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BY HAND

January 8, 2019

San Francisco Planning Department
Attn: Kei Zushi, EIR Coordinator
1650 Mission Street, Suite 400
San Francisco, CA 94103

RECEIVED

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

Re: Draft EIR for 3333 California Street, San Francisco, CA 94118
Planning Department Case No: 2015-014028ENV
State Clearinghouse No: 2017092053

In these comments, the term “project” shall include the proposed project and the proposed project variant, unless otherwise indicated.

1. The DEIR Fails to Adopt Feasible Mitigation Measures for the Significant Impact From Construction Noise.

The Draft EIR (DEIR) admits that construction of the proposed project or project variant would expose people to or generate noise levels in excess of applicable standards or cause a substantial temporary or periodic increase in ambient noise levels. DEIR p. 4.D.36. Despite this significant impact, the DEIR fails to adopt feasible mitigation measures required by the California Environmental Quality Act (CEQA). The DEIR is inadequate because it proposes only that the project sponsor prepare a noise control plan at a later time that would be approved by the Planning Department, and the DEIR does not specify the required contents of the plan and does not adopt a specific performance standard for mitigation of the significant noise impact.

The following mitigation measures are feasible and must be adopted to substantially reduce the significant impact from construction noise:

MITIGATION MEASURE - NOISE-1: COMPLIANCE WITH SAN FRANCISCO NOISE ORDINANCE

1. As a condition of approval of the project, contractors or representatives of the project sponsor shall comply with the provisions of Article 29 of the San Francisco Police Code as to Regulation of Noise, except as indicated herein.

MITIGATION MEASURE - NOISE-2: SPECIFIC NOISE CONTROL MEASURES

2. As a condition of approval of the project, the noise control plan for the proposed project shall include all of the construction noise control measures described in Mitigation Measure M-NO-1: Construction Control Measures set forth at DEIR pp. 4.D.42-51. Notwithstanding the foregoing, the monitoring noise stations shall be required to provide continuous noise monitoring at the nearest potentially impacted receptors whenever construction activities are being conducted and not merely from 7 am to 3 pm on Saturdays.

Also notwithstanding the foregoing, night noise permits shall not be sought except in an emergency and at the time that any night noise permits are requested, the Construction Manager shall also provide written copies of the application for a night noise permit and all accompanying writings to the Laurel Heights Improvement Association by email to KRDevincenzi@gmail.com and frfbeagle@gmail.com or such other email address as LHIA may provide for notice.

MITIGATION MEASURE - NOISE-3: PROHIBITION ON NIGHT CONSTRUCTION WORK EXCEPT IN EMERGENCY

3. At the 3333 California Street site, construction work shall not be performed at night during the hours of 8:00 pm of any day and 7:00 am of the following day except in an emergency.

MITIGATION MEASURE - NOISE-4: PROCEDURES FOR NOTICE TO RESIDENT ASSOCIATION OF APPLICATION FOR A PERMIT TO PERFORM CONSTRUCTION WORK AT NIGHT

4. A complete copy of any application for a special permit to perform construction work at night pursuant to section 2908 of the San Francisco Police Code or any other law or regulation must be provided by contractors or representatives of the project sponsor to the Laurel Heights Improvement Association (LHIA) at the same time as it is submitted to the Department of Public Works (DPW) or the Department of Building Inspection (DBI) or any other government agency, and DPW, DBI and any other government agency shall consider comments and/or objections made by LHIA as to any such application. Representatives of the project sponsor shall provide complete copies of any such application to LHIA by email to KRDevincenzi@gmail.com and to frfbeagle@gmail.com or to such other email addresses as LHIA may provide for notice.

