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BY HAND DELIVERY

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City and County of San Francisco
San Francisco Planning Department
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CITY & COUNTY OF S.F.
DEPT. OF CITY PLANNING
RECEPTION

Re: 3333 California Street, Mixed-Use Project
Initial Study: Case No. 2015-014028ENV

These preliminary comments are submitted as to the Initial Study but are not required by June 8, 2018, because the Planning Department has confirmed that the City will not issue a negative declaration after the public comment period on the Initial Study and the City will prepare an Environmental Impact Report (EIR) under the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.* (CEQA) as to this proposed project. The EIR on the project has not yet been released, and under applicable law, comments on the potentially significant environmental impacts and other analyses required by CEQA are not due until the end of the public review period on the draft EIR or hearing held by the decisionmaker on the proposed project. Ex. A, e-mails dated March 22 and 28, 2018 with Planning Department.

Also, the Initial Study ("IS") does not provide the complete CEQA analyses of significant impacts on traffic, air quality, noise and historical resources, and those analyses may contain information pertinent to the IS's evaluations of impacts the City proposes to treat as not significant under CEQA. Based on the additional information provided in the Draft EIR, comments as to significant impacts and nonsignificant impacts may be provided after the Draft EIR is released.

In addition, pertinent information is missing from the Initial Study, and complete copies of all the reference materials cited in the Initial Study were not provided as of June 4, 2018. Further, the Initial Study is incomplete, inaccurate and/or inadequate to support determinations that certain impacts of the proposed project would not be significant. Under CEQA Guidelines section 15063(d)(3), an Initial Study must include sufficient information to support its conclusions, but the IS does not include such sufficient information.

Governing Principles

It is important to recognize that a significant effect on the environment is defined in CEQA as a substantial or potentially substantial adverse change in the environment. Public Resources Code

sections 21068, 21100(d). 14 California Code of Regulations (“CCR”) section 15382 defines a “significant effect on the environment” as “ a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.” Under 14 CCR section 15064(a)(1), if there is substantial evidence in light of the whole record before an agency that a project may have a significant effect on the environment, the agency must prepare a draft EIR.

In preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project irrespective of whether an established threshold of significance has been met with respect to any given effect. *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1106-07.

As used in this submission, “project” will mean the proposed project as well as the proposed project variant, unless otherwise indicated.

1. The Proposed Project Would Have a Significant Adverse Impact on Geology and Soils.

Under Appendix G of the CEQA Guidelines and the Initial Study (p. 205) a project would have a significant impact on the environment if it would:

- a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - i. Seismic-related ground failure, including liquefaction
 - ii. Landslides
- b. Result in substantial soil erosion or loss of topsoil, or
- c. Be located on a geologic unit or soil that is unstable, or would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. Ex. B, 14 California Code of Regulations (“CFR”) section 15000 *et seq.* (“CEQA Guidelines”), Appendix G.

Also, under the Initial Study (p. 205) a project would have a potentially significant impact on geology and soils if it would:

- d. Directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

Under the standards identified in the San Francisco 2004 and 2009 Housing Element EIR (“Housing Element EIR”), a project would normally have a significant effect if it would:

“Change substantially the topography or any unique geologic or physical features of the site.” Ex. C, San Francisco 2004 and 2009 Housing Element EIR (“Housing Element EIR”), p. V.O-25.

In addition, according to the EIR for the Pier 70 Mixed-Use District Project, a project would have a significant impact if it would “substantially change the topography or any unique geologic or physical features of the site.” Ex. D, excerpt of EIR for Pier 70 Mixed-Use District Project, p. 4.N.32. “Unique geologic or physical features” include those which “embody distinctive characteristics of any regional or local geologic principles.” *Ibid.*

A. The Proposed Project Would Result in Substantial Soil Erosion or Loss of Topsoil.

Construction of the proposed project or project variant would require earthwork activities across the entire project site. According to the Initial Study, the depths of excavation would range from 7 to 40 feet below the existing grade, with a total of approximately 241,300 net cubic yards of excavated soils generated during the approximately 7 to 15-year construction period. Only approximately 3,700 cubic yards of excavated soils would be reused on the project site as fill. IS p. 207. Evidence of the method used to calculate the amounts of excavated soils was not included in the IS and must be provided in the Draft EIR to afford an opportunity for public comment on the accuracy of the calculation and severity of resulting impacts.

