

APPENDIX C: SUMMARY OF PUBLIC COMMENT



May 3, 2004

17529

Leslie T. Rogers
Region IX Administrator
Federal Transit Administration
U.S. Department of Transportation
201 Mission Street, Suite 2210
San Francisco, CA 94105

**Re: Transbay Terminal/CalTrain Downtown Extension
Redevelopment Project Final Environmental Impact
Statement/Environmental Impact Report**

Dear Ms. Rogers:

On behalf of Myers Natoma Venture, LLC ("MNV"), owner of the 80 Natoma property adjacent to the current Transbay Terminal site, and Myers Development Company ("MDC"), we are writing to set forth comments on the Transbay Terminal/CalTrain Development Downtown Extension/Redevelopment Project's Final Environmental Impact Statement/Environmental Impact Report (collectively referred to as the "Transbay EIS/EIR") prior to the conclusion of the Wait Period, which ends today. As set forth in detail below, the Transbay EIS/EIR is deficient under NEPA because of its failure to properly identify and discuss the Transbay Terminal Project's impact of eliminating 423 units of housing, including 42 affordable units, that will be under construction at the 80 Natoma site ("80 Natoma Project").

I. **Background**

We are providing the following background to underscore the extent to which the Transbay EIS/EIR's failure to analyze the impacts on the 80 Natoma Project is legally flawed. Specifically, this background will show:

- How long the 80 Natoma Project has been entitled;
- The City's and Transbay Joint Powers Authority's ("TJPA") awareness of such entitlements and of MNV's intent to construct the 80 Natoma Project; and,
- MDC's exhaustive efforts to works towards a viable solution that would accommodate both projects.

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A. 80 Natoma Entitlements

In February 1993, the San Francisco Planning Commission ("Commission") adopted motions approving an approximately 48 story, 475-foot tall tower containing roughly 500 residential units and 10,000 square feet of retail space, the original 80 Natoma Project. In November 1995, the Commission adopted a motion approving a request for an exception to modify the earlier approved conditions and to extend the time allowed to obtain construction permits to February 1998.

In 1998, the Commission approved a motion extending the time allowed to obtain a site permit for the Project to February 2001. A site permit was ultimately issued for the Project in February 1999. **Under that site permit, a sub-surface slurry wall was constructed around the 80 Natoma Project site.**

However, in 1999, further development of the 80 Natoma Project was held up due to financing issues. MDC had long been interested in acquiring and developing the 80 Natoma property. MDC eventually took advantage of the opportunity and proceeded to negotiate with the then owners of the 80 Natoma property toward a purchase of the fully-entitled 80 Natoma Project.

B. City's and TJPA's Awareness of 80 Natoma Project

While moving forward with the final negotiations for acquisition of the 80 Natoma Project, MDC was aware of the potential rail alignment issue but was also acutely aware of the uncertainty as to the Transbay Terminal's ultimate commencement of construction and completion due to problems with funding sources. MDC also was advised that rail alignment alternatives existed that could accommodate both projects and allow them to proceed.¹

In June 2003, MDC sent a letter to Mayor Willie Brown to inform him of its intent to proceed with development of the 80 Natoma Project. Maria Ayerdi, then-Project Manager for the Transbay Terminal, responded on June 9th advising MDC that the City's planning activities for the Transbay Terminal were not intended to interfere with the use or development of the 80 Natoma property. Based on this, MDC continued to invest substantial time and funds into moving forward with the 80 Natoma Project.

Throughout the remainder of 2003 and into 2004, MDC, on behalf of MNV, continued to work with City agencies, including the Planning Department and the Department of

¹ MDC has now closed on the property, obtained financing, and has all permits in place and is proceeding with construction.

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Building Inspection, in preparation for the commencement of construction. There was a further exchange of letters between MDC and TJPA in November/December 2003, including a December 1, 2003 letter from Maria Ayerdi indicating that the TJPA did not intend to delay the 80 Natoma Project or hinder its progress.

C. MDC's Efforts to Develop a Mutually Beneficial Solution

Despite the persistent lack of cooperation by the TJPA staff, MDC continued to attempt to resolve the unnecessary inconsistency between the 80 Natoma Project and the Terminal rebuilding project and to seek the City's help in reaching common ground. Armed with legal, valid permits, MDC advised the City that the 80 Natoma Project would be moving forward. However, despite its best efforts to act in good faith, it became increasingly apparent that the TJPA staff had adopted a position that the 80 Natoma Project was not, in fact, proceeding and went so far as to advise the public and City officials of this erroneous position.

MDC remains shocked and mystified that, to date, TJPA staff has been making virtually no effort to explore options that would allow both projects to proceed. Based on its fundamental belief that there is a mutually satisfactory resolution to this issue, MDC has assembled its own team of architects and engineers to explore alignments and to develop one that would allow rail alternatives to be incorporated into the 80 Natoma site while allowing both projects' goals to be achieved. This effort has been undertaken at substantial expense to MDC.

These efforts, however, have been rebuffed by TJPA staff at every turn. The TJPA staff has refused a productive problem solving dialogue and has rejected as "out of hand," minor track re-alignment alternatives without any meaningful technical justification. In fact, on April 22, 2004, the TJPA Board of Directors adopted California Environmental Quality Act ("CEQA") findings for the Transbay Terminal Project and authorized its Executive Director to take actions for the project's implementation. Nevertheless, this Resolution also **directed the TJPA's Executive Director to engage in a good faith meeting to discuss possible solutions to the rail alignment issue** and to report back to the TJPA at its next regularly scheduled meeting.

Public policy dictates that the best outcome to this situation is to develop a solution that allows both projects to proceed. There is no practical way to develop such a solution without the full and good faith participation of the TJPA. MDC remains hopeful that such a resolution can yet be reached.

D. Final EIS/EIR

In March 2004, the Final EIS/EIR for the Transbay Terminal was released by the Federal Transit Administration. The Final EIS/EIR included a terminal plan different from those previously analyzed in the Draft EIS/EIR. Specifically, the Transbay Terminal Project now would extend the Transbay Terminal building 150 feet west, onto the footprint of the 80 Natoma

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Project site. Remarkably, this 150 foot shift was not discussed in the Draft EIS/EIR, nor did the Final EIS/EIR discuss the Transbay Terminal Project's impact on the 80 Natoma Project's housing.

In sum, despite the foregoing efforts, the Transbay EIS/EIR simply fails to discuss the fully-entitled 80 Natoma Project and its related impacts in any way, shape, or form. This failure not only is mystifying, but also makes the environmental document utterly flawed.

III. Environmental Review

A. Deficiencies of Transbay EIS/EIR under CEQA

On April 16, 2004, MDC sent a letter to the agencies charged with certifying the Transbay EIS/EIR identifying grounds for recirculation of the Final EIS/EIR under CEQA . (See Attached). This letter identified significant flaws in the Final EIS/EIR that undermines its adequacy as an informative document for purposes of CEQA compliance. MDC expressed its concerns based on three deficiencies:

- The document does not describe the 80 Natoma Project in any way. Consequently, the **environmental setting is improperly described;**
- As a result, the document is entirely silent with respect to the loss of much-needed market and affordable housing inventory to the City. Therefore, the document **fails to describe such loss of housing and other significant environmental impacts;**
- The document **fails to discuss a feasible mitigation measure**, a minor track alignment that has been presented to the City and TJPA prior to publication of the Transbay EIS/EIR, **which could allow both projects to proceed.**

MDC, therefore, requested that the Final EIS/EIR document be modified to account for the foregoing and that the document be re-circulated. Nevertheless, the Final EIS/EIR was certified by the San Francisco Redevelopment Agency on April 20th and by a joint session of the San Francisco Planning Commission and the Peninsula Corridor Joint Powers Board on April 22nd. City agencies have taken the clearly erroneous position that despite clear evidence that 80 Natoma will be under construction almost immediately, the Final EIS/EIR need not address the impact of the Transbay Terminal on the 423 units of housing being built. Based on the significant environmental issues and the TJPA staff's continued resistance to working with MDC to develop a solution for both projects to proceed, MDC is contemplating an appeal of the EIR certifications to the San Francisco Board of Supervisors.

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B. Deficiencies of Transbay EIS/EIR under National Environmental Policy Act ("NEPA")

We are submitting this letter to explain why the issues identified in the attached letter also render the Transbay EIS/EIR deficient under NEPA.

As you know, NEPA was enacted by Congress to declare a national environmental policy of considering any project's environmental impacts prior to project approval. In 42 USC § 4331(a), Congress recognized the profound impact of people's activity on the natural environment and, in particular, the profound influences of population growth, high-density urbanization, and new and expanding technological advances. As such, Congress declared further that it is the federal government's policy to use all practicable means and measures, in a manner calculated to promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations of Americans.

With these lofty principles in mind, the Council on Environmental Quality ("CEQ") drafted Regulations for Implementing NEPA that tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act.

Specifically, Section 1508.14 of the CEQ NEPA Regulations requires federal agencies to study the proposed action's effects on the quality of the human environment. The Regulations require **"human environment" to be interpreted comprehensively** to include the natural and physical environment and the relationship of people with that environment. Therefore, when an EIS is prepared, **federal agencies must discuss economic or social effects if they are interrelated with the effects of the physical environment.** 40 C.F.R. 1508.14.

Similarly, the Regulations define **"effects" to include both direct and indirect effects** caused by the proposed action. 40 C.F.R. 1508.8. Direct effects are those which are caused by the action and occur at the same time and place. 40 C.F.R. 1508.8(a). **Indirect effects are those caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.** These often include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems. 40 C.F.R. 1508.8(b).

With this definition in mind, it is especially troubling that the Transbay EIS/EIR utterly failed to discuss or analyze the loss of over 423 fully entitled residential units at 80 Natoma Street, including 42 affordable residential units, which will fulfill important policy objectives of the City—contribution to the City's housing stock and the provision of badly-needed affordable housing.

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Arguably, the proposed Transbay action will result in a **direct** effect on the 80 Natoma Project especially in light of the reality that the 80 Natoma Project will almost certainly be completed and occupied before any Transbay Terminal. However, in any event, NEPA requires that an **EIS identify all reasonably foreseeable indirect effects and make a good faith effort to, at minimum, explain and evaluate them.**

Therefore, because the CEQ Regulations unequivocally state that effects related to population density necessitate discussion as a social or economic impact, the Transbay EIS/EIR is defective because of its failure to evaluate the impact of the loss of the 80 Natoma Project's residential units and the ensuing detrimental effect on the City's housing supply if the units are lost as a result of the Transbay project.

Section 5.2 of the Final EIS/EIR discusses Displacement and Relocation and identifies the 80 Natoma property as a necessary acquisition for the construction of the Transbay Terminal. (5-22). Moreover, Section 5.2.5 briefly acknowledges that construction on the Transbay Terminal could result in the displacement of 60 residential units on other sites, thereby creating the need to relocate roughly 120 persons. (5-32). **However, the Final EIS/EIR completely ignores the 423 residential units that will be lost at the 80 Natoma site.** The mere identification of 80 Natoma as one of the properties to be acquired does not in any way disclose the social and economic effects such a displacement of residential units would have on the human environment for purposes of NEPA.

Such a glaring omission of environmental effects renders the Transbay EIS/EIR fundamentally flawed under NEPA. At minimum, the EIS must discuss economic or social effects when interrelated to effects on the physical environment—to ignore such a discussion in the face of the City's housing shortage and severe lack of affordable housing clearly contravenes the letter and spirit of NEPA and does not rise to the "hard look" standard required to ensure an agency's appropriate level of consideration. Oregon Natural Resources Council v. Lowe, 109 F.3d 521, 526 (9th Cir. 1997).

C. Remedy

Pursuant to CEQ NEPA Regulations § 1502.9(c)(1)(ii), federal agencies shall prepare supplements to final environmental impact statements if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. 40 C.F.R. 1502.9. Therefore, because the Transbay EIS/EIR fails to analyze the impacts of the new Transbay Terminal on the 80 Natoma Project and its housing, before taking any action to adopt the Transbay EIS/EIR, the Federal Transit Administration must **prepare and circulate a supplement** to include analysis of the 80 Natoma Project so as to address the significant new circumstances that the 80 Natoma Project poses for the Transbay Terminal.

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IV. Conclusion

MDC has always been a strong supporter of the plan to develop a new Transbay Terminal. MDC believes, based on considerable analysis, that a minor realignment of the proposed track routing (and a decision to return the configuration of the new Terminal to the location addressed in the Draft EIR/EIS) would allow both projects to proceed, and almost certainly result in a substantial savings of the public funds that would be needed to acquire the 80 Natoma Site by eminent domain. MDC's good faith efforts to develop such a solution thus far have been repeatedly rebuffed by TJPA staff. Until such a mutually beneficial solution is reached, the Transbay Terminal configuration and precise track alignment identified in the Final EIR/EIS would have a significant environmental impact by either preventing the construction of 80 Natoma or requiring that the building be demolished when or if the construction of the new Transbay Terminal begins.

The Final EIR/EIS that fails to identify this housing impact, and acknowledge the significance of this housing loss, is deficient under NEPA, as it is under CEQA. The only legitimate solutions under NEPA to this deficiency are either to revise the EIR/EIS to identify and discuss this impact, or perhaps preferably to defer any action on the Final EIR/EIS, and any approvals based on the document, to allow development of an engineering solution that would eliminate the Transbay Terminal Project's impact on the 80 Natoma Project.

Sincerely,



Timothy A. Tosta

cc (w/o attachment): Mayor Gavin Newsom
San Francisco Board of Supervisors
Chairman Mike Nevin and TJPA Board of Directors
Maria Ayerdi, Executive Director, TJPA
Michael Scanlon, Executive Director, Peninsula Corridor Joint Powers
Board
Joan Kugler, Planning Department
Jose Campos, San Francisco Redevelopment Agency
Jerome Wiggins, FTA



MYERS DEVELOPMENT COMPANY

April 16, 2004

Mr. Ramon Romero, President
and Members of the Commission
San Francisco Redevelopment Agency Commission
770 Golden Gate Avenue
San Francisco, CA 94102

Ms. Shelley Bradford Bell, President
and Members of the Planning Commission
San Francisco Planning Commission
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Mr. Mike Nevin, Chairman
and Members of the Board of Directors
Transbay Joint Powers Authority
201 Mission Street, Suite 1960
San Francisco, California 94105

**Re: Grounds for Recirculation of the *Transbay Terminal/ CalTrain Downtown Extension /
Redevelopment Project* Final "EIS/EIR"**

Dear Members,

I already have had the opportunity to meet with many of you to review both our company's development record and to discuss, in some detail, our plans for 80 Natoma Street...now called Hemisphere. For those of you that are still unfamiliar with our development, I would like to introduce you to Hemisphere and share with you the importance of this project.

I hope you will agree after reviewing the enclosed drawings and diagrams, Hemisphere is a residential project of which San Francisco can be proud. (See Attachment A) It brings 423 residential housing units, including 42 affordable units, to the Transbay Terminal redevelopment area. In fact, in the near term, Hemisphere will serve as an important catalyst for development of the Transbay Terminal Master Plan – an **Intermodal Hub, High Density Residential, Office and Retail** development.

While I am pleased to announce that we have received full funding for Hemisphere's Development and have expended over \$50,000,000 since doing so, we have had significant difficulty trying to align our site's existing vested entitlements and the Transbay Joint Power

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"EIS/EIR"

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Authority's ("TJPA") vision for the Transbay Terminal. We see no reason for a conflict to exist but, in fact, it does.

Because the very nature of the environmental review process requires that I must speak now or forever hold my peace, I reluctantly bring this matter to your attention.

Amazingly, the Transbay Terminal design team has been directed to incorporate our site within the Transbay Terminal plan. They have done so by engineering a rail alignment directly through our site and UNDER our building - in spite of the fact that:

- Our site was fully entitled in 1991;
- These entitlements have been properly vested and maintained;
- In anticipation of development, all City Impact Fees have been fully paid¹;
- Transbay Terminal staff has consistently been kept informed of our intent to construct Hemisphere, and importantly;
- Construction activities have now commenced and continue in earnest.

When we learned of the new rail alignment concept, we immediately addressed this issue as a problem that could be resolved. Since then, we have found alternative alignments. Up to now, our efforts to define a win/win solution [both developments proceeding] have been thwarted or ignored altogether. Currently however, new efforts are underway to have genuine discussions about this matter.

The environmental document under consideration by you indicates that the Transbay Terminal project, as currently envisioned, now requires the acquisition of our site. That is simply not a desirable outcome for either the City or us.

Regarding the adequacy of the EIS / EIR, we are concerned on three levels:

- 1.) The document simply does not describe our project in any way. Consequently, the environmental setting is improperly described, a legal deficiency;
- 2.) As a result, the document is totally silent with respect to the loss of both market and affordable housing inventory to the City. Therefore, the document fails to describe significant environmental impacts – a second legal deficiency; and finally,

¹ School fees, building and filing fees paid to the City have totaled in excess of \$1 million.

- 3.) The document fails to discuss a feasible mitigation measure proposed by us, a minor track realignment, which not only could allow both projects to proceed – all to greater benefit the City as a whole, but would preserve a number of historical structures presently slated for demolition. The failure to identify such a feasible mitigation measure is the third obvious legal deficiency.

Moreover, in the unlikely event that a win/win scenario is not achieved, we do not believe there are adequate dollars available to make an acquisition of the 80 Natoma property at fair market value. We consider this a significant and relevant issue that really has not been adequately taken into consideration.

Therefore, we request that the Final EIS/EIR document be modified to account for the foregoing and that the document be re-circulated. In this way, interested or affected parties will have a genuine opportunity to gain the perspective they need to make informed decisions.

While our company has been working with dogged determination to find more productive means to deal with this matter, the time has now come to ask you to consider the following information that, remarkably and regretfully, has been omitted in the Transbay Terminal/CalTrain Downtown Extension / Redevelopment Project Final EIS/EIR.

As you know, the California Environmental Quality Act ("CEQA") Guidelines Section 15088.5, stipulates that when significant new information is revealed that identifies:

- New or substantially more severe impacts; or
- Identifies new alternatives or mitigation measures - considerably different from those already analyzed that would clearly lessen significant impacts; then,
- Recirculation is required to obtain public comment before certification of an EIR can be completed.²

Please consider the following:

Land Use Impact:

Section 5.1 makes no reference to the loss of over 423 fully entitled residential units at 80 Natoma Street, including 42 affordable residential units, for which permits have been issued and construction is underway. This clearly is a land use impact resulting from the refined project. The mere identification of 80 Natoma Street as one of the properties to be acquired for construction of the Transbay Terminal does not disclose the land use effects of the acquisition. (5-22).

² All page number references herein are to the Final EIS/EIR Volume I unless otherwise indicated

Further, the City, represented in writing by Maria Ayerdi, has gone on record twice as intending not to either interfere with the land or development of the 80 Natoma Street property, or to delay or otherwise hinder the development of that site. (See Attachment B)

While the 78-80 Natoma Street property was identified in the Draft EIS/EIR as a property needed to be acquired for construction of the below grade tracks for the CalTrain Extension component of the project, full and proper disclosure is not made to you, the decision-makers, that this acquisition will prevent construction of fully entitled, vested and financed residential units on the site. Further, the City has clearly articulated its intention to allow development to occur as entitled. Therefore, the revisions to the Transbay Terminal component that relocated the terminal 150 feet west to obliterate the 80 Natoma site, would have **different and significant impacts that are not identified in the Final EIS/EIR.**

□ **Visual and Aesthetic Impacts:**

Section 5.16 not only fails to support a determination that the relocated Terminal structure would not affect the Project's environmental impacts, **it makes no mention at all of the potential for visual effects that could occur as a result of relocating the Terminal 150 feet to the west.** Section 5.16.2 merely inserts a phrase indicating that the proposed Terminal building would be approximately 150 feet to the west with no additional evaluation. (5-122).

The discussion of Changes to Scenic Views or Vistas adds one sentence indicating that the east loop ramp would be removed, opening views to the east, but states in the second (and last) new sentence that new elevated ramps on the west side would be constructed in the same footprint as the existing west loop ramp. (5-118). **This new text provides no discussion of the effects of the relocated Terminal building and misrepresents the description of the west ramps.** Thus, the public is not informed as to whether or how aesthetic conditions would change as a result of the refined project.

□ **Alternatives:**

The description of Alternatives fails to include or analyze specific new alternative alignments for the Transbay Terminal and the CalTrain tracks submitted by interested parties that appear to be feasible and that would avoid the need for acquisition of 80 Natoma Street. Such alternative alignments could also avoid the land use impact of a net loss of 423 residential units, including 42 affordable units, and **avoid the need to demolish or otherwise impact several acknowledged historic buildings in the Second and Howard Streets Historic District.**

□ **Noise Impacts**

The Final EIS/EIR:

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- 1.) Includes noise impacts that would result if the proposed bus storage facility were approved and constructed;
- 2.) Identifies new significant noise impacts; and,
- 3.) Lists new mitigation measures to reduce the impacts to less-than-significant levels without indicating anywhere whether the mitigation measures are included in the project, thus requiring recirculation for public comment on the new measure. (5-72-74).
- 4.) Fails to discuss potential significant impacts of the new mitigation measure. *For example, one mitigation measure includes 10-12 foot tall noise barriers, but has no accompanying analysis of such barrier's potential visual impact as required by CEQA. Therefore, while the absence of such mitigation measures would result in a new significant and unavoidable noise impact, their inclusion requires at minimum an analysis of their potential visual impacts.*

□ **Building Heights:**

The Draft EIS/EIR contemplated new development in the Transbay Redevelopment Area with heights up to 400 feet, while the Final EIS/EIR describes a plan for buildings up to 550 feet tall. (5-5) The additional discussion provided does not adequately address the potential new impacts on wind, shadow and visual resources.

Accordingly, Myers Development Company is seeking, on behalf of Myers Natoma Venture, LLC³ your close examination of these facts, as they are material in nature. I trust that you will find merit in the argument that the Transbay Terminal / CalTrain Downtown Extension / Redevelopment Project Final EIS/EIR is seriously flawed and must be revised AND re-circulated.

Thank you for your consideration.

Sincerely,

MYERS DEVELOPMENT COMPANY



Jack E. Myers
Chairman & Chief Executive Officer

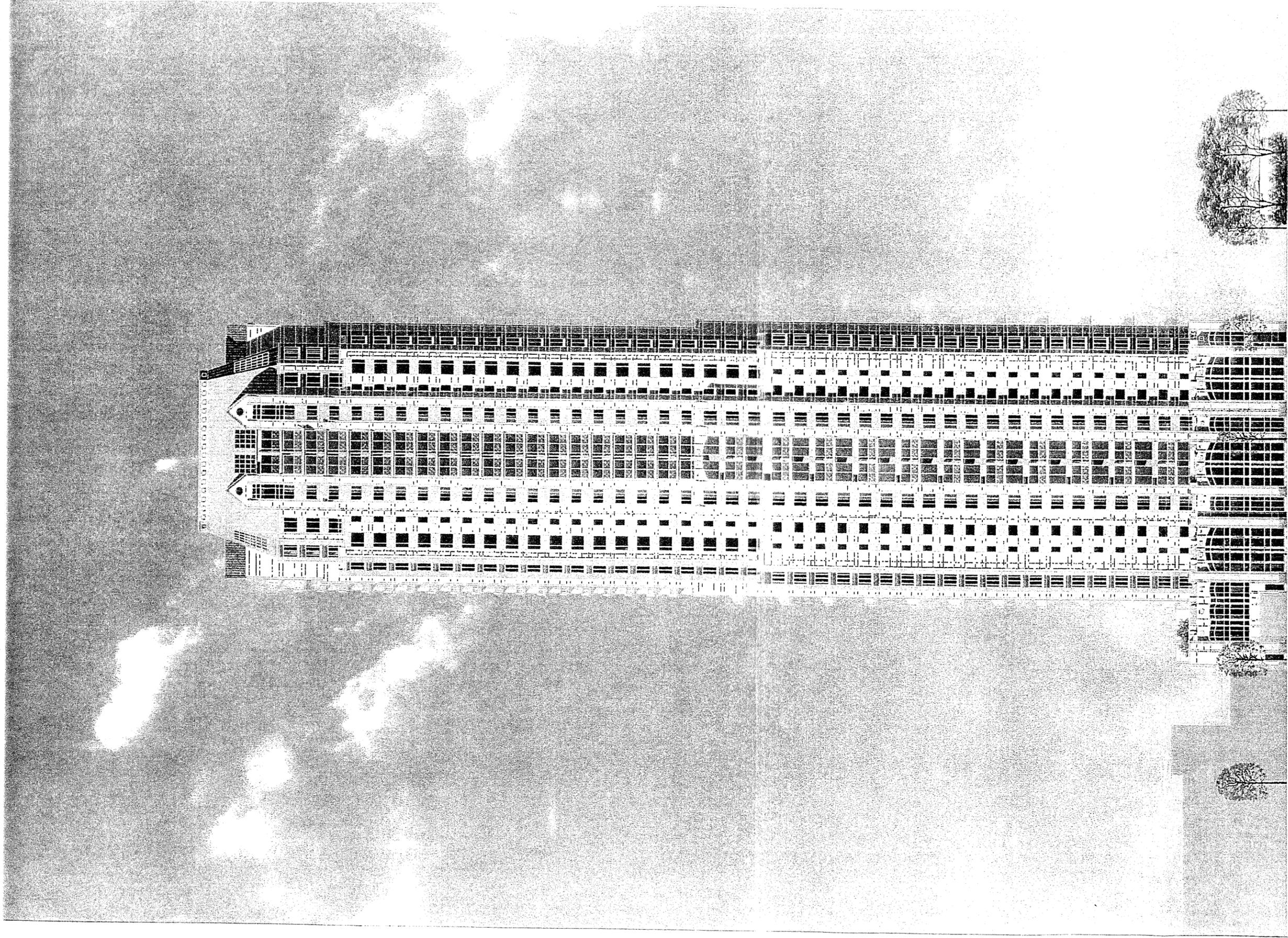
³ Myers Natoma Venture, LLC is the owner and sponsor for the Hemisphere condominium development located at 80 Natoma Street. The project is under construction at a total development cost of \$188,000,000 with independent Bank Construction Loan appraisal values of \$268,700,000. Costs incurred to date are in excess of \$54,000,000

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cc: Honorable Gavin Newsom, City and County of San Francisco
Honorable Matt Gonzalez, City and County of San Francisco
Maria Ayerdi, Transbay Joint Powers Authority
Leslie T. Rogers, U.S. Department of Transportation
Joan Kugler, City and County of San Francisco
Michael J. Scanlon, Peninsula Corridor Joint Powers Board



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80 NATOMA

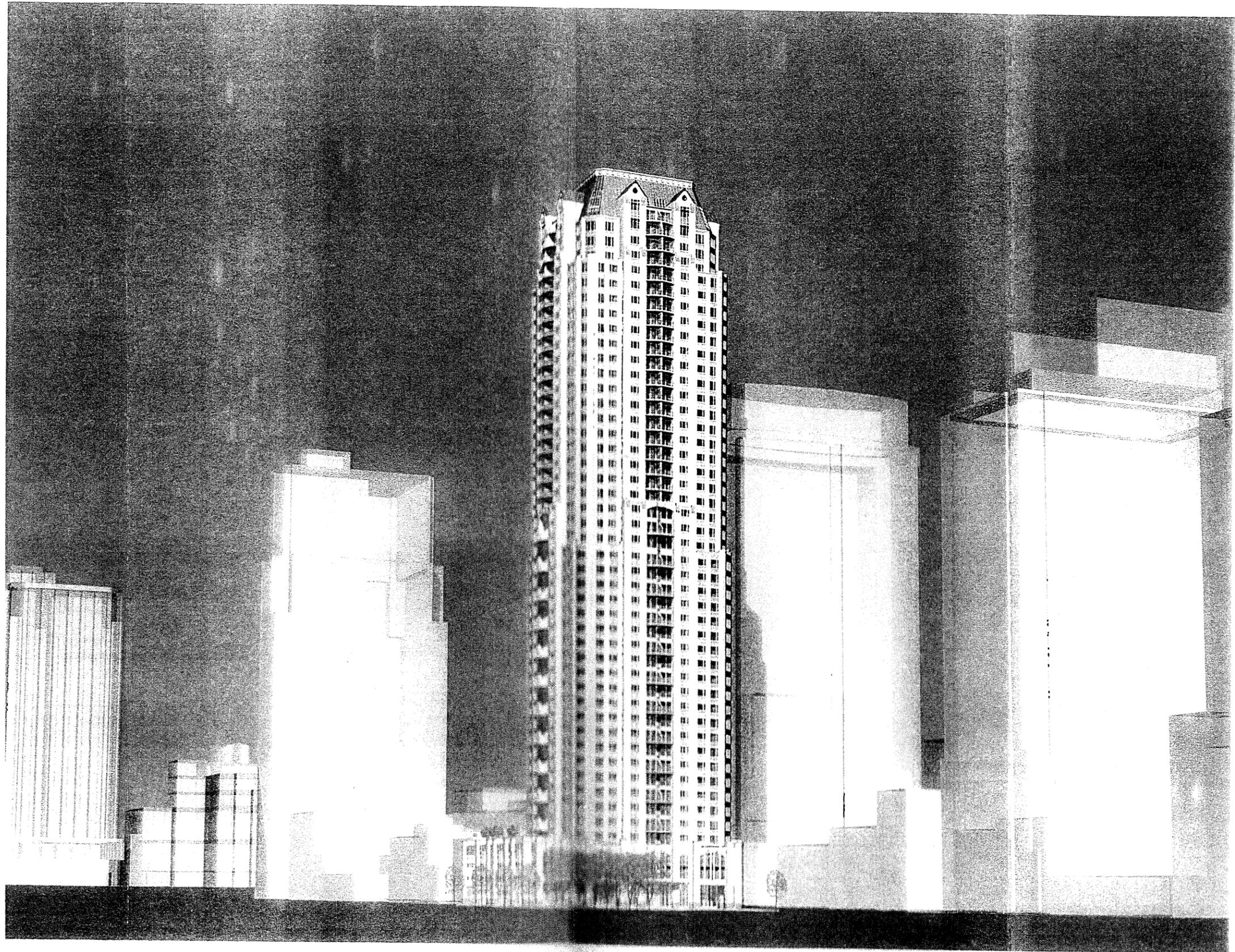
SAN FRANCISCO, CA

NATOMA STREET ELEVATION

HELLER-MANUS
ARCHITECTS



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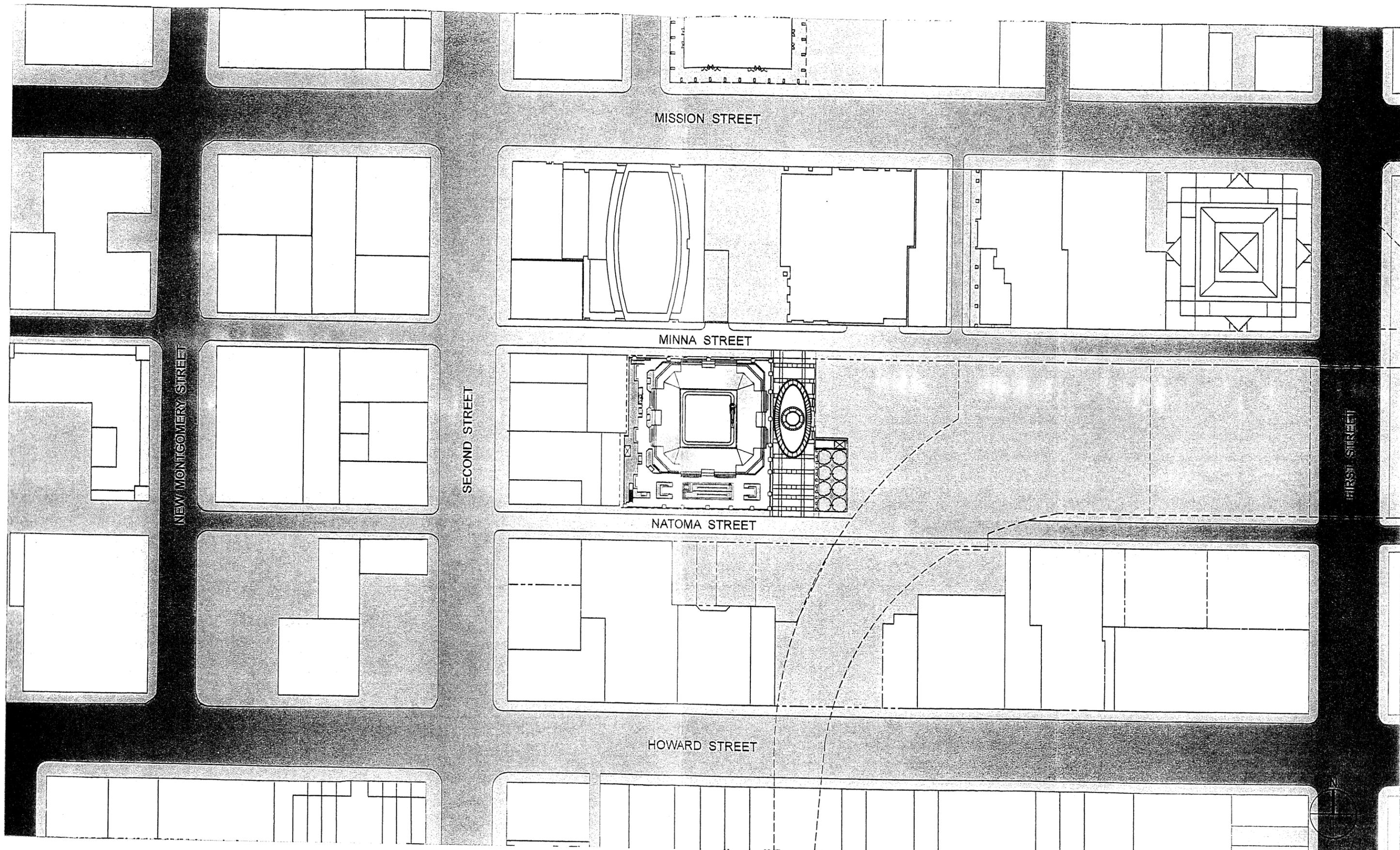
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80 NATOMA

SAN FRANCISCO, CA

NATOMA STREET VIEW

HELLER-MANDELL ARCHITECTS



MISSION STREET

MINNA STREET

NATOMA STREET

HOWARD STREET

NEW MONTGOMERY STREET

SECOND STREET

FIRST STREET



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MYERS DEVELOPMENT COMPANY

80 NATOMA

SAN FRANCISCO, CA

VICINITY PLAN

WELLS BANK

TRANSBAY JOINT POWERS AUTHORITY
Board of Directors

Mike Nevin Chairman
Greg Harper, Vice Chairman
Michael T. Burns
Chris Daly
Celia Kupersmith

Maria Ayerdi
Executive Director

Roberta Boomer
Board Secretary

December 1, 2003

VIA FACSIMILE 415-788-2019

Timothy A. Tosta
Steefel, Levitt & Weiss
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Counsel to Myers Development Company

**RE: Transbay Terminal/Caltrain Downtown Extension/Redevelopment Plan Project
and 80 Natoma Street**

Dear Tim,

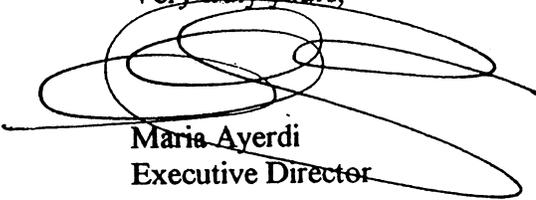
Thank you for your letter of November 21, 2003 and your clarification that a possible sale of the property at 80 Natoma Street would not be an appropriate topic for a meeting. With that clarification, it would be more practical to delay our discussion until a later date. In addition, we have not heard back from counsel for Prudential Insurance Company, and we prefer to include that party in any discussion of the two projects.

A meaningful comparison of our design plans with your foundation design will not be possible for some time. We must complete the environmental review process before we can commit to any final design and develop detailed, site-specific plans for the train alignment. While it may be possible for the proposed train alignment to co-exist with your foundation design, or for the two above-ground projects to share the lot, there would likely be a lengthy delay in working out the details of any such arrangement.

