



COMMENTS AND RESPONSES ON DRAFT EIR

350 Mission Street Office Project

PLANNING DEPARTMENT
CASE NO. **2006.1524E**

STATE CLEARINGHOUSE NO. 2010062013



SAN FRANCISCO
PLANNING
DEPARTMENT

Draft EIR Publication Date:	SEPTEMBER 15, 2010
Draft EIR Public Hearing Date:	OCTOBER 21, 2010
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Final EIR Certification Date:	FEBRUARY 10, 2011



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January 27, 2010

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To: Members of the Planning Commission and Interested Parties
From: Bill Wycko, Environmental Review Officer
Re: **Attached Comments and Responses on Draft Environmental Impact Report
Case No. 2006.1524E: 350 Mission Street Office Project**

Attached for your review please find a copy of the Comments and Responses document for the Draft Environmental Impact Report (EIR) for the above-referenced project. **This document, along with the Draft EIR, will be before the Planning Commission for Final EIR certification on February 10, 2011.** Please note that the public review period ended on November 2, 2010.

The Planning Commission does not conduct a hearing to receive comments on the Comments and Responses document, and no such hearing is required by the California Environmental Quality Act. Interested parties, however, may always write to Commission members or to the President of the Commission at 1650 Mission Street and express an opinion on the Comments and Responses document, or the Commission's decision to certify the completion of the Final EIR for this project.

Please note that if you receive the Comments and Responses document in addition to the Draft EIR, you technically have the Final EIR. If you have any questions concerning the Comments and Responses document or the environmental review process, please contact Brett Bollinger at (415) 575-9024.

Thank you for your interest in this project and your consideration of this matter.

350 MISSION STREET OFFICE PROJECT

Comments and Responses on Draft EIR

Planning Department Case No. 2006.1524E
State Clearinghouse No. 2010062013

Draft EIR Publication Date: September 15, 2010
Draft EIR Public Hearing Date: October 28, 2010
Draft EIR Public Comment Period: September 15, 2010 through November 2, 2010
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This report is printed on recycled paper.

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A. Introduction

Purpose of the Comments and Responses Document

This document contains public comments received on the Draft Environmental Impact Report (Draft EIR, or DEIR) prepared for the proposed 350 Mission Street project (State Clearinghouse No. 2010062013), and responses to those comments. Also included in this document are text changes initiated by Planning Department staff as well as text changes in response to comments on the Draft EIR.

Environmental Review Process

On September 15, 2010, the San Francisco Planning Department published the Draft EIR on the 350 Mission Street office project for public review and comment. The public review and comment period on the document extended from September 15 through November 2, 2010.¹ During the 48-day public review period, the San Francisco Planning Department received written comments sent through the mail or by hand-delivery, fax, or email (see Attachment A). Oral comments were received at the public hearing on the Draft EIR (no members of the public commented). A court reporter was present at the public hearing, transcribed the oral comments verbatim, and prepared a written transcript (see Attachment B).

This Comments and Responses document has been distributed to the San Francisco Planning Commission, State Clearinghouse, agencies and individuals who commented on the Draft EIR. This document, which responds to comments received on the Draft EIR and includes associated revisions to the Draft EIR, in combination with the Draft EIR, constitutes the Final EIR for the 350 Mission Street project. The Final EIR must be certified by the Planning Commission prior to consideration of the proposed project for approval.

Document Organization

Following Section A, Introduction, Section B contains a list of all persons and organizations who submitted written comments on the Draft EIR and who testified at the public hearing on the Draft EIR held on October 28, 2010.

Section C contains summaries of substantive comments on the Draft EIR made orally during the public hearing and received in writing during the public comment period, from September 15 through November 2, 2010. Comments are grouped by environmental topic and generally correspond to the table of contents of the Draft EIR. However, if no comments addressed a particular topic, that topic does not appear in this document. The name of the commenter is indicated following each comment summary.

Section D contains text changes to the Draft EIR made by the EIR preparers subsequent to publication of the Draft EIR to correct or clarify information presented in the DEIR, including changes to the DEIR text made in response to comments. Section D also contains revised DEIR figures.

¹ Although the DEIR public comment period was intended to run from September 15 through November 1, 2010, the close of the comment period was extended by one day because the original public hearing date at the Planning Commission was continued by one week.

Some of the responses to comments on the Draft EIR provide clarification regarding the DEIR; where applicable, changes have been made to the text of the DEIR, and are shown in double underline for additions and ~~striketrough~~ for deletions.

Some comments made both in writing and at the public hearing were directed towards the merits of the proposed 350 Mission Street project. No responses are provided to these comments, unless they concern the adequacy or accuracy of the EIR.

The comment letters received and the transcript of the public hearing are reproduced in Attachments 1 and 2, respectively.

These comments and responses will be incorporated into the Final EIR as a new chapter. Text changes resulting from comments and responses will also be incorporated in the Final EIR, as indicated in the responses.

B. List of Persons Commenting

Written Comments

Public Agencies

Jean Roggenkamp, Deputy Air Pollution Control Officer, Bay Area Air Quality Management District; letter, November 2, 2010

Ron Downing, Director of Planning, Golden Gate Bridge, Highway, and Transportation District (GGBHTD); letter, October 7, 2010

Hilda Lefebvre, Manager, Capital Projects & Environmental Planning, San Mateo County Transit District; letter, October 26, 2010

Others

Alex DeGood, Jeffer Mangels Butler & Mitchell LLP, on behalf of 50 Beale Street Property LLC; letter, November 2, 2010

Sue C. Hestor, Attorney at Law, on behalf of San Franciscans for Reasonable Growth; letter, November 2, 2010

Persons Commenting at the Public Hearing, October 28, 2010

Commissioner Michael Antonini

Commission President Ron Miguel

C. Summary of Comments and Responses

General Comments

Comment [G1]

"I thought it was very well done I think it was a very well written EIR and I'm very happy with the EIR." (*Commissioner Antonini*)

"I think the EIR was complete, it was certainly adequate...." (*Commission President Miguel*)

Response

The comments are noted.

Plans and Policies

Comment [PP1]

"The DEIR provides minimal analysis or discussion with respect to the Project's non-conforming tower setback and bulk exceptions to the requirements of *Planning Code* sections 132.1(c) and 270, other than to merely state that such exceptions will be required. As noted in the DEIR, the Project will encroach significantly into the required 15 foot setback up to 300 feet and the required 21 foot setback from 300 to 375 feet on the east property line against the Adjacent Property. This would result in a very narrow separation of approximately only 12.5 feet between the Project and the Adjacent Property, rather than the 21 feet that would result from a code compliant project (and 27 feet above 300 feet in height).

"In addition, this massing appears to be inconsistent with Downtown Plan ('Plan') Policy 13.4, which requires separation between buildings to preserve light and air and to prevent excessive bulk. The DEIR does not address this apparent inconsistency between the Plan and proposed massing plan. As the Project does not appear to be in compliance with the Plan, the DEIR does not provide sufficient information to demonstrate that there would be no adverse effects associated with the Project's tower setback and bulk exceptions." (*Alex DeGood*)

Response

The fact that the project would not comply with the setback and bulk requirements of *Planning Code* Section 132.1(c) and 270 is discussed at several locations in the EIR, including the Project Description (pp. 13, 21, and 22) and Chapter III, Compatibility with Existing Zoning and Plans (pp. 31 – 32). As noted on p. 31 of the EIR, and as shown in Figure 4, p. 10, the project would be set back from its property line above the building base for about 14 feet for most of the project's eastern façade. However, as proposed, a 40-foot-wide mechanical element would extend about 7.5 feet into this setback, reducing the property line setback to about 6.5 feet for this 40-foot portion of the project's eastern facade. As stated on EIR p. 13, the *Planning Code* requires a "15-foot setback from the top of the building base to a height of 300 feet, increasing to 21 feet at the 375-foot top of the building crown, or parapet," and thus the setback proposed as part of the

project would not comply with the *Code* with respect to the north and east property lines, and “an exception would be required, as is permitted under *Planning Code* Section 309.” The portions of the building that would not comply with the setback requirement is illustrated in EIR Figure 7, p. 16; the non-compliant areas are shaded and labeled, “Area of Tower Outside of Setback.”

Because the building at 50 Beale Street is set back about 6 feet from its westerly property line, the actual physical setback of the proposed project from the building at 50 Beale Street would be about 20 feet, except for the portion of the project site within the 40-foot-wide mechanical element, where the physical setback from the 50 Beale Street building would be about 12.5 feet.²

The physical effects of the setback and bulk exceptions that are requested for the proposed project are analyzed in relevant sections of the EIR, including Section IV.E, Wind, p. 104, and Section IV.F, Shadow, p. 113, as well as Section E.2, Aesthetics, of the Initial Study, EIR Appendix A, p. 20. In particular, the visual simulations in Figures 9 and 10 of the Initial Study, Appendix A, pp. 26 and 26, show the proximity of the proposed project to the adjacent building at 50 Beale Street. Aesthetic effects analyzed in the EIR, including the Initial Study, are generally those that would be readily apparent to the general public, as opposed to effects on individuals such as tenants in or owners of an adjacent building whose views may be obstructed or exposure to light reduced. It is noted that a number of California appellate courts have held, in the case of aesthetic impacts generally, that relevant considerations include whether the impact would be widely observed, particularly from public viewpoints.

Regarding Downtown Plan Policy 13.4, this policy states, “Maintain separation between buildings to preserve light and air and prevent excessive bulk”; the policy also refers to a diagram concerning the appropriate setbacks. The diagram is the same diagram that illustrates the setbacks required by Section 132.1(c) of the *Planning Code*, which implements this aspect of the Downtown Plan. Thus, in terms of any potential physical effects of the project, the discussion of Section 132.1(c) is also relevant to Policy 13.4. For clarification, the following text is added to the bottom of EIR p. 25 (new text is double-underlined):

Policy 13.2 Foster sculpturing of building form to create less overpowering buildings and more interesting building tops, particularly the tops of towers.

Policy 13.4 Maintain separation between buildings to preserve light and air and prevent excessive bulk.

As also noted, the proposed project would require an exception from the requirement of *Planning Code* Section 132.1(c) with respect to separation of towers, and from the requirement of Section 270(d) with respect to the bulk of the upper tower. Although the project would require the foregoing exceptions, the physical effects of the setback and bulk exceptions that would be required for

² The building at 50 Beale Street was constructed in 1967, according to Assessor’s data, and therefore was not required to meet the current *Planning Code* setback requirements.

the project are analyzed in relevant sections of this EIR, including Section IV.E, Wind, and Section IV.F, Shadow, as well as Section E.2, Aesthetics, of the Initial Study, EIR Appendix A. No significant effects were identified with respect to wind, shadow, aesthetics, or other topics potentially affected by the proposed setback in the EIR.