Many areas to be excavated are now covered by topsoil and extensively planted with grasses, shrubs, and various vegetation. The project’s geotechnical consultant Langan Treadwell Rollo recommended that “all areas to receive improvements should be stripped of vegetation and organic topsoil.” (LTR p. 14)

As explained in the EIR for the 2009 Housing Element:

“New construction could result in impacts related to soil erosion and the loss of topsoil if new housing.... would result in grading activities, or if new development would require much more extensive grading. This exposure could result in erosion or loss of topsoil. The 2004 and 2009 Housing Element policies that promote increased density could result in heavier buildings on soil types or in proximity to slopes that are susceptible to erosion. Heavier buildings would require stronger and deeper foundations, involving more excavation than lighter buildings. Ex. C, San Francisco 2004 and 2009 Housing Element EIR. p. V.O-46.

As evidenced by the Langan Treadwell Rollo report and the Initial Study, substantial amounts of existing topsoil would be removed to construct underground parking garages in the Masonic Building, Mayfair Building, Plaza A and B Buildings and Walnut Building and new multi-unit

buildings. Paved pathways and stairways would be constructed on areas which are now planted with vegetation and grasses. 37 percent of the site is now landscaping or landscaped open space. IS p. 210.

The Initial Study fails to analyze the impact of project excavation and construction on the substantial loss of topsoil and erroneously bases its determination that the impact would not be significant on operational conditions existing after the topsoil has been excavated. The Initial Study states that at buildout, the project site would be more intensely developed and landscaped with limited to no open areas susceptible to erosion or loss of topsoil. IS. p. 211. Since substantial existing topsoil will have been lost as a result of construction of the project, it is irrelevant to the loss of existing topsoil from construction and excavation that later operation on the paved and built areas would not expose the minimal topsoil that may be reused or replaced to erosion or loss. *Ibid.* An EIR must analyze the changes which the project would have to the existing environment.

The EIR must analyze the substantial loss of existing topsoil as a significant impact of the proposed project and analyze alternatives and mitigation measures that would avoid or reduce the impact.

B. The Proposed Project Would Substantially Alter the Existing Topography and Unique Geologic or Physical Features of the Site.

The proposed project would have a significant impact because it would directly or indirectly destroy substantial portions of Laurel Hill, which is a unique geological or physical feature and embodies distinctive characteristics of local geologic principles. As explained in the Laurel Heights Improvement Association's nomination of the site for listing on the National Register of Historic Places, which was granted by the State of California Historic Resource Commission on May 17, 2018:

“the site is part of a cluster of low hills associated with Lone Mountain whose several high points were developed as cemeteries in the nineteenth century. The Fireman's Fund site was previously a portion of the Laurel Hill Cemetery, and was long recognized for its views. Today there are distant views from the property to the southeast and downtown, to the northwest and a partial view of the Golden Gate Bridge, and to the west into the Richmond District.” (Ex. E, excerpts from Nomination of Laurel Heights Improvement Association for listing of Fireman's Fund Insurance Company Home Office in the National Register of Historic Places, p. 6) [Note that the copy of the nomination included in the City's reference materials was a draft version; although the final version of the nomination was provided to the San Francisco Planning Department, that Department has not included the final version of the nomination in the reference materials provided with

the Initial Study.]