If it is not appropriate to discuss maintenance of the status quo through some type of financial arrangement while we jointly review and prepare new plans, it may be best to continue on separate paths and revisit the issue of project compatibility after environmental approval of the Transbay Terminal Project and approval of the associated redevelopment plan. We certainly do not intend to delay your project or hinder your progress.

In the meantime, we are happy to share our designs with your engineers and designers as soon as they become publicly available.

Very truly yours,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left.

Maria Ayerdi
Executive Director

Cc: John Cooper, Deputy City Attorney
Redevelopment Agency
Dean Pappas, Esq.

OFFICE OF THE MAYOR
SAN FRANCISCO



WILLIE LEWIS BROWN, JR.

June 9, 2003

VIA FAX TRANSMITTAL AND MESSENGER SERVICE

Timothy A. Tosta
Steeffel, Levitt & Weiss
One Embarcadero Center, 30th Floor
San Francisco, California 94111

Re: The 80 Natoma Street Property

Dear Mr. Tosta,

We received the June 4th letter you sent to our Deputy City Attorney and our office via email. This is in response to your June 4th transmittal.

The proposed Transbay Terminal/Caltrain Downtown Extension/Redevelopment Plan Project ("Project") is currently in the planning stages. The Project contemplates the development of an intermodal bus and rail station that could accommodate AC Transit, MUNI, the Golden Gate Bridge District buses, SamTrans, Greyhound, paratransit, other transit providers, Caltrain and future high speed rail. The proposed Project also contemplates development of the surrounding land as part of a proposed redevelopment area including retail, commercial, and office opportunities and at least 3000 new residential units with a 35% affordable housing component.

Funding for this proposed Project is listed in the Metropolitan Transportation Commission's Regional Transportation Plan Track 1 and is fully described in the Draft EIS/EIR. The Locally Preferred Alternative adopted on March 28, 2003 for purposes of finalizing the EIS/EIR, includes the West Ramp Alternative, the Main Street alignment for Caltrain and the Full Build Alternative for the redevelopment area. In addition, the Locally Preferred Alternative includes the tunneling option for rail construction from approximately Townsend Street just east of Third Street to Second and Folsom Street. If the Locally Preferred Alternative plan is approved, a cut and cover construction technique may be necessary for the remainder of the alignment. In that event, the rights acquired would not necessarily be underground only, but could include surface rights as well. At this stage of Project planning, however, we cannot make any definitive statement about the precise location of the proposed Caltrain extension or the extent or geographic scope of any property rights that might have to be acquired for Project construction.

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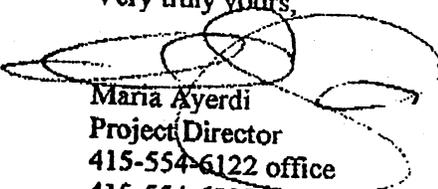
WILLIE LEWIS BROWN, JR.

At this point, environmental review of the proposed Project is ongoing. We have tentatively scheduled completion of environmental review for October 2003. As you know, once environmental review is complete, the Board of Supervisors ("Board") must review and approve the proposed Project. If the Board approves the Project, it is possible that construction of a permanent terminal building may begin as early as 2005. Completion of the permanent terminal building, including the proposed Caltrain Extension, is tentatively scheduled for 2012. These dates, of course, could be subject to change as planning for the Project proceeds. If at some future date the Project is approved, we would anticipate taking appropriate steps to move the Project forward, including, if necessary recommending acquisition of properties needed for the Project. Such property acquisitions, if any, would be undertaken in compliance with all applicable laws. It is important for you to keep in mind, however, that at this time, the City has not made any decision to acquire 80 Natoma or any other property for the proposed Project.

Finally, please be advised that the City's planning activities are not intended to interfere with the use or development of the 80 Natoma property or any other properties within the vicinity of the proposed Project. Furthermore, we have no knowledge or authority regarding your client's legal rights to use or develop 80 Natoma Street. If you or your client have further questions about any rights to use or develop 80 Natoma Street, please direct them to the City Planning Department and the Building Department.

Should you have any further questions about the proposed Project, please feel free to call.

Very truly yours,


Maria Ayerdi
Project Director
415-554-6122 office
415-554-6018 fax

Cc. John Cooper, Deputy City Attorney



STEEFEL, LEVITT & WEISS
A Professional Corporation

May 3, 2004

17529

Leslie T. Rogers
Region IX Administrator
Federal Transit Administration
U.S. Department of Transportation
201 Mission Street, Suite 2210
San Francisco, CA 94105

RECEIVED
MAY 03 2004

Re: **Transbay Terminal/CalTrain Downtown Extension
Redevelopment Project Final Environmental Impact
Statement/Environmental Impact Report**

Dear Ms. Rogers:

On behalf of Myers Natoma Venture, LLC ("MNV"), owner of the 80 Natoma property adjacent to the current Transbay Terminal site, and Myers Development Company ("MDC"), we are writing to set forth comments on the Transbay Terminal/CalTrain Development Downtown Extension/Redevelopment Project's Final Environmental Impact Statement/Environmental Impact Report (collectively referred to as the "Transbay EIS/EIR") prior to the conclusion of the Wait Period, which ends today. As set forth in detail below, the Transbay EIS/EIR is deficient under NEPA because of its failure to properly identify and discuss the Transbay Terminal Project's impact of eliminating 423 units of housing, including 42 affordable units, that will be under construction at the 80 Natoma site ("80 Natoma Project").

I. **Background**

We are providing the following background to underscore the extent to which the Transbay EIS/EIR's failure to analyze the impacts on the 80 Natoma Project is legally flawed. Specifically, this background will show:

- How long the 80 Natoma Project has been entitled;
- The City's and Transbay Joint Powers Authority's ("TJPA") awareness of such entitlements and of MNV's intent to construct the 80 Natoma Project; and,
- MDC's exhaustive efforts to works towards a viable solution that would accommodate both projects.

Leslie T. Rogers
Region IX Administrator
May 3, 2004
Page Two

A. 80 Natoma Entitlements

In February 1993, the San Francisco Planning Commission ("Commission") adopted motions approving an approximately 48 story, 475-foot tall tower containing roughly 500 residential units and 10,000 square feet of retail space, the original 80 Natoma Project. In November 1995, the Commission adopted a motion approving a request for an exception to modify the earlier approved conditions and to extend the time allowed to obtain construction permits to February 1998.

In 1998, the Commission approved a motion extending the time allowed to obtain a site permit for the Project to February 2001. A site permit was ultimately issued for the Project in February 1999. **Under that site permit, a sub-surface slurry wall was constructed around the 80 Natoma Project site.**

However, in 1999, further development of the 80 Natoma Project was held up due to financing issues. MDC had long been interested in acquiring and developing the 80 Natoma property. MDC eventually took advantage of the opportunity and proceeded to negotiate with the then owners of the 80 Natoma property toward a purchase of the fully-entitled 80 Natoma Project.

B. City's and TJPA's Awareness of 80 Natoma Project

While moving forward with the final negotiations for acquisition of the 80 Natoma Project, MDC was aware of the potential rail alignment issue but was also acutely aware of the uncertainty as to the Transbay Terminal's ultimate commencement of construction and completion due to problems with funding sources. MDC also was advised that rail alignment alternatives existed that could accommodate both projects and allow them to proceed.¹

In June 2003, MDC sent a letter to Mayor Willie Brown to inform him of its intent to proceed with development of the 80 Natoma Project. Maria Ayerdi, then-Project Manager for the Transbay Terminal, responded on June 9th advising MDC that the City's planning activities for the Transbay Terminal were not intended to interfere with the use or development of the 80 Natoma property. Based on this, MDC continued to invest substantial time and funds into moving forward with the 80 Natoma Project.

Throughout the remainder of 2003 and into 2004, MDC, on behalf of MNV, continued to work with City agencies, including the Planning Department and the Department of

¹ MDC has now closed on the property, obtained financing, and has all permits in place and is proceeding with construction.

Building Inspection, in preparation for the commencement of construction. There was a further exchange of letters between MDC and TJPA in November/December 2003, including a December 1, 2003 letter from Maria Ayerdi indicating that the TJPA did not intend to delay the 80 Natoma Project or hinder its progress.

C. MDC's Efforts to Develop a Mutually Beneficial Solution

Despite the persistent lack of cooperation by the TJPA staff, MDC continued to attempt to resolve the unnecessary inconsistency between the 80 Natoma Project and the Terminal rebuilding project and to seek the City's help in reaching common ground. Armed with legal, valid permits, MDC advised the City that the 80 Natoma Project would be moving forward. However, despite its best efforts to act in good faith, it became increasingly apparent that the TJPA staff had adopted a position that the 80 Natoma Project was not, in fact, proceeding and went so far as to advise the public and City officials of this erroneous position.

MDC remains shocked and mystified that, to date, TJPA staff has been making virtually no effort to explore options that would allow both projects to proceed. Based on its fundamental belief that there is a mutually satisfactory resolution to this issue, MDC has assembled its own team of architects and engineers to explore alignments and to develop one that would allow rail alternatives to be incorporated into the 80 Natoma site while allowing both projects' goals to be achieved. This effort has been undertaken at substantial expense to MDC.

These efforts, however, have been rebuffed by TJPA staff at every turn. The TJPA staff has refused a productive problem solving dialogue and has rejected as "out of hand," minor track re-alignment alternatives without any meaningful technical justification. In fact, on April 22, 2004, the TJPA Board of Directors adopted California Environmental Quality Act ("CEQA") findings for the Transbay Terminal Project and authorized its Executive Director to take actions for the project's implementation. Nevertheless, this Resolution also **directed the TJPA's Executive Director to engage in a good faith meeting to discuss possible solutions to the rail alignment issue** and to report back to the TJPA at its next regularly scheduled meeting.

Public policy dictates that the best outcome to this situation is to develop a solution that allows both projects to proceed. There is no practical way to develop such a solution without the full and good faith participation of the TJPA. MDC remains hopeful that such a resolution can yet be reached.

D. Final EIS/EIR

In March 2004, the Final EIS/EIR for the Transbay Terminal was released by the Federal Transit Administration. The Final EIS/EIR included a terminal plan different from those previously analyzed in the Draft EIS/EIR. Specifically, the Transbay Terminal Project now would extend the Transbay Terminal building 150 feet west, onto the footprint of the 80 Natoma

Leslie T. Rogers
Region IX Administrator
May 3, 2004
Page Four

Project site. Remarkably, this 150 foot shift was not discussed in the Draft EIS/EIR, nor did the Final EIS/EIR discuss the Transbay Terminal Project's impact on the 80 Natoma Project's housing.

In sum, despite the foregoing efforts, the Transbay EIS/EIR simply fails to discuss the fully-entitled 80 Natoma Project and its related impacts in any way, shape, or form. This failure not only is mystifying, but also makes the environmental document utterly flawed.

III. Environmental Review

A. Deficiencies of Transbay EIS/EIR under CEQA

On April 16, 2004, MDC sent a letter to the agencies charged with certifying the Transbay EIS/EIR identifying grounds for recirculation of the Final EIS/EIR under CEQA . (See Attached). This letter identified significant flaws in the Final EIS/EIR that undermines its adequacy as an informative document for purposes of CEQA compliance. MDC expressed its concerns based on three deficiencies:

- The document does not describe the 80 Natoma Project in any way. Consequently, the **environmental setting is improperly described;**
- As a result, the document is entirely silent with respect to the loss of much-needed market and affordable housing inventory to the City. Therefore, the document **fails to describe such loss of housing and other significant environmental impacts;**
- The document **fails to discuss a feasible mitigation measure**, a minor track alignment that has been presented to the City and TJPA prior to publication of the Transbay EIS/EIR, **which could allow both projects to proceed.**

MDC, therefore, requested that the Final EIS/EIR document be modified to account for the foregoing and that the document be re-circulated. Nevertheless, the Final EIS/EIR was certified by the San Francisco Redevelopment Agency on April 20th and by a joint session of the San Francisco Planning Commission and the Peninsula Corridor Joint Powers Board on April 22nd. City agencies have taken the clearly erroneous position that despite clear evidence that 80 Natoma will be under construction almost immediately, the Final EIS/EIR need not address the impact of the Transbay Terminal on the 423 units of housing being built. Based on the significant environmental issues and the TJPA staff's continued resistance to working with MDC to develop a solution for both projects to proceed, MDC is contemplating an appeal of the EIR certifications to the San Francisco Board of Supervisors.

Leslie T. Rogers
Region IX Administrator
May 3, 2004
Page Five

B. Deficiencies of Transbay EIS/EIR under National Environmental Policy Act ("NEPA")

We are submitting this letter to explain why the issues identified in the attached letter also render the Transbay EIS/EIR deficient under NEPA.

As you know, NEPA was enacted by Congress to declare a national environmental policy of considering any project's environmental impacts prior to project approval. In 42 USC § 4331(a), Congress recognized the profound impact of people's activity on the natural environment and, in particular, the profound influences of population growth, high-density urbanization, and new and expanding technological advances. As such, Congress declared further that it is the federal government's policy to use all practicable means and measures, in a manner calculated to promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations of Americans.

With these lofty principles in mind, the Council on Environmental Quality ("CEQ") drafted Regulations for Implementing NEPA that tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act.

Specifically, Section 1508.14 of the CEQ NEPA Regulations requires federal agencies to study the proposed action's effects on the quality of the human environment. The Regulations **require "human environment" to be interpreted comprehensively** to include the natural and physical environment and the relationship of people with that environment. Therefore, when an EIS is prepared, **federal agencies must discuss economic or social effects if they are interrelated with the effects of the physical environmental.** 40 C.F.R. 1508.14.

Similarly, the Regulations **define "effects" to include both direct and indirect effects** caused by the proposed action. 40 C.F.R. 1508.8. Direct effects are those which are caused by the action and occur at the same time and place. 40 C.F.R. 1508.8(a). **Indirect effects are those caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.** These often include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems. 40 C.F.R. 1508.8(b).

With this definition in mind, it is especially troubling that the Transbay EIS/EIR utterly failed to discuss or analyze the loss of over 423 fully entitled residential units at 80 Natoma Street, including 42 affordable residential units, which will fulfill important policy objectives of the City—contribution to the City's housing stock and the provision of badly-needed affordable housing.

Leslie T. Rogers
Region IX Administrator
May 3, 2004
Page Six

Arguably, the proposed Transbay action will result in a **direct** effect on the 80 Natoma Project especially in light of the reality that the 80 Natoma Project will almost certainly be completed and occupied before any Transbay Terminal. However, in any event, NEPA requires that an **EIS identify all reasonably foreseeable indirect effects and make a good faith effort to, at minimum, explain and evaluate them.**

Therefore, because the CEQ Regulations unequivocally state that effects related to population density necessitate discussion as a social or economic impact, the Transbay EIS/EIR is defective because of its failure to evaluate the impact of the loss of the 80 Natoma Project's residential units and the ensuing detrimental effect on the City's housing supply if the units are lost as a result of the Transbay project.

Section 5.2 of the Final EIS/EIR discusses Displacement and Relocation and identifies the 80 Natoma property as a necessary acquisition for the construction of the Transbay Terminal. (5-22). Moreover, Section 5.2.5 briefly acknowledges that construction on the Transbay Terminal could result in the displacement of 60 residential units on other sites, thereby creating the need to relocate roughly 120 persons. (5-32). **However, the Final EIS/EIR completely ignores the 423 residential units that will be lost at the 80 Natoma site.** The mere identification of 80 Natoma as one of the properties to be acquired does not in any way disclose the social and economic effects such a displacement of residential units would have on the human environment for purposes of NEPA.

Such a glaring omission of environmental effects renders the Transbay EIS/EIR fundamentally flawed under NEPA. At minimum, the EIS must discuss economic or social effects when interrelated to effects on the physical environment—to ignore such a discussion in the face of the City's housing shortage and severe lack of affordable housing clearly contravenes the letter and spirit of NEPA and does not rise to the "hard look" standard required to ensure an agency's appropriate level of consideration. Oregon Natural Resources Council v. Lowe, 109 F.3d 521, 526 (9th Cir. 1997).

C. Remedy

Pursuant to CEQ NEPA Regulations § 1502.9(c)(1)(ii), federal agencies shall prepare supplements to final environmental impact statements if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. 40 C.F.R. 1502.9. Therefore, because the Transbay EIS/EIR fails to analyze the impacts of the new Transbay Terminal on the 80 Natoma Project and its housing, before taking any action to adopt the Transbay EIS/EIR, the Federal Transit Administration must **prepare and circulate a supplement** to include analysis of the 80 Natoma Project so as to address the significant new circumstances that the 80 Natoma Project poses for the Transbay Terminal.

Leslie T. Rogers
Region IX Administrator
May 3, 2004
Page Seven

IV. Conclusion

MDC has always been a strong supporter of the plan to develop a new Transbay Terminal. MDC believes, based on considerable analysis, that a minor realignment of the proposed track routing (and a decision to return the configuration of the new Terminal to the location addressed in the Draft EIR/EIS) would allow both projects to proceed, and almost certainly result in a substantial savings of the public funds that would be needed to acquire the 80 Natoma Site by eminent domain. MDC's good faith efforts to develop such a solution thus far have been repeatedly rebuffed by TJPA staff. Until such a mutually beneficial solution is reached, the Transbay Terminal configuration and precise track alignment identified in the Final EIR/EIS would have a significant environmental impact by either preventing the construction of 80 Natoma or requiring that the building be demolished when or if the construction of the new Transbay Terminal begins.

The Final EIR/EIS that fails to identify this housing impact, and acknowledge the significance of this housing loss, is deficient under NEPA, as it is under CEQA. The only legitimate solutions under NEPA to this deficiency are either to revise the EIR/EIS to identify and discuss this impact, or perhaps preferably to defer any action on the Final EIR/EIS, and any approvals based on the document, to allow development of an engineering solution that would eliminate the Transbay Terminal Project's impact on the 80 Natoma Project.

Sincerely,



Timothy A. Tosta

cc (w/o attachment): Mayor Gavin Newsom
San Francisco Board of Supervisors
Chairman Mike Nevin and TJPA Board of Directors
Maria Ayerdi, Executive Director, TJPA
Michael Scanlon, Executive Director, Peninsula Corridor Joint Powers
Board
Joan Kugler, Planning Department
Jose Campos, San Francisco Redevelopment Agency
Jerome Wiggins, FTA



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July 19, 2004

17529

VIA HAND DELIVERY

Leslie T. Rogers
Region IX Administrator
Federal Transit Administration
U.S. Department of Transportation
201 Mission Street, Suite 2210
San Francisco, CA 94105

Re: **Transbay Terminal/CalTrain Downtown Extension
Redevelopment Project Final Environmental Impact
Statement/Environmental Impact Report**

Dear Mr. Rogers:

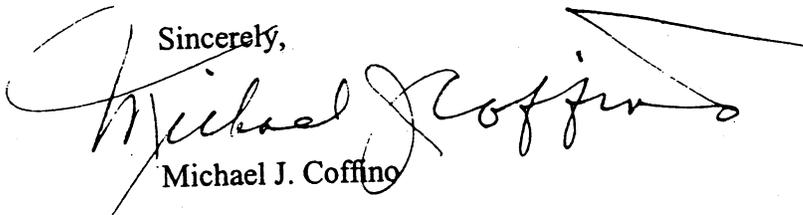
We represent Myers Natoma Venture, LLC ("MNV"), owner of the 80 Natoma property adjacent to the current Transbay Terminal site, and Myers Development Company ("MDC"). You will find enclosed a copy of our Verified Petition filed last week seeking a peremptory writ of mandate vacating the Final Environmental Impact Statement/Environmental Impact Report ("EIS/EIR") and the approvals of the Transbay Terminal/CalTrain Downtown Extension/Redevelopment Project ("Transbay Project") until such time as respondents fully comply with the mandates of the California Environmental Quality Act ("CEQA").

As a courtesy, we write to notify the Federal Transit Administration ("FTA") that we have filed this CEQA writ challenging the adequacy of the EIS/EIR. Given the pendency of the suit, we believe that the FTA's issuance of a Record of Decision ("ROD") should be withheld until such time as the environmental documents are deemed adequate and complete. Should the FTA issue the ROD while this suit is pending, please be aware that we intend to file a federal action based on the EIS/EIR's similar deficiencies under the National Environmental Policy Act ("NEPA").

Leslie T. Rogers
Region IX Administrator
July 19, 2004
Page Two

We also ask that you notify us immediately upon issuance of the ROD should you choose to do so.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Coffino". The signature is written in black ink and is positioned above the printed name. A long horizontal line extends from the end of the signature to the right edge of the page.

Michael J. Coffino

Enclosure

cc: Lock Holmes
Karen Donovan

17529:6396402.2



P.O. Box 429420 San Francisco, California 94142-9420

August 17, 2004

Mr. Leslie Rogers
Region 1X Administrator
Federal Transit Administration
201 Mission Street, Room 2210
San Francisco, CA. 94105-1839

RE: EIS/EIR and Section 4(f) Evaluation for the Transbay
Terminal Redevelopment Project in San Francisco

Dear Mr. Rogers

I previously wrote to you regarding my significant concerns about the Department of Transportation's involvement in the Transbay Terminal/Caltrans Downtown Extension/Redevelopment Project in San Francisco. I have recently joined with other small businesses, landowners and tenants in the area that will be impacted by this project to form a group called Friends of Second Street. We are urging the City and local agencies to examine less costly, more practicable, less disruptive alternatives to the project as presently proposed.

One of our biggest concerns is that this project as presently planned will destroy a number of historic buildings in the area and destroy the character of several significant historic districts south of Market Street. We are only now beginning to understand the extent of the planned acquisition and demolition of buildings, largely because of poor and improper notification and lack of information in the relevant documents.

As I noted in my early letter, we believe that the planned destruction of historic properties, particularly when other less costly alternatives are available, is both unwise and illegal. The present documents do not comply with state or federal law, and we believe that by using near and adjacent parcels for construction of the terminal building and examining alternative alignments for rail access, the Department can avoid the taking of a large number of properties in this historically significant area of the City.

I understand that your agency is in the process of finalizing decisions with regard to this project. I urge you to withhold any final decisions until your agency and the other local sponsors have properly examined the project alternatives and adequately mitigated the impacts that will result to the historic

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properties in the area, and residents, landowners, and business owners who still face a significant disruption to their lives and business activities as a result of this project.

Moreover, as a result of a recent engineering studies commissioned by the San Francisco County Transit Authority (SFCTA), it is apparent there are viable alternatives to cut-and-cover construction along Second Street into the Terminal. Experts retained by the SFCTA have concluded that tunneling from Townsend to Folsom (as planned) can be extended from Folsom Street north under the historic structures all the way to Natoma Street at the entry point into the Transbay Terminal. SFCTA also proposed how to make the Terminal 33% more efficient and a solution to the curved passenger unloading problem which has caused the State HSR EIR draft to rate the present planned terminal as inefficient. The tunneling alternatives put forward in the SFCTA report were not analyzed or even considered in the Section 4(f) analysis of the EIR/EIS presently before the FTA. Moreover, it is apparent the sponsoring agencies themselves now agree tunneling alternatives in the Second and Folsom to Natoma area have not been sufficiently considered. As a result, the Section 4(f) analysis in the current version of the EIR/EIS is inadequate. As you are aware, under federal law your agency can only approve a project such as Transbay Terminal requiring the destruction of important historic resources if the Secretary of Transportation finds that (1) there is no prudent and feasible alternative to the use of those resources (2) and the project includes all possible planning to minimize harm to resource being affected by the project. There is obviously no support in the record for such a finding today.

I appreciate your agency's willingness up to this point to reserve a final decision on this project. We look forward to an opportunity to discuss our concerns with you or your staff, and hope that your agencies will address our concerns.

Sincerely,

John A. Gasser
Adolph Gasser Inc.

cc: Sen. Dianne Feinstein
Sen. Barbara Boxer
Hon. Nancy Pelosi
Jerome Wiggins
Friends of Second Street

South Beach SOMA Coalition

RS/SW

May 17, 2004

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Leslie T. Rogers
Region IX Administrator
Federal Transit Administration
U.S. Department of Transportation
201 Mission St., Suite 2210
San Francisco, CA 94105

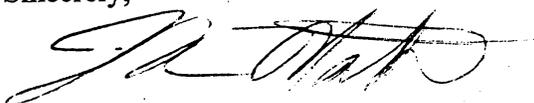
RE: Transbay Terminal/CalTrain Downtown Extension Redevelopment
Project Final Environmental Impact Statement/ Environmental Impact
Report

Dear Ms. Rogers:

Enclosed you will find a copy of an appeal filed by concerned citizens of San Francisco regarding the EIR/EIS for the Transbay Terminal/CalTrain Downtown Extension Redevelopment Project. It states that there were many important areas of the EIR/EIS that were not adequately or accurately analyzed. Many of these issues would be deficient under NEPA because the EIR/EIS failed to properly identify and discuss the impact of the Bus Storage Facility on the surrounding properties and indeed the entire South of Market area. The neighbors are especially concerned that the federal guidelines for diesel emissions have not been sufficiently studied, including the PM 2.5 which are known to be especially harmful.

As a community, we are excited about the prospect of a new Transbay Terminal. However, the Bus Storage facility, albeit a small part of the Transbay Terminal plan, has a huge impact on the surrounding neighborhood. Thus, because there are significant SEQA and NEPA issues that have not been adequately addressed, we are asking that you delay your Record of Decision until all the issues in this appeal are properly considered and the appropriate changes or mitigation measures are included in a revised EIR/EIS.

Sincerely,



Janice Mathews
In behalf of the South Beach SOMA Coalition

Law Offices of
JOSEPH J. BRECHER
436 14th STREET, SUITE 1300
OAKLAND, CALIFORNIA 94612-2703

(510) 832-2800
FAX: (510) 496-1366
e-mail: brecher@pacbell.net

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BY KG

Ms. Gloria L. Young
Clerk, San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

*re: Appeal from San Francisco Planning commission certification of EIR/EIS for the
Transbay Terminal /Caltrain Downtown Extension/Redevelopment Project*

Dear Ms. Young:

Enclosed is an appeal to the Board of Supervisors from the Planning Commission's certification of the Environmental Impact Report/Environmental Impact Statement for the above-referenced project. The appeal indicates that the project description and alternatives analysis in that document were severely flawed. In addition, it did not properly analyze a number of potentially significant environmental impacts.

As required by §31.22 of the Administrative Code, the filing fee of \$209.00 is also enclosed.

Please place this item on the Supervisors' agenda for early consideration.

Yours truly,


Joseph J. Brecher

JJB: gr
Encls.

INTRODUCTION

This document serves as an appeal to the Board of Supervisors regarding the Certification of the EIR/EIS for the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project.

We are excited about the prospect of having a state of the art transit hub in San Francisco, and about the benefits it will bring to the entire Bay Area. However, there are two issues that we are appealing: 1) The proposed bus storage facility to be located at the 2nd/3rd/4th/ Stillman, and 2) The failure to properly notify property owners, who therefore did not have time to research and respond to the proposed Transbay Terminal Project and its impact on their buildings.

Attached you will find the certification document from the planning commission as well as reference material.

BUS STORAGE FACILITY

We are appealing the bus storage facility for the following reasons:

Alternate Site Evaluation: There was not adequate analysis of alternative sites for the bus storage facility. Although significant objections were raised to the proposed site (2nd/3rd/4th & Stillman Street) throughout the entire EIR process, there was only a cursory effort put into analyzing alternative locations (see pages 80-84, V.II of the EIR).

For example, there wasn't any significant analysis of utilizing available space inside the terminal for the layover of buses that need to loop through or pass adjacent to the terminal. In the design of the terminal, the upper bus level uses only half of the space available. As stated in the response section 2.6.10, page 49, VII of the EIR, "The option of building a full level at the top of the terminal should future demand warrant has been and will continue to be considered in the design of the terminal." What better place to layover buses that need to loop through the terminal than on the top (bus level) of the terminal itself? There would be significant savings in operating costs and a reduction in emissions as there would be no additional travel time. It would also match site usage (layover buses on the bus level of the terminal).

The current EIR proposes to export what it recognizes as "blight" from within the Transbay District to an area immediately outside it. The City does indeed consider bus storage to be a "blight," as shown in it's response on page 82, Vol II of the EIR "...as outdoor, observable bus parking in the proposed redevelopment area is considered as contributing to blight." If observable bus storage is blight within the District, it is also blight outside of it. The best solution to avoid "observable bus parking" in any area is to store buses in or near the transit hub, rather than storing them in a neighborhood outside the boundaries of the transit redevelopment area. The area for the proposed bus storage facility is not, like the Transbay redevelopment district, an area envisioned as a future, potential residential area; the EIR proposes placing the facility within what is already a lively, substantial residential neighborhood.

In its responses to comments, Volume II of the EIR (pp. 81-84) mentions (and rejects) some of the suggested alternate locations for the bus storage facilities, but does not deal, at all, with the idea of building out the top level of the terminal for that purpose. Storing buses within the terminal would eliminate the severe adverse effects of air pollution, noise, and traffic impacts associated with the currently-proposed location. It would also result in operational efficiencies, since the needed buses would be located right inside the terminal. The EIR acknowledges (p. 49) that such a solution would be feasible: "The option of building a full level at the top of the terminal . . . has been and will continue to be considered in the design of the terminal." (See also p. 2-14.) *CEQA obligates an agency to adopt feasible mitigation measures. The EIR not only fails to adopt such a measure, it has not even analyzed it.*

If an expanded top level and the second bus level of the Transbay cannot house the number of buses needed for layover, then the additional buses could park on and below, well-designed, rebuilt bus ramps, and/or use an alternative site such as the 8th & Harrison site (a current Golden Gate Transit site) or the Mission Bay parking lots. There should be further study of the bus transit patterns to see which buses *need* to pass through, or adjacent to, the terminal, and determine if there are redundancies in routes. A closer look should also be taken to determine the actual number of buses that *need* to "layover" in San Francisco.

8th and Harrison Site: Although this site is several blocks further from the terminal than the Third/Fourth St. location, it is an open lot with no site constraints and has better ventilation patterns. In addition, buses can exit and merge easily with the flow of traffic, reducing delays and idling times, while the lot at Third/Fourth and Stillman will require a mid-block bus light crossing Third St during peak traffic hours (4-7pm).

Analysis of the Proposed Site: The Second/Third/Fourth I-80 option (Stillman St. lots), which is the *proposed* bus storage site, was not accurately or adequately studied. This could have costly consequences if the project is allowed to go forward with this site as the preferred alternative without requiring further, detailed study. This site has poor clearances, especially under the eastbound side of the I-80 overpass, in the lot between 2nd and 3rd street. Currently, a large portion of the lot will not allow a standard pick-up truck to fit under the overpass, and according to the Caltrans Public Information Center, the height will not vary more than two-three feet from the original elevation due to the fact that it will have to align with the rest of the structure. Yet the design on page 2-19, V. I of the EIR shows buses parking under the eastbound span of the approach and talks in general about a 2 level bus structure on the 2nd street lot. Even one bus would not clear the overpass in this area without significant and costly excavation which could possibly impact the integrity of the Bridge Approach. The westbound side has higher clearances, but would need significant excavation to allow an additional deck of bus parking. When asked about the type of excavation that would have to be done, Caltrans said that it would probably be contaminated soil (lead etc) and thus it would be costly to excavate and dispose of any soil under the overpass. There are also a multitude of structural columns for the overpass, creating tight turning radiuses that have not been well analyzed. In addition, the sidewalks and mature street trees on Stillman Street need to be preserved for pedestrian use and should not be usurped for bus storage or bus circulation. None of this is reflected in the EIR analysis or illustrations.

As mentioned above, the feasibility of utilizing a traffic light at the mid-block location to cross 3d St is questionable. *Even with a mid-block light, there will be bus delays during peak circulation times, as both AC and GG transit have similar departure times from the layover site (4-7 pm.) They both plan to utilize the "bus ramp" from the 2nd street lot to exit the layover facility.* Furthermore, the impact of such a traffic light on traffic flow along 3rd Street has not been adequately or accurately analyzed. See also "Traffic" comments below.

When asked for more details about the engineering and design of this site, we were told by the Planning Department that they were not available, as these were just preliminary designs. *But CEQA requires that the public be provided with all the necessary data in time to submit comments, rather than leaving key design elements to be developed later, out of the public eye.* If the feasibility of using this site depends on being able to maneuver buses and have adequate clearances in this difficult site, then more analysis should be done before designating it as the preferred location. Better traffic studies also need to be undertaken. *It is irresponsible to not consider better alternatives as this site has many costly and constrictive issues associated with it that have not been adequately addressed.*

Economic Feasibility: The costs of toxic excavation, toxic disposal, engineering and construction costs were not accurately reflected in the EIR for the bus storage site. It also should be noted that in areas where a large amount of steel is needed, the cost analysis section should be re-evaluated due to the huge increase in steel prices (see attached article from the S.F. Business Times which states that steel prices have tripled in the past year).

"Responses to Comments" are unresponsive. The so-called "Responses to Comments" on most of the crucial issues regarding the bus storage facility do not actually address our comments or those of other concerned residents. The eminently sensible alternative of using the upper deck of the terminal for bus storage is never seriously addressed. And rather than addressing the substance of the criticisms of the air pollution and noise analyses (for example in the letter from Titan Management Group, attached), Volume II of the EIR merely repeated what had already been said in the first volume or performed inadequate studies (see detailed comments below.) *CEQA mandates that there be good faith, reasoned analysis in response to comments.*

Long Term Impacts:

1. Air Quality: The EIR did not adequately or accurately analyze the impact of diesel emissions on the residences, offices, and retail establishments adjacent to the Stillman Lots. Please refer to the attached letter by David Gleeson and article "Health Effects of Diesel". Beyond not adequately studying the impact of the AC and Golden Gate Transit buses, the study did not include the impact of other buses that are mentioned in the EIR which would use the bus storage ramps, "Some bus services, including paratransit operations, Greyhound and other private tour operations, would be able to access the Transbay Terminal from city streets through the bus storage areas." (pg 5-130, paragraph 6, Vol. I, EIR). In addition, there would probably be extended idling time while buses wait to cross 3rd St. at the proposed bus light, and while they wait for access to the bus ramp (both AC Transit and Golden Gate have similar time frames for exiting the layover facility).

The EIR's air-quality analysis is seriously flawed. First, although the EIR acknowledges that there is now a federal air quality standard for PM_{2.5}, the document contains no analysis of whether this important standard will be violated at the proposed bus parking facility. The PM_{2.5} standard was adopted precisely because the previous PM₁₀ standard did not accurately measure the health impacts of small particles, which tend to be retained in the lung. They are especially injurious to sensitive receptors. Diesel buses produce significant quantities of this pollutant, and, as the comments indicate, the proposed bus parking area is located close by a school site (see Vol. II, p. 62). There is also a large volume of pedestrian traffic in this area. Yet, with federal standards available, there is no attempt to analyze this potentially health-threatening impact.

There is also a substantial environmental justice issue. These harmful emissions will impact the low-cost housing at Yerba Buena Commons, whose occupants may not have the resources to respond to this proposed bus storage facility.

Furthermore, the method chosen to model diesel emissions has not been modified to reflect that box-like conditions created by the freeway on top and the sound walls along the sides of the parking area. These constraints will tend to funnel the emissions and concentrate them more than would occur at an unconstrained outdoor facility. *Because of this, the study should be specific to the site.* These site constraints are another reason why the fine particulate matter (PM_{2.5}) should be analyzed.

In addition, the analysis is based on 2020 diesel bus emission factors. This underestimates the impact for two reasons – It ignores the situation during the fifteen years before the existing fleet is replaced, when higher emissions will occur. Furthermore, it assumes that the old fleet will be almost entirely retired by that time. But the bus services' perennial budget constraints undoubtedly mean that fleet turnover will be delayed, meaning the older, dirtier buses will remain in service. In fact, at a neighborhood meeting, both AC and GG transit stated that they will not completely replace their fleets to conform with the 2020 standards. A more realistic fleet mix should be assumed, more closely matching the emissions from the *current* bus fleets.

2. **Noise and Vibration:** The EIR needs to further address the proposed sound walls to ensure that they do not create an echo chamber, since there will be sound walls on three to four sides with the overpass overhead. Are there studies showing that sound absorbing material will adequately handle this problem given these parameters? Are there examples where this has been used in other projects in a similar configuration? Buses will be circulating at least 6 hours each day, and the noise analysis did not adequately or accurately study this cumulative impact. It also did not include the impact of the noise of the other bus services (Greyhound etc) mentioned in the "Air Quality" section of this letter.