Comment [PP2]

“Once again a developer wants EXCEPTIONS from code provisions that should sculpt the building and provide some relief from canyon effects on people nearby. It is as though the Downtown Plan is a total joke. There should be a totally code-complying project design set out and analyzed so that an informed decision could be made. This is just another project maxing out the site BEYOND what the Code set out. Exception after exception with no ability to see the environmental, aesthetic, climate impact of those repeated exceptions.

“This lack of information on those building mass exception is compounded by another exception for WIND exceedances.” (*Sue C. Hestor*)

Response

As described in the preceding response, the physical effects of the setback and bulk exceptions that would be required for development of the project are analyzed in relevant sections of the EIR. Wind effects, in particular, are analyzed in Section IV.E, EIR p. 104, where it is found that the project as proposed (including the requested exceptions) would not result in a significant effect on pedestrian-level winds. As described in the EIR, the project would result in relatively minor changes in wind speeds: as stated on EIR p. 110, at 45 of 67 test locations, ground-level measured wind speeds would not change with introduction of the proposed project.³ Of the remaining 22 locations, wind speeds would increase at 15 locations, generally by 1 to 2 mph (3 mph at one location), while wind speeds would decrease by 1 mph at seven locations. Because wind speeds would generally change by no more than 2 mph, and because this change would barely be perceptible to most pedestrians, the project’s effects would be minimal.

It is noted that the requested exception to the *Planning Code* Section 148 wind provisions is because the project would result in a net increase of one exceedance of the pedestrian comfort criterion⁴ and would not eliminate all existing wind speed exceedances of the pedestrian comfort level criterion. As stated on p. 33 of the EIR, “the vast majority of projects involving high-rise buildings that have been approved since adoption of the Downtown Plan have required, and have been granted, an exception to the *Planning Code* wind requirement that, ‘When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements.’ This is because existing winds at many

³ As stated in EIR footnote 87, p. 105, “wind speed” refers to equivalent wind speed (including the effects of turbulence) that is exceeded 10 percent of the time.

⁴ As stated on EIR p. 107, there would be two new exceedances, while one existing exceedance would be eliminated: in all three cases, the increase or decrease in wind speed would be 1 mph.

locations in Downtown San Francisco exceed both the comfort criterion of 7 miles per hour (mph) in public seating areas and the comfort criterion of 11 mph in areas of substantial pedestrian use (generally, sidewalks), and it is generally not feasible to design a new building that would reduce existing wind speeds such that these criteria would be met, or, in many instances, to avoid creating a certain number of new exceedances.”

In the case of the proposed 350 Mission Street project, existing wind speeds exceed the applicable comfort criteria at 18 of 67 test locations. It is almost inconceivable that a building remotely approaching the permitted height and density could be designed to eliminate all existing comfort criteria exceedances. In this, winds in the vicinity of the project site are like those in most of the rest of downtown San Francisco in that wind speeds at many locations exceed one or both comfort criteria, and therefore an exception would be required to the provisions of *Planning Code* Section 148.

Concerning other exceptions, the EIR on p. 33 briefly describes the history of exceptions granted to *Planning Code* bulk requirements, stating that more than 30 projects have been approved involving buildings that required exceptions to *Code* Section 270 (bulk). Of these, nearly two dozen have been built or are under construction (others were built that required an exception to Section 148 but not Section 270), “including essentially all major downtown buildings built since the adoption of the Downtown Plan.” Thus, the commenter’s apparent contention that the bulk guidance in the Downtown Plan has not been wholly followed in the case of many subsequent projects appears substantially correct. It is noted, however, that the *Planning Code*, which implements the Downtown Plan and the remainder of the *General Plan*, expressly includes provisions in Section 309 for the granting of exceptions to various *Code* requirements, including those regarding bulk (Sections 270 and 272) and ground-level winds (Section 148), as well those concerning setback and rear yard requirements (Sections 132.1 and 134(d); sidewalk sunlight (Section 146); parking and off-street loading (Section 151.1(e), 155(c), 155(r), 155(s), 161(h), and 162); and height of vertical extensions and upper tower extensions (Sections 260(b)(1)(G) and 263.7).⁵ The granting of one or more exceptions for the project, which requires Planning Commission approval, must be made on the basis of specific findings, which are considered on the basis of a Planning Department staff report that is prepared separately from the environmental review process.

As stated in the California Environmental Quality Act (*California Public Resources Code* Section 21002.1(a), “The purpose of an environmental impact report is to identify the significant effects on the environment of a project,” as well as to identify mitigation measures and alternatives that would avoid or reduce the severity of these impacts. The “effects” analyzed in an EIR must involve physical changes (CEQA Guidelines Section 15358(b)). Therefore, an EIR is not intended to evaluate policy aspects of a proposed project, such as consistency with the Priority Policies adopted as part of Proposition M, the Accountable Planning Initiative, which

⁵ Additional height exceptions may be permitted in specific height and bulk districts with variable height limits.

was approved by San Francisco voters in 1986, except insofar as the project's relationship to the Priority Policies may implicate physical effects on the environment. As stated on EIR p. 35, "Prior to issuing a permit for any project that requires an Initial Study under CEQA, and prior to issuing a permit for any demolition, conversion, or change of use, and prior to taking any action that requires a finding of consistency with the *General Plan*, the City is required to find that the proposed project or legislation is consistent with the Priority Policies. In evaluating *General Plan* consistency of the project and reviewing the building permit application for the proposed project, the Planning Commission and/or Planning Department would make the necessary findings of consistency with the Priority Policies." Consistent with Planning Department and Planning Commission practice, Department staff will prepare a separate staff report concerning consistency with the Priority Policies, as well as the *General Plan* and *Planning Code*—including the requested exceptions as provided for under Section 309—for consideration by the Planning Commission as part of the Commission's deliberation on whether to approve the proposed 350 Mission project. Such deliberation would not occur until the Final EIR is certified, as required by CEQA.

Regarding the granting of exceptions to *Planning Code* requirements under Section 309 for the proposed project, this is a policy decision that is made by the Planning Commission on a case-by-case basis. To the extent that the granting of such exceptions would result in physical impacts, those impacts are analyzed in this EIR. The fact that a project would require one or more exceptions to *Planning Code* requirements does not, in itself, indicate that the project would have a significant physical effect on the environment.

The EIR includes a Code-Complying Bulk Alternative, Alternative B, p. 131. As noted in Section V.B, Significant Environmental Effects that Cannot Be Avoided if the Proposed Project is Implemented, p. 128, the only such significant unavoidable effects of the project relate to construction-period transportation and construction-generated air quality emissions. Alternative B, the Code-Complying Bulk Alternative, would have similar effects in these two areas, and those impacts would be significant and unavoidable with this alternative, as with the project, as described on EIR p. 133. As the proposed project would have less-than-significant impacts with respect to shadow, wind, and aesthetics, the EIR finds that the Code-Complying Bulk Alternative would also have less-than-significant impacts for these same environmental topics. Because the focus of an EIR's alternatives analysis is intended to be on means of avoiding or reducing significant impacts of the proposed project, further detail in the analysis of these less-than-significant impacts is not required for Alternative B.

Comment [PP3]

"This DEIR, like most others, just rattles off a short summary of the Prop M Priority Policies without acknowledging that they are POLICIES to be applied in the review of a project. (4) SPECIFICALLY reads as follows: that commuter traffic not impede Muni transit service or overburden our streets.

“A parking garage at this location will impede Muni operations because the cars entering and exiting the garage MUST cross multiple Muni routes. The Planning Code explicitly DISCOURAGES parking in the C-3-O because of those conflicts with transit and pedestrians.

“This is NOT an issue of parking deficit - which the DEIR waves away on p. 44. The analysis is provided only for ‘informational purposes.’ But where is the INFORMATION? The LOS table on p. 47 shows CUMULATIVE impacts in EVERY intersection in this area - even those currently at B, C, D, E going to level F. This is for both am and pm peak hours. The decision maker should be forced to confront whether ANY new garage that contributes to this level of congestion is acceptable.” (*Sue C. Hestor*)

Response

As to the physical environmental effects of the proposed project in the context of Priority Policy 4, “that commuter traffic not impede Muni transit services or overburden our streets or neighborhood parking,” the traffic analysis in the EIR, pp. 46 – 49, concludes that the proposed project would not result in any project-specific or cumulative significant effects on operations of nearby intersections. Although the commenter correctly notes that, under cumulative conditions, all study intersections would operate at an unacceptable Level of Service (LOS) F, the analysis determined that the proposed project would not make a considerable contribution to operations at any of the intersections evaluated, because the incremental increase in traffic resulting from the proposed project would not adversely affect the so-called critical movements (those that govern intersection LOS) at any of the study intersections. Thus, traffic impacts of the proposed project would be less than significant. Because traffic impacts would be less than significant, the project would likewise not result in any substantial effect related to disruption or slowing of Muni service. Moreover, as described on EIR pp. 49 – 50, the project would not result in any significant effect on Muni service related to an increase in ridership. The EIR, pp. 50 – 51, does conclude that the proposed project could have a significant effect on p.m. peak-hour Golden Gate Transit service on Fremont Street, because the garage entrance would be located directly across the sidewalk from the Golden Gate Transit bus stop, but mitigation is identified (Mitigation Measure TR-4a, p. 51) to relocate Golden Gate Transit bus stops and thereby reduce this impact to a less-than-significant level. Golden Gate Transit has agreed this measure (see Comment TR2, below).

It is noted that the EIR analyzes a No-Parking Alternative, Alternative C, p. 134. As stated in the description of that alternative, “Trip generation would be the same as with the proposed project, because these calculations are based on development floor area; however, with no on-site parking (except for car-share vehicles), distribution of project trips would be somewhat different than that of the project, because all persons driving to the site would have to park elsewhere. However, like the proposed project, this alternative would not be expected to result in significant traffic impacts, as some vehicle trips would be destined to and from the building in any case, including drivers dropping off passengers (including taxi), delivery vehicles, and certain visitors, and all vehicle trips would be made to the general project vicinity. Therefore, the redistribution of traffic would not be expected to substantially increase volumes at any of the study intersections.”

Transportation

Traffic, Parking, and Circulation

Comment [TR1]

“The proposed project includes 61 parking spaces. There is no graphic explaining the parking whatsoever. There should be such to draw attention to circulation issues associated with the parking. From the driveway shown on the ground floor plans and from information provided elsewhere in the text, the parking is accessed from north-bound Fremont Street and it exits from the same driveway. So cars will travel north on Fremont to enter the garage and north on Fremont to exit the garage. If they want to head south when they leave, they will have to turn right on Market, then right again on Beale. Or if they are arriving from somewhere other than the south, they will have to lap the same block traveling west on Mission, to turn north on Fremont.