The plaque previously placed on the site to commemorate the former site of Laurel Hill Cemetery 1854-1946, California Historical Landmark #760, recognized the site as “the most revered of San Francisco’s hills.” (Ex. F, excerpts from State Office of Historic Preservation file on California Historical Landmark #760) The remarks of Gardiner Johnson of the California Historical Society recognized that when the new cemetery grounds were located on Laurel Hill:

“From the summit of this beautifully-shaped hill it was then possible to obtain one of the finest and most extensive views of both land and water.” (*Id.* p. 1-2)

The existing Terrace on the 3333 California Street site, “as the ‘centerpiece’ of the landscape, designed to integrate the architecture of the building with the site and with the broader setting (through views of San Francisco)” currently exists on the site and overlooks views of San Francisco. (Ex. E, Nomination p. 28)

The proposed project would have a significant impact on the environment because it would result in excavation of substantial portions of Laurel Hill and alter existing slopes, including the areas known for its views of the City. (See Ex. G, photographs of areas of Laurel Hill proposed for excavation)

The Initial Study recognizes that the topography exhibits a generally southwest-to-northeast downslope, with a grade change of approximately 65 feet. (IS p. 206) On the south and east portions of the site, bedrock is relatively shallow, at 7 to 17 feet below ground surface. IS p. 206.

The Masonic Building would be a four- to six-story, 40 foot-tall building. Due to the site’s slope, the Masonic Building’s first level would be a partially below-grade parking garage with a residential lobby at the northeast corner of the floor adjacent to the proposed garage entry. IS pp. 41-43. The Euclid Building would be a four- to six-story, 40-foot-tall building. Due to the site’s slope, the Euclid Building would have a partially below-grade floor. IS pp. 44-45.

Construction of the Masonic and Euclid Buildings would excavate the existing slope of Laurel Hill along Masonic and Euclid. As a result of the proposed excavation and construction, the existing slopes of Laurel Hill along Masonic and Euclid would be substantially altered and their distinctive characteristics of providing views of San Francisco substantially degraded by the structures erected in these slopes. On the south and east portions of the site, bedrock is relatively shallow, at 7 to 17 feet below ground surface. IS p. 206. The excavations on the south and central portions of the project site would encounter bedrock. IS p. 207. The Mayfair building on Laurel Street would also have a below-grade garage with access from Laurel Street. IS p. 47.

The EIR must analyze the substantial alteration of the south, east and western slopes of Laurel

Hill as a result of construction of the Euclid, Masonic and Mayfair buildings and underground garages as a significant impact and analyze alternatives and mitigation measures that would avoid or reduce the impact.

C. The Proposed Project Would Expose People or Structures to Potential Substantial Adverse Effects Including the Risk of Loss, and/or Would Be Located on a Geologic Unit or Soil That is Unstable or Would Become Unstable as a Result of the Project and Potentially Result in On-Site or Off-Site Landslide, Lateral Spreading, Subsidence, Liquefaction or Collapse.

The Langan Treadwell Rollo Preliminary Geotechnical Investigation dated 3 December 2014 (Ex. H "LTR") constitutes expert evidence supported by fact that all of the aforementioned potentially significant impacts could occur as a result of the proposed project. The Initial Study violates the requirements of CEQA because it fails to analyze these impacts a significant impacts and fails to require binding and enforceable mitigation measures to reduce or avoid these significant effects as a condition of approval of the project.

The Revised Environmental Evaluation explains that massive excavation would occur on the project site for below-grade parking garages, the basement levels of buildings and site terracing, as the project would excavate approximately 61 percent of the surface of the site (274,000/446,479 square feet) at depths of 7 to 40 feet. Revised Environmental Evaluation p. 28. The Initial Study estimates that 241,300 net cubic yards of soils would be excavated (which is 2,171,700 square feet of soils). IS p. 207. Approximately 288,300 cubic yards of demolition debris and excavated soils would be removed from the project site, and approximately 3700 cubic yards of soil would be reused on the project site as fill. IS p. 78.