The description of the noise mitigation measures set forth in the EIR (p. 5.8) is deficient because it does not contain any quantitative analysis of how successful the attenuation measures will be. Thus, there is no assurance that the noise impacts will be rendered insignificant. Nor is there any quantitative measurement of how much noise would be expected without the sound walls. See Vol. II, p. 54.

The comments regarding the lack of adequate vibration analysis, stated in the letter from Titan Management Group (attached), were never sufficiently addressed. Additional studies need to be made.

3. **Traffic Impact:** The traffic analysis and the impact of buses crossing 3rd St. mid-block between Harrison and Bryant, at a dedicated light, were not adequately nor accurately evaluated. When the DPT engineering department was contacted prior to the Transbay certification hearing, we were told that no analysis, traffic study or engineering had been done regarding the feasibility of this "bus light". Traffic congestion in this area, especially before and after the weekday and weeknight Giants games, is currently a significant problem, and this bus crossing would only exacerbate the problem. The crossing, which would be used most extensively during the late afternoon and early evening, would impact both the afternoon and evening games as well as commute traffic. Third Street is also a major transit artery, and the impact on the Third St. Light Rail and commuter traffic has not been adequately or accurately analyzed. The neighborhood had tried in the past to get a cross-walk at this same location, and it was turned down due to traffic issues. Why, with increased traffic loads due to the Giants Stadium and other South of Market developments, should buses be allowed to have a mid-block crossing when it was not allowable for pedestrians?

In addition, there was mention of routing additional buses (Greyhound etc) through the storage area to allow access to the proposed storage area bus ramp. This would also increase the traffic load in this area.

4. Visual/Aesthetics: The impact of a bus layover facility and a bus ramp spanning 2nd St, the "Gateway to South of Market" was not adequately addressed. There were no renderings showing elevations of the ramp, which cannot be attached to the freeway overpass and thus must have to cross 2nd street at a low elevation, creating additional shadow and blight. This entire south of market area has undergone a transformation over the past decade, and to relocate the buses to this location is transferring a burden or "blight" to this neighborhood. Again, quoting from the EIR, pg 82, Vol. II "...as outdoor, observable bus parking in the proposed redevelopment area is considered as contributing to blight." It would be considered just as much a blight in the Stillman neighborhood, which is not in the Transbay Terminal Redevelopment Area.
5. Socio-economics: The impact of storing 200+ buses across from residential, commercial and retail establishments was not evaluated. It would decrease the perceived value of the real estate in the area and would significantly decrease the rental rates for apartments and commercial space. There were no mitigation measures mentioned in the EIR for this significant impact.
6. Land Use: The land use maps used to depict the composition of the neighborhood surrounding the Stillman St. lots (figure 4.1-2, page 4-5, Vol. 1) were not accurate and did not show many of the residential units as well as a State approved school facility with a Uniform Building Code educational occupancy classification located on the 100 block of Stillman St. This area is a thriving neighborhood with hundreds of residences, including the Clocktower Complex and a beautiful, low income housing complex at Perry and 3rd. The existing zoning map (4.1-2, pg. 4-5, Vol. 1) left off the existing zoning for the blocks east of 3rd Street. The entire block (3rd to 4th) for the Golden Gate Transit bus storage facility has been left off the existing zoning map. In addition, bus parking and storage is not a permitted or conditional use in the SLI or SSO zone.

The current EIR removes parking from the area, especially parking that is used (and was referenced in the EIR for) the Giants Stadium, for both day and evening games. Meanwhile, the TJPA is proposing parking lots within developments in the Transbay district, many of which will be owned privately with funds going to private developers. In contrast, the funds generated in the parking area proposed for the bus storage facility (one to two million dollars per year currently) have gone and would could continue to go to Caltrans, and through them to public projects. Money going to developers rather than Caltrans represents a transfer from public benefit to private profit. The proposed bus facility site should remain as parking and be used as an exchange for parking requirements for the Terminal or surrounding buildings. Eliminating parking adjacent to a major transit hub is more logical than reducing parking in an area outside that hub that has very little parking.

7. Safety and Security: The proposed bus facility would be vacant on evenings and weekends, and the sound walls would encourage encampments and would impair the ability of pedestrians and residents to see if there were unsafe activities occurring in the lots. Secondly, the Bay Bridge is a known "high risk"

target for terrorism, and buses are a common target and tool used by terrorists. The safety issue of having 200+ buses, with large fuel tanks, coming into and parking in this location under the main approach to the Bay Bridge on a daily basis should be analyzed. It is certainly a more attractive target than a remote bus parking lot or bus ramps.

8. Cumulative Impact: The neighborhood bounded by 2nd, 4th, Stillman and Perry Streets is currently undergoing 5 years of tearing down and rebuilding of the Bay Bridge West Approach. It will also have construction of the light rail down 3rd Street and proposed tunneling down 2nd Street. To then put a bus layover facility, with its additional impact of construction, traffic, reduced air quality, and blight, would be placing an undue burden on this community.
9. Excavated materials. The EIR indicates (Vol. II, p. 74) that 2-3 feet of material will have to be excavated at the bus parking area. There is some indication that the soil in this area may be contaminated. The EIR makes no attempt to quantify how many cubic yards will be involved, or how this potentially hazardous material will be disposed of.

FAILURE TO NOTIFY PROPERTY OWNERS

Noticing: There has been a noticeable lack of communication from the start of the EIR process. The neighborhood was never properly noticed that this proposed bus layover facility was being considered. (See multiple references to this lack of noticing in Scoping Meeting transcripts and the Comments section following page 236 in V.II of the EIR.) Other building owners also did not receive a notice. For example, The owner of 191 -199 –Second St, owned by Helsten Properties, LLC, was not properly notified. They only found out in April, 2004 in an article in the San Francisco Business Times, that the property was proposed to be condemned due to this project. They are concerned about what mitigation measures are being proposed. They felt that other, more logical routes were not considered.

Noticing – potential loss of Historic Status: Another example of lack of noticing is a property at 583-587 Howard St, owned by Howard St. Partners, which was never notified that there could be an impact to their building. Only by reading through the EIR to find information about the bus storage did the owners come across the fact that it is listed as “adversely affected.” The EIR states that the building would be separated, due to demolition of adjacent buildings, from others in the National Register District and thus could lose its eligibility for the National Register. There needs to be an evaluation of the mitigation measures as well.

SUMMARY

In summary, the Board of Supervisors should direct the Joint Powers Board, the Planning Commission and all other agencies involved, to re-evaluate the location of the bus layover facility due to their lack of sufficient and accurate analysis of the issues summarized above. There have been other issues mentioned in written and oral testimony during the EIR process which we are referencing as background material to support this appeal as well. Finally, the City should review its noticing procedures to ensure that all buildings that would be impacted by this project are notified and given a chance to respond. Thank you for your time and consideration of this important issue.

April 22, 2004
File No. 2000.048E
Assessor's Block 3719, Lot 003;
Assessor's Block 3720, Lot 001;
Assessor's Block 3721, Lot 006 and
various others

SAN FRANCISCO
CITY PLANNING COMMISSION

MOTION NO. 16773

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED TRANSBAY TERMINAL/ EXTENSION OF CALTRAIN/REDEVELOPMENT PLAN, LOCATED AT THE 425 MISSION STREET (TRANSBAY TERMINAL); THE REDEVELOPMENT PLAN AREA GENERALLY BOUNDED BY MISSION, MAIN, SPEAR, FOLSOM, ESSEX, I-80, SECOND AND MINNA STREETS; AND THE TRACK ALIGNMENT IS UNDER TOWNSEND AND SECOND STREETS.

MOVED, That the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case File No. 2000.048E - Transbay Terminal/Caltrain Extension/Redevelopment Plan(hereinafter "Project") based upon the following findings:

1) The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Sections 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Sections 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

a. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on March 17, 2001. A Notice of Intent to prepare an Environmental Impact Statement was published in the Federal Register by the Federal Transit Administration on March 28, 2001.

b. On October 5, 2002, the Department published the Draft Environmental Impact Statement/Environmental Impact Report (hereinafter "DEIS/EIR") and provided public notice in a newspaper of general circulation of the availability of the document for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

c. Notices of availability of the DEIS/EIR and of the date and time of the public hearings were posted near the project site by Department staff on October 4, 2002.

d. On October 3, 2002, copies of the DEIS/EIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.

e. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on October 7, 2002.

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File No. 2000.048E
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- 2) The Commission held a duly advertised public hearing on said Draft Environmental Impact Report on November 26, 2002 at which time opportunity for public comment was given, and public comment was received on the DEIS/EIR. The period for acceptance of written comments ended on December 20, 2002.
- 3) The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 77-day public review period for the DEIS/EIR, prepared revisions to the text of the DEIS/EIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIS/EIR. This material was presented in Volumes I and II of a Final EIS/EIR document, published on March 18, 2004 was distributed to the Commission and to all parties who commented on the DEIS/EIR, and was available to others upon request at Department offices.
- 4) A Final Environmental Impact Statement/Environmental Impact Report has been prepared by the Department and the other co-lead agencies, consisting of the Draft Environmental Impact Statement/Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law.
- 5) In March 2003, the Transbay Joint Powers Authority (TJPA) adopted as its preferred alternative the Locally Preferred Alternative (LPA) as described in the Final EIS/EIR. The LPA consists of the Transbay Terminal West Ramp Alternative, which includes associated bus ramps, circulation, and off-site storage; the Second Street to Main Street track alignment for the Caltrain downtown extension, which includes a "stacked drift" tunneling option for the segment between Townsend Street and Folsom Street; and the "Full Build" Redevelopment Plan.
- 6) Project environmental files have been made available for review by the Commission and the public. These files are available for public review at the Department offices at 1660 Mission Street, and are part of the record before the Commission.
- 7) On April 22, 2004, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Statement/Environmental Impact Report was prepared, publicized and reviewed comply with the provisions of CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.
- 8) The Planning Commission hereby does find that the Final Environmental Impact Report concerning Case File No. 2000.048E - TRANSBAY TERMINAL/EXTENSION OF CALTRAIN/REDEVELOPMENT PLAN reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Final EIS/EIR documents which include the Comments and Responses contains no significant new information to the Draft EIS/EIR. In addition, since publication of the DEIS/EIR there has been no significant new information that would require recirculation of the document pursuant to

CITY PLANNING COMMISSION

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CEQA Guideline Section 15088.5; and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

9) The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the proposed project described in the Final Environmental Impact Statement/Environmental Impact Report and as preferred by the TJPA would have the following significant unavoidable environmental impacts, which could not be mitigated to a level of non-significance:

a. A significant adverse effect on the environment to following intersections under both the baseline plus project and 2020 cumulative conditions: (1) First/Market, (2) First/Mission, (3) First/Howard, (4) Fremont/Howard, (5) Beale/Howard, (6) Second/Folsom, and (7) Second/Bryant. As a result of the constraints at downstream intersections and the I-80/U.S. 101 on-ramps and mainline, mitigation measures for the seven intersections have not been proposed, and the impacts associated with the Project would be considered adverse and unmitigable. Therefore, the project would add vehicles to those movements that would represent a considerable contribution to the baseline and cumulative conditions and the project would have an adverse impact on these intersections.

b. A significant effect on the environment resulting from demolition of historical resources. The present Transbay Terminal and the associated bus ramps and approach structures, which are historic resources as components of a multi-component structure listed in the National Register of Historic Places, would be demolished to construct the new Transbay Terminal aspect of the Proposed Project. In addition three historic properties located at 580 Howard Street (Block 3721, Lots 092 through 106), 165-173 Second Street (Block 3721, Lot 025) and 191 Second Street (Block 3721, Lot 022) would be demolished to construct the Caltrain Downtown Extension component of the Proposed Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at a special joint meeting with the Peninsula Corridor Joint Powers Board on April 22, 2004.

Linda Avery
Commission Secretary

Ayes: Commissioners B. Lee, Antonini, Feldstein, Hughes, Boyd, S. Lee and Bradford Bell
Nays: none
Absent: none



EXCLUSIVE REPORTS

From the March 26, 2004 print edition

Steel price hike nails builders

One company falls, while others teeter

James Temple

Skyrocketing steel prices have the local real estate industry bracing for project delays, product shortages and possible bankruptcies among subcontractors.

Spot prices for steel, which can comprise as much as 20 percent of a project's material costs, have tripled in the last year, from \$100 per ton at the beginning of 2003 to \$302 in February 2004.

It's meant that subcontractors sometimes can't honor quotes they've provided or secure enough materials, said Mike Adler, co-president of Cannon Constructors Inc.

"In some cases, where deals are marginal, this may be the nail in the coffin -- if they can afford the nail," Adler said.

Moreover, there could be worse to come, as steel suppliers are projecting further increases of 30 percent to 40 percent through the year, he said.

The primary cause of the trend is a sharp increase in scrap exports, in large part a result of increasing demand in Asia. In particular, China is consuming over 20 percent of the world's steel supply, by some estimates. Exports rose from 6.3 million tons in 2000 to approximately 12 million tons in 2003, according to Emergency Steel Scrap Coalition, a national organization formed to "address this crisis."

Domestically, strong demand for housing, cars and appliances -- driven by low interest rates and the improving economy -- is further tightening supply. Other factors include a weakening U.S. dollar, increasing energy costs and the lingering effects of tariffs on imported steel.

In the last few months, architecture firm SmithGroup Inc. has watched that translate into a \$5 to \$10 per square foot increase in construction costs estimates, which can range from \$200 to \$400 per square foot depending on the type of project.

That's an additional \$2.5 million to \$5 million for a 500,000 square foot development.

"What it means is going back and trying to value engineer (costs) out or clients having to dig deeper in their project budgets," said David Martino, a senior vice president at SmithGroup, who is overseeing a significant amount of health-care construction stemming from California's seismic upgrade requirements. "It creates problems for all of us, for clients, for contractors and for designers."

Insurmountable problems, for some: At least one local subcontractor has already filed for bankruptcy after increasing steel prices put its contracts under water, industry sources said. Other companies are said to be similarly teetering.

The price jump isn't bad news for everyone, however.

Portland, Ore.-based Schnitzer Steel Industries, which operates a scrap metal plant in Oakland, has enjoyed a boost to both prices and earnings for new steel and scrap, said Executive Vice President Gary Schnitzer, who would not disclose specifics.

Likewise, several publicly traded steel manufacturers boosted their earnings forecasts last week, including Nucor Corp. and Steel Technologies Inc.

"Frankly, most people aren't feeling a pinch because they're passing it on to other people," Schnitzer said.

But the bucks stop somewhere.

Some construction firms are taking steps to mitigate the risks to themselves and their clients.

To protect itself, Swinerton Builders is asking clients to provide allowances for steel prices, permitting the steel component of the construction firm's project bids to fluctuate with the market. Meanwhile, it's urging clients to buy steel materials as soon as possible and store them, rather than waiting until construction begins and risking further price hikes.

"I think the problem can be taken care of through mitigation measures, because putting the project on hold doesn't help anyone," said Charlie Kuffner, senior vice president and region manager with Swinerton. "Making smart commitments is the real key here ... because who's to say it won't become worse?"

James Temple covers real estate for the San Francisco Business Times.

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David Gleeson
461 2nd Street, # 105
San Francisco,
CA 94107

(415) 243 8234

davidgleeson@mac.com

TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS
201 Mission Street, Suite 1960
San Francisco, California 94105

April 22, 2004

Re: Adopting California Environmental Quality Act Findings for the Transbay Terminal Project, including approval of Mitigation Measures, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations; approving the Project and authorizing the Executive Director to take actions for Project implementation.

The following notes are submitted by way of request that an alternative site for the bus storage facility be chosen; use of the current proposed location will have an extremely adverse effect on the health and well being of residents in what is an established residential neighborhood.

It is further requested the EIS/EIR is not certified pending outcome of more thorough studies to be conducted as described below:

1. Residents have raised concerns (logged in EPA) that local air pollution will be adversely affected local bus storage. Bay Area Air Quality Management District discussed this in its comment letter, specifically identifying diesel exhaust as a Toxic Air Contaminant (TAC). Titan Management Group also discussed the issue. However, the agency did not respond directly to this significant issue. This is a basic violation of California Environmental Quality Act (CEQA).
2. The agency did evaluate some air quality Issues, but only as they relate to the California Ambient Air Quality Standards (CAAQS). This is inadequate because ambient air quality standards do not take into account localized impacts, commonly referred to as Toxic Hot Spots.
3. Furthermore, its evaluation was deficient. It only considered the daily average standard for particulate matter (PM) – they failed to consider the annual average. It could well be that the annual average exceeds the standard.

4. More importantly, the bulk of particulate matter in diesel exhaust that is of concern is smaller than 10 microns. Please see attached copy of the Scientific Study in support of the California Air Resources Board (CARB) Resolution identifying diesel exhaust as a Toxic Air Contaminant. About two years ago a regulation was adopted imposing a new CAAQS for PM 2.5 (particulate matter at 2.5 microns). THE EIS/EIR DOES NOT INCLUDE ANY ANALYSIS WHATSOEVER OF PM 2.5. Therefore, even using their own criteria, the evaluation is deficient.

5. A thorough evaluation of air quality impacts would include a risk assessment to determine whether diesel exhaust emissions will create a toxic hot spot. This would entail air modeling to determine likely concentrations of exhaust surrounding the parking structure. That modeling would then include an overlay of the impacted population, including sensitive receptors such as children and the elderly. (Note there is a school building on Stillman and a home for the elderly close to 4th) Based on this, the agency could evaluate the likely maximum rate of exposure to the impacted population. By taking this rate of exposure and multiplying it by a number of years (70 years is the default number), an incremental cancer risk can be calculated. Generally, an incremental cancer risk of 1 in 1 million is considered significant. The problem here is that no analysis was prepared to address localized impacts

6. I request the agency evaluate these impacts before certifying the EIR and approving the project. This is a reasonable request (it is not an attempt at sandbagging – the issues have long been on record). It is common and usual to evaluate the effects of diesel exhaust on the surrounding community. It is common for risk assessments to be prepared. The agency has not done this at all. Without this information, how can the agency satisfy the fundamental mandate of California Environmental Quality Act (CEQA): to promote informed decision-making?

Sincerely, David Gleeson

Health Effects of Diesel Exhaust



A fact sheet by
Cal/EPA's Office of Environmental Health Hazard Assessment and
The American Lung Association of California.



Diesel fuel is widely used throughout our society. It powers trucks that deliver products to our communities, buses that carry us to school and work, agricultural equipment that plants and harvests our food, and backup generators that can provide electricity during emergencies. It is also used for many other applications. Diesel engines have historically been more versatile and cheaper to run than gasoline engines or other sources of power. Unfortunately, the exhaust from these engines contains substances that can pose a risk to human health.

In 1998, the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) completed a comprehensive health assessment of diesel exhaust. This assessment formed the basis for a decision by the California Air Resources Board (ARB) to formally identify particles in diesel exhaust as a toxic air contaminant that may pose a threat to human health. The American Lung Association of California (ALAC) and its 15 local associations work to prevent lung disease and promote lung health. Since 1904, the American Lung Association has been fighting lung disease through education, community service, advocacy and research.

This fact sheet by OEHHA and ALAC provides information on health hazards associated with diesel exhaust.

**Diesel exhaust
contains more
than 40 toxic air
contaminants**

What is diesel exhaust?

Diesel exhaust is produced when an engine burns diesel fuel. It is a complex mixture of thousands of gases and fine particles (commonly known as soot) that contains more than 40 toxic air contaminants. These include many known or suspected cancer-causing substances, such as benzene, arsenic and formaldehyde. It also contains other harmful pollutants, including nitrogen oxides (a component of urban smog).

How are people exposed to diesel exhaust?

Diesel exhaust particles and gases are suspended in the air, so exposure to this pollutant occurs whenever a person breathes air that contains these substances. The prevalence of diesel-powered engines makes it almost impossible to avoid exposure to diesel exhaust or its byproducts, regardless of whether you live in a rural or urban setting. However, people living and working in urban and industrial areas are more likely to be exposed to this pollutant. Those spending time on or near roads and freeways, truck loading and unloading operations, operating diesel-powered machinery or

working near diesel equipment face exposure to higher levels of diesel exhaust and face higher health risks.

What are the health effects of diesel exhaust?

As we breathe, the toxic gases and small particles of diesel exhaust are drawn into the lungs. The microscopic particles in diesel exhaust are less than one-fifth the thickness of a human hair and are small enough to penetrate deep into the lungs, where they contribute to a range of health problems.

Diesel exhaust and many individual substances contained in it (including arsenic, benzene, formaldehyde and nickel) have the potential to contribute to mutations in cells that can lead to cancer. In fact, long-term exposure to diesel exhaust particles poses the highest cancer risk of any toxic air contaminant evaluated by OEHHA. ARB estimates that about 70 percent of the cancer risk that the average Californian faces from breathing toxic air pollutants stems from diesel exhaust particles.

Diesel exhaust increases the risk of cancer...

In its comprehensive assessment of diesel exhaust, OEHHA analyzed more than 30 studies of people who worked around diesel equipment, including truck drivers, railroad workers and equipment operators. The studies showed these workers were more likely to develop lung cancer than workers who were not exposed to diesel emissions. These studies provide strong evidence that long-term occupational exposure to diesel exhaust increases the risk of lung cancer. Using information from OEHHA's assessment, ARB estimates that diesel-particle levels measured in California's air in 2000 could cause 540 "excess" cancers (beyond what would occur if there were no diesel particles in the air) in a population of 1 million people over a 70-year lifetime. Other researchers and scientific organizations, including the National Institute for Occupational Safety and Health, have calculated cancer risks from diesel exhaust that are similar to those developed by OEHHA and ARB.

Exposure to diesel exhaust can have immediate health effects. Diesel exhaust can irritate the eyes, nose, throat and lungs, and it can cause coughs, headaches, light-headedness and nausea. In studies with human volunteers, diesel exhaust particles made people with allergies more susceptible to the materials to which they are allergic, such as dust and pollen. Exposure to diesel exhaust also causes inflammation in the lungs, which may aggravate chronic respiratory symptoms and increase the frequency or intensity of asthma attacks.

... And it can cause coughs and aggravate asthma

Diesel engines are a major source of fine-particle pollution. The elderly and people with emphysema, asthma, and chronic heart and lung disease are especially sensitive to fine-particle pollution. Numerous studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks and premature deaths among those suffering from respiratory problems. Because children's lungs and respiratory systems are still developing, they are also more susceptible than healthy adults to fine particles. Exposure to fine particles is associated with increased frequency of childhood illnesses and can also reduce lung function in children.

Like all fuel-burning equipment, diesel engines produce nitrogen oxides, a common air pollutant in California. Nitrogen oxides can damage lung tissue, lower the body's resistance to respiratory infection and worsen chronic lung diseases, such as asthma. They also react with other pollutants in the atmosphere to form ozone, a major component of smog.

What is being done to reduce the health risks from diesel exhaust?

Improvements to diesel fuel and diesel engines have already reduced emissions of some of the pollutants associated with diesel exhaust. However, diesel exhaust is still one of the most widespread and toxic substances in California's air.

ARB's Diesel Risk Reduction Plan, when fully implemented, will result in a 75 percent reduction in particle emissions from diesel equipment by 2010 (compared to 2000 levels), and an 85 percent reduction by 2020. The plan calls for the use of cleaner-burning diesel fuel, retrofitting of existing engines with particle-trapping filters, and the use in new diesel engines of advanced technologies that produce nearly 90 percent fewer particle emissions, as well as the use of alternative fuels.

**Diesel exhaust
contributes to smog
and fine-particle
pollution**

The use of other fuels, such as natural gas, propane and electricity offer alternatives to diesel fuel. All of them produce fewer polluting emissions than current formulations of diesel fuel. As a result of ARB and local air-quality regulations, public transit agencies throughout California are using increasing numbers of passenger buses that operate with alternative fuels or retrofitted equipment.

For further information

Office of Environmental Health Hazard Assessment

1001 I Street, P.O. Box 4010, Sacramento, CA 95812-4010
(916) 324-7572
www.oehha.ca.gov

Air Resources Board

1001 I Street, Sacramento, CA 95814
(800) 363-7664
www.arb.ca.gov

American Lung Association of California

921 11th Street, Suite 700, Sacramento, CA 95814
(916) 442-4446
For your local office, call (800) LUNG-USA
www.californialung.org

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see OEHHA's web site at www.oehha.ca.gov/public_info.html.

TITAN MANAGEMENT GROUP
Professional Property Management Services

Joan Kugler
Environmental Analyst
City & County of San Francisco
1660 Mission St. #500
San Francisco, CA 94103

December 12, 2002

Dear Ms. Kugler.

These comments are submitted on the Transbay Terminal/ Caltrain Downtown Extension/ Redevelopment Project DEIS, DEIR and Draft Section 4(f) Evaluation (the "Environmental Document") on behalf of the Clocktower Lofts Owners Association.

- The Clocktower is an historic building in a historic area.
- The Clocktower is a live/work building providing housing for 127 families including small children.
- The Clocktower is already an area in city with mitigations for the Giants Stadium. Second Street is designated as a pedestrian walkway; Third and Fourth Streets are the bus bridges.
- This area is already subject to extensive disruption during Cal Trans bridge and approach demolition and rebuilding for next 5 years.
- The Clocktower relies on open windows for ventilation as do many of its Stillman Street neighbors.

Bus Storage Facilities

One of the project elements is development of bus storage facilities. 42 or 53 AC Transit Buses would be stored between Second and Third Streets at Stillman, facing our building. 140 Golden Gate Transit buses would be stored between Third and Fourth.

These bus yards would concentrate noise and diesel emissions in a semi-enclosed area near high density residences and businesses.

The Environmental Document is obligated to consider the environmental impacts of the project, including all its components. The Environmental Document does contain a discussion of air quality impacts. It appropriately includes a microscale air quality assessment. The microscale analysis, however, was limited to an assessment of the concentrations of carbon monoxide.

The California Air Resources Board has identified diesel emissions as a carcinogen. In recognition of the health risks to children from diesel exhaust, the ARB has just taken action to prohibit idling of school buses within 100 feet of a school building, see <http://www.arb.ca.gov/newsrel/nr121202.htm>.

The buses utilizing the storage facilities contemplated by this project will undoubtedly be a source of diesel emissions. These emissions could be a significant health risk because of the number of buses involved. The Environmental Document acknowledges that bus engines will be warmed up in these storage areas (page 5-63). The emissions in these storage areas will be more concentrated than they would be in an open area because of the semi-enclosed covering of the freeway structure. In addition to presenting possible health hazards to residents in the surrounding areas, the relative enclosed nature and lack of significant airflow in this area may present substantial health hazards to the bus drivers and associated mass transit employees.

There are numerous residences located in this area that house sensitive populations, including children. There is a residence for the elderly adjacent to this area.

An analysis of the environmental impacts of this project should include an identification of the residences near the bus storage facility, the sensitive populations that would be affected, and an analysis of the potential exposures to diesel exhaust, including a worst case analysis and a cumulative impact analysis.

Diesel engines are also notorious sources of noise. The noise will also be greater because it will be partially contained by the freeway structure. The Environmental Document contains only a four line qualitative discussion of the bus storage facility noise impacts (page 5-63). There is no quantitative analysis presented.

The Environmental Document proposes construction of a sound wall on the south side of the storage areas to mitigate the noise impacts. This appears to be based on a recognition that the noise impacts would be regarded as significant though that is not explicitly stated. There is no analysis of how effective the sound wall would be. A sound wall may not be effective since it would be expected that noise would reflect off the bottom of the freeway structure and escape over the top of a sound wall. A sound wall on the south side of the storage areas will not mitigate the noise impacts on the Clocktower at all.

There are accepted methodologies for conducting a quantitative noise analysis of the operation of these storage facilities. Such an analysis should be performed and presented. If there are significant impacts, they should be acknowledged and mitigated. There should also be an analysis of the effectiveness of any proposed mitigation measures.

Vibration Impacts

The Environmental Document states that "the highest levels of ambient ground-borne vibration were measured at the Clock Tower (sic) building at Bryant and Second Streets. Both exterior and interior vibration was measured. The exterior location was on the sidewalk relatively close to the street. Even at this location, the highest vibration levels were only slightly above what can be perceived by most humans." (Page 4-32)

The vibration analysis that was performed showed that vibrations would exceed the FTA impact threshold for residential land uses in the hallway of the Clocktower even with mitigation in the form of a resilient track system. The vibration analysis included projections for 4 additional locations in the Clocktower. Those projections show that vibrations would be very close to exceeding the impact threshold.

The Environmental Document, however, concludes with respect to the Clocktower: "Projected vibration levels exceed the impact threshold only at the hallway site, and therefore no mitigation is indicated." In itself, this is a questionable conclusion since the hallway itself is part of the residential use.

Moreover, vibrations are already a significant problem at the Clocktower. This is apparently because of the building's proximity to the elevated freeway structure. We are very concerned about any vibrations in addition to the ones already experienced. An analysis of the impacts of the project on the Clocktower must include an analysis of the impacts of the project in addition to the impacts already experienced. The explanation of the vibration analysis does not indicate that this has been done.

The Environmental Document also indicates that there are some significant qualifications on the vibration analysis.

In light of the qualifications on the vibration analysis and in light of the results showing that the impact threshold has been exceeded in the hallway and showing that impacts elsewhere are close to the impact threshold, the analysis that has been done should be regarded as a screening level analysis. The results indicate that a more specific and detailed analysis should be performed. Any analysis should include indicate the vibrations that would be experienced if vibrations from the train occurred at the same time as serious vibrations from the freeway.

The Clocktower believes this analysis is legally required. Additionally, if this analysis is not performed and if there is damage to the Clocktower residents or to the building from vibrations, a failure to have performed this analysis could have profound legal consequences.

Construction Period Access

The Environmental Document states that if the cut and cover method of tunnel construction is utilized, there will be block-by-block closures on Second Street. A chart describing the driveways and streets temporarily blocked by construction mistakenly states that only a delivery entrance at the Clocktower would be blocked. Obviously, the Clocktower has not been provided with the detailed plans for the closure of the Second Street, but it would appear that a driveway entrance would be blocked as well. This driveway provides access to parking both in an exterior lot and in an underground interior lot. This driveway also provides emergency access/egress in the event of a fire or other emergency.

The Environmental Document should correctly assess the impacts on the Clocktower. If the street closure will prevent access to parking, even temporarily, that impact must be fully mitigated.

Construction Period Noise and Vibration

The Environmental Document presents a qualitative analysis of the noise impacts, and apparently concludes that the construction phase noise impacts would be significant. The mitigation measures that are proposed, however, are so vague and ambiguous as to be unenforceable. They include such things as "conduct noise monitoring," "conduct inspections and noise testing of equipment," "implement an active community liaison program." Specific quantitative noise limits should be stated for each period during the day.

The Environmental Document states that noise waivers may be obtained to allow nighttime construction. It also states that "it is not anticipated that the construction documents would have specific limits on nighttime construction. (page 5-185)." There will apparently be no limits on the use of jack hammers, hoe-rams and pile drivers before 10 p.m. This will significantly add to the noise in the area. Mitigation measures could easily be developed preventing the use of such extremely noisy equipment unless a specified standard of necessity were met.

A meaningful noise mitigation program could do much better than this. It could set forth specific showings that must be made in order to justify nighttime construction. The proposed mitigation measures contain none. It could set forth noise limits in the event nighttime construction is necessary. The proposed mitigation measures do not. It could prohibit the use of certain equipment at night. The proposed measures do not.

The mitigation plans states that contractors will be required to "use equipment with effective mufflers." What is an "effective" muffler? This is so vague as to be meaningless. Additionally, there is often an electric alternative to diesel-powered equipment. There is no requirement to use electrically powered equipment when it is available.

The Environmental Document acknowledges that construction vibration effects can damage historic buildings. It states that a study has been done showing that no damage will occur due to construction vibrations. This study is not presented, and so it is impossible to evaluate.

Additional Comments

All in all, the noise, disruption, and other impacts of the cut and cover tunnel construction alternative are so severe that it should be abandoned as a project alternative.

The Clocktower has entered into an agreement with Caltrans to lease the parking lot off Harrison Street behind Marathon Plaza. This lease will run from the completion of the Western Approach Seismic Repair until December 31, 2038. The Environmental Document should analyze whether any of the ramp alternatives would have an impact on this lot and mitigate any impacts that may occur.

The Clocktower has entered into an agreement with Caltrans to use the parking lot at Second and Harrison until completion of the Western Approach Seismic Repair. This lot is identified for future redevelopment. The timing of that redevelopment is not stated. No potential development of that site should interfere with the Clocktower's ability to use that lot in accordance with its agreement with Caltrans.

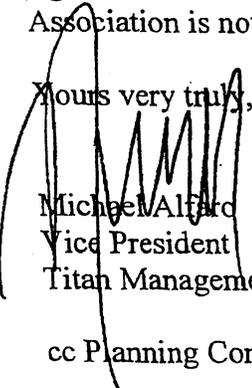
Figure 4.1-1(b) setting forth Existing Land Uses erroneously fails to identify the parking lot at Second and Harrison or the parking lot beneath the existing Harrison Street off-ramp. That figure also identifies the Clocktower as residential, whereas it is a live/work building.

Chapter 4.18 fails to identify the tower containing the clock on the Clocktower Building as a visual resource or as part of the visual character of the area. The Clocktower is one of the most significant and well-recognized landmarks in the area.

We have also stated our concerns at the Public Hearing April, 2001, and in writing, requesting a study of the Effects of Emissions the many residences and businesses. Those comments are all incorporated by reference in these comments.

We are concerned that public health and safety needs are not being met, and we are considering legal action. We feel we have been ignored in the process. The Clocktower Lofts Owners Association is not even on the distribution list for information. Please correct that omission.

Yours very truly,



Michael Alfaro
Vice President
Titan Management Group

cc Planning Commission

SUMMARY OF PUBLIC COMMENT FROM CERTIFICATION MEETINGS

Redevelopment Agency – April 20, 2004

At the Redevelopment Agency meeting on Tuesday April 20, 2004, there were 31 speakers during the public comment period.

Nineteen speakers were in support of the project and urged certification. The speakers are listed below with affiliations, if any, in parenthesis:

Jim Hass, Daniel Krause and Daniel Sullivan of (Rescue Muni), Scott Mace, Norman Rolfe (S.F. Tomorrow), Bob Meyers (Transbay CAC), Joyce Roy (League of Women Voters), Mike Kiesling (Caltrain CAC), Alan Zaradick (Golden Gate Transit), Richard Mlyarnik, Maria Ayerdi, John Holtzclaw (Sierra Club), David Vasquez, Margaret Okuzumi, John Glenn, David Schonbrunn, Walter Johnson (S.F. Labor Council), Jane Morrison, Anthony Bruzzone (AC Transit).

Twelve speakers had various issues:

Should have studied a different alignment - Bill Blackwell

Notice insufficient; major zoning change no alternative to proposed open space – Bob Tambler, Fritiz Realty

Impacts of bus storage location not sufficiently addressed – Bruce Barnes, Larry Newhall, Gerald Burnet

Noticing inadequate, not even remotely feasible, ridership bloated, construction will kill 2nd St., financing inadequate – Robert Birmingham, John Gasser

Unacceptable noise at 2nd St. underground turn, need additional mitigation, i.e., floating slab – Richard Coleman

Ignores impacts on proposed development at 80 Natoma (Myers Development) – Steve Atkinson, Shepard Heery, Jeff Heller

Should not take private property, particularly their gallery – Tamara Danizinger

Letters received - In support

S.F. Fire Fighters Local 798 (John F Hanley, President), S.F. Democratic Party resolution, Rescue MUNI (Andrew Sullivan), AC Transit (Joe Wallace & Greg Harper, President and V.P. of Bd. of Directors), Transportation and Land Use Coalition (Leah Shahum of S.F. Bicycle Coalition, Andrew Sullivan of Rescue MUNI, John Holtzclaw of Sierra Club, David Schonbrunn of TRANSDEF, Jon Spangler of Alameda Transit Advocates, Alan C. Miller of Train Riders Assoc. of California, Margaret Okuzumi of

Bayrail Alliance), S.F. Tomorrow - three separate letters - (Jennifer Clary, President and Norman Rolfe, Transportation Chair), League of Women Voters of the Bay Area (Eva Alexis, President and Joyce Roy, Transportation Dir.), Train Riders Association of California (TRAC), Richard F. Tolmach, President), Sierra Club (John Holtzclaw, Transportation Chair), Regional Alliance for Transit (Michael Kiesling for RAFT), S.F. Beautiful (Dee Dee Workman, Ex. Dir.), BayRail Alliance (Margaret Okuzumi, Ex. Dir.), S.F. labor Council, AFL-CIO (Walter L. Johnson and Stanley Warren, Sec. Treas.), S.F. Building and Construction Trades Council (Stanley Warren, Sec. Treas.), SPUR (Dave Snyder, Transportation Chair).