“The decision-maker needs information that leads to an analysis of whether ANY parking should be provided at all in this project. This location is critical to operations of transit service NOW and will be even more important IN THE FUTURE as the transit center is developed. There should be a real explanation of how cars will affect pedestrians because so many cross-walks will be crossed for cars entering or exiting this garage.

“In general there are puny non-explanatory graphics in this DEIR.” (*Sue C. Hestor*)

Response

The EIR (pp. 39 – 40) describes Fremont and Beale Streets as one-way streets northbound and southbound, respectively. The EIR project description (p. 5 and p. 6) state that the project’s parking garage and loading dock would be accessible via a driveway on Fremont Street; this proposal is illustrated in Figure 2, Ground Floor Plan, EIR p. 8. The traffic analysis accounts for trips both arriving and departing the project and for the circulation patterns engendered by the one-way streets in the project vicinity.

It is noted that the vehicle ramp to the proposed project’s parking garage would be approximately 100 feet long, with access control at the base. This ramp would accommodate at least four vehicles that were to arrive almost simultaneously at the garage without interfering with pedestrian traffic on the sidewalk or traffic flow on Fremont Street. According to the transportation analysis, the number of vehicles waiting to enter the garage at any one time would generally be no more than two, meaning that the queue of waiting cars would not reach the sidewalk and would not interfere with pedestrians or traffic on Fremont Street.⁶ In terms of vehicles departing the garage, there would be no impact on pedestrian traffic or other traffic from vehicles waiting inside the garage to exit.

⁶ Tim Erney, AECOM, e-mail, January 17, 2011. This document is available for review at the Planning Department, 1650 Mission Street, Suite 400, in Case File No. 2006.1524E.

It is also noted that the EIR includes transportation-related mitigation measures that would require posting a garage/loading dock attendant, installation of audible warning devices, and limiting loading dock hours, to reduce to less-than-significant levels potential impacts related to potential conflicts between pedestrians, Golden Gate Transit buses, and vehicles using the proposed parking garage and loading dock via the proposed driveway on Fremont Street (see EIR pp. 52 – 54).

Transit

Comment [TR2]

“District staff raised several issues when it recently reviewed the Transportation Impact Study for this project. The District’s concerns were shared with San Francisco Planning Department staff in letters dated July 23, 2010, and August 11, 2010. It appears that these issues have been addressed in the DEIR.

“District staff hopes that the proposed mitigation measures, especially Mitigation Measures M-TR-4a, M-TR-4b, M-TR-5c, and M-TR-9a will fully address impacts associated with the 350 Mission Street project. The District looks forward to working with the City and project sponsor to make necessary bus stop modifications in the future.” (*Ron Downing, GGBHTD*)

Response

The comment expresses general concurrence with the EIR’s conclusion concerning potential effects on Golden Gate Transit Service and mitigation identified to reduce effects to a less-than-significant level; no response is required.

Comment [TR3]

“Four SamTrans routes travel in the immediate vicinity of the project: 292, 391, 397 and KX. Currently there are not bus stops located on the Mission Street block between Beale and Fremont Streets; however, this block provides access and egress for these routes into the Transbay Terminal.

“Please ensure you contact Karambir Cheema, Bus Superintendent-North Base, SamTrans at cheemak@samtrans.com or (650) 508-6401, Tim Dumandan at Tdumandan@mvtransit.com, and Silverio Sanchez at Ssanchez@mvtransit.com to coordinate all possible bus service detours during construction.

“Please note that SamTrans Route 397 runs overnight and therefore, the above mentioned contacts should be notified of around-the-clock potential construction impacts to the route.” (*Hilda Lafebre, SamTrans*)

Response

The EIR notes, on p. 40, that SamTrans buses serve the project vicinity, and Figure 8 on EIR p. 41 shows that SamTrans service (indicated by the “SM” logo) operates on Mission Street adjacent to the site. The EIR identifies no specific adverse impacts to SamTrans service: Impact TR-3, pp. 49 – 50, states that project transit ridership “would not meaningfully affect capacity utilization on ... SamTrans ... service (with five or fewer net new riders ...). None of the regional carriers’ capacity utilization standards would be exceeded with project transit trips.”

As discussed under Impact TR-9, EIR pp. 58 – 61, cumulative construction impacts, including project effects and those related to construction of the new Transit Center and other projects proposed in the vicinity, “could potentially result in disruptions to traffic, transit, pedestrians, and/or bicycles that could be significant” (EIR p. 59). Mitigation Measure M-TR-9a calls for “the project sponsor and/or construction contractor [to] coordinate with the Municipal Transportation Agency/Sustainable Streets Division, the Transbay Joint Powers Authority, and construction manager(s)/contractor(s) for the Transit Center project, and with Golden Gate Transit, as well as Muni, AC Transit, and SamTrans, as applicable, to develop construction phasing and operations plans that would result in the least amount of disruption that is feasible to transit operations, pedestrian and bicycle activity, and vehicular traffic.” Despite implementation of this measure, the EIR conservatively concludes that, “because the timing and nature of cumulative Transit Center construction cannot be known at this time, this impact is conservatively judged to be significant and unavoidable.”

The comment concerning notification of SamTrans staff in the event of potential construction-related service disruptions is noted; such notification would be undertaken in connection with the proposed 350 Mission Street project with implementation of Mitigation Measure M-TR-9a, described above.

Noise

Comment [NO1]

“The Noise section of the Initial Study excludes any material quantification of vibration associated with potential pile-driving and other high-vibration-inducing activities that could occur during the construction phase of the Project. Therefore, it is difficult to ascertain whether vibration associated with the Project (and other past, present, and foreseeable projects in the area) would result in cosmetic or structural damage to the Adjacent Property, particularly given that Project plans call for only a 6.5 foot setback from the eastern property line. Although Mitigation Measure M-NO-2a provides measures that would reduce vibration-related effects associated with pile driving, it is difficult to determine whether this mitigation measure would be effective in reducing the cumulative vibration-related damage to a less-than-significant level, since the degree of vibration is not identified in the first place.

“In addition, the DEIR does not sufficiently identify mitigation measures, other than for pile driving, to reduce vibration associated with construction activities, which is a significant concern to the Owner. The Owner therefore respectfully requests that further studies and information be provided to identify vibrations that could result from Project construction activities and additional mitigation measures imposed as applicable to reduce vibration associated with construction activities other than pile driving.”
(Alex DeGood)

Response

As stated in the EIR Project Description, p. 17, the proposed project would be constructed atop a mat foundation. The Initial Study noise analysis, p. 44 of Appendix A, states, “As stated in the project description, the project is proposed to be constructed on a mat foundation, and thus pile-

driving would not be required. Should the foundation concept be revised and a pile-supported foundation be proposed, or should pile-driving otherwise be required, noise impacts could be significant.” For that reason, the Initial Study includes a mitigation measure to reduce pile-driving noise by the maximum extent feasible, as a precaution in the event of a change in the proposed construction methodology. Pile-driving is not anticipated as of this writing. Other typical construction activities, while they can result in occasional vibration that may be perceptible to nearby observers, do not typically generate ground-borne vibration that can cause damage to buildings other than unreinforced masonry structures, none of which exist in the project vicinity. Therefore, vibration impacts would not be significant.

As stated in the Initial Study, construction noise is regulated by the San Francisco Noise Ordinance, which sets forth that it is “the policy of San Francisco to prohibit unwanted, excessive, and avoidable noise.” Construction undertaken consistent with the requirements of the Noise Ordinance would ordinarily be anticipated to further this policy aim. Moreover, with implementation of Mitigation Measure M-NO-2b, Initial Study p. 46, construction noise would be minimized to the maximum extent feasible, and therefore construction noise impacts would be less than significant.

Air Quality

Comment [AQ1]

“District staff is impressed with and strongly supports the City’s binding and enforceable programs to reduce air pollution from new development in the City, such as the Transit First Policy, LEED Silver building requirements, Zero Waste and the Green Building Ordinance. This Project’s attributes to reduce energy use and vehicle trips would help the City reach its greenhouse gas (GHG) reduction goals. For example, consistent with the Transit First Policy, the Project site is located in a dense urban neighborhood with a mix of uses within walking distance, is accessible by local and regional transit services, and its features include providing bicycle parking and associated facilities, limited vehicle parking, three spaces for car share vehicles, and transportation demand management services. In addition, the Project is proposed for LEED Gold certification. Projects like this not only would help the Bay Area move towards reaching the State’s AB32 GHG reduction goals, but also will serve as a model for other jurisdictions seeking to reduce GHG emissions and build energy efficient projects.

“While staff supports the above referenced attributes that would serve to reduce long term operational air pollutants from this Project, District staff is concerned about the significant and unavoidable air quality impacts identified in the DEIR that are associated with Project construction emissions. The DEIR concludes that Project construction could expose sensitive receptors to cancer risk and PM2.5 concentrations above BAAQMD’s significance thresholds. District staff recommends that the emissions from construction be mitigated to the maximum extent feasible to protect human health and has comments on the proposed mitigation measure.

“**Mitigation Measure M-AQ-1.** The DEIR states that construction emissions would exceed the District’s 2010 CEQA thresholds for cancer and PM2.5 risk. Chapter IV page 82 states that if the Project utilized Interim Tier 4 diesel construction equipment exclusively, both the cancer risk and the concentration of

PM2.5 could be reduced to a less-than-significant level, but that these engines are not readily available at this time.

“District staff supports the objective of using the cleanest available construction equipment, and believes it should be a requirement. At the same time, staff realizes that there is uncertainty about when specific types of equipment will be available with Interim Tier 4 engines. Our understanding is that as of year 2011, Interim Tier 4 engines will be available for all off-road equipment, with the exception of equipment engines with 75 to 175 horsepower (hp).

“District staff recommends that Mitigation Measure M-AQ-J be revised to require as a condition of Project approval:

- “Use of Interim Tier 4 or equivalent equipment for all uses where such equipment is available,
- “Use of Tier 3 equipment with Best Available Control Technology (BACT) or alternative fuel vehicles for applications where Tier 4 Interim engines are not available.
- “Prohibition of diesel generators for construction purposes where feasible alternative sources of power are available.” (*Jean Roggenkamp, BAAQMD*)

Response

Given the standards in the June 2010 BAAQMD CEQA Guidelines with respect to construction emissions, the EIR finds a significant construction-period air quality impact for the project. As stated on EIR p. 81, the BAAQMD’s guide for a screening-level analysis of construction health risk “finds a significant impact due to construction emissions for virtually any project, other than a residential project of five or fewer units, that is within 100 meters (330 feet) of a sensitive receptor,” meaning that, in the absence of a project-specific construction risk assessment, many urban infill projects could result in a significant construction-period impact. A project-specific health risk assessment was conducted for the proposed 350 Mission Street project. As noted by the commenter, based on the analysis of diesel and fine particulate (PM_{2.5}) emissions that would be generated during project construction, the EIR stated that the project would result in a significant impact.

