising Sea Levels") Perhaps these maps of the flood-prone areas SFHAs are already published since the Board of Supervisors introduced legislation to "enact a floodplain management ordinance to govern new construction and substantial improvements in flood prone areas of San Francisco" per **Page V.P-51**. If these maps are not done first, it would be difficult to come to any accurate conclusion.
76. **Page V.P-55**: "The 2004 Housing Element and 2009 Housing Element would not result in the construction of residential units, although they could encourage (sic) how and where new residential development would occur and would assist in ensuring that there is adequate land available to meet future housing needs." "Encourage" should be "encourage."
77. **Page V.Q-26**: The 2004 Housing Element "encourages new housing in Downtown and in underutilized commercial and industrial areas. The 2004 Housing Element also encourages increased housing in neighborhood commercial districts and mixed-use districts near Downtown. On the other hand, the 2009 Housing Element encourages housing in new commercial or institutional projects and accommodating housing through existing community planning processes."  
According to **Figure V.Q-1** ("Potential Housing Units: Capacity and Pipeline Units within Potential Hazard Sites" and **Figure V.Q-2** ("Potential Housing Units: Capacity and Pipeline Units within Potential Contaminated Sites"), a lot of the proposed housing sites are in the Downtown, Mission Bay, Hunters Point, Candlestick Point, Visitacion Valley and Treasure Island Redevelopment Areas as well as the Park Merced area. These areas show artificial fill and serpentine which are hazardous and by having the Housing Element "encourages" housing in these places, they are knowingly putting housing in contaminated or hazardous areas and say the Housing Element has no mitigation or implementation measures in relation to these hazards. When one combines both maps for hazard sites and contaminated sites, one sees that the above sites are also the areas of most concern. When the housing element encourages higher residential density, it is putting more people in harm's way. I think this is important for the safety of the public.
78. **Page V.R-7**: "**Impact ME-1**: The proposed Housing elements would not encourage activities which result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner. (Less than Significant)"

On the contrary, since the HE encourages denser housing, it leads me to believe that more people will be occupying housing per square foot and each person will require energy and water resource needs so the more people, the more consumption. And, we have had PG&E manhole explosions in the Downtown area and if we still keep adding to the electrical grid, there could be more explosions because we have taxed a system that needs to be upgraded to accommodate the extra load generated by all the new people. If people are not going to use any PG&E, SFPUC-Water Department, and Hetch Hetchy Water and Power sources, then perhaps it can be assumed that there would be “less than significant” impact. If the 2004 Housing Element and its encouragement to build higher density housing in San Francisco had such insignificant impact on energy resources, it is puzzling that “on April 29, 2006, the 27-mile Jefferson-Martin 230,000 volt Transmission Line from the Jefferson substation in San Mateo County to the Martin substation was released into service to improve capacity and reliability of the electricity supply in San Francisco and on the Peninsula” per **Page V.R-2**. And the final “Mitigation and Improvement Measures” states that none are needed on **Page V.R-26**.

79. **Page V.S-1:** The “Environmental Setting and Impacts, S. Agricultural and Forest Resources” section of the HE DEIR addresses the impacts of the 2004 and 2009 HE policies on the following:

- conversion of farmland
- zoning for agricultural use
- zoning of forest land
- loss or conversion of forest land
- changes to the existing environment that result in conversion of farmland to non-agricultural use

On Page V.S-2, the Housing Element states that there is no farmland in the City. Then on Page V.S-3, Table V.S-1 (“San Francisco Crop Report”) shows that there are crops produced in the City in 2008 with a value of \$1,134,000 with orchids having the highest gross value over bean and alfalfa sprouts.

Orchids seem to fit under the definition of “Farmland of Local Importance,” defined as “land deemed to be important to the local agricultural economy, as determined by each county’s board of supervisors and a local advisory committee.”

80. **Page V.S-8:** “According to Part I of the 2009 Housing Element (Data and Needs Analysis), the City has available capacity to meet the RHNA. Therefore, the rezoning of land uses is not required.”

In reality, projects have come before the Planning Commission asking for variances on existing zoning to that of a higher density zoning. Some of this is called “spot zoning.” The fact that the Housing Element encourages development of higher density housing would lead developers to think that they would have to build structures with increased bulk and height. Under the current definitions of some lots, that may mean that before developers can build on those lots with lower density designation, the Planning Department would have to change the zoning to one for more units

81. **Page V.S-9:** “The proposed Housing Elements do not propose any changes to allowable uses pursuant to the Planning Code. Implementation of the proposed Housing Elements

could result in impacts related to the loss or conversion of urban forest land if trees in R districts were removed, damaged, or otherwise physically affected by a new project.” The canopy of San Francisco is very underdeveloped. The fact that the HE encourages buildings of higher densities and bulk and height would lead to implementation based on this encouragement and thus would have a significant impact, especially in the R districts which leave 45% rear yard space in most instances on the Western side of town. If rear yards can be choked down to only 15% of the lot depth to accommodate the bulk and height of these structures that are encouraged by the Housing Element, that will destroy the rear yard urban-forest fabric of these residential areas. The rear yard open space becomes part of the City’s canopy.

82. **Page VI-7:** Under “Other CEQA Issues,” the statement “...the Housing Elements themselves do not promote growth or indirectly encourage substantial new growth in the City that has not previously been projected by RHNA forecasts. Therefore, the 2004 and 2009 Housing Elements would have a less than significant impact with respect to direct or indirect economic or population growth.” But it does encourage new growth. What is not defined is “substantial.” How much growth would be substantial?
83. **Page VII-6: Table VII-1:** “Alternative C” allows granting of variances for reduction of parking. There should not be granting of variances that will affect neighborhood character, and allowing “over-the-counter” permits for reduced parking spaces in RH-2 zones or any residentially zoned areas and areas near transit without the input of the neighborhood associations and studying data that comes from such a situation. This granting of administrative exceptions is also mentioned on **Page VII-72**. The Housing Element encourages greater residential density by eliminating parking but the availability of parking for some areas is part of the neighborhood character, and this combined with the 2009 HE policies that increase residential density for “affordable housing” and “through community planning processes” (**Page VII-23**).
84. **Page VII-72:** Requiring development to build to “full allowable building envelope under zoning in locations that are directly on the rapid transit network lined (sic) identified in the SFMTA’s Transportation Effectiveness project (TEP), as shown in **Figure VII-1**” will especially impact the neighborhoods between two “Rapid Network” lines. Change “lined” to “lines” in the sentence earlier.
85. **Page VII-73, Figure VII-1** (“Muni Transit Effectiveness Project Rapid Transit Network”) and **Page VII-75, Figure VII-2** (“Muni Transit Preferential Streets Network”) show that the Western side of the City – Richmond District, Laurel Height, Jordan Park, Presidio Heights, Pacific Heights and the Sunset District will be areas where the Housing Element encourages higher density development. There needs to be an implementation policy and mitigation measures for exactly how this will be carried out – the idea of densifying these areas near these Muni lines. All affected neighborhood organizations and residents and property owners need to be involved in numerous meetings to protect their neighborhood character.

August 13, 2010

Bill Wycko  
Jessica Range  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Subject: **Case No. 2007.1275E – 2004/2009 Housing Element (HE) Draft Environmental Impact Report (DEIR)**

Dear Mr. Wycko and Ms. Range:

I had previously incorporated my comments on the 2009 Housing Element (2007.1275) with the 2004/2009 Housing Element DEIR (2007.1275E) and turned them into the Planning Commission at their meeting on August 5, 2010. I also emailed my comment document to not only the Commissioners but also the Commission Secretary, Director Rahaim, Bill Wycko and Jessica Range. I erroneously combined both into one document and have attached only that portion which related to the DEIR. My submission on August 5<sup>th</sup> will therefore have comments on the 2009 Housing Element which does not pertain to the 2004/2009 HE DEIR. So the final DEIR should look only at the pages that go with the 2004/2009 HE DEIR.

My comments herein on the 2004/2009 Housing Element DEIR are the same as what I turned in on August 5, 2010.

I plan to bring in a hardcopy of this to the Planning Department reception area on the 4<sup>th</sup> Floor of 1650 Mission Street on Monday, August 16, 2010, as well. If you need anything further, please let me know. I am sorry. I should have separated the 2009 Housing Element comments from my 2004/2009 Housing Element DEIR comments. Sorry for the confusion and I thank you for your time.

Sincerely,

Rose Hillson  
Member, Jordan Park Improvement Association  
115 Parker Avenue  
San Francisco, CA 94118

cc: Without attachments:  
Michael Antonini, Planning Commissioner  
Linda Avery, Planning Commission Secretary  
Gwyneth Borden, Planning Commissioner  
Bill Lee, Planning Commissioner,  
Ron Miguel, President, Planning Commission  
Kathrin Moore, Planning Commissioner,  
Christina Olague, Planning Commissioner  
Hisashi Sugaya, Planning Commissioner

Attachment: My letter regarding 2004/2009 HE DEIR dated Aug. 5, 2010 (1 page)  
Comments on 2004/2009 HE DEIR (20 pages total)



August 5, 2010

Commissioner Ron Miguel, President  
Commissioner Michael Antonini, Member  
Commissioner Gwyneth Borden, Member  
Commissioner Bill Lee, Member  
Commissioner Kathrin Moore, Member  
Commissioner Christina Olague, Member  
Commissioner Hisashi Sugaya, Member  
San Francisco Planning Commission

**VIA E-MAIL**

Subject: Case No. 2007.1275E, San Francisco 2004 and 2009 Housing Element Comments

The 2004 and 2009 Housing Element Draft Environmental Impact Report (DEIR) seems to be incomplete. It also relies on a draft version of the 2009 Housing Element to reach conclusions.

In order to study this document, one must read 3,441 pages which includes two volumes of hardcopy pages plus the pages that hold 70.3MB of data for the Appendices on a separate CD. Thus, a time extension for the first public hearing should be set, at minimum, 3 months after the Planning Department completes a DEIR on a complete, finalized 2009 Housing Element after holding a duly noticed public hearing or two on it.

A person of reasonable intelligence may have found the document very difficult to determine if the analysis was adequate being that many things in it appeared to have been based on suppositions, opinions and postulates rather than current concrete data to back them up.

It is also very unsettling and confusing to have both the 2004 and the 2009 HE and DEIRs being evaluated together in one fell swoop. This coupling of the two Housing Elements seems rather extraordinary and is even another reason to extend the comment period.

To present such a document in a very duplicative manner using the same objectives, policies and measures to satisfy numerous categories of environmental impact and concluding that all aspects of the Housing Elements, save for perhaps two, are of "less than significant" impact is in itself rather unusual and hard to believe. It does not appear that there is even a clear overall description of what this product should accomplish.

I had a very difficult time figuring out what the specific actions and implementation plans were but I did my best and have herein attached 40 typed pages of comments and questions which are based on the revised 2004 Housing element and the incomplete 2009 Housing Element document and the 2004/2009 DEIR that relied on it.

Sincerely,  
Rose Hillson  
Member, Jordan Park Improvement Association  
115 Parker Avenue  
San Francisco, CA 94118

cc: Linda Avery, Commission Secretary  
John Rahaim, Planning Director  
Jessica Range, Planning Department  
Bill Wycko, Planning Department

**Comments and Questions on SF 2004/2009 Housing Element**

**Volume I: Draft EIR (Section I - V.G)**

**Volume II: Draft EIR (Section V.H – VIII)**

**Planning Dept. Case No. 2007.1275E**

**State Clearinghouse No. 2008102033**

**Draft EIR Publication Date: June 30, 2010**

**for SF Planning Commission Meeting of Aug. 5, 2010**

1. **Page II-2:** Per the DEIR (Draft Environmental Impact Report), following certification of EIR:

- a. City could adopt the entire 2004 HE (Housing Element)
- b. City can adopt the proposed 2009 HE concurrently with a., above
- c. Changes to either must be approved by the Planning Commission (per Planning Code Section 340) and the Board of Supervisors
- d. The HE must be certified as compliant with state housing element law by the California Department of Housing and Community Development (HCD)

If the 2004 and 2009 DEIR is not certified, would that mean that the 1990 HE stands?

Can the 2004 DEIR be disjoined from the 2009 DEIR due to No. 5 below?

It seems like a special situation in that this DEIR wants to be certified and adopted when the HE (2009) – Item D, above – has not been certified.

2. Purpose of DEIR (should say “Purposes” in plural):

- a. Identify alternatives to proposed 2004 and 2009 HEs
- b. Indicate how those significant effects could be mitigated or avoided
- c. Page II-3: Address environmental issues known or raised by people during the Notice of Preparation (NOP) review periods that commenced on October 8, 2008 and on September 2, 2009

Another purpose/alternative that is not stated is that which occurs when a project proceeds based only on known or raised issues through the comment review periods stated in No. 2, above, and does not consider the environmental issues that are hidden and that could be significant nor even those environmental issues that people of reasonable intelligence can reasonably surmise would contain environmental impacts due to the previous historic use of the area or based on other previous findings reported elsewhere. Would not these points be a consideration?

Another purpose should state that this DEIR addresses the changes of the proposed 2004 and 2009 Housing Elements as compared to the 1990 Housing Element and the 1990 Residence Element.

3. **Page II-3:** Please define “densification” on this page since your Glossary defines it as “Increasing the density of soil” and I do not think “densification” is used in this way. Please define what it means here, specifically.

2-1

5-8

5-9

4. **Page II-5:** What is “M-NO-1”? I’d be guessing that the “NO” portion has to do with noise as in Table II-1, Page II-9; and that the “M” stands for “mitigated” but I’m not sure. Please clarify.

5-10

5. **Page III-3:** The Planning Department asked the public to comment on the impact of the 2009 DEIR which is based on the 2009 HE. The DEIR says, “Subsequent to adoption of the 2004 Housing Element, the California Court of Appeal determined the Negative Declaration prepared for the 2004 Housing Element inadequate, and directed the City to prepare an EIR for the 2004 Housing Element. The City has undergone a comprehensive planning process and prepared the next update of the housing element, the 2009 Housing Element. This EIR will satisfy the City’s legal requirements for preparing an EIR on the 2004 Housing Element and will also analyze the environmental effects of the 2009 Housing Element.”

2-2

The problem is that the 2009 HE is only in draft form (NOT finalized – “Draft 2”). Since the 2009 HE is not finalized, I do not think we can say that the 2009 HE DEIR could be adopted. I think we are prematurely trying to decide if the 2009 DEIR can be adopted concurrently with the 2004 HE DEIR.

Why ask for comments and questions on whether this 2009 HE DEIR should be adopted if the 2009 HE on which it is based is not finalized nor complete? This seems rather unusual, exceptional and extraordinary.

The public was given the timeframe for review on the 2004/2009 HE/DEIR as from June 30, 2010 through August 15, 2010. That is 45 calendar days. This timeframe is not adequate as it makes it a fulltime job to analyze and comment on even 100 pages of a well-written technical document let alone on these 3,441 pages which includes the two volumes of hardcopy pages plus the pages that constitute 70.3MB of Appendices on an additional separate CD. Thus, a time extension for the first public hearing should be set at minimum, 3 months after the Planning Department completes a DEIR on a finalized 2009 HE.

3-4

In general, the document seems to be written by the what I refer to as the “Department of Redundancy Department” in that tables, sentences, parts of paragraphs are repeated throughout and re-used for different sections for certain different objectives, policies and implementation measures, some of which appear to be based on opinions and postulates rather than on concrete data. Even the data extrapolations seem to be based on such suppositions without any clear explanations based on fact.

8-2

These suppositions have lead to the conclusion that the Housing Element has “less than significant” impact in 16 of the 18 sections to be analyzed for environmental impact:

- Land Use and Land Use Planning
- Esthetics
- Population and Housing

1-8

- Cultural and Paleontological Resources
- Air Quality
- Greenhouse Gases
- Wind and Shadow
- Recreation
- Utilities and Service Systems
- Public Services
- Biological Resources
- Geology and Soils
- Hydrology and Water Quality
- Hazards and Hazardous Materials
- Mineral and Energy Resources
- Agricultural and Forest Resources

1-8  
Cont.

The category of “Noise” has a “less than significant with mitigation” (LTS/M) impact. And the category of “Transportation and Circulation” has a “significant” (S) impact on “Transportation and Circulation.”

6. **Page III-4:** States that that the impacts to the 2004 and 2009 HEs are analyzed concurrently to avoid redundancy. As mentioned above, this 2004 & 2009 HE DEIR takes up two volumes of approximately 1,000 pages plus a CD for the Appendices because of the repetitive presentation style. A lot of this reading is very time consuming and most regular people cannot finish it in 30 – 45 calendar days. In addition, to have comments on this DEIR during the summer vacation season bars people who are on vacation so their comments and concerns are mute. If the Planning Department wants the input from the neighborhoods and the residents, I strongly urge the time extension.

3-5

7. **Page IV-10 & Page IV-11:** The DEIR shows Table IV-1 and defines the categories of “Very Low,” “Low,” etc. for “Household Income Category” and this table is for the 2004 HE Housing Allocation for the Region. Then in Table IV-2 for 2009 HE Housing Allocation for the Region, there are five categories as opposed to the four from the 2004 table with the addition of “Extremely Low” as the new category of Income. Why does the 2009 HE needs show a fifth category of “Extremely Low”?

5-11

8. **Page IV-9:** Under “Sites Inventory and Analysis,” the DEIRs do not include a detailed land inventory and analysis. The inventory must include site specific inventory listing the properties. I could not find that in this DEIR. If not in this DEIR, I thought it was in the HE document itself and am unable to find any specific inventory listing, e.g. Please provide.

5-12

9. **Page IV-14:** The DEIR gives a “generalized” zoning map (Figure IV-3) of the City. DEIR should contain the specific land zoning maps available to Planning Department to really analyze data in a detailed fashion as per No. 8, above. Please attach more detailed

5-13

zoning maps with a key (even if it means more pages of maps so people do not have to strain to see the details in microprint).

▲ 5-13  
■ Cont.

**Figure IV-4:** Again, a “generalized” Citywide Height Map. Please provide detailed maps, perhaps by district (?).

■ 5-14

**Figure IV-5:** The “Potential Residential Unit Capacity” map gives a total number of housing units on “vacant or underutilized sites” and fails to state where exactly those are via more detailed maps or a detailed inventory list. Please provide.

■ 5-15

**Figure IV-6:** The “Pipeline Units” map shows total number of units proposed, approved or under construction but it does not show where they are or provide a detailed listing. Please provide.

■ 5-16

10. **Page IV-27: Policy 11.7** states that where there is “neighborhood support,” the minimum parking requirements for housing would be reduced or even removed. I think you 1) need to define “neighborhood support” and 2) need to realize the impact on existing neighborhood character when trying to accomplish reduced or elimination of parking. And, the mere fact that “affordable housing” is being built should not automatically guarantee the reduction of parking or the elimination of parking. What is the Planning Department’s definition of “neighborhood support”?

■ 6-3

11. **Policy 11.8** has the Planning Department “strongly encourage(ing)” “project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with neighborhood character.” While some areas may have zoning that allows more units to be built, building to the maximum of the zoning designation does not always match up with neighborhood character, especially in residential areas. I think the term used here, “remaining consistent” is not a good phrase to use as many areas of the City should “maintain” rather than “remain consistent” because of the uniqueness of the neighborhood which is part of the character in these areas. I do not think the Policy should “encourage” developers to build to the maximum allowable limits as this will instigate neighborhood opposition from the opening gate.

■ 6-4

12. Per No. 5, above, the DEIR, **Page IV-31**, states that it was subsequent to the NOP of the 2004 HE DEIR that the 2009 HE draft was completed. This 2009 HE draft must have been “Draft 1” since today there is “Draft 2”. And then somehow the Planning Department decided that this second draft of the 2009 Housing Element would also be included with the 2004 HE DEIR document to get both the second draft 2009 HE and the 2009 HE DEIR based on the latest draft adopted. How did this come about? And should not the DEIR base its findings on a finalized version of the 2009 Housing Element which should go before a public hearing on its own?

■ 2-3

13. **Page V.A-2 – Page V.A-5:** What is meant by “community planning efforts”? My concern is the definition of “community” because the whole of the City could be the “community” or it could be a “community” of a group of only a narrow portion of a district or association residents and property owners.

A-1

14. **Page V.A-11:** Objective 28 is a good idea but has unintended consequences if implemented in ways that create congestion with vehicles looking for parking taken away by bicycle locking areas. I find this can also create more air pollution. In practice, curb bulb-outs and bicycle racks exist that take away from neighborhood parking. In the real world, people still drive, especially those who cannot take public transportation or ride bicycles, and these people will not be able to go to places they once visited. Why do the bicycle racks need to be placed where street parking space is eliminated? Pretty soon the residents who live in buildings with no parking (because they are somehow built that way), cannot drive at all or park in their own neighborhood. What steps can be taken to resolve this issue?

9-21

15. **Page V.A-12: Policy 28.1** needs to be sensitive to the existing street parking that is available today rather than to carve out bike racks that take away from neighbors’ parking. This is a bad idea if you combine it with trying to build many new housing units with very little or no parking. Up to a certain point, it may work; but beyond it, there will be problems between bicyclists and motorists and residents with housing that does not have parking but who continue to drive because not everybody can survive on public transportation alone. See No. 14, above.

16. **Policy 28.2** is a good idea if such amenities can be done without taking away from street parking or as long as it does not put more cars out on the street. See Nos. 14 & 15, above.

17. **Page V.A-23** “Western Shoreline Area Plan” says that it is “not possible to provide an accurate estimate of the housing units in the City’s pipeline or additional capacity for housing units that is available within the exact boundaries of the Western Shoreline Area Plan.” And this area is comprised of several neighborhoods such as the Ingleside, Outer Sunset, and Richmond. So going back to Figure IV-5 and Figure IV-6, would these units that are not accounted for change? Would the total units of housing proposed in these areas change if there were a precise count done on this Western Shoreline? Without an accurate picture of the housing units in the pipeline here, how can projections and assumptions be made for the other areas of the City?

A-2

18. **Page V.A-29:** I do not agree with altering the existing historic character of San Francisco’s Japantown as it is only one of three left in the United States. The very nature of the low-rise buildings is evocative of a distinct period of Japanese architecture. The DEIR suggests to build residential towers and to make the single-use structures into mixed-use structures (i.e. more square footage). People do not visit Japantown to see Manhattan-style buildings. People go there for the distinctive ambiance created by the

A-4

low-rise single-use historic buildings that currently stand in Japantown. It is a more relaxed feeling. Nothing should be as high as the pagoda on Peace Plaza. It is fairly difficult to park in Japantown so this idea of putting in more units in higher buildings in Japantown will add to the congestion. The mere fact that Geary, a street that borders Japantown, is served by the Muni 38 line should not be the basis for additional height and density that will forever destroy the special existing character of Japantown. Japantown is a long-established community and increasing zoning and additional height will substantially impact the existing character and flavor of it. Nobody would think to change the flavor of historic San Francisco Chinatown, the largest in the United States. People visit both places for their unique character.

A-4  
Cont.

19. **Page V.B-11:** Is there a description of the “Western Shoreline Area Plan”? If so, what is it? If not, what assumptions are being made in relation to the 2004 and 2009 HE DEIR?

A-3

20. **Page V.B-22:** Where are these “Pipeline Projects”? Street parcel block/lot numbers? Addresses? Would like to know where these 45,430 new residential units will be.

5-29

21. **Page V.B-39:** 2004 HE/Policy 1.1: I do not think that pushing higher density in all areas of residential development where they provide a significant number of units affordable to affordable and lower income households will fit in with maintaining existing neighborhood character in certain areas of town like Jordan Park, Laurel Heights, some parts of the Richmond and Sunset, parts of the Western Addition, parts of Pacific Heights and the Marina. Although the key sentence to modulating the higher density development is to set the densities in a way that “promote compatibility with prevailing neighborhood scale and character where there is neighborhood support,” what exactly is the definition of “prevailing” (more than 50%? or within the block? e.g.)? What is “neighborhood”? How big is a neighborhood? Is it the district? Is it a homeowner’s association neighbors? Is it residents or just property owners? Is it property owners who live in the building or does it include absentee property owners? Will SF registered voter residents get more say than those who are not registered who live in the “neighborhood”? The decision should be based on who has more at stake and on input from people who are not so transient or removed from the location of the proposed project.

6-5

22. **Page V.B-39:** Implementation measure 1.1.1: The idea of a mixed-use residential development in “transit-rich” areas may be problematic if the transit near a neighborhood is comprised of residential buildings only going the maximum of 40 feet and where there is neighbor opposition. This needs to be put into the implementation of this policy.

6-6

23. **Page V.B-40: Policy 1.4:** Locating in-fill housing on appropriate sites in established residential neighborhoods must have neighbors’ support and must not take away off-street parking nor cause any additional vehicular congestion and thus pollution to occur. What is an “established” residential neighborhood? Please define.

