



# SAN FRANCISCO PLANNING DEPARTMENT

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To: Members, Planning Commission

From: Bill Wycko, Environmental Review Officer

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Subject: **Questions Raised During FEIR Certification Hearings for  
Fairmont Hotel Tower Project**

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The Planning Commission requested additional information and procedural clarifications during its Final EIR (FEIR) certification deliberations concerning the Fairmont Tower project. The questions raised highlight how CEQA documents serve various purposes. The focus of CEQA documents is to identify and analyze significant environmental impacts, but environmental documents also inform decision-making about a project as well as address public notice and review.

## EIRs Identify Significant Environmental Impacts

The central role of CEQA documents is to investigate the potential for significant environmental impacts as defined by the CEQA statutes. Identification of significant impacts and potential mitigation measures proceeds independent of the project sponsor's objectives, but assessment of the feasibility of mitigation measures includes consideration of the practical ability of responsible parties, including the project sponsor, to implement mitigations. The CEQA statutes direct that project alternatives in EIRs be defined to avoid or reduce significant impacts, but EIR alternatives are also shaped by consistency with achieving some or all of the project sponsor's objectives. EIRs address through Comments & Responses (C&R) any questions that affect the adequacy of the Planning Department's evaluation of any potential significant environmental impact, affect feasible mitigation of identified significant impacts, or affect project alternatives that eliminate or reduce identified significant impacts.

Direction from the Planning Commission, including during a FEIR certification hearing, to further investigate potential significant environmental impacts and/or associated mitigation measures and/or EIR alternatives is appropriate. Any inconsistencies with the project sponsor's objectives would not preclude these inquiries at this stage but may, in combination with other factors, influence which version of a project the Planning Commission subsequently decides to support after FEIR certification.

## **EIRs Also Inform Decision-Making**

Environmental documents also help to inform decision-making about a proposed project. In responding to comments on an EIR, the Planning Department updates and corrects information whenever staff becomes aware of inaccuracies, but we also indicate that this is being provided only for information purposes when these changes would not affect CEQA significance conclusions. Such additional information or correction of inaccuracies would not necessarily affect the EIR's conclusions but could provide better information that may help decision-makers evaluate a project.

Requests that EIRs include additional information that may or may not affect CEQA conclusions create ambiguity about the limits of information that needs to be included in order to certify a FEIR. Questions about the accuracy of the Fairmont Tower EIR's estimates about the project's effects on Local 2 employment and the feasibility of adapting the existing Fairmont Tower for residential condominiums encapsulate this ambiguity. For example, additional information about the adaptability of the existing Fairmont Tower for the purpose of further investigating potential historic resource or construction impacts would clearly be consistent within the context contemplated by CEQA. However, requests in conjunction with FEIR certification for more complete or corrected information, independent of potential CEQA impacts, may be viewed as arbitrary or capricious and are more appropriately addressed outside of the CEQA analysis.

On the other hand, if the Planning Commission wants to actively consider a version of a proposed project that is outside the breadth of the EIR's project alternatives (which are defined to reduce or avoid identified significant CEQA impacts), providing this information in advance of FEIR certification may be warranted. Requests for additional information to assist in decision-making about a project or to further investigate or offset a project's potential environmental impacts need to include clear and explicit direction from the Planning Commission to guide the Planning Department's work. Direction from the Planning Commission that comes during FEIR certification hearings also needs to articulate specific reasons to support the basis for providing additional information in the EIR.

## **Public Notice and Review of Additional Information**

The San Francisco Administrative Code provides specific guidance about public notice and distribution of environmental documents in conjunction with a Draft EIR (DEIR) and a C&R document. If further investigations about questions raised during DEIR public comment period or FEIR certification hearings result in identification of any additional

new or substantially more severe significant environmental impacts---or new, feasible alternatives or mitigation measures that are not adopted---this would trigger recirculation of the DEIR and additional public hearings.

The San Francisco Administrative Code does not provide guidance concerning public notice and review related to requests for additional materials prepared to address questions raised during a Planning Commission's FEIR certification hearing that do not modify the EIR's significance conclusions nor require recirculation. The Planning Department generally distributes FEIRs 10-14 days prior to FEIR certification hearings. The Planning Department proposes to provide for public review by distributing the additional materials prepared in response to the Planning Commission questions at least fourteen days in advance of the continuance date established for the FEIR certification hearing, which would be consistent with Planning Department practice for comparable environmental documents.