It is true that much of the new construction equipment sold beginning in 2011 will be required to meet the Interim Tier 4 emissions standards. However, some Interim Tier 4 equipment will likely not be available until 2012 at the earliest. The fact that new equipment will begin to be available to construction contractors and equipment leasing companies, for example, does not mean that this equipment will be readily available for use on a particular job site. The federal (U.S. EPA) emissions standards that take effect in 2011 do not include any provision for required replacement of existing in-use equipment. Although the California Air Resources Board (CARB) has published regulations concerning the phase-in of new construction equipment to existing fleets, as noted on EIR p. 82, CARB has delayed implementation of some of these new standards, including requirements that construction equipment use so-called Best Available Control Technology or that each operator’s fleet of equipment meet a specified average emissions

standard, because of the continuing economic slowdown. Over time, it is clear that construction equipment statewide will produce far fewer emissions than in the past. However, uncertainty over the timing of the availability of the newest (interim Tier 4) construction equipment makes it impractical to single out a particular project for imposition of a specific equipment emissions standard. For this reason, Mitigation Measure M-AQ-1 includes provisions that all construction equipment, diesel trucks, and generators “be equipped with Best Available Control Technology for emission reductions of NOx and PM” and that all contractors “use equipment that meets ARB’s most recent certification standard for off-road heavy duty diesel engines.” Additionally, this mitigation measure would require the project sponsor and construction contractor to develop a plan demonstrating that the project would achieve a “project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average.” It is noted that these provisions were taken from the BAAQMD’s list of “Additional Construction Mitigation Measures for Projects with Construction Emissions Above the Threshold” (Table 8-3, p. 8-5 of the BAAQMD CEQA Guidelines, June 2010).

In recognition of the BAAQMD’s comment, the following revisions are made to Mitigation Measure M-AQ-1 (new text is double-underlined; deleted text is shown in ~~strike through~~):

M-AQ-1 Construction Vehicle Emissions Minimization: To reduce the potential health risk resulting from project construction activities, the project sponsor shall include in contract specifications a requirement for the following BAAQMD-recommended measures:

- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (less than the five minutes identified above in Improvement Measure I-AQ-1b);
- The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include, as the primary option, use of Interim Tier 4 equipment where such equipment is available and feasible for use, the use of other late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available;
- All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NOx and PM, including Tier 3 or alternative fuel engines where such equipment is available and feasible for use; ~~and~~
- All contractors shall use equipment that meets ARB’s most recent certification standard for off-road heavy duty diesel engines; and
- The project construction contractor shall not use diesel generators for construction purposes where feasible alternative sources of power are available.

Shadow

Comment [SH1]

“The term ‘POPOS’ is weird, NOT A NORMAL TERM PEOPLE USE, and disorienting. It is NOT useful, but obscures information. Perhaps this is the author’s intent?” (*Sue C. Hestor*)

Response

The comment is noted. Admittedly, the term “POPOS” —an acronym for “privately owned, public [or “publicly accessible”] open space”—is not in “everyday” usage. However, the EIR uses this term, in Section IV.F, Shadow, and like any other acronym in the EIR, the term is defined in footnote 93, p. 113, and the EIR uses the acronym in subsequent references.

Comment [SH2]

“There are several levels of shadows that are relevant to looking at this project - but graphic information is only provided on one of them. And it is provided in a manner which obscures information and hinders informed decisions.

“Prop K (sec 295) limits go from one hour after sunrise until one hour before sunset. There is no time of the year when 10 am is one hour after sunrise, and no time when 3 pm is one hour before sunset. Yet those are the “representative” times (besides noon) for which shadow information is provided on 116-119. How many people are walking on the street and affected by sunlight at 10 and 3, versus those at 8-9 or 4-5?

“The Planning Code restricts shadows in Sec. 147 on publicly accessible open spaces, spaces other than the Rec Park facilities covered by Prop K. Please provide at least minimal graphics showing how Prop K and Sect 147 shadows fall. Please explain the LEGAL justification for not providing in a readily accessible form - that CAN BE TESTED VIA PUBLIC COMMENT - shadow graphics that illuminate how the project meets/doesn’t meet SAN FRANCISCO CODE limits on shadows, which providing them for general impacts. It is unacceptable to state, as in fn 95 that information on impacts on Justin Herman Plaza and Redwood Park is available for review in the files. No one - particularly decision-making Commissioners - has the time to dig that information out. Particularly when the EIR is supposed to provide adequate environmental information.” (*Sue C. Hestor*)

Response

The shadow graphics presented in EIR Figures 10 through 13, pp. 116 – 119, depict shadow on the summer solstice (when the sun is highest and shadows are shortest), the winter solstice (when the sun is lowest and shadows are longest), and on the spring and fall equinoxes, which represent midpoints in the sun’s apparent travel across the sky. The times depicted—10:00 a.m., 12:00 noon, and 3:00 p.m., are consistent with long-time Planning Department practice. The primary exception to the foregoing is that it is common for EIRs to show the maximum extent of shadow on an open space protected by *Planning Code* Section 295 (or other important open space, such as Yerba Buena Gardens)—when the project being analyzed would cast shadow on such an open space. In the case of the 350 Mission Street project, no such shadow would be cast on publicly

owned open spaces. As stated on EIR pp. 114 – 115, “Based on the results of computer modeling of shadows, the proposed project would not cast new shadow on Justin Herman Plaza or on any other open space under the jurisdiction of the San Francisco Recreation and Park Commission between one hour after sunrise and one hour before sunset, and therefore the project would comply with *Planning Code* Section 295.” As stated on p. 113, “Section 295 prohibits the issuance of building permits for structures or additions to structures greater than 40 feet in height that would shade property under the jurisdiction of or designated to be acquired by the Recreation and Park Commission, during the period from one hour after sunrise to one hour before sunset, unless the Planning Commission, following review and comment by the general manager of the Recreation and Park Department in consultation with the Recreation and Park Commission, determines that such shade would have an insignificant impact on the use of such property.” The EIR provides adequate information in text and graphics to fully characterize project shadows.

Concerning *Code* Section 147, as stated on EIR p. 114, this section “requires that all new development and additions to existing structures where the height exceeds 50 feet must be shaped to minimize shadow on public plazas or other publicly accessible open spaces other than those protected by Section 295, ‘in accordance with the guidelines of good design and without unduly restricting the development potential of the property.’” The EIR, on pp. 115 – 121, provides a detailed analysis of shadow on the privately owned, publicly accessible open spaces, or POPOS, that would be most affected by the proposed project. On p. 120, the EIR states that the project would newly shade a portion of the POPOS immediately north of the project site during late spring and early summer, when sunlight currently exists on the northern portion of this open space for about one hour around 12:00 noon: the project would eliminate this existing partial sunlight on this “east side POPOS.” The project would not add new shadow on this open space between 8:00 and 9:00 a.m. or between 4:00 and 5:00 p.m., when existing buildings largely shade this space. As for the “west side POPOS,” across Fremont Street and north of the project site, the EIR states (p. 121) that the project would add new shadow to this open space between about 9:30 and 10:30 a.m., also in late spring and early summer, eliminating partial sunlight on this open space at this time. The project would not add any shadow on this open space between 8:00 and 9:00 a.m. or between 4:00 and 5:00 p.m., when existing buildings also largely shade this space.

The EIR concludes, on p. 121, that net new project shadow “would be of limited duration and would occur at each of the open spaces noted over only a few weeks of the year, for up to about 90 minutes per day, in late spring and early summer ... [and] would not affect the available afternoon sunlight on [the] benches [in the POPOS adjacent to the project site]. Because of the limited duration and extent, these shadows would not be expected to substantially adversely affect use of the open spaces. Therefore, the project effect relative to shading of publicly accessible open spaces not under the control of the Recreation and Park Department would be less than significant.”

The analysis showing no impact on Justin Herman Plaza, which is referenced in footnote 95 on EIR p. 115, is merely a spreadsheet that presents the quantitative results of a calculation of net

new project shadow on Justin Herman Plaza. The spreadsheet is generated by a computer program that calculates shadow at 15-minute intervals, one day per week, throughout six months of the year (during the other six months, the sun's path is essentially a mirror image of these months). The calculations are then multiplied by a factor that results in a yearly total of shadow-foot-hours⁷ on the particular open space under analysis. The result for Justin Herman Plaza was 0.00, confirming that the proposed project would cast no new shadow on this open space during hours covered by Section 295.

Comment [SH3]

"Re open spaces/parks to be created in the near future (p. 113-121), HOW does Planning KNOW that none of those will be part of the Rec Park system?" (*Sue C. Hestor*)

Response

Section 295 applies to "property designated for acquisition by the Recreation and Park Commission." A property "designated for acquisition ... shall mean property which a majority of each of the Recreation and Park Commission and the City Planning Commission, meeting jointly, with the concurrence of the Board of Supervisors, have recommended for acquisition from the Open Space Acquisition and Park Renovation Fund" Based on information available to the Planning Department, none of the public open spaces planned as part of the Transit Center District Plan, such as the City Park atop the Transit Center, Mission Square adjacent to and east of the proposed Transit Tower, or the Second & Howard Plaza at the northeast corner of this intersection, are planned to be placed under the jurisdiction of the Recreation and Park Commission. Likewise, the open spaces planned within the adopted Transbay Redevelopment Plan—Oscar Park on Clementina Street, Transbay Park between Main, Beale, Tehama and Clementina Streets, and Essex Street Park, are not planned to be placed under the jurisdiction of the Recreation and Park Commission. None of these planned open spaces is currently designated for acquisition by the Recreation and Park Commission, which is the standard for the application of *Planning Code* Section 295.

It is noted that within the Rincon Hill Plan area farther south, a mini-park planned on Guy Place will be under Recreation and Park Commission jurisdiction. This park will be subject to Section 295, but would not be affected by shadow cast by the proposed project or by any building in the proposed Transit Center District Plan area.

Comment [SH4]

"The list and height of 'cumulative' projects seems to assume that the limits of Prop K can be violated. Please explain." (*Sue C. Hestor*)

⁷ One "shadow-foot-hour" is the equivalent of shadow covering one square foot of ground for one hour.