6-7

**Page V.B-48: 2004 HE Policy 11.8:** “Encouraging project sponsors to take full advantage of allowable building densities in their housing developments while remaining consistent with character” should be changed to “...echoing existing character.”

6-8

24. **Page V.B-53: 2009 HE Implementation Measure 14:** What is a “reasonable” walking distance of stops along major transit line, including BART, Muni rails lines and “Muni’s 24-hour Rapid Network? What are the major transit lines? What are Muni rail lines? What is Muni’s 24-hour Rapid Network? Could this be what is shown on **Page VII-73, Figure VII-1?** It would help to put a footnote for explanation since the terminology is neither referenced via abbreviation/acronym nor in the “Glossary” of Volume I.

6-9

25. **Page V.B-55: 2009 HE Policy 1.4:** In order to promote increased density-related development standards, the DEIR states that the 2009 HE will ensure that changes to the land use controls are proposed through “neighborhood-supported community planning processes.” This will have to be defined. I do not believe that non-residents of a particular area should say how a project is done if he or she does not live within a certain distance of the project. Some property owners may not have a say if they do not reside there, such as absentee landlords. Perhaps the tenants have more say in this regard. There will be exceptions such as a very large commercial project or a project that is built for a sports stadium or some other such large project. In the end, this policy should be modified to include neighborhood organizations approval close to the proposed project.

6-10

26. **Page V.B-55:** How does Planning Department/City & County of San Francisco intend to make housing “permanently affordable to lower-income households” as stated in 2009 HE Policy 1.5 about putting in secondary units in community plans where there is neighborhood support and when other neighborhood goals can be achieved? I thought any NSRs or CC&Rs used by Planning and Department of Building Inspection do not have enough teeth to guarantee such a permanent use? Then that will allow perhaps the initial affordable and lower-income households to get into the units but after that, they become market rate and there will again not be enough affordable and lower-income units built. This cycle will repeat.

6-11

27. **Page V.B-56: Implementation Measure 13:** I would like to see the “Design Manual” on how these secondary units are proposed to be developed. Would you please let me know when this is available in draft form, when the public outreach on this is, and when the final document is delivered? Thank you.

6-12

28. **Page V.B-56: Implementation Measure 64:** The DEIR states that the 2009 HE will allow project sponsors to “take advantage of allowable densities provided their projects are consistent with neighborhood character.” I think that in certain areas, it may be appropriate to go to the allowed densities, but in the Jordan Park area and most areas of the Richmond District, going the maximum allowed density will not be “consistent with neighborhood character.” What exactly is “consistent”? And to what degree? Is it

6-13



consistent in regards to number of units? Is it consistent in regards to style of architecture, i.e. Victorian, Edwardian? Is it consistent with the views of the neighborhood association? Please define.

6-13  
Cont.

29. **Page V.B-57: Implementation Measure 79, HE 2009:** Why is it that there is not a definitive manual on what buildings can go where based on input from the residents? What does it mean that "Planning staff shall continue to use community planning processes to develop policies, zoning and standards"? Community may be those people on the SE side of town who make decisions for those on the NW side of town. Would you please clarify.

6-14

30. **Page V.C-3:** First full paragraph talks about panoramic views and dramatic inclines. Please mention Lone Mountain and University of San Francisco areas as significant incline and view areas. Prominent viewsheds also include Laurel Heights at Laurel and Euclid, Masonic at Geary and Presidio at Geary.

C-1

When talking about the western areas of the City, including the Richmond and Sunset neighborhoods, mention is made of buildings that range from traditional to modern and from "early twentieth century to contemporary styles." This is erroneous because there are also 19<sup>th</sup> century buildings in these areas and should be noted.

C-2

31. **Page V.C-4** refers to streets important to the perception of the City and for their quality of views. Please refer to No. 30, above, for streets not included in this description and also for the map, figure V.C-1 "Street Areas Important to the Perception of the City." I cannot tell from the map if Mount Sutro and all the streets that can see it are on the map. I cannot tell from the map if Lone Mountain and USF and its views from all the streets that see it are on the map.

C-3

If the DEIR does not make mention of these prominent western inclines and view areas, how can the 2004 and 2009 DEIR be certified? It has left these out.

32. **Page V.C-14: Implementation Measure 1.7.1:** Family units should be built if there is neighborhood support and where there will be no additional impact on street parking. If a 1:1 off-street parking is enforced, that may not be enough for these larger homes with more bedrooms. I have seen 5 to 6 vehicles for a family in a 2-bedroom unit. They took up (5 X 17ft/car = 85 linear feet of parking taken up on the street with one vehicle in the garage. This is an additional burden on the neighbors and causes people to circle around looking for parking. Just because these units are on or near a transit street does not make it a fact that nobody will have cars in these units. That idea that they will not is a myth. So these proposed zoning amendments that the Planning Department is proposing for the 2004 HE is fallacious. This Implementation Measure should state that neighborhood organizations need to be consulted prior to these family-sized housing going in.

9-2

33. **Page V.C-16: 2004 HE: Policy 11.7:** The DEIR states “Where there is neighborhood support, reduce of (sic) remove minimum parking requirements for housing, increasing the amount of lot area available for housing units.” And add, “For residential zoned lots, i.e. RH-1, RH-2 and RH-3, as of July 2010, maintain a parking ratio of 1:1 on units to parking in established neighborhoods.” And also add a list of “established” neighborhoods. 6-15
34. **Page V.C-17: Policy 2.1 under 2004 Housing Element:** Instead of “discourage” the demolition of sound existing housing, it should be “eliminate” the demolition of sound existing housing. This will keep the neighborhood scale intact rather than create higher buildings with more units in areas where it is not wanted by the neighbors. Higher densities in buildings should not be based on the mere fact that the units are for affordable or not. This language of “especially if the higher density provides a significant number of units that are affordable to lower income households” should be revised to include the input of the neighborhood association(s) stance on a particular project in residential and neighborhood commercial areas adjacent to residentially zoned lots (RH-1, RH-2 & RH-3). So the existing language under the 2004 HE to retain existing neighborhood scale will not work with what is written here. 6-16
35. In general, the 2009 HE will impact scenic vistas because it will allow more density via two avenues:
- a. increased density if the project is for affordable housing
  - b. increased density if the project is approved through community planning process
- The problem with these two ideas is that each little portion of a neighborhood is different and making the blanket statement that a project that is for affordable housing makes it OK to densify and affect scenic vistas and neighborhood residential character is a significant effect. C-4
- Policy 1.4** for the 2009 HE says that such controls will be handled via “neighborhood-supported community planning processes.” Yet, that is not defined. This 2009 HE DEIR cannot be approved with such a vague concept for determining where new units are to be built in this City. More work is needed here. 6-17
- In fact, throughout this DEIR document (whether for 2004 or for 2009), the terms “neighborhood” and “community” are not finely defined and need to be for the public to see exactly what is being planned for the build-out of these units. As mentioned, “neighborhood character” also needs to be defined. **Policy 11.4:** See No. 21, above, regarding the term “prevailing.” Prevailing should not mean “popular” or “widespread” because different areas of town have little quirky buildings that may involve an “extraordinary and exceptional” circumstance that defines that specific location. 6-18
36. Although on **Page V.C-21** it states that the 2009 HE policies would not be anticipated to promote development to the maximum building envelope, when compared with the C-5

1990 Residence Element it will because of the definition of “neighborhood” and the “community planning processes.” To which specific processes are we referring?

37. **Page V.C-28: 2009 HE Policy 11.1** says to promote “...well-designed housing...respects existing neighborhood character.” “Respects” should be changed to “maintain.”

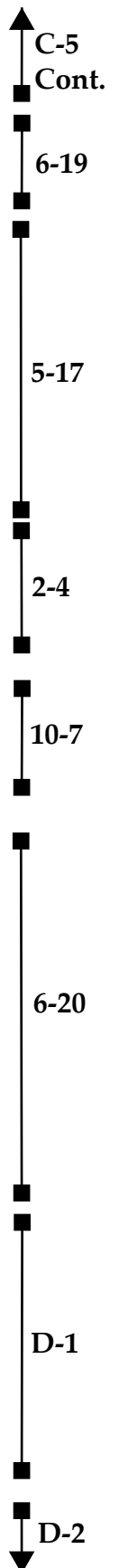
38. **Page V.D-1:** It would be helpful to see in dollars that correspond to the percentages of AMI in Table V.D-5. For example, for “Extremely Low” income category, next to “<30%,” put “<\$22,139 (for single person household) and put “<\$88,557” (for four person household). The figures in this example may be wrong because it is confusing what AMI and from what year it is based. The DEIR cites the CCSF Planning Department Part I: Data and Needs Analysis, June 2010, Page 41. Does the EIR rely on the figure of \$73,798 AMI from the U.S. Census 2008 survey? or a different year HUD AMI figure? or something else? It would be helpful to incorporate the 2009 HE into the 2009 HE DEIR so everything is in one document. Since everything in the 2009 HE DEIR is based on the 2009 HE Draft 2 document, and since this document could potentially change, I still do not see how to accurately say that the 2009 HE DEIR can be adopted. Again, the 2009 HE is still in draft form. See No. 5, above.

39. No page in particular but the entire DEIR is peppered with the phrase “affordable housing.” What is it? If defined by income level, please state what income levels match up with home prices.

I referred to Page 43 in the 2009 HE Draft 2, Part I: Data and Needs Analysis. Based on the chart on this page, Table I-42, the “Extremely Low” income category people can only afford a unit with a maximum purchase price ranging from \$50,000 to \$78,000 depending on the number of bedrooms. At the other end of the spectrum, for the “Moderate Income” category, the maximum purchase price ranges from \$228,711 to \$359,723 depending on the number of bedrooms in a unit. When the 2009 and the 2009 HE DEIR refers to building affordable housing, based on the cost of land and construction, what kind of buildings would be built to house units in these price ranges? How many units, for example, would have to be built on a typical 25x120 ft. lot that would sell for these amounts on Page 43 to satisfy the 31,193 units needed by the City?

40. **Page V.D-19:** The DEIR states that the land in the City is a “finite supply.” Yet the HE proposes to keep building more units. In the historically high-density commercial sections such as in Downtown, perhaps it is appropriate, but not in the long-standing neighborhoods with unique character. So the 2004 HE and the 2009 HE cannot ensure that there is adequate land available to meet future housing needs. SF is only about 49 square miles in total so the burden of the additional housing should be on some of the other nearby cities as well.

41. **Page V.D-28:** Although the DEIR states that the 2004 HE “contains policies that promote the preservation of existing housing units” and has “policies that are intended to



mitigate the impacts of displaced individuals by providing relocation services and the right of first refusal to occupy replacement units.” Tenants who have had rent-controlled units and are paying below market-rate rent, even if given funds to relocate, usually do not have the down payment on the new unit (if condominiumized) or enough funds to move back into the new unit at market rate and so are actually displaced. Then these new units have tenants that are not paying rent-controlled price rents and then the City needs to build more housing for the lower spectrum people and the cycle goes on so that there is never enough housing to accommodate the State requirements. So the “Impact PH-3: The proposed Housing Elements would not displace substantial numbers of people necessitating the construction of replacement housing elsewhere” is 1) very general in nature, 2) does not define “substantial,” and 3) not true; otherwise, this City would already have enough low- or extremely-low income housing. Although landlords are supposed to report when a tenant has been evicted for such purposes, this may not be happening and a new policy needs to be in place to ensure that deals behind the scenes are not occurring so the City is not always under pressure to build units for these displaced people. What data is provided for the tenants that have been displaced to support the “Impact PH-3” statement?

D-2  
Cont.

42. **Page V.E-32:** The DEIR states that **Figure V.E-1** “Potential Housing Units: Capacity and Pipeline Units within Article 10 and Article 11 Areas” shows units that will have a high potential for the need to establish a historic APE (Area of Potential Effect). Would it be possible to list the addresses of the potential units in each Article 10 and Article 11 area?

E-1

43. **Figure V.E-2:** This map shows potential housing units within sites surveyed for potential historic resources (capacity/No. of units in the pipeline). The key states that the map does not show buildings not counted in previous or ongoing surveys. It also does not show buildings that are 50 years or older that could be historic resources. Before we can truly tell the historic resource areas, I think a survey of the entire City is required. It should not be up to various small neighborhood organizations to take on this survey. Some neighborhoods had a survey done because of some grant money. Other areas were left to their own resources. This is not equitable since those areas that are not surveyed are likely targets for development. To correct this inequality in determining where buildings can be built on sites that have not been surveyed for potential historic resources, the Planning Department should start with the oldest buildings in the neighborhood and those that are obviously known to have historical significance per National Register Criteria. The figures shown on this map is based on the assumption that all the buildings in the count for housing unit capacity are not historical resources and then stating that there are 26 within the surveyed sites. If one does not know, one cannot make a valid statement. Does the Planning Department or the Department of Building Inspection or any other department in the City have a list of buildings with addresses or block/lot numbers that show when they were built? Then make a map of these buildings starting from the earliest dates forward. I respectfully request such data prior to being asked to adopt DEIR document.

E-2

44. **Page V.E-49: 2009 HE Policy 1.6:** “affordable units” needs to be defined, and if it is a change from the 1990 Residence Element Policy to allow additional units that are affordable to “lower income households,” then the 2009 policy should say “low income or extremely low income units” vs. “affordable.” The idea of Policy 1.6: “Consider greater flexibility in the number and size of units within established building envelopes in community plan areas, especially if it can increase the number of affordable units in multi-family structure” means well if the units are truly affordable to the low income; otherwise this is another way to get more market-rate units into the neighborhoods.

6-21

45. **Page V.E-50: 2009 HE Policy 2.1:** The addition of the phrase, “unless the demolition results in a net increase in affordable housing,” is going to open the door to demolitions of older buildings, typically smaller structures that could be historic in nature. I do not think that allowing a reason for demolition of sound housing for this sole purpose of building “affordable” housing should be allowed. This phrase should be deleted. Some of these small existing sound structures are “affordable” for someone to purchase or rent so they should not be demolished for the sake of new “affordable housing.” Also, if a building is not sound but can be rehabilitated so that a non-green alternative can be avoided, the rehabilitation should be pursued prior to demolition.

6-22

46. Nos. 43 and 44, above, will impact neighborhood character if carried out. Smaller homes with a neighborhood of people of the working class will be supplanted by people of greater economic means.

47. **Page V.E-51: 2009 HE Policy 11.2:** Change “standards” to “guidelines and standards.”

48. **Page V.E-51: 2009 HE Policy 11.6:** Add “and historic residential buildings.”

49. **Page V.E-52: 2009 HE Policy 11.1:** Change “respects” to “conserves existing.”

50. **Page V.E-54: 2004 HE Policy 1.1:** Delete “areas adjacent to,” add “in the South of Market, and newly developed neighborhoods” after “harmful effects,” delete “especially if the higher density provides....are affordable to lower income households,” delete “prevailing” with “existing” and define “neighborhood support.”

6-23

51. **Page V.E-55: 2004 HE Implementation Measure 1.1.1:** Add “downtown” between “areas” and “with stable...”.

52. **Page V.E-55: 2004 HE Policy 1.2:** Add “where there is neighborhood support” after defining “neighborhood.”

53. **Page V.E-56: 2004 HE Policy 1.4:** Add “where there is neighborhood support” after “neighborhoods.”

54. **Page V.E-69: 2009 HE Implementation Measure 36:** Reference is made to Planning Code Section 209 which allows double density bonus of twice the number of units for “senior citizens, physically or mentally disabled persons.” But the Board of Supervisors passed the Ordinance to only allow the “senior citizens” for this and deleted the “physically or mentally disabled persons.” Please check and revise.

6-24

55. **Page V.F-58: Implementation Measures 11.7.1:** Change “with the support and input from local neighborhoods” to “with the support and input from adjacent neighborhoods to the proposed project” because local neighborhoods is too broad a term and will start to change the historic fabric and neighborhood character of a particular part of the City.

6-25

56. **Page V.G-6: Table V.G-3:** Reference is made to this Table that is on Page V.G-9. It shows HUD noise acceptability standards and shows “Normally unacceptable” as >65-75db and “Unacceptable” as >75db. (Source cited is the Code of Federal Regulations (CFR), Part 51, Section 51.100 – 51.105.) Based on this information, many streets in the City are already at the “normally unacceptable” and “unacceptable” mark already. What is not seen in the DEIR is that the noise level is not in relation to the noise generated by just the construction of the projects but also the traffic associated with building the structures. Dump trucks, cement trucks, water trucks, re-routed traffic for larger construction, etc. do not seem to be accounted for in this DEIR. Where the noise levels on the streets are already in the “normally unacceptable” or “unacceptable” ranges, there should be a policy and implementation measure to get special approvals for environmental review prior to plan approval on those streets per the Figure V.G-1 map of “Background Noise Levels, 2009.” Please put into the HEs and DEIR.

G-1

57. **Page V.G-42:** The DEIR states, “...new residential uses are generally discouraged in areas where ambient noise levels exceed 75dB.” It states that both the 2004 HE and the 2009 HE encourages the building of new units “near transit” and that there will be significant impact due to exposure to higher noise levels in these areas but that since these units will be near transit, there will be fewer vehicles that would make the noise level increase. I think that with greater number of units, i.e. taller buildings, the fact that noise echoes has not been considered in this study of impacts. There will be significant impact even with mitigation measures M-NO-1: Interior and Exterior Noise.

G-2

The requirement of the Planning Department for the preparation of an “analysis of potential noise-generating uses within two blocks of the project site” does not consider the physics of sound. Some sound is not generated. They are deflected off various surfaces. So the analysis must also take into account all noises whether being generated or deflected. Also, the number of blocks set at a random “two,” may not work if the project is located on a slope and noise from a source farther than two blocks is impacting it. How is the number of blocks determined?

G-3

It appears that an assumption is being made that all the blocks are of equal length in San Francisco and that is not true. The distance sound travels diminishes as one gets farther

from the source (originating source or source at deflection point) so it would be better to study the noise issue based on noises around the project site that fall into the “normally unacceptable” and “unacceptable” categories determined by the Code of Federal Regulations at minimum.

G-3  
Cont.

Another point on noise is that it is not clear from the analysis in this DEIR that the direction of the wind is being considered. On the western side of town as in the Richmond area, and to the same extent for the Sunset District, the prevailing winds come from the west to the east except perhaps during winter storms when the wind comes predominantly from the south to the north during rain storms.

G-4

What this DEIR fails to study is how the sounds borne on air waves will impact the project site and its surrounding properties.

Additionally, the Planning Department requirement to mitigate the significant impact of noise by having “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” is only taking into consideration the noise that impacts the occupants of that building. One suggestion mentioned is the “use of a site design that uses the building itself to shield on-site open space from the greatest noise sources.” This will deflect any noise toward other neighboring structures and open areas so then those neighbors will have to “shield” their “on-site open space” and then a domino effect arises.

Another suggestion mentioned for noise mitigation is the “construction of noise barriers between noise sources and open space.” Again, the fact that these barriers take into account only the inhabitants and their use of their open space in order to prevent noise pollution on their site but does not address the noise pollution that could be deflected onto adjacent and other properties lead one to believe that even a basic non-technical perspective has not been addressed. Other stronger mitigation measures must be in place.

G-5

Additionally, putting up these barriers so a proposed building itself will block noise from bothering its occupants is also going to likely impact the stylistic integrity of the building within the character of the neighborhood. How would this impact historic resources and landmark buildings?

Moreover, in Appendix D, “Noise Data,” there does not appear to be any reference to data on noise other than light duty trucks, heavy trucks and other vehicles. The City has other noise generating sources such as landscaping equipment, Muni bus audible signals, vehicle horns, loading dock buzzers and audible signals, etc. Existing surround noise where a project is being proposed must be studied prior to approval of building.

G-6

58. **Page V.H-7:** Explanations are given in the DEIR on “sensitive receptors” and who they are: children, elderly, acutely and chronically ill. Previous chapters of the DEIR spoke about building units along transit corridors. Many residential lots abut next to these areas “well served by transit.” If there is an pre-school, elementary or middle school within 4 City blocks of a new project, there should be a mitigation measure to not allow as many housing units along these corridors.

H-1

59. **Page V.H-37:** The DEIR states, “Although the 2009 HE would not result in the construction of residential units, it would shape how new residential development should occur and ensure that there is adequate land available to meet future housing needs.” The HE itself would not result in the construction, but it will influence strongly where and what kinds of housing is put in the City. In that regard, it has a major impact on the outcome of the design and makeup and character of the City going forward.

C-6

60. **Page V.H-38:** Landscape maintenance: The DEIR states, “Landscape maintenance emissions are assumed to occur only during the summer (i.e., non-winter) days.” I think this is a false pretense to work off of because in San Francisco, the weather is mild. People continue landscape maintenance tasks that add to the air pollution in this City year-round. Defining “non-winter” days as only summer days is wrong because Spring and Fall days are also “non-winter” days and are not accounted for in this study to generate the data on air pollution emissions in Table V.H-6 and on Page V.H-39.

H-2

61. **Page V.I-20: Table V.I-3:** “Baseline Greenhouse Gas (GHG) Emissions from Residential Development (2009)” shows Total Operational greenhouse gas emission in metric tons of carbon dioxide equivalent per year as 4,350,988. Then, on Page V.I-21, Table V.I-4: “Projected Greenhouse Gas Emissions from Residential Development (2020 and 2025)” shows 4,689,835 and 4,840,481 respectively. The majority of the GHG emissions are from vehicular use. If, as the DEIR states that all the vehicles will mostly be off of our City streets due to less off-street or no parking requirements and practically everybody using bicycles or walking or public transit, please explain the assumptions used to arrive at the higher values for the total GHG (MT CO<sub>2</sub>e per year). I could not find them in the Appendices.

I-2

Also, “form” should be “from” under “Landscaping Equipment,” second paragraph.

I-2

62. Are all the “Emission Sources” in Table V.I-3 through V.I-7 based on year-round? If not, which ones are not and what are their basis? Please clarify.

I-3

63. **Page V.I-42: Policy 3.2:** “Promote voluntary housing acquisition and rehabilitation to protect affordability for exiting occupants.” Change “exiting” to “existing.” Also add “low income” before “occupants.”

6-26

**Page V.J-4: Wind: Section 148:** The DEIR states, “Section 148 of the Planning Code establishes an equivalent wind speed of seven miles per hour (mph) for seating areas

J-1



and 11 mph for areas of substantial pedestrian use. New buildings and additions to buildings may not cause ground-level winds to exceed these levels more than 10 percent of the time year round between 7:00AM and 6:00PM.” On the western part of the City, where the wind speeds are the highest due the land being so close to the Pacific Ocean, the encouragement of building along streets on such an intense scale as to have tall buildings that form a canyon effect, should not be pursued without input from the neighbors. The conclusion on...

J-1  
Cont.

64. **Page V.J-7** which states, “Impact WS-1: The proposed Housing Elements would not alter wind in a manner that substantially affects public areas. (Less than Significant)” is silly. When the HE is worded so that the intent is to densify the City, and especially along the transit corridors, of course the wind is funneled through the alley created by the taller buildings. And, it should be noted that for livability, such wind alterations with the construction of these buildings should not affect the rear yards of the residents either. The rear yards are places of respite in an otherwise concrete jungle and should not be made so the wind prevents the quiet enjoyment of the rear yards. Since the 2009 HE states that density will be increased in two scenarios -- 1) where family sized housing is on transit-oriented commercial areas and 2) for affordable housing – there would be more impact in this iteration of the HE than the 2004 HE so those two exceptions must be looked at more closely.

J-2

65. **Page V.J-28** states, “Because the 2009 Housing Element does not propose increased height limits in any areas, the effect of shadows would be less than significant.” The Housing Element contains policies and implementation measures that would likely result in increase of height limits so to say that the “effect of shadows would be less than significant” is baseless unless nothing was built.

J-3

66. **Page V.K-7:** Please provide “Map 9” of the “General Plan Recreation and Open Space Element” for easy reference.

K-1

67. **Page V.K-21:** “SFRPD would continue to acquire new open space/recreation facilities pursuant to Proposition C. Therefore, the 2004 HE would have a less than significant impact with respect to the construction or expansion of recreational facilities or the need for new or expanded park or recreational facilities.” So when there is no “open space” available for acquisition by SFRPD, would the expansion and/or construction of recreational facilities stop?

K-2

68. **Page V.K-29: Impact RE-2:** “The proposed Housing Elements would not physically degrade existing recreational resources. (Less than Significant)”

K-3

“The proposed Housing Elements do not propose any zoning changes and Public Districts, where much of the City’s open space and recreational facilities are located, and would therefore not be at risk for conversion to residential uses.”

Although it is stated that there is a “Less than Significant” impact since the City’s open space is mostly on publicly zoned land (zoned “P”) will not be at risk for conversion to residential uses, the Housing Element does not state that with the increase in units built, there could be an impact depending on what open space one is addressing in a particular neighborhood. It does not analyze according to planning districts, e.g.

K-3  
Cont.