Letters received - Not supporting

Birmingham Development, LLC (Rob Birmingham), Myers Development Co. on behalf of Natoma Venture (Jack E. Myers, Chairman).

S. F. Planning Commission and Joint Powers Board - April 22, 2004

At the joint meeting of the Planning Commission and JPB on Thursday April 22, 2004, there were 52 speakers during the public comment period.

Twenty-seven speakers were in support of the project and urged certification:

Sharon Johnson (representing State Senator John Burton), Emilio Cruz (SPUR), Rebecca Kaplan (AC Transit Bd. of Directors), Jane Morrison (Democratic Party), David Schonbrunn (TRANSDEF), Norm Rolfe (S.F. Tomorrow), Margaret Okuzumi (BayRail Alliance), Ken Bukowski (Vice Mayor Emeryville), Howard Strassen (Sierra Club), Walter Johnson (S.F. Labor Council), Jim Hass (Transbay CAC member), John Spangler (Alameda Transit Riders), Tony Bruzzone (AC Transit staff), Maurice Palumbo (Golden Gate Transit staff), Andrew Sullivan (Rescue MUNI), Daniel Krause (Rescue MUNI), Joyce Roy (League of Women Voters), Ryan Hoover, Scott Mace, Jeanne Hahne, Adrian Brant, Tom Radulovich (BART Bd.), Jeff Carter, Mark James, Richard Mlyarnik, Michael Kiesling, Maria Ayerdi.

Two speakers were in favor of the project but had concerns:

In favor of both projects, Transbay and 80 Natoma – Jim Salinas

Support project but 80 Natoma must work too, short delay to certification – Robert Meyers

Twenty-three speakers had various issues:

Should have studied a different alignment - Bill Blackwell

Impacts of bus storage location not sufficiently addressed – Mollie Last, David Gleason, Mat Mathews, George Yamas, Jan Mathews, Andre Custodio, Elizabeth Carney, Bruce Barnes, Jeff Dye.

In favor of the project, however, notice insufficient; major zoning change no alternative to proposed open space, do not certify EIR – Bob Tambler, Fritz Realty

Noticing inadequate, not even remotely feasible, ridership bloated, construction will kill 2nd St., financing inadequate – Robert Birmingham, John Gasser, Norm Wiel

Ignores impacts on proposed development at 80 Natoma (Myers Development) – Steve Atkinson, Shepard Heery, Jeff Heller, Jack Myers, Andrew Ball, Eric Lundquist

Project can't be built, too expensive, funding not real. Should have looked at New Alternative that they proposed – Lock Holmes, John Kaufman

Costs too high, Caltrain should be extended but in a cheaper manner – John Bacon

Letters received - In support

S.F. Tomorrow - three separate letters - (Jennifer Clary, President and Norman Rolfe, Transportation Chair), Rescue MUNI (Andrew Sullivan), S.F. Building and Construction Trades Council (Stanley Warren, Sec. Treas.), Margaret Kettunen Zegart, S.F. Chamber of Commerce (A. Lee Blich, President), Transportation and land Use Coalition (Leah Shahum of S.F. Bicycle Coalition, Andrew Sullivan of Rescue MUNI, John Holtzclaw of Sierra Club, David Schonbrunn of TRANSDEF, Jon Spangler of Alameda Transit Advocates, Alan C. Miller of Train Riders Assoc. of California, Margaret Okuzumi of Bayrail Alliance), S.F. Fire Fighters Local 798 (John F Hanley, President), League of Women Voters of the Bay Area (Eva Alexis, President and Joyce Roy, Transportation Dir.), Regional Alliance for Transit (Michael Kiesling for RAFT), Train Riders Association of California (TRAC - Richard F. Tolmach, President), BayRail Alliance (Margaret Okuzumi, Ex. Dir.), Sierra Club (John Holtzclaw, Transportation Chair), John L. Burton (California State Senator), SPUR (Dave Snyder, Transportation Chair), S.F. Beautiful (Dee Dee Workman, Ex. Dir.), AC Transit (Joe Wallace & Greg Harper, President and V.P. of Bd. of Directors), S.F. Democratic Party resolution.

Letters received - Not supporting

Myers Development Co. on behalf of Natoma Venture (Jack E. Myers, Chairman), Kristen Arthur, Bill Williams, Molly Last.

Letters Acknowledging/Commenting on Final EIS/EIR

U.S. EPA (Lisa B. Hanf, Manager - Federal Activities Office)
California Department of Toxic Substances Control (Barbara J. Cook, P.E., Chief)



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California •

MAIN NUMBER
(415) 558-6378

DIRECTOR'S OFFICE
PHONE: 558-6411
4TH FLOOR
FAX: 558-6426

ZONING ADMINISTRATOR
PHONE: 558-6350
5TH FLOOR
FAX: 558-6409

PLANNING INFORMATION
PHONE: 558-6377
MAJOR ENVIRONMENTAL
FAX: 558-5991

COMMISSION CALENDAR
INFO: 558-6422
INTERNET WEB SITE
WWW.SFGOV.ORG/PLANNING

June 2, 2004

RECEIVED
JUN - 4 2004

Leslie Rodgers, Administrator
Federal Transit Administration, Region IX
U.S. Department of Transportation
201 Mission St., Ste. 2210
San Francisco, CA 94105

Atten: Ray Sukys

Subject: Transbay Terminal/Caltrain/Redevelopment EIS/EIR

Enclosed with this letter are copies of the letter to the Board of Supervisors along with the responses to the issues raised in the three appeal letters the above reference project. I am forwarding these copies to you so that you have the most up to date information.

If you need any further information, please feel free to contact me at (415) 558-5983.

Sincerely,

Joan A. Kugler, AICP
Environmental Analyst

Enclosures

cc: Jerome Wiggins/FTA
Renee Marler/FTA



PLANNING DEPARTMENT

City and County of San Francisco 1660 Mission Street, Suite 500 San Francisco, CA 94103-2414

(415) 558-6378

PLANNING COMMISSION
FAX: 558-6409

ADMINISTRATION
FAX: 558-6426

CURRENT PLANNING/ZONING
FAX: 558-6409

LONG RANGE PLANNING
FAX: 558-6426

June 1, 2004

President Matt Gonzalez and Members
City and County of San Francisco Board of Supervisors
City Hall, Room 244
San Francisco, CA 94102

RECEIVED
JUN 1 2004

Subject: Appeal of the Final Environmental Impact Report for the Transbay Terminal/Caltrain
Downtown Extension/Redevelopment Plan Project, Planning Department Case
Number 2000.048E

Dear President Gonzalez and Members of the Board:

I am writing to respond to issues raised in the appeals to the Board of Supervisors ("Board") of the Final Environmental Impact Report ("Final EIR") for the Transbay Terminal/Caltrain Downtown Extension /Redevelopment Plan Project ("the project"). The final environmental document prepared for this project was a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to meet the requirements of both the California Environmental Quality Act (CEQA) and the National Environmental Preservation Act (NEPA). Two appeal letters on the EIR were filed on May 10, 2004 by Oliver L. Holmes and Timothy A. Tosta on behalf of Myers Natoma Venture and Myers Development Co. and a third EIR appeal letter was filed on May 12, 2004 by Joseph J. Brecher on behalf of the Stillman street and Clocktower Lofts residents and businesses.

The appellants raise a number of issues with respect to the adequacy and accuracy of the analysis and conclusions presented in the EIR. Specifically, the appellants state that the EIR is deficient because it:

- 1) fails to consider a reasonable range of alternatives;
- 2) fails to examine design alternatives for the proposed terminal building and alternatives for rail access to the terminal;
- 3) has too narrowly defined the project under review;
- 4) has predetermined the location of the terminal and terminal design;
- 5) fails to adequately evaluate possible conflicts between the proposed action and the objectives of regional and local government;
- 6) does not properly describe the environmental setting;
- 7) fails to describe such loss of housing and other significant environmental impacts;

- 8) fails to describe the loss of the housing that 80 Natoma would provide as a significant economic and social effect;
- 9) fails to discuss a feasible mitigation measure, i.e., an alternative alignment;
- 10) did not adequately analyze alternative sites for the bus storage facility;
- 11) fails to accurately or adequately study the proposed bus storage facility at the proposed location;
- 12) did not accurately reflect the costs of the project including excavation and toxic soil disposal and rising cost of steel;
- 13) did not have adequate and reasoned analysis in the Responses to Comments;
- 14) did not adequately analyze the long term impacts in the areas of Air Quality, Noise and Vibration, Traffic, Visual/Aesthetics, Socio-economics, Land Use, Safety and Security, Cumulative Impact, Excavated Materials;
- 15) failed to notify property owners; and,
- 16) failed to notice property owner of potential loss of Historic District Status because of separation from remainder of the District.

This letter contains an overview of the environmental review process for the project while the detailed responses to the issues raised by the appellants are contained in Attachment A.

In determining the significance of environmental effects caused by a project, CEQA Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines Section 15064(f)(5) offers the following guidance that applies equally well to both documents and appeals: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not creditable, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions based on facts, and expert opinion supported by facts."

Pursuant to Administrative Code Section 31.16, the Board shall affirm the Planning Commission's certification of the Final EIR if the Board finds that the Final EIR is adequate, accurate and objective, that its conclusions are correct, and that the findings contained in the Planning Commission's certification are correct. As discussed in more detail below, the Planning Department firmly believes that the Final EIR meets these criteria. Please note that the focus of the appeal process is the adequacy and accuracy of the Final EIR not the merits of the project that the Final EIR analyzed.

Environmental Review Process for the Project

As mentioned above, a joint EIS/EIR was prepared as the project is to have federal involvement in the funding for the proposed new terminal. The three local co-lead agencies are: the City and County of San Francisco, the Peninsula Corridor Joint Powers Board (Caltrain) and the San Francisco Redevelopment Agency. The federal lead agency is the Federal Transit Administration (FTA). All three local co-lead agencies have certified the document; the Redevelopment Agency on

April 20, 2004 and the Planning Commission and Joint Powers Board on April 22, 2004. The FTA published a Notice of Availability in the Federal Register on April 2, 2004 which is a precursor to their issuance of an environmental Record of Decision

The California Environmental Quality Act ("CEQA") (Public Resources Code Sections 21000 et seq.), the CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code govern the environmental review process in the City and County of San Francisco. When a proposed project, such as the proposed Transbay Terminal/Caltrain Downtown Extension/Redevelopment Plan project, is determined to have a potentially significant effect(s) on the environment, CEQA requires the City to prepare an environmental impact report ("EIR"). An EIR is an informational document, the purpose of which is to provide public agencies and the general public with detailed information about the significant and potentially significant physical effects a proposed project is likely to have on the environment; to list ways in which such effects might be mitigated; and to identify and assess alternatives to such a project that would eliminate or reduce the significant environmental effects. (CEQA Section 21061, CEQA Guidelines Section 15003.) Environmental analysis in an EIR is not required to be exhaustive, but an EIR should make a good-faith effort at full disclosure and provide sufficient information to enable decision makers to make intelligent judgments with respect to the environmental consequences of the proposed project. (CEQA Guidelines Section 15151.)

The environmental review process provides ample opportunities for the public to participate through public notice and public review of environmental documents, public hearings, and by requiring agencies to respond to public comments in Final EIRs. The Planning Department representing the City as one of the co-lead agencies issued a Notice of Preparation ("NOP") of an EIR for the project on March 17, 2001 (The Notice of Intent to prepare an Environmental Impact Statement was published in the Federal Register by the Federal Transit Administration on March 28, 2001). The Planning Department published the Draft EIS/EIR ("Draft EIR") on October 5, 2002, and a public hearing on the Draft EIR was held by the Planning Commission on November 26, 2002. (Additional public hearings were held by the Redevelopment Agency on November 11, 2002 and by the Peninsula Corridor Joint Powers Board staff on November 13, 2002). Written comments on the Draft EIR were accepted until December 20, 2002 which provided a public comment period totaling 77 days. Fifty two comment letters were submitted to the Planning Department and 14 speakers presented public testimony to the Planning Commission.

Two of the appellants, Oliver L. Holmes and the Stillman neighbors (represented by Joseph J. Brecher), submitted comment letters on the Draft EIS/EIR; Myers Development Co. did not. As required by CEQA, the Planning Department prepared responses to the substantive points raised by the commentors and published them in a Draft Summary of Comments and Responses, Volume II of the Final EIS/EIR, on March 24, 2004. The first volume of the Final EIS/EIR document (revisions to the draft) included the refinements to the project and staff-initiated text changes to take into account concerns raised by the commentors.

The Planning Commission accepted public comment and certified the Final EIR, which is included in Volumes I and II of the Final EIS/EIR, on April 22, 2004 (Motion No. 16773). Several of the appellants spoke at the Planning Commission certification hearing raising substantially the same issues that are in the appellant letters. Planning Department staff responded to all new comments in its oral staff report to the Planning Commission as well as in a memo dated April 22, 2004 to the Planning Commission.

Responses to Issues

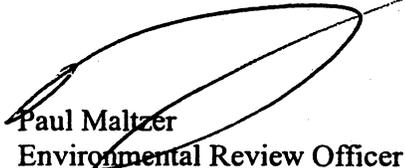
The responses to the issues raised in the appeals are organized in Attachment A as presented in the three appeal letters. Specific comments cited from each appeal letter have been numbered for ease in tracking and are identified by author or who the author is representing in brackets (i.e., Holmes, Myers, Stillman Residents). Full copies of the appeal letters with comments also numbered) with all letter attachments are found in Attachment B. Although most of the issues raised in the appeal letters were previously presented during the public comment period on the Draft EIS/EIR or prior to or at the Planning Commission certification meeting on April 22, 2004, the Department has again responded to these issues in Attachment A.

Conclusion

For all of the reasons stated in Attachment A, the Planning Department believes that the EIR portion of the Final EIS/EIR complies with the requirements of CEQA, and provides an adequate, accurate, and objective analysis of the potential impacts of the proposed project. The additional information provided in this letter to respond to the appeal does not constitute "significant new information" that would require recirculation of the document. In addition, none of the minor inaccuracies in the EIR noted in this response alter the fundamental analysis and conclusions presented in the EIR. The EIR conclusions regarding the significance of environmental impacts and the need for mitigation measures are accurate, as are the Planning Commission findings to support the Commission's certification motion for the EIR.

If you have questions related to this appeal, please call me at 558-5977 or the case planner, Joan A. Kugler, at 558-5983. Thank you for your time and attention to this matter.

Sincerely,



Paul Maltzer
Environmental Review Officer

Attachments: A – Responses to Appeal Issues
B – Appeal Letters (with attachments)

cc: Appellants
Laurence Badiner, Acting Director of Planning
Jean-Paul Samaha, Planning Department
Joan A. Kugler, Senior Planner
John Malamut, Deputy City Attorney

Attachment A
Responses to Appeal Issues

Attachment A
Case No. 2000.048E -- Transbay Terminal/Caltrain Downtown
Extension/Redevelopment Plan Project

Issues Raised in the Appeal Letters to the Board of Supervisors

Alternatives

Issue No. 1: Failure to consider a reasonable range of alternatives.

“The EIS/EIR fails to consider a reasonable range of alternatives, including what appear to be superior alternative proposals for use of the existing site. CEQA requires an EIR to describe “a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” Pub. Resources Code §21100. CEQA Guidelines §15126.6. In this EIR, the Redevelopment Agency, Planning Commission, and other sponsoring agencies failed to consider any other feasible locations for the terminal building including other alternative sites that are in direct proximity to, and overlap, the existing site, despite evidence that these alternatives are environmentally preferable and considerably less costly. In responding to similar comments on the draft EIS/EIR, the project sponsors initially contended that local ordinances and agreements required the City to use essentially the same footprint as the existing terminal, even though the overall site for the existing terminal and associated ramps is large and there are many options for locating the terminal at the present site. Having recently encountered obstacles to the use of the current terminal footprint, project sponsors are now contending they can move the terminal location beyond the original footprint of the existing terminal. Apparently, project sponsors no longer believe that they are constrained to stay within the existing footprint, yet, with no justification, the EIS/EIR fails to examine any alternative to the pre-determined location of the original terminal.” (Holmes)

Response No. 1: In addition to the quote that the appellant cites above, Section 15126.6 states that “[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which feasibly attain most of the basic objectives of the project...” The section continues “[a]n EIR need not consider every conceivable alternative to a project” and a reasonable range of alternatives needs to “accomplish most of the basic objectives of the project.”

Chapter 2, Volume I, of this Final EIS/EIR has sections detailing the selected alternatives that constitute a “reasonable range of alternatives” including a section entitled “Alternatives Considered and Withdrawn.” See also Comments and Responses in Volume II of the Final EIS/EIR on pages 158 – 164 where a similar issue from the appellant is discussed.

As stated in the Comments and Responses, the appellant’s proposed alternative is inconsistent with Proposition H passed by the San Francisco voters in 1999. This proposition states in Section 2 that, “[a]s part of the extension of Caltrain downtown, a new or rebuilt terminal shall be constructed on the present site of the Transbay Terminal serving Caltrain, regional and intercity bus lines, MUNI, and high speed rail...” The

location as defined by Proposition H is one of the objectives of the TJPA for determining the location of the new terminal. As the appellant's proposed location is generally on the blocks bounded by Main, Beale, Mission and Harrison, it would not meet a primary objective of the project sponsor which is a terminal that is consistent with the intent of Proposition H.

Moving the Terminal approximately 150 feet to the west while keeping the remainder on the present site does not negate the spirit and intent of Prop. H to keep the Terminal at the present site. Moving the bulk of the new Terminal two blocks away, however, is not in keeping with the intent of Prop. H.

In addition, a cooperative agreement transferring state-owned properties to the San Francisco Redevelopment Agency and the Transbay Joint Powers Authority (TJPA) has now been signed by the City and County of San Francisco, the TJPA, and Caltrans. This agreement restricts the use of the current terminal site to public transportation uses. Finally, it should be noted that the Metropolitan Transportation Commission (MTC) study did generate a regional consensus among the participating agencies throughout the region (Caltrans, AC Transit, Golden Gate Transit District, MUNI, the City and County of San Francisco, the Peninsula Corridor Joint Power Board, and SamTrans) for a new terminal on the site of the current Transbay Terminal.

Thus, the alternative proposed by the appellant would be inconsistent with Proposition H and with the stated policies of the City and County of San Francisco and its Board of Supervisors. The appellant's alternative could not be implemented under the provisions of the cooperative agreement transferring state owned property to the Redevelopment Agency and TJPA, and it would be counter to the regional consensus emanating from the 2000 MTC Terminal Study.

The appellant has asserted that the location he has proposed would reduce costs and increase revenues. Without any backup financial data, it is not possible to know what assumptions or baseline financial data is being assumed. While the veracity of the stated financial savings of the Main/Beale site is not known at this time, the appellant's financial analysis fails to acknowledge the reduction in development value on one of the most, if not the most, highly valued properties in the study area – namely the Main/Beale site. Moreover, social and economic factors fall outside the scope of CEQA analysis unless such factors create direct or indirect physical impacts on the environment. In this instance, such factors do not generate such impacts.

Issue No. 2: Failure to examine design alternatives for the proposed terminal building and alternatives for rail access to the terminal.

“The EIS/EIR also fails to examine design alternatives for the proposed terminal building and alternatives for rail access to the terminal. The only two alternatives set forth for terminal design explore alternative configurations for the bus ramps, but fail to explore any alternatives for pedestrian circulation, or building size, height, and configuration. Altering any of these aspects would directly impact the costs of the terminal building and could result in reductions not only in capital costs and traffic disruption, but also provide aesthetic and noise improvements and a possible reduction in dislocations of residents and businesses in the area. Alternative planning for

rail access could also reduce construction impacts and project related street closures, particularly closures along Second, Townsend, and Mission Street. Moreover, use of a rail tunnel rather than cut and cover construction along Second Street would (1) greatly reduce the number of properties which must be condemned, and (2) avoid the significant long term disruption of traffic and displacement of residents and businesses over the entire length of Second Street. An EIR must produce information sufficient to permit a reasonable choice of alternatives, and in this EIS/EIR the agencies have failed to set forth any analysis to assist in fostering informed decision-making or public participation with respect to the environmental consequences of the terminal design and other feasible alternatives.” (Holmes)

Response No. 2: The alternatives that were evaluated in the EIS/EIR are the outgrowth of over a decade of planning for the Transbay Terminal that preceded the EIS/EIR document, the most recent of which began on January 1, 1998, when MTC began operations as the Bay Area Toll Authority (BATA), created by the California Legislature to administer toll revenues on the Bay Area’s seven state-owned toll bridges. In December of that year, BATA entered into a consultant contract to conduct the “Transbay Terminal Improvement Plan” study.

A Transbay Panel working group was formed, consisting of public and private agencies and organizations that would be affected by the project. An Executive Committee was also formed, consisting of executive staff representatives and policy board members from AC Transit, the City and County of San Francisco, the JPB, Caltrans, and MTC. Then in February 1999, the San Francisco Board of Supervisors passed Resolution No.167-99 (Board File No. 982137) repealing its former endorsement of the Main/Beale site for a new terminal and urging the “City and County of San Francisco to work expeditiously with AC Transit, the MTC and Caltrans to retain AC Transit regional bus service at the current Transbay Terminal site.”

The Transbay Terminal Improvement Plan study proceeded in two phases. Phase 1 identified terminal components and functional requirements to guide the development of design concepts for the new facility. That phase was completed in 1999. Phase 2 evaluated three terminal design concepts – named after Dickens novels – and BATA selected a concept (called “Great Expectations”) to be carried forward for additional analysis. During 2000, refinements were made to the design concept to meet the needs of the transit operators that would use the new terminal, and project cost estimates and an implementation plan were developed. The “Great Expectations” concept is the basis for the Transbay Terminal West Ramp Alternative component of the proposed project. Another alternative evaluated by the Transbay Terminal Improvement Plan study, called “Our Mutual Friend,” is the basis for the Transbay Terminal Loop Ramp Alternative component of the proposed project. The MTC study looked at optimizing the configurations for bus ramps, pedestrian circulation, building size, height, and configuration. The EIS/EIR is built off that study and did not endeavor to repeat the findings of the two year planning and engineering that went into that work.

The architectural design of the terminal is in the conceptual stage, but a current architectural goal incorporates the desire to optimize natural light sources as well as provide an inviting and exciting atmosphere that visually connects with the surrounding City – hence the concept currently under review.

The existing terminal site has historically demonstrated an ability to accommodate a large volume of rail passengers as well as its suitability for bus operations. Combining these two modes and the opportunity for MUNI subways, while preserving the large Main/Beale parcel for development are a few of the many reasons the existing site has been selected.

The proposed terminal and the existing terminal share the same general rectangular shape that has proven capable of serving 26 million passengers in the 1940s. The new terminal will have the capacity to serve a much greater number. The rectangular shape allows for multiple points of access from the street grid which in turn provides convenience to the commuter whose origins will vary as the areas develops. The concourse level serves both as a means of circulation as well as providing floor space for joint development opportunities. The long platforms feature a significant benefit for passengers: the ability to access multiple buses and bus lines from a single level. This creates a much better passenger terminal than one requiring passengers to constantly check from which platform the next bus departs. This is especially significant given that several AC Transit transbay bus lines "branch-out." From an operational perspective, the terminal is well-designed and functions well operationally, with adequate independent movement and passenger facilities.

The co-lead agencies and project sponsor TJPA have refined and enhanced the train station concepts to improve train operation efficiencies and lengthen the lower level train platforms to better accommodate longer high-speed rail and commuter trains. Early in the process, the California High Speed Rail Authority worked directly with suppliers of European and Japanese high-speed trains to identify acceptable curve radii. The co-lead agencies have met the identified minimum radius requirements for the train designs contained in the Draft EIS/EIR and for the recent refinements. Moreover, California High Speed Rail Authority staff participated in the review of the two refined options and concurred with the TJPA's selection of the Second-to-Main option as the track alignment of the Locally Preferred Alternative.

As shown in the Final EIR/EIR in Chapter 2 on page 2-26, the Locally Preferred Alternative (LPA) which was selected by the TJPA on March 28, 2003, does include the use of tunneling along Second St. as a part of the project. The selection of tunneling as opposed to cut-and-cover along Second St. was reaffirmed on April 22, 2004 by the TJPA as it approved the LPA as the preferred project. Tunneling is proposed to be used as much as feasible given geologic conditions. Currently the geo-technical engineers believe that tunneling is feasible along 2nd Street until approximately Folsom Street where the ground conditions change. See Comments and Responses discussion on Tunneling vs. Cut-and-Cover in Volume II of the Final EIS/EIR beginning on page 103.

Issue No. 3: The EIR did not adequately analyze alternative sites for the bus storage facility.

Issue No. 3.A: "Alternate Site Evaluation: There was not adequate analysis of alternative sites for the bus storage facility. Although significant objections were raised to the proposed site (2nd/3rd/4th & Stillman Street) throughout the entire EIR process, there was only a cursory effort put into analyzing alternative locations (see pages 80-84, Vol. II of the EIR). (Stillman Residents)

Response No. 3.A: As noted in the appellant's letter, Volume II of the Final EIS/EIR in Section 2.7 includes a summary of the evaluation of five alternative sites that was performed during the MTC Transbay Terminal Study. These sites included: (1) no facility, (2) Second/Third/Fourth I-80 Freeway (proposed alternative), (3) parking on terminal ramps, (4) Eighth and Harrison, and (5) Vermont/15th and 16th. The MTC evaluation was then reassessed during the EIS/EIR process to determine if any of the conditions of the project or the surrounding environment has changed substantially. This section of Volume II also discusses the possible use the Caltrans Paint Yard, Treasure Island, the rail yard a Fourth and King, Piers on the San Francisco Waterfront, other properties around the terminal, and the Transbay Terminal itself. For a variety of reasons set forth in the EIR Volume II at pages 73-87, these alternatives were considered infeasible and were eliminated from further consideration in accordance with CEQA.

The site under the freeway between 2nd and 4th Streets remains the site that best meets the project's needs, however, the TJPA staff as directed by the TJPA Board will be re-evaluating possible sites as a part of the design process for the Terminal project.

Issue No. 3.B: For example, there wasn't any significant analysis of utilizing available space inside the terminal for the layover of buses that need to loop through or pass adjacent to the terminal. In the design of the terminal, the upper bus level uses only half of the space available. As stated in the response section 2.6.10, page 49, VII of the EIR, "The option of building a full level at the top of the terminal should future demand warrant has been and will continue to be considered in the design of the terminal." What better place to layover buses that need to loop through the terminal than on the top (bus level) of the terminal itself? There would be significant savings in operating costs and a reduction in emissions as there would be no additional travel time. It would also match site usage (layover buses on the bus level of the terminal)." (Stillman Residents)

Response No.3.B: The costs associated with the use of a portion of the terminal (e.g., the northern half of the upper level of the terminal) for bus parking, as compared to the costs of the current proposal to use proximate space under the existing freeway, would far outweigh any operating costs benefits from parking buses in the new facility. Volume II of the Final EIS/EIR notes that "The Transbay Terminal has not been designed for bus storage, due to the costs and operating inefficiencies that would be associated with such an approach." The appeal comment suggests building a full level at the top of the Transbay Terminal (rather than a half level as proposed in the Final EIS/EIR) and using the additional space for midday bus storage. There are several problems with this approach. First, the facility could only store approximately 30 buses, meaning that other storage areas would need to be found for the other 150 buses. Second, it would increase capital costs by \$43-52 million dollars without significant capital savings since it would still require constructing bus storage facility such as that proposed for the Project under the I-80 freeway between Second and Fourth Streets. Third, constructing bus storage on the Terminal's upper level would require eliminating one of the passenger boarding area bus bays, thereby reducing terminal capacity and operational efficiency. Finally, while the suggestion would have slightly lower operating costs (since 30 of the buses would not need to travel as far to reach their storage area) it is likely that these costs would be balanced by the increased costs of operating two separate bus storage areas. It is also likely that emissions would be reduced, but not eliminated because the buses would still

need to circulate through the terminal and ramps as they traveled from the second level up to the third level.

To provide storage inside the terminal would result in an inefficient terminal with too little circulation area for the transit function. While it is true that bus storage closer to the terminal would reduce traffic impacts from the buses further away from the terminal, the traffic impacts for the proposed site would be limited to a coordinated, mid-block crossing of Third Street that would operate at Level of Service (LOS) A (best category of service) in the pm-peak hour in 2020. In placing the bus storage beneath the freeway, existing private automobile parking would be replaced with public transit vehicle parking, leaving the parcels closer to the terminal to be developed for more concentrated residential and commercial uses that are compatible with and have easy access to the new multi-modal transit facility. This would allow the Terminal to attract additional riders and better meet the goals and objectives of the General Plan to encourage transit ridership and intensify overall transit services.

Issue No. 3.C: “The current EIR proposes to export what it recognizes as "blight" from within the Transbay District to an area immediately outside it. The City does indeed consider bus storage to be a "blight," as shown in its response on page 82, Vol. II of the EIR "...as outdoor, observable bus parking in the proposed redevelopment area is considered as contributing to blight." If observable bus storage is blight within the District, it is also blight outside of it. The best solution to avoid "observable bus parking" in any area is to store buses in or near the transit hub, rather than storing them in a neighborhood outside the boundaries of the transit redevelopment area. The area for the proposed bus storage facility is not, like the Transbay redevelopment district, an area envisioned as a future, potential residential area; the EIR proposes placing the facility within what is already a lively, substantial residential neighborhood.” (Stillman Residents)

Response No. 3.C: The planned bus facility would replace existing private automobile parking under an existing, active freeway. It would be designed with sound walls that would screen views into this proposed facility from adjoining land uses. The “blighting” effects of the current condition comes from the parking of buses on the current major bus ramps which pass through and bisect parcels of land that could otherwise be developed with new urban redevelopment as proposed in the Transbay Redevelopment Plan. This analysis is an entirely different analysis than that of the CEQA analysis of the potential environmental impacts of locating the planned bus facility. The EIR fully and sufficiently analyzed the environmental impacts associated with locating the bus facility at this location. The policy implications of replacing an automobile parking lot under the freeway with a bus storage facility will be considered by the decision makers when they consider actions to implement the Transbay Terminal project and the Transbay Redevelopment Plan.

Issue No. 3.D: “In its responses to comments, Volume II of the EIR (pp. 81-84) mentions (and rejects) some of the suggested alternate locations for the bus storage facilities, but does not deal, at all, with the idea of building out the top level of the terminal for that purpose. Storing buses within the terminal would eliminate the severe adverse effects of air pollution, noise, and traffic impacts associated with the currently-proposed location. It would also result in operational

efficiencies, since the needed buses would be located right inside the terminal. The EIR acknowledges (p. 49) that such a solution would be feasible: "The option of building a full level at the top of the terminal has been and will continue to be considered in the design of the terminal." (See also p. 2-14.) CEQA obligates an agency to adopt feasible mitigation measures. The EIR not only fails to adopt such a measure, it has not even analyzed it." (Stillman Residents)

Response No. 3.D: : Please see response 3.B regarding building out of the top floor of the terminal for bus storage.

Issue No. 3.E: "If an expanded top level and the second bus level of the Transbay cannot house the number of buses needed for layover, then the additional buses could park on and below, well-designed, rebuilt bus ramps, and/or use an alternative site such as the 8th & Harrison site (a current Golden Gate Transit site) or the Mission Bay parking lots. There should be further study of the bus transit patterns to see which buses need to pass through, or adjacent to, the terminal, and determine if there are redundancies in routes. A closer look should also be taken to determine the actual number of buses that need to "layover" in San Francisco." (Stillman Residents)

Response No. 3.E: Given the proposed double level bus ramp leading to/from the terminal and its constrained footprint, it would be very costly to provide additional bus parking on a newly constructed ramp structure, particularly given the additional footprint (and associated real estate) that would be required. The proposal for the off-site bus storage facility is to convert existing parking lots under the freeway to a bus storage facility that would be screened from the adjoining community by noise walls – i.e., replacing private automobile parking with public transit parking.

The proposed site is also proximate enough to the terminal to enable no at-grade crossings for AC Transit buses between the storage area and the terminal and only one at-grade crossing of Third Street for Golden Gate buses. Use of the Eighth and Harrison site would not provide this immediate access to the terminal and streets adjoining the terminal. In fact, Golden Gate Transit has requested that the off-site bus storage facility be built as early as possible during project development to address GGT mid-day storage needs (pg. 166, Volume II, Final EIS/EIR).

Compared to the proposed current site, use of the Eighth and Harrison site would generate additional traffic on surface streets through existing intersections, with the associated higher levels of air emissions and traffic impacts. The Eighth and Harrison site is three times as distant from the Transbay Terminal compared to the proposed site under the freeway and would require approximately one additional mile of travel each way on city streets through intersections utilized by traffic going to and from the I-80 ramps at Fourth and Seventh Streets.

Finally, operating costs associated with returning buses to their origin (e.g., deadheading back to the East Bay or Marin County) are sizable, thus leading to the current projections regarding the number of buses laying over in San Francisco. For example, as noted on Page 60 of Volume II of the Final EIS/EIR, "Depending on the 'home yard,' and assuming a low of 30 deadheading buses and a high of 50 for AC Transit, and assuming an operating cost of \$90 per hour for AC Transit, the total daily additional cost to deadhead these vehicles would range between \$2,070 and \$6,000 (\$300,000 to \$1 million

annually), in addition to increased regional diesel emissions from the increased bus mileage required.” Both AC Transit and Golden Gate make every effort to minimize deadheading (bus travel while not in revenue service); and, given the fiscal implications, this operating approach is not expected to change. Further, the buses stored at the proposed facility would sit unused from approximately 9:00 am to 3:00 pm, the mid-day non-commute hours. These buses would not be idling at these times, but rather be unoccupied and parked in place.

See also the Response to Issue No. 3.B for information on expansion of the top level of the proposed new Transbay Terminal.

Issue No. 3.F: “8th and Harrison Site: Although this site is several blocks further from the terminal than the Third/Fourth St. location, it is an open lot with no site constraints and has better ventilation patterns. In addition, buses can exit and merge easily with the flow of traffic, reducing delays and idling times, while the lot at Third/Fourth and Stillman will require a mid-block bus light crossing Third St. during peak traffic hours (4-7pm).” (Stillman Residents)

Response No. 3.F: While there is less traffic on the access streets (Eighth/Harrison) into and out of a facility located at Eighth and Harrison, the buses would still need to travel from this site to the terminal area, introducing additional traffic and air emission impacts between Eighth and Harrison and the Terminal Site (see above).

The proposed off-site bus facility under the freeway would provide immediate, grade-separated access to the terminal for AC Transit buses and would require only one at-grade crossing (of Third Street) for GGT buses to reach the streets adjoining the terminal, thus yielding reduced air emission and traffic impacts compared to a facility at Eighth and Harrison. As noted above, Golden Gate Transit has requested that the off-site bus storage facility under the freeway be built as early as possible during project development to reduce GGT’s bus operating costs currently being experienced at the Eighth and Harrison Streets site. Air emissions and traffic impacts on Third Street associated with the proposed site are discussed below.

Project Description

Issue No. 4: The project under review was too narrowly defined.

The EIS/EIR has too narrowly defined the project under review -an error which has in part resulted in the inadequate examination and treatment of alternatives and mitigation measures. The project is described as a new, multi-modal Transbay terminal on the site of the present Transbay Terminal. Read generally, this project description should not dictate a particular building design, and should not, viewed broadly, restrict the use of proximate and overlapping properties. It is clear, however, that the project sponsors have limited themselves to an unduly narrow, restrictive interpretation in preparing the analysis in the EIS/EIR. This has improperly preordained both the terminal location and the terminal design without any detailed analysis of the environmental consequences of this decision in violation of the mandates of both CEQA and NEPA. See e.g., CEQA Guidelines §15124, 15126.6(b). (Holmes)

Response No. 4: One of the elements in a project description as stated in CEQA Guideline Section 15124 is a statement of the objectives sought by the project sponsor.