Response

The comment refers to the analysis on EIR pp. 121 – 122, concerning potential shadow effects of projects described on pp. 19 -20, proposed in the project vicinity – mostly in the area proposed for the Transit Center District Plan. The analysis is undertaken consistent with the direction in Section 15355(b) of the state CEQA Guidelines, that “reasonably foreseeable probable future projects” be included in the cumulative analysis. While it is true that a number of the projects proposed in the project vicinity are proposed to be built at heights greater than currently permitted, these projects are consistent, for the most part, with the increased height limits proposed as part of the Transit Center District Plan. Therefore, for purposes of a conservative analysis, potential shadow effects of these cumulative projects are disclosed on pp. 121 – 122, where it is stated that “some of these proposed and planned buildings, including the Transit Tower, would cast shadow on parks protected by Section 295 of the *Planning Code*, as well as on the proposed elevated City Park atop the Transit Center (replacement for the Transbay Terminal). New shadow from these proposed buildings could potentially result in a significant impact. However, inasmuch as the proposed 350 Mission Street project would not add new shadow to any Recreation and Park Department properties or to the City Park or Mission Square, nor would it substantially interfere with the use of existing POPOS, the proposed project would not make a considerable contribution to potential future shadow effects.”

Alternatives

Comment [ALT1]

“A further concern relates to the fact that the DEIR does not sufficiently explain why a code-complying bulk alternative would not be an Environmentally Superior Alternative to the Project. For example, increased shadow impacts on the Adjacent Property as a result of setback and bulk exceptions may increase the Adjacent Property’s heating costs and related electricity usage, resulting in increased greenhouse gas emissions.

“Additional information is hereby requested, which may include new or revised figures and photo simulations, that demonstrate either that (1) the Project’s non-compliant bulk will not cause adverse effects on surrounding properties or (2) a code-complying bulk alternative would reduce and/or eliminate these impacts. Absent a more thorough analysis of a code-complying bulk alternative, the DEIR does not illustrate how such an alternative could mitigate the undisclosed effects associated with the Project’s setback and bulk exceptions. The Owner is concerned that the DEIR presents the bulk and setback exceptions as a *fait accompli*, stating them as fact without connecting their supposed necessity to the Project’s overall goals and objectives.” (*Alex DeGood*)

Response

As stated on EIR p. 114, the significance criteria for shadow effects are whether a project would adversely affect the use of parks, open space, outdoor recreation facilities, or other public areas. Shadow effects on private property are not typically considered adverse effects for CEQA purposes, for the reasons discussed in the response to Comment PP-1, p. C&R-5 (effects under

CEQA are generally those that would be readily apparent to the general public, as opposed to effects on individuals such as tenants in or owners of an adjacent building). As also described in that response, the EIR does not identify significant impacts of the proposed project with respect to shadow, wind, or aesthetics. Therefore, no analysis of alternative(s) that would reduce these impacts is required.

Concerning the project's potential for shading the adjacent office building and, in turn, resulting in increased greenhouse gas (GHG) emissions from increased burning of fossil fuel for heating and electricity, it would be speculative to attempt this detailed level of calculation in an EIR. Such an analysis could include an energy audit of the existing building, including an evaluation of the solar transmission capacity of the windows to determine the amount of sunlight energy that is transmitted into the building, as well as examination of the building's heating, ventilation, and air conditioning (HVAC) system. In general, however, most modern office buildings with sealed windows and insulation expend more energy on cooling than on heating. Moreover, to the extent that building heating is required in San Francisco's relatively mild climate, it is more during nighttime hours (which are limited in terms of an office building's hours of operation). By obstructing direct sunlight that currently falls on the adjacent 50 Beale Street building, the proposed project clearly would eliminate some solar radiation, which could result in incremental cooling *and* heating of the adjacent building, depending on season and time of day. However, it would be anticipated that the net change would be relatively minimal, and would not approach the threshold of a significant impact.

It is also noted that, in August 2010, the Planning Department has prepared a document entitled *Strategies to Address Greenhouse Gas Emissions*, which presents a comprehensive assessment of policies, programs and ordinances that collectively represent San Francisco's Qualified Greenhouse Gas Reduction Strategy in compliance with the Bay Area Air Quality Management District (BAAQMD)'s 2010 CEQA Air Quality Guidelines and thresholds of significance. The GHG strategy document identifies a number of mandatory requirements and incentives that have measurably reduced greenhouse gas emissions including, but not limited to, increasing the energy efficiency of new and existing buildings, installation of solar panels on building roofs, implementation of a green building strategy, adoption of a zero waste strategy, a construction and demolition debris recovery ordinance, a solar energy generation subsidy, incorporation of alternative fuel vehicles in the City's transportation fleet (including buses and taxis), and a mandatory composting ordinance. The strategy also identifies 42 specific regulations for new development that would reduce a project's GHG emissions. The City's 2017 and 2025 GHG reduction goals are more aggressive than the State's GHG reduction goals as outlined in Assembly Bill 32, and consistent with the State's long-term (2050) GHG reduction goals. The GHG strategy document concludes that San Francisco's policies have resulted in a reduction in greenhouse gas emissions below 1990 levels, meeting statewide AB 32 GHG reduction goals. As reported, San Francisco's 1990 GHG emissions were approximately 8.26 million metric tons (MMT) CO₂E and 2005 GHG emissions are estimated at 7.82 MMTCO₂E, representing an approximately 5.3 percent reduction in GHG emissions below 1990 levels. The BAAQMD

reviewed San Francisco's *Strategies to Address Greenhouse Gas Emissions* and concluded that the strategy meets the criteria for a Qualified GHG Reduction Strategy as outlined in BAAQMD's CEQA Guidelines and stated that San Francisco's "aggressive GHG reduction targets and comprehensive strategies help the Bay Area move toward reaching the State's AB 32 goals, and also serve as a model from which other communities can learn."

Comment [ALT2]

"The alternatives have been manipulated so that the project with NO Parking still has the same massing, and exceptions, as a project that complies with the bulk limits of the Code. They should be merged - a code complying alternative with NO PARKING." (*Sue C. Hestor*)

Response

Section 15126.6 of the State CEQA Guidelines directs that alternatives analyzed in an EIR "avoid or substantially lessen any of the significant effects of the project" while, at the same time, "feasibly attain[ing] most of the basic objectives of the project." As described in the EIR (pp. 128 – 129), the only impacts that could not be mitigated to a less-than-significant level are those related to cumulative construction-period transportation effects (largely attributable to construction of the new Transit Center) and construction-period air quality impacts. Because these impacts, as conservatively evaluated in the EIR, would occur with any meaningful level of development on the project site (i.e., demolition of the existing building and construction of a new building), neither impact could be reduced to a less-than-significant level, except by not building the project, which would not attain most of the project's "basic objectives." Even a sizable reduction in development, such as developing a building half the size of the proposed project, would not avoid these significant impacts.

As required, the EIR includes analysis of a No Project Alternative. Because only the No Project Alternative would not result in the proposed project's significant, unavoidable impacts, CEQA does not require analysis of additional alternatives that likewise would not reduce the project's impacts to a less-than-significant level. Having noted this, however, it can be stated that an alternative such as is suggested by the commenter – Compliance With Planning Code Bulk Limits with No On-Site Parking – would result in the same significant, unmitigable impacts related to construction-period transportation and construction-period air quality emissions as would the proposed project. Such an alternative would not be expected to result in any new significant impacts or any substantially more severe impacts than would the proposed project. An alternative such as that suggested by the commenter could be considered and approved by the decision-makers.

The alternative suggested by the commenter, like the No-Parking Alternative included in the EIR (Alternative C), would avoid significant but mitigable effect related to potential conflicts between pedestrians, Golden Gate Transit buses, and vehicles using the parking garage, because this alternative would have no garage, and thus would avoid the need for a mitigation measure involving relocation of Golden Gate Transit bus stops. This is discussed on EIR p. 134 with

respect to Alternative C; it is also noted there that, assuming off-street loading is provided, “this alternative would result in the same impacts as would the proposed project with respect to potential conflicts between pedestrians and vehicles using the proposed loading dock via the proposed driveway on Fremont Street. As with the proposed project, however, this impact would be mitigated by posting a loading dock attendant and limiting loading dock hours. It is also assumed that, with no garage, the loading dock, driveway, and ramps could be re-sized to allow use of the loading dock by larger trucks, thereby avoiding the project’s significant but mitigable impact with respect to oversize trucks.” The foregoing would be anticipated to hold true as well for the commenter’s suggested alternative, Compliance With Planning Code Bulk Limits with No On-Site Parking.

Topics Analyzed in the Initial Study

Population and Housing

Comment [PH1]

“Housing assumptions (p.123) - the cavalier assumption that because the lower-income work force cannot afford San Francisco housing and that such is okay is unnerving. Please discuss the HOUSING goals - by affordability level - in the SF Housing Element. It is really so boring that we are consciously increasing income disparities in San Francisco? Is becoming a higher income city consistent with CITY policies. I refer you to the first two statements of policy of Prop M in its preamble:

“It is the policy of the People of San Francisco that the amount and pace of commercial office development be limited so that: THE IMPACT OF COMMERCIAL OFFICE DEVELOPMENT WILL NOT OVERWHELM OUR CITY’S TRANSIT, TRAFFIC AND PARKING CAPACITY, HOUSING CAPACITY AND AFFORDABILITY, AND NEIGHBORHOOD CHARACTER; and OUR CITY WILL REMAIN AFFORDABLE FOR THOSE LIVING AND WORKING IN IT.

“Part of the neighborhood character of San Francisco is NOT being only or even predominantly upper income residents.” (*Sue C. Hestor*)

Response

The statements on pp. 123 – 124 of the EIR concerning population and housing are not intended as an attempt to state that it is “okay” that housing in San Francisco is unaffordable to a large percentage of workers. Rather, the explanation on p. 124 regarding the unlikelihood of a person relocating to housing in San Francisco unless they can afford this housing is simply stating a reasonable economic assumption concerning demand for housing in the City. Questions concerning the wage levels for various occupations and the cost of housing in San Francisco are fundamentally economic concerns that are beyond the scope of CEQA analysis. Implementation of the policies contained in Housing Element with respect to housing affordability is separate from the implementation of CEQA, and beyond the scope of this EIR. It is noted that the foregoing discussion was presented in Section IV.G. of the EIR, which provided amplification of

the Initial Study discussion (EIR Appendix A) in response to comments made on the project's Notice of Preparation.

Recreation and Public Space

Comment [RE1]

"As described in the DEIR, the Project would include 6,960 square feet of enclosed public open space. According to page 6, the proposed enclosed lobby and public seating areas would be considered an 'indoor park'; however, the Draft EIR does not sufficiently describe how the proposed open space meets the requirements listed in the Plan's Guidelines for Downtown Open Space.