69. **Page V.L-31:** I do not think that just because a neighborhood is established that one can assume those areas have “adequate existing levels and types of wastewater treatment capacity.”

6-27

Prior to allowing any new development or an addition of a unit or a bedroom, there needs to be an analysis made on the maximum capacity of that proposed building’s block. This may have to be a new policy.

70. **Page V.L-47: Impact UT-5:** “The proposed Housing elements would not be served by a landfill without sufficient permitted capacity to accommodate the project’s solid waste disposal needs. (Less than Significant)”

“Additional collection trucks and personnel could be required to provide services to new housing.”

L-5

Perhaps these additional garbage truck trips should also be a consideration for the section on Air Quality (Section V.H).

71. **Page V.L-53:** Please explain specifically how the increase in density that will result from the Housing Element policies and implementation measures and thus increase the population of San Francisco will result the “potential to decrease solid waste generation.” This makes no sense to me.

L-6

72. **Page V.M-39:** “Increasing the residential population could potentially reduce crime, as criminal activity is more likely to occur in isolated and hidden.”

This is not a complete sentence. How is it that the denser areas of town would have less crime? In San Francisco, the densest part of town is the Tenderloin and Downtown areas. Crime is the highest in these areas. Look at San Francisco Police Department Crime Maps.

M-1

73. **Page V.N-2:** In this “Biological Resources” section, it states that for the species listed in **Tables V.N-1 and V.N-2**, “it is improbable that any of the aforementioned species occur on or in the immediate vicinity of developable areas of the City. Many occurrences are confined to areas in the Presidio or are located on lands under the control of the Department of Recreation and Parks.” And on **Page V.N-19, Table V.N-3** lists the “Features of Natural Areas in San Francisco.” What data is used to determine what species occur in the “developable” areas of the City? Have surveys been done to

N-1

determine what grows in the “Natural Areas in San Francisco”? Without this kind of data, how can one draw conclusions?

74. For the section on “Geology and Soils,” **Page V.O-4**, “Naturally Occurring Asbestos (NOA),” please provide a map of the specific areas in SF where it is known to exist?
75. For “Hydrology and Water Quality,” concludes with similarly to that of other sections: No mitigation or improvement measures are warranted by the proposed Housing Elements. If the City of San Francisco has not identified any special flood hazard areas (SFHA), would it not be premature to base any conclusions in regards to the impact on hydrology and water quality? If so, what steps will be taken to determine such SFHA areas? Refer to **Page V.P-46** and **Figure V.P-3** (“Potential Housing Units: Capacity and Pipeline Units within Flood Prone Areas”) and **Figure V.P-4** (“Potential Housing Units: Capacity and Pipeline Units in Areas at Risk of Inundation Due to Rising Sea Levels”) Perhaps these maps of the flood-prone areas SFHAs are already published since the Board of Supervisors introduced legislation to “enact a floodplain management ordinance to govern new construction and substantial improvements in flood prone areas of San Francisco” per **Page V.P-51**. If these maps are not done first, it would be difficult to come to any accurate conclusion.
76. **Page V.P-55**: “The 2004 Housing Element and 2009 Housing Element would not result in the construction of residential units, although they could enocourage (sic) how and where new residential development would occur and would assist in ensuring that there is adequate land available to meet future housing needs.” “Enocourage” should be “encourage.”
77. **Page V.Q-26**: The 2004 Housing Element “encourages new housing in Downtown and in underutilized commercial and industrial areas. The 2004 Housing Element also encourages increased housing in neighborhood commercial districts and mixed-use districts near Downtown. On the other hand, the 2009 Housing Element encourages housing in new commercial or institutional projects and accommodating housing through existing community planning processes.”
- According to **Figure V.Q -1** (“Potential Housing Units: Capacity and Pipeline Units within Potential Hazard Sites” and **Figure V.Q-2** (“Potential Housing Units: Capacity and Pipeline Units within Potential Contaminated Sites”), a lot of the proposed housing sites are in the Downtown, Mission Bay, Hunters Point, Candlestick Point, Visitacion Valley and Treasure Island Redevelopment Areas as well as the Park Merced area. These areas show artificial fill and serpentine which are hazardous and by having the Housing Element “encourages” housing in these places, they are knowingly putting housing in contaminated or hazardous areas and say the Housing Element has no mitigation or implementation measures in relation to these hazards. When one combines both maps for hazard sites and contaminated sites, one sees that the above sites are also the areas of most concern. When the housing element encourages higher residential density, it is putting more people in harm’s way. I think this is important for the safety of the public.
78. **Page V.R-7**: “**Impact ME-1**: The proposed Housing elements would not encourage activities which result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner. (Less than Significant)”

N-1Cont.

O-3

P-1

P-2

Q-3

R-1

On the contrary, since the HE encourages denser housing, it leads me to believe that more people will be occupying housing per square foot and each person will require energy and water resource needs so the more people, the more consumption. And, we have had PG&E manhole explosions in the Downtown area and if we still keep adding to the electrical grid, there could be more explosions because we have taxed a system that needs to be upgraded to accommodate the extra load generated by all the new people. If people are not going to use any PG&E, SFPUC-Water Department, and Hetch Hetchy Water and Power sources, then perhaps it can be assumed that there would be “less than significant” impact. If the 2004 Housing Element and its encouragement to build higher density housing in San Francisco had such insignificant impact on energy resources, it is puzzling that “on April 29, 2006, the 27-mile Jefferson-Martin 230,000 volt Transmission Line from the Jefferson substation in San Mateo County to the Martin substation was released into service to improve capacity and reliability of the electricity supply in San Francisco and on the Peninsula” per **Page V.R-2**. And the final “Mitigation and Improvement Measures” states that none are needed on **Page V.R-26**.

79. **Page V.S-1:** The “Environmental Setting and Impacts, S. Agricultural and Forest Resources” section of the HE DEIR addresses the impacts of the 2004 and 2009 HE policies on the following:

- conversion of farmland
- zoning for agricultural use
- zoning of forest land
- loss or conversion of forest land
- changes to the existing environment that result in conversion of farmland to non-agricultural use

On Page V.S-2, the Housing Element states that there is no farmland in the City. Then on Page V.S-3, Table V.S-1 (“San Francisco Crop Report”) shows that there are crops produced in the City in 2008 with a value of \$1,134,000 with orchids having the highest gross value over bean and alfalfa sprouts.

Orchids seem to fit under the definition of “Farmland of Local Importance,” defined as “land deemed to be important to the local agricultural economy, as determined by each county’s board of supervisors and a local advisory committee.”

80. **Page V.S-8:** “According to Part I of the 2009 Housing Element (Data and Needs Analysis), the City has available capacity to meet the RHNA. Therefore, the rezoning of land uses is not required.”

In reality, projects have come before the Planning Commission asking for variances on existing zoning to that of a higher density zoning. Some of this is called “spot zoning.” The fact that the Housing Element encourages development of higher density housing would lead developers to think that they would have to build structures with increased bulk and height. Under the current definitions of some lots, that may mean that before developers can build on those lots with lower density designation, the Planning Department would have to change the zoning to one for more units

81. **Page V.S-9:** “The proposed Housing Elements do not propose any changes to allowable uses pursuant to the Planning Code. Implementation of the proposed Housing Elements

R-1  
Cont.

S-1

B-2

S-2

could result in impacts related to the loss or conversion of urban forest land if trees in R districts were removed, damaged, or otherwise physically affected by a new project.” The canopy of San Francisco is very underdeveloped. The fact that the HE encourages buildings of higher densities and bulk and height would lead to implementation based on this encouragement and thus would have a significant impact, especially in the R districts which leave 45% rear yard space in most instances on the Western side of town. If rear yards can be choked down to only 15% of the lot depth to accommodate the bulk and height of these structures that are encouraged by the Housing Element, that will destroy the rear yard urban-forest fabric of these residential areas. The rear yard open space becomes part of the City’s canopy.

82. **Page VI-7:** Under “Other CEQA Issues,” the statement “...the Housing Elements themselves do not promote growth or indirectly encourage substantial new growth in the City that has not previously been projected by RHNA forecasts. Therefore, the 2004 and 2009 Housing Elements would have a less than significant impact with respect to direct or indirect economic or population growth.” But it does encourage new growth. What is not defined is “substantial.” How much growth would be substantial?

83. **Page VII-6: Table VII-1:** “Alternative C” allows granting of variances for reduction of parking. There should not be granting of variances that will affect neighborhood character, and allowing “over-the-counter” permits for reduced parking spaces in RH-2 zones or any residentially zoned areas and areas near transit without the input of the neighborhood associations and studying data that comes from such a situation. This granting of administrative exceptions is also mentioned on **Page VII-72**. The Housing Element encourages greater residential density by eliminating parking but the availability of parking for some areas is part of the neighborhood character, and this combined with the 2009 HE policies that increase residential density for “affordable housing” and “through community planning processes” (**Page VII-23**).

84. **Page VII-72:** Requiring development to build to “full allowable building envelope under zoning in locations that are directly on the rapid transit network lined (sic) identified in the SFMTA’s Transportation Effectiveness project (TEP), as shown in **Figure VII-1**” will especially impact the neighborhoods between two “Rapid Network” lines. Change “lined” to “lines” in the sentence earlier.

85. **Page VII-73, Figure VII-1** (“Muni Transit Effectiveness Project Rapid Transit Network”) and **Page VII-75, Figure VII-2** (“Muni Transit Preferential Streets Network”) show that the Western side of the City – Richmond District, Laurel Height, Jordan Park, Presidio Heights, Pacific Heights and the Sunset District will be areas where the Housing Element encourages higher density development. There needs to be an implementation policy and mitigation measures for exactly how this will be carried out – the idea of densifying these areas near these Muni lines. All affected neighborhood organizations and residents and property owners need to be involved in numerous meetings to protect their neighborhood character.

S-2  
Cont.

7-1

T-1

T-2

T-3



SAN FRANCISCO'S  
RESIDENCE PARK

## ST FRANCIS HOMES ASSOCIATION

101 SANTA CLARA AVENUE, ST. FRANCIS WOOD  
SAN FRANCISCO, CALIF. 94127  
TELEPHONE 681-0493

RECEIVED

AUG 12 2010

CITY & COUNTY OF S.F.  
DEPT. OF CITY PLANNING  
ADMINISTRATION

BY E-MAIL TO Linda.Avery@sfgov.org

San Francisco Planning Commission  
c/o Linda Avery, Commission Secretary

Re: Draft Environmental Impact Report, San Francisco 2004 and 2009 Housing Element  
Planning Department Case Number: 2007.1257E  
San Francisco Planning Commission Hearing August 5, 2010, Item 9

Dear Commissioners:

In conjunction with San Franciscans for Livable Neighborhoods, and on behalf of the residents and homeowners of St. Francis Wood, we respectfully request a 90-day continuance of the deadline for comments on this EIR.

A continuance is warranted because the EIR purports to analyze the proposed 2009 amendments to the housing element, but no proposal for adoption has yet been prepared as to the 2009 amendments. There is only a second draft of those amendments, which is incomplete and lacks the required work programs, and that second draft is being subjected to public review until at least the fall of this year. Thus, there is no 2009 project proposed for adoption, and analysis of second draft 2009 amendments would be premature and result in an invalid project description.

Second, this EIR was released during a time that vacation season for many, and a number of members of the SFLN and the public (as well as the Board members of the St. Francis Homes Association) are not available to participate in hearings at this time.

Third, the comment period for the EIR relating to California Pacific Medical Center is approximately 90 days. The comment period for the EIR analyzing the housing element should also be 90 days or long, as the housing element is of great significance to the future of San Francisco.

14 Cal. Code of Regulations section 15105(a) permits the public review period for a draft EIR to be longer than 60 days and indicates that the public review period need not be limited to 60 days in "unusual circumstances." The above considerations constitute unusual circumstances that warrant the 90-day extension requested.

We strongly urge that you consider the request of San Franciscans for Livable Neighborhoods favorably.

Paul Hill, President, St. Francis Homes Association Board of Directors



Making San Francisco Bay Better

RECEIVED

AUG 17 2010

August 16, 2010 CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
M 8 3

Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

SUBJECT: Draft Environmental Impact Report (DEIR) on San Francisco 2004 and 2009  
Housing Element

Dear Mr. Wycko:

The San Francisco Bay Conservation and Development Commission (BCDC) appreciates the opportunity to review and comment on the *Draft Environmental Impact Report (DEIR) for the San Francisco 2004 and 2009 Housing Element*, dated June 30, 2010. Although our Commission has not had the opportunity to review the DEIR, these staff comments are based on BCDC's law, the McAteer-Petris Act and the provisions of its *San Francisco Bay Plan* (Bay Plan).

As a permitting authority along the San Francisco Bay shoreline, BCDC is responsible for granting or denying permits for any proposed fill (earth or any other substance or material, including pilings or structures placed on pilings, and floating structures moored for extended periods), extraction of materials or change in use of any water, land or structure within the Commission's jurisdiction. Generally, BCDC's jurisdiction over San Francisco Bay extends from the Golden Gate to the Sacramento River and includes tidal areas up to the mean high tide level, including all sloughs, and in marshlands up to five feet above mean sea level; a shoreline band consisting of territory located between the shoreline of the Bay and 100 feet landward and parallel to the shoreline; salt ponds; managed wetlands (areas diked from the Bay and managed as duck clubs); and certain waterways tributary to the Bay. The Commission can grant a permit for a project if it finds that the project is either (1) necessary to the health, safety or welfare of the public in the entire Bay Area, or (2) is consistent with the provisions of the McAteer-Petris Act and the Bay Plan. The McAteer-Petris Act provides for fill in the Bay for water-oriented uses where there is no alternative upland location and requires that any fill that is placed in the Bay is the minimum that is necessary for the project. The McAteer-Petris Act also requires that proposed projects include the maximum feasible public access consistent with the project to the Bay and its shoreline.

1-9

For BCDC's Bay jurisdiction, an essential part of BCDC's regulatory framework is the Commission's Bay Plan. Projects approved by BCDC must be consistent with the McAteer-Petris Act and the Bay Plan. The Bay Plan includes priority land use designations for certain areas along the Bay shoreline to ensure that sufficient areas around the Bay are reserved for important water-oriented uses such as ports, water-related industry, parks, and wildlife areas. Along the San Francisco shoreline there are several port and waterfront park and beach priority land use area designations. The land uses designations depicted in Figure IV-3, Generalized Citywide Zoning Map, appear to be generally consistent with the Bay Plan priority use area designations. However, the Generalized Citywide Zoning Map indicates that there is an area of the Candlestick Waterfront Park and Beach Priority Use Area zoned as Residential. Projects within BCDC's jurisdiction that are inconsistent with these designations require an amendment to the Bay Plan.

5-18

In describing the Federal Regulatory setting on page V.B- 22 it should be noted that there are two state agencies, the San Francisco Bay Conservation and Development Commission and the California Coastal Commission, that administer the Coastal Zone Management Act.

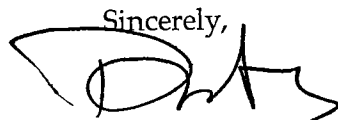
On page V.B-25, the DEIR refers to BCDC's 2007 Strategic Plan which has been replaced by the 2010 Strategic Plan. This document can be found on the BCDC website ([www.bcdc.ca.gov](http://www.bcdc.ca.gov)) under the "Publications" link.

Sea level rise will likely pose a risk to the shoreline of San Francisco Bay in the future. The latest research published by the California Climate Change Center indicates that sea levels may rise between 23 inches – 55 inches (60 – 140 centimeters) above 2000 mean sea level by the end of the century (Cayan et al 2009). As depicted in Figures V.P-2, V.P.-3 and V.P.-4 there are portions of the plan area within flood prone areas. Therefore, it is appropriate that the City of San Francisco has created maps that depict flood prone areas, has considered a Floodplain Management Ordinance and has considered participating in the National Flood Insurance Program. The City should be recognized for analyzing the number of housing units that may be constructed in susceptible areas such as Candlestick, Treasure Island, Mission Bay and Hunters Point. In order to decrease the exposure of people to flood hazards it will be important to conduct further flood hazard analysis and to require appropriate flood management measures in the future Floodplain Management Ordinance.

BCDC recently conducted an assessment of the region's vulnerability to sea level rise which is based on a projected 16-inch (40 cm) sea level rise at mid century (2050) and 55-inch (140 cm) sea level rise at the end of the century (2100). Bay Plan findings and policies anticipate the need for planning associated with safety of fills and sea level rise. The safety of fills findings state, in part, "structures on fill or near the shoreline should be above the highest expected water level during the expected life of the project... Bay water levels are likely to increase in the future because of a relative rise in sea level... Relative rise in sea level is the sum of: (1) a rise in global sea level and (2) land elevation change (lifting and subsidence) around the Bay." Bay Plan policies on safety of fills state, in part, "local governments and special districts with responsibilities for flood protection should assure that their requirements and criteria reflect future relative sea level rise and should assure that new structures and uses attracting people are not approved in flood prone areas or in areas that will become flood prone in the future, and that structures and uses that are approvable will be built at stable elevations to assure long-term protection from flood hazards." Projects in BCDC jurisdiction that involve bay fill must be consistent with the Bay Plan policies on the safety of fill and sea level rise.

Finally, sea level rise and coastal flooding will likely impact biological resources, transportation infrastructure, utilities, public services and hazard response and as such each of these sections should reflect the likely impacts of climate change and suggest ways in which the City of San Francisco would respond to these likely impacts. The current process is an opportunity to design a thoughtful response to climate change impacts that could make the City of San Francisco more resilient to future impacts.

Thank you again for the opportunity to review and comment on the DEIR. If you have any questions please contact me directly at (415) 352-3667 or [timd@bcdc.ca.gov](mailto:timd@bcdc.ca.gov).

Sincerely,  
  
TIMOTHY DOHERTY  
Coastal Planner

B-3

B-4

P-3



**DEPARTMENT OF TRANSPORTATION**

111 GRAND AVENUE  
P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 622-5491  
FAX (510) 286-5559  
TTY 711



*Flex your power!  
Be energy efficient!*

August 16, 2010

SFGEN032  
SCH#2008102033

Ms. Jessica Range  
Planning Department  
City and County of San Francisco  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Dear Ms. Range:

**San Francisco 2004 and 2009 Housing Element – Draft Environmental Impact Report**

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the proposed City and County of San Francisco Housing Element. The comments presented below are based on the Draft Environmental Impact Report.

F-4

Please consider developing and applying pedestrian, bicycling and transit performance or quality of service measures and modeling pedestrian, bicycle and transit trips that the plan will generate so that impacts and mitigation measures can be quantified. In addition, please analyze secondary impacts on pedestrians and bicyclists that may result from any traffic impact mitigation measures.

F-5

Also, please describe any pedestrian and bicycle mitigation measures and safety countermeasures that would be needed as a means of maintaining and improving access to transit facilities and reducing traffic impacts on state highways.

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Carboni".

LISA CARBONI  
District Branch Chief  
Local Development - Intergovernmental Review

c: State Clearinghouse

AUG 24 2010

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



SAN FRANCISCO'S  
RESIDENCE PARK

# ST FRANCIS HOMES ASSOCIATION

101 SANTA CLARA AVENUE, ST. FRANCIS WOOD  
SAN FRANCISCO, CALIF. 94127  
TELEPHONE 681-0493

August 18, 2010

Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Re: Comments on the Draft Environmental Impact Report for the  
San Francisco 2004 and 2009 Housing Element

Dear Mr. Wycko:

St. Francis Homes Association has provided the City's Planning Department with comments on the 2009 Housing Element, and we appreciate the opportunity to provide comments on the Draft Environmental Impact Report for the San Francisco 2004 and 2009 Housing Element ("DEIR").

With respect to the 2009 Housing Element, we have been assured that many of the concerns that we raised either have been or will be addressed, which include preserving and maintaining neighborhood character, which we believe is essential to preserve unique elements with respect to our neighborhoods that make San Francisco a special place to live. As part of the revisions to the 2009 Housing Element, we obtained assurances from the Planning Department that it will take no action as part of the Housing Element to make existing CCRs of neighborhoods such as ours unenforceable. In addition, we raised concerns about the need to address infrastructure (including mass transportation and parking) that are necessary when considering housing and growth management.

We are concerned that the DEIR does not, in turn, recognize this careful work done to prepare the revisions to the 2009 Housing Element and the concerns raised by neighborhoods that necessitated those revisions. In particular, the DEIR indicates that the City could simply adopt a prior Housing Element, such as the 2004 Housing Element, with certification of the DEIR. We would object strongly to this approach, as there were many problems with and objections to the 2004 Housing Element that we have tried to address in the 2009 Housing Element and revisions, which also led to the assurances that we received from the Planning Department as noted above.

1-10

2-5

Significantly, we do not believe that the DEIR appropriately recognizes the impact to City services, infrastructure and environment in the Housing Element. For example, the DEIR indicates, among other things, that there would be "less than a significant impact" to: existing visual character or quality of the site and its surroundings; substantial population growth in an area, either directly or indirectly; air quality; greenhouse gas emissions, either directly or indirectly; and public services, such as police, fire, or schools.

8-3

We don't believe that sufficient analysis has been conducted to lead to these conclusions. Additional housing units will cause population growth (which the DEIR does not recognize), which will have an impact on the visual character of the affected neighborhoods. City services (such as police, fire and schools) are at or exceed capacity, and the addition of housing units will increase that strain. Increases in traffic from population growth would be especially acute on the western side of the City, where many residents commute to jobs on the Peninsula through the I-280 corridor (which in turn contributes to greenhouse gas emissions and reduces air quality).

The DEIR recognizes that there is a *significant and unavoidable* impact to traffic, pedestrians, bicycles, loading, emergency access, or construction areas, but then indicates that "no feasible mitigation has been identified." We believe that this finding of a significant and unavoidable impact to traffic is inconsistent with the findings noted above (population increase, air quality, greenhouse gas emissions, city services). We are very concerned that no mitigation has been identified, and that there appear to be no plans to support the City's inadequate transportation and service infrastructure. As we noted on our comments to the 2009 Housing Element, there has been no adequate analysis of job growth and commuting patterns and their effects on existing infrastructure that will be required prior to implementation of housing plans that could have a negative impact on surrounding neighborhoods.

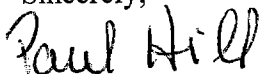
8-4

We believe that a significant amount of work remains to be done, which the DEIR does not acknowledge or address. Those include a realistic and thorough assessment of the City's transportation and public services infrastructure, an examination (on an area-wide basis) of job growth and commuting patterns, and a realistic assessment of the impact on population growth, density, traffic, parking, neighborhood aesthetics, air quality and greenhouse gas emissions. We also believe that a long-term view should be taken to support the City's public transportation and services infrastructure as part of this analysis.

8-5

We appreciate the opportunity to provide these comments and are happy to answer any questions that you may have.

Sincerely,



Paul Hill - President

Hiroshi Fukuda  
Richmond Community Association  
146 18<sup>th</sup> Avenue San Francisco, CA 94121

August 30, 2010

Mr. Bill Wycho  
Major Environmental Agency  
San Francisco Planning Commission  
1650 Mission St., Suite 400  
San Francisco, Ca 94103

**Subject:** 2007.1275E SAN FRANCISCO 2004 AND 2009 HOUSING ELEMENT  
**Public Hearing on the Draft Environmental Impact Report**

**Request: Reject the DEIR for the 2004 and 2009 Housing Element**

Dear Mr. Wycho,

The DEIR for the Housing Element 2009 is inaccurate, inadequate, and insufficient for the following reasons:

1. No comparisons to former HE's as to effectiveness.
2. No linkages to the General Plan.
3. NO MITIGATIONS as required for a 5 year action plan; no regional tie ins.

The Objectives and Policies do not provide an answer to the most important needs of for the future of San Francisco. The Data and Needs Analysis give a number of data and needs analysis, but the Objectives and Policies do not provide solutions that are identified the Data and Needs Analysis. It repeatedly states that the Housing Element 2004 and 2009 does not change zoning , heights, and density; however, it encourages the same by allowing area Better Neighborhood Plans i.e. Market Octavia and Eastern Neighborhood Area Plans, and those plans justifies increased heights, density, and reduced parking stating that the Housing Element allows such changes.

The Data and Needs Analysis is based on projections provided by ABAG which unfairly penalizes San Francisco by allocating a large number of housing despite being a “built out” city compared to the other regions in ABAG. San Francisco has very limited space to growth, after the built out of Bayview/Hunter’s Point, Treasure Island, and Park Merced in the future, there does not appear to be another major “opportunity Site” in San Francisco. ABAG allocations expect San Francisco to build up and have a density such as Manhattan but without an efficient subway system

The number of housing units needed by 2030 is reported to be 52,061 units.  
The new jobs created from 2010 to 2030 is expected to be 140,060.  
The population increase from 2010 to 2020 will be over 106,000.

8-6

5-19

5-3

D-3

Much of the growth of jobs will be for low to medium skilled workers, with salaries of \$17,900-\$22,800. The new job seekers will discover that only 15% of the new housing units will be affordable; 85% of the new housing units will be market rate which is affordable to only 10% of San Francisco residents. Most importantly, very little rental housing is expected to be produced.