Meeting the mandate of Proposition H as passed by the San Francisco voters was one of the project objectives as noted in the text of both the Draft EIS/EIR on pages 1-11 and 1-16 and Final EIS/EIR on pages 1-10 and 1-16. On page 1-16 of both documents there is a quote from Proposition H which states:

“a new or rebuilt terminal shall be constructed on the present site of the Transbay Transit Terminal serving Caltrain, regional and intercity bus lines, MUNI and high speed rail and having a convenient connection to BART and MUNI Metro.”

The appellant's proposed alternative is inconsistent with Proposition H passed by the San Francisco voters in 1999. The placement of a new terminal on the block between Howard, Main, Folsom and Beale Streets (known as the Main/Beale site) as proposed by the appellant was studied a number of years ago. Until February 1999, that site was the City's preferred location. As noted in the Draft EIS/EIR, Chapter 2, Section 2.3, "Alternatives Considered and Withdrawn" (page 2-47), in February 1999, the San Francisco Board of Supervisors passed Resolution 167-99 repealing its prior endorsement of the Main/Beale site for a new terminal and urged the retention of the bus service at the current Transbay Terminal site. The resolution urged "the City and County of San Francisco to work expeditiously with AC Transit, the Metropolitan Transportation Commission (MTC) and Caltrans to retain AC Transit regional bus service at the current Transbay Terminal site."

In addition, the cooperative agreement transferring the state-owned properties to the San Francisco Redevelopment Agency and the Transbay Joint Powers Authority (TJPA) has now been signed by the City and County of San Francisco, the TJPA, and Caltrans. This agreement restricts use of the current terminal site to public transportation uses.

Additionally, state legislation supports the purposes of the project. Public Resources Code Section 5027.1(a) and Streets and Highways Code Sections 30914(b) and 30914(c)(22) require that the new Transbay Terminal be designed to accommodate Caltrain and future high-speed rail operations; and Streets and Highways Code Sections 2704.04(b) for bonds for high-speed rail access that should first be constructed between Los Angeles and the San Francisco Transbay Terminal.

Finally, it should be noted that the MTC study did generate a regional consensus among the participating agencies throughout the region (Caltrans, AC Transit, Golden Gate Transit District, MUNI, the City and County of San Francisco, the Peninsula Corridor Joint Power Board, and SamTrans) for a new terminal on the site of the current Transbay Terminal. The EIR is based on studies and documents that reflect that regional consensus location.

Thus expanding the locations to be considered as proposed by the appellant would be inconsistent with Proposition H, with the stated policies of the City and County of San Francisco Board of Supervisors and with state legislation. It could not be implemented under the provisions of the cooperative agreement transferring state owned property to the Redevelopment Agency and TJPA, and it would be counter to the regional consensus emanating from the 2000 MTC Terminal Study.

Therefore, the location of the proposed new terminal at the existing site is not a description "too narrowly defined" but represents a project that is consistent with City Policy and regional consensus.

CEQA Process

Issue No. 5: The City has predetermined the location of the terminal and terminal design.

"By predetermining the location of the terminal and terminal design, the City agencies have irreversibly and irretrievably committed resources in advance of conducting a full analysis of the impacts in violation of CEQA and NEPA and State and federal implementing regulations."
(Holmes)

Response No. 5: As noted in the previous response, the location for the new Terminal was a part of the project objectives to fulfill the vote of the San Francisco electorate in 1999 when Proposition H was passed, rebuilding on the existing location is also City policy and regional consensus and is supported by state legislation. Since the design for the terminal has not yet been set, a conceptual design (from the MTC study) was presented and analyzed in the EIS/EIR to meet the requirements of CEQA Guideline Section 15124 which states that the project description needs to include the precise location and boundaries of the proposed project and the project characteristics. The characteristics would include a narrative explanation of the project concept, the proposed buildings and activities, build-out assumptions, and diagrams and conceptual drawings.

However, the conceptual information presented in the Final EIS/EIR has not irreversibly and irretrievably commit City resources but only allows the required analysis and evaluation of the potential for environmental impacts.

The EIR analysis takes a conservative analytical approach to the possible environmental impacts of the conceptual design. It should be noted that to the extent subsequent design refinements result in potential changes to this analysis subsequent environmental analysis may be required to address such changes. The actual architectural/ engineering design of main terminal building including bus ramps will not begin until later this year after the environmental process is completed. A Request for Proposals for engineering/design will be circulated and a consultant will be selected. According to the TJPA website, this process is currently scheduled to begin in fall of this year.

Conformity with Plans

Issue No. 6: The EIR fails to adequately evaluate possible conflicts between the proposed action and the objectives of regional and local government.

"The EIS/EIR fails to adequately evaluate possible conflicts between the proposed action and the objectives of regional and local government in violation of CEQA Guideline § 15183. The EIS/EIR does not adequately disclose existing inconsistencies with area plans and zoning for the area. Instead, the document simply assumes that City officials will alter the relevant planning documents to permit the identified project design. At worst, this completely abdicates the City's responsibility to examine the consequences of changing the applicable plans. At best, assuming

the examination will be undertaken at a later date, it improperly piecemeals the analysis.”
(Holmes)

Response No. 6: The appellant asserts, without identifying any specifics, that there are inconsistencies or conflicts between the proposed project components and regional and local plans and that this violates CEQA Guideline Section 15183. Section 15183 does not require that projects be consistent with all regional and local plans but rather provides that a proposed project, which in its definition meets the existing zoning, community plan or general plan for which a certified EIR exists, does not have to do any additional environmental evaluation. However in this case, the project has had an EIS/EIR prepared for it which evaluates the changes to the existing zoning that is proposed as a part of the proposed redevelopment plan as shown on pages 5-6 and 5-7 in the Final EIS/EIR.

In addition, the project meets the adopted policy for location of the Transbay Terminal as set out in Proposition H and the February, 1999 Board of Supervisors resolution and it conforms to the San Francisco’s Transit First Policy as set forth in Section 16.102 of the San Francisco Charter. It is also in conformance with regional goals and objectives as evidenced as being a part of the Regional Transportation Plan (RTP) prepared by MTC and the MTC BATA study “Transbay Terminal Improvement Study.” Further, the proposed project and its location are fully consistent with state legislation on the Transbay Terminal including Public Resources Code Section 5027.1(a) and Streets and Highways Code Sections 30914(b) and 30914(c)(22) requiring that the new Transbay Terminal be designed to accommodate Caltrain and future high-speed rail operations; and Streets and Highways Code Sections 2704.04(b) for bonds for high-speed rail access that should first be constructed between Los Angeles and the San Francisco Transbay Terminal.

The proposed project also meets the Objectives and Policies of the “Transportation element of the San Francisco General Plan” such as:

“OBJECTIVE 1 - Meet The Needs Of All Residents And Visitors For Safe, Convenient And Inexpensive Travel Within San Francisco And Between The City And Other Parts Of The Region While Maintaining The High Quality Living Environment Of The Bay Area.;

POLICY 1.5 - Coordinate regional and local transportation systems and provide for interline transit transfers;

POLICY 1.6 - Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate;

OBJECTIVE 2 - Use The Transportation System As A Means For Guiding Development And Improving The Environment;

POLICY 2.1 - Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development;

OBJECTIVE 3 - Maintain And Enhance San Francisco's Position As A Regional Destination Without Inducing A Greater Volume Of Through Automobile Traffic,

OBJECTIVE 4- Maintain And Enhance San Francisco's Position As The Hub Of A Regional, City-Centered Transit System;

OBJECTIVE 5 - Support And Enhance The Role Of San Francisco As A Major Destination And Departure Point For Travelers Making Interstate, National And International Trips;

POLICY 5.5 - Develop high-speed rail that links downtown San Francisco to major interstate and national passenger rail corridors as the principle alternative to interstate air travel, and as the primary means to relieve air traffic congestion;" and,

OBJECTIVE 21 – Develop Transit as the Primary Mode of Travel To and From Downtown and All Major Activity Centers Within the Region.”

See Exhibit 1 for a complete listing of all the Objectives and Policies of the General Plan.

Environmental Setting

Issue No. 7: The EIR does not properly describe the environmental setting.

“The document does not describe the 80 Natoma Project in any way. Consequently, the environmental setting is improperly described; For example, the "Affected Environment" discussion in the Transbay EIS/EIR includes a description of a variety of approved but unbuilt projects in the vicinity of the new Transbay Terminal, including height and numbers of units, while the 80 Natoma Project is not specifically described. The only possible vague reference to 80 Natoma may be the statement, "[R]ecently completed residential projects include 370 Beale Street and a residential tower on Natoma Street near Second Street." (EIR on p. 4-8.) Of course, the 80 Natoma Project is not "recently completed" so it is unclear if this statement is even intended to refer to 80 Natoma. Later in the document, the list of properties to be acquired includes "78-80 Natoma" (EIR on p. 5-22) with no reference to the fact that there is a fully-entitled residential project (or any project) on that site.” (Myers)

Response No. 7: The CEQA Guidelines as contained in California Code of Regulations detail how to implement CEQA and in a number of sections (15002, 15060(c)(2), 15064(d), 15125(a), 15126.2, and 15131(a)), particularly Section 15125(a), when describing the environmental setting as a part of the contents of EIRs, states “[a]n EIR must include a description of the physical environmental conditions¹ in the vicinity of the project as they exist at the time the Notice of Preparation [in the case of Transbay, March 16, 2001] is published.” The Guidelines further provide: “[t]he environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” As the 80 Natoma project does not physically exist even today, the EIR following the CEQA Guidelines properly in evaluating the existing physical conditions at a vacant site.

Projects that are proposed and/or entitled but not constructed are contained within the regional growth projections formulated by MTC and ABAG that are used for the baseline and cumulative analysis. As these projections are updated every two years, it is only the

¹ Underlining added.

most recent of proposed projects that the Planning Department usually identifies to provide the public and decisionmakers with additional information on the project setting as others, such as 80 Natoma which was approved in February, 1993, are already incorporated into this analytical framework. CEQA recognizes two methods for analyzing cumulative impacts: one is the list-based approach where a list is created of past, present and reasonably foreseeable projects and the other is projections based. The FEIS/EIR explains this difference on page 7-7. In this case, a joint EIS and a CEQA-based EIR was prepared, consequently the Federal Transportation Administration guidelines require that regional growth projections from the metropolitan planning organization (MTC in this case) be used for this analytical purpose. Consequently, 80 Natoma, as well as many other projects yet unconstructed, were taken into account in the regional projections but not specifically mentioned in the EIS/EIR list of current projects on EIR page 4-8.

Project Impacts

Issue No. 8: The EIR fails to describe such loss of housing and other significant environmental impacts.

“As a result, the document is entirely silent with respect to the impact of the Transbay Terminal Project on the 80 Natoma Project, including, specifically, the loss of much-needed market and affordable housing inventory to the City of a total of 423 units, of which 43 would be affordable. Therefore, the document fails to describe such loss of housing and other significant environmental impacts. The 80 Natoma Project is not referenced in any way in Section 4.1.3.2, “Transbay Terminal Environs,” despite the fact that other projects are described which would not be affected to the degree that 80 Natoma would be. Moreover, reference to the 80 Natoma Project was omitted despite the fact that TJPA and the City staff were on specific notice that the 80 Natoma Project was proceeding, months before the final EIS/EIR was published.” (Myers)

Response No. 8: The 80 Natoma project was not in physical existence at the time that the NOP for the EIR was issued in March 16, 2001, at the time the Draft EIS/EIR was prepared and published in October 5, 2002, or when the Final EIS/EIR was initially certified on April 22, 2004, or as of the June 8, 2004 EIR certification appeal hearing, therefore no housing exists to be lost. As mentioned before, CEQA deals with impacts to the physical environment. Chapter 5 Section 2 of the EIS/EIR is the section on Displacements and Relocation and in that section the 80 Natoma site is listed as a potential property acquisition (table 5.2.1). However, on table 5.2-5 (pg.5-33) where the residential displacement is listed the document correctly catalogues all existing housing that would be lost. Because the 80 Natoma site does not currently contain any housing, but rather is vacant, the EIS/EIR properly analyzed the proposed project’s impacts on the site. See also attached memo to Planning Commission on concerns raised by 80 Natoma dated April 22, 2004.

Issue No. 9: The document fails to describe the loss of the housing that 80 Natoma as a significant economic and social effect.

“Although the EIR identified that the Terminal Project would require acquisition of the 80 Natoma Property, no comment with respect to the loss of the housing that 80 Natoma will provide ignores economic and social effects that would result in the City’s acquisition of 80

Natoma. Such economic and social impacts would require that this acquisition be considered a significant environmental impact. For example, the Socio-Economic Impact discussion lists as a project impact the loss of up to 60 existing housing units due to the CalTrain Downtown Extension. However, it makes no reference to the loss of 423 residential units at 80 Natoma, which are fully entitled and would be completed long before construction would begin on the new Transbay Terminal or associated rail lines.” (Myers)

Response No. 9: As mentioned above, the proposed 423 residential units do not exist at this time. Until recently, the site was a parking lot or vacant. On last report, some minimal site preparation activity has been initiated, but no housing has been constructed or occupied. CEQA Guidelines direct us to look at the physical environmental setting when determining whether there is an impact and whether an impact is significant or not (Section 15125(a)). The fiscal impacts of the proposed project are discussed in relationship to the physical conditions of existing properties in Chapter 4, Section 4.5 - Fiscal/Economic Characteristics, and in Chapter 5, Section 5.6 – Fiscal and Economic Impacts. In fact, the first sentence in Section 4.5, which describes the environmental setting of the project, states: “Existing residential and nonresidential privately-owned properties within the study area...” The underlining is added just to point out that the section of the EIS/EIR begins with the word existing.

Therefore, contrary to the appellant’s unsupported claims, it is not a flaw in the EIR to not discuss a project that has yet to be constructed and occupied. The EIS/EIR text clearly lists the 80 Natoma site as an unbuilt potential acquisition site and analyzed it as such. See page 5-22 (table 5.2-1).

Issue No. 10: The Document fails to accurately or adequately study the proposed bus storage facility.

Issue No. 10.A: “Analysis of the Proposed Site: The Second/Third/Fourth 1-80 option (Stillman St. lots), which is the proposed bus storage site, was not accurately or adequately studied. This could have costly consequences if the project is allowed to go forward with this site as the preferred alternative without requiring further detailed study. This site has poor clearances, especially under the eastbound side of the I-80 overpass, in the lot between 2nd and 3rd street. Currently, a large portion of the lot will not allow a standard pick-up truck to fit under the overpass, and according to the Caltrans Public Information Center, the height will not vary more than two-three feet from the original elevation due to the fact that it will have to align with the rest of the structure. Yet the design on page 2-19, V. I of the EIR shows buses parking under the eastbound span of the approach and talks in general about a 2 level bus structure on the 2nd street lot. Even one bus would not clear the overpass in this area without significant and costly excavation which could possibly impact the integrity of the Bridge Approach.” (Stillman Residents)

Response No. 10.A: According to the current assessment of project engineers, except for the bus storage on the bus ramp leading from the Second Street storage site to and from the terminal, all bus storage would be on-grade. The vertical clearance requirement for buses is 12 feet 6 inches and can be provided throughout the site with only a limited area west of Second Street requiring excavation. Structural details of the new columns that will come to grade from the seismic retrofit of the I-80 freeway in this area include seismic “isolation casing” that extend 9 to 15 feet below existing grade. These casings create a void between the soil and the column which, in effect, turn short columns into

longer columns. In so doing the seismic design of the structure is simplified by balancing the stiffnesses between the bridge columns. In the case of the storage under the west approach to the Bay Bridge where maximum excavations will be in the range of 6 feet, there will be no impact to the structural behavior of the bridge.

Issue No. 10.B: "The westbound side has higher clearances, but would need significant excavation to allow an additional deck of bus parking. When asked about the type of excavation that would have to be done, Caltrans said that it would probably be contaminated soil (lead etc.) and thus it would be costly to excavate and dispose of any soil under the overpass." (Stillman Residents)

Response No. 10.B: In the area of potential excavation, the Caltrans' West Approach contract documents list only one sample out of 21 samples taken as containing RCRA (Resource Conservation Recovery Act) Hazardous Material. The sample was taken in the top three feet of soil. This represents a limited amount of potential contamination. If contaminated material were encountered during the re-grading of the parking area, State and Federal regulations prescribe very specific monitoring, handling, and disposal requirements to which the Transbay Project must adhere. Prescribed handling of hazardous materials is set forth in Section 5.21.15, Construction Hazardous Materials Impacts, pg. 5-217 of Volume I of the Final EIS/EIR.

Issue No. 10.C: "There are also a multitude of structural columns for the overpass, creating tight turning radiuses that have not been well analyzed." (Stillman Residents)

Response No. 10.C: Contrary to the opinion expressed by the appellant, the bus storage layouts are based on rigorous turning template analysis by engineering staff to assure all movements are within normal operating parameters of the buses in use today and planned for the future.

Issue No. 10.D: "In addition, the sidewalks and mature street trees on Stillman Street need to be preserved for pedestrian use and should not be usurped for bus storage or bus circulation. None of this is reflected in the EIR analysis or illustrations." (Stillman Residents)

Response No. 10.D: Current conceptual plans include a sidewalk on the outside of the off-site bus facility. Should the mature trees need to be taken, they would be replaced as required by the Planning Code.

Issue No. 10.E: "As mentioned above, the feasibility of utilizing a traffic light at the mid-block location to cross 3d St is questionable. Even with a mid-block light, there will be bus delays during peak circulation times, as both AC and GGT transit have similar departure times from the layover site (4-7 pm.) They both plan to utilize the "bus ramp" from the 2nd street to exit the layover facility. Furthermore, the impact of such a traffic light on traffic flow along 3rd Street has not been adequately or accurately analyzed. See also "Traffic" comments below." (Stillman Residents)

Response No. 10.E: As noted in the Final EIS/EIR, an analysis was performed for the proposed mid-block intersection on Third Street that would be used by Golden Gate buses. The results of this analysis are reported in the Final EIS/EIR. PM peak conditions were analyzed for 2005 and 2020 with the 80 buses per hour exiting from the Golden Gate storage lot and 12 per hour entering. Using Third Street traffic forecasts for 2005

and 2020, the resulting level of service in both cases was LOS A (pg. 41, Volume II, Final EIS/EIR) – the best level of service – with less than one second average delay per vehicle using the intersection. As a consequence, there appears to be more than adequate capacity for peak conditions at this intersection, with minimal delay to all vehicles.

Issue No. 10.F: “When asked for more details about the engineering and design of this site, we were told by the Planning Department that they were not available, as these were just preliminary designs. But CEQA requires that the public be provided with all the necessary data in time to submit comments, rather than leaving key design elements to be developed later, out of the public eye. If the feasibility of using this site depends on being able to maneuver buses and have adequate clearances in this difficult site, then more analysis should be done before designating it as the preferred location. Better traffic studies also need to be undertaken. It is irresponsible to not consider better alternatives as this site has many costly and constrictive issues associated with it that have not been adequately addressed.” (Stillman Residents)

Response No. 10.F: For an environmental document, both CEQA and NEPA Guidelines require that sufficient planning and engineering be done to enable the environmental analysis to take place, this level of design called conceptual engineering. With the conceptual engineering that was completed for the EIS/EIR, the analysts had the design data that was needed for environmental analysis. This information was provided to the one of the Stillman appellants prior to the release of Final EIS/EIR (letter to Jan Mathews dated November 18, 2003). Final design, through preliminary and then final engineering, will not begin until later this year after the environmental process is completed and the project is adopted. For information on bus maneuvering and clearances, please see responses Nos.10.A, 10.C, and 10.E above.

Issue No. 11: Long Term Impacts: Air Quality, Noise and Vibration, Traffic, Visual/Aesthetics, Socio-economics, Land Use, Safety and Security, Cumulative Impact, Excavated Materials are not discussed adequately.

Issue No. 11.A.1: Air Quality “The EIR did not adequately or accurately analyze the impact of diesel emissions on the residences, offices, and retail establishments adjacent to the Stillman Lots. Please refer to the attached letter by David Gleeson and article "Health Effects of Diesel". Beyond not adequately studying the impact of the AC and Golden Gate Transit buses, the study did not include the impact of other buses that are mentioned in the EIR which would use the bus storage ramps, "Some bus services, including paratransit operations, Greyhound and other private tour operations, would be able to access the Transbay Terminal from city streets through the bus storage areas." (pg 5-130, paragraph 6, Vol. I, EIR). In addition, there would probably be extended idling time while buses wait to cross 3rd St. at the proposed bus light, and while they wait for access to the bus ramp (both AC Transit and Golden Gate have similar time frames for exiting the layover facility).” (Stillman Residents)

Response No. 11.A.1: : The supplemental air quality impact analysis (reported in Volume I of the Final EIS/EIR, pg. 5-57 through 5-61) addressed all land uses within approximately 500 feet of the bus storage area. As shown in the supplemental report, 16 representative receptor sites were evaluated. In addition, concentration contours were also created around the storage facilities and reviewed to determine whether any other sensitive land uses were located within areas where ambient air quality standards would be exceeded.

To take into account idling time at intersections, a 10 miles per hour average speed for all buses using the storage area and ramps was assumed. It is expected that the actual moving travel speed would be more in the range of 15-25 miles per hour. The slower average speed takes into account wait times at intersections.

The statement regarding use of the proposed ramps by other transit providers merely notes that, should any of the other transit providers be traveling north on Third Street, these providers could use the ramps to pass over Second Street. To the extent that this occurs, it would actually reduce traffic conflicts on intersections in the area and therefore would reduce both traffic and air emission impacts. It is not proposed that any of these transit providers use the off-site lots under the freeway for storage.

Issue No. 11.A.2: *“The EIR’s air-quality analysis is seriously flawed. First, although the EIR acknowledges that there is now a federal air quality standard for PM_{2.5}, the document contains no analysis of whether this important standard will be violated at the proposed bus parking facility. The PM_{2.5} standard was adopted precisely because the previous PM₁₀ standard did not accurately measure the health impacts of small particles, which tend to be retained in the lung. They are especially injurious to sensitive receptors. Diesel buses produce significant quantities of this pollutant, and, as the comments indicate, the proposed bus parking area is located close by a school site (see Vol. II, p. 62). There is also a large volume of pedestrian traffic in this area. Yet, with federal standards available, there is no attempt to analyze this potentially health-threatening impact.”* (Stillman Residents)

Response No. 11.A.2: Both PM₁₀ and PM_{2.5} represent inhalable size particles. The air quality analysis treats PM₁₀ as a gas. PM₁₀ are particles less than 10 microns in size which includes the PM_{2.5} class of particles. The PM_{2.5} evaluation was not conducted because the California Air Resources Board (CARB) has not established the emissions factor for PM_{2.5} from diesel bus engines. Any quantification of PM_{2.5} would have to be derived from the PM₁₀ estimates and would be highly speculative and not technically supported or verified by empirical engine test results conducted by the State.

Issue No. 11.A.3: *“There is also a substantial environmental justice issue. These harmful emissions will impact the low-cost housing at Yerba Buena Commons, whose occupants may not have the resources to respond to this proposed bus storage facility.”*

Response No. 11.A.3: The appellant is asserting that because one of the residential buildings adjacent to the proposed bus storage facility is low-income housing that the project is not meeting the requirements of Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (February 11, 1994).

Environmental justice as embodied in the Executive Order calls for the fair treatment of people of all races, income, and culture with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no person or group of people should shoulder a disproportionate share of the negative environmental impacts resulting from the execution of this country's domestic policy programs.

The concept of environmental justice is not just dependent on the presumed resources of a community to comment on air quality impacts. Rather, environmental justice directly relates to whether a proposed project has a disproportionate adverse effect on a minority or low-income community compared to other feasible options or alternatives. Because of the developed nature of the areas surrounding the Transbay Terminal where any bus storage must be located in order to provide cost-effective transit service and because of the overall socio-economics of the South of Market area, it is likely that any of the alternatives for the proposed bus storage facility would also have perceived air quality proximity impacts on any adjacent low-income housing project. Most important, the anticipated air quality effects to all are below the established California air quality criteria. The effect on Yerba Buena Commons is not disproportionate when compared to other housing and uses in the area.

The EIS/EIR on pages 5-36 and 5-37 contains a discussion and analysis on whether ethnic minority and/or low-income populations in the project area would experience disproportionately high environmental effects as a result of the project. The analysis found, as reported on pg. 5-37 of the EIS/EIR that the "construction of the project would have no long-term adverse effects on minority, low-income and transit dependent communities." Both the Federal Transit Administration and the United States Environmental Protection Agency have reviewed the document and did not raise any objections to the findings in the Environmental Justice section of the document.

Issue No. 11.A.4: "Furthermore, the method chosen to model diesel emissions has not been modified to reflect that box-like conditions created by the freeway on top and the sound walls along the sides of the parking area. These constraints will tend to funnel the emissions and concentrate them more than would occur at an unconstrained outdoor facility. Because of this, the study should be specific to the site. These site constraints are another reason why the fine particulate matter (PM_{2.5}) should be analyzed." (Stillman Residents)

Response No. 11.A.4: A box model analysis was completed to specifically address the concerns of the appellant. The results indicate that there is no change to the original conclusions regarding ambient PM₁₀ concentrations. Existing PM₁₀ levels for San Francisco currently exceed the annual 20 ug/m³ standard. The increment generated by the project, however, is 0.41 ug/m³. This level of change would not typically be considered to be a substantial or significant increase (using the 5 percent of the standard rule of thumb). The 0.41 ug/m³ concentration resulting from the box model scenario is about 0.1 ug/m³ lower than our initial model calculations for annual PM₁₀ levels using entirely different dispersion assumptions.¹

For the box model scenario, it was assumed that the noise walls and the overhead I-80 freeway structure would concentrate emissions from the AC and Golden Gate buses and confine them in the area under the freeway before dispersion to adjacent areas.

¹ The initial dispersion analysis treated the bus storage as an area source, with no plume rise, but with an elevated release height of 10 feet to represent the position of the proposed noise wall.

The Industrial Source Complex model was again used to analyze this scenario. To represent the conditions within the "box," wind speed was arbitrarily controlled under the freeway and reduced to represent poor ventilation flows. Typically air quality studies use one meter per second to represent worst case conditions. In this case, 0.5 meters per second was used as a wind speed. This represented reducing the average afternoon wind speed at 3-5 pm in San Francisco (about three mph) by the proportion of open ventilation that would remain after the noise walls were constructed. It was conservatively assumed that this proportion was about 43 percent. The speed was reduced again to consider the fact the wind flow would be further affected by the proximity of adjacent existing buildings. This is known as the ventilation effectiveness factor. This factor usually ranges from 0-1, but 0.8 was used. Thus, overall the factor used to reduce existing ambient wind speed was 0.34. e.g. $0.43 \times 0.8 \text{ factor} \times 3 \text{ mph wind speed} = 1.02 \text{ mph} = 0.46 \text{ meters/sec.}$

To further ensure that the model did not use existing meteorology to disperse the emissions in the under freeway area, the open space between the top of the noise wall and the bottom of the freeway structure was treated as a series of vents. The emissions exit velocity of the vent was represented by the calculated reduced natural ventilation wind speed, e.g. 0.5 meters/second. The vents were assumed to be 10 feet above ground level (to represent the position of the noise wall). In sum, the bus emissions were assumed to be pushed out from under the freeway at low wind speeds to represent poor dispersion under the freeway.

Issue No. 11.A.5: "In addition, the analysis is based on 2020 diesel bus emission factors. This underestimates the impact for two reasons -It ignores the situation during the fifteen years before the existing fleet is replaced, when higher emissions will occur. Furthermore, it assumes that the old fleet will be almost entirely retired by that time. But the bus services' perennial budget constraints undoubtedly mean that fleet turnover will be delayed, meaning the older, dirtier buses will remain in service. In fact, at a neighborhood meeting, both AC and GGT transit stated that they will not completely replace their fleets to conform with the 2020 standards. A more realistic fleet mix should be assumed, more closely matching the emissions from the current bus fleets." (Stillman Residents)

Response No. 11.A.5: The supplemental air quality analysis used the US EPA-approved Industrial Source Complex Short Term dispersion model (ISC). This model was applied to reflect all relevant emission sources within and adjacent to the bus storage facility. The model included line sources to represent local streets, ramps and the elevated I-80 freeway. The model also included the bus storage facility as an area source for air emissions. The model was adjusted to increase the release height of all emissions to at least the height of the proposed noise wall to be located along the perimeter of the storage sites. The model used 8,760 hours of meteorological data specifically reflecting local wind speed, wind direction and atmospheric stability. To represent worst case conditions, the model did not include the influence of what is call "building downwash" where air turbulence is created adjacent to tall structures near an emissions source. It would be expected that "building downwash" would further reduce predicted concentration levels directly adjacent to the storage area, not vice versa.

The California Air Resources Board has established through its rules and regulations required emissions levels for diesel bus fleets. By law, compliance is required by 2007.

Compliance does not necessarily mean fleet replacement, and there are other diesel exhaust reduction measures that may be employed. The emissions factors used in the supplemental air quality analysis were generated by CARB. Based on communication with CARB staff, the 2020 running emission factors reflect substantial (rather than complete) compliance with 2007 reductions regulations. As indicated in the supplemental air quality analysis, idle emissions for diesel urban buses are not included in the CARB emissions factors. Idle emissions are presented for school diesel school buses and these factors were incorporated into the analysis. This is a worst case approach because school buses are typically not as emission efficient as transit fleet vehicles. In this context, the emissions factors used are very conservative and reflect the concerns raised by the commentor.

In the Bay Area, MTC programs adequate funds for vehicle replacement of transit vehicles. This insures that buses are replaced in a timely manner as a method of improving regional air quality.

Issue No. 11.A.6: “1. Residents have raised concerns (logged in EPA) that local air pollution will be adversely affected local bus storage. Bay Area Air Quality Management District discussed this in its comment letter, specifically identifying diesel exhaust as a Toxic Air Contaminant (TAC). Titan Management Group also discussed the issue. However, the agency did not respond directly to this significant issue. This is a basic violation of California Environmental Quality Act (CEQA).”

“2. The agency did evaluate some air quality Issues, but only as they relate to the California Ambient Air Quality Standards (CAAQS). This Is Inadequate because ambient air quality standards do not take into account localized impacts, commonly referred to as Toxic Hot Spots.”

“3. Furthermore, its evaluation was deficient. It only considered the daily average standard for particulate matter (PM) -they failed to consider the annual average. It could well be that the annual average exceeds the standard.”

“4. More importantly, the bulk of particulate matter in diesel exhaust that is of concern is smaller than 10 microns. Please see attached copy of the Scientific Study in support of the California Air Resources Board (CARB) Resolution identifying diesel exhaust as a Toxic Air Contaminant. About two years ago a regulation was adopted imposing a new CAAQS for PM 2.5 (particulate matter at 2.5 microns). THE EIS/EIR DOES NOT INCLUDE ANY ANALYSIS WHATSOEVER OF PM 2.5. Therefore, even using their own criteria, the evaluation is deficient.”

“5. A thorough evaluation of air quality impacts would include a risk assessment to determine whether diesel exhaust emissions will create a toxic hot spot. This would entail air modeling to determine likely concentrations of exhaust surrounding the parking structure. That modeling would then include an overlay of the impacted population, including sensitive receptors such as children and the elderly. (Note there is a school building on Stillman and a home for the elderly close to 4th) Based on this, the agency could evaluate the likely maximum rate of exposure to the impacted population. By taking this rate of exposure and multiplying it by a number of years (70 years is the default number), an incremental cancer risk can be calculated. Generally, an incremental cancer risk of 1 in 1 million is considered significant. The problem here is that no analysis was prepared to address localized impacts

6. I request the agency evaluate these impacts before certifying the EIR and approving the project. This is a reasonable request (it is not an attempt at sandbagging -the issues have long been on record). It is common and usual to evaluate the effects of diesel exhaust on the surrounding community. It is common for risk assessments to be prepared. The agency has not done this at all. Without this information, how can the agency satisfy the fundamental mandate of California Environmental Quality Act (CEQA): to promote informed decision-making? (Gleeson Letter – Attachment to Stillman Residents Appeal)

Response No. 11.A.6: Diesel exhaust is recognized by both the US EPA and the California Air Resources Board (CARB) as a toxic air contaminant. The BAAQMD letter and other comment letters confirming the significance of diesel exhaust are part of the whole environmental record for this project. The supplemental air quality analysis conducted used the Industrial Source Complex Short Term dispersion model to reflect the influence of all emissions sources associated with both baseline conditions and the proposed project. The dispersion model analysis is not regional in nature. The modeling analysis focuses on localized concentrations measured either in parts per million or in micrograms per cubic meter for sensitive locations within the adjacent community for a specified averaging period. Sixteen representative locations were used in the analysis.

These local concentrations from afternoon peak period bus activity were then compared to the State's health-based ambient air quality standards at each of 16 individual locations in the areas surrounding the project. The analysis found that ambient air quality standards would not be violated for the proscribed averaging periods, e.g., 1 hour and 8-hours for carbon monoxide, 1 hour for nitrogen dioxide, and 24-hours for PM₁₀ at these individual locations.

The CARB air quality annual standard for PM₁₀ is 20 micrograms per cubic meter. The corresponding federal PM₁₀ annual standard is 50 micrograms per cubic meter. Monitoring data available from CARB for the area including the proposed bus storage facility (Arkansas Street Monitoring Station) indicates that the annual State standard is commonly exceeded. The 16 sampling locations around the project were compared to data from this monitoring station. The proposed bus facility would thus add to this existing exceedance. Typically an exceedance of 5 percent of the established ambient air quality standard is considered by the US EPA and air management districts as an indicator of a significant change. For the more stringent California annual standard of 20 ug/m³, this 5 percent would equate to an increase of 1 ug/m³, which would trigger the significant change threshold. In the case of the proposed bus facility, the maximum annual increase attributable to the project is 0.42 ug/m³, which would be considered to be a less than significant change.

Both PM₁₀ and PM_{2.5} represent inhalable size particles. The air quality analysis treats PM₁₀ as a gas. PM₁₀ are particles less than 10 microns in size and includes the PM_{2.5} class of particles. The PM_{2.5} evaluation was not conducted because the CARB has not established the emissions factor for PM_{2.5} from diesel bus engines. Any quantification of PM_{2.5} would have to be derived from the PM₁₀ estimates and would be highly speculative and not technically supported or verified by empirical engine test results that the State has conducted.

The underlying dispersion model required to be used in risk assessments is the Industrial Source Complex model. This model was used in the supplemental air quality analysis. The analysis found –using conservative assumptions– that there would be no violations of state or federal ambient air quality standards caused by the project for carbon monoxide, nitrogen oxides or PM₁₀. Where the State standard for PM₁₀ was already exceeded on an annual basis, incremental increase in annual PM₁₀ levels were also found to be less than 5 percent of the annual standard, and therefore, were not considered to be significant. Because no State or federal ambient air quality standards (which were designed to protect public health with an adequate margin of safety) were violated, no additional risk assessment was conducted to further assess the significance of the project.

Issue No. 11.B.1: *Noise and Vibration:* “The EIR needs to further address the proposed sound walls to ensure that they do not create an echo chamber, since there will be sound walls on three to four sides with the overpass overhead. Are there studies showing that sound absorbing material will adequately handle this problem given these parameters? Are there examples where this has been used in other projects in a similar configuration? Buses will be circulating at least 6 hours each day, and the noise analysis did not adequately or accurately study this cumulative impact. It also did not include the impact of the noise of the other bus services (Greyhound etc) mentioned in the "Air Quality" section of this letter.”

“The description of the noise mitigation measures set forth in the EIR (p. 5.8) is deficient because it does not contain any quantitative analysis of how successful the attenuation measures will be. Thus, there is no assurance that the noise impacts will be rendered insignificant. Nor is there any quantitative measurement of how much noise would be expected without the sound walls. See Vol. II, p. 54.”

“The comments regarding the lack of adequate vibration analysis, stated in the letter from Titan Management Group (attached), were never sufficiently addressed. Additional studies need to be made.” (Stillman Residents)

Response No. 11.B.1: The quantitative noise analysis of the off-site bus storage facility is presented in the supplementary noise analysis conducted for the Final EIS/EIR (pg. 5-72, Section 5.8.6, Bus Facility Noise, Volume I) in response to comments on the Draft EIS/EIR. The noise analysis followed FTA, NEPA and CEQA guidelines in conducting the noise analysis of the bus storage facility.