MITIGATION MEASURE - NOISE-5: PROVISIONS FOR NOISE MEASUREMENTS

5. As a condition of approval of the project, the Department of Public Health Noise Prevention and Control Officer shall arrange for a qualified noise measurement professional(s) to be on call to travel to 3333 California Street and take noise measurements upon complaint about the level of noise by any resident of the area. The qualified noise professional shall arrive at the 3333 California Street site and commence the noise measurements within 15 minutes of receipt by the City of any complaint about the level of noise emanating from the project. The cost of such noise measurement and all related work and travel shall be assessed against the project sponsor as a condition of approval of this project. Receipt of a noise complaint by the City shall include without limitation initial receipt of a noise complaint by DBI, DPW, the Department of Public Health, the Police Department, 311, or any other government agency to which a noise complaint may be made. Copies of all writings regarding noise measurements made by such qualified noise measurement professional(s) and remedial action required or recommended shall be provided immediately to the Laurel Heights Improvement Association at the email addresses described above.

In the event the qualified noise measurement professional retained by the Department of Public Health fails to arrive at the 3333 California Street site and take noise measurements in accordance with this provision, the project sponsor shall deposit the sum of \$20,000.00 (twenty thousand dollars) with the Laurel Heights Improvement Association, and that Association shall be entitled to use these funds to retain a qualified noise professional to perform all the measurements and activities described in this provision. As said sums are drawn down to \$2,000, the project sponsor shall deposit additional \$10,000 payments with said Association for ongoing noise measurements and mitigation in accordance with this provision. The project sponsor hereby grants permission for any qualified noise professional described in this provision to enter onto the 3333 California Street site and take noise measurements and monitor noise conditions and mitigation measures.

MITIGATION MEASURE - NOISE-6: PROHIBITION ON VARIANCES TO NOISE REGULATIONS

6. In relation to construction or operational noise that occurs at 3333 California Street, the Directors of Public Health, Public Works, Building Inspection, or the Entertainment Commission, or the Chief of Police or any other government representative, may **not** grant variances to noise regulations, over which they have jurisdiction pursuant to Section 2916 of the SF Police Code. The variance procedure provided by section 2910 of the SF Police Code shall not apply to construction or operational noise that occurs at 3333 California Street.

MITIGATION MEASURE - NOISE-7: STORAGE AND IGNITION OF

CONSTRUCTION EQUIPMENT IN UNDERGROUND GARAGE

7. To the greatest extent feasible, project sponsor shall store all construction equipment in the existing underground garage located on the project site at all times when such equipment is not in use, and all construction workers shall start up, turn on or perform ignition of all construction equipment in that underground garage.

MITIGATION MEASURE - NOISE-8: PROOF OF USE OF MUFFLERS AND SOUND ATTENUATING DEVICES

8. Project sponsor shall provide to the Laurel Heights Improvement Association (LHIA) written evidence that impact tools and equipment shall have intake and exhaust mufflers recommended by the manufacturers thereof and approved by the Director of Public Works or the Director of Building Inspection as best accomplishing maximum noise attenuation, and written evidence that pavement breakers and jackhammers shall also be equipped with acoustically attenuating shields or shrouds recommended by the manufacturers thereof and approved by the Director or Public Works or the Director of Building Inspection as best accomplishing maximum noise attenuation, as described in section 2907 of the SF Police Code. Project sponsor shall provide such written evidence to LHIA by email to the addresses described above for each impact tool or equipment to be used at the 3333 California site at least 48 hours prior to use of any such impact tool(s) and equipment on the site.

MITIGATION MEASURE - NOISE-9: NOTICE TO RESIDENTS' ASSOCIATION OF NOISE COMPLAINTS AND REPORTS

9. The Construction Manager or other designated person will provide copies of the noise monitoring log on a weekly basis to the Laurel Heights Improvement Association at the email addresses herein. The log shall include any complaints received, whether in connection with an exceedance or not, as well as any complaints received through calls to 311, DBI, or any other government agency if the contractor is made aware of them (for example, via a DBI notice, inspection, or investigation). The Construction Manager or other designated person shall also contemporaneously submit to the Laurel Heights Improvement Association copies of all reports submitted to the Planning Department Development Performance Coordinator.