D-3  
Cont.

1. Types of housing needed and types of housing being built are contradictory. The need is greatest for moderate and middle income residents. For the period of 1999-2006, only 13% of these were built. The percentage of market rate housing produced for the same period was 154% of the allocation. The 2004 and 2009 Housing Element policies will be more of the same, no mitigations.

6-28

The housing policies do not address the need for moderate income families with children. Most of the housing being built is market rate housing, 85%. It provides housing for the wealthy. Who are the buyers of market rate housing? Do they presently live in the City or are they out of town. Are the new units being used as a primary residence, or as a second home, or corporate housing? The Housing Element will not provide needed outcome for the type of housing needed. We need creativity and to think outside of the box, just as the City did in approving the City Health Plan

2. Rental housing needs are not addressed. San Francisco is different from other cities because the percentage of home owners is approximately only 38%, and renters are 62% of the residents in the City. Please note that this is not by choice. The reason is primarily affordability. If someone could afford a house they would buy one if they plan to live in the City

5-20

The ABAG projections and Regional Housing Needs Allocation (RHNA) cannot be taken seriously unless they understand the reality of home ownership in San Francisco. They need to include rental housing needs because a very high percentage of the new residents will not be able to afford market rate housing and will require rental housing. . I do not know the number of rental units that are in the pipeline, but I would believe it is well under 5%.

The Planning Department has taken San Francisco's Transit First Policy far beyond its original intent. The plan for the future is to FORCE San Franciscans not only to take Muni, Hike, bike, or car share, but to discourage auto ownership. The City's plans include the following drastic measures:

3. Remove 1:1 parking, this is to increase housing and reduce the cost of housing. This only adds to the horrendous parking situation. Planning Department will not acknowledge that many seniors, disabled, and families rely on their cars for transportation to go to medical appointment, grocery shopping, participate in after school activities, attend church, etc. Public transportation can be great for commuting to work but difficult if one has many obligations during lunch, after work, or on a tight schedule. The City continually reduces parking without knowing the number of off street parking and on street parking available in the City. The Planning Commission in July approved an affordable housing project of over 90 units near City College with 5 parking spaces.

F-6

Commission Antonini was correct in stating that it is unrealistic to believe that the residents will not add to the parking deficit in the City College area.

F-6  
Cont.

4. Anti-auto Policies

Parking Conditions, pg V.F-7

It states that the RPP zones have reasonable access to parking. This is not true in many parts of S.F. i.e. North Beach, Inner Richmond, Lower Polk, Japantown, Civic Center, Mission/16<sup>th</sup>, etc.

There is no mention of the large number “disabled” person placards in circulation, and the efforts to regulate them at not effective.

In some parts of the City, infill housing as encouraged in the Market Octavia and Eastern Neighborhood Area Plans by allowing additional units within the same building envelope and by converting garages into living units. Parking spaces for the additional units are not required. This will exacerbates the existing parking problem.

6-29

The anti-auto plans may be well intentioned such as the attempt to reduce greenhouse gasses, congestion, and provide more housing but there are unintended consequences. The anti-auto policies are discriminatory against the poor, because they will not be able to pay for off street parking. It is unreasonable to expect people to not own a car because off-street parking is not available. They with be forced to fine already scarce street parking

All of the policies which are anti-parking and anti-auto are especially discriminatory to the poor, seniors, disabled, and families with children. Many children’s activities require transportation to extracurricular activities i.e. music lessons, sports, language school, dance lessons, etc. It is extremely difficult to leave work, pick up a child and take them to activities, take them home, shop, cook, etc. Their quality of life is hindered, and that is part of the reason families are leaving San Francisco.

Other Issues:

5. Pg. V.A.-1 Plans and Policies: The policies contained in the 2004 Housing Element are intended to encourage increased residential capacity... Pg. V.A-2 (bottom) The 2009 Housing Element encourages housing in all commercial or institutional projects, near major transit lines, and through community planning efforts. The development of housing units on infill sites within existing neighborhoods .....

A-5

6. Local Transit Service, pg V.F-6

The report is incomplete because it does not discuss the unacceptable level of service. Muni admits that it does not meet its goals/expectations in its own on-time service report. Muni is under-funded, and it seem like it has financial problems every year.

F-8

Both the Market Octavia and Eastern Neighborhood Area Plans state that the level of service during the commute hours and cannot be mitigated. How will over 106,000 new residents impact Muni in 2030.

F-8  
Cont.

7. Adopted Plans and Approved Projects

pg V.F-15 The SFPark program discriminated against poor residents, because it has been reported that hourly rates can by up to \$18 per hour for “hot” events. Is this equal access?

9-3

8. Pg V.F.-16 Congestion Pricing is discriminatory against the poor. The City appears to be doing every think it can to force poor residents to use Muni, hike, or bike. Many seniors and people who are not fit will not be able to hike or bike, and Muni is not extremely dependable.

9-4

9. Residential Density, V.F.-63, V.F.-65

Existing and Cumulative, Conditions, pg V.F-18

The H.E. 2009 does not propose new development nor changes in land use regulations or modify the amount of housing that could be developed in S.F., but the Market Octavia and Eastern Neighborhood Area Plans used the Housing Element 2004 to justify increased density, increase heights, and reduced parking. It was a means to an end.

The housing Element 2004 includes a number of policies pertaining to encourage certain types of housing (policy 1.7 and Implementation Measures 1.7.1 and 4.5.1) to allow for a variety of units. The important issue is that affordability is not addressed. The new units being built are for the most part 85% market rate housing. If there are a variety of units available, they must be built for new residents who are expected to be in the low income category, and not only for high income residents. Please note that only 10% of S.F. residents can afford market rate housing.

6-30

The purchasing of housing and cars can be analyzed in the following manner. If one can afford a luxury car there are many options, if one chooses to purchase an economy car, there again are many options. If one can afford market rate housing, there are many options, if one can only afford “affordable” housing, the availability for “extremely low” and “low” income housing are extremely minimal, and for “moderate” and “middle” income, the availability is virtually non-existent. The cost of housing and housing opportunities is one reason that moderate and middle income families are leaving the City. San Francisco is becoming a City for the very rich and very poor. San Francisco’s diversity is one of the key elements which make San Francisco so great. We are losing that diversity by forcing middle income to leave the City. A prime example is Supervisor Chris Daly.

10. Pg V.F- Muni Screenline Analysis Table V.F-3

The 2030 capacity of 36,954 is an increase of 20% over the 2010 capacity of 30,373.

It is difficult to imagine that Muni will increase capacity by purchasing buses and light-rail cars to increase capacity 20% and while also replacing its aging fleet of buses and light-rail cars. Please explain how this will be accomplished.

F-9

11. Pg. V.F.-47

Trip Generation

Housing Element policies do not directly propose to develop new housing. Therefore, the 2004 and 2009 Housing Element would not generate any new trips. This is false because the Housing Element 2004 and 2009 will lay the ground work to allow for increased population by increasing density, increasing heights, reducing parking on transit corridors. The sheer increase in population and car ownership will generate up to 20% increase in trips generated.

F-10

12. Pg Parking Provision V.F.-61;

Pg V.F.-48 Parking Demand, second paragraph, which states the 2004 and 2009 Housing Elements will promote increased density in certain areas of the City. If the projected population increase for 2030 is 106,000, and there are policies which will allow less parking than previously allowed, there will still be a large number of additional automobiles in the City. How can this not give a very significant impact in parking demand and in trips generated. The Market Octavia and Eastern Neighborhood Area Plans allow buildings to be subdivided to increase the number units without additional parking. This will exacerbate the parking shortage.

F-7

**Comments for HE 2004 February 23, 2009 regard distributed handout**

1. Data Needs Analysis findings state the following:

Population increase of approximately 50K projected between 2010 and 2020 (pg 4).

Jobs projected to be primarily in the service industry sector i.e. food preparation, waiter, cook, office clerk, retail salesperson, health aide, laborer, cashier, janitor, etc. Income level under \$30K(pg 30).

Problem: Housing unit needs is balance of market rate, moderate income, low income, very low income. Production is primarily market rate.

2. Information not provided:

Total autos and trucks registered in SF

Total off street parking used for parking auto/trucks.

Total on-street parking.

The MTA has information on parking and registration, but accuracy appears to be uncertain, it probably does not have information from beyond 2000. Planning Department needs to know what the situation is before it recommends reducing parking.

3. The Objectives and Policies do not compliment Data and Needs Analysis.

Housing needs Objectives have been made in the past, and units completed for each income level have not been met except for market rate units. There is an estimated surplus of over 800 units in intermediate development Pipeline (pg 80) for each of the extremely low and very low income for the period up to 2014. The market rate number of units are estimated to be a surplus of 6,766 units for the same time period. There is a shortfall of 5,000 units for the low income and 3,586 units for moderate income units for the same time period. The excuse that matching funds are not available for moderate income units has been the excuse



for years. It is time to spend the money to provide "work force" housing for safety officers, teachers, and nurses.

San Francisco is different from most major cities in the US because approximately 65% of the residents are renters, and 35% are home owners. This is just the opposite for the other major cities in the US. The Housing Element does not address this. Most new residents and jobs will not allow for home purchase, this needs to be solved. Almost 85% of the new construction is for market rate housing. We know that only 11% (probably much less) of the residents can afford to purchase a home in SF. We are building housing units for the rich who will use it as a second home. Housing Element needs to address problems in a meaningful manner. If diversity is important, the City must only allow the type of housing which will maintain and sustain the diversity of San Francisco.

4. Holding capacity for the City is not reported, and it needs to be known and reported. Do we have adequate water supply including prolonged drought periods. Do we have adequate sewer capacity in the rainy season, I understand raw sewer is a problem in the Bayview now. Does the City have an effective emergency evacuation plan following a major earthquake. Will there be enough firemen when most firefighters live outside the City. Are there enough hospitals and medical services throughout the City following a major earthquake. The City needs a Master Plan for Medical Services, there are no hospitals in the western part of San Francisco.

There is only a limited amount of space available for development. If we continue to build on the limited space available, there will not be space available for moderate rate housing in the future. It is time to stop and find a way to build work force housing. The Planning professionals need to think "out-side" of the box as was done with the City's health plan. Consider decrease labor cost and material cost by use of prefab rooms, tax credits, etc.

#### Demographics: Scoping

1. Pg 3- "continues to be diverse", incorrect, middle income families leaving the City. SF has only 12% children, the fewest of all major cities.  
Problem and no solution: Housing for middle income has not kept up to demand, forcing families with children to leave S.F. Parking also a contributing factor.
2. Pg 27- 85% of new construction in building with 10 or more units, condos. What was the average cost of condos, condo fees? Are condo fees affordable for low income or adjusted lower for affordable units?
3. Pg 37- Rental housing, vacancy rate for 2007-10%. High because 1.6% are second home, time-share, corporate homes. SF is not building the correct type of housing, and the Housing Element does not provide a solution.
4. HE part 2, -Issue 7-balance housing construction and community infrastructure.

SF planning should take into account “all” elements of a whole neighborhood in coordination with new housing. Parking not considered.

October 5, 2009

Project Title: San Francisco 2004 and 2009 Housing Element

Case No.: 2007.1275E

Please note in the NOP for the HE 2004 & 2009, the Project Objectives (pg 8) states: Ensure capacity for the development of new housing to meet the RHNA at all income levels. Encourage housing development where supported by existing or planned infrastructure, while maintaining existing neighborhood character. The Housing Element identifies the problems but does not provide the solutions. Encourage has not and will not provide the necessary results. We know about de facto demolition, now we need to recognize de facto discrimination against Afro-Americans and families. The Afro-American population in San Francisco has decreased from approximately 13.4% in the 1970s to 6.5% in 2008. The percentage of children under 14 years age is only 12%, which is the lowest of major US city. Both housing affordability and opportunities are a major reason for both of the problems.

San Francisco (SF) Planning Department policies acknowledges the significance of garages and parking in regards to how much space is required and how much cost is added to housing. The Market Octavia and Eastern Neighborhood Area Plans significantly reduced parking requirements, and ignores the parking shortage in virtually all areas of San Francisco. The draft HE 2004 and 2009 does not provide data on how many cars and trucks are registered in SF, how many street parking there are for overnight parking, how many off street public and commercial spaces are available for overnight parking, and how many private garage spaces there are in SF. Most importantly, the draft HE 2004 & 2009 does not predict how many more cars will be owned by the new residents and where they will be parked. The increase in the number of commuters to SF is projected to be over 70,000 by 2020, how many will drive their cars, where will they park?

The SF parking policies are discriminatory against poor people because they cannot afford off-street parking, disabled people because parking is limited, and seniors and families because parking is limited and public transit is not wide spread, time consuming, and unreliable. The SFMTA makes an attempt to report data on parking availability in their “Fact Sheet” but their effort is lacking when they do not update the parking spaces from their 2000 data to the 2008 data. New construction during the period required 1:1 parking.

The holding capacity of San Francisco must be analyzed in a serious manner.

Water use projections in Appendix H, Table 5-6: SFPUC Retail Demand (mgd) usage, are not believable. It projects virtually the same water usage from 2010 through 2030 i.e. 44.70 mgpd 2010, 44.27 mgpd in 2015, 44.15 mgpd 2020, 44.32 mgpd in 2025, and 44.79 mgpd in 2030. Please note the following:

1. In 2010, 60% of homes were 50 years old, in 2030 the same homes will be 70 years old.
2. Water lost/leakage will be worst as the homes get older.

3. Population to increase from 810,113 to 916,800 in 2030, a gain of 106,687, 13% increase, conservation measures are not expected to be 13%.
4. 60+% are renters who do not have individual water meter and no incentive to save money/water.

The infrastructure of San Francisco is inadequate in regards to sewer capacity during the rainy season in the Bayview District. The water supply in the future is certainly questionable because of the binding contracts with neighboring counties, and reduced contracted supply to SF residents. The other water districts are not demanding conservation to the extent San Francisco residents are asked to conserve.

Another major concern is the number of high rises recently constructed, and the number of high rises in the pipeline. The seismic standards are only for safe evacuation from a building and not for reoccupying the building. There will be a tremendous financial loss for condo owners.

Fire fighting in one high rise would be a major concern, what is to be expected if there are fires in many high rises after a major earthquake? Are there enough emergency services i.e. fire, medical, police to handle a catastrophic disaster?

The concept of building along the transit corridors with increased heights, increase density, and reducing parking is flawed. It is based on having a reliable and efficient transit system to allow residents to take Muni, bike, hike, or car share so that car ownership is discouraged. The problem is that Muni is not a reliable and efficient system. Many residents take Muni to go to work, but many residents use their cars after work, or families need a car to transport their children to afterschool activities, or seniors and disabled need their cars for appointment, shopping, etc. Residents can see the hypocrisy when City officials have parking spaces all around City Hall, and vote to reduce parking for new construction.

Renowned planner, Professor Michael Bernick wrote in the San Francisco Chronicle, November 23, 2004 that the City completely misunderstands the research and theory of transit-based housing as well as the process of community-building. The Housing Element supposedly claim that it better connects transit and land use by densifying housing and reducing parking requirements near transit corridors. Other issues misunderstood:

- Transit Village is based on “heavy” rail, not light rail or buses.
- Automobile ownership is acceptable and parking is needed.
- San Francisco already has villages, but that they are fragile and can be destroyed by over development.

The diversity of San Francisco is what made San Francisco so great in the past, we are losing that diversity. Moderate income families are leaving because of the lack of affordable housing. We have a serious problem, and the Housing Element Objectives and Policies do not provide the answers.

The Housing Element needs to have Policies which can be implemented and enforced. It must not be merely a wish list of unattainable goals and objectives; otherwise, the Housing Element has no credibility and is an exercise in futility.

The Richmond Community Association urges the Planning Commission to reject the DEIR for the 2004 and 2009 House Element. An Environmental Impact Report must be accurate, adequate, complete, and sufficient. Unfortunately, the DEIR for the Housing Element 2004 and 2009 is not, the Planning Department professionals need to be creative and think “out of the box” i.e. the City of San Francisco Health Plan.

Yours truly,  
Hiroshi Fukuda, President  
Richmond Community Association

Cc: Ron Miguel, President, Planning Commissioner  
Michael Antonini, Commissioner  
Gwyneth Borden, Commissioner  
Bill Lee, Commissioner  
Christina Olague, Vice President, Planning Commissioner  
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August 30, 2010

*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

**RECEIVED**

AUG 31 2010

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
RECEPTION DESK

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.

1-11

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.

1-11  
 Cont.

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.

8-7

In order to assist the City in its review of this comment letter, we hereby provide a table of contents for the letter:

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**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.”].)

5-21

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.)

4-2

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

2-8



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.

2-8  
Cont.

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?

2-9

“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.

2-9  
Cont.

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.)

11-1

**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](http://factfinder.census.gov), incorporated by reference.)

7-2

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<sup>1</sup>, 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

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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.

7-2  
Cont.

A-6

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 struck 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.

A-6  
Cont.

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.

7-3

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.

8-9

### **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

7-4

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.<sup>2</sup> 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

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<sup>2</sup> 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.

7-4  
Cont.

## **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*

T-4

*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.

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(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.)

T-4  
Cont.

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.

T-5

**1. Alternative Focused on Meeting the Regional Housing Needs Allocation for All Income Levels.**

**a. RHNA Income Level Needs.**

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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)<sup>3</sup>; 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](http://www.abag.ca.gov/planning/housingneeds/pdf/resources/A_Place_to_Call_Home_2007.pdf), incorporated by reference.)

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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,

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<sup>3</sup> 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 identified in the RHNA 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.

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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.)

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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.

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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.

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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.

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**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:

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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.

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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 Visitation 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

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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

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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.

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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)

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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.

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**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:

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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.

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**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

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“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.

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**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.

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(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.)

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**B. The DEIR’s Analysis of Aesthetics Impacts is Flawed.**

The DEIR acknowledges the beauty of the City, enhanced by its natural

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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.)

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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.

C-8

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

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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.

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### 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.

C-10

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

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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.

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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.

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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.

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## **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

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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.)

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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.

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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.

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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.

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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.

6-33

**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.<sup>4</sup> (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

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<sup>4</sup> 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.

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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.

L-8

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.

L-9

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

L-10

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.

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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

L-11



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.

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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.

L-12

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.

L-13

**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.

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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

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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?

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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.

L-17

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)

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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/MSD\\_ID/393/MTO\\_ID/649](http://sfwater.org/mto_main.cfm/MC_ID/35/MSD_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?

L-19

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/MSID/393/MTO\\_ID/649](http://sfwater.org/mto_main.cfm/MC_ID/35/MSID/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

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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](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.)

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#### **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:

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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 where 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.

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#### **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

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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.

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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.

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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.

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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.

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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.

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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.

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#### **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.)

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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-

I-5



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

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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.

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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.)

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#### **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.

F-12

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

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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.*

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Cont.

(*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)

L-15

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.)

F-14

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

F-15

F-16

F-17

F-18

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.

F-18  
Cont.

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.

G-7

## 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.

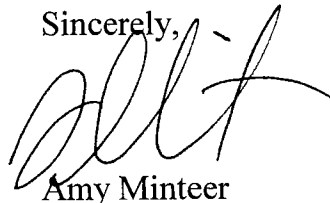
8-12

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.

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Thank you for your time and consideration in this matter.

Sincerely,



Amy Minter

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.) <sup>FN1</sup> 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.

<sup>FN1</sup>. 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 <sup>FN2</sup> 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); <sup>FN3</sup> 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.)

<sup>FN3</sup>. 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.]" <sup>FN4</sup> ( *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, subs. (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,<sup>FN5</sup> 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 [i]action[s]” for the element’s objectives and policies, including beginning a “Geary Boulevard Better Neighborhood program.”<sup>FN6</sup> (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.]” <sup>FN7</sup> ( *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].) <sup>FN8</sup>

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].) <sup>FN9</sup>

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.)

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## **ATTACHMENT 2**

**Section One :: Citywide Land Use Context :: Housing as a Priority**

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-

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## Section One :: Citywide Land Use Context :: Growth 2000-2025

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

Section Three :: Appendices :: Appendix B: Land Use Forecast and Allocation Methodology  
2000-2025: Housing and Jobs

### **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**

Region of City	Option B (Expanding Neighborhoods)							
	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				
<b>Total</b>	<b>29,000</b>	<b>10,900</b>	<b>118,000</b>	<b>128,900</b>	<b>30,000</b>	<b>5,300</b>	<b>119,000</b>	<b>124,300</b>

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 94262-2053  
(916) 323-3177  
FAX (916) 327-2643



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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.

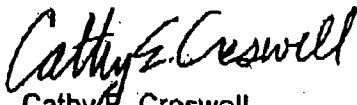
Your April 9, 2009 correspondence explains the San Francisco Superior Court has issued a Peremptory Writ of Mandate in response to the unpublished Court of Appeal decision in *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*. The Peremptory Writ of Mandate Order prohibits 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).

Mr. John Rahaim  
Page 2

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  
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

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STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
**DIVISION OF HOUSING POLICY DEVELOPMENT**

ARNOLD SCHWARZENEGGER GOVERNOR

1800 Third Street, Suite 430  
P. O. Box 953063  
Sacramento, CA 95832-2063  
(916) 323-3177  
FAX (916) 227-2043



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 Livable Neighborhoods v. City and County of San Francisco*, No. A112787. 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.

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Mr. John Rahaim  
Page 2

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  
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

August 1, 2007

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

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

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.

[www.sfplanning.org](http://www.sfplanning.org)

# 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



## IV. Environmental Setting and Impacts

## B. Plans and Policies

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.

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IV. Environmental Setting and Impacts  
B. Plans and Policies

- 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,<sup>52</sup> 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).<sup>53</sup> 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).<sup>54</sup> 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

<sup>52</sup> The effective dates of the Regional Housing Needs "January 1999 through June 2006" Allocation cycle has been extended into 2007.

<sup>53</sup> 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.

<sup>54</sup> 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.<sup>55</sup>

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 greater 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.)

<sup>55</sup> 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\\_FINAL.pdf](http://www.abag.ca.gov/planning/housingneeds/pdf/resources/ABAG_housing_report_2006_FINAL.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](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 through 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.<sup>56</sup>

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

<sup>56</sup> 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

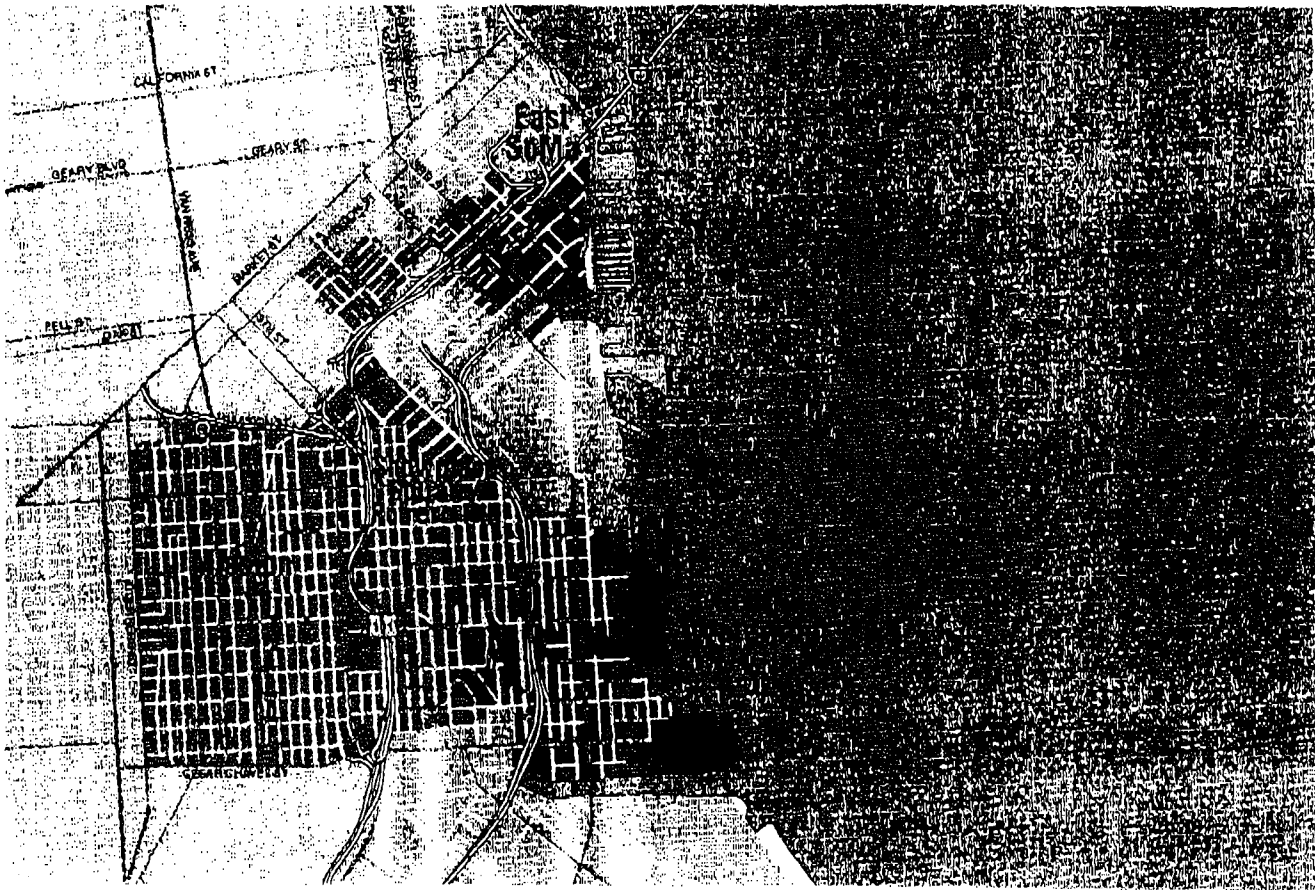
State Clearinghouse No. 2005032048

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 J: 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 neighborhood 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

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

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General Plan Amendment**

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 Visitation 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 *Visitation 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

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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 Vistacion 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

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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 Visitation 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 Visitation 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*

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*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 Visitation 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.**

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**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 Visitation Valley's existing commercial center. As part of the project, the sponsor will extend the Visitation 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 Visitation 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 "Visitation Valley/Schlage Lock Design for Development" document.*

**POLICY 6.7**

Promote high quality urban design on commercial streets.