Based on the configuration of the bus facility, as shown in the conceptual drawings in the Final EIS/EIR, the configuration of the barriers with sound absorption, the geometry of the facility and the underside of the highway should provide adequate reduction in the noise levels generated by the bus facility. Sound absorption on noise barriers has been long the accepted standard in the transit and highway industries to prevent reflections off of walls and to absorb sound.

The analysis was conservative in determining impact at nearby residences. The noise analysis was conducted on a cumulative basis for the loudest hour of activity at the bus facility (4 pm). Because the FTA noise impact criteria are based on the existing noise level, the noise measurement was conducted 3-4 blocks to the south of the proposed site for assessment purposes. This conservative method resulted in a higher project noise level as compared to existing noise. So by using a lower existing noise level (measured

further from the existing noise source, the freeway), the impact of the project was overstated. If an existing noise measurement at the site had been used (with the full contribution of the highway noise), it is likely that no noise impact would have been identified for the off-site bus storage facility, and mitigation may not have been recommended.

In addition, because the noise impact analysis was conducted for the loudest hour of operations, the impact at nearby residences was also overstated. The FTA guidance for noise analysis uses the L_{dn} , a 24-hour noise measurement, for assessing impact. If this measure had been used, instead of the loudest project hour, the project would have appeared substantially quieter because it would have been assessed over 24 hours, rather than the peak hour of operation. This conservative approach resulted in overstating the impacts and extent of mitigation at the proposed facility.

A 10-12 foot high noise barrier with sound absorption will provide 8-10 dBA of noise reduction, sufficient to mitigate all identified noise impacts. As is typical with all projects such as this, the specific details of the noise barriers, absorption, etc., will be designed during the engineering phase of the project, when detailed information about the proposed bus storage facility is available. Further, the mitigation measure involves the project sponsor, TJPA, working with affected neighbors on the design and appearance of the noise walls.

Based on the analysis of the bus facility, noise impact was not identified at the Clocktower; however, noise mitigation was recommended, based on the sensitivity of the site to noise. Please see comment from and response to letter from Titan Management Group Letter below (No. 11.B.2).

Issue No. 11.B.2: Titan letter-Comment on Vibration Impacts

"The Environmental Document states that "the highest levels of ambient ground-borne vibration were measured at the Clock Tower (sic) building at Bryant and Second Streets. Both exterior and interior vibration was measured. The exterior location was on the sidewalk relatively close to the street. Even at this location, the highest vibration levels were only slightly above what can be perceived by most humans." (Page 4-32)

The vibration analysis that was performed showed that vibrations would exceed the FTA impact threshold for residential land uses in the hallway of the Clocktower even with mitigation in the form of a resilient track system. The vibration analysis included projections for 4 additional locations in the Clocktower. Those projections show that vibrations would be very close to exceeding the impact threshold.

The Environmental Document, however, concludes with respect to the Clocktower: "Projected vibration levels exceed the impact threshold only at the hallway site, and therefore no mitigation is indicated." In itself, this is a questionable conclusion since the hallway itself is part of the residential use.

Moreover, vibrations are already a significant problem at the Clocktower. This is apparently because of the building's proximity to the elevated freeway structure. We are very concerned about any vibrations in addition to the ones already experienced. An analysis of the impacts of the project on the Clocktower must include an analysis of the impacts of the project in addition

to the impacts already experienced. The explanation of the vibration analysis does not indicate that this has been done.

The Environmental Document also indicates that there are some significant qualifications on the vibration analysis.

In light of the qualifications on the vibration analysis and in light of the results showing that the impact threshold has been exceeded in the hallway and showing that impacts elsewhere are close to the impact threshold, the analysis that has been done should be regarded as a screening level analysis. The results indicate that a more specific and detailed analysis should be performed. Any analysis should include indicate the vibrations that would be experienced if vibrations from the train occurred at the same time as serious vibrations from the freeway.

The Clocktower believes this analysis is legally required. Additionally, if this analysis is not performed and if there is damage to the Clocktower residents or to the building from vibrations, a failure to have performed this analysis could have profound legal consequences.” (Titan Letter - Attachment to the Stillman Residents Appeal)

Response No. 11.B.2: The existing vibration levels at the Clocktower are at or below the threshold for perception, and well below the FTA criterion for vibration. The highest levels were just above the threshold of perception on the sidewalk outside the building, directly adjacent to the street.

The vibration levels projected at the Clocktower were 2 decibels over the FTA criterion for human annoyance. Mitigation (see page 5-76 and 5-77 of the FEIR) has been recommended at this location. The proposed mitigation reduces the vibration levels to within one decibel of the criterion.

The FTA criteria for vibration do not include a provision for ambient vibration. There would be no feasible means for the project to mitigate other vibration sources, and since the ambient vibration levels are well below the criterion, there would be no need to take any action.

The vibration analysis also includes a 5 dB safety factor in order to provide a conservative assessment of the impacts. Without using this safety factor, all the vibration levels from the project would have been below the criterion and no mitigation would have been recommended.

After mitigation, groundborne noise impact at 388 Townsend and vibration impact at the Clocktower Building would still exceed the FTA impact threshold by one decibel. this level of impact would not constitute a substantial change requiring further mitigation, in terms of FTA guidance. The next level of vibration buffering that would be effective would be to install floating slab under the Caltrain alignment trackage for 600 to 800 feet on either side of each building (at a construction cost of \$1,000 per linear foot), which would add installed costs approaching one million dollars or even more per building. Such high costs would not be a prudent and reasonable expenditure to eliminate the last one decibel of impact at these two sites. Per FTA guidelines, “to be feasible, the measure, or combination of measures, must be capable of providing a significant reduction of the vibrations levels, at least 5 dB, while being reasonable from the standpoint of the added cost.” However, this does not preclude the project

decisionmakers from making a decision to include additional measures when they are considering adoption of the project.

It is important to keep in mind that the vibration impacts are for human annoyance and not for damage. The vibration levels projected at the Clocktower are at or slightly above the criterion for annoyance, but are at least 2 orders of magnitude below even the most conservative criterion for damage for the most fragile types of buildings.

As is typical with all projects such as this one, the specific details of the vibration mitigation will be designed during the engineering phase of the project, at specific locations where impact has been identified, when detailed engineering information about the proposed project is available.

Issue No. 11.C: *Traffic Impacts:* “The traffic analysis and the impact of buses crossing 3rd St. mid-block between Harrison and Bryant, at a dedicated light, were not adequately nor accurately evaluated. When the OPT engineering department was contacted prior to the Transbay certification hearing, we were told that no analysis, traffic study or engineering had been done regarding the feasibility of this "bus light". Traffic congestion in this area, especially before and after the weekday and weeknight Giants games, is currently a significant problem, and this bus crossing would only exacerbate the problem. The crossing, which would be used most extensively during the late afternoon and early evening, would impact both the afternoon and evening games as well as commute traffic. Third Street is also a major transit artery, and the impact on the Third St. Light Rail and commuter traffic has not been adequately or accurately analyzed. The neighborhood had tried in the past to get a cross-walk at this same location, and it was turned down due to traffic issues. Why, with increased traffic loads due to the Giants Stadium and other South of Market developments, should buses be allowed to have a mid-block crossing when it was not allowable for pedestrians?”

“In addition, there was mention of routing additional buses (Greyhound etc.) through the storage area to allow access to the proposed storage area bus ramp. This would also increase the traffic load in this area.” (Stillman Residents)

Response No. 11.C: Please see response Nos. 10.E and 11.F regarding traffic issues and a pedestrian cross-walk. In addition, Greyhound buses currently use existing ramps at 2nd and Perry Streets to access the Terminal and therefore, the addition of the traffic light for busses at the proposed storage area would not affect their operations.

Issue No. 11.D: *Visual/Aesthetics:* “The impact of a bus layover facility and a bus ramp spanning 2nd St, the "Gateway to South of Market" was not adequately addressed. There were no renderings showing elevations of the ramp, which cannot be attached to the freeway overpass and thus must have to cross 2nd street at a low elevation, creating additional shadow and blight. This entire south of market area has undergone a transformation over the past decade, and to relocate the buses to this location is transferring a burden or "blight" to this neighborhood. Again, " quoting from the EIR, pg 82, Vol. II "...as outdoor, observable bus parking in the, proposed redevelopment area is considered as contributing to blight." It would be considered just as much a blight in the Stillman neighborhood, which is not in the Transbay Terminal Redevelopment Area.” (Stillman Residents)

Response No.11.D: The addition of bulk and mass to the existing Freeway bridge over Second Street would not introduce a new visual element to the area, however, it would add to the existing sizable structure passing over Second Street. This is not anticipated to introduce blight into the area. The current use of the proposed site is a private automobile parking lot. It is not expected that replacement of the existing automobile parking with public transit parking screened from adjoining use by a landscaped noise wall (to be designed in collaboration with the community) will introduce blight into the area, and may enhance the visual setting for land uses currently viewing the existing parking lots.

The determination of blight is one that is made by the Redevelopment Agency prior to adoption of a Redevelopment Plan. Discussion with Redevelopment staff clarified that it is the ramps themselves, with or without buses parking on them, that are considered a contributing element to the determination of blight for the purposes of the Redevelopment Plan. The ramps are but one of many factors contributing to blight. It was also the ramps, with or without buses, that resulted in segmented and inefficient land use parcels in the plan area. Substituting public transit use parking for private automobile parking does not result in blight. Also blight in and of itself is not a physical environmental effect to be analyzed as part of a CEQA document, but rather an issue that decisionmakers consider as part of their determination on Redevelopment Plan adoption.

Issue No. 11.E: *Socio-economics:* “The impact of storing 200+ buses across from residential, commercial and retail establishments was not evaluated. It would decrease the perceived value of the real estate in the area and would significantly decrease the rental rates for apartments and commercial space. There were no mitigation measures mentioned in the EIR for this significant impact.” (Stillman Residents)

Response 11.E: The replacement of existing parking lots under an existing freeway with a visually screened bus facility was not determined to be a such a substantial change of use that would have a potential to reduce property values or reduce rents and create an adverse impact. Nor is a social or economic effect, in the absence of a physical environmental impact, considered in a CEQA analysis. Here the project’s social or economic effects, if any, have no physical significant physical environmental impacts. As there was no significant adverse physical impacts found, mitigation is therefore not deemed necessary under CEQA.

Issue No. 11.F: *Land Use:* The land use maps used to depict the composition of the neighborhood surrounding the Stillman St. lots (figure 4.1-2, page 4-5, Vol. 1) were not accurate and did not show many of the residential units as well as a State approved school facility with a Uniform Building Code educational occupancy classification located on the 100 block of Stillman St. This area is a thriving neighborhood with hundreds of residences, including the Clocktower Complex and a beautiful, low income housing complex at Perry and 3rd. The existing zoning map (4.1-2, pg. 4-5, Vol. 1) left off the existing zoning for the blocks east of 3rd Street. The entire block (3n1 to 4th) for the Golden Gate Transit bus storage facility has been left off the existing zoning map. In addition, bus parking and storage is not a permitted or conditional use in the SLI or SSO zone.”

“The current EIR removes parking from the area, especially parking that is used (and was referenced in the EIR for) the Giants Stadium, for both day and evening games. Meanwhile, the

T TJPA is proposing parking lots within developments in the Transbay district, many of which will be owned privately with funds going to private developers. In contrast, the funds generated in the parking area proposed for the bus storage facility (one to two million dollars per year currently) have gone and would could continue to go to Caltrans, and through them to public projects. Money going to developers rather than Caltrans represents a transfer from public benefit to private profit. The proposed bus facility site should remain as parking and be used as an exchange for parking requirements for the Terminal or surrounding buildings. Eliminating parking adjacent to a major transit hub is more logical than reducing parking in an area outside that hub that has very little parking.” (Stillman Residents)

Response No. 11.F: The figure on the following page shows an updated land use map for the area. This map is supplemental to those included in the EIS/EIR and is included for informational purposes only. This is not new information of significance that would in any way change or in any way alter the analyses or conclusions of the EIR. It should be noted that the supplemental noise and air quality assessment for the off-site bus storage facility took into account residential land uses near the proposed off site bus storage facility even though the map was not updated until this document.

Zoning in the area surrounding the proposed off-site bus storage site is SLI – Service/Light Industrial – as shown on the zoning maps for the City of San Francisco and on the page following the land use map. The zoning for the area under the freeway where the bus storage is proposed is P - Public and a public transportation related use is a permitted use within the P District.

The EIR prepared for the San Francisco Giants ballpark took into account the loss of parking associated with the Transbay Terminal Project (please see Appendix A, page A.127 of the Giants Ballpark EIR which is incorporated herein by reference). The Final EIS/EIR proposes to replace the existing parking with an automobile parking structure between Stillman and Perry Street adjacent to Fourth Street, so current parking under the freeway is not proposed to be eliminated. Additionally, as noted in the Final EIS/EIR, the bus facilities are proposed to be available for private parking during weekends and in the evenings. As noted in the Parking Section of the Final EIS/EIR, the project would reduce parking in the vicinity of the proposed new terminal. The parking that would be developed in the Redevelopment Project Area as new buildings are constructed would be primarily for the use of the residents, employees and visitors of those buildings and not commuter parking. At this time, there are no plans for any for-profit commuter parking structures.

Finally, the State of California’s decision to lease this area under the freeway to the TJPA and Golden Gate Transit (GGT) as a part of the overall Transbay Terminal project was considered a more appropriate use by those State officials charged with management and use of state property assets. While the appellant disagrees with this decision, the task of an EIR is to provide an informational document to the decisionmakers and public concerning the environmental effects of a proposed project not to judge the merits of the project.

Issue 11.G: *Safety and Security:* “The proposed bus facility would be vacant on evenings and weekends, and the sound walls would encourage encampments and would impair the ability of pedestrians and residents to see if there were unsafe activities occurring in the lots. Secondly, the Bay Bridge is a known "high risk" target for terrorism, and buses are a common target and tool

used by terrorists. The safety issue of having 200+ buses, with large fuel tanks, coming into this location under the main approach to the Bay Bridge on a daily basis should be analyzed. It is certainly a more attractive target than a remote bus parking lot or bus ramps.” (Stillman Residents)

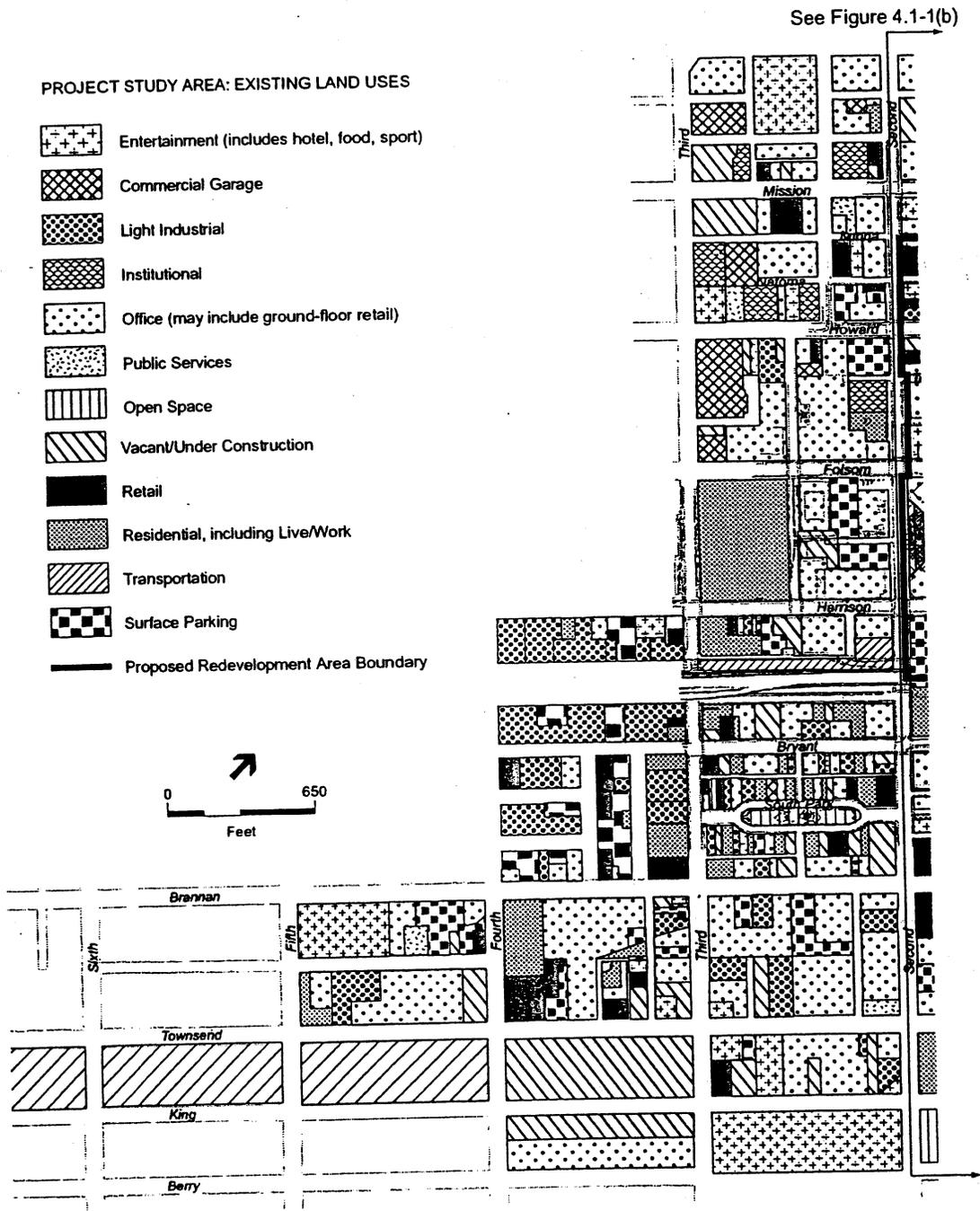
Response No. 11.G: Patrolling of the noise walls and off-site bus storage facilities, and the enforcement of local laws and ordinances regarding homeless encampments will be a function of the San Francisco Police Department, as is currently the case for the existing parking lots. One of the adopted mitigation measures regarding the noise walls states that the actual design of the walls will be developed in cooperation with the neighborhood area residents. As a part of this consultation process, additional security measures could be requested and included in the project. It is not clear that the proposed off-site bus storage facility would be any more or less of a terrorist target than other facilities that are likely to be viewed as higher-profile targets.

Issue No 11.H: *Cumulative Impact:* “The neighborhood bounded by 2nd, 4th, Stillman and Perry Streets is currently undergoing 5 years of tearing down and rebuilding of the Bay Bridge West Approach. It will also have construction of the light rail down 3rd Street and proposed tunneling down 2nd Street. To then put a bus layover facility, with its additional impact of construction, traffic, reduced air quality, and blight, would be placing an undue burden on this community.” (Stillman Residents)

Response No. 11.H: The EIS/EIR has two sections that deal with construction: Section 5.20 - Construction Staging and Methods identifies the construction activities that would occur and Section 5.21 Construction Impacts discusses the potential impacts and mitigation measures that would be employed. As discussed in the EIS/EIR on pgs. 5-205 to 5-215, construction noise and vibration could be disruptive to the noise-sensitive land uses periodically during the course of project construction. Construction equipment would generate noise and possibly vibration that could be considered an annoyance by occupants of nearby properties. There may be times when noise from the construction of various segments of the project could interfere with indoor activities in nearby residential, light industrial, and commercial uses adjacent to the project area. The nearest sensitive receptors to the proposed project would be the residential uses located adjacent to and across the street from the portions of the project site such as the bus storage area. Tenants of office space adjacent to and across the street from the various portions of the project area could potentially be disturbed by various elements of project construction. Noise impacts could be intermittently disruptive or annoying to other persons nearby, however, they would be temporary in nature and limited to the period of construction and therefore, are not considered a cumulative significant impact..

Further, all construction activities in San Francisco are required to be conducted in compliance with the San Francisco Noise Ordinance (Article 29 of the San Francisco Police Code). The Noise Ordinance requires that: 1) noise levels of construction equipment, other than impact tools, must not exceed 80 decibels (measured as dBA; a unit of measure for sound where dB denotes use of the A-weighted scale, which simulates the response to the human ear to various frequencies of sound) at a distance of 100 feet from the source; 2) impact tools must have intake and exhaust mufflers that are approved by the Director of the Department of Public Works to best accomplish maximum noise reduction; and 3) if the noise from the construction work would exceed

the ambient noise levels at the property line of the site by five dBA, the work must not be conducted between 8:00 p.m. and 7:00 a.m., unless the Director of the Department of

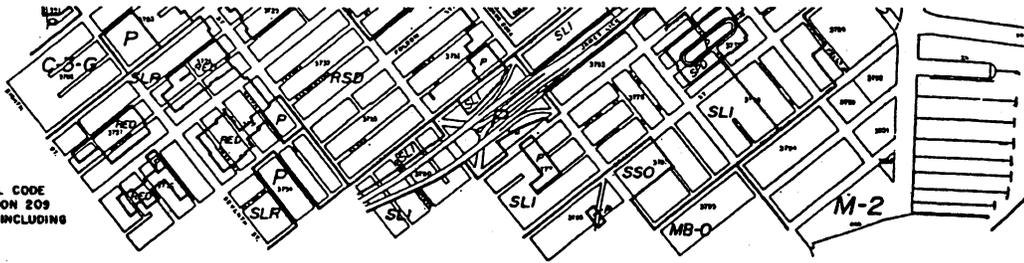


SOURCE: Parson's Transportation Group, Inc., Environmental Science Associates

Transbay Terminal/Cultrain Downtown Extension / 201050 ■

Figure 4.1-1(a)
Existing Land Uses

SAN FRANCISCO MUNICIPAL CODE
PART II, CHAPTER II, SECTION 209
WITH AMENDMENTS TO AND INCLUDING
AUGUST 2000



HOUSE CHARACTER DISTRICTS

RH-1D **RH-1** **RH-1S** **RH-2** **RH-3**

MIXED HOUSE & APARTMENT CHARACTER DISTRICTS

RM-1 **RM-2** **RM-3** **RM-4**

RESIDENTIAL-COMMERCIAL COMBINED DISTRICTS

RC-3 **RC-4**

COMMERCIAL DISTRICTS

C-2 **C-3-O** **C-3-R** **C-3-G** **C-3-S** **C-M**

INDUSTRIAL DISTRICTS

M-1 **M-2**

PUBLIC DISTRICT **P**

MISSION BAY **MB-O** **OFFICE**

NEIGHBORHOOD COMMERCIAL DISTRICTS

NC-1 **NC-2** **NC-3** **NC-5** **NCD**

CHINATOWN MIXED USE DISTRICTS

CCB **CVR** **CRNC**

SOUTH OF MARKET USE DISTRICTS

RED **RESIDENTIAL ENCLAVE DIST.**

RSD **RESIDENTIAL/SERVICE DIST.**

SPD **SOUTH PARK DISTRICT**

SLR **SERVICE/LIGHT INDUST./RES.**

SLI **SERVICE/LIGHT INDUSTRY**

SSO **SERVICE/SECONDARY OFFICE**

Public Works authorizes a special permit for conducting the work during that period. Project demolition and construction would comply with the Noise Ordinance. Compliance with the Noise Ordinance is required by law and would reduce any impacts to a less-than-significant level.

Both the Third Street Light Rail and the Bay Bridge Seismic Retrofit projects are identified in the EIS/EIR as related projects on pages 1-26 and 1-27, particularly as noted on page 1-26 "for their coordination or cumulative impact issues." Consequently, their effects are considered in the cumulative analysis. Construction associated with the Bay Bridge seismic retrofit should be completed in winter 2009 while according to the current schedule on page 5-183 the construction of the bus storage facility should begin and end in 2010.

Construction is, by its very nature, disruptive, however, it is also temporary. Therefore, although the construction would be noticeable to neighbors in the immediate vicinity, it would be intermittent and temporary and would come to closure as the project is completed. Therefore, it was not found to be a significant environmental impact.

Issue No. 11.I: Excavated Materials: "The EIR indicates (Vol. II, p. 74) that 2-3 feet of material will have to be excavated at the bus parking area. There is some indication that the soil in this area may be contaminated. The EIR makes no attempt to quantify how many cubic yards will be involved, or how this potentially hazardous material will be disposed of." (Stillman Residents)

Response No. 11.I: Please see response No. 10.B regarding hazardous materials.

Financial Analysis

Issue No. 12: The EIR did not accurately reflect the costs of the project including toxic excavation and disposal and rising cost of steel.

“The costs of toxic excavation, toxic disposal, engineering and construction costs were not accurately reflected in the EIR for the bus storage site. It also should be noted that in areas where a large amount of steel is needed, the cost analysis section should be re-evaluated due to the huge increase in steel prices (see attached article from the S.F. Business Times which states that steel prices have tripled in the past year).” (Stillman Residents)

Response No. 12: The capital costs as set out in Chapter VI of the Final EIS/EIR include (1) costs for engineering, (2) costs for mitigation of hazardous materials that may be encountered during construction, and (3) contingencies and reserves to account for fluctuations in unit costs for materials (e.g., steel) used during construction.

Mitigation Measures

Issue No. 13: The EIR fails to discuss a feasible mitigation measure, i.e., an alternative alignment.

“The document fails to discuss a feasible mitigation measure, a slightly different alternate track alignment that had been presented to the City and TJPA prior to publication of the Transbay EIS/EIR, which could allow both projects to proceed.” (Myers)

Response No. 13: The Planning Department’s April 22, 2004 memo to the Planning Commission, attached hereto as Exhibit 2, addressed this issue. Since that time, additional designs and refinements to these designs have been explored by representatives and consultants of the TJPA and the Myers Development Co.

To date, the proposal mentioned has not been determined as feasible by the Planning Department’s engineering consultants. It is an idea that has been proposed with additional refinements, but it is still conceptual in nature. Based on the numerous technical uncertainties and significant economic burdens, it does not appear to meet the project sponsor’s fiscal goals or the engineering and design criteria. While these issues will still be explored, the current proposal is not considered feasible. There will be continuing meetings between the two parties, and if at some time in the future a feasible proposal is arrived at, it would undergo further environmental evaluation and analysis as necessary.

Responses to Comments

Issue No. 14: The EIR did not have adequate and reasoned analysis in the Responses to Comments.

“The so-called “Responses to Comments” on most of the crucial issues regarding the bus storage facility do not actually address our comments or those of other concerned residents. The eminently sensible alternative of using the upper deck of the terminal for bus storage is never seriously addressed. And rather than addressing the substance of the criticisms of the air pollution and noise analyses (for example in the letter from Titan Management Group, attached), Volume II of the EIR merely repeated what had already been said in the first volume or

performed inadequate studies (see detailed comments below.) CEQA mandates that there be good faith, reasoned analysis in response to comments.” (Stillman Residents)

Response No. 14: : Please see response 3.B above regarding the suggested use of the upper level of the new terminal for bus parking. Discussion regarding air quality and noise/vibration are provided in response Nos. 11. While the appellant may disagree with elements of the proposed project and their location or be critical of the EIR’s analytic approach, the standards for responses to comments, as set forth in CEQA Guideline Section 15088 have been satisfied.

Failure to Notice

Issue No. 15: Failure to notify property owners.

“Noticing: There has been a noticeable lack of communication from the start of the EIR process. The neighborhood was never properly noticed that this proposed bus layover facility was being considered. (See multiple references to this lack of noticing in Scoping Meeting transcripts and the Comments section following page 236 in Vol. II of the EIR.)”

“Other building owners also did not receive a notice. For example, the owner of 191 -199 - Second St, owned by Helsten Properties, LLC, was not properly notified. They only found out in April, 2004 in an article in the San Francisco Business Times, that the property was proposed to be condemned due to this project. They are concerned about what mitigation measures are being proposed. They felt that other, more logical routes were not considered.” (Stillman Residents)

Response No. 15: An extensive effort was made during the various Project studies and the subsequent EIS/EIR process to ensure public outreach and provide ample opportunities for public participation in the Project. See the table on the next page which details the notice for the Scoping and Draft EIS/EIR process. It should be noted that both the Scoping Meeting materials and the Notice of Preparation had maps showing where various components of the proposed project including the proposed bus storage areas were proposed to be located underneath the freeway between Second and Fourth Streets.

CEQA Section 21092 (3) states that required notice of an Draft EIR “shall be given to the last known name and address of all organizations and individuals who have requested notice and shall also be given by at least one of the following procedures:” 1) publication in a newspaper of general circulation, 2) posting the notice on and off site in the area where the proposed project is located, and 3) direct mailing to owners of property. For this project the Department noticed all people on the Department EIR list and preformed all three of the additional methods. In addition, for every property that was listed as a potential acquisition the Department sent an additional letter to the property owner of record signed by the Environmental Review Officer.

The public outreach efforts exceeded legal requirements for public notices as set forth in CEQA and NEPA guidelines. However, in spite of this public outreach and noticing, a number of property owners wrote regarding what they considered as a lack of notice about the EIR or potential acquisition of their property.

For example, the owner of 191 -199 Second St, Helsten Properties, LLC, as detailed on the Assessors parcel rolls has an address in care of a person in Hillsborough. It was to that address that the Department sent the notices and letters as discussed above were sent.

Transbay Terminal /Caltrain Extension/Redevelopment - Environmental Public Noticing

Date	Type of Notice	Target Audience
March 2001	Postcard – notice of scoping meetings	Sent to mailing list created by MIG was very extensive, property owners and occupants (about 10,000)
April 4th and 11, 2001	Scoping meetings	Held in San Francisco (City Hall) and San Carlos
March 2001	Notice that an EIR is required	Newspaper ad Posted in Planning Dept. Posted on-site (used enlargement of the Postcard)
January 2002	First Newsletter	Mailed out to about 1,200 on mailing list with extras given out at libraries and agencies
October 2002	Draft EIS/EIR mailed out	Agencies, libraries, media and all who had requested a copy
	Notice of availability	Mailed to others on standard Distribution List and posted in the Department
	Newspaper Ad	S.F. Independent
	On-site Posting	Approximately 60 11x17 posters through-out the area and particularly on 2nd St.
	Letter to Property Owners signed by ERO	Mailing list created from Parcel Information database Assessor's listed owners
	Chapter 31 Availability Notice for DEIR - Direct Mailing	Owners of all real property within the project and 300 feet around (about 550 notices)
	Second Newsletter	As with the first, mailed out to about 1,200 on mailing list with extras given out at libraries and agencies
Nov. 12, 2002	Public Hearing – S. F. Redevelopment Agency	San Francisco residents concerned about redevelopment
Nov. 13, 2002	Public Hearing - JPB	San Carlos – Caltrain riders and San Mateo residents
Nov. 19, 2002	Notice of Rescheduled Hearing and extension of review period	Newspaper ad, Posted on-site and in Department
November 26, 2003	Public Hearing – San Francisco Planning Comm.	San Francisco agencies and residents

According to phone notes, a representative of Helsten Properties spoke with Planning Department staff in July 2003. The date of April 2004 mentioned above is in error.

Issue No. 16: Lack of Noticing of potential loss of Historic Status.

“Another example of lack of noticing is a property at 583-587 Howard St, owned by Howard St. Partners, which was never notified that there could be an impact to their building. Only by reading through the EIR to find information about the bus storage did the owners come across the fact that it is listed as "adversely affected." The EIR states that the building would be separated, due to demolition of adjacent buildings, from others in the National Register District and thus could lose its eligibility for the National Register. There needs to be an evaluation of the mitigation measures as well.” (Stillman Residents)

Response No. 16: The first general concept of CEQA as stated in the CEQA Guidelines Section 15002 is that the basic purpose is to “[i]nform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.” There are no requirements in CEQA to specifically match people with potential impacts. CEQA sets forth standards for preparation, notice and public review of an EIR. In this case such standards were met or exceeded. Therefore, reading the EIR and finding a potential effect is not an example of lack of notice but rather an example of how CEQA and the preparation of an EIR are fulfilling the purpose and goals of CEQA by informing the public of a potential environmental effect.

Exhibit 1

Summary of Objectives and Policies from the Transportation Element

SUMMARY OF OBJECTIVES AND POLICIES

GENERAL

OBJECTIVE 1

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

POLICY 1.1

Involve citizens in planning and developing transportation facilities and services, and in further defining objectives and policies as they relate to district plans and specific projects.

POLICY 1.2

Ensure the safety and comfort of pedestrians throughout the city.

POLICY 1.3

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

POLICY 1.4

Increase the capacity of transit during the off-peak hours.

POLICY 1.5

Coordinate regional and local transportation systems and provide for interline transit transfers.

POLICY 1.6

Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

POLICY 1.7

Assure expanded mobility for the disadvantaged.

POLICY 1.8

Develop a flexible financing system for transportation in which funds may be allocated according to priorities and established policies without unnecessary restriction.

POLICY 1.9

Develop a multi-modal emergency transportation plan for the city and encourage the development of complementary plans in the private and public sector, to provide for movement to and from emergency and health facilities from all areas of the city, and to and from the city and other Bay Area communities.

OBJECTIVE 2

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

POLICY 2.1

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

POLICY 2.2

Reduce pollution, noise and energy consumption.

POLICY 2.3

Design and locate facilities to preserve the historic city fabric and the natural landscape, and to protect views.

POLICY 2.4

Organize the transportation system to reinforce community identity, improve linkages among interrelated activities and provide focus for community activities.

POLICY 2.5

Provide incentives for the use of transit, carpools, vanpools, walking and bicycling and reduce the need for new or expanded automobile and automobile parking facilities.

POLICY 2.6

In conversion and re-use of inactive military bases, provide for a balanced, multi-modal transportation system that is consistent with and complementary to the planned land use and the local and regional transportation system.

REGIONAL

OBJECTIVE 3

MAINTAIN AND ENHANCE SAN FRANCISCO'S POSITION AS A REGIONAL DESTINATION WITHOUT INDUCING A GREATER VOLUME OF THROUGH AUTOMOBILE TRAFFIC.

POLICY 3.1

The existing vehicular capacity of the bridges, highways and freeways entering the city should not be increased and, for single-occupant vehicles, should be reduced where possible.

POLICY 3.2

New elevated and surface freeways should bypass or terminate outside San Francisco, rather than pass through the city.

POLICY 3.3

Develop and maintain an efficient system of arterials and thoroughfares to distribute traffic from regional freeways within and through San Francisco's street grid in conjunction with the Bay Region's nine-county Metropolitan Transportation System (MTS).

POLICY 3.4

Promote I-880, I-80 (East Bay), 101 (North of San Rafael), I-580, I-680 and I-5 as the principal freeways for through automobile traffic and freight truck traffic in the Bay Area and the state.

OBJECTIVE 4

MAINTAIN AND ENHANCE SAN FRANCISCO'S POSITION AS THE HUB OF A REGIONAL, CITY-CENTERED TRANSIT SYSTEM.

POLICY 4.1

Rapid transit lines from all outlying corridors should lead to stations and terminals that are adjacent or connected to each other in downtown San Francisco.

POLICY 4.2

Increase transit ridership capacity in all congested regional corridors.

POLICY 4.3

Where significant transit service is provided, bridges and freeways should have priority transit treatment, such as exclusive transit lanes.

POLICY 4.4

Integrate future rail transit extensions to, from, and within the city as technology permits so that they are compatible with and immediately accessible to existing BART, CalTrain or Muni rail lines.

POLICY 4.5

Provide convenient transit service that connects the regional transit network to major employment centers outside the downtown area.

POLICY 4.6

Facilitate transfers between different transit modes and services by establishing simplified and coordinated fares and schedules, and by employing design and technology features to make transferring more convenient.

POLICY 4.7

Locate outlying rapid transit stations close to the commercial and high-density residential districts and employment centers of each community.

POLICY 4.8

Expand and coordinate the use of ferries, water taxis and other forms of water-based transportation with each other and with landside transportation in waterfront communities in San Francisco and across the bay, using San Francisco's Ferry Building as the main transfer point.

OBJECTIVE 5

SUPPORT AND ENHANCE THE ROLE OF SAN FRANCISCO AS A MAJOR DESTINATION AND DEPARTURE POINT FOR TRAVELERS MAKING INTERSTATE, NATIONAL AND INTERNATIONAL TRIPS.

POLICY 5.1

Support and accommodate the expansion of San Francisco International Airport, while balancing this expansion with the protection of the quality of life in the communities that surround the Airport.