2. **The DEIR Is Inadequate Because It Fails to Analyze and Mitigate the Proposed Project's Significant Adverse Impact on a Scenic Vista, Substantial Damage to Scenic Resources and Substantial Degradation of the Existing Visual Character or Quality of the Site and Its Surroundings.**

Page V.C-11 of the Final EIR for the 2004 and 2009 Housing Element states that a project would have a significant effect on the environment if it would:

1. Have a substantial adverse effect on a scenic vista;
2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and other features of the built or natural environment which contribute to a scenic public setting;
3. Substantially degrade the existing visual character or quality of the site and its surroundings, or
4. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area or which would substantially impact other people or properties.

Since the project site was determined eligible for the National Register of Historic Places and has been listed in the California Register of Historical Resources, its aesthetic qualities are protected by CEQA and are not exempt from CEQA review. Both the existing office building and its integrated landscaping are historically significant resources. (Ex. A, final version of nomination that was approved by State Historical Resources Commission)

A. The Proposed Project Would Have a Substantial Impact on Scenic Vistas.

The project site is atop Laurel Hill and commands valued scenic vistas of the downtown and eastern portion of the City and also of the Golden Gate Bridge and other neighborhoods of the City to the northwest. During my years living in the neighborhood, I have seen innumerable members of the public enjoy these views during daytime as well as during nighttime. I have seen jubilant crowds of people view lunar eclipses from the sidewalks atop Laurel Hill at the corner of Laurel Street and Euclid Avenue and from the landscaped green spaces surrounding the main office building. Some photographs I have taken which show the existing condition of some of these views are attached hereto. (Ex. B, photographs taken on October 24, 2017 and January 7, 2019) These photographs show that the portions of the Bank of America Building, Transamerica Pyramid, Salesforce Building and Golden Gate Bridge can be seen from the high ground at Laurel Street and Euclid Avenue, from the landscaped green spaces surrounding the main office building and from public sidewalks along Laurel Street and Euclid Avenue. Also, the historically significant architecture of the main building can be seen across the landscaping on the perimeter of the site, and the site was designed so that the building and landscaping would function as an integrated composition.

The public has used the green landscaped areas surrounding the main building as

recreational space for many years, and the public has acquired a permanent right of recreational use in these areas. (Ex. D, letter of attorney Fitzgerald)

The proposed project would construct new buildings on the south site of the site near Euclid Avenue and Masonic Avenue and on the western portion of the site near Laurel Street that would obstruct these public scenic vistas and obstruct the public view of the historically significant main building as viewed from the surrounding landscaping. Also, the proposed new buildings constructed on the landscaped areas surrounding the site would block public access to such vistas. In addition, the project proposes to add new trees/shrubs near the perimeter of the south side of the site and also street trees at this location that would also impair and/or obstruct these scenic vistas. (Ex. E, developer's renderings)

The Final EIR for the 2004 and 209 Housing Element acknowledges that new residential housing could result in an impact related to scenic vistas if it would be developed in a manner that obstructs views from a scenic vista from a public area or introduces a visual element that would dominate or upset the quality of a view. (Ex. F. p. V.C-11) Figure V.C-1 shows street views of an important building in the area of the 3333 California site. Does this Figure describe a streetview of the main building at 3333 California Street as an important building?

The Community Preservation Alternative/Variant would avoid this significant impact on public vistas because it would retain the existing landscaped areas largely in their present form and existing public vistas from sidewalks and open space used by the public. Also, DEIR Alternatives B and C would retain the existing landscaped areas largely in their present form and avoid this significant impact on public vistas. DEIR 6.35 and 6.67.

Under CEQA, the City may not approve the Proposed Project/Variant, because a feasible alternative is available that would avoid or substantially reduce the project's significant impact upon scenic resources.