LTR advises that adverse effects could occur onsite that could result in damage from the following conditions that could result from project activities:

- the presence of fill and loose sand will affect foundation support and excavation support (p. 9).
- the new building to be constructed adjacent to the parking garage may impose surcharge on the basement wall of the parking garage; to avoid surcharging the wall, the western perimeter wall of the new building may need to be supported on drilled piers that gain support in the bedrock below the elevation of the bottom of the parking garage. (LTR, p. 10).
- the proposed single basement will require an excavation of approximately 12 feet below the ground surface; the primary considerations related to the selection of the shoring system are the presence of fill and loose to medium-dense sand and the potential settlement of adjacent structures and improvements caused by movement of temporary shoring (LTR, p. 10).

- to retain the excavation sides for the multi-level basements, a retaining system with tiebacks may have been used; therefore, tiebacks may be encountered during basement excavation for new structure located east of the parking garage (LTR, p. 10).

- drilling of shafts for the soldier piles will likely require casing and/or use of drilling mud (slurry) to prevent caving; to prevent settlement of adjacent improvements, soldier piles should not be installed by driving or vibratory methods; a monitoring program should be established to evaluate the effects of the construction on the adjacent buildings and surrounding ground (LTR, p. 10-11).

- sand with low fines content was encountered within the zone of excavation.; to reduce caving, lagging boards should be placed with every foot of excavation to limit caving; voids that result from caving soil behind wood lagging should be grouted before proceeding to the next row of lagging (LTR, p. 11).

- the bottom of the excavation should be above the groundwater level; during drilling of the soldier-pile holes, groundwater or perched water may be encountered; to keep the holes from caving, casing and/or drilling slurry may be needed; alternatively, the soldier piles may be installed using auger-case method (LTR, p. 11).

- generally, soldier piles can be installed under the City's sidewalk provided that the top 3 feet of the soldier piles are removed after the permanent basement wall is cast; if tiebacks are needed, it has been our experience that using hollow-stem augers to install tiebacks in sand will result in loss of ground; therefore, tiebacks, if required, should be installed using smooth-cased method (such as a Klemm rig) to reduce loss of ground (LTR, p. 11).

- the soil at subgrade should consist of stiff to very stiff clay, medium dense sand, and bedrock; therefore, the slabs may be supported on grade; if weak soil is present at subgrade level, the weak soil should be removed and replaced as engineered fill (LTR, p. 11).

- the near surface soil was determined to be moderately corrosive; the corrosive soil will adversely affect below grade improvements, such as foundations and utilities; recommendations for protection of buried structures presented in Appendix D are that all steel, iron, etc, should be properly protected against corrosion depending upon the critical nature of the structure; all buried metallic pressure piping should be protected against corrosion (LTR, p. 11).

- if the site grading is scheduled for the rainy season, the near-surface soil may be too wet to achieve adequate compaction during site preparation and fill placement and may deflect significantly under the weight of construction equipment; for these conditions, moisture conditioning of the material and the use of lightweight equipment may be required to lower the soil to a moisture level that will promote proper compaction; methods of moisture conditioning

include mixing and turning (aerating) the soil to naturally dry the soil and lower the moisture content to an acceptable level; aeration typically requires at least a few days of warm, dry weather to effectively dry the material (LTR, p. 12).

- if localized soft or wet areas are encountered, it may be necessary to over-excavate to a depth of 18 to 24 inches, place a layer of stabilizing geo-synthetic, and backfill with granular material to stabilize the subgrade and bridge the soft material (LTR, p. 12)

- bedrock encountered in the borings consists of serpentinite and sandstone; serpentinite contains naturally occurring asbestos; therefore a Site Mitigation Plan may be needed to be prepared prior to construction; bedrock handling and disposal should be performed in accordance with the Site Mitigation Plan. (LTR, p. 12)

- inclinations of temporary slopes should not exceed those specified in local, state or federal safety regulations; at a minimum the requirements of the current OSHA Health and Safety Standards for Excavations (29 CFR Part 1926) should be followed; temporary slopes less than 10 feet high should be inclined no steeper than 1.5: 1 (horizontal to vertical); in addition, all vehicles and other surcharge loads should be kept at least 10 feet away from the tops of temporary slopes (LTR, p. 13).