POLICY 5.2

Develop direct transit connections from downtown to the Airport that will maximize convenience and minimize confusion for airport patrons.

POLICY 5.3

Encourage the development of a high-speed water transit system from the Airport to the Ferry Building and to Oakland Airport to improve the efficiency and flexibility of the Airport's role in accommodating large numbers of domestic and international air passengers.

POLICY 5.4

Encourage the use of public transportation and improve its services between the airport and all Bay Area communities, for airport employees as well as air passengers.

POLICY 5.5

Develop high-speed rail that links downtown San Francisco directly to all major interstate and national passenger rail corridors as the principle alternative to interstate air travel, and as the primary means to relieve air traffic congestion.

POLICY 5.6

Secure a berth for cruise ships in an attractive location, well-served by public transportation, to enhance San Francisco as a recreational port destination.

OBJECTIVE 6

DEVELOP REGIONAL, MULTIMODAL FACILITIES FOR THE EFFICIENT MOVEMENT OF FREIGHT AND GOODS.

POLICY 6.1

Designate expeditious routes for freight trucks between industrial and commercial areas and the regional and state freeway system to minimize conflicts with automobile traffic and incompatibility with other land uses.

POLICY 6.2

Upgrade and modernize port facilities and landside operations and support transportation systems, responding to new technologies, to enhance the commercial significance of the Port of San Francisco and other Bay Area ports as a unified region competing with other ports on the West Coast.

POLICY 6.3

Encourage the use of water transportation, such as freight ferries and shuttles, to facilitate the region-wide movement of goods and cargo.

POLICY 6.4

Identify new freight rail corridors and enhance existing ones to improve and shorten links between key freight distribution points in the city and the main interstate railroads, and to minimize conflicts with pedestrian, street and passenger rail traffic.

POLICY 6.5

Develop the facilities and accessory transportation systems serving the Airport to accommodate its growing role as a freight distribution center.

OBJECTIVE 7

DEVELOP A PARKING STRATEGY THAT ENCOURAGES SHORT-TERM PARKING AT THE PERIPHERY OF DOWNTOWN AND LONG-TERM INTERCEPT PARKING AT THE PERIPHERY OF THE URBANIZED BAY AREA TO MEET THE NEEDS OF LONG-DISTANCE COMMUTERS TRAVELING BY AUTOMOBILE TO SAN FRANCISCO OR NEARBY DESTINATIONS.

POLICY 7.1

Reserve a majority of the off-street parking spaces at the periphery of downtown for short term parking.

POLICY 7.2

Outlying transit terminals and adjacent commuter parking facilities of the regional transit systems leading to San Francisco should be well-marked and easily accessible from regional highways.

POLICY 7.3

Maintain a supply of parking commensurate with demand at outlying intercept parking facilities that have good connections to transit and ride-sharing opportunities.

OBJECTIVE 8

MAINTAIN AND ENHANCE REGIONAL PEDESTRIAN AND HIKING ACCESS TO THE COAST, THE BAY AND RIDGE TRAILS.

POLICY 8.1

Ensure that the Coast Trail, the Bay Trail and the Ridge Trail remain uninterrupted and unobstructed where they pass through San Francisco.

POLICY 8.2

Clearly identify the Citywide Pedestrian Network where it intersects with the Coast, Bay and Ridge Trails.

OBJECTIVE 9

IMPROVE BICYCLE ACCESS TO SAN FRANCISCO FROM ALL OUTLYING CORRIDORS.

POLICY 9.1

Allow bicycles on regional transit vehicles such as trains and ferries whenever practical.

POLICY 9.2

Where bicycles are prohibited on roadway segments, provide parallel routes accessible to bicycles or shuttle services that transport bicycles.

CONGESTION MANAGEMENT

Transportation Performance Measures

OBJECTIVE 10

DEVELOP AND EMPLOY METHODS OF MEASURING THE PERFORMANCE OF THE CITY'S TRANSPORTATION SYSTEM THAT RESPOND TO ITS MULTI-MODAL NATURE.

POLICY 10.1

Assess the performance of the city's transportation system by measuring the movement of people and goods rather than merely the movement of vehicles.

POLICY 10.2

Employ performance measures that address the problems of transportation deficiencies.

POLICY 10.3

Employ methods that are easily measured, understandable, and useful both for determining the level of deficiency and for comparing alternatives with existing forecasting tools.

POLICY 10.4

Consider the transportation system performance measurements in all decisions for projects that affect the transportation system.

Transit First

OBJECTIVE 11

MAINTAIN PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

POLICY 11.1

Maintain and improve the Transit Preferential Streets program to make transit more attractive and viable as a primary means of travel.

POLICY 11.2

Continue to favor investment in transit infrastructure and services over investment in highway development and other facilities that accommodate the automobile.

POLICY 11.3

Encourage development that efficiently coordinates land use with transit service, requiring that developers address transit concerns as well as mitigate traffic problems.

POLICY 11.4

Encourage the development of one or more multi-service transportation outlets for the sale of transit fare instruments and the provision of other kinds of trip information.

Transportation Demand Management

OBJECTIVE 12

DEVELOP AND IMPLEMENT PROGRAMS IN THE PUBLIC AND PRIVATE SECTORS, WHICH WILL SUPPORT CONGESTION MANAGEMENT AND AIR QUALITY OBJECTIVES, MAINTAIN MOBILITY AND ENHANCE BUSINESS VITALITY AT MINIMUM COST.

POLICY 12.1

Develop and implement strategies which provide incentives for individuals to use public transit, ridesharing, bicycling and walking to the best advantage, thereby reducing the number of single occupant auto trips.

POLICY 12.2

Build on successful efforts implemented at numerous private sector worksites, such as the downtown Transportation Brokerage Program and voluntary programs, and adapt such programs for application in new areas as appropriate.

POLICY 12.3

Implement private and public sector TDM programs which support each other and explore opportunities for private-public responsibility in program implementation.

POLICY 12.4

Encourage private and public sector cooperation in the promotion of alternative work programs designed to reduce congestion and the number of automobile trips.

POLICY 12.5

Phase program implementation in a manner that is most cost effective, and most reasonable in terms of the availability of alternative travel modes and types of trips to be served.

POLICY 12.6

Maximize the utilization of existing sources of revenue targeted or available for program implementation and monitoring to offset additional funding requirements.

POLICY 12.7

Promote coordination between providers of transportation management services, where possible, to enhance the quality of individual programs.

POLICY 12.8

Encourage the creation of Transportation Management Associations where specific needs are identified and coordination with other similar associations and agencies is pursued.

OBJECTIVE 13

PROMOTE THE DEVELOPMENT OF MARKETING STRATEGIES THAT ENCOURAGE AND FACILITATE THE USE OF TRANSIT AND OTHER ALTERNATIVES TO THE SINGLE-OCCUPANT AUTOMOBILE FOR SHOPPING, RECREATION, CULTURAL AND OTHER NON-WORK TRIPS.

POLICY 13.1

Encourage the use of alternatives to the automobile for all age groups in the advertisement of businesses, recreational and cultural attractions by identifying their proximity to transit facilities and significant landmarks.

POLICY 13.2

Promote the identification of core fixed guideway and regional transit lines, such as BART, Muni Metro, cable car, CalTrain and ferry lines, on maps and literature designed for tourists and visitors.

POLICY 13.3

Use Transit Centers and Visitor Information Centers for the promotion of transit services and the distribution of transit service information.

Transportation Systems Management

OBJECTIVE 14

DEVELOP AND IMPLEMENT A PLAN FOR OPERATIONAL CHANGES AND LAND USE POLICIES THAT WILL MAINTAIN MOBILITY AND SAFETY DESPITE A RISE IN TRAVEL DEMAND THAT COULD OTHERWISE RESULT IN SYSTEM CAPACITY DEFICIENCIES.

POLICY 14.1

Reduce road congestion through the implementation of traffic control strategies, such as signal-light synchronization and turn controls, that improve vehicular flow.

POLICY 14.2

Ensure that traffic signals are timed and phased to emphasize transit, pedestrian, and bicycle traffic as part of a balanced multi-modal transportation system.

POLICY 14.3

Improve transit operation by implementing strategies that facilitate and prioritize transit vehicle movement and loading.

POLICY 14.4

Reduce congestion by encouraging alternatives to the single occupant auto through the reservation of right-of-way and enhancement of other facilities dedicated to multiple modes of transportation.

POLICY 14.5

Encourage the use of alternative fuels for City vehicles, transit vehicles, and, as feasible, any other motor vehicle as a means of reducing toxic automobile emissions and conserving energy.

POLICY 14.6

Reduce peak period congestion through the promotion of flexible work schedules at worksites throughout the City.

POLICY 14.7

Encourage the use of transit and other alternative modes of travel to the private automobile through the positioning of building entrances that prioritize access from these modes.

OBJECTIVE 15

ENCOURAGE ALTERNATIVES TO THE AUTOMOBILE AND REDUCED TRAFFIC LEVELS ON RESIDENTIAL STREETS THAT SUFFER FROM EXCESSIVE TRAFFIC THROUGH THE MANAGEMENT OF TRANSPORTATION SYSTEMS AND FACILITIES.

POLICY 15.1

Discourage excessive automobile traffic on residential streets by incorporating traffic-calming treatments.

POLICY 15.2

Consider partial closure of certain residential streets to automobile traffic where the nature and level of automobile traffic impairs livability and safety, provided that there is an abundance of alternative routes such that the closure will not create undue congestion on parallel streets.

Parking Management

OBJECTIVE 16

DEVELOP AND IMPLEMENT PROGRAMS THAT WILL EFFICIENTLY MANAGE THE SUPPLY OF PARKING AT EMPLOYMENT CENTERS THROUGHOUT THE CITY SO AS TO DISCOURAGE SINGLE-OCCUPANT RIDERSHIP AND ENCOURAGE RIDESHARING, TRANSIT AND OTHER ALTERNATIVES TO THE SINGLE-OCCUPANT AUTOMOBILE.

POLICY 16.1

Reduce parking demand through the provision of comprehensive information that encourages the use of alternative modes of transportation.

POLICY 16.2

Reduce parking demand where parking is subsidized by employers with "cash-out" programs in which the equivalency of the cost of subsidized parking is offered to those employees who do not use the parking facilities.

POLICY 16.3

Reduce parking demand through the provision of incentives for the use of carpools and vanpools at new and existing parking facilities throughout the City.

POLICY 16.4

Manage parking demand through appropriate pricing policies including the use of premium rates near employment centers well-served by transit, walking and bicycling, and progressive rate structures to encourage turnover and the efficient use of parking.

POLICY 16.5

Reduce parking demand through limiting the absolute amount of spaces and prioritizing the spaces for short-term and ride-share uses.

POLICY 16.6

Encourage alternatives to the private automobile by locating public transit access and ride-share vehicle and bicycle parking at more close-in and convenient locations on-site, and by locating parking facilities for single-occupant vehicles more remotely.

OBJECTIVE 17

DEVELOP AND IMPLEMENT PARKING MANAGEMENT PROGRAMS IN THE DOWNTOWN THAT WILL PROVIDE ALTERNATIVES ENCOURAGING THE EFFICIENT USE OF THE AREA'S LIMITED PARKING SUPPLY AND ABUNDANT TRANSIT SERVICES.

POLICY 17.1

Discourage the provision of new long-term parking downtown and near major employment centers.

POLICY 17.2

Encourage collaboration and cooperation between property owners and developers to allow for the most efficient use of existing and new parking facilities.

VEHICLE CIRCULATION

OBJECTIVE 18

ESTABLISH A STREET HIERARCHY SYSTEM IN WHICH THE FUNCTION AND DESIGN OF EACH STREET ARE CONSISTENT WITH THE CHARACTER AND USE OF ADJACENT LAND.

POLICY 18.1

Wherever feasible, divert through automobile and commercial traffic from residential neighborhoods onto major and secondary arterials, and limit major arterials to nonresidential streets wherever possible.

POLICY 18.2

Design streets for a level of traffic that serves, but will not cause a detrimental impact on adjacent land uses.

POLICY 18.3

The existing single-occupant vehicular capacity of the bridges, highways and freeways entering the city should not be increased and should be reduced if needed to increase the capacity for high-occupancy vehicles, transit and other alternative means of commuting, and for the safe and efficient movement of freight trucks.

POLICY 18.4

Discourage high-speed through traffic on local streets in residential areas through traffic "calming" measures that are designed not to disrupt transit service or bicycle movement, including:

- Sidewalk bulbs and widenings at intersections and street entrances;
- Lane off-sets and traffic bumps;
- Narrowed traffic lanes with trees, landscaping and seating areas; and
- colored and/or textured sidewalks and crosswalks.

POLICY 18.5

Mitigate and reduce the impacts of automobile traffic in and around parks and along shoreline recreation areas.

POLICY 18.6

Use the Street Hierarchy System of the Transportation Element as the foundation for any national, state, regional and local network of streets and highways in San Francisco.

OBJECTIVE 19

PROVIDE FOR CONVENIENT MOVEMENT AMONG DISTRICTS IN THE CITY DURING OFF-PEAK TRAVEL PERIODS AND SAFE TRAFFIC MOVEMENT AT ALL TIMES.

POLICY 19.1

Eliminate unnecessary cross traffic conflicts and improve traffic flow along major arterials.

POLICY 19.2

Promote increased traffic safety, with special attention to hazards that could cause personal injury.

MASS TRANSIT

OBJECTIVE 20

GIVE FIRST PRIORITY TO IMPROVING TRANSIT SERVICE THROUGHOUT THE CITY, PROVIDING A CONVENIENT AND EFFICIENT SYSTEM AS A PREFERABLE ALTERNATIVE TO AUTOMOBILE USE.

POLICY 20.1

Give priority to transit vehicles based on a rational classification system of transit preferential streets.

POLICY 20.2

Reduce, relocate or prohibit automobile facility features on transit preferential streets, such as driveways and loading docks, to avoid traffic conflicts and automobile congestion.

POLICY 20.3

Develop transit preferential treatments according to established guidelines.

POLICY 20.4

Develop transit centers according to established guidelines.

POLICY 20.5

Place and maintain all sidewalk elements, including passenger shelters, benches, trees, newsracks, kiosks, toilets, and utilities at appropriate transit stops according to established guidelines.

POLICY 20.6

Provide priority enforcement of parking and traffic regulations on all Transit Preferential Streets.

POLICY 20.7

Encourage ridership and clarify transit routes by means of a city-wide plan for street landscaping, lighting and transit preferential treatments.

POLICY 20.8

Intensify overall transit service in the "central area."

POLICY 20.9

Improve inter-district and intra-district transit service.

POLICY 20.10

Keep fares low enough to obtain consistently high patronage and encourage more off-peak use.

POLICY 20.11

Promote the electrification of bus operation.

POLICY 20.12

Use the Transit Preferential Street network as the foundation for any national, state, regional or local transit street hierarchy system in San Francisco.

OBJECTIVE 21

DEVELOP TRANSIT AS THE PRIMARY MODE OF TRAVEL TO AND FROM DOWNTOWN AND ALL MAJOR ACTIVITY CENTERS WITHIN THE REGION.

POLICY 21.1

Provide transit service from residential areas to major employment centers outside the downtown area.

POLICY 21.2

Where a high level of transit ridership or potential ridership exists along a corridor, existing transit service or technology should be upgraded to attract and accommodate riders.

POLICY 21.3

Make future rail transit extensions in the city compatible with existing BART, CalTrain or Muni rail lines.

POLICY 21.4

Provide for improved connectivity and potential facility expansion where any two fixed-guideway transit corridors connect.

POLICY 21.5

Facilitate and continue ferries and other forms of water-based transportation as an alternative mode of transit between San Francisco and other communities along the Bay, and between points along the waterfront within San Francisco.

POLICY 21.6

Establish frequent and convenient transit service, including water-based transit, to major recreational facilities and provide special service for sports, cultural and other heavily attended events.

POLICY 21.7

Make convenient transfers between transit lines, systems and modes possible by establishing common or closely located terminals for local and regional transit systems and by coordinating fares and schedules.

POLICY 21.8

Bridges and freeways should have exclusive transit lanes where significant transit service is provided by transit.

POLICY 21.9

Improve pedestrian and bicycle access to transit facilities.

POLICY 21.10

Ensure passenger and operator safety in the design and operation of transit vehicles and station facilities.

POLICY 21.11

Ensure the maintenance and efficient operation of the fleet of transit vehicles.

OBJECTIVE 22

DEVELOP AND IMPROVE DEMAND-RESPONSIVE TRANSIT SYSTEMS AS A SUPPLEMENT TO REGULAR TRANSIT SERVICES.

POLICY 22.1

Maintain a taxi service adequate to meet the needs of the city and to keep fares reasonable.

POLICY 22.2

Consider possibilities for supplementary, privately operated transit services.

POLICY 22.3

Guarantee complete and comprehensive transit service and facilities that are accessible to all riders, including those with mobility impairments.

PEDESTRIAN

OBJECTIVE 23

IMPROVE THE CITY'S PEDESTRIAN CIRCULATION SYSTEM TO PROVIDE FOR EFFICIENT, PLEASANT, AND SAFE MOVEMENT.

POLICY 23.1

Provide sufficient pedestrian movement space with a minimum of pedestrian congestion in accordance with a pedestrian street classification system.

POLICY 23.2

Widen sidewalks where intensive commercial, recreational, or institutional activity is present and where residential densities are high.

POLICY 23.3

Maintain a strong presumption against reducing sidewalk widths, eliminating crosswalks and forcing indirect crossings to accommodate automobile traffic.

POLICY 23.4

Tow-away lane approvals should consider existing and potential pedestrian usage and level of service on abutting sidewalks, including the desirability of future sidewalk widening, as well as the needs of transit operation on the street.

POLICY 23.5

Minimize obstructions to through pedestrian movement on sidewalks by maintaining an unobstructed width that allows for passage of people, strollers and wheelchairs.

POLICY 23.6

Ensure convenient and safe pedestrian crossings by minimizing the distance pedestrians must walk to cross a street.

POLICY 23.7

Ensure safe pedestrian crossings at signaled intersections by providing sufficient time for pedestrians to cross streets at a moderate pace.

POLICY 23.8

Support pedestrian needs by incorporating them into regular short-range and long-range planning activities for all city and regional agencies and include pedestrian facility funding in all appropriate funding requests.

POLICY 23.9

Implement the provisions of the Americans with Disabilities Act and the city's curb ramp program to improve pedestrian access for all people.

OBJECTIVE 24

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

POLICY 24.1

Preserve existing historic features such as streetlights and encourage the incorporation of such historic elements in all future streetscape projects.

POLICY 24.2

Maintain and expand the planting of street trees.

POLICY 24.3

Install pedestrian-serving street furniture where appropriate.

POLICY 24.4

Preserve pedestrian-oriented building frontages.

OBJECTIVE 25

DEVELOP A CITYWIDE PEDESTRIAN NETWORK.

POLICY 25.1

Create a citywide pedestrian street classification system.

POLICY 25.2

Utilizing the pedestrian street classification system, develop a citywide pedestrian network that includes streets devoted to or primarily oriented to pedestrian use.

POLICY 25.3

Develop design guidelines for pedestrian improvements in Neighborhood Commercial Districts, Residential Districts, and other pedestrian-oriented areas as indicated by the pedestrian street classification plan.

POLICY 25.4

Maintain a presumption against the use of demand-activated traffic signals on any well-used pedestrian street, and particularly those streets in the Citywide Pedestrian and Neighborhood Networks.

POLICY 25.5

Where intersections are controlled with a left-turn only traffic signal phase for automobile traffic, encourage more efficient use of the phase for pedestrians where safety permits.

POLICY 25.6

Provide enforcement of traffic and parking regulations to ensure pedestrian safety, particularly on streets within the Citywide Pedestrian and Neighborhood Networks.

OBJECTIVE 26

CONSIDER THE SIDEWALK AREA AS AN IMPORTANT ELEMENT IN THE CITYWIDE OPEN SPACE SYSTEM.

POLICY 26.1

Retain streets and alleys not required for traffic, or portions thereof, for through pedestrian circulation and open space use.

POLICY 26.2

Partially or wholly close certain streets not required as traffic carriers for pedestrian use or open space.

POLICY 26.3

Encourage pedestrian serving uses on the sidewalk.

POLICY 26.4

Encourage and support the development of walking tours incorporating signage wherever possible.

BICYCLES

OBJECTIVE 27

ENSURE THAT BICYCLES CAN BE USED SAFELY AND CONVENIENTLY AS A PRIMARY MEANS OF TRANSPORTATION, AS WELL AS FOR RECREATIONAL PURPOSES.

POLICY 27.1

Expand and improve access for bicycles on city streets and develop a well-marked, comprehensive system of bike routes in San Francisco.

POLICY 27.2

Develop a rational classification system of bicycle preferential streets.

POLICY 27.3

Eliminate hazards to bicyclists on city streets.

POLICY 27.4

Maintain a presumption against the use of demand-activated traffic signals on designated bicycle routes.

POLICY 27.5

Make available bicycle route and commuter information and encourage increased use of bicycle transportation.

POLICY 27.6

Accommodate bicycles on regional transit facilities and important regional transportation links wherever feasible.

POLICY 27.7

Include bicycle facility funding in all appropriate requests.

POLICY 27.8

Prevent bicycle accidents through bicycle safety education and improved traffic law enforcement.

POLICY 27.9

Identify and expand recreational bicycling opportunities.

POLICY 27.10

Accommodate bicycles in the design and selection of traffic control facilities.

OBJECTIVE 28

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

POLICY 28.1

Provide secure bicycle parking in new governmental, commercial, and residential developments.

POLICY 28.2

Provide secure bicycle parking at existing city buildings and facilities and encourage it in existing commercial and residential buildings.

POLICY 28.3

Provide parking facilities which are safe, secure, and convenient.

POLICY 28.4

Provide bicycle parking at all transit terminals.

OBJECTIVE 29

CITY GOVERNMENT SHOULD PLAY A LEADERSHIP ROLE IN INCREASING BICYCLE USE.

POLICY 29.1

Consider the needs of bicycling and the improvement of bicycle accommodations in all city decisions and improve accommodation as much as possible.

POLICY 29.2

Integrate bicycle planning into regular short-range and long-range planning activities for all city departments.

POLICY 29.3

Designate appropriate staff to coordinate all bicycle related activities.

POLICY 29.4

Encourage non-cyclists to become cyclists and encourage cyclists to ride more often.

CITYWIDE PARKING

OBJECTIVE 30

ENSURE THAT THE PROVISION OF NEW OR ENLARGED PARKING FACILITIES DOES NOT ADVERSELY AFFECT THE LIVABILITY AND DESIRABILITY OF THE CITY AND ITS VARIOUS NEIGHBORHOODS.

POLICY 30.1

Assure that new or enlarged parking facilities meet need, locational and design criteria.

POLICY 30.2

Discourage the proliferation of surface parking as an interim land use, particularly where sound residential, commercial or industrial buildings would be demolished pending other development.

POLICY 30.3

Maximize the efficient use of land devoted to parking by consolidating adjacent surface lots and garages into a parking structure, possibly containing residential, commercial or other uses.

POLICY 30.4

Restrict long term automobile parking at rapid transit stations in the city in favor of development of effective feeder transit service.

POLICY 30.5

In any large development, allocate a portion of the provided off-street parking spaces for compact automobiles, vanpools, bicycles and motorcycles commensurate with standards that are, at a minimum, representative of their proportion of the city's vehicle population.

POLICY 30.6

Make existing and new accessory parking available to nearby residents and the general public for use as short-term or evening parking when not being utilized by the business or institution to which it is accessory.

POLICY 30.7

Limit and screen from view parking facilities over the water, and near the water's edge where such parking interferes with public access.

OBJECTIVE 31

ESTABLISH PARKING RATES AND OFF-STREET PARKING FARE STRUCTURES TO REFLECT THE FULL COSTS, MONETARY AND ENVIRONMENTAL, OF PARKING IN THE CITY.

POLICY 31.1

Set rates to encourage short-term over long term automobile parking.

POLICY 31.2

Where off-street parking near institutions and in commercial areas outside downtown is in short supply, set parking rates to encourage higher turnover and more efficient use of the parking supply.

POLICY 31.3

Encourage equity between drivers and non-drivers by offering transit fare validations and/or cash-out parking programs where off-street parking is validated or subsidized.

OBJECTIVE 32

LIMIT PARKING IN DOWNTOWN TO HELP ENSURE THAT THE NUMBER OF AUTO TRIPS TO AND FROM DOWNTOWN WILL NOT BE DETRIMENTAL TO THE GROWTH OR AMENITY OF DOWNTOWN.

POLICY 32.1

Discourage new long-term commuter parking spaces for single-occupant automobiles in and around downtown. Limit the long-term parking spaces to the number that already exists.

POLICY 32.2

When it must be provided, locate any new long-term parking structures in the areas peripheral to downtown. Any new peripheral parking structures should be concentrated to make transit service convenient and efficient, connected to transit shuttle service to downtown, and provide preferred space and rates for van and car pool vehicles, bicycles and motorcycles.

POLICY 32.3

Encourage short-term use of existing parking spaces within and adjacent to downtown by converting all-day commuter parking to short-term parking in areas of high demand.

POLICY 32.4

Where residential streets that are adjacent to or within the downtown area are used for on-street, long-term commuter parking, implement measures to promote short-term parking and discourage long-term commuter parking.

POLICY 32.5

When the priority functions of service vehicle access and pedestrian movement are sufficiently accommodated on downtown alleys, the function of remaining alley space should be designated for motorcycle parking, primarily short-term.

OBJECTIVE 33

CONTAIN AND LESSEN THE TRAFFIC AND PARKING IMPACT OF INSTITUTIONS ON SURROUNDING RESIDENTIAL AREAS.

POLICY 33.1

Limit the provision of long-term automobile parking facilities at institutions and encourage such institutions to regulate existing facilities to assure use by short-term clients and visitors.

POLICY 33.2

Protect residential neighborhoods from the parking impacts of nearby traffic generators.

OBJECTIVE 34

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

POLICY 34.1

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

POLICY 34.2

Use existing street space to increase residential parking where off-street facilities are inadequate.

POLICY 34.3

Permit minimal or reduced off-street parking for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

POLICY 34.4

Where parking demand is greatest in city neighborhoods, consider wide-scale transit improvements as an alternative to additional parking garages as part of a balanced solution.

POLICY 34.5

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

OBJECTIVE 35

MEET SHORT-TERM PARKING NEEDS IN NEIGHBORHOOD SHOPPING DISTRICTS CONSISTENT WITH PRESERVATION OF A DESIRABLE ENVIRONMENT FOR PEDESTRIANS AND RESIDENTS.

POLICY 35.1

Provide convenient on-street parking specifically designed to meet the needs of shoppers dependent upon automobiles.

POLICY 35.2

Assure that new neighborhood shopping district parking facilities and other auto-oriented uses meet established guidelines.

URBAN GOODS MOVEMENT

OBJECTIVE 36

PROMOTE FREIGHT DELIVERY/PICKUP TRAFFIC AS NECESSARY FOR THE ECONOMIC VITALITY OF SAN FRANCISCO AND THE BAY REGION.

POLICY 36.1

Support urban goods movement networks in San Francisco, especially in the areas reserved for industrial development and in neighborhood commercial districts.

POLICY 36.2

Coordinate with appropriate governmental agencies to anticipate and accommodate the needs of both local and through freight traffic in future growth areas in San Francisco.

POLICY 36.3

Encourage and facilitate the bicycle as a courier vehicle in congested areas, especially in the downtown area.

OBJECTIVE 37

CREATE A PHYSICAL AND ECONOMIC ENVIRONMENT CONDUCIVE TO THE EXPANSION OF SAN FRANCISCO'S INDUSTRIAL, MARITIME, AND AIRPORT ACTIVITIES BY ENSURING TRUCK/SERVICE VEHICLE AND RAIL ACCESS AND EGRESS TO THESE USES.

POLICY 37.1

Provide sufficient curbside and off-street facilities to rail, piers and air terminals where freight movement is dominant, and particularly where it conflicts with other transportation modes and functions.

POLICY 37.2

Improve and maintain intermodal rail freight handling capacity to the Port and other industrial areas by improving bridges and tunnels along the waterfront to accommodate all types of freight rail cargo.

POLICY 37.3

Enhance access and circulation between highways, freight facilities and intermodal transfer points on the waterfront for trucks and other service vehicles.

POLICY 37.4

Promote water-based transportation such as freight ferries and waterfront shuttles between San Francisco and other waterfront terminals around the Bay to supplement land-based modes of freight travel.

OBJECTIVE 38

DEVELOP AND MAINTAIN SELECTED MAJOR AND SECONDARY ARTERIALS TO PROVIDE EFFICIENT AND DIRECT ROUTES FOR TRUCKS/SERVICE VEHICLES INTO AND THROUGH SAN FRANCISCO WITHOUT DISTURBING NEIGHBORHOOD AREAS AND INHIBITING THE SAFE MOVEMENT OF TRANSIT VEHICLES, BICYCLES AND PEDESTRIANS.

POLICY 38.1

Improve the existing regional network of truck routes by making designated routes in San Francisco convenient for non-local freight trips with the aim of making the routes direct and connected to other routes.

POLICY 38.2

Reduce unnecessary truck trips through San Francisco and out-of-direction circulation movements by promoting viable alternate truck routes and access across bay bridges that are not as subject to traffic congestion as the Bay Bridge and the Golden Gate Bridge.

OBJECTIVE 39

MAKE FREEWAY AND MAJOR SURFACE STREET IMPROVEMENTS TO ACCOMMODATE AND ENCOURAGE TRUCK/SERVICE VEHICLE TRAFFIC IN INDUSTRIAL AREAS AWAY FROM RESIDENTIAL NEIGHBORHOODS.

POLICY 39.1

Establish and maintain advisory truck routes, with clear signage, between industrial areas and freeway interchanges to enhance truck access and to clearly and visibly attract truck traffic away from residential neighborhoods.

POLICY 39.2

Accommodate heavy vehicles with extra-legal loads on major truck routes by ensuring vertical clearances, appropriate intersection design for maneuvering and providing signal timing to allow smooth truck progression.

POLICY 39.3

Implement measures to reduce adverse affects from trucks/service vehicles and rail traffic by enforcing restrictions on certain routes, specific areas or times of day.

OBJECTIVE 40

ENFORCE A PARKING AND LOADING STRATEGY FOR FREIGHT DISTRIBUTION TO REDUCE CONGESTION AFFECTING OTHER VEHICULAR TRAFFIC AND ADVERSE IMPACTS ON PEDESTRIAN CIRCULATION.

POLICY 40.1

Provide off-street facilities for freight loading and service vehicles on the site of new buildings sufficient to meet the demands generated by the intended uses. Seek opportunities to create new off-street loading facilities for existing buildings.

POLICY 40.2

Discourage access to off-street freight loading and service vehicle facilities from transit preferential streets, or pedestrian-oriented streets and alleys by providing alternative access routes to facilities.

POLICY 40.3

Off-street loading facilities and spaces in the downtown area should be enclosed and accessible by private driveways designed to minimize conflicts with pedestrian, transit and automobile traffic.

POLICY 40.4

Driveways and curb cuts should be designed to avoid maneuvering on sidewalks or in street traffic, but when crossing sidewalks they should be only as wide as necessary to accomplish this function.

POLICY 40.5

Loading docks and freight elevators should be located conveniently and sized sufficiently to maximize the efficiency of loading and unloading activity.

POLICY 40.6

Encourage consolidation of freight deliveries and night-time deliveries in the downtown C-3 zoning districts to increase efficiency of freight movement and reduce congestion.

POLICY 40.7

Strictly enforce yellow and special truck loading zones throughout San Francisco to facilitate delivery/pickups and reduce traffic congestion caused by double-parking.

POLICY 40.8

Provide limited curbside loading spaces to meet the need for short-term courier deliveries/pickup.

POLICY 40.9

Where possible, mitigate of the undesirable effects of noise, vibration and emission by limiting late evening and early hour loading and unloading in retail, institutional, and industrial facilities abutting residential neighborhoods.

Exhibit 2

Planning Department April 22, 2004 Memo to Planning Commission



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER (415) 558-6378	DIRECTOR'S OFFICE PHONE: 558-6411 4TH FLOOR FAX: 558-6426	ZONING ADMINISTRATOR PHONE: 558-6350 5TH FLOOR FAX: 558-6409	PLANNING INFORMATION PHONE: 558-6377 MAJOR ENVIRONMENTAL FAX: 558-5991	COMMISSION CALENDAR INFO: 558-6422 INTERNET WEB SITE WWW.SFGOV.ORG/PLANNING
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MEMORANDUM

TO: Members of San Francisco Planning Commission
Members of Peninsula Corridor Joint Powers Board

FROM: Joan A. Kugler\City Planning-MEA

DATE: April 22, 2004

SUBJECT: Transbay Certification – Responses to 80 Natoma Letter

The following is text of responses to the 80 Natoma letter that I will summarize in my verbal staff report:

Meyers Development Company (Jack E. Meyers) Environmental document seriously flawed and should be revised and recirculated. Linda Avery e-mailed this letter and attachments to the Commission on Monday April 19th.

The commentor believes that the EIS/EIR is inadequate in three major areas.

1) Document doesn't describe their project therefore the environmental setting is improperly described and is legally deficient.

The CEQA Guidelines as contained in California Code of Regulation detail how to implement CEQA and in a number sections (15002, 15060 (c)(2), 15064 (d), 15125 (a) 15126.2, and 15131 (a)) particularly 15125 (a) when describing the environmental setting as a part of the contents of EIRs says "An EIR must include a description of the physical environmental conditions in the vicinity of the project as they exist at the time of the Notice of Preparation (in our case March 16, 2001) is published." The guidelines go on to state "The environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." As the 80 Natoma project does not physically exist even today, the EIR following the CEQA Guidelines rightly evaluated the existing physical conditions at a vacant site.

Projects that are proposed and/or entitled but not constructed are contained within the regional growth projections formulated by MTC and ABAG which are used for the baseline and cumulative analysis. CEQA recognizes two methods for analyzing cumulative impacts: one is the list-based approach where a list is created of past, present and reasonably foreseeable projects and the other is projections based. The FEIS/EIR explains this difference on page 7-7. In this

case we prepared a joint EIS and a CEQA-based EIR and the Federal Transportation Administration guidelines require that regional growth projections from the metropolitan planning organization (MTC in this case) be used for this analytical purpose. Consequently, 80 Natoma, as well as many other projects yet unconstructed, were taken into account in the regional projections.

2) Document is silent with respect to the loss of both market and affordable housing inventory; therefore fails to describe significant environmental impacts.

The 80 Natoma project is not in physical existence therefore no housing exists to be lost. As mentioned before CEQA deals with the physical environment. Chapter 5 Section 2 of the EIS/EIR is the section on Displacements and Relocation and in that section the 80 Natoma site is listed as a potential property acquisition (table 5.2.1). However, on table 5.2-5 (pg.5-33) where the residential displacement is listed the document correctly catalogues all existing housing that would be lost. Because the 80 Natoma site does not currently contain any housing, but rather is vacant, the EIS/EIR properly analyzed the proposed project's impacts on the site.

3) Document fails to discuss a feasible mitigation measure proposed by them which would allow both projects to proceed and would preserve a number of historic resources that would otherwise be demolished.

The proposal mentioned has not yet been determined as feasible by the engineering and operations staff. It is an idea that has been proposed and is still conceptual in nature. It may or may not meet the project sponsor's goals on the engineering and design criteria. These issues are still being explored but haven't been proven feasible yet. there will be continuing meetings between the two parties and if at some time in the future a feasible proposal is arrived at, it would undergo further environmental evaluation and analysis as necessary.

The letter in claiming a need for recirculation looked specifically at the areas of:

Land Use – No reference to loss of 423 housing units; clearly a land use impact; identification as a property to be acquired does not disclose land use effect.

As mentioned above the 423 residential units do not exist and the CEQA Guidelines direct us to look at the physical environmental setting when determining whether an impact is significant or not (Section 15125(a)). Therefore, it is not a flaw in the EIR to not disclose a project that has yet to be constructed and occupied. The EIS/EIR text clearly listed on page 5-22 (table 5.2-1) the 80 Natoma site as a potential acquisition and analyzed it as such.