"Examples of information absent from the DEIR and necessary to determine if the proposed on-site open space would meet City requirements (and would not result in significant effects) include, but are not limited to: (1) the adequacy of proposed seating and moveable chairs; (2) the location of food service seating and open space seating; (3) the park's availability to the public (including hours of operation); (4) the transparency of the lobby/mezzanine walls; and (5) specifics on additional design features (i.e., sculptural or water features). Absent more detail regarding the proposed open space, the Owner is unable to determine whether the space represents a cohesive design that will properly integrate with nearby outdoor public spaces." (*Alex DeGood*)

Response

CEQA requires an evaluation of the proposed project's effects on the physical environment, including whether the project would increase the use of existing parks and recreational facilities such that these facilities would deteriorate, whether the project would degrade existing recreational facilities, or whether the project's own recreational facilities would result in an adverse effect on the environment. In this context, the Initial Study (EIR Appendix A, pp. 52 – 53) concludes that the additional daytime population resulting from the proposed project would not be sufficient to result in an adverse physical impact on existing parks and recreational facilities.

As described in both the Initial Study (pp. 3-7) and the EIR (pp. 11, 12 [Table 1], and 32), the project would include on-site open space in excess of that required by the *Planning Code*, which implements the open space provisions of the Downtown Plan. As stated on EIR p. 6, "the enclosed lobby and public seating areas would be considered an 'indoor park'" for purposes of the *Planning Code* open space requirement. As stated in footnote 4 on p. 11 of the EIR, "The Downtown Plan (Table 1, Guidelines for Downtown Open Space) states that an Indoor Park should have, among other qualities, at least one street-facing glass wall and be accessible from street level; contain at least 1,000 sq. ft. and be at least 20 feet tall; provide food service and adequate seating, sunlight, and ventilation; and include design features." As stated on EIR p. 13, "The combined ground floor and mezzanine levels would be the project's primary distinguishing feature in terms of articulation and materials. In particular, at the corner of Mission and Fremont Streets, the ground floor and mezzanine, together, would serve as an approximately 50-foot-tall atrium, accessible via doors on Mission and Fremont Streets, and through a folding glass-panel door system, also on both facades near the corner of Mission and Fremont Streets. Large portions

of the atrium would be open to the sidewalk in good weather, as the folding panel doors would remain open, providing pedestrian access along almost 75 feet of sidewalk frontage. Publicly accessible open space would be located on both the ground floor and mezzanine, and the atrium would have large expanses of clear glass.” In terms of open space, as indicated on EIR p. 11, “The ground floor lobby, stairway, and adjacent exterior open space (mezzanine terrace) would contribute approximately 4,755 square feet of open space. On the mezzanine, at the top of the stairway, the project would provide a public seating area of approximately 2,205 square feet.” (This seating area is immediately to the left of the space labeled as “Restaurant” in Figure 3, Mezzanine (Second Floor) Plan, EIR p. 9.) Thus, the total on-site open space would be 6,960 square feet. As stated on EIR p. 6, the project’s ground floor would include “a small coffee bar/café near the northwest corner of the ground-floor lobby” (shown beneath the stairway in Figure 2, p. 8). Thus, the project’s open space would meet the requirements for an Indoor Park with regard to glazing, accessibility, size, height, food service, and seating. More detailed evaluation of the usability of project’s proposed on-site open space is beyond the scope of an EIR; for example, the specific nature of design features, including sculpture(s) and/or fountain(s) and the location and number of chairs could be changeable and therefore would not be part of the permanent physical environment, unlike the indoor space itself. In terms of hours of operation, *Planning Code* Section 138(d)(8) requires publicly accessible open space to be “open to the public at times when it is reasonable to expect substantial public use.” The project would comply with this requirement, which, in practice, typically results in privately owned, publicly accessible indoor open spaces being open to the public between the approximate hours of 8:00 a.m. and 6:00 p.m.

Hydrology and Water Quality

Comment [HY1]

“Sea Level Rise - on p. 126 issues raised re[garding] sea level rise are basically pooh-poohed. What is the effect of the extra excavation for a level of parking. Excavation into a rising water table. Is this not one justification for electing an alternative which does NOT include extra excavation for the parking? In the Initial Study - pp 63-65 (but not in the main text) - it is explained that this site was historically part of the Bay, and it has been filled over Bay Mud which 50 feet below grade. This site is subject to liquefaction.

“How is sea level rise on bay fill site, subject to liquefaction, not worthy of discussion in the DEIR text?”
(Sue C. Hestor)

Response

As stated on pp. 125 – 126 of the EIR,⁸ analysis undertaken to date by the Bay Conservation and Development Commission indicates that the project site is not within an area subject to inundation due to sea level rise. As noted on EIR p. 5, the project site is at an elevation of 3 feet,

⁸ This discussion was presented in Section IV.G. of the EIR, which provided amplification of the Initial Study discussion (EIR Appendix A) in response to comments made on the project’s Notice of Preparation.

San Francisco Datum. This represents an elevation of almost 15 feet above mean sea level based on the current 1988 North American Vertical Datum (which is used, for example, in U.S. Geological Survey maps).

Excavation into the subsurface water table is not uncommon in downtown San Francisco, and this requires that areas of the basement that extend below the water table be waterproofed to keep the interior dry. Concerning effects of proposed excavation on the water table, the area and volume of excavation would be so infinitesimally small, compared to the volume of water in the subsurface water table that excavation and placement of the project basement underground would not result in a discernible effect on the groundwater level.

Regarding liquefaction, the Initial Study (p. 64 of Appendix A) states, "The geotechnical investigation found that the sandy fill and Bay Mud underlying the site are susceptible to liquefaction, and could result in ground settlement of as much as 3 inches following a major earthquake. However, because the proposed project would excavate most of the liquefiable soils beneath the project site, the report concluded that 'liquefaction induced settlement will be negligible below foundation level.'"

It is noted that the analyses in the Initial Study are part of the EIR; a topic that is analyzed in the Initial Study and found to result in less-than-significant impacts is not thereby excluded from the EIR.

D. Staff-Initiated Text Changes

The following changes to the text of the Draft EIR are made in response to comments on the DEIR or are included to clarify the DEIR text. In each change, new language is double underlined, while deleted text is shown in ~~strikethrough~~.

On page S-2, the second bullet under Planning Commission approvals (variance for driveway width) is deleted and the following is added prior to the heading "Department of Building Inspection":

Zoning Administrator

- Variance from the maximum driveway width, per Planning Code Section 155(s)(5)(A), of 27 feet.

On page 22, the same change as noted above is made in connection with the variance for driveway width.

On page 25, the following text is added following the last paragraph in response to a comment concerning project consistency with the Downtown Plan:

Policy 13.2 Foster sculpturing of building form to create less overpowering buildings and more interesting building tops, particularly the tops of towers.

Policy 13.4 Maintain separation between buildings to preserve light and air and prevent excessive bulk.

As also noted, the proposed project would require an exception from the requirement of Planning Code Section 132.1(c) with respect to separation of towers, and from the requirement of Section 270(d) with respect to the bulk of the upper tower. Although the project would require the foregoing exceptions, the physical effects of the setback and bulk exceptions that would be required for the project are analyzed in relevant sections of this EIR, including Section IV.E, Wind, and Section IV.F, Shadow, as well as Section E.2, Aesthetics, of the Initial Study, EIR Appendix A. No significant effects were identified with respect to wind, shadow, aesthetics, or other topics potentially affected by the proposed setback in the EIR.

On pages 82 – 83, Mitigation Measure M-AQ-1 is revised as follows to incorporate recommendations from the Bay Area Air Quality Management District:

- M-AQ-1 Construction Vehicle Emissions Minimization:** To reduce the potential health risk resulting from project construction activities, the project sponsor shall include in contract specifications a requirement for the following BAAQMD-recommended measures:
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes (less than the five minutes identified above in Improvement Measure I-AQ-1b);
 - The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include, as the primary option,

use of Interim Tier 4 equipment where such equipment is available and feasible for use, the use of other late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available;

- All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology for emission reductions of NO_x and PM_{2.5} including Tier 3 or alternative fuel engines where such equipment is available and feasible for use; and
- All contractors shall use equipment that meets ARB's most recent certification standard for off-road heavy duty diesel engines; and
- The project construction contractor shall not use diesel generators for construction purposes where feasible alternative sources of power are available.

Attachment 1: Comment Letters



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT
SINCE 1955

November 2, 2010

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

Subject: 350 Mission Street Office Project Draft Environmental Impact Report

Dear Mr. Wycko:

Bay Area Air Quality Management District (District) staff reviewed your agency's Draft Environmental Impact Report (DEIR) for the 350 Mission Street Office Project (Project). The proposed Project would include demolition of an existing four-story office building and the construction of a 24-story building with 356,000 square feet (sq. ft.) of office use, 6,600 sq. ft. of retail and restaurant use, and 6,960 sq. ft. of publicly accessible indoor open space.

District staff is impressed with and strongly supports the City's binding and enforceable programs to reduce air pollution from new development in the City, such as the Transit First Policy, LEED Silver building requirements, Zero Waste and the Green Building Ordinance. This Project's attributes to reduce energy use and vehicle trips would help the City reach its greenhouse gas (GHG) reduction goals. For example, consistent with the Transit First Policy, the Project site is located in a dense urban neighborhood with a mix of uses within walking distance, is accessible by local and regional transit services, and its features include providing bicycle parking and associated facilities, limited vehicle parking, three spaces for car share vehicles, and transportation demand management services. In addition, the Project is proposed for LEED Gold certification. Projects like this not only would help the Bay Area move towards reaching the State's AB32 GHG reduction goals, but also will serve as a model for other jurisdictions seeking to reduce GHG emissions and build energy efficient projects.

While staff supports the above referenced attributes that would serve to reduce long term operational air pollutants from this Project, District staff is concerned about the significant and unavoidable air quality impacts identified in the DEIR that are associated with Project construction emissions. The DEIR concludes that Project construction could expose sensitive receptors to cancer risk and PM2.5 concentrations above BAAQMD's significance thresholds. District staff recommends that the emissions from construction be mitigated to the maximum extent feasible to protect human health and has comments on the proposed mitigation measure.

Mitigation Measure M-AQ-1

The DEIR states that construction emissions would exceed the District's 2010 CEQA thresholds for cancer and PM2.5 risk. Chapter IV page 82 states that if the Project utilized Interim Tier 4 diesel construction equipment exclusively, both the cancer risk and the concentration of PM2.5 could be reduced to a less-than-significant level, but that these engines are not readily available at this time.