Mitigation Measure: Approve an alternative that would preserve the existing landscaped areas surrounding the main building on the southern and western portions of the site in their present form and do not locate any new construction on these areas.

B. The Proposed Project Would Substantially Damage Scenic Resources, Including but not Limited to Trees, Slopes of Laurel Hill and other Features of the Built or Natural Environment Which Contribute to a Scenic Public Setting.

The Final EIR for the 2004 and 2009 Housing Element acknowledges that: "New construction could result in impacts related to damaging scenic resources if new housing would directly affect environmental features, such as topographic features, landscaping, or a built

landmark that contributes to a scenic public setting,” and that “2009 Housing Element Policy 11.6 preserves landmark buildings, some of which could be considered a scenic resource of the built environment.” Ex. F, p. V.C-24-25. As previously stated in my comments of June 8, 2018 on the Initial Study for 3333 California Street, which are incorporated by reference herein, the proposed project would excavate and remove substantial portions of the topography and existing slope of Laurel Hill (a scenic high point known for its scenic vistas), the historically significant landscaping and the historically significant built environment that contributes to a scenic public setting. The proposed project would remove 185 onsite trees, 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. (Initial Study p. 69.) The project would remove significant portions of the landscaping surrounding the main building and all of the Terrace designed by the renowned landscape architecture firm of Eckbo, Royston and Williams. Also, new buildings constructed on presently landscaped areas would obstruct public views of the historically significant main building that contributes to the scenic setting as a significant example of modern architecture in the International Style.

The Mitigation Measure above would avoid or substantially reduce this significant impact on the environment.

C. The Proposed Project Would Substantially Degrade the Existing Visual Character or Quality of the Site and Its Surroundings.

The Final EIR for the 2004 and 2009 Housing Element acknowledges that new construction could result in impacts related to visual character if new housing would be developed with greater densities or heights than surrounding land uses or introduce incompatible uses in such a way as to substantially degrade the character or quality of the site. (Ex., p. 25.)

The proposed density of the project would be over twice the predominant density of the surrounding residential areas (which are predominantly RH-2 areas) and would add two-three stories to the main building to increase its height to 80 and 92 feet, which would be over twice the scale of the existing neighborhood, which has a predominant 40-foot height limit. The proposed project would fail to comply with 2009 Housing Element Policy 1.1, that requires housing projects to respect existing neighborhood character. (See, for example, Ex. G, photographs of residences along western side of Laurel Street). For the reasons stated above, the proposed project would develop the site with densities and heights that are substantially greater than the densities and heights of the surrounding land uses and would construct new buildings where historically significant landscaping integrated with the main building now exists, thereby substantially degrading the connection between the building and the existing landscaping. The Mitigation Measure set forth above would avoid this significant impact on the environment.

D. The Proposed Project Could Create a New Source of Glare or Substantial Light Which Could Adversely Affect Day or Nighttime Views in the Area or Which Could Substantially Impact Other People or Properties.

The Final EIR for the 2004 and 2009 Housing Element acknowledges that new housing could result in impacts related to glare and light if new housing would introduce new sources of glare or light that are unusual for an urban area, and that new housing could introduce new sources of glare and glare if reflective glass or if bright, decorative or security lighting is used. Renderings of the project show a predominant glass-design, and security lighting would be needed along the proposed pathways and other areas on site. Since the exact type of materials and lighting is not known, the project has the potential to produce significant impacts on light and glare, which the DEIR failed to address. The following mitigation measures would reduce the potential impacts if incorporated as conditions of approval of the proposed project.

MITIGATION MEASURE. The project must comply with City Resolution 9212 (or any successor or similar regulation adopted to reduce glare), which prohibits the use of highly reflective or mirrored glass in new construction.

MITIGATION MEASURE. The project will not use bright, decorative or security lighting.

3. The EIR's Statement of Project Objectives Is Unreasonably Narrow, and the DEIR is Inadequate Because It Lacks a Reasonable and Accurate Statement of Project Objectives.