- all areas to receive improvements should be stripped of vegetation and organic topsoil; voids resulting from the demolition activities should be properly backfilled with lean concrete or engineered fill as described in the LTR recommendations (LTR, p. 14).

- prior to placement of any engineered fill, the onsite soil exposed by stripping should be scarified to a depth of at least 12 inches, moisture-conditioned to at least three percent above optimum moisture content, and compacted to at least 95 and 90 percent relative compaction for sand and clay, respectively; the soil subgrade should be kept moist until it is covered by select fill (LTR, p. 14).

- if soft areas are encountered during site preparation and grading, the soft material should be removed and replaced with engineered fill; if the soft material is deeper than 24 inches, LTR recommends over-excavating to a depth of 18 to 24 inches, placing a geotextile fabric at the bottom of the excavation, and backfilling with granular material (LTR, p. 14).

- fill should consist of onsite or imported soil that is non-corrosive, free of organic matter or other deleterious material, contains no rocks or lumps larger than four inches in greatest dimension, has a liquid limit of less than 25 and a plasticity index lower than 8, and is approved by the geotechnical engineer (LTR, p. 14).

- fill should be placed in horizontal lifts not exceeding eight inches before compacted,

moisture-conditioned to above optimum moisture content, and compacted to at least 90 percent relative compaction; fill thicker than five feet and-or consisting of clean sand or gravel should be compacted to at least 95 percent relative compaction (LTR, p. 14).

- LTR should be provided with samples of proposed fill at least three days before use at the site; the grading contractor should provide analytical test results or other suitable environmental documentation indicating the imported fill is free of hazardous materials at least three days before use at the site; a bulk sample of approved fill should be provided to LTR at least three working days before use at the site so a compaction curve can be prepared (LTR, p. 14-15)

- where necessary, trench excavations should be shored and braced to prevent cave-ins and/or in accordance with safety regulations; if trenches extend below the groundwater level, it will be necessary to temporarily dewater them to allow for placement of the pipe and/or conduits and backfill (LTR, p. 15).

- if fill with less than 10 percent fines is used, the entire depth of the fill should be compacted to at least 95 percent relative compaction; jetting of trench backfill should not be permitted; special care should be taken when backfilling utility trenches in pavement areas; poor compaction may cause excessive settlements resulting in damage to the pavement section (LTR, p. 15).

- to reduce the potential for water to become trapped in trenches beneath the building or pavements, which trapped water can cause heaving of soils beneath slabs and softening of subgrade soil beneath pavements, an impermeable plug consisting of either native clay or lean concrete, at least five feet in length, should be installed where the trenches enter the building or cross planter areas and pass below asphalt or concrete pavements (LTR, p. 15).

- to reduce the potential for differential movement and cracking, exterior concrete slabs should be underlain by at least 4 inches of Class 2 aggregate base, and the upper 12 inches of the soil subgrade should be compacted to at least 95 and 90 percent relative compaction for sand and clay, respectively (LTR, p. 15).

- the foundation subgrade should be free of standing water, debris, and disturbed materials prior to placing concrete; if fill, soft, or loose soil is present at the foundation subgrade, it should be removed to expose competent material and be replaced by lean concrete (LTR, p. 17).

- to avoid surcharging the basement wall of the parking garage, the western perimeter wall of the new building may need to be supported on drilled piers that gain support in the bedrock below the elevation of the parking garage (LTR, p. 17).

- drilled piers should be installed by a qualified contractor with demonstrated experience in this type of foundation; loose material may potentially cave during drilling, thus casing and/or drilling fluid may be required (LTR, p.18).

- where space does not permit a sloped excavation, shoring will be required, and a cantilever soldier pile and lagging shoring system is the most appropriate for the depth of the excavation planned and types of soil present; penetration of soldier piles should be sufficient to provide lateral stability (LTR, p. 18).

- a soldier pile and lagging system is relatively flexible, and movement should be anticipated; if the shoring system is properly designed and installed, movements at the top of the shoring should not exceed one inch (LTR, p. 19).