AQ1
↓

ALAMEDA COUNTY
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(Vice-Chairperson)
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Nate Miley

CONTRA COSTA COUNTY
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(Secretary)
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NAPA COUNTY
Brad Wagenknecht
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Gavin Newsom

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EXECUTIVE OFFICER/APCO

Spare the Air

The Air District is a Certified Green Business

Page 1 of 2

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Mr. Bill Wycko

November 2, 2010

District staff supports the objective of using the cleanest available construction equipment, and believes it should be a requirement. At the same time, staff realizes that there is uncertainty about when specific types of equipment will be available with Interim Tier 4 engines. Our understanding is that as of year 2011, Interim Tier 4 engines will be available for all off-road equipment, with the exception of equipment engines with 75 to 175 horsepower (hp).

District staff recommends that Mitigation Measure M-AQ-1 be revised to require as a condition of Project approval:

- Use of Interim Tier 4 or equivalent equipment for all uses where such equipment is available.
- Use of Tier 3 equipment with Best Available Control Technology (BACT) or alternative fuel vehicles for applications where Tier 4 Interim engines are not available.
- Prohibition of diesel generators for construction purposes where feasible alternative sources of power are available.

↑
AQ1
cont.

To determine if any permits are needed for potential new stationary source equipment, please visit the District's permits webpage at <http://www.baaqmd.gov/Divisions/Engineering/Application-Forms.aspx> or contact engineering staff at 415-749-4990.

District staff is available to assist the City in addressing these comments. If you have any questions, please contact Alison Kirk, Senior Environmental Planner, at (415) 749-5169.

Sincerely,


 Jean Roggenkamp
 Deputy Air Pollution Control Officer

cc: BAAQMD Director Chris Daly
 BAAQMD Director Eric Mar
 BAAQMD Director Gavin Newsom

RECEIVED

OCT 13 2010

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



October 7, 2010

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

Re: **350 Mission Street Draft Environmental Impact Report Comments**

Dear Mr. Wycko:

Golden Gate Bridge, Highway and Transportation District (District) staff has reviewed the 350 Mission Street Draft Environmental Impact Report (DEIR) and offers the following comments:

- District staff raised several issues when it recently reviewed the Transportation Impact Study for this project. The District's concerns were shared with San Francisco Planning Department staff in letters dated July 23, 2010, and August 11, 2010. It appears that these issues have been addressed in the DEIR.
- District staff hopes that the proposed mitigation measures, especially Mitigation Measures M-TR-4a, M-TR-4b, M-TR-5c, and M-TR-9a will fully address impacts associated with the 350 Mission Street project. The District looks forward to working with the City and project sponsor to make necessary bus stop modifications in the future.

TR2

Thank you for providing the District with the opportunity to submit comments on the 350 Mission Street DEIR. You may contact David Davenport, Associate Planner, at 415.257.4546 if you have any questions regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Ron Downing". The signature is written in a cursive, flowing style.

Ron Downing
Director of Planning

c: David Davenport
Maurice Palumbo
Coach Stop 57 File



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October 26, 2010

OCT 28 2010

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

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

RE: Availability of Draft Environmental Impact Report for 350 Mission Street Office Project; SCH No. 2010062103

Dear Mr. Wycko,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 350 Mission Street Office Project. We respectfully submit the following comments:

- Four SamTrans routes travel in the immediate vicinity of the project: 292, 391, 397 and KX. Currently there are not bus stops located on the Mission Street block between Beale and Fremont Streets; however, this block provides access and egress for these routes into the Transbay Terminal.
- Please ensure you contact Karambir Cheema, Bus Superintendent-North Base, SamTrans at cheemak@samtrans.com or (650) 508-6401, Tim Dumandan at Tdumandan@mvtransit.com, and Silverio Sanchez at Ssanchez@mvtransit.com to coordinate all possible bus service detours during construction.
- Please note that SamTrans Route 397 runs overnight and therefore, the above mentioned contacts should be notified of around-the-clock potential construction impacts to the route.

TR3

Thank you again for the opportunity to provide input. If you have any question regarding these comments, please contact Stacy Cocke, Senior Planner, at (650) 508 – 6207 or via email at cockes@samtrans.com.

Sincerely,

Hilda Lafebre, DBIA
Manager, Capital Projects & Environmental Planning

Cc: Marisa Espinosa, Manager, Planning & Research
Marian Lee, Executive Officer, Planning & Development

SAN MATEO COUNTY TRANSIT DISTRICT
1250 San Carlos Ave. – P.O. Box 3006
San Carlos, CA 94070-1306 (650)508-6200

Alex DeGood
Direct: (310) 201-3540
Fax: (310) 712-3348
AMD@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

Ref: 71498-0001

November 2, 2010

VIA EMAIL

Mr. Brett Bollinger
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 350 Mission Street - Draft EIR

Dear Mr. Bollinger:

This office represents 50 Beale Street Property LLC, the owner ("Owner") of the real property located at 50 Beale Street (the "Adjacent Property"). The Adjacent Property is immediately northeast of the above-referenced proposed redevelopment project (the "Project"). Pursuant to the Planning Department's ("Department") circulation of the Project's draft environmental impact report ("DEIR") and related Initial Study, we submit the following comments for the Department's consideration.

The Owner believes that the Project has the potential to serve as a positive redevelopment opportunity at 350 Mission Street. However, the Owner has concerns that the Project as currently configured will create certain impacts on the Adjacent Property, and that adequate information has not been provided in the DEIR to enable proper analysis of the Project. The Owner therefore urges correction of the deficiencies in the DEIR identified below so that it may better understand the scope and impact of the Project on the Adjacent Property, and encourages the Department to consider certain Project changes that would lessen the impact on surrounding properties, including the Adjacent Property.

I. BULK AND FOOTPRINT

The DEIR provides minimal analysis or discussion with respect to the Project's non-conforming tower setback and bulk exceptions to the requirements of Planning Code sections 132.1(c) and 270, other than to merely state that such exceptions will be required. As noted in the DEIR, the Project will encroach significantly into the required 15 foot setback up to 300 feet and the required 21 foot setback from 300 to 375 feet on the east property line against the Adjacent Property. This would result in a very narrow separation of approximately only 12.5 feet between the Project and the Adjacent Property, rather than the 21 feet that would result from a code compliant project (and 27 feet above 300 feet in height).

PP1

In addition, this massing appears to be inconsistent with Downtown Plan ("Plan") Policy 13.4, which requires separation between buildings to preserve light and air and to prevent excessive bulk. The DEIR does not address this apparent inconsistency between the Plan and proposed massing plan. As the Project does not appear to be in compliance with the Plan, the DEIR does not provide sufficient information to demonstrate that there would be no adverse effects associated with the Project's tower setback and bulk exceptions.

PP1
cont.

II. PROJECT ALTERNATIVES

A further concern relates to the fact that the DEIR does not sufficiently explain why a code-complying bulk alternative would not be an Environmentally Superior Alternative to the Project. For example, increased shadow impacts on the Adjacent Property as a result of setback and bulk exceptions may increase the Adjacent Property's heating costs and related electricity usage, resulting in increased greenhouse gas emissions.

Additional information is hereby requested, which may include new or revised figures and photo simulations, that demonstrate either that (1) the Project's non-compliant bulk will not cause adverse effects on surrounding properties or (2) a code-complying bulk alternative would reduce and/or eliminate these impacts. Absent a more thorough analysis of a code-complying bulk alternative, the DEIR does not illustrate how such an alternative could mitigate the undisclosed effects associated with the Project's setback and bulk exceptions. The Owner is concerned that the DEIR presents the bulk and setback exceptions as a *fait accompli*, stating them as fact without connecting their supposed necessity to the Project's overall goals and objectives.

ALT1

III. OPEN SPACE

As described in the DEIR, the Project would include 6,960 square feet of enclosed public open space. According to page 6, the proposed enclosed lobby and public seating areas would be considered an "indoor park"; however, the Draft EIR does not sufficiently describe how the proposed open space meets the requirements listed in the Plan's Guidelines for Downtown Open Space.

Examples of information absent from the DEIR and necessary to determine if the proposed on-site open space would meet City requirements (and would not result in significant effects) include, but are not limited to: (1) the adequacy of proposed seating and moveable chairs; (2) the location of food service seating and open space seating; (3) the park's availability to the public (including hours of operation); (4) the transparency of the lobby/mezzanine walls; and (5) specifics on additional design features (i.e., sculptural or water features). Absent more detail regarding the proposed open space, the Owner is unable to determine whether the space represents a cohesive design that will properly integrate with nearby outdoor public spaces.

RE1

IV. CONSTRUCTION NOISE AND VIBRATION

The Noise section of the Initial Study excludes any material quantification of vibration associated with potential pile-driving and other high-vibration-inducing activities that could occur during the construction phase of the Project. Therefore, it is difficult to ascertain whether vibration associated with the Project (and other past, present, and foreseeable projects in the area) would result in cosmetic or structural damage to the Adjacent Property, particularly given that Project plans call for only a 6.5 foot setback from the eastern property line. Although Mitigation Measure M-NO-2a provides measures that would reduce vibration-related effects associated with pile driving, it is difficult to determine whether this mitigation measure would be effective in reducing the cumulative vibration-related damage to a less-than-significant level, since the degree of vibration is not identified in the first place.

NO1

In addition, the DEIR does not sufficiently identify mitigation measures, other than for pile driving, to reduce vibration associated with construction activities, which is a significant concern to the Owner. The Owner therefore respectfully requests that further studies and information be provided to identify vibrations that could result from Project construction activities and additional mitigation measures imposed as applicable to reduce vibration associated with construction activities other than pile driving.

V. CONCLUSION

As noted previously, while the redevelopment of 350 Mission has the potential to positively impact the area, the DEIR (in its current form) does not provide sufficient information or analysis regarding several facets of the Project and their potential to cause adverse impacts on the Adjacent Property and its surroundings. The Owner respectfully requests and encourages additional detail, analysis and explanations regarding these potential impacts, including a more thorough examination of a code-complying bulk alternative.

Sincerely,



ALEX DEGOOD of
Jeffer Mangels Butler & Mitchell LLP

cc: Benjamin M. Reznik

SUE C. HESTOR
Attorney at Law
870 Market Street, Suite 1128 • San Francisco, CA 94102
(415) 362-2778 • FAX (415) 362-8048

November 2, 2010

Brett Bollinger
Major Environmental Analysis
1650 Mission Street 4th fl
San Francisco CA 94103

RE: 2006.1524E 350 Mission Street DEIR

Dear Mr. Bollinger:

San Franciscans for Reasonable Growth submits the following comments on the 350 Mission Street DEIR.