The DEIR's statement of "Objectives" of the proposed project is unreasonably narrow, and biased toward the developer's proposed project concept, and inaccurately characterizes the proposed project/variant and its potential impacts on the environment. As a result, the DEIR fails to provide a reasonable or accurate statement of project objectives under CEQA standards.

The DEIR's allegation that the developer's proposal would redevelop an underutilized commercial site into a new mixed-use community is inaccurate. The 446,490 square-foot site is currently mixed-use commercial and retail (café) and is completely utilized for a 362,000 square foot commercial main structure which contains an 1,183 assignable square foot café and an 11,500 gsf childcare center (455,000 gsf office building minus 93,000 gsf of largely below grade parking garage), a 14,000 gsf service building, historically significant landscaping throughout the site and approximately 93,000 square feet of largely below grade parking. (DEIR p. 2.1; Ex. H, café permit; Ex. I, census data describing project site as "MIXED" land use with existing retail use) Under Resolution 4109/Stipulation as to Character of Improvements, the aggregate gross floor area is limited to the total area of the property (approximately 435,600 square feet, according to Dean Macris). (Ex. J, Dean Macris MEMO dated June 25, 1986.) According to the

DEIR, the aggregate gross floor area of the existing buildings totals approximately 376,000 square feet, which is 84.2 percent of the size of the project site, so at present only 15.8 % of the site may be covered by additional buildings. In addition, since the site zoning changed to R-4 in 1960 and then to RM-1 in 1978, while the prior stipulations of Resolution 4109 continue to apply, the property became a nonconforming use under the Planning Code, so the “total floor area in commercial use may not be expanded.” (Ex. J, Macris MEMO and Ex. K, Passmore February 22, 1981 letter to John Cloudsley, Jr.) Under the current RM-1 zoning, office uses are generally not permitted, and retail uses are generally not permitted. (Ex. L, March 5, 2015 Letter of Determination; see also San Francisco Planning Code section 209.2 and Table 209.2, Zoning Control Table for RM Districts)

The DEIR is also inaccurate, because it does not acknowledge that the site is now highly walkable, with pathways throughout that lead out to Walnut, Mayfair, Laurel and Euclid/Masonic Streets. The EIR fails to acknowledge that there is currently a pathway that leads from the front of the existing office building, through the building to the Eckbo Terrace and out onto Masonic/Euclid streets.

The City’s Preliminary Project Assessment specified that the proposed Walnut “walk” would not be an extension of a City street but would be an internal pathway. (See June 8, 2018 comments by Kathryn Devincenzi on Initial Study for 3333 California Street, Ex. M. p. 15, stating as to measurement of height “curb along the Walnut street extension may not be used as the base of measurement because the Walnut street extension is not a public right-of-way.”) The same analysis applies equally to the proposed Mayfair “extension.” Thus, the DEIR inaccurately described the project’s objectives as extending the “surrounding street grid into the site through a series of pedestrian and bicycle pathways and open spaces.”

Also, since the plans do not specify the size of the proposed new retail uses, it cannot be determined whether the type of retail provided would be of a size that is neighborhood-serving, and some portions of the proposed retail space are very large and could accommodate on-local retail uses. (See August 17, 2017 plan sheet A4.03, and compare with sheet A4.02). Also, by its nature, the proposed 54,000 square feet of retail uses are of a size that would attract customers from areas that are not in the neighborhood. Moreover, the proposed 9,826 square feet of composite food and beverage retail uses (DEIR p. 4.C.54) would attract substantial numbers of persons from outside the neighborhood and are one step up from fast food.

The project’s objective to create complementary designs is inaccurate, because the design and architectural character of the proposed project/variant buildings would not be compatible with the scale or character of any of the neighborhoods surrounding the project site. Another objective acknowledges the incompatibility, acknowledging the “diverse surrounding context.” Also the Preliminary Project Assessment stated that the architectural design should be made high quality, but the plans have not been revised to do so.