- because the site is in a seismically active region, the wall design should be checked for seismic condition; seismic design parameters recommended for areas in the northwest portion of the site where bedrock is relatively deep or in the eastern and southern portions of the site where bedrock is relatively shallow, should be followed (LTR, p. 21-22).

Significantly, LTR concludes by recommending in-person observation of various operations to check that the contractor's work conforms to the geotechnical aspects of the plans and specifications:

“Prior to construction, we should review the project plans and specifications to check their conformance to the intent of our recommendations. During construction, we should observe excavation, temporary shoring and foundation installation, subgrade preparation and compaction of backfill. These observations will allow us to compare the actual with the anticipated subsurface conditions and check that the contractor's work conforms to the geotechnical aspects of the plans and specifications...Actual subsurface conditions may vary. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that described in this report, Langan Treadwell Rollo should be notified to make supplemental recommendations, as necessary.” (LTR, p. 22)

This recommendation is evidence that the existence of various Building Code provisions, the preparation of plans by a qualified geotechnical engineer, and the review of construction plans by the Department of Building Inspection cannot be relied upon as providing adequate or effective mitigation for the hazards described above, given the reality that the project proponent and/or contractor will focus on minimizing costs of construction and the fact that regulatory standards are subject to interpretation. LTR did not rely upon an expectation of regulatory compliance as mitigation for these potentially significant adverse effects of the project. Rather, LTR

recommended that on-site monitoring of various excavation and construction activities by a licensed geotechnical professional would be required to mitigate the potential adverse impacts of this project. While LTR recommended that such on-site monitoring be performed, the project does not incorporate it as an enforceable, binding mitigation measure imposed as a condition of approval of the project.

In addition, the Initial Study recognizes that in the event of an earthquake that exhibits strong to very strong seismic ground shaking, “considerable damage could occur to buildings on the project site, potentially injuring building occupants and neighbors.” IS p. 209.

In order to reduce the severity of the aforementioned significant impacts, the following mitigation measures should be imposed in the EIR as conditions of approval of the project:

“MITIGATION MEASURE. Prior to construction, Langton Treadwell Rollo (or an equivalently qualified geotechnical professional licensed in the State of California, herein “LTR”)) should review the project plans and specifications to check their conformance to the intent of LTR’s recommendations in its Preliminary Geotechnical Investigation, 3333 California Street dated December 3, 2014. At all times during construction, LTR should observe excavation, temporary shoring and foundation installation, subgrade preparation and compaction of backfill. These observations will allow LTR to compare the actual with the anticipated subsurface conditions and check that the contractor’s work conforms to the geotechnical aspects of the plans and specifications...Actual subsurface conditions may vary. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that described in this report, LTR should be notified to make supplemental recommendations, as necessary.”

MITIGATION MEASURE. Since bedrock encountered in the borings consists of serpentinite and sandstone and serpentinite contains naturally occurring asbestos, a Site Mitigation Plan to reduce or eliminate any exposures of workers or nearby residents to asbestos will be prepared prior to excavation by a qualified, licensed professional and reviewed by LTR prior to excavation; such Site Mitigation Plan will be included in the Draft EIR and will be released for public comment; bedrock handling and disposal must be performed in accordance with the Site Mitigation Plan.

MITIGATION MEASURE. Since up to 15 feet of loose to medium dense sand was encountered above the water table, and loose and medium dense sand may densify during an earthquake (IS p. 210), most of the soil susceptible to seismic densification must be removed during excavation; at the conclusion of excavation, LTR will perform any necessary or advisable investigation of the site and verify in writing that most of the soil subject to seismic densification has been removed from the site.

MITIGATION MEASURE. Project sponsor will be required to maintain a water truck on site during all excavation, demolition, filling and other activities that could cause dust and will wet down dust sufficiently to prevent its blowing onto residences across the street from the site on Laurel, Euclid, Presidio and California streets.