*The Project will enhance Visitation 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.*

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**General Plan Amendment****Policy 6.10**

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

*The Project will help to revitalize the Visitation 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 Visitation 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.

**EXHIBIT M-1**  
**Resolution No. 17791**  
**Hearing Date: December 18, 2008**

**CASE NO. 2006.1308EMTZRUI**  
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**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):**

**IDENTIFY 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.



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**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 13.5):**

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**

**EXHIBIT M-1**

Resolution No. 17791

Hearing Date: December 18, 2008

**CASE NO. 2006.1308EMTZRUU**  
Visitation Valley Redevelopment Project  
General Plan Amendment**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 up 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.

**EXHIBIT M-1**  
**Resolution No. 17781**  
**Hearing Date: December 18, 2008**

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**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 Visitation 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 Visitation 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 "Visitation 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 Visitation 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.*

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**General Plan Amendment**

## **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 Visitation 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.

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*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.*

**Policy 4.7**

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.*

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**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 Visitation 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.

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**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.

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*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 Visitation 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:**



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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 Visitation 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 Visitation 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 facade 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 WORKING ENVIRONMENT.**

**Policy 1.2:**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

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**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 Visitation Valley Redevelopment Plan calls for the extension of Leland Avenue, Visitation 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.*

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*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

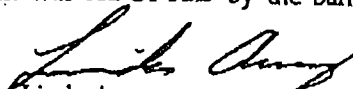
WHEREAS, prior to considering relevant amendments to the General Plan, Planning Code and Zoning Map on December 18, 2008, the Planning Commission adopted Motion No. 17786. In that action, the Commission certified the Visitacion Valley Redevelopment Program EIR. The Planning Commission also adopted Motion 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

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## **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 Favilli

File 090222

1 CC: each Supervisor  
City AttorneyRedevelopment Plan for the Visitacion Valley Redevelopment Project  
And Associated ActionsHousing 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 4:11  
BY [Signature]

The San Francisco Housing Element, as adopted by the Board of Supervisors in 2004 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**

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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.")

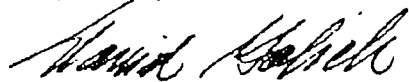
The rationale that preparing an EIR for housing development proposals increases gives comfort to developers and increases neighborhood support holds true for an EIR on the proposed Housing Element, which will drive the neighborhood-level housing developments that implement the Element's policies.

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**



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ENDORSED  
 FILED  
 Superior Court of California  
 County of San Francisco

SEP 10 2008

GORDON PAHK-LI, Clerk  
 By: CAROLYN BALISTRERI  
 Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SAN FRANCISCO

10 SAN FRANCISCANS FOR LIVABLE  
 11 NEIGHBORHOODS,

12 Petitioner and Plaintiff,

13 v.

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

16 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

17 Action Filed: November 30, 2004

18 Hearing Date: October 2, 2008

19 Time: 9:30 a.m.

20 Dept. 302

21 Honorable Patrick J. Mahoney

22 Accompanying Declarations of  
 23 David Golick and  
 24 Kathryn R. Devincenzi

25 Declaration of David Golick in Support of Petitioner's Motion for Issuance of  
 26 Peremptory Writ of Mandate and in Opposition to Respondent City's  
 27 Motion for Entry of Judgment and Peremptory Writ of Mandate

Case # 504-780

**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

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1 City's 2004 Housing Element contained development standards designed to encourage further  
2 development or change the zoning to increase housing capacity and that such "actions to increase the  
3 buildable envelope were beyond the regional housing need allocation" allocated to the City of San  
4 Francisco. (McDougall Deposition [hereafter "McDougall"], p. 12, lines 10-14, p. 13, lines 3-8; p.  
5 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  
6 increase capacity are found throughout the Housing Element, and Housing Element programs  
7 intended to increase the capacity of the City's zoning include "different development standards,  
8 heights, bulk requirement, floor-area ratios" and "parking." (McDougall p. 60, lines 14-25, p. 61, lines  
9 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  
10 Element went further than required by HCD to show movement toward attainment of the regional  
11 housing need allocation. (McDougall, p. 146, lines 19-23) If the City's proposals to increase housing  
12 capacity or rezoning were omitted from the Housing Element, the Housing Element would still be in  
13 compliance with state housing element law because these "further encouragement policies" went  
14 "beyond the regional housing need allocation." (Mc Dougall p. 76, lines 10-14, p. 61, lines 11-25,  
15 p. 62, lines 1-25, p. 127, lines 20-24) Mr. McDougall explained that the City is able to demonstrate  
16 a buildable envelope sufficient to accommodate the regional housing need allocation without changes  
17 to zoning, land use, et cetera. (McDougall, p. 58, lines 25, p. 59, lines 1-25, p. 60 lines 1-25, p. 61,  
18 lines 1-25, p. 62, lines 1-16) In the Data and Needs analysis of the Housing Element, the City  
19 presented an assessment of adequate sites that demonstrated the ability to accommodate the regional  
20 housing need allocation by relying on the existing capacity of zoning. (McDougall p. 126, lines 5-25,  
21 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  
22 inventory in a housing element demonstrates adequate sites, then programs to make additional  
23 capacity available are not required. (McDougall, p. 58, line 25, p. 59, lines 1-15) Also, the City's  
24 Housing Element did not identify constraints that required a State-mandated program to address  
25 constraints. (McDougall p. 72, lines 4-8) If text encouraging increased capacity and rezoning is  
26 omitted from the Housing Element, it will still continue to comply with the 2004 requirements of state  
27

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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.*)

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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

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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

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1 "Transit Oriented Neighborhood Commercial District (NC-T) Zoning" which will provide for  
2 "increased housing densities" and "reduced residential parking requirements on linear shopping  
3 streets and along transit corridors." (1 AR 204, emphasis added) Plans for the first three Better  
4 Neighborhoods Program areas will facilitate construction of "between 3,500 and 8,200 new  
5 residential units." (1 AR 303) On a citywide level, the Better Neighborhood Program aims to  
6 encourage "new housing at an urban scale in transit-rich areas with good neighborhood services."  
7 (1 AR 321) The specialized "Transit Oriented Neighborhood Commercial District (NC-T) Zoning"  
8 was not proposed or used as implementation in the City's 1990 Residence Element and should be  
9 subject to the Housing Element EIR.

10 12. The CAP and Better Neighborhoods program were not mentioned or used as  
11 implementation in the City's 1990 Residence Element and should be addressed in the Housing  
12 Element EIR.

13 13. I have reviewed the August 1, 2007 letter from City representatives to the Deputy  
14 Director of the State of California Department of Housing and Community Development which  
15 contains an attachment referred to as a "Revised San Francisco Housing Element" which consists of  
16 Part II of the Housing Element with certain text struck out and much remaining text, some of which  
17 is highlighted. Among the highlighted remaining text on page 135 of the document is  
18 Implementation 1.1 which adopts the CAP "for the allocation of higher density, mixed-use residential  
19 development in transit-rich areas with stable urban amenities in place," and the detailed discussion  
20 of the CAP including proposed rezonings on pages 130-131 of the Housing Element was also retained  
21 in the "revision."

22 14. I have also reviewed a second August 1, 2007 letter from City representatives to  
23 Deputy Director of the Department of Housing and Community Development which contains a  
24 discussion of the CAP and a list of area planning efforts "underway" including the Market and  
25 Octavia Better Neighborhoods Plan, the Transbay plan, the Eastern Neighborhoods rezoning, the  
26 Balboa Park Better Neighborhoods Plan, and the Visitation Valley Redevelopment Plan. Each of  
27

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these area plans is identified in the Housing Element as a "Work Program for Implementing the Housing Element." (1 AR 328) All, except Visitation 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 foreseeable 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

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1 potential for resulting in either a direct physical change in the environment or a reasonably foreseeable  
2 indirect physical change in the environment."

3 18. The City's August 1, 2007 correspondence indicates that the City would urge the Court  
4 to restrict the scope of the Housing Element amendments that must be considered in the EIR to seven  
5 policies and one implementation action, while omitting the remainder of the Housing Element and  
6 all its work programs from the scope of the project under environmental review. Language would  
7 remain in the Housing Element which is to the same effect as the stricken text. Granting the City's  
8 request would result in an inaccurate "project" description and would severely prejudice  
9 consideration of alternatives to the project as proposed, since the City admits that the substance of  
10 the stricken amendments is repeated elsewhere in the Housing Element which the City would deem  
11 itself free to implement. In essence, the City seeks to be permitted to rely upon and implement,  
12 without inclusion in the Housing Element EIR, expansionist changes in Housing Element language  
13 which exist throughout the Housing Element and are to the same effect as the stricken changes.  
14 Under this tactic, virtually all the implementation for the Housing Element amendments would be  
15 omitted from the scope of the project under environmental review. However to comply with CEQA,  
16 all the implementation for the Housing Element's new expansionist policies must be subjected to an  
17 EIR since the implementations are the means by which the foreseeable physical changes to the  
18 environment would occur. A Housing Element policy does not implement itself.

19 19. Further, if the Court were to permit the City to rely upon and implement the CAP  
20 strategies or work programs identified in the 2004 Housing Element before the EIR process on the  
21 Housing Element amendments is completed, the City would claim to be entitled to grant project  
22 approvals which implement the Housing Element's increased capacity policies. The momentum for  
23 such policies and work programs could build, increased capacity structures could be built and cited  
24 as precedent, and physical impacts on the environment could begin to appear. If the City were to  
25 permit a developer to build new residential units according to the Housing Element's new policies  
26 and increased capacity strategies prior to the certification of the Housing Element EIR, other  
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1 applicants will likely point to what the City permitted, and additional pressures will be put on City  
2 decision-makers to approve similar projects under similar circumstances. While area plans or new  
3 zoning could be modified, it would be very difficult to overturn a final entitlement or permit which  
4 the City could grant for a project which would implement such Housing Element expansionist  
5 strategies or programs. In view of the City's assertion that it "would pursue" such work programs and  
6 CAP strategies in other ways, the City could prejudice the EIR's consideration of alternatives to the  
7 full set of Housing Element work program area plans and rezonings by attempting to omit some of  
8 them from the alternatives analysis and project description. To make an informed decision as to the  
9 environmental consequences of the Housing Element and alternatives thereto, the general plan  
10 decision-makers would need information on all the areas of the City that had not yet been built upon  
11 according to the Housing Element's expansionist policies so that they could decide which areas  
12 should be chosen for expanded capacity, the appropriate amount of increased capacity which should  
13 be imposed on each area and the types of development strategies that should be employed in the  
14 various areas.

15 20. The Housing Element EIR's definition of the "project" and consideration of  
16 alternatives would also be prejudiced if the City's assertion of housing need based on 2004 economic  
17 conditions and population projections available in 2004 was excluded from the EIR. The City's  
18 projected housing need would then be asserted in the EIR based on out-of-date data. Since 2004,  
19 there has been a significant change in the economic climate and housing market, where housing prices  
20 have dropped. Also, according to the U.S. Census Bureau, San Francisco's population declined from  
21 776,733 in 2000 to 764,976 in 2007. (See Exhibit E attached hereto) One purpose of the EIR process  
22 is to provide the public with the opportunity to review and contest inaccurate data and analyses in the  
23 draft EIR. If the City's Housing Element EIR were to base its objectives as to the amount of housing  
24 needed, and analyses of alternatives thereto, on 2004 economic and population data, analyses of  
25 alternatives calling for lesser or no expansion of the City's housing capacity based on current  
26 population projections and economic data could be prejudiced because the City could be expected to  
27

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1 claim that the population and economic data set forth in the 2004 Housing Element is not included  
2 within the seven policies and one implementation measure which the City asserts should define the  
3 scope of the EIR

4 21. The Housing Element EIR's consideration of alternatives would also be prejudiced  
5 if the scope of the EIR did not include the potential impact of the new language in the Housing  
6 Element calling for extracting public benefits in return for increasing the permitted density or  
7 intensity of housing. The Housing Element states that "these density increases must be combined  
8 with the capture of some of the added development value through the provision of public benefits."  
9 (1 AR 211) This statement follows the discussion of the CAP and various areas proposed to receive  
10 increased density housing and reduced parking requirements. The approach of extracting public  
11 benefits in return for increasing permitted density of housing can create a powerful incentive for the  
12 City to increase densities to generate additional revenues beyond the growth that they would permit  
13 absent such an economic incentive. An example of the types of significant public benefits that can  
14 result from this approach are the new Community Improvement Impact Fees for additional residential  
15 or commercial capacity recently adopted for the Market and Octavia Community Improvements Fund  
16 in San Francisco Planning Code §§326-326.8 and the fees charged for exceeding the allowable floor  
17 area ratio in the Van Ness and Market Downtown Residential Special Use District as recently adopted  
18 in San Francisco Planning Code §§249.33, as summarized in the excerpts from the agenda of the  
19 April 15, 2008 meeting of the San Francisco Board of Supervisors, attached hereto as collective  
20 Exhibit F.

21 22. Notably, a draft EIR issued by the City's Transportation Authority projects that the  
22 time spent in congested traffic conditions in the City will double as a result of projected population  
23 and employment growth and planned growth that is "designed to complement and support the city's  
24 proposals to concentrate future development along transit routes and transfer points" according to the  
25 "Citywide Land Use Action Plan." (20 AR 5503, 5508, 10 AR 2741, 2746-Exhibit G hereto) Traffic  
26 impacts should be addressed in the forthcoming EIR.

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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

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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

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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-

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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

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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

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1 areas "to accommodate contemporary living space needs and still be compatible with the  
2 neighborhood scale." Modified policy 11.6 of the 2004 Housing Element now states: "Employ  
3 flexible land use controls in residential areas that can regulate inappropriately sized development in  
4 new neighborhoods, in downtown areas and in other areas through a Better Neighborhoods type  
5 planning process while maximizing the opportunity for housing near transit." The Court of Appeal  
6 noted that its implementation action states: "The City will continue to promote increased residential  
7 densities in areas well served by transit and neighborhood compatible development with the support  
8 and input from local neighborhoods." (Slip Op. p. 18)

9 In contrast, the City's housing policy in the 1980s and 1990s led to the "adoption of zoning  
10 controls that retain existing residential densities in more established neighborhoods." (1 AR 203)  
11 Under 1990 RE policy II-4, density was only to be changed in the "Mission Bay area." (RE p. 175)  
12 The Court of Appeal held the Housing Element's elimination of a 1990 Residence Element policy  
13 to adopt specific zoning districts that would set density categories was a significant change that was  
14 subject to the EIR which it ordered. (Slip Op. p.17, 22) This 1990 policy as to density categories is  
15 not the equivalent of, or substantially similar to, the general priority policy set forth in San Francisco  
16 Planning Code §101.1(b)(2) that "existing housing and neighborhood character be conserved and  
17 protected in order to preserve the cultural and economic diversity of our neighborhoods."

18 37. Also, the Court of Appeal noted that, although policy 1.6, to "[c]reate incentives for  
19 the inclusion of housing, particularly permanently affordable housing, in new commercial  
20 development projects," is almost identical to a policy in the 1990 Residence Element, an  
21 implementation provision now calls for reviewing the possibility of removing parking and density  
22 requirements as "incentives." (Slip Op. p.19) The appellate court stated that this implementation  
23 measure is subject to the EIR.

24 38. There are additional examples of interpretative text and implementation actions which  
25 are important to understanding the meaning of policies. Changes made to Housing Element Policy  
26 1.1 call for "allowable densities in established residential areas" to be set "at levels which will  
27

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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

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1 expected to absorb major office and residential developments over the next decade” and that  
2 “[p]lanning and zoning changes should include floor-to-area ratio exemptions.” (1 AR 217) That  
3 implementation further states that the “Planning Department will introduce zoning changes in the  
4 traditionally industrial eastern part of the City” and identifies the “areas under study” as the “Mission,  
5 South of Market, Showplace Square/Potrero Hill, Bayview Hunters Point and Visitacion Valley.”  
6 (1 AR 217)

7 42. Implementation measures are described throughout the Housing Element. For  
8 example, in the Housing Element’s Part I. Data and Needs Analysis, among the “policies and  
9 programs under development” to “further facilitate housing production” is a specialized type of  
10 zoning called “Transit Oriented Neighborhood Commercial District (NC-T) Zoning” controls that  
11 “provide increased housing densities above the ground floor and reduced residential parking  
12 requirements on linear shopping streets and along transit corridors.” (1 AR 204) In addition,  
13 “[n]eighborhood based Specific Plans that establish development profiles with completed program  
14 EIRs,” “rezoning certain former industrial areas near downtown to mixed use” and encouraging “the  
15 development of high density housing,” “[a]llowing increases in housing densities in appropriate areas  
16 citywide” and [r]educing parking requirements on residential projects” were tools that should be used  
17 through planning processes such as the Better Neighborhoods program to increase availability of land  
18 for housing. (*Ibid.*) Also, permit processing was to be facilitated by “[p]reparing master  
19 environmental impact reports covering all potential new housing in a selected area to streamline the  
20 approval and construction processes.” (1 AR 205) NC-T zoning was not used or proposed in the 1990  
21 Residence Element.

22 43. Further, a discussion of approaches to meet housing needs in Part I of the 2004  
23 Housing Element proclaims that the “Planning Department is dedicated to zoning changes citywide  
24 that encourage new housing in areas particularly close to transit.” (1 AR 203)

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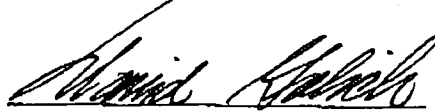
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2 I declare under penalty of perjury under the laws of the State of California that the foregoing  
3 is true and correct.

4 Executed on September 8, 2008, at Concord, California.

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7 DAVID GOLICK  
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### 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

**Proof of Personal Service of Declaration of David Golick  
in Support of Petitioner's Motion for Issuance of  
Peremptory Writ of Mandate and in Opposition to Respondent's  
Motion for Entry of Judgment and Peremptory Writ of Mandate**

# 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'll apply myself, maybe I can 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).*

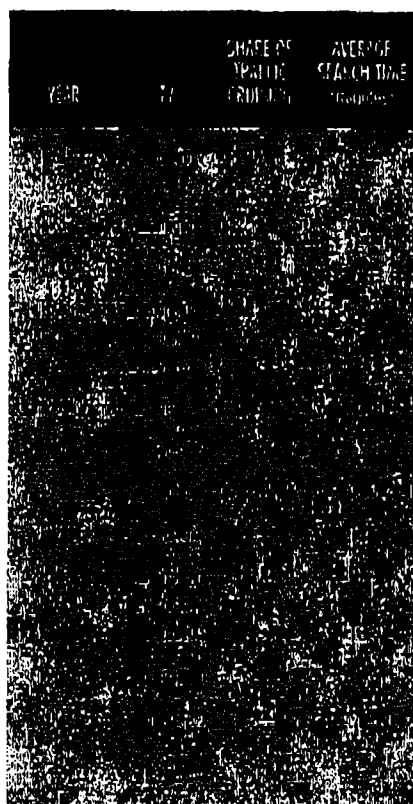
EXHIBIT

### 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. >





#### 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.

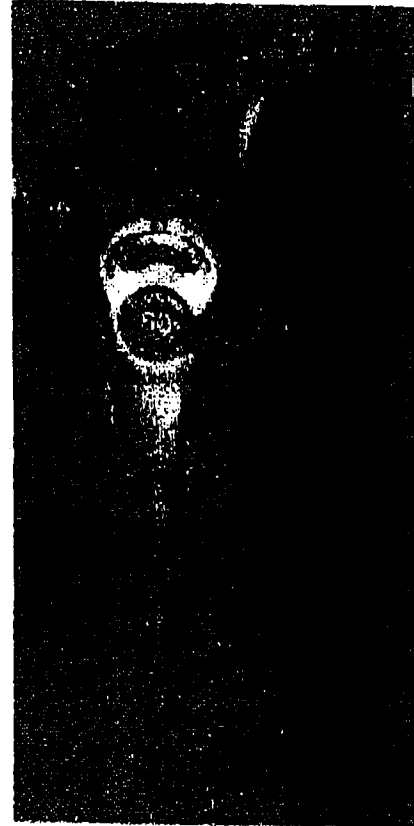
The average cruising time to find a curb space was 3.3 minutes, and the average cruising distance was half a mile (about 2.5 times around the block). The small distances cruised by individual drivers add up quickly, because the turnover rate for curb parking was seventeen cars per space per day. With 470 metered parking spaces in the Village, almost 8,000 cars park at the curb each day ( $17 \times 470$ ). 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 ( $8,000 \times 0.5$ ).

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<sub>2</sub> 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 >



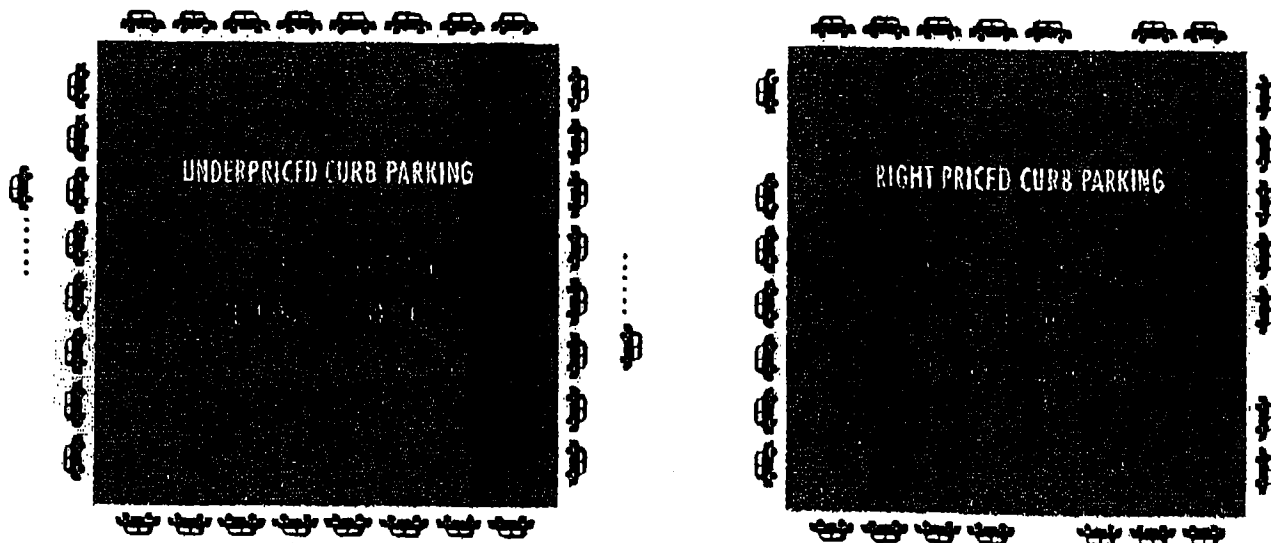
eight curb spaces on each side, the average cruising time to find a curb space is 3.3 minutes, and two cruisers are circling the block. In contrast, the right panel shows what happens if a city charges the lowest price that will produce a few vacant spaces. Drivers have no reason to cruise because they 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.