The description of the objective of creating a green, welcoming space that will encourage the use of the outdoors and community interaction is not applicable to the proposed project, which would create a concrete jungle with mostly strip planted beds constructed over underground concrete garage structures, in the place of natural, verdant expanses of lawns, shrubs, plants and trees planted into the ground. Also, the paved pathways proposed in the project fails to comply with the requirements of Planning Code section 135, which requires that “[u]nsable open space shall be composed of an outdoor area or areas designed for outdoor living, recreation or landscaping.” Proposed concrete pathways are inaccurately designated as open space on August 19, 2017 plan sheet L0.01.

The fact the proposed project/variant inaccurately characterized proposed paved pathways as open space is acknowledged by the objective to incorporate open space that would maximize pedestrian accessibility.

Also, the DEIR fails to acknowledge that the objective to integrate the existing office building into the development is inaccurate since the proposed project proposes to divide it in two and demolish its executive wing.

In addition, the DEIR and project plans do not specify the type and amount of affordable housing that might be constructed on site, and the San Francisco Planning Code allows a development agreement to increase or decrease the amount of affordable housing otherwise required by the Planning Code. Thus, the DEIR contains no evidence that the proposed project/variant would achieve the objective of providing on-site affordable units consistent with ABAG’s Regional Housing Needs Allocation for the City of San Francisco. The DEIR fails to specify how the proposed project/variant would achieve such ABAG allocation or evaluate the manner in which the proposed project/variant and alternatives would actually meet such ABAG allocation for all income levels.

In addition, the DEIR fails to identify the following conflicts between the developer’s proposed project/variant and the requirements of Resolution 4109/Stipulation as to Character of Improvements. Those requirements provide that: (a) no residential building other than a one-family dwelling or a two-family dwelling shall occupy any portion of the property which is within 100 feet of the Euclid Avenue boundary line thereof, or which is within 100 feet of the easterly line of Laurel Street and south of the northerly line of Mayfair Drive extended, (b) no dwelling within the said described portion of the subject area shall occupy a parcel of land having an area of less than 3300 square feet, nor shall any such dwelling cover more than fifty percent of the area of such parcel or be less than twelve feet from any other such dwelling, or be set back less than 10 feet from any presently existing or future public street, or have a height in excess of forty (40) feet, and (c) no residential building in other portions of the subject property shall have ground coverage in excess of 50% of the area allotted to such dwelling. The developer’s proposed Euclid Building and proposed Laurel duplexes violate these provisions, and the

developer's proposed buildings on other portions of the site violate provision (c) because they have ground coverage in excess of 50% of the area allotted to such dwelling. Do you dispute that the developer's proposed project/variant would violate each of these provisions in the manner set forth above? The DEIR is inaccurate as to the proposed project's conflict with applicable laws

In addition, under Resolution 4109/Stipulation as to Character of Improvements, development of the property was required to include provisions for appropriate and reasonable landscaping of the required open spaces, and prior to the issuance of a permit for any building, a site plan was required to be submitted to the City Planning Commission showing the character and location of the proposed building or buildings and related parking spaces and landscaped areas upon the property, or upon each separate portion thereof as is allotted to such building or buildings. Such site plan was to be submitted to the City Planning Commission for approval as to conformity with these stipulations. The DEIR fails to discuss or provide for analysis the site plan that was approved by the City Planning Commission pursuant to this provision, and the EIR must be revised to provide this information.