Residents are very concerned that the 7-10 year proposed duration of construction would be too impactful for this residential area, especially since there would be substantial excavation from 7 to 40 feet below grade to accommodate underground garages and foundations. Residents recently learned of this proposed duration, and the developers stated that they would seek a development agreement that would permit them to construct the project over a 15 year period so that “if conditions do not exist to build out the entire project, we can phase construction in order to align with market conditions and financing availability.” (See Ex. I, October 12, 2017 email from Dan Safier) Since the Initial Study indicates that the developers would seek the right to apply for additional zoning changes after a certain period, the developers could seek approval for increases in the project from the Board of Supervisors, so the project could become more impactful. *Ibid.* The EIR must address all phases of the project, including foreseeable future expansion that could increase impacts of the project.

2. The Proposed Project Would Have a Potentially Significant Impact on Biological Resources and Would Conflict With Local Policies or Ordinances Protecting Biological Resources.

The proposed project would have a significant adverse impact on the environment because it would remove 185 onsite trees to allow for demolition, excavation and site preparation, including 19 onsite Significant Trees (i.e. trees within 10 feet of the public right-of-way that meet specific height, trunk, diameter, and canopy width requirements) and 15 protected street trees along California Street, and adequate mitigation is not included as a condition of approval of the proposed project. (IS p. 69)

The Initial Study failed to evaluate impacts of the proposed project against the applicable significance standards. Both CEQA Appendix G and the Housing Element EIR acknowledge that a proposed project would normally have a significant effect on the environment if it would:

“Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;

Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;

Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;

Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;

Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or

Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.” (Ex. B, excerpts from CEQA Appendix G; and Ex. C, excerpts from Housing Element EIR, p. V.N-29.

The Initial Study fails to analyze whether the proposed project would conflict with any local policies and only analyzes select provisions of one local ordinance, the San Francisco Urban Forestry Ordinance (SFUFO), which it misinterprets.

The Initial Study fails to analyze the proposed project’s conflict with the stated purposes of the San Francisco Urban Forestry Ordinance, article 16, sections 801 *et seq.*, of the San Francisco Public Works Code (“SF UFO”) to “realize the optimum public benefits of trees on the City’s streets and public places, abatement of air and noise pollution, enhancement of the visual environment and others;” to integrate street planting and maintenance with other urban elements and amenities, including but not limited to utilities, and enhancement of views and solar access; to recognize that “the removal of important trees should be addressed through appropriate public participation and dialogue, including the California Environmental Quality Act (Public Resources Code Sections 21000 *et seq.*)”, to “recognize that green spaces are vital to San Francisco’s quality of life as they provide a range of environmental benefits, protect public safety, and limit conflicts with infrastructure.” SF UFO section 801.

Under SF UFO section 807, removal of significant trees “shall be subject to the the applicable rules and procedures for removal set forth in Sections 806, 810, or 810A” of the SF UFO. Also, protection of such trees during construction shall be required in accordance with Section 808(c) of the SF UFO.

Under SF UFO section 810A (b), removal of a significant tree(s) on privately-owned property shall be subject to the rules and procedures governing permits for removal of street trees as set forth in Section 806(b). Under those rules, the Department must give all Interested San

Francisco organizations and, to the extent practical, all owners and occupants of properties that are on or across the from the block face where the affected Tree is located, 30 days notice of the proposed removal and also post a notice on the affected Tree 30 days before the proposed removal. SF UFO section 806 (a) (2). If during that notice period, any person files with the Department written objections to the Removal, the Director shall hold a hearing to consider public testimony concerning the proposed Tree Removal. Under SF UFO section 806(a)(3)(A), seven days notice must be given of the hearing date in the manner provided in SF UFO section 806(a)(3)(A). Under SFO section 806(a)(3)(C), the Director's decision is appealable to the Board of Appeals.