Lack of explanation of circulation associated with parking.

The proposed project includes 61 parking spaces. There is no graphic explaining the parking whatsoever. There should be such to draw attention to circulation issues associated with the parking. From the driveway shown on the ground floor plans and from information provided elsewhere in the text, the parking is accessed from north-bound Fremont Street and it exits from the same driveway. So cars will travel north on Fremont to enter the garage and north on Fremont to exit the garage. If they want to head south when they leave, they will have to turn right on Market, then right again on Beale. Or if they are arriving from somewhere other than the south, they will have to lap the same block traveling west on Mission, to turn north on Fremont.

The decision-maker needs information that leads to an analysis of whether ANY parking should be provided at all in this project. This location is critical to operations of transit service NOW and will be even more important IN THE FUTURE as the transit center is developed. There should be a real explanation of how cars will affect pedestrians because so many cross-walks will be crossed for cars entering or exiting this garage.

In general there are puny non-explanatory graphics in this DEIR.

Lack of analysis of exceptions.

Once again a developer wants EXCEPTIONS from code provisions that should sculpt the building and provide some relief from canyon effects on people nearby. It is as though the Downtown Plan is a total

TR1

PP2

joke. There should be a totally code-complying project design set out and analyzed so that an informed decision could be made. This is just another project maxing out the site BEYOND what the Code set out. Exception after exception with no ability to see the environmental, aesthetic, climate impact of those repeated exceptions.

PP2
cont.

This lack of information on those building mass exception is compounded by another exception for WIND exceedances.

Prop M impacts - parking

This DEIR, like most others, just rattles off a short summary of the Prop M Priority Policies without acknowledging that they are POLICIES to be applied in the review of a project. (4) SPECIFICALLY reads as follows: that commuter traffic not impede Muni transit service or overburden our streets.

A parking garage at this location will impede Muni operations because the cars entering and exiting the garage MUST cross multiple Muni routes. The Planning Code explicitly DISCOURAGES parking in the C-3-O because of those conflicts with transit and pedestrians.

PP3

This is NOT an issue of parking deficit - which the DEIR waves away on p. 44. The analysis is provided only for "informational purposes." But where is the INFORMATION? The LOS table on p.47 shows CUMULATIVE impacts in EVERY intersection in this area - even those currently at B, C, D, E going to **level F**. This is for both am and pm peak hours. The decision maker should be forced to confront whether ANY new garage that contributes to this level of congestion is acceptable.

Shadow impacts

The term "POPOS" is weird, NOT A NORMAL TERM PEOPLE USE, and disorienting. It is NOT useful, but obscures information. Perhaps this is the author's intent?

SH1

There are several levels of shadows that are relevant to looking at this project - but graphic information is only provided on one of them. And it is provided in a manner which obscures information and hinders informed decisions.

Prop K (sec 295) limits go from one hour after sunrise until one hour before sunset. There is no time of the year when 10am is one hour after sunrise, and no time when 3pm is one hour before sunset. Yet those are the "representative" times (besides noon) for which shadow information is provided on 116-119. **How many people are walking on the street and affected by sunlight at 10 and 3, versus those at 8-9 or 4-5?**

SH2

The Planning Code restricts shadows in Sec. 147 on publicly accessible open spaces, spaces other than the Rec Park facilities covered by Prop K. Please provide at least minimal graphics showing how Prop K and Sect 147 shadows fall. Please explain the LEGAL justification for not providing in a readily accessible form - that CAN BE TESTED VIA PUBLIC COMMENT - shadow graphics that illuminate how

the project meets/doesn't meet SAN FRANCISCO CODE limits on shadows, which providing them for general impacts. It is unacceptable to state, as in fn 95 that information on impacts on Justin Herman Plaza and Redwood Park is available for review in the files. No one - particularly decision-making Commissioners - has the time to dig that information out. Particularly when the EIR is supposed to provide adequate environmental information.

↑
SH2
cont.

Re open spaces/parks to be created in the near future (p. 113-121), HOW does Planning KNOW that none of those will be part of the Rec Park system?

SH3

The list and height of "cumulative" projects seems to assume that the limits of Prop K can be violated. Please explain.

SH4

Housing assumptions (p.123) - the cavalier assumption that because the lower-income work force cannot afford San Francisco housing and that such is okay is unnerving. Please discuss the HOUSING goals - by affordability level - in the SF Housing Element. It is really so boring that we are consciously increasing income disparities in San Francisco? Is becoming a higher income city consistent with CITY policies. I refer you to the first two statements of policy of Prop M in its preamble:

It is the policy of the People of Francisco that the amount and pace of commercial office development be limited so that: THE IMPACT OF COMMERCIAL OFFICE DEVELOPMENT WILL NOT OVERWHELM OUR CITY'S TRANSIT, TRAFFIC AND PARKING CAPACITY, HOUSING CAPACITY AND AFFORDABILITY, AND NEIGHBORHOOD CHARACTER; and OUR CITY WILL REMAIN AFFORDABLE FOR THOSE LIVING AND WORKING IN IT.

PH1

Part of the neighborhood character of San Francisco is NOT being only or even predominantly upper income residents.

Sea Level Rise - on p. 126 issues raised re sea level rise are basically pooh-poohed. What is the effect of the extra excavation for a level of parking. Excavation into a rising water table. Is this not one justification for electing an alternative which does NOT include extra excavation for the parking? In the **Initial Study** - pp 63-65 (but not in the main text) - it is explained that this site was historically part of the Bay, and it has been filled over Bay Mud which 50 feet below grade. This site is subject to liquefaction.

HY1

How is sea level rise on bay fill site, subject to liquefaction, not worthy of discussion in the DEIR text?

November 2, 2010 - 350 Mission Street DEIR - page 4

Alternatives

The alternatives have been manipulated so that the project with NO Parking still has the same massing, and exceptions, as a project that complies with the bulk limits of the Code. They should be merged - a code complying alternative with NO PARKING.] ALT2

Respectfully submitted,

Sue C. Hestor

Cc: Brad Paul

Attachment 2: Transcript of DEIR Public Hearing

San Francisco Planning Commission

Item 12 - 350 Mission Street Draft EIR

Commission Chambers
Room 400
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, California

Thursday, October 28, 2010

5:00 P.M.

Reported by
Tasha Sanbrailo

CALIFORNIA REPORTING LLC
52 Longwood Drive, San Rafael, CA 94901 (415) 457-4417

APPEARANCES

Present:

Ron Miguel, President

Christina R. Olague, Vice President

Michael J. Antonini, Commissioner

Kathrin Moore, Commissioner

Hisashi Sugaya, Commissioner

Jonas Ionin, Clerk

John S. Rahaim, Director of Planning

Scott Sanchez, Zoning Administrator

Brett Bollinger, Planning Department, Major Environmental
Analysis Section

1

2

CALIFORNIA REPORTING LLC
52 Longwood Drive, San Rafael, CA 94901 (415) 457-4417

P R O C E E D I N G S

1 OCTOBER 28, 2010

5:02 P.M.

-o-o-

4 **Item 12. Case No. 2006.1524E - 350 Mission Street - Public**
5 **Hearing on the Draft EIR.**

6 MR. IONIN: Now, you are on Item 12. Case No.
7 2006.1524E at 350 Mission Street, Draft Environmental Impact
8 Report. Please note that written comments will be accepted
9 at the Planning Department's Offices until 5:00 p.m. on
10 November 2nd, 2010.

11 MR. BOLLINGER: Good afternoon, President Miguel
12 and members of the Commission. I am Brett Bollinger with
13 the Major Environmental Analysis Section of the Planning
14 Department. This is a hearing to receive comments on the
15 Draft EIR, Environmental Impact Report, for Case No.

16 2006.1524E, the 350 Mission Street Project, which consists
17 of demolition of an existing four-story institutional retail
18 building and construction of a new 375-foot high, 356,000
19 square foot office building with ground level restaurant and
20 retail uses, 61 parking spaces, and 64 bicycle parking
21 spaces.

22 Staff is not here to answer comments today,
23 comments will be transcribed and responded to in writing in
24 the Comments and Responses document, which will respond to
25 all verbal and written comments received, and make revisions

CALIFORNIA REPORTING LLC
52 Longwood Drive, San Rafael, CA 94901 (415) 457-4417

3

1 to the Draft EIR as appropriate. This is not a hearing to
2 consider approval or disapproval of the project, that
3 hearing will follow the Final EIR certification.

4 Comments today should be directed to the adequacy
5 and accuracy of information contained in the Draft EIR.
6 Commenters should speak slowly and clearly so that the Court
7 Reporter can produce an accurate transcript. Also,
8 commenters should state their name and address so that they
9 can be properly identified, and so that they can be sent a
10 copy of the Comments and Responses document when completed.
11 After hearing comments from the general public, we will also
12 take any comments on the Draft EIR by the Planning
13 Commissioners.

14 The public comment period for this project began
15 on September 15th, 2010, and extends until 5:00 p.m. on
16 Tuesday, November 2nd, 2010. This concludes my presentation
17 on this matter. And, unless the Commission members have any
18 questions, I would respectfully suggest that the public
19 hearing period be opened. Thank you.

20 PRESIDENT MIGUEL: Thank you. I only have one
21 comment card, Lee Moiten - oh, excuse me, sorry. Okay, is
22 there any public comment on this item on the Draft EIR? In
23 that case, public comment is closed and, as you have just
24 heard, public comment period is actually open until November
25 1st, Monday -

CALIFORNIA REPORTING LLC
52 Longwood Drive, San Rafael, CA 94901 (415) 457-4417

4

1 MR. IONIN: November 2nd.
2 PRESIDENT MIGUEL: Oh, okay, because November 1st
3 is actually on the Draft EIR.
4 MR. BOLLINGER: Commissioners, that was because
5 the project was continued to this week -
6 PRESIDENT MIGUEL: All right, I don't have a
7 problem - okay, Tuesday, very good. Commissioner Antonini.
8 COMMISSIONER ANTONINI: Yeah, I thought it was
9 very well done and, as should be the case, talks about the
10 project itself, which it is compliant with the height
11 zoning, but there are some exceptions that are asked and
12 analyzed in here, and then they go on to present some other
13 alternatives, as they should. And that seems to be quite
14 good, you know, complying without the exemption and then the
15 no project alternative and some others that deal with
16 certain facets of the project. So, I think it was a very
17 well written EIR and I'm very happy with the EIR.
18 PRESIDENT MIGUEL: Yeah, I think the EIR was
19 complete, it was certainly adequate, and I look forward to
20 the project coming before us.

21 [Concluded at 5:10 p.m.]

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