It is also important to note that under Planning Code section 174, Stipulations as to Character of Improvements become portions of the Planning Code, so only the Board of Supervisors can modify the Stipulations as to Character of Improvements that are recorded against this site. Section 174 provides that:

“ Every condition, stipulation, special restriction and other limitation imposed by administrative actions pursuant to this Code, whether such actions are discretionary or ministerial, shall be complied with in the development and use of land and structures. All such conditions, stipulations, special restrictions and other limitations shall become requirements of this Code, and failure to comply with any such condition, stipulation, special restriction or other limitation shall constitute a violation of the provisions of this Code. Such conditions, stipulations, special restrictions and other limitations shall include but not be limited to the following:

(a) Conditions prescribed by the Zoning Administrator and the City Planning Commission, and by the Board of Permit Appeals and the Board of Supervisors on appeal, in actions on permits, licenses, conditional uses and variances, and in other actions pursuant to their authority under this Code;

(b) Stipulations upon which any reclassification of property prior to May 2, 1960, was made contingent by action of the City Planning Commission, where the property was developed as stipulated and the stipulations as to the character of improvements are more restrictive than the requirements of this Code that are otherwise applicable. Any such stipulations shall remain in full force and effect under this Code. (Planning Code section 174)

The DEIR inaccurately claims that a project objective would be to incorporate open space

in an amount equal to or greater than that required under the current zoning. DEIR 6.3. However the DEIR fails to acknowledge that this objective conflicts with the current zoning restrictions stated in Resolution 4109/Stipulation as to Character of Improvements require 100-foot landscaped set backs along the property's boundary with Euclid Avenue and along Laurel Street up to its intersection with Mayfair Drive. The EIR must be revised to state the amount of open space required under the current zoning applicable to the site (including Resolution 4109) and recirculated for public comment.

In addition, the Resolution 4109/Stipulation as to Character of Improvements requires one parking space for each 500 square feet of gross floor area in the commercial buildings on the site. The developer's proposed project/variant fail to comply with these provisions, and the DEIR fails to discuss this conflict.

4. The DEIR Inaccurately States the Characteristics and Impacts of Alternatives to the Proposed Project/Variant and Fails to Analyze Adequately a Reasonable Range of Alternatives.

The DEIR inaccurately compares alleged characteristics and impacts of the alternatives with those of the proposed project or project variant and inaccurately evaluates the comparative merits of the alternatives and the ability of each alternative to meet most of the basic project objectives. Due to these inaccuracies and the DEIR's failure to analyze a reasonable range of alternatives, the DEIR fails to foster informed decision making and public participation.

Contrary to the impression created in the DEIR, there was no *public* scoping process that considered various site plans, building retention programs, building heights, views of the character-defining features, land use programs, or feedback from the Architectural Review Committee of the San Francisco Historic Preservation Commission prior to publication of the DEIR. DEIR 6.9. The Planning Department failed to inform the public or the Laurel Heights Improvement Association, which nominated the site for listing on the National Register, of the Architectural Review Committee hearing that considered a range of alternatives on March 21, 2018. The Planning Department went out of its way to exclude the public and LHIA from the formulation of alternatives that would be evaluated in the DEIR.

After the DEIR was published, LHIA and members of the public advocated for a Community Preservation Alternative at a December 5, 2018 hearing of the San Francisco Historic Preservation Commission. The San Francisco Historic Preservation Commission's December 11, 2018 letter to the San Francisco Planning Department expressed interest in seeing the Community Preservation Alternative. (See Ex. 2 to LHIA's transmittal of Treanor SOIS evaluation) Also, the terms of the approved nomination of the site control the nature of the character-defining features of the resource, but the DEIR inaccurately characterizes them as expert opinion.

The DEIR acknowledges that “alternatives with excavation and building construction programs scaled down from that of the proposed project or project variant and taking a shorter period of time to build would result in fewer overall occurrences of adverse construction noise impacts. Although a reduced development alternative would limit the ability to fully achieve some of the basic project objectives, it could reduce the duration of construction noise as well as the overall amount of development, and associated residential, employment, and parking rate increases that generate significant transportation impacts.” DEIR 6.9. However, the DEIR omits a reasonable explanation of the manner in which a reduced development alternative would limit the ability to fully achieve some of the basic project objectives, and in this respect presents an unsupported conclusion that is inadequate. A reduced development alternative could still achieve basic project objectives by providing a lesser amount of development on the site.