Also under SF UFO section 810A, as "part of the Director's determination to authorize removal of a significant tree, the Director shall consider the following factors related to the tree:

- (1) Size, age, and species;
- (2) Visual and aesthetic characteristics, including the tree's form and whether it is a prominent landscape feature or part of a streetscape;
- (3) Cultural or historic characteristics, including whether the tree has significant ethnic appreciation or historical association or whether the tree was part of a historic planting program that defines neighborhood character;
- (4) Ecological characteristics, including whether the tree provides important wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as a wind or sound barrier;
- (5) Locational characteristics, including whether the tree is in a high traffic area or low tree density area, or provides shade or other public benefits;
- (6) Whether the tree constitutes a hazard tree as set forth in Section 802(o); and
- (7) Whether the tree has been maintained as set forth in Section 802(1)."

The standards for new street trees require, among other things, that the new street trees "be of a species suitable for the site conditions," and the Director may "waive or modify the number of and/or standards for Street Trees" if other pre-existing surface, sub-surface, or above-grade features render installation of the required Street Tree(s) in the required fashion impossible, impractical, and/or unsafe." SF UFO section 806 (d). For each required street tree that the Director waives, the applicant shall pay an in-lieu fee or provide alternative landscaping, including sidewalk landscaping.

Thus, decision to remove a tree is a discretionary one which is to be made with consideration of the policies and factors stated in the SF UFO. The Initial Study and Arborist Report (p. 4) prepared by SBCA Tree Consulting, amended 10-19-15, erroneously portray the decision to remove significant trees as automatically granted whenever they would be in the way of construction as long as some kind of replacement trees would be provided.

However, some of the onsite significant trees are prominent landscape features and others have

significant historical association because they were present while the historically significant Laurel Hill cemetery was located on the site, so removal of the onsite significant trees would conflict with the policies stated above. The EIR should identify the trees which were present on the Laurel Hill cemetery. Due to this conflict, the proposed removal of Significant Trees is a significant impact that must be evaluated in the EIR.

In addition, the San Francisco Urban Forest Plan (SF UFP) recognizes that “trees and other vegetation clean our air and water, create greener neighborhoods, calm traffic, improve public health, provide wildlife habitat and absorb greenhouse gases.” Ex. J, SF UFP p. 1. Among the strategies required to achieve the SF UFP, Strategy 2.2.2 to “Encourage developers to incorporate existing trees into building and site designs” provides that “[c]onsideration should be given during review of building plans to the existing trees on the site, especially ‘significant’ trees (20 feet or more in height, 15 feet or greater canopy width, and/or 12 inches or greater in trunk diameter.” SF UFP pp. 39, 47. Also, Strategy 2.2.4 to “[r]equire contractors to carry Tree Protection Bonds during construction projects” recognizes that “[c]onstruction activities frequently result in accidental damage or loss of trees - including street trees. Development projects with the potential to disturb existing trees should be required to carry Tree Protection Bonds as insurance. Such bonds would allow recourse in the event that significant damage to trees occurs during the development process through fines, tree replacement or other measures.” SF UFP pp. 47. Strategy 2.2.5 to “[i]mprove process for approving Tree Protection Plans for construction projects” states that “[c]urrently Tree Protection Plans are collected by the Planning Department. Review of these plans should take place with appropriate urban forestry staff. The inspection and enforcement of plans should be carried out. These plans include important provisions to protect trees such as protective barriers, construction exclusion zones, and the restriction of material and equipment storage within tree drip zones.” *Ibid.*

The SF UFP also recognizes that Public Works Code section 810A “describes trees that are automatically protected under Significant Tree designation and “additional consideration that will be taken into account for tree removal applications.” SF UFP p. 73.

The proposed project would have a significant impact on the environment because it would require the removal of Significant Trees and would conflict with the above-described policies of the SF Urban Forestry Plan, including policies that support preserving significant trees on construction sites and require specific mitigation measures such as Tree Protection Bonds and improved process for approving Tree Protection Plans for construction projects by including appropriate urban forestry staff in the approval, inspection and enforcement of plans. In addition, the proposed project would conflict with the policies stated in the SF Urban Forestry Ordinance for consideration of the historical association, size, age, species and visual and aesthetic characteristics, including the tree’s form and whether it is a prominent landscape feature or part of the streetscape. The EIR should analyze whether the project as proposed could be built without the removal of each of the Significant Trees.