SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Appeal of Tentative Parcel Map

800 Presidio Avenue

DATE: July 2, 2012

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: John Rahaim, Planning Director – Planning Department (415) 558-6411

Glenn Cabreros, Case Planner – Planning Department (415) 558-6169

RE: Board File No. 12-0660, Planning Case No. 2006.0868Q –
Appeal of the Tentative Parcel Map for 800 Presidio Avenue

HEARING DATE: July 10, 2010

ATTACHMENTS:

A. Planning Department Appeal Response to the 2011 Appeal of the Conditional Use authorization for 800 Presidio
B. Planning Department Appeal Response to the 2011 Appeal of the Environmental Impact Report for 800 Presidio
C. Board of Supervisor's Motions Recording Board Actions on the 2011 Appeals to the Board of Supervisors
D. Superior Court of California, County of San Francisco Court Order for Case File No: CPF-11-511499 "Neighbors for Fair Planning, An Unincorporated Vs. City and County of San Francisco, A Chartered et al" Upholding a CEQA Challenge.

PROJECT SPONSOR: Booker T. Washington Community Service Center, 800 Presidio Avenue, San Francisco, CA 94115

APPELLANT: Stephen Williams, Law Offices of Stephen Williams, 1934 Divisadero Street, San Francisco, CA 94115

INTRODUCTION:

This memorandum and the attached documents are in response to the letter of appeal ("Appeal Letter") to the Board of Supervisors (the "Board") regarding the Department of Public Works ("DPW") May 31, 2012 approval of a Tentative Parcel Map for a two unit mixed-use condominium project consisting of a single five-story building which will contain up to 50 affordable housing units in the residential portion of the project and a community gymnasium within the commercial portion at 800 Presidio Avenue and Assessors Block 1073 Lot 13. The application was filed with DPW on February 16, 2012 and referred to the Planning Department (the "Department") for review on February 27, 2012. Recommendation for approval by the Department was made on October 21, 2011 and issued by DPW on May 31, 2012. The Appeal

Letter to the Board was filed on June 11, 2012 by Heidi Urness, agent, for Stephen M. Williams and referenced the proposed project in Case No. 2006.0868Q.

The decision before the Board is whether to uphold or overturn the Tentative Parcel Map approval for a two-unit, mixed-use condominium.

BACKGROUND:

2011 – Applications for Development filed

On March 16, 2011, Alice Barkley for Booker T. Washington Community Service Center (hereinafter "BTWCSC") filed a Conditional Use application with the Planning Department.

On January 25, 2008, the Department conducted a shadow study, Case No. 2006.0868K, for the project pursuant to Planning Code Section 295 and found that the project would not cast shadows any Recreation and Park Department properties.

2011 – Planning Commission approves Conditional Use Authorization, CEQA Findings, and General Plan Consistency

On April 28, 2011, the Commission adopted Resolution No. 18341, Case No. 2006.0868TZ, recommending the Board of Supervisors adopt the text change and map amendments to create the Presidio-Sutter Special Use District and amending the height and bulk limits to 40-X/55-X. A referenced in Resolution No. 18341, the Commission made findings that the proposed text change and map amendments were consistent with the relevant objective and policies of the General Plan.

On April 28, 2011, the Commission also approved Motion No. 18342, Conditional Use Authorization Case No. 2006.0868C, to construct a Planned Unit Development project pursuant to Planning Code Sections 303 and 304 at a duly noticed public hearing at a regularly scheduled meeting. In considering the approval of the project, the Commission made findings affirming the project's consistency with the pertinent objectives and policies of the General Plan, which are specifically incorporated as part of Motion No. 18432.

2011 – Board of Supervisors hearing on the Appeal of the Conditional Use Authorization

On May 31, 2011 an appeal by Mr. Stephen M. Williams, on behalf of the Neighbors for Fair Planning concerning the appropriateness of the Conditional Use authorization was determined to be timely. On June 21, 2011, the Board conducted a duly noticed public hearing on the Planning Commissions Conditional Use authorization. In Motion 11-104 the Board disapproved the Commission's authorization and in Motion 11-110, the Board approved the issuance of the Conditional Use authorization subject to the Planning Commission's conditions and with additional conditions added by the Board to address operational sound, gym construction noise insulation, and 2755 Sutter the house just east and below 800 Presidio.