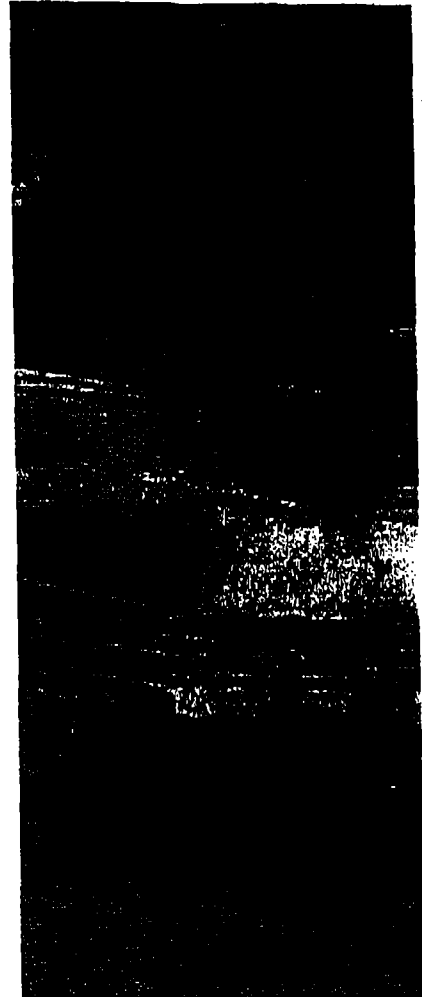
## LOCAL REVENUE RETURN

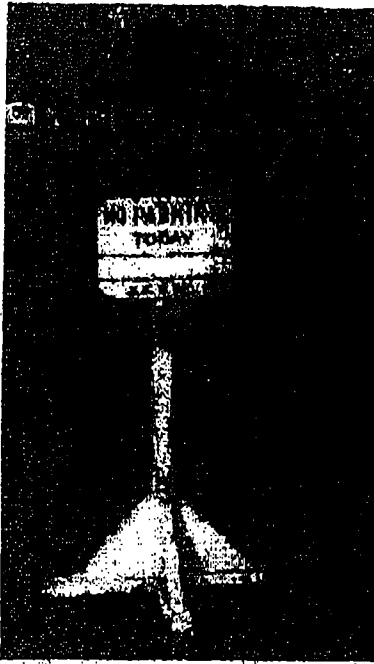
In addition to its transportation and environmental benefits, right-priced curb parking can yield ample revenue. If a city returns some of this revenue to pay for added public services on the metered streets, residents and local merchants will be more likely to support charging the right price for curb 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. 25, Fall 2003.  
<http://ehoup.hol.uchicago.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/racclaiming/soho\\_curbing\\_cars.pdf](http://transalt.org/campaigns/racclaiming/soho_curbing_cars.pdf)

Donald Shoup, *The High Cost of Free Parking* (Chicago: Planners Press, 2006).

Donald Shoup, "Cruising for Parking," *Transport Policy*, vol. 13, no. 3, 2006.  
<http://ehoup.hol.uchicago.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. ♦

from EMFAC2007 v2.3  
2010 Emission Rates - San Francisco Bay Area

Pollutant Name: Reactive Organic Gases Temp 45deg

Speed MPH	Composites of All Vehicles																		
	Light Duty Autos		Light Duty Trucks		Delivery Trucks		Small Heavy Duty		Medium Heavy Duty		Large Heavy Duty		Bus		Motorcycles		Motor Home		ALL
	LDA	ALL	LDT1	ALL	MDV	ALL	LHD1	ALL	LHD2	ALL	LHD	ALL	OBUS	ALL	UBUS	ALL	MCY	ALL	
0	0	0	0	0	0	0	19.448	15.272	8.855	13.88	13.88	11.938	0	0	0	0	5.98	0	0.732
5	0.53	0.908	0.528	0.55	0.55	0.55	0.628	1.288	1.144	1.144	12.071	1.571	3.546	6.315	1.674	1.778	3.336	0.578	
10	0.382	0.828	0.368	0.376	0.376	0.376	0.427	0.861	0.823	0.823	6.823	1.082	2.471	4.819	1.178	2.192	2.192	0.579	
15	0.258	0.459	0.258	0.266	0.266	0.266	0.303	0.628	0.615	0.615	3.398	0.777	1.792	3.441	0.868	1.502	1.502	0.392	
20	0.195	0.35	0.192	0.198	0.198	0.198	0.224	0.468	0.476	0.476	1.88	0.581	1.352	3.09	0.519	0.788	0.788	0.288	
25	0.154	0.28	0.151	0.155	0.155	0.155	0.173	0.382	0.382	0.382	1.488	0.452	1.08	2.907	0.424	0.62	0.62	0.182	
30	0.128	0.234	0.125	0.127	0.125	0.125	0.138	0.291	0.291	0.291	1.208	0.384	0.864	2.907	0.359	0.519	0.519	0.154	
35	0.111	0.205	0.108	0.108	0.108	0.108	0.114	0.242	0.242	0.242	0.956	0.325	0.722	2.907	0.313	0.423	0.423	0.148	
40	0.101	0.187	0.098	0.098	0.098	0.098	0.106	0.209	0.209	0.209	0.866	0.283	0.643	3.2	0.281	0.371	0.371	0.149	
45	0.098	0.179	0.093	0.093	0.093	0.093	0.088	0.187	0.187	0.187	0.788	0.236	0.587	3.678	0.261	0.339	0.339	0.162	
50	0.086	0.179	0.082	0.082	0.082	0.082	0.081	0.172	0.172	0.172	0.788	0.218	0.556	4.304	0.249	0.323	0.323	0.163	
55	0.101	0.188	0.085	0.085	0.085	0.085	0.077	0.165	0.165	0.165	0.788	0.206	0.556	5.352	0.245	0.32	0.32	0.184	
60	0.111	0.208	0.105	0.105	0.105	0.105	0.076	0.162	0.162	0.162	0.788	0.206	0.556	6.871	0.245	0.331	0.331	0.218	
65	0.128	0.237	0.12	0.12	0.12	0.12	0.078	0.165	0.165	0.165	1.198	0.206	0.591	8.871	0.245	0.331	0.331	0.278	

Pollutant Name: Carbon Monoxide

Speed MPH	LDA		LDT1		LDT2		MDV		LHD1		LHD2		MHD		HHD		OBUS		UBUS		MCY		SBUS		MH		ALL
	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	
0	0	0	0	0	0	0	0	0	112.457	90.644	44.168	48.454	72.712	0	0	0	0	0	0	0	0	0	39.365	0	0	3.763	
5	5.515	10.84	6.017	5.683	6.017	6.017	5.683	6.017	12.196	13.718	25.311	18.346	24.137	41.58	22.712	15.272	43.543	6.021	7.38	7.38	7.38	7.38	7.38	7.38	7.38	7.38	
10	4.640	8.899	5.141	4.691	4.691	4.691	4.691	4.691	8.75	8.75	17.905	12.307	15.807	34.405	15.272	10.821	30.613	5.078	6.021	6.021	6.021	6.021	6.021	6.021	6.021	6.021	
15	4.022	7.344	4.488	4.285	4.285	4.285	4.285	4.285	2.13	2.13	4.278	4.938	9.639	6.481	7.77	27.208	8.078	22.738	4.409	4.409	4.409	4.409	4.409	4.409	4.409	4.409	
20	3.552	6.371	3.889	3.833	3.833	3.833	3.833	3.833	1.673	1.673	3.38	3.888	7.982	5.102	5.88	25.984	6.352	17.843	3.931	3.931	3.931	3.931	3.931	3.931	3.931	3.931	
25	3.193	5.68	3.584	3.488	3.488	3.488	3.488	3.488	1.673	1.673	3.38	3.888	7.982	5.102	5.88	25.984	6.352	17.843	3.931	3.931	3.931	3.931	3.931	3.931	3.931	3.931	

EXHIBIT K

## Pollutant Name: Oxides of Nitrogen

Speed MPH	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCT	SBUS	SM	ALL
	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL

30	2.815	5.139	3.283	3.172	1.387	2.785	3.22	6.704	4.227	4.876	26.029	5.263	14.782	3.578
35	2.702	4.765	3.037	2.838	1.213	2.436	2.805	5.774	3.692	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	11.987	3.158
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	4.585	3.378	3.828	43.19	4.177	12.102	3.063
55	2.387	4.498	2.588	2.47	1.215	2.442	2.686	4.685	3.647	4.18	56.854	4.485	13.205	3.207
60	2.472	4.819	2.627	2.498	1.382	2.798	3.022	5.049	4.154	4.786	78.214	6.1	15.222	3.482
65	2.699	5.414	2.782	2.595	1.683	3.365	3.58	5.774	4.991	5.828	109.739	6.104	16.538	4.021

## Pollutant Name: Carbon Dioxide

Speed MPH	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCT	SBUS	SM	ALL
	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL

0	0	0	0	0	20.783	33.548	63.551	104.133	44.611	0	0	68.571	0	3.616
5	0.511	0.983	0.876	0.978	2.06	4.213	11.653	38.782	9.34	36.024	1.332	15.453	3.124	1.787
10	0.447	0.829	0.754	0.841	1.772	3.61	9.752	28.892	8.011	27.686	1.338	12.884	2.927	1.414
15	0.399	0.734	0.664	0.739	1.581	3.206	8.439	19.587	7.121	22.579	1.355	11.132	2.617	1.155
20	0.363	0.665	0.598	0.685	1.457	2.945	7.6	16.857	6.545	18.019	1.379	9.984	2.768	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	8.238	2.788	0.87
30	0.32	0.588	0.516	0.571	1.354	2.722	6.797	15.638	6.056	15.928	1.447	8.881	2.802	0.827
35	0.308	0.57	0.493	0.545	1.358	2.729	6.758	15.246	6.074	15.675	1.48	8.797	2.87	0.804
40	0.302	0.584	0.481	0.531	1.4	2.81	6.944	15.005	6.255	16.169	1.537	8.036	2.971	0.868
45	0.301	0.57	0.478	0.528	1.478	2.87	7.373	14.811	6.811	17.542	1.58	8.601	3.108	0.912
50	0.305	0.586	0.484	0.535	1.603	3.225	8.109	14.985	7.175	19.95	1.647	10.565	3.283	0.947
55	0.315	0.618	0.501	0.553	1.786	3.602	9.179	15.186	8.01	23.824	1.71	12.009	3.512	1.006
60	0.33	0.681	0.528	0.583	2.048	4.145	10.775	15.515	9.211	29.888	1.779	14.145	3.814	1.085
65	0.352	0.725	0.568	0.629	2.425	4.926	13.096	18.012	10.938	39.418	1.855	17.255	4.219	1.227

0	0	0	0	0	0	4586.308	4481.115	4204.188	6223.086	4378.872	0	0	4176.273	0	282.93
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## Pollutant Name: Sulfur Dioxide

Speed MPH	LDA ALL	LDT1 ALL	LDT2 ALL	MDV ALL	LHD1 ALL	LHD2 ALL	MHD ALL	RHD ALL	OBUS ALL	UBUS ALL	MCY ALL	SBUS ALL	MH ALL	ALL ALL
5	95.5	1161.694	1166.576	1616.611	1892.29	1661.234	1962.717	3780.492	1622.237	2654.593	242.441	1621.276	2403.593	1199.524
10	723.757	880.374	886.82	1221.865	1371.107	1176.462	1531.158	3092.72	1574.201	2550.688	204.829	1624.285	1654.095	889.276
15	567.631	692.73	703.528	958.702	1004.277	898.093	1453.488	2526.773	1398.674	2489.289	176.591	1467.009	1211.401	708.344
20	482.391	565.843	572.821	750.59	780.92	725.38	1408.184	2119.348	1243.631	2451.921	156.577	1432.134	841.888	533.486
25	390.798	479.888	494.073	656.866	642.107	618.285	1376.765	1876.558	1185.758	2428.698	141.282	1410.48	774.89	501.428
30	342.798	421.924	424.57	578.763	555.636	553.188	1358.45	1858.173	1117.305	2414.229	130.572	1396.967	670.038	446.183
35	312.07	394.945	396.478	528.682	503.588	513.415	1347.429	1783.011	1088.146	2405.623	123.528	1388.832	607.246	380.239
40	294.837	367.282	357.962	488.071	476.187	492.48	1341.628	1640.102	1088.565	2398.576	119.751	1384.555	574.195	360.239
45	269.063	367.282	357.962	488.071	476.187	492.48	1341.628	1640.102	1088.565	2398.576	119.751	1384.555	574.195	360.239
50	294.15	363.38	364.263	496.626	478.513	495.081	1342.351	1611.853	1074.716	2401.512	121.826	1386.088	578.317	368.155
55	310.816	383.195	384.675	524.427	511.008	519.068	1349	1606.102	1082.306	2408.785	128.363	1389.59	618.189	406.309
60	340.404	419.043	421.602	574.721	588.397	582.949	1361.155	1622.818	1124.48	2416.398	139.717	1398.851	685.448	439.672
65	387.163	475.313	478.568	653.698	682.75	635.063	1381.137	1663.124	1177.323	2432.151	157.558	1413.683	759.289	482.405

Pollutant Name: PM10

Pollutant Name: PM10 - Tire Wear		LDA		LDT1		LDT2		MDV		LHD1		LHD2		MHD		HHD		OBUS		UBUS		MCY		SBUS		MH		ALL	
Speed MPH	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL	ALL
0	0	0	0	0	0	0	0	0	0	0.206	0.441	0.817	1.758	0.561	0	0	0.778	0	0	0	0	0	0.051	0.778	0	0	0.054		
5	0.006	0.006	0.006	0.006	0.006	0.006	0.006	0.006	0.106	0.05	0.088	0.805	2.241	0.429	0.836	0.051	0.747	0.076	0.076	0.076	0.076	0.076	0.051	0.747	0.076	0.076	0.076	0.124	
10	0.033	0.044	0.071	0.071	0.071	0.071	0.071	0.071	0.071	0.037	0.086	0.474	1.521	0.334	0.808	0.041	0.588	0.057	0.057	0.057	0.057	0.057	0.041	0.588	0.057	0.057	0.057	0.084	
15	0.023	0.031	0.049	0.049	0.049	0.049	0.049	0.049	0.049	0.026	0.051	0.38	0.996	0.266	0.455	0.035	0.47	0.044	0.044	0.044	0.044	0.044	0.035	0.47	0.044	0.044	0.044	0.056	
20	0.017	0.023	0.038	0.038	0.038	0.038	0.038	0.038	0.027	0.017	0.033	0.311	0.693	0.217	0.353	0.028	0.385	0.035	0.035	0.035	0.035	0.035	0.028	0.385	0.035	0.035	0.035	0.043	
25	0.013	0.018	0.027	0.027	0.027	0.027	0.027	0.027	0.022	0.015	0.028	0.261	0.683	0.161	0.285	0.008	0.323	0.029	0.029	0.029	0.029	0.029	0.008	0.323	0.029	0.029	0.029	0.029	
30	0.01	0.015	0.022	0.022	0.022	0.022	0.022	0.022	0.018	0.012	0.021	0.198	0.5	0.155	0.257	0.025	0.276	0.025	0.025	0.025	0.025	0.025	0.025	0.276	0.025	0.025	0.025	0.025	
35	0.009	0.012	0.017	0.017	0.017	0.017	0.017	0.017	0.016	0.01	0.021	0.175	0.421	0.111	0.205	0.024	0.242	0.024	0.024	0.024	0.024	0.024	0.024	0.242	0.024	0.024	0.024	0.023	
40	0.008	0.011	0.017	0.017	0.017	0.017	0.017	0.017	0.016	0.01	0.018	0.16	0.424	0.111	0.17	0.027	0.199	0.017	0.017	0.017	0.017	0.017	0.027	0.199	0.017	0.017	0.017	0.022	
45	0.007	0.01	0.016	0.016	0.016	0.016	0.016	0.016	0.015	0.009	0.016	0.15	0.458	0.104	0.163	0.031	0.186	0.016	0.016	0.016	0.016	0.016	0.031	0.186	0.016	0.016	0.016	0.022	
50	0.007	0.01	0.016	0.016	0.016	0.016	0.016	0.016	0.015	0.009	0.017	0.144	0.517	0.099	0.162	0.037	0.178	0.015	0.015	0.015	0.015	0.015	0.037	0.178	0.015	0.015	0.015	0.023	
55	0.008	0.011	0.018	0.018	0.018	0.018	0.018	0.018	0.017	0.009	0.017	0.141	0.608	0.097	0.167	0.046	0.174	0.015	0.015	0.015	0.015	0.015	0.046	0.174	0.015	0.015	0.015	0.026	
60	0.008	0.011	0.018	0.018	0.018	0.018	0.018	0.018	0.017	0.009	0.017	0.141	0.608	0.097	0.167	0.046	0.174	0.015	0.015	0.015	0.015	0.015	0.046	0.174	0.015	0.015	0.015	0.026	
65	0.009	0.013	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.009	0.017	0.141	0.724	0.087	0.178	0.06	0.174	0.016	0.016	0.016	0.016	0.016	0.06	0.174	0.016	0.016	0.016	0.03	



## **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 these districts.

✓ A study<sup>1</sup> 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

<sup>1</sup> San Francisco Department of City Planning, "Parking Demand for Affordable Housing in San Francisco," January 1992.

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<sup>2</sup> 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.

<sup>2</sup> Jeffrey Tamlin, Nelson/Nygard Consulting Associates. "Vehicle Ownership in San Francisco," Technical Memorandum, November 2001.



## **PLANNING DEPARTMENT**

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# **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
<b>RENTAL HOUSING</b>					
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
<b>OWNERSHIP HOUSING</b>					
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 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

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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**

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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%

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

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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

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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.

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## **ATTACHMENT 12**

West Hollywood Municipal Code

Up Previous Next Main Search Print No Frames

Title 19 Zoning Ordinance  
Article 19-3 Site Planning and General Development Standards  
Chapter 19.20 General Property Development and Use Standards

[ remove highlighting ]

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

*San Francisco County Transportation Authority  
Expenditure Plan: Draft EIR*

**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.

*San Francisco County Transportation Authority  
Expenditure Plan: Draft EIR*

### 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**

<i>Attributes</i>	2000	2025		
	<i>Base</i>	<i>No Project Alternative</i>	<i>Expenditure Plan Alternative</i>	<i>One Cent Alternative</i>
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, SFTA, 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**

<i>Measure</i>	2000	2025		
	<i>Base</i>	<i>No Project Alternative</i>	<i>Exp Plan Alternative</i>	<i>One Cent Alternative</i>
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, SFTA, May 2003. Percentages may not be exact due to rounding.*



*San Francisco County Transportation Authority  
Expenditure Plan: Draft EIR*

## 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:

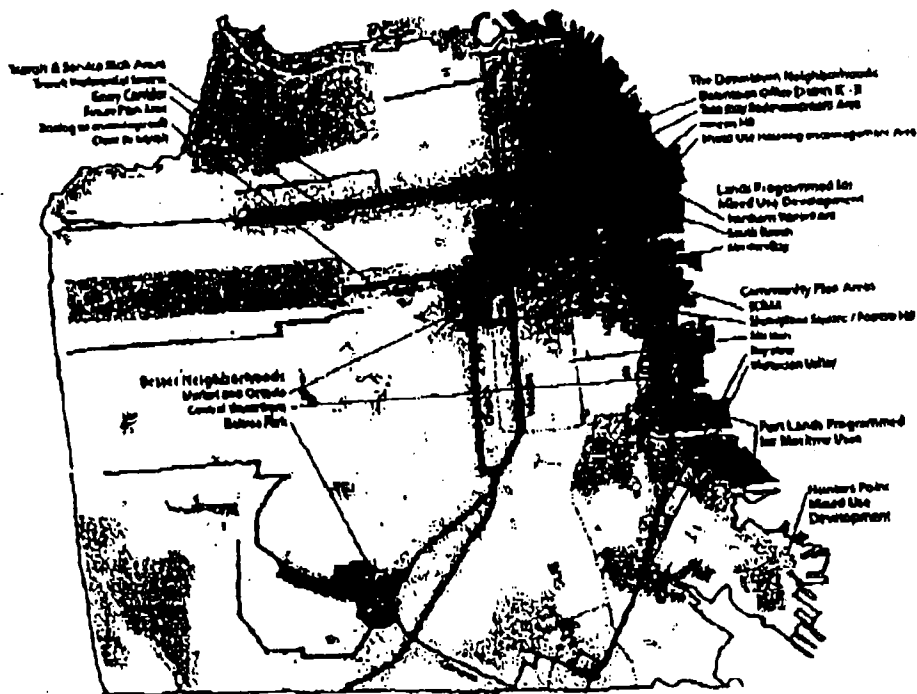
First, it is evident that transportation investment in general – and increased capacity in particular – currently lag behind the growth that has already occurred in San Francisco and in the Bay Area. This situation exists because of the general constraint on transportation funding available for system 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

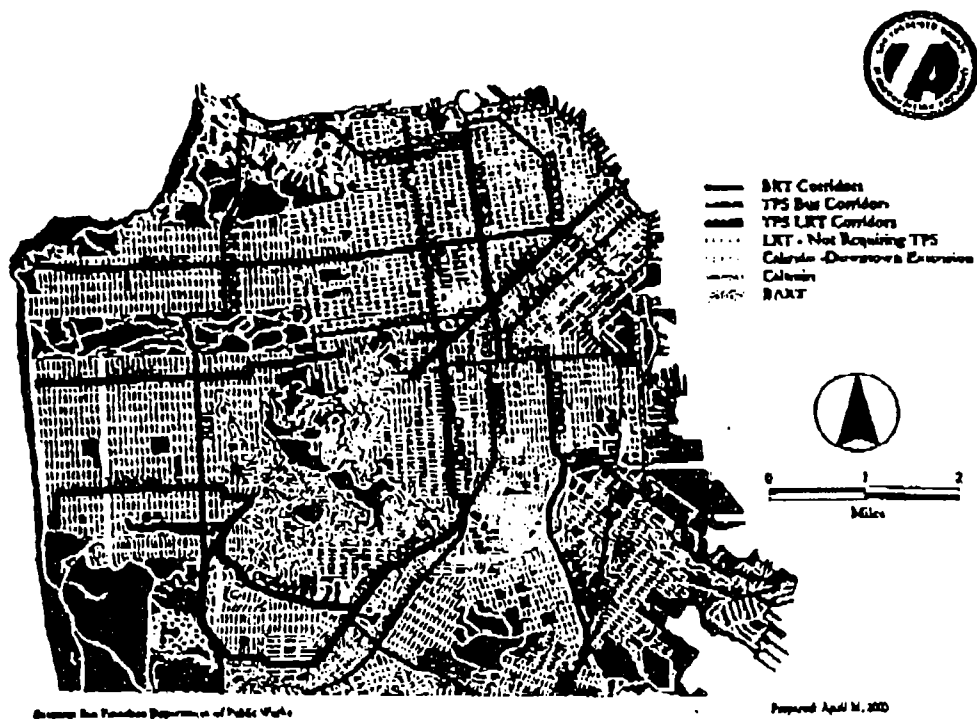
Figure 5.1: Proposed Citywide Land Use Action Plan



Source: "Overview of the Citywide Action Plan, San Francisco Planning Department, August 2002."

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Figure 5.2: Proposed Transit Priority Network Action Plan



Source: Transportation Authority, 2003

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From:

M K Venkatachari

355 Serrano Drive, Apt 12-C

Parkmerced

San Francisco, CA 94132

[mvenka01@yahoo.com](mailto:mvenka01@yahoo.com)

415-239-4180

To:

Attn: Mr. Bill Wycko (As e-mail attachment)

Environmental Review Officer

San Francisco Planning Department

1650 Mission Street, Suite 400

San Francisco, CA 94103

CC Jessica Range (As e-mail attachment)

**Subject: San Francisco 2004 and 2009 Housing Element – Draft EIR -  
Citizen Comment**

Dear Sir:

As a long-time and senior citizen resident of our great City and also of the Parkmerced complex, I am deeply interested in the great service you all of the Environmental Group of our Planning Department render to the people of San Francisco. I take this opportunity to complement you for your contribution in the matter of the subject reports.

As a layman, I have a few comments and questions for your consideration, keeping in mind that the document is very extensive and I could not devote as many hours to the my review as I would have liked to, not to speak of my rather limited expertise in most of these issues.

### **The Methodology**

The methodology that appears to have been consistently applied for population growth estimates and for at least some of the impacts seem to rest on an earlier estimates done for the way-out years of 2030 or 2025 (Estimate Year) over a base line year such as the year 2005 or 2010. In each case, the average increase per year between the base year and the Estimate Year (2025 or 2030) has been used to figure the value for any year falling between the base year and estimate year assuming a linear growth. For example, for any calendar year, A, between 2005 and 2025, its relevant

1-12

D-4

value has been estimated as follows: (Value for 2005) + (A-2005) x (Average yearly growth between 2005 and 2025).

The question is this: what are the justifications for assuming that (a) a estimate made now for Estimate Year that could be as far as 20 years into future would be more accurate than one undertaken for the year in question directly? (b) what are the justifications for assuming that the increase would be linear over the entire period up to the Estimate Year? Please see my reference below on completion of phase I of Parkmerced Expansion.

D-4  
Cont.