The DEIR claims that its analysis of alternatives is “qualitative relative to the identified impacts of the proposed project or project variant” but such a facile characterization does not justify the ambiguities and unsupported conclusions that are contained in the inadequate alternatives analysis. DEIR p. 6.10.

The DEIR claims that alterations that are not entirely in conformance with *The Secretary of Interior’s Standards for the Treatment of Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* (Secretary’s Standards) may, or may not result in a significant impact under the “material impairment” significance standard of CEQA Guidelines Section 15064.5(b)(1). DEIR p.

However, Rehabilitation Standard 6 states that “deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. DEIR p. 6.11. The DEIR states that if there are character-defining features identified in the preservation alternatives that would be retained, they would be repaired or replaced in conformance with Standard 6. *Ibid.* However, this claim is inaccurate because Alternative C would not replace the glass curtain walls with new windows that match the old in design, color, texture and materials.

Alternative F: “Code Conforming” Alternative

The DEIR inaccurately claims that its Code Conforming Alternative addresses neighborhood requests for an “all-residential” alternative. The neighborhood actually requested an alternative that would comply with the Existing Zoning, which includes Resolution 4109, which bans retail on the site. However the Planning Department contorted this request into an alternative that does not reflect the zoning approvals that exist for the site. Instead, the Planning Department conceived of a non-existing zoning alternative that proposes uses that the applicant could apply for but have not been granted. ;Since application for conditional uses and other

permissions has not yet been considered by the Planning Commission or Board of Supervisors, it cannot be determined whether the Planning Commission or Board of Supervisors would grant the exceptions or approvals requested in the Code Conforming Alternative.

The City unreasonably configured the so-called Code Conforming Alternative to avoid analyzing the alternative of constructing all new residential buildings in accordance with the RM-1 zoning that applies to the site along with Resolution 4109. For example, the DEIR acknowledges that under Planning Code section 304(d)(5), planned unit developments within residential districts may include commercial uses only to the extent that such uses are necessary to serve residents of the immediate vicinity, subject to limitations for neighborhood commercial cluster (NC-21) districts. DEIR p. 6.10. The DEIR inaccurately claims that the Code Conforming Alternative includes limited ground-floor commercial uses because of the existence of this section, but the Planning Commission has not considered whether commercial uses are necessary to serve residents of the immediate vicinity, and a plan sheet shows a large proposed retail space that could be used for non-local retail. The project site is now amply served by retail uses, as it is immediately adjacent to the two-block Laurel Village Shopping Center (which contains two independent grocery stores and a wide range of commercial stores), one block from the Sacramento Street commercial corridor which contains many restaurants, one block from a Trader Joe's grocery store, and approximately one-two blocks from the City Center which includes a Target Store and other stores, and one-two blocks from the Geary Boulevard commercial corridor, and is within walking distance of the Clement Street commercial corridor. Thus, there is a reasonable possibility that, upon consideration of the facts, the Planning Commission would find that commercial uses on the project site are not necessary to serve residents of the immediate vicinity. Importantly, the DEIR lacks any land use or zoning studies discussing the types of commercial uses in the nearby established commercial centers that would support the DEIR's conclusion that any new commercial use is necessary to serve residents of the immediate vicinity.

Alternative A: No Project Alternative

The DEIR is inaccurate in claiming that Alternative A: No Project Alternative would not achieve any of the project objectives. The site currently includes office uses, a childcare center and a café (which is considered a type of retail use) Census data states that the site is mixed use. (Ex. I) Thus, Alternative A would meet the objective of having a mixed use development, although not to the same degree as the proposed project/variant.

Alternative B: Full Preservation - Office Alternative

Alternative B: Full Preservation - Office is unreasonably configured in the DEIR to include only 167 residential units and to construct a one-level vertical addition on the roof to expand the usable space for office uses. Given the City's housing needs, a reasonable alternative