2011 – Board of Supervisor's Motion Affirming the Final Environmental Impact Report

On May 17, 2011 Mr. Stephen M. Williams, on behalf of the Neighbors for Fair Planning filed an appeal of the FEIR to the Board of Supervisors. On June 14, 2011 the Board held a duly noticed public hearing. In Motion 18340 the Board certified the FEIR and found it to be adequate and objective and reflecting the independent judgment of the City and in compliance with CEQA and the State CEQA Guidelines.

2012 – Superior Court Decision

On August 5, 2011, Petitioners Neighbors for Fair Planning, represented by Stephen Williams, filed a Petition for Writ of Mandate with the San Francisco Superior Court (Case No. 511499) challenging the City's approval of the Project. The Petition alleged that: (1) the City pre-approved the Project in violation of CEQA by providing predevelopment funding prior to the completion of CEQA review; (2) the EIR – including the baseline and alternatives analysis – was inadequate; and that (3) the conditional use for the Project was not supported, including that it was inconsistent with the General Plan.

On, April 9, 2012, the San Francisco Superior Court denied the Petition for Writ of Mandate in its entirety. The Court found that the (1) City did not pre-approve the Project in violation of CEQA; (2) the EIR is adequate, accurate and complete; (3) the conditional use permit was properly issued, including that the Project is consistent with the General Plan.

Petitioners Neighbors for Fair Planning, represented by Stephen Williams, have appealed Court's ruling.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES:

The Appellant for the Appeal of the Tentative Parcel Map raises no new arguments to the Board of Supervisors. The appellant claims that that the Tentative Parcel Map is not consistent with the San Francisco General Plan and violates the California Environmental Quality Act. These issues were previously considered by the Board during the 2011 appeals for 800 Presidio.

1. **CEQA Compliance.** While the appellant provides no specifics as to how the Tentative Parcel Map violates CEQA, both the Board of Supervisors and the San Francisco Superior Court found the CEQA document for this project, a Final Environmental Impact Report, to be in compliance with State CEQA guidelines. The Department submitted 146 pages worth of information to the Board of Supervisors defending the adequacy of the CEQA work for this project as part of the 2011 CEQA appeal. The Board agreed and affirmed the certification of the EIR in Motion 11-103. See the attached 2011 Department response to the CEQA Appeal, dated May 31, 2011.
2. **General Plan Compliance.** The appellant claims the project is not "compatible" with the existing neighborhood and development consistent with policies of the General Plan. The questions of 1) General Plan compliance and 2) compatibility with existing neighborhood was resolved by the Board of Supervisors in relation to the 2011 appeal of the Conditional Use authorization. The Board adopted as its own all of the findings of

Planning Commission Motion 18342, approving the Conditional Use Application for this project and adding new conditions to address three topics. The Department submitted 136 pages worth of information to the Board of Supervisors defending the Commission's findings related to the Conditional Use authorization. The Board agreed and affirmed the certification of the EIR in Motion 11-103. See attached 2011 Department response to the CU Appeal, dated June 14, 2011. The San Francisco Superior Court upheld City's decision to approve the Project, including finding that the Project is consistent with the General Plan. That decision is on appeal.

The Department has addressed the concerns raised by the appellant in materials submitted to the Board in 2011. These materials are attached to this memorandum for consideration in relation to the Tentative Map appeal for 800 Presidio. Questions of consistency with the General Plan are addressed on pages 10-15 of the Conditional Use appeal response.

CONCLUSION:

In the Commission's authorization of the Conditional Use and the Planned Unit Development, the Planning Commission found the project to be necessary, desirable and well designed. The project is necessary for the continuance of an existing community facility, but also to create much needed affordable housing for the City. The project design responds to the surrounding, existing development patterns as viewed from the public rights-of-way, the mid-block open space and adjacent residential buildings. As the physical attributes and the uses of the project are compatible with the existing neighborhood uses, the topographic forms of the urban environment and the surrounding structures, the project is proposed in a desirable location. The arrangement of structures and the diversity of uses the project brings to the immediate neighborhood and the City as a whole are also desirable. In granting the Conditional Use and Planned Unit Development authorizations, the Commission made Findings that the project promotes the applicable Objectives and Policies of General Plan. The Board in Motion 11-103 affirmed the Commission's findings and incorporated its findings into the Board's own approval, the additional information contained in this response regarding how the Project is on balance consistent with the General Plan.

For the reasons stated above, the Planning Department recommends that the Board uphold the Department of Public Work's decision in approving the Tentative Parcel Map for 800 Presidio Avenue and deny the Appellant's request for appeal.