**How does the Report account for traffic generated by business activities in the City with clients all over the Bay Area?**

I understand that the Elements Reports under discussion use data provided by other agencies of the City and their reports. Did the current authors get satisfaction, for example, that the traffic generated by new businesses and large and ever-expanding institutions like SFSU got included in the traffic flow calculations and estimates, the traffic flow that does not directly relate to the resident population?

F-19

**Forecasts as to the street traffic, transit rider-ship and other T-C issues**

As we recall how badly the so called Gurus in Economics, some with Nobel certification, failed to warn the country of the economic free fall of 2008 and the deepest recession the nation has had to undergo since the Great Depression, we realize how important it is that we take such forecasts with a pinch of salt even as we view the methodology and the algorithms for the statistics and data more carefully with caution and Plan Bs. Most of all, we are not to overlook what we see and experience despite what experts might say.

F-20

I am referring now in particular to the N and S bound traffic jam on Lake Merced Blvd that I watch on most days, around its intersections with Brotherhood and Higuara. It is unbelievable how bad the situation is on most days including Sundays, particularly at peak hours. Conditions are worse during the months of the year when SFSU is in session. The N bound vehicular back up could go, I am sure, all the way up to 280N. Further, in the plan period for Element 2009, most of the 1855 additional units included under Parkmerced expansion (Phase I) along side Lake Merced Blvd. (with two new signaled feeder roads to this Blvd) is expected to be completed and possibly other housing under developments in the neighborhood as well. The Executive Summary Table II-1 under Impact TR-1 (Transportation and

Circulation) delivers a SU rating, prior and after mitigation, since no feasible mitigation method has been identified. There must be many other problem intersections in the city. Now, does this kind of expressed helplessness in the context of a known, definite and inevitable deterioration of conditions get a free-pass as if it were an act of God and thus get ignored under the label "no impact" which could be true in the sense that conditions were terrible even before any one built anything under the plans under consideration?

↑  
F-20  
Cont.  
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I shall be thankful if you could respond to my above concerns at your convenience.

With warm regards,

Sincerely,

M K Venkatachari

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BY HAND DELIVERY

August 31, 2010

RECEIVED

Bill Wycko  
Environmental Review Officer  
San Francisco Planning Department  
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AUG 31 2010

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
RECEPTION DESK

Re: San Francisco 2004 and 2009 Housing Element EIR  
Planning Department Case No.: 2007.1275E

The following are comments on the Draft Environmental Impact Report for the proposed 2004 and 2009 Housing Elements.

## INTRODUCTION

In *San Franciscans for Livable Neighborhoods v. City and County of San Francisco*, Court of Appeal Case Number A112987, the California Court of Appeal held that the City violated the California Environmental Quality Act ("CEQA"), Public Resources Code sections 21,000 *et seq.*, by approving the proposed 2004 Housing Element amendments without preparing an environmental impact report analyzing significant environmental impacts and alternatives. As a result, the San Francisco Superior Court enjoined the City from relying upon or implementing proposed changes in policies, objectives and implementation actions of the Housing Element, as described in the Peremptory Writ of Mandate and Amendment to Peremptory Writ of Mandate attached hereto as Exhibits 1 and 2, respectively. The Court ordered the City to refrain from implementing such changes until it fully complies with the requirements of CEQA.

1-13

## I. THE DEIR'S PROJECT DESCRIPTION IS INADEQUATE.

### A. The Objectives of the Proposed Project Are Ambiguous.

CEQA requires an accurate, stable, finite project description in order to provide a baseline for the analysis of alternatives and mitigation measures which could reduce or eliminate significant effects of the proposed project. The DEIR has failed to clearly define the project which is under environmental review or clearly state the objectives of that project.

5-22

The DEIR provides a vague description of differing and unexplained objectives, and fails to disclose the approximate number of new housing units which the proposed project seeks to achieve. The objective of providing a "vision for the City's housing and growth management through 2014" is amorphous and undefined. The objective to "ensure capacity for the development of new housing to meet the RHNA at all income levels" is unexplained in objective terms. The objectives of encouraging "housing development where supported by existing or planned infrastructure" and developing "a vision for San Francisco that supports sustainable local, regional and state housing and environmental goals" are also vague and unexplained. (DEIR Page II-2) The DEIR must be revised to inform the public and decision makers of the number, type, location, and characteristics of the additional housing units that the 2004 and 2009 Housing Elements seek to achieve.

5-22  
Cont.

#### **B. The Nature of the Project Proposed for Approval is Unclear.**

The DEIR's discussion of the projects proposed for approval is confusing and conflicting. The DEIR states that following certification of the EIR, the City could re-adopt the entire 2004 Housing Element and, in addition, the City could also adopt the proposed 2009 Housing Element. (DEIR Page II-2) The 2004 and 2009 Housing Elements are two different stand-alone documents which contain different policy language and implementation actions. The DEIR fails to explain which document controls if the City adopts both the 2004 and 2009 Housing Elements. What would be the purpose of approving the 2004 Housing Element if the City simultaneously approves the 2009 Housing Element?

2-6

#### **C. The DEIR Inaccurately Describes the Proposed Changes to the Housing Element.**

The DEIR inaccurately describes the policies from the 1990 Residence Element that were removed in the 2004 Housing Element. (DEIR Page IV-27). As explained in the attached Peremptory Writ of Mandate, the 2004 Housing Element omitted 1990 Residence Element Objective 2, "To increase the supply of housing without overcrowding or adversely affecting the prevailing character of existing neighborhoods." (Exhibit 1). The 2009 Housing Element also omits 1990 Objective 2, but the DEIR fails to acknowledge this omission. Thus, the DEIR fails to accurately describe the proposed project's policy changes or analyze the impacts of omitting this important 1990 policy.

5-23

The DEIR inaccurately describes the modifications made in the 2004 Housing Element. The DEIR mentions only new policies and some omitted policies and fails to set forth new implementation actions, significantly modified policies and important interpretative text which embodies the thrust of the policies. (DEIR Page IV-27-31) The DEIR must be revised to analyze the impacts of the following changes proposed in the 2004 Housing Element that were enjoined in the Peremptory Writ of Mandate and Amendment to Peremptory Writ of Mandate:



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

5-23  
Cont.

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)
12. With respect to 2004 Implementation 1.6, the new added language consisting of “no residential parking requirement; and no density requirements for residential projects.”
13. 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)
14. 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

5-23  
Cont.

DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL  
NEIGHBORHOODS.” (See 15 AR 4195, 1 AR 276, 1990 RE p. 106)

15. 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)
16. 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)

5-23  
Cont.

**D. The DEIR’s Discussion of the City’s Existing Capacity for New Housing Units  
Is Ambiguous.**

While the DEIR admits that the most feasible way to present growth under the Housing Element update is to disclose the possible areas and means by which development could take place, it fails to do so. (DEIR Page III-1) The DEIR states that “approximately 60,995 new housing units could be accommodated under existing zoning” but then states that the City has recently updated zoning controls for the Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront and Balboa Park and that these “planning efforts have developed updated zoning, heights bulks, and densities in balance with infrastructure...Under existing zoning capacity, these planning areas could accommodate 3,669 net new housing units, representing approximately six percent of the total citywide existing capacity of 60,995 units as described previously.” (DEIR Page IV-14 and 22) The DEIR has failed to state the capacity of these areas before the rezonings that were approved after the 2004 Housing Element was adopted on May 13, 2004 or describe the nature or characteristics of the upated zoning controls. The DEIR should describe the nature and characteristics of all rezonings that occurred after May 13, 2004 and disclose the number of parcels rezoned in each neighborhood.

5-24

The DEIR also fails to state whether the view it presents of the unrealized capacity of

5-28

various districts under existing zoning would involve construction up to maximum height limits in areas where established neighborhoods have acquired a character substantially lower than existing height limits. Since the City has been enjoined from relying upon New Policy 11.8, calling for maximization of allowable building densities and creatively addressing residential parking and open space requirements, is the DEIR relying upon maximization of density or creative residential parking and open space requirements in its analysis of the City's capacity for additional residential units under existing zoning? If so, for what neighborhoods did the DEIR utilize maximization of density calculations in its determination of unrealized capacity?

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Cont.

As to the 4,111 lots that are "seen as underdeveloped and could be redeveloped for residential uses, which could possibly yield another 40,452 new units" please identify the address of each such lot, district in which it is located, type and amount of development currently existing thereon and explain how you calculated the development or redevelopment potential of each site. (DEIR page IV-14) As to each of said 4,111 lots that are seen as underdeveloped because they contain a potential for a secondary unit, identify the address of each parcel and district in which each parcel is located in which the addition a secondary unit is included in the DEIR's analysis of the development or redevelopment potential of said lot.

5-30

As to all rezoning that occurred in the City after the 2004 Housing Element was approved on May 13, 2004, identify each rezoning ordinance which included reduced, eliminated or maximum parking requirements and the district to which it applied. As to all rezoning that occurred in the City after the 2004 Housing Element was approved on May 13, 2004, identify each rezoning ordinance which included an option for no density requirements. As to all rezoning that occurred in the City after the 2004 Housing Element was approved on May 13, 2004, identify each rezoning ordinance which contained a floor-to-area ratio exemption. As to all rezoning that occurred in the City after the 2004 Housing Element was approved on May 13, 2004, identify each rezoning ordinance which contained a parking requirement exemption for the construction of affordable or senior housing. Identify each rezoning that was approved after May 13, 2004 in connection with a Better Neighborhoods type planning process and describe the characteristics of that rezoning.

5-25

The 2004 Preliminary Work Program for Implementing the Housing Element (1 AR 328) lists the following enjoined policies as being implemented in the identified Implementation Actions:

1. 1.6, 11.1, 11.6, 11.8 and 11.9 – new Land Use Element, which for the first time would establish the policy basis for the Citywide Action Plan (CAP) in one element of the General Plan
2. 1.5, 11.8 – amendments to Urban Design Element to establish the policy basis for the CAP

5-26

3. 1.6. 1.7 – Eastern Neighborhoods including Visitacion Valley, South of Market, Showplace Square/Potrero Hill, Mission, South Bayshore
4. 11.1, 11.7, 11.8 – New Downtown Neighborhoods and Transit Corridor Plans including Rincon Hill, Ball Park Special Use District, Transbay Terminal, Mid-Market Redevelopment Areas, other downtown neighborhoods and other transit-served corridors
5. 11.1, 11.7, 11.8 – Better Neighborhoods Programs including Market and Octavia, Central Waterfront, Balboa Park, and Geary Boulevard Better Neighborhood Program

5-26  
Cont.

Identify each rezoning measure approved after May 13, 2004 which implemented any of the policies described above in Market/Octavia, Mission, East SoMa, Showplace Square/Potrero Hill, Central Waterfront, Balboa Park or any other area. Describe each rezoning measure approved after May 13, 2004 which increased the height limit applicable to any parcel, increased the density limit applicable to any parcel or provided for reduced or maximum parking or open space requirements for any parcel. For each such rezoning measure passed in connection with a new area plan, specific plan or Better Neighborhoods-type plan, state the number of parcels rezoned for increased height limits, reduced density limits or reduced or maximum parking or open space requirements and describe the nature of the zoning control changes.

For each project which the City approved after May 13, 2004 that provided for less than one parking space for each residential unit contained in the project or parcel, identify the address of each such parcel, district in which it is located, zoning classification applicable to the parcel, type and amount of development currently existing thereon, amount of parking spaces available on the parcel, square footage of ground occupied by the parcel and height limit applicable to the parcel. For each project which the City approved after May 13, 2004 that provided for a floor-to-area ratio exemption, an exemption from a density or parking requirement or a maximum parking control, identify the address of each such parcel, district in which it is located, zoning classification applicable to the parcel, type and amount of development currently existing thereon, amount of parking spaces provided on the parcel, square footage of ground occupied by the parcel and height limit applicable to the parcel.

5-27

The DEIR states that the “City is also in the process of updating zoning controls for many of San Francisco’s neighborhoods. These rezoning efforts will increase the existing capacity in those neighborhoods, allowing for the development of additional housing units above and beyond what is shown in Figure IV-5 and Table IV-5.” (DEIR Page IV-14) The DEIR fails to identify those neighborhoods of the potential increased capacity which is under consideration for each such neighborhood. Identify each neighborhood for which the City is in the process of updating zoning controls, describe the zoning control changes under contemplation and disclose the

5-31

residential and neighborhood commercial zoning classifications under consideration for change. Also disclose the potential increase in the existing capacity of each neighborhood for which the City is in the process of updating zoning controls or contemplates updating zoning controls.

5-31  
Cont.

The DEIR states that as of the first quarter of 2009, there were projects in the "pipeline" which could produce 56,435 new units. (DEIR Page IV-23) How many of these new units would contain less than one parking space for each residential unit in the project or involve a floor-to-area ratio exemption, an exemption from density or parking requirements, a reduction in open space from that required by zoning in effect prior to May 13, 2004, or an increase in height limits beyond that permitted by zoning in effect prior to May 13, 2004? Please state the location address and district in which each such new unit is or would potentially be constructed, the amount of on-site parking spaces being provided or considered for the project and describe for each project any conditional use approvals or variances applied for, any increase in height limit applied for, and any exemption from a floor-to-area ratio requirement, a density requirement or a parking requirement involved in such applications. The DEIR states that three major projects - Candlestick Point-Hunters Point Shipyard, Treasure Island and Park Merced - comprise approximately half of the pipeline projects. (DEIR Page IV-23) Identify the districts where the other pipeline projects are located and the total number of units which each project could produce.

5-32

**E. The DEIR Fails to Clearly Explain the Nature or Effect of the RHNA in Shaping the Proposed Policies and Objectives of the Housing Elements and Inducing Population Growth.**

The DEIR vaguely alludes to the fact that the Association of Bay Area Governments ("ABAG"), in coordination with the California Department of Housing and Community Development ("HCD"), determined the City's fair share of the regional housing need and that said fair share allocation not only seeks to alleviate a tight housing market stemming from forecasted household and employment growth but also to allocate regional household and employment growth to jurisdictions with established or planned transit infrastructures. (DEIR Page IV-10) The 1999-2006 Regional Housing Needs Allocation (herein "RHNA") was 20,372 and the 2007-2014 RHNA is 31,193. How many units of the 1999-2006 and 2007-2014 RHNA are intended to allocate regional household and employment growth to the City because it has established or planned transit infrastructures and what planned transit infrastructure provided the basis for that allocation?

5-33

Is it not true that a central goal of the RHNA allocation is to shift population growth from suburbs to inner cities such as San Francisco, Oakland and San Jose? How many units of the 2007-2014 RHNA were allocated to San Francisco to achieve the goal of shifting population to the inner city and how many units were allocated to accommodate forecasted household and employment growth that would occur normally without the impetus of policies designed to shift population to inner cities?

5-34

When were the 1999-2006 and 2007-2014 RHNA allocations made, and were they adjusted for the decline in employment growth that occurred after these RHNA allocations were made? What was the City's projected household and employment growth when these allocations were made? What has the City's actual employment and household growth rate been for each year from 1999 through the present, and what number of new jobs and households has been created each year? If the City's employment rate has dropped since the 2007-2014 RHNA was made, was the RHNA adjusted to take into account the actual decrease in the City's employment?

What evidence is there that a strategy of increasing density in inner cities actually prevents or significantly decreases population growth or new construction in suburbs or actually reduces vehicle emissions from miles traveled? How long has the ABAG strategy of shifting growth to inner cities been implemented and to what extent has the rate of growth in suburbs or total vehicle emissions decreased since those policies were implemented? What incentives do the 2004 and 2009 Housing Elements provide to encourage people to choose to reside in the inner city rather than the suburbs? According to the Declaration of Golick, an expert planner, filed on September 10, 2008 in the above-described action and previously submitted as Exhibit 3 to my November 12, 2008 scoping comments:

"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."

What evidence do you have indicating that the strategy of increasing residential densities in urban areas well served by transit has significantly decreased impacts from suburban sprawl? As to the residential units constructed in high-rise structures or high density projects since this ABAG strategy was implemented, what are the demographic characteristics of the persons who chose to live in such dense housing in terms of number of occupants, marital status, age, location of employment and country of citizenship? Is it not true that substantial numbers of people who reside in such units are single individuals (some of whom commute to work in locations outside the City such as Silicon Valley), empty nesters whose children no longer live with them or non-US citizens who use such units as second or vacation homes? What evidence is there that significant numbers of families with children have chosen to live in residential units constructed

5-34  
Cont.

in high-rise structures or high density projects? What percentage of families with children having one or more adult employed in San Francisco have chosen to reside in such units?

5-34  
Cont.

The October 2009 SFPUC, Final Water Supply Availability Study for City and County of San Francisco ("2009 Study") relied upon at DEIR, page V.L.-4 and available on the SFPUC website), incorporated the ABAG assumption "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." (2009 p. 22)

Appendix A to the 2009 SFPUC, Final Water Supply Availability Study for City and County of San Francisco 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 residents in 2005 to 916,800 by 2030. This is a projected increase of 133,359 residents, which amounts to a 17% increase in the City's population.

7-5

However, the DEIR falsely portrays the substantial growth in number of housing units as occurring without the impetus of "smart" growth principles implemented through the RHNA. How does the RHNA operate to shift growth to inner cities such as San Francisco and encourage construction of substantial numbers of new housing units there? The DEIR fails to explain to the public the true function and probable effects of the RHNA in inducing substantial population increase and over-crowding in San Francisco and thereby causing substantial traffic congestion, air pollution, noise and demand on infrastructure and city services.

The 2004 Housing Element targeted the "construction of almost 20,400 new housing units, with affordability goals allocating housing production efforts at 26% for very low income households, 10% for low income households, 28% for moderate income households, and 36% for above moderate income households." (2004 approval resolution, Exhibit 3 hereto) This target amounts to 5,244 units for Very Low income households, 2,126 for Low, 5,639 for Moderate and 7,363 for Above Moderate income households. (DEIR Page IV-10) However, the DEIR states that the 2004 Housing Element option includes the objectives, policies and implementation programs of the 2004 Housing Element but utilizes the updated Data and Needs Analysis of the 2009 Housing Element and an updated RHNA. (DEIR Page IV-14) The updated 2009 RHNA contains different percentage and number of unit targets for each of these groups, allocating 3,294 units or 10.5% to Extremely Low; 3,295 or 10.6% to Very Low; 5,535 or 17.7% to Low; 6,754 or 21.7% to Moderate, and 12,315 or 39.5% to Above Moderate income households. How can the 2004 Housing Element policies and programs achieve the RHNA goals for the 2007-2014 planning period?

5-35



What number of units have been constructed for each income group during the planning period from January 1999 through June 2006, as to which the 20,372 RHNA applied? Since the City achieved only about 15% of the 1999-2006 RHNA goal for production of housing units for middle income households during that time period, which of the 2004 and 2009 Housing Element policies are designed to achieve production of units for middle income residents and why did the City fail so substantially to achieve its targets for this income level during the prior planning period? Given the 2009 Housing Element's prioritization of subsidies for very low income housing, how can the City realistically expect to achieve a greater percentage of the RHNA goal as to production of housing for the middle class for the 2007-2014 period? What percentages of the RHNA goals have been achieved to date for the 2007-2014 planning period for each income level? Would implementation of the 2004 or 2009 Housing Element policies realistically be expected to produce significant amounts of housing for high and very low income residents and discourage middle and low income residents from living in the City?

5-36

Has the City had any communications with ABAG or HCD as to whether the City has the infrastructure needed to support the 2009 RHNA allocation of 31,193 units or whether it is feasible to produce so many housing units? Please accurately describe all such communications and attach copies of any such written communications to the Final EIR. Also attach copies of HCD's review of the proposed 2009 Housing Element.

5-37

#### **F. Policy Language Is Ambiguous.**

Proposed 2009 Housing Element Policy 11.4 calls for exploring "neighborhood livability initiatives" that could examine community-supported guidelines and result in strategies to improve the appearance and accessibility of neighborhood commercial districts or neighborhood specific design guidelines. However, the document fails to explain the methods by which this policy would be implemented. What do you mean by "neighborhood livability initiatives?" Is the Planning Department not prohibited from participating in political activities such as promoting measures placed before the voters? What specific activities do you contemplate engaging in to explore or participate in "neighborhood livability initiatives?"

6-35

## **II. THE DEIR INADEQUATELY ANALYZES CONFLICTS WITH ADOPTED LAND USE PRIORITY PLANNING POLICIES AND ADVERSE VISUAL AND AESTHETIC IMPACTS.**

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

A-10

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.

A-10  
Cont.

Subdivisions (c) and (d) of said provision 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 embodied 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 (respecting rather than maintaining existing neighborhood character) and encourage increased height limits significantly conflict with the priority policies which require that existing housing and neighborhood character be conserved and open space and access to sunlight and vistas be protected from development.

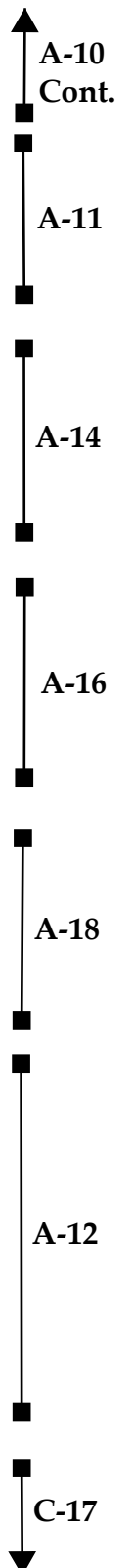
In addition, the 2004 and 2009 Housing Element policies which direct additional growth to neighborhood commercial areas conflict with the priority policy which requires that existing neighborhood-serving retail uses be preserved, since the proposals would encourage demolition of existing low level structures and construction of taller, bulkier new structures that independent local businesses would not be able to afford to rent.

2004 and 2009 Housing Element policies which encourage construction of taller, bulkier, more dense 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 relatively affordable housing and highly attractive architectural styles such as Victorians which are historically significant in the urban environment.

2004 and 2009 Housing Element policies encouraging conversion of land currently used for industrial purposes to mixed-use commercial and residential use conflict with the priority policy 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.

Thus, the proposed projects would significantly conflict with applicable priority land use policies set forth above and have a substantial adverse impact upon aesthetics and the existing visual character of many areas and public vistas. The DEIR should have analyzed the 2004 and 2009 Housing Elements' conflicts with applicable Proposition M priority policies as a significant impact but unlawfully failed to do so. Since Proposition M priority policies requiring the conservation and protection of neighborhood character must be given priority over other less protective policies set forth in the 2004 and 2009 Housing Elements, the DEIR should have acknowledged that alternatives which would avoid this conflict with priority land use policies and maintain the character of established residential areas would avoid or lessen such significant impacts.

With respect to the 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,” the March 23, 2004 statement by expert David Golick explained that 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. (8 AR 1923-1928, 1919-1920) Thus, existing structures in neighborhood commercial areas are lower than the current 40-foot height limit that applies to most such areas. (*Id.*) Even though the DEIR acknowledged that the 2004 Housing Element sought to encourage development in neighborhood commercial areas, it failed to analyze the direction of development to neighborhood commercial areas as having a significant impact on visual quality, aesthetics and traffic conditions and as significantly conflicting with priority policies .

▲  
C-17  
Cont.  
■

### CONCLUSION

The DEIR lacks an accurate project description and fails to adequately analyze significant impacts of the proposed 2004 and 2009 Housing Elements and alternatives that could lessen or avoid impacts. The DEIR fails to inform the public and decision makers of the substantial population growth and adverse impacts on the quality of the City’s environment that could result from implementation of the proposed projects.

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■

The DEIR relies upon euphemisms to falsely portray as mere “updates” massive rezonings of historic significance which would substantially increase the City’s capacity for additional housing units in many areas (and far beyond the goals of the RHNA). The DEIR inaccurately minimizes, ignores or fails to adequately analyze significant impacts and a reasonable range of alternatives to the proposed projects. Thus, the DEIR conceals the true effects of the proposed 2004 and 2009 Housing Elements and amounts to an attempt at obfuscation rather than a good faith effort to disclose and analyze significant impacts.

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The City has therefore failed to heed the mandate of the Peremptory Writ of Mandate that it fully comply with the requirements of CEQA and must produce and recirculate a substantially revised and legally adequate EIR before it can lawfully approve or implement any changes in the City’s 1990 Residence Element that are embodied in the 2004 or 2009 Housing Elements.

■  
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■

Very truly yours,

*Kathryn Devincenzi*

Kathryn Devincenzi



Kathryn Devincenzi (SB# 70175)  
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: [Signature] 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

1 supported by substantial evidence, from any and all changes in the City's 1990 Residence  
2 Element that are embodied in the amended housing element, and to fully comply with the  
3 requirements of CEQA by June 30, 2009, concerning said proposed amendments to the housing  
4 element of the City's general plan. Among the proposed amendments to the housing element of  
5 the City's general plan that will be analyzed as part of the project considered in said EIR are the  
6 proposed omission of 1990 Residence Element Policy 2-4 to adopt specific zoning districts that  
7 would set density categories (Slip Op. 17, 22; JN 81-84) and the proposed omission of 1990  
8 Residence Element Objective 2 "To increase the supply of housing without overcrowding or  
9 adversely affecting the prevailing character of existing neighborhoods." (Slip Op. p. 22; JN p.  
10 80)  
11

12 Until you prepare, consider and certify said EIR and fully comply with the requirements  
13 of CEQA in relation to the changes from the City's 1990 Residence Element embodied in the  
14 amended housing element, YOU ARE COMMANDED to refrain from enforcing, relying upon,  
15 approving or implementing the following changes from the 1990 Residence Element, together  
16 with the accompanying interpretative text and implementation actions which are stated along  
17 with such matters in the 2004 Housing Element:  
18

- 19 1. New Policy 11.8 to "Strongly encourage housing project sponsors to take full  
20 advantage of allowable building densities in their housing developments while  
21 remaining consistent with neighborhood character" as interpreted by explanatory  
22 text providing that the "Department should strongly support projects that  
23 creatively address residential parking and open space requirements, resulting in  
24 higher densities with a full range of unit sizes" and that the Department will  
25 "study the impacts of reduced parking and private open space provisions and will  
26 consider revising the Planning Code accordingly." (Slip Op. p. 17-18; 1 AR 284-  
27 285)
- 28 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)



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

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

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

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

22           a)    The policies, objectives and implementation measures of the 2004 Housing Element  
23   listed above, are severable from the remaining policies, objectives and implementation measures.  
24   This finding is based on the Court of Appeal’s holding that environmental review of the entire 2004  
25   Housing Element is not necessary under CEQA and *Black Property Owners v. City of Berkeley*  
26   (1994) 22 Cal.App.4<sup>th</sup> 974 because the 2004 Housing Element makes no changes to many policies  
27   and objectives in the 1990 Residence Element; and,  
28

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

7 (c) Consistent with the Court of Appeal holding that "[s]everal Housing Element policies  
8 incorporated no text change whatsoever from the 1990 Residence Element, and no purpose would be  
9 served in conducting environmental review on policies that were evaluated before the adoption of the  
10 1990 Residence Element," the Court finds that the remaining policies in the 2004 Housing Element  
11 do not violate CEQA.

12 In addition, the Court further finds that consistent with Public Resources Code section  
13 21168.9(c) and *Laurel Heights Improvement Assoc. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d  
14 376, the Court exercises its equitable powers in fashioning an appropriate remedy under CEQA, and  
15 finds that there are compelling public policy reasons to allow the City and County of San Francisco to  
16 rely on the remaining portions of the 2004 Housing Element, save for the policies listed above, to wit  
17 that the provision of housing, particularly affordable housing, is a "priority of the highest order" as  
18 acknowledged by case law and the state Legislature, and that San Francisco must strive to provide its  
19 fair share of regional housing needs.

20 YOU ARE FURTHER COMMANDED to certify the environmental impact report and  
21 fully comply with the provisions of the California Environmental Quality Act, Public Resources  
22 Code §§ 21000 *et seq.*, concerning the proposed housing element amendments described herein  
23 by June 30, 2009, and to make and file a return to this Court upon taking action in compliance  
24 with this writ, setting forth what you have done to comply, and this Court shall retain jurisdiction  
25  
26  
27  
28

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

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

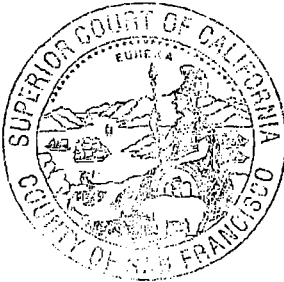
4  
5 DATE: 04-06-09

Charlotte W. Woolard  
6 THE HONORABLE CHARLOTTE W. WOOLARD  
7 JUDGE OF THE SUPERIOR COURT  
8  
9

10  
11 DATE: 4-6-09

GORDON PARK-LI, Clerk of the Superior Court

12 By: [Signature] Deputy Clerk



ERICKA LARNAUTI



**FILED**  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO

JUN - 1 2009

GORDON PARK-LI, Clerk

BY: *Anna Rodriguez*  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

SAN FRANCISCANS FOR LIVABLE  
NEIGHBORHOODS,

Petitioner and Plaintiff,

vs.

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

Respondents and Defendants )

Case No.: CPF04 504 780

ORDER RE MOTION FOR  
RECONSIDERATION OF ORDER  
CONCERNING WRIT AND  
RELATED MOTIONS OR FOR  
SUPPLEMENTAL EQUITABLE  
RELIEF

Petitioner SAN FRANCISCANS FOR LIVABLE NEIGHBORHOODS' ("SFLN") Motion for Reconsideration of Order Concerning Writ and Related Motions or For Supplemental Equitable Relief came on regularly for hearing on May 18, 2009 at 9:30 a.m. in Department 302 of the above-entitled court, the Honorable Charlotte Walter Woolard, Judge presiding.

SFLN was represented by Kathryn R. Devincenzi. Respondent CITY AND COUNTY OF SAN FRANCISCO ("City") was represented by Deputy City

Attorneys Kristen A. Jensen and Audrey Williams Pearson. Based on the pleadings on file and the argument of counsel, the Court rules as follows:

The Court grants the request to reconsider its prior order. In the Writ the Court expressly retained jurisdiction to insure California Environmental Quality Act compliance. The only reason the Court did not address the five issues that are the subject of this current motion was because they were not adequately briefed. Respondent has now been provided with the opportunity to properly respond. The reasoning expressed in Mink v. Superior Court (1992) 2 Cal. App. 4<sup>th</sup> 1338 is applicable here. In the present case, the focal point of the briefs was whether the Court would issue a generic writ or merely restrain enforcement of the policies expressly cited in the appellate opinion, San Francisco For Livable Neighborhoods v. City and County of San Francisco 2007 WL 1793881 (“The Opinion”). The Court adopted a different approach by restraining enforcement of the policies cited by the Court of Appeal and also restraining enforcement of some other policies the Petitioner highlighted.

The Court has once again reviewed The Opinion for guidance, and compared the 2004 Housing Element with the 1990 Residence Element, and considered its prior rulings. The Court GRANTS the motion in part and finds that the Writ should be amended to add the changes in 2004 Housing Element objectives and policies as described below.

1. *Modified Objective 11*. Restraint is consistent with The Opinion’s objection to the “enhance” language and the Court’s previous rulings on various Objective 11 policies.

2. *2004 Modified Objective 1 as interpreted by its explanatory test*. The new

language states that “[n]ew residential development must be of a character and stability that **enhances** the City’s neighborhoods...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...” The 1990 Objective 1 wanted development that “preserves the city’s neighborhoods.” The Opinion struck down the 2004 Policy 11.5 because it changed the 1990 Policy from “conserves” to “enhances.” The same reasoning applies here.

3. *New Language added to Modified Implementation 1.3.* Implementation is a complete change from its predecessor 1990 Policy 1-2. Policy 1-2 generally sought to encourage development in underused and commercial sites. Implementation 1.3 suggests a brand new mechanism to encourage development, floor-to-area ratio exemptions.

4. *New Language added to Modified Policy 4.4.* This new policy provides for parking requirement exemptions where the 1990 Policy 7-3 did not.

The Court DENIES the motion as to *2004 Modified Policy 4.5*. The Court finds Modified Policy 4.5 and 1990 Policy 2-3 are substantially similar.

An Amendment to the Court’s April 6, 2009 Peremptory Writ of Mandate shall issue from this Court in the form attached as Exhibit A hereto.

IT IS SO ORDERED.

Dated: May 29, 2009

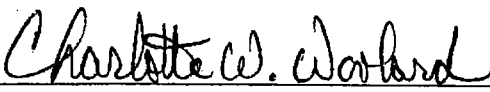
  
CHARLOTTE WALTER WOOLARD  
JUDGE OF THE SUPERIOR COURT

EXHIBIT A



1 KATHRYN R. DEVINCENZI (SB #70630)  
2 22 Iris Avenue  
3 San Francisco, CA 94118  
4 Telephone: (415) 221-4700  
5 Facsimile: (415) 346-3225

6 Attorney for Petitioner/Plaintiff  
7 San Franciscans for Livable Neighborhoods

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SAN FRANCISCO

10 SAN FRANCISCANS FOR LIVABLE  
11 NEIGHBORHOODS,

12 Petitioner and Plaintiff,

13 v.

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

16 Respondents and Defendants.

) No. CPF04 504 780  
)

) **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

17  
18  
19 TO THE CITY & COUNTY OF SAN FRANCISCO ("City"):

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

22 Until you prepare, consider and certify an environmental impact report ("EIR") pursuant  
23 to the provisions of the California Environmental Quality Act, Public Resources Code §§ 21,000  
24 *et seq.* ("CEQA") concerning any potentially significant effects to the existing environment that  
25 may result, based on a fair argument supported by substantial evidence, from any and all changes  
26 in the City's 1990 Residence Element that are embodied in the amended housing element, and  
27  
28

1 fully comply with the requirements of CEQA concerning said proposed amendments to the  
2 housing element of the City's general plan, YOU ARE FURTHER COMMANDED to refrain  
3 from enforcing, relying upon, approving or implementing the following changes from the 1990  
4 Residence Element, together with the accompanying interpretative text set forth below:  
5

6 12. Language added to modified Implementation 1.3 which states with respect to  
7 "Downtown areas and areas subject to a Better Neighborhoods type planning  
8 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)

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

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

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

18 15. 16. Modified Objective 1, which states "TO PROVIDE NEW HOUSING,  
19 ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN  
20 APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING  
21 NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE  
22 HOUSING CREATED BY EMPLOYMENT DEMAND" as interpreted by  
23 modified explanatory text stating "New residential development must be of a  
24 character and stability that enhances the City's neighborhoods and maintains the  
25 quality of life for existing and future residents. How this new residential  
26 development can be accommodated without jeopardizing the very assets that  
27 make living in San Francisco desirable must be discussed. In order to enhance the  
28 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

1 amendments to the City's housing element on May 13, 2004 as part of San Francisco Planning  
2 Commission Resolution No. 16787 is hereby set aside and revoked until you comply fully with  
3 CEQA as set forth herein.

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

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

10  
11 DATE: \_\_\_\_\_

12 THE HONORABLE CHARLOTTE W. WOOLARD  
13 JUDGE OF THE SUPERIOR COURT

14  
15  
16  
17  
18 DATE: \_\_\_\_\_

GORDON PARK-LI, Clerk of the Superior Court

19 By: \_\_\_\_\_ Deputy Clerk  
20  
21  
22  
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SAN FRANCISCO  
PLANNING COMMISSION  
RESOLUTION NO. 16787

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*. Government Code 65583 requires the *Housing Element* to address existing and projected housing needs for all income levels and dictates some of the content of the element. Housing Elements must also conform to periodic element update cycles set by the state; and

Whereas, pursuant to the San Francisco Charter requirements, City Planning Commission adopts and maintains, including necessary changes, its *General Plan*; and

Whereas, the *Residence Element* of the *Master Plan* (as the *General Plan* was then called) was first adopted by Resolution 6706 of the City Planning Commission on April 8, 1971. It was later amended by Resolution 7417 on December 11, 1975; Resolution 8670 on July 31, 1980; Resolution 8790 on December 11, 1980; Resolution 9160 on September 24, 1981; Resolution 9622 on April 21, 1983; and Resolution 10045 on June 28, 1984. The current *Residence Element* of the *General Plan* by Resolution No. 12000 on September 13, 1990; and

Whereas, the update and revision of the *Housing Element* meet the requirements of relevant provisions of the California Government Code governing the content of a housing element in that it contains:

- a) an assessment of housing needs and an inventory of resources and constraints to meet housing needs;
- b) a comprehensive set of objectives and policies addressing construction and conservation of housing, affordability and citywide and regional housing concerns;
- c) an action program to implement the policies and achieve the goals and objectives of the Housing Element;
- d) targets for construction of almost 20,400 new housing units, with affordability goals allocating housing production efforts at 26% for very low income households, 10% for low income households, 28% for moderate income households, and 36% for above moderate income households; and

Whereas, pursuant to Planning Code Section 340, the Planning Commission, in Resolution No. 16554, initiated the intent to adopt an update and amendment of the Housing Element of the General Plan of the City and County of San Francisco on March 27, 2003; and

007522

**Resolution of Adoption  
of the Update and Amendment of  
the Housing Element of the General Plan**

Whereas, the Housing Element Proposal for Adoption incorporates comments received by the Planning Department at public hearings conducted on March 27, 2003, May 1, 2003; June 5, 2003; July 21, 2003; and October 9, 2003, and is further amended by the Acting Director's Memorandum of May 6, 2004; and

Whereas, the Planning Commission has agreed to modifications to the Housing Element Proposal for Adoption, specified in Exhibit A, in response to neighborhood comment, and

Whereas, the Planning Commission has agreed to additional modifications to the Housing Element Proposal for Adoption, specified in Exhibit B, following public hearing on May 13, 2004; and

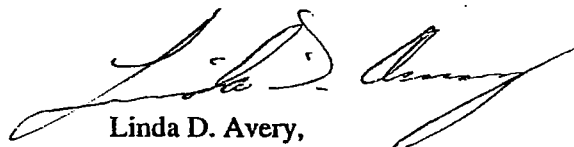
Whereas, although certain policies have been removed or modified in the Housing Element, by this action, the Commission is not thereby indicating an intent to preclude future actions; and

Whereas, the Planning Commission has reviewed, considered, and approved the information contained in the Environmental Review Negative Declaration and thus stated in Resolution No. 16786.

Now, Therefore Be It Resolved, Planning Commission adopts the proposed update and amendments of the *Housing Element Proposal for Adoption*; and

Be it Further Resolved, Secretary of the Commission shall record the action taken in this Resolution on the adopted amendment and shall certify a copy thereof to the Mayor and the Board of Supervisors, so that the Board of Supervisors may take action on the amendment of the General Plan, in accordance with the Charter.

I hereby certify that the foregoing resolution was ADOPTED by the City Planning Commission at its regular meeting on May 13, 2004.

  
Linda D. Avery,  
Commission Secretary

AYES: Commissioners Antonini, Bradford Bell, Bill Lee, and Sue Lee  
NOES: None  
ABSENT: Commissioners Boyd and Hughes

007523

**Letter 17****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.

3-7

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.

3-8

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.

1-15

Sincerely,  
Jennifer Clary, President



# LANDMARKS PRESERVATION ADVISORY BOARD

1650 Mission Street, Suite 400 | San Francisco, CA 94103-2479

TEL: 415.575.6916 | FAX: 415.558.6409

---



Mrs. E. McMillan  
647 28th Ave  
San Francisco CA 94121

28 AUGUST 2010

ATTN: BILL WYCKO  
ATTN: JESSICA RANGE  
S.F. PLANNING DEPT. RM 400  
1650 MISSION ST.  
SAN FRANCISCO, CA 94103

575-9018

RE: DRAFT EIR. HOUSING ELEMENT

FIRST AND FOREMOST ABAG MAKES UNREALISTIC DEMANDS ON THE SAN FRANCISCO PLANNING DEPT.  
FURTHER COMMENTS WILL FOLLOW IN NO PARTICULAR ORDER.

ABAG'S RESIDENTIAL DENSITY DEMANDS ARE UNATTAINABLE WITHOUT CAUSING UNDUE HARM TO THE CITY'S LIVABILITY FACTOR.

NOT ENOUGH EMPHASIS ON PRESERVATION OF NEIGHBORHOOD CHARACTER - JUST PASSING COMMENTS

HOWEVER, GOOD ANALYSIS OF HOUSING ELEMENT TO CORRESPONDING RESIDENCE ELEMENT. REFERENCES TO GENERAL (MASTER) PLAN WITH OBJECTIVES & POLICIES WAS WELL COVERED

EVEN WITH EXTENSIVE CHARTS, SERIOUS QUESTIONS REMAIN AS TO RE-ZONING, HEIGHTS (AND) INFRASTRUCTURES ADEQUACY TO HANDLE INFLOX OF RESIDENTS. NO SPECIFIC SOLUTIONS ENUMERATED TO ACCOMMODATE.

SAN FRANCISCO IS A FINITE CITY EXCEPT TO EXPAND UP TO THE CLOUDS. EXPANSION SITE LOCATIONS SUCH AS MISSION BAY & HUNTER'S POINT ARE CURRENTLY IN PROGRESS, SIMILARLY WITH SOUTH BEACH & SOMA

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PAGE 2

DRAFT EIR HOUSING ELEMENT

AUG 31 2010

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PLANNING DEPARTMENT

NOT ENOUGH DETAILS ENUMERATED AS TO THE EFFECTS

PRODUCED - QUESTIONABLE BENEFIT - INCREASE OF BUILDINGS  
+ RESIDENTS ON AIR/WIND PATTERNS (CLIMATE CHANGE) ALTHOUGH  
COVERING POLLUTION EMISSIONS IS SHOWN VI 12+13 & SUBSEQ.

HOW WILL INCREASED DENSITY (MORE RESIDENTS) IMPACT

e.g. FIRE + POLICE (FIG. V.M-1) + SUBSEQ.

THERE ARE SIGNIFICANT IMPACTS OF GROWTH/DENSITY  
WHICH IS NOT ADEQUATELY ADDRESSED.

PUTTING THE BURDEN (SHIFTING) RESPONSIBILITY TO DBI  
(Pg VM-36) TO REVISE THE BUILDING CODE IS SIDE-STEPPING  
PLANNING DEPT'S RESPONSIBILITY.

WITH TWO HUGE BOOKS OF EIR, CEQA REGS, POLICIES, ETC  
THERE STILL NEED TO BE SHOWN COMPREHENSIVE DETAILED MITIGATION  
MEASURES.

NOT ENOUGH EVALUATIONS OF IMPACTS OF FINANCIAL + OTHER  
HARDSHIPS ON CURRENT PROPERTY OWNERS BY FORCING UPGRADES / C.O.S.E.M.

TOO MUCH EMPHASIS ON PRODUCTION OF AFFORDABLE HOUSING  
WHICH IN & OF ITSELF IS SUBJECT TO FLUCTUATION.

THE DRAFT EIR MENTIONS ALTERNATIVES BUT NO ADEQUATE  
SOLUTIONS - THIS NEEDS TO BE ADDRESSED - FULLY

GO BACK TO THE 1990 LANGUAGE CRITERIA TO PROTECT  
THE NEIGHBORHOODS.

SINCERELY

EM

EDITH MCMILLAN

647-28<sup>TH</sup> AVENUE

SAN FRANCISCO, CA. 94121

ENCL: GREEN BOOK FOR FINAL EIR

NO. AS NEEDED

I-8

M-2

11-4

O-4

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T-18

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John Bardis  
1158 Green Street  
San Francisco, CA 94109  
415-776-2014

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SEP 01 2010  
CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
MSEA

August 31, 2010

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

Re: San Francisco 2004 & 2009 Housing Element – Draft Environmental Impact Report

Dear Mr. Wycho:

The above referenced Draft Environmental Impact Report (DEIR) for the 2004 (and later the 2009) Housing Element of the San Francisco General Plan was prepared to comply with the California Court of Appeal decision that the City & County of San Francisco had violated the California Environmental Quality Act (CEQA) in failing to prepare the required DEIR describing the potential significant environmental impacts of the then proposed 2004 Housing Element.

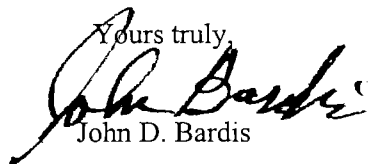
In order to have the City comply with CEQA, it was necessary for San Francisco neighborhood associations to take the City to court and successfully persuade the Court of Appeals to require that the City prepare a DEIR for the 2004 Housing Element. Thus, the City & County of San Francisco took over five years, i. e., 60 months, to decide (under court order) and prepare the DEIR required for the 2004 Housing Element.

However, the DEIR for the 2004 Housing Element finally was prepared and issued on June 30, 2010. However, this DEIR was prepared as combined DEIR for the 2009 Housing Element as well as the 2004 DEIR. Thus, the public was allowed only a 45 day public review period chiefly over the computer to review the 2,000 pages of documentation with restricted access to only some of the printed documentation for the DEIR of two housing elements, 2004 and 2009, representing the master plan for housing the existing 800,000 people of San Francisco and additional residents over the next decade. Moreover, the public review period of these 2,000 pages of documentation would be taking place during the summer vacation period when most neighborhood associations do not meet and many citizens are absent from the City.

When citizens objected to the Planning Commission at the August 5, 2010 public hearing about the severely restricted and flawed scheduled public review period, the extended the public review period by two weeks to August 31, 2010, i. e. a total of just 62 days to review 2,000 pages of documents for two housing master plans of the City & County of San Francisco. However, a 90 day public review period was been given for the DEIR of a proposed mere private hospital construction project on Cathedral Hill.

As I expressed to the Planning Commission at the hearing on August 5, 2010, I protest very strongly the restrict and poorly scheduled public review period given to the public to review and comment on the environmental impacts described in the DEIR of two proposed housing master plans, 2004 and 2009 Housing Element of the City & County of San Francisco

Yours truly,

  
John D. Bardis

1-14

3-9

**CALIFORNIA ENERGY COMMISSION**

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512  
[www.energy.ca.gov](http://www.energy.ca.gov)

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NOV 15 2010

November 9, 2010

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

Jessica Range  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Dear Ms. Range:

The California Energy Commission has received the San Francisco Planning Department's Draft EIR titled San Francisco 2004 and 2009 Housing Element, SCH 2008102033 that was submitted on 7/1/2010 for comments due by 8/16/2010. After careful review, the California Energy Commission has no comment at this time and would like to share the following only as a resource of information.

The Energy Commission would like to assist in reducing the energy usage involved in your project. Please refer to the enclosed Appendix F of the California Environmental Quality Act for how to achieve energy conservation.

In addition, the Energy Commission's *Energy Aware Planning Guide* is also available as a tool to assist in your land use planning and other future projects. For further information on how to utilize this guide, please visit [www.energy.ca.gov/energy\\_aware\\_guide/index.html](http://www.energy.ca.gov/energy_aware_guide/index.html).

Thank you for providing us the opportunity to review the San Francisco Planning Department's Draft EIR. We hope that the above mentioned resources will serve helpful in your project's environmental review process.

If you have any further questions, please call Gigi Tien at (916) 651-0566.

Sincerely,

**BILL PFANNER**  
Supervisor, Local Energy & Land Use Assistance Unit  
Special Projects Office  
Fuels and Transportation Division  
California Energy Commission  
1516 Ninth Street, MS 23  
Sacramento, CA 95814

Enclosure

1-21

## Appendix F

# ENERGY CONSERVATION

### I. Introduction

The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include:

- (1) decreasing overall per capita energy consumption,
- (2) decreasing reliance on natural gas and oil, and
- (3) increasing reliance on renewable energy sources.

In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy.

Energy conservation implies that a project's cost effectiveness be reviewed not only in dollars, but also in terms of energy requirements. For many projects, lifetime costs may be determined more by energy efficiency than by initial dollar costs.

### II. EIR Contents

Potentially significant energy implications of a project should be considered in an EIR. The following list of energy impact possibilities and potential conservation measures is designed to assist in the preparation of an EIR. In many instances, specific items may not apply or additional items may be needed.

#### A. Project Description may include the following items:

1. Energy consuming equipment and processes which will be used during construction, operation, and/or removal of the project. If appropriate, this discussion should consider the energy intensiveness of materials and equipment required for the project.
2. Total energy requirements of the project by fuel type and end use.
3. Energy conservation equipment and design features.
4. Initial and life-cycle energy costs or supplies.
5. Total estimated daily trips to be generated by the project and the additional energy consumed per trip by mode.

#### B. Environmental Setting may include existing energy supplies and energy use patterns in the region and locality.

#### C. Environmental Impacts may include:

1. The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project's life cycle including construction, opera-

tion, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed.

2. The effects of the project on local and regional energy supplies and on requirements for additional capacity.
3. The effects of the project on peak and base period demands for electricity and other forms of energy.
4. The degree to which the project complies with existing energy standards.
5. The effects of the project on energy resources.
6. The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

#### D. Mitigation Measures may include:

1. Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.
2. The potential of siting, orientation, and design to minimize energy consumption, including transportation energy.
3. The potential for reducing peak energy demand.
4. Alternate fuels (particularly renewable ones) or energy systems.
5. Energy conservation which could result from recycling efforts.

#### E. Alternatives should be compared in terms of overall energy consumption and in terms of reducing wasteful, inefficient and unnecessary consumption of energy.

#### F. Unavoidable Adverse Effects may include wasteful, inefficient and unnecessary consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated.

#### G. Irreversible Commitment of Resources may include a discussion of how the project preempts future energy development or future energy conservation.

#### H. Short-Term Gains versus Long-Term Impacts can be compared by calculating the energy costs over the lifetime of the project.

#### I. Growth Inducing Effects may include the estimated energy consumption of growth induced by the project.