Visual and Aesthetic impacts – Document makes no mention of the potential for visual effects that could occur with relocation of the terminal about 150 feet to the west. New text says that the west ramps would be in the same foot print.

The proposal to move the terminal was as a result of public comment and was evaluated as a part of the responses to comments. (see page 49 of the C&R document) The team evaluated it and found that the proposal would open views to the east, not bridge over Beale St. creating a lesser visual effect in that area, would reduce project costs, have no apparent loss to terminal utility and have no significant change in significant project impacts.

As to the "same foot print" text, the alignment does follow the same alignment from Harrison Street to Howard St. a distance of about 1,150 feet but does veer off the existing alignment from Howard to Natoma Streets a distance of slightly less than 200 feet as shown in the figures 2.2-1, 2.2-4 and Fig. 5.16-3. To be more absolutely correct, the text should probably have read "would be constructed in substantially the same footprint as the existing west loop ramp." However, this minor technical wordage change -- it does not change the results of the analysis nor does it reach the level of effect to cause a recirculation of the EIS/EIR.

Alternatives – Description of the Alternatives does not include their proposal which could avoid the need to acquire 80 Natoma and associated loss of the proposed 423 residential units and demolition of a historic building at Second and Howard.

As noted above under the response to item no. 2, the proposal called an alternative here, has not yet been determined as feasible by the TJPA engineering and operations staff and consultants. It is an idea that has been proposed and is still conceptual in nature. It does not appear meet the project sponsor's goals on the engineering and design criteria. These issues are still being explored but haven't been proven feasible yet. there will be continuing meetings between the two parties and if at some time in the future a feasible proposal is arrived at, it would undergo further environmental evaluation and analysis as necessary.

CEQA states that a EIR should look at a reasonable range of alternatives and that is what the document does in Chapter 2 Description of the Project Alternatives including a section (Section 2.3.2) on alternatives that were considered and withdrawn because engineering or operational constraints or the inability to meet the purpose and need. In addition, the comments and responses document reviewed, analyzed, and ultimately rejected as infeasible, alternatives proposed by members of the public during the public comment period. It also should be noted that the proposals set forth by the Meyers Development were first presented in February and March of this year – more than one year after the close of the public comment period. As with any submission by the public shortly before the proposed certification date for an EIR, it is difficult to provide the same level of critical analysis for such late submissions as we do for public comments submitted during the legally recognized public comment period. It is for this reason that we always urge public commentators to participate in the public hearing and comment process that the City follows under CEQA and its own Chapter 31.

Noise Impacts – The final EIS/EIR includes new significant noise impacts and new mitigation measures (noise wall) but no analysis of potential impact of new mitigation.

The potential for noise at the proposed bus storage facility and the mitigation of the noise barrier wall is not a new impact or mitigation. The Draft EIS/EIR that was released in October of 2002 acknowledged that noise would be generated by operations at the bus storage facilities beneath the freeway and that those noise levels could be mitigated by construction of a sound wall along a portion of the bus storage facility (Sections 5.8.6 and 5.8.7). Comments from the public during the public review of the Draft EIS/EIR requested additional information on this impact. A supplemental noise assessment was preformed using bus source noise levels and noise projection methodology from the FTA noise guidance manual. This expanded information was presented in the comments and responses document beginning on page 76 and led to an expansion of the text in Final EIS/EIR (Sections 5.8.6 and 5.8.7). This additional study allowed the mitigation of the



Attachment B
Appeal Letters



Duane Morris

FIRM and AFFILIATE OFFICES

OLIVER L. HOLMES
DIRECT DIAL: 415-371-2225
E-MAIL: olholmes@duanemorris.com

www.duanemorris.com

May 10, 2004

VIA HAND DELIVERY

Ms. Gloria L. Young
Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102-4689

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HARRISBURG
BANGOR
PRINCETON
PALM BEACH
WESTCHESTER

Re: Appeal of the April 2004 action of the City sponsoring agencies' certification of the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project EIS/EIR

Dear Ms. Young,

On behalf of individuals and entities who will be impacted by the Transbay Terminal project we are filing this appeal of the certification by the San Francisco Redevelopment Agency, Planning Commission, and other agencies of the EIS/EIR for the Transbay Terminal Redevelopment project. We support the goals and purposes of the Transbay Terminal/Caltrain Downtown Extension/ Redevelopment Project. In particular, we encourage the City and other local agencies to continue their efforts to develop a project that will provide a modern Transbay Terminal which will improve public transit services; reduce non-transit vehicle usage; and alleviate blight in the area of the existing Transbay Terminal. We urge, however, that in seeking to accomplish these purposes, the City also ensure it has reasonably complied with the California Environmental Quality Act (CEQA) and other land use laws. We believe that this final EIS/EIR is inadequate and inaccurate for the following reasons:

- The EIS/EIR fails to consider a reasonable range of alternatives, including what appear to be superior alternative proposals for use of the existing site. CEQA requires an EIR to describe "a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." Pub. Resources Code §21100. CEQA Guidelines §15126.6. In this EIR, the Redevelopment Agency, Planning Commission, and other sponsoring agencies failed to consider any other feasible locations for the terminal building including other alternative sites that are in direct proximity to, and overlap, the existing site, despite evidence that these alternatives are environmentally preferable and considerably less costly. In responding to similar comments on the draft EIS/EIR, the project sponsors initially contended that local ordinances and agreements required the

Issue 1

City to use essentially the same footprint as the existing terminal, even though the overall site for the existing terminal and associated ramps is large and there are many options for locating the terminal at the present site. Having recently encountered obstacles to the use of the current terminal footprint, project sponsors are now contending they can move the terminal location beyond the original footprint of the existing terminal. Apparently, project sponsors no longer believe that they are constrained to stay within the existing footprint, yet, with no justification, the EIS/EIR fails to examine any alternative to the pre-determined location of the original terminal.

- Issue 2
- The EIS/EIR also fails to examine design alternatives for the proposed terminal building and alternatives for rail access to the terminal. The only two alternatives set forth for terminal design explore alternative configurations for the bus ramps, but fail to explore any alternatives for pedestrian circulation, or building size, height, and configuration. Altering any of these aspects would directly impact the costs of the terminal building and could result in reductions not only in capital costs and traffic disruption, but also provide aesthetic and noise improvements and a possible reduction in dislocations of residents and businesses in the area. Alternative planning for rail access could also reduce construction impacts and project related street closures, particularly closures along Second, Townsend, and Mission Street. Moreover, use of a rail tunnel rather than cut and cover construction along Second Street would (1) greatly reduce the number of properties which must be condemned, and (2) avoid the significant long term disruption of traffic and displacement of residents and businesses over the entire length of Second Street. An EIR must produce information sufficient to permit a reasonable choice of alternatives, and in this EIS/EIR the agencies have failed to set forth any analysis to assist in fostering informed decision-making or public participation with respect to the environmental consequences of the terminal design and other feasible alternatives.

- Issue 4
- The EIS/EIR has too narrowly defined the project under review – an error which has in part resulted in the inadequate examination and treatment of alternatives and mitigation measures. The project is described as a new, multi-modal Transbay terminal on the site of the present Transbay Terminal. Read generally, this project description should not dictate a particular building design, and should not, viewed broadly, restrict the use of proximate and overlapping properties. It is clear, however, that the project sponsors have limited themselves to an unduly narrow, restrictive interpretation in preparing the analysis in the EIS/EIR. This has improperly preordained both the terminal location and the terminal design without any detailed analysis of the environmental consequences of this decision in violation of the mandates of both CEQA and NEPA. *See e.g.*, CEQA Guidelines §15124, 15126.6(b).

- Issue 5
- By predetermining the location of the terminal and terminal design, the City agencies have irreversibly and irretrievably committed resources in advance of conducting a

Ms. Gloria L. Young
May 10, 2004
Page 3

full analysis of the impacts in violation of CEQA and NEPA and State and federal implementing regulations.

- Issue 6
- The EIS/EIR fails to adequately evaluate possible conflicts between the proposed action and the objectives of regional and local government in violation of CEQA Guideline §15183. The EIS/EIR does not adequately disclose existing inconsistencies with area plans and zoning for the area. Instead, the document simply assumes that City officials will alter the relevant planning documents to permit the identified project design. At worst, this completely abdicates the City's responsibility to examine the consequences of changing the applicable plans. At best, assuming the examination will be undertaken at a later date, it improperly piecemeals the analysis.

We support the City's objective of improving public access to bus and rail services and reducing non-transit vehicle usage and join in the important local and regional goal of having a more modern, effective Transbay Terminal. We believe, however, that this can be accomplished efficiently and expeditiously only through a thorough and legally sufficient environmental review process. Federal and state laws and regulations require the consideration of all viable alternatives to a project prior to approval. These laws and regulations were developed to ensure that agencies fully evaluate the environmental consequences of decisions and provide information to the public of those consequences before resources have been irreversibly committed and decisions cannot be changed.

We urge the City, in cooperation with local project sponsors, to fully explore alternatives that will accomplish the goals of the Transbay Terminal project with the least impact to the environment. These alternatives should include the use of the Main/Beale location for the terminal previously approved by the Board of Supervisors, as well as any other proximate locations which will reduce the need for property acquisitions or land use conflicts in the area and ensure that impacts to traffic and roads in the area are minimized. We request that the Board of Supervisors refer this EIS/EIR back to the agencies to ensure that their CEQA obligations are met.

We appreciate your willingness to consider our appeal of the document and look forward to future discussions with City officials in order to produce an adequate analysis of this project.

Sincerely,



Oliver L. Holmes

OLH/bam
SF55522.1

cc: Environmental Review Officer



May 10, 2004

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VIA HAND DELIVERY

The Honorable Matt Gonzalez, President
and Members of the Board of Supervisors
City and County of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

**Re: Appeal of Planning Commission Certification of the
Transbay Terminal/CalTrain Downtown
Extension/Redevelopment Project Final EIS/EIR**

Dear President Gonzalez and Supervisors:

We are writing on behalf of Myers Natoma Venture, LLC, owner of the 80 Natoma property, and Myers Development Company (collectively, "MDC"). As you are aware, we and our client have submitted extensive correspondence regarding the certification of the Transbay Terminal/CalTrain Downtown Extension/Redevelopment Project's Final Environmental Impact Statement/Environmental Impact Report (collectively, "Transbay EIS/EIR"). This correspondence has provided detailed background on the 80 Natoma site's ("80 Natoma Project") entitlement history as well as background concerning MDC's efforts to work with the Transbay Joint Powers Authority ("TJPA") to achieve a viable solution that would accommodate both projects. Letters, dated April 16, 2004 and May 3, 2004, are attached for your ease of reference.

MDC has always been committed to supporting a plan to develop a new Transbay Terminal. MDC also strongly believes that there is a feasible alternate alignment of the proposed track routing and Terminal configuration that would allow both projects to proceed. With that end in mind, MDC continues to work with TJPA staff, under the auspices of Mayor Newsom, to reach a mutually acceptable solution. If, in the near term, a resolution is achieved, the fundamental flaws in the Transbay EIS/EIR, identified below, will be largely ameliorated, making a hearing on this appeal unnecessary.

However, because an acceptable outcome remains as yet uncertain, we are submitting this appeal of both the Planning Commission's and the Redevelopment Agency's certification of the Transbay EIS/EIR in order to preserve our client's legal rights. As you are

The Honorable Matt Gonzalez, President
and Members of the Board of Supervisors
May 10, 2004
Page Two

undoubtedly aware, should we fail to pursue an appeal, the doctrine of exhaustion of administrative remedies would preclude us from pursuing our client's legal remedies regarding the inadequacy of the EIR. The Administrative Code specifically addresses only the appeal of the Planning Commission's certification of the EIR. However, the Redevelopment Commission specifically tied its certification of the EIR to the Planning Commission's certification action. Consequently, if the EIR is determined to be inadequate under CEQA, this would have the effect of invalidating the Redevelopment Agency's certification as well.

I. Legal Standards For Adequacy of an EIR

A. San Francisco Administrative Code

Pursuant to the San Francisco Administrative Code, the grounds for appeal are limited to issues related to the adequacy, accuracy and objectiveness of the final EIR, including the sufficiency of the final EIR as an informational document and the correctness of its conclusions, and the correctness of the findings contained in the certification of the EIR. (Section 31.16(a)(1)). Furthermore, the Board shall conduct its own independent review of the final EIR and consider de novo all facts, evidence and/or issues related to the adequacy, accuracy and objectivity of the final EIR. (Section 31.16(c)).

B. California Environmental Quality Act ("CEQA")

The EIR is the heart and soul of CEQA. (*Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App. 4th 892, 910). The EIR "protects not only the environment, but also informed self-government." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564). The validity of an EIR depends in large part on whether it provides information sufficient to allow decision-makers and the public to understand the nature and environmental consequences of the project. (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 356).

Further, pursuant to the CEQA Guidelines, an EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information, which enables them to make decisions based on intelligent consideration of a project's environmental consequences. (Guidelines § 15151). Therefore, while an EIR need not be exhaustive or perfect, CEQA requires adequacy, completeness and a good faith effort at full disclosure. (Guidelines §§ 15003(i) and 15151).

Here, the Transbay EIS/EIR's failure to discuss the fully-entitled 80 Natoma Project and the Transbay Terminal Project's impacts on the 80 Natoma Project undermines its adequacy as an informative document and makes it fundamentally flawed under CEQA. Therefore, the certification of the Transbay EIS/EIR materially violated both the letter and spirit of CEQA.

II. Grounds for Appeal

The basis for this appeal rests on four interrelated deficiencies in the Transbay EIR/EIS:

Issue 7

- The document does not describe the 80 Natoma Project in any way. Consequently, **the environmental setting is improperly described;**
 - For example, the "Affected Environment" discussion in the Transbay EIS/EIR includes a description of a variety of approved but unbuilt projects in the vicinity of the new Transbay Terminal, including height and numbers of units, while the 80 Natoma Project is not specifically described. The only possible vague reference to 80 Natoma may be the statement, "[R]ecently completed residential projects include 370 Beale Street and a residential tower on Natoma Street near Second Street." (EIR on p. 4-8.) Of course, the 80 Natoma Project is not "recently completed" so it is unclear if this statement is even intended to refer to 80 Natoma.
 - Later in the document, the list of properties to be acquired includes "78-80 Natoma" (EIR on p. 5-22) with no reference to the fact that there is a fully-entitled residential project (or any project) on that site.

Issue 8

- As a result, the document is entirely silent with respect to the impact of the Transbay Terminal Project on the 80 Natoma Project, including, specifically, the loss of much-needed market and affordable housing inventory to the City of a total of 423 units, of which 43 would be affordable. Therefore, **the document fails to describe such loss of housing and other significant environmental impacts;**

- The 80 Natoma Project is not referenced in any way in Section 4.1.3.2, "Transbay Terminal Environs," despite the fact that other projects are described which would not be affected to the degree that 80 Natoma would be. Moreover, reference to the 80 Natoma Project was omitted despite the fact that TJPA and the City staff were on specific notice that the 80 Natoma Project was proceeding, months before the final EIS/EIR was published.

Issue 9

- Although the EIR identified that the Terminal Project would require acquisition of the 80 Natoma Property, no comment with respect to the loss of the housing that 80 Natoma will provide ignores economic and social effects

that would result in the City's acquisition of 80 Natoma. Such economic and social impacts would require that this acquisition be considered a significant environmental impact;

Issue 9
(CONT.)

- For example, the Socio-Economic Impact discussion lists as a project impact the loss of up to 60 existing housing units due to the CalTrain Downtown Extension. However, it makes no reference to the loss of 423 residential units at 80 Natoma, which are fully entitled and would be completed long before construction would begin on the new Transbay Terminal or associated rail lines.

Issue 13

- The document fails to discuss a feasible mitigation measure, a slightly different alternate track alignment that had been presented to the City and TJPA prior to publication of the Transbay EIS/EIR, which could allow both projects to proceed.

III. Conclusion

On April 16, 2004, MDC requested that the Transbay EIS/EIR be modified to account for the foregoing information about the 80 Natoma Project and that the document be re-circulated. Nevertheless, the Final EIS/EIR was certified by the San Francisco Redevelopment Commission on April 20th and at a joint session of the San Francisco Planning Commission and the Peninsula Corridor Joint Powers Board on April 22nd. These agencies have taken an improper position that despite clear evidence that the 80 Natoma Project is under construction, the Transbay EIS/EIR need not address the impact of the Transbay Terminal on the 423 units of housing being built at 80 Natoma. Therefore, based on these significant environmental issues, we submit this appeal of the Planning Commission's (and Redevelopment Commission's) certification of the Transbay EIS/EIR.

In closing, however, we would like to underscore MDC's ongoing commitment to work with TJPA staff to achieve a mutually acceptable solution. We believe that genuine progress is being made in this regard and, therefore, submit this appeal in order to preserve our client's legal rights.

The Honorable Matt Gonzalez, President
and Members of the Board of Supervisors
May 10, 2004
Page Five

Thank you for your consideration.

Sincerely,



Timothy A. Testa

cc: Gloria L. Young, Clerk of the Board of Supervisors
Maria Ayerdi, Executive Director, TJPA
Mike Nevin, Chair, TJPA
Mayor Gavin Newsom
Joan Kugler, Planning Department

17529:6388159.2



MYERS DEVELOPMENT COMPANY

April 16, 2004

Mr. Ramon Romero, President
and Members of the Commission
San Francisco Redevelopment Agency Commission
770 Golden Gate Avenue
San Francisco, CA 94102

Ms. Shelley Bradford Bell, President
and Members of the Planning Commission
San Francisco Planning Commission
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Mr. Mike Nevin, Chairman
and Members of the Board of Directors
Transbay Joint Powers Authority
201 Mission Street, Suite 1960
San Francisco, California 94105

**Re: Grounds for Recirculation of the *Transbay Terminal/ CalTrain Downtown Extension /
Redevelopment Project* Final "EIS/EIR"**

Dear Members,

I already have had the opportunity to meet with many of you to review both our company's development record and to discuss, in some detail, our plans for 80 Natoma Street...now called Hemisphere. For those of you that are still unfamiliar with our development, I would like to introduce you to Hemisphere and share with you the importance of this project.

I hope you will agree after reviewing the enclosed drawings and diagrams, Hemisphere is a residential project of which San Francisco can be proud. (See Attachment A) It brings 423 residential housing units, including 42 affordable units, to the Transbay Terminal redevelopment area. In fact, in the near term, Hemisphere will serve as an important catalyst for development of the Transbay Terminal Master Plan – an **Intermodal Hub, High Density Residential, Office and Retail** development.

While I am pleased to announce that we have received full funding for Hemisphere's Development and have expended over \$50,000,000 since doing so, we have had significant difficulty trying to align our site's existing vested entitlements and the Transbay Joint Power

April 16, 2004

Grounds for Recirculation of the Transbay Terminal/ CalTrain Downtown Extension / Redevelopment Project Final
"EIS/EIR"

Page 2 of 2

Authority's ("TJPA") vision for the Transbay Terminal. We see no reason for a conflict to exist but, in fact, it does.

Because the very nature of the environmental review process requires that I must speak now or forever hold my peace, I reluctantly bring this matter to your attention.

Amazingly, the Transbay Terminal design team has been directed to incorporate our site within the Transbay Terminal plan. They have done so by engineering a rail alignment directly through our site and UNDER our building - in spite of the fact that:

- Our site was fully entitled in 1991;
- These entitlements have been properly vested and maintained;
- In anticipation of development, all City Impact Fees have been fully paid¹;
- Transbay Terminal staff has consistently been kept informed of our intent to construct Hemisphere, and importantly;
- Construction activities have now commenced and continue in earnest.

When we learned of the new rail alignment concept, we immediately addressed this issue as a problem that could be resolved. Since then, we have found alternative alignments. Up to now, our efforts to define a win/win solution [both developments proceeding] have been thwarted or ignored altogether. Currently however, new efforts are underway to have genuine discussions about this matter.

The environmental document under consideration by you indicates that the Transbay Terminal project, as currently envisioned, now requires the acquisition of our site. That is simply not a desirable outcome for either the City or us.

Regarding the adequacy of the EIS / EIR, we are concerned on three levels:

- 1.) The document simply does not describe our project in any way. Consequently, the environmental setting is improperly described, a legal deficiency;
- 2.) As a result, the document is totally silent with respect to the loss of both market and affordable housing inventory to the City. Therefore, the document fails to describe significant environmental impacts - a second legal deficiency; and finally,

¹ School fees, building and filing fees paid to the City have totaled in excess of \$1 million.

April 16, 2004

Grounds for Recirculation of the Transbay Terminal/ CalTrain Downtown Extension / Redevelopment Project Final
"EIS/EIR"

Page 3 of 3

- 3.) The document fails to discuss a feasible mitigation measure proposed by us, a minor track realignment, which not only could allow both projects to proceed – all to greater benefit the City as a whole, but would preserve a number of historical structures presently slated for demolition. The failure to identify such a feasible mitigation measure is the third obvious legal deficiency.

Moreover, in the unlikely event that a win/win scenario is not achieved, we do not believe there are adequate dollars available to make an acquisition of the 80 Natoma property at fair market value. We consider this a significant and relevant issue that really has not been adequately taken into consideration.

Therefore, we request that the Final EIS/EIR document be modified to account for the foregoing and that the document be re-circulated. In this way, interested or affected parties will have a genuine opportunity to gain the perspective they need to make informed decisions.

While our company has been working with dogged determination to find more productive means to deal with this matter, the time has now come to ask you to consider the following information that, remarkably and regretfully, has been omitted in the Transbay Terminal/CalTrain Downtown Extension / Redevelopment Project Final EIS/EIR.

As you know, the California Environmental Quality Act ("CEQA") Guidelines Section 15088.5, stipulates that when significant new information is revealed that identifies:

- New or substantially more severe impacts; or
- Identifies new alternatives or mitigation measures - considerably different from those already analyzed that would clearly lessen significant impacts; then,
- Recirculation is required to obtain public comment before certification of an EIR can be completed.²

Please consider the following:

Land Use Impact:

Section 5.1 makes no reference to the loss of over **423 fully entitled** residential units at 80 Natoma Street, including 42 affordable residential units, for which permits have been issued and construction is underway. This clearly is a land use impact resulting from the refined project. The mere identification of 80 Natoma Street as one of the properties to be acquired for construction of the Transbay Terminal does not disclose the land use effects of the acquisition. (5-22).

² All page number references herein are to the Final EIS/EIR Volume I unless otherwise indicated

Further, the City, represented in writing by Maria Ayerdi, has gone on record twice as intending not to either interfere with the land or development of the 80 Natoma Street property, or to delay or otherwise hinder the development of that site. (See Attachment B)

While the 78-80 Natoma Street property was identified in the Draft EIS/EIR as a property needed to be acquired for construction of the below grade tracks for the CalTrain Extension component of the project, full and proper disclosure is not made to you, the decision-makers, that this acquisition will prevent construction of fully entitled, vested and financed residential units on the site. Further, the City has clearly articulated its intention to allow development to occur as entitled. Therefore, the revisions to the Transbay Terminal component that relocated the terminal 150 feet west to obliterate the 80 Natoma site, would have **different and significant impacts that are not identified in the Final EIS/EIR.**

□ **Visual and Aesthetic Impacts:**

Section 5.16 not only fails to support a determination that the relocated Terminal structure would not affect the Project's environmental impacts, **it makes no mention at all of the potential for visual effects that could occur as a result of relocating the Terminal 150 feet to the west.** Section 5.16.2 merely inserts a phrase indicating that the proposed Terminal building would be approximately 150 feet to the west with no additional evaluation. (5-122).

The discussion of Changes to Scenic Views or Vistas adds one sentence indicating that the east loop ramp would be removed, opening views to the east, but states in the second (and last) new sentence that new elevated ramps on the west side would be constructed in the same footprint as the existing west loop ramp. (5-118). **This new text provides no discussion of the effects of the relocated Terminal building and misrepresents the description of the west ramps.** Thus, the public is not informed as to whether or how aesthetic conditions would change as a result of the refined project.

□ **Alternatives:**

The description of Alternatives fails to include or analyze specific new alternative alignments for the Transbay Terminal and the CalTrain tracks submitted by interested parties that appear to be feasible and that would avoid the need for acquisition of 80 Natoma Street. Such alternative alignments could also avoid the land use impact of a net loss of 423 residential units, including 42 affordable units, and **avoid the need to demolish or otherwise impact several acknowledged historic buildings in the Second and Howard Streets Historic District.**

□ **Noise Impacts**

The Final EIS/EIR:

April 16, 2004

Grounds for Recirculation of the Transbay Terminal/ CalTrain Downtown Extension / Redevelopment Project Final
"EIS/EIR"

Page 5 of 5

- 1.) Includes noise impacts that would result if the proposed bus storage facility were approved and constructed;
- 2.) Identifies new significant noise impacts; and,
- 3.) Lists new mitigation measures to reduce the impacts to less-than-significant levels without indicating anywhere whether the mitigation measures are included in the project, thus requiring recirculation for public comment on the new measure. (5-72-74).
- 4.) Fails to discuss potential significant impacts of the new mitigation measure. *For example, one mitigation measure includes 10-12 foot tall noise barriers, but has no accompanying analysis of such barrier's potential visual impact as required by CEQA. Therefore, while the absence of such mitigation measures would result in a new significant and unavoidable noise impact, their inclusion requires at minimum an analysis of their potential visual impacts.*

□ **Building Heights:**

The Draft EIS/EIR contemplated new development in the Transbay Redevelopment Area with heights up to 400 feet, while the Final EIS/EIR describes a plan for buildings up to 550 feet tall. (5-5) The additional discussion provided does not adequately address the potential new impacts on wind, shadow and visual resources.

Accordingly, Myers Development Company is seeking, on behalf of Myers Natoma Venture, LLC³ your close examination of these facts, as they are material in nature. I trust that you will find merit in the argument that the Transbay Terminal / CalTrain Downtown Extension / Redevelopment Project Final EIS/EIR is seriously flawed and must be revised AND re-circulated.

Thank you for your consideration.

Sincerely,

MYERS DEVELOPMENT COMPANY



Jack E. Myers
Chairman & Chief Executive Officer

³ Myers Natoma Venture, LLC is the owner and sponsor for the Hemisphere condominium development located at 80 Natoma Street. The project is under construction at a total development cost of \$188,000,000 with independent Bank Construction Loan appraisal values of \$268,700,000. Costs incurred to date are in excess of \$54,000,000

April 16, 2004
Grounds for Recirculation of the Transbay Terminal/ CalTrain Downtown Extension / Redevelopment Project Final
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cc: Honorable Gavin Newsom, City and County of San Francisco
Honorable Matt Gonzalez, City and County of San Francisco
Maria Ayerdi, Transbay Joint Powers Authority
Leslie T. Rogers, U.S. Department of Transportation
Joan Kugler, City and County of San Francisco
Michael J. Scanlon, Peninsula Corridor Joint Powers Board



May 3, 2004

17529

Leslie T. Rogers
Region IX Administrator
Federal Transit Administration
U.S. Department of Transportation
201 Mission Street, Suite 2210
San Francisco, CA 94105

**Re: Transbay Terminal/CalTrain Downtown Extension
Redevelopment Project Final Environmental Impact
Statement/Environmental Impact Report**

Dear Ms. Rogers:

On behalf of Myers Natoma Venture, LLC ("MNV"), owner of the 80 Natoma property adjacent to the current Transbay Terminal site, and Myers Development Company ("MDC"), we are writing to set forth comments on the Transbay Terminal/CalTrain Development Downtown Extension/Redevelopment Project's Final Environmental Impact Statement/Environmental Impact Report (collectively referred to as the "Transbay EIS/EIR") prior to the conclusion of the Wait Period, which ends today. As set forth in detail below, the Transbay EIS/EIR is deficient under NEPA because of its failure to properly identify and discuss the Transbay Terminal Project's impact of eliminating 423 units of housing, including 42 affordable units, that will be under construction at the 80 Natoma site ("80 Natoma Project").

I. Background

We are providing the following background to underscore the extent to which the Transbay EIS/EIR's failure to analyze the impacts on the 80 Natoma Project is legally flawed. Specifically, this background will show:

- How long the 80 Natoma Project has been entitled;
- The City's and Transbay Joint Powers Authority's ("TJPA") awareness of such entitlements and of MNV's intent to construct the 80 Natoma Project; and,
- MDC's exhaustive efforts to works towards a viable solution that would accommodate both projects.

Leslie T. Rogers
Region IX Administrator
May 3, 2004
Page Two

A. 80 Natoma Entitlements

In February 1993, the San Francisco Planning Commission ("Commission") adopted motions approving an approximately 48 story, 475-foot tall tower containing roughly 500 residential units and 10,000 square feet of retail space, the original 80 Natoma Project. In November 1995, the Commission adopted a motion approving a request for an exception to modify the earlier approved conditions and to extend the time allowed to obtain construction permits to February 1998.

In 1998, the Commission approved a motion extending the time allowed to obtain a site permit for the Project to February 2001. A site permit was ultimately issued for the Project in February 1999. Under that site permit, a sub-surface slurry wall was constructed around the 80 Natoma Project site.

However, in 1999, further development of the 80 Natoma Project was held up due to financing issues. MDC had long been interested in acquiring and developing the 80 Natoma property. MDC eventually took advantage of the opportunity and proceeded to negotiate with the then owners of the 80 Natoma property toward a purchase of the fully-entitled 80 Natoma Project.

B. City's and TJPA's Awareness of 80 Natoma Project

While moving forward with the final negotiations for acquisition of the 80 Natoma Project, MDC was aware of the potential rail alignment issue but was also acutely aware of the uncertainty as to the Transbay Terminal's ultimate commencement of construction and completion due to problems with funding sources. MDC also was advised that rail alignment alternatives existed that could accommodate both projects and allow them to proceed.¹

In June 2003, MDC sent a letter to Mayor Willie Brown to inform him of its intent to proceed with development of the 80 Natoma Project. Maria Ayerdi, then-Project Manager for the Transbay Terminal, responded on June 9th advising MDC that the City's planning activities for the Transbay Terminal were not intended to interfere with the use or development of the 80 Natoma property. Based on this, MDC continued to invest substantial time and funds into moving forward with the 80 Natoma Project.

Throughout the remainder of 2003 and into 2004, MDC, on behalf of MNV, continued to work with City agencies, including the Planning Department and the Department of

¹ MDC has now closed on the property, obtained financing, and has all permits in place and is proceeding with construction.

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May 3, 2004
Page Three

Building Inspection, in preparation for the commencement of construction. There was a further exchange of letters between MDC and TJPA in November/December 2003, including a December 1, 2003 letter from Maria Ayerdi indicating that the TJPA did not intend to delay the 80 Natoma Project or hinder its progress.

C. MDC's Efforts to Develop a Mutually Beneficial Solution

Despite the persistent lack of cooperation by the TJPA staff, MDC continued to attempt to resolve the unnecessary inconsistency between the 80 Natoma Project and the Terminal rebuilding project and to seek the City's help in reaching common ground. Armed with legal, valid permits, MDC advised the City that the 80 Natoma Project would be moving forward. However, despite its best efforts to act in good faith, it became increasingly apparent that the TJPA staff had adopted a position that the 80 Natoma Project was not, in fact, proceeding and went so far as to advise the public and City officials of this erroneous position.

MDC remains shocked and mystified that, to date, TJPA staff has been making virtually no effort to explore options that would allow both projects to proceed. Based on its fundamental belief that there is a mutually satisfactory resolution to this issue, MDC has assembled its own team of architects and engineers to explore alignments and to develop one that would allow rail alternatives to be incorporated into the 80 Natoma site while allowing both projects' goals to be achieved. This effort has been undertaken at substantial expense to MDC.

These efforts, however, have been rebuffed by TJPA staff at every turn. The TJPA staff has refused a productive problem solving dialogue and has rejected as "out of hand," minor track re-alignment alternatives without any meaningful technical justification. In fact, on April 22, 2004, the TJPA Board of Directors adopted California Environmental Quality Act ("CEQA") findings for the Transbay Terminal Project and authorized its Executive Director to take actions for the project's implementation. Nevertheless, this Resolution also directed the TJPA's Executive Director to engage in a good faith meeting to discuss possible solutions to the rail alignment issue and to report back to the TJPA at its next regularly scheduled meeting.

Public policy dictates that the best outcome to this situation is to develop a solution that allows both projects to proceed. There is no practical way to develop such a solution without the full and good faith participation of the TJPA. MDC remains hopeful that such a resolution can yet be reached.

D. Final EIS/EIR

In March 2004, the Final EIS/EIR for the Transbay Terminal was released by the Federal Transit Administration. The Final EIS/EIR included a terminal plan different from those previously analyzed in the Draft EIS/EIR. Specifically, the Transbay Terminal Project now would extend the Transbay Terminal building 150 feet west, onto the footprint of the 80 Natoma

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Project site. Remarkably, this 150 foot shift was not discussed in the Draft EIS/EIR, nor did the Final EIS/EIR discuss the Transbay Terminal Project's impact on the 80 Natoma Project's housing.

In sum, despite the foregoing efforts, the Transbay EIS/EIR simply fails to discuss the fully-entitled 80 Natoma Project and its related impacts in any way, shape, or form. This failure not only is mystifying, but also makes the environmental document utterly flawed.

III. Environmental Review

A. Deficiencies of Transbay EIS/EIR under CEQA

On April 16, 2004, MDC sent a letter to the agencies charged with certifying the Transbay EIS/EIR identifying grounds for recirculation of the Final EIS/EIR under CEQA. (See Attached). This letter identified significant flaws in the Final EIS/EIR that undermines its adequacy as an informative document for purposes of CEQA compliance. MDC expressed its concerns based on three deficiencies:

- The document does not describe the 80 Natoma Project in any way. Consequently, the environmental setting is improperly described;
- As a result, the document is entirely silent with respect to the loss of much-needed market and affordable housing inventory to the City. Therefore, the document fails to describe such loss of housing and other significant environmental impacts;
- The document fails to discuss a feasible mitigation measure, a minor track alignment that has been presented to the City and TJPA prior to publication of the Transbay EIS/EIR, which could allow both projects to proceed.

MDC, therefore, requested that the Final EIS/EIR document be modified to account for the foregoing and that the document be re-circulated. Nevertheless, the Final EIS/EIR was certified by the San Francisco Redevelopment Agency on April 20th and by a joint session of the San Francisco Planning Commission and the Peninsula Corridor Joint Powers Board on April 22nd. City agencies have taken the clearly erroneous position that despite clear evidence that 80 Natoma will be under construction almost immediately, the Final EIS/EIR need not address the impact of the Transbay Terminal on the 423 units of housing being built. Based on the significant environmental issues and the TJPA staff's continued resistance to working with MDC to develop a solution for both projects to proceed, MDC is contemplating an appeal of the EIR certifications to the San Francisco Board of Supervisors.

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Page Five

B. Deficiencies of Transbay EIS/EIR under National Environmental Policy Act ("NEPA")

We are submitting this letter to explain why the issues identified in the attached letter also render the Transbay EIS/EIR deficient under NEPA.

As you know, NEPA was enacted by Congress to declare a national environmental policy of considering any project's environmental impacts prior to project approval. In 42 USC § 4331(a), Congress recognized the profound impact of people's activity on the natural environment and, in particular, the profound influences of population growth, high-density urbanization, and new and expanding technological advances. As such, Congress declared further that it is the federal government's policy to use all practicable means and measures, in a manner calculated to promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations of Americans.

With these lofty principles in mind, the Council on Environmental Quality ("CEQ") drafted Regulations for Implementing NEPA that tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act.

Specifically, Section 1508.14 of the CEQ NEPA Regulations requires federal agencies to study the proposed action's effects on the quality of the human environment. The Regulations require "human environment" to be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. Therefore, when an EIS is prepared, federal agencies must discuss economic or social effects if they are interrelated with the effects of the physical environmental. 40 C.F.R. 1508.14.

Similarly, the Regulations define "effects" to include both direct and indirect effects caused by the proposed action. 40 C.F.R. 1508.8. Direct effects are those which are caused by the action and occur at the same time and place. 40 C.F.R. 1508.8(a). Indirect effects are those caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. These often include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems. 40 C.F.R. 1508.8(b).

With this definition in mind, it is especially troubling that the Transbay EIS/EIR utterly failed to discuss or analyze the loss of over 423 fully entitled residential units at 80 Natoma Street, including 42 affordable residential units, which will fulfill important policy objectives of the City—contribution to the City's housing stock and the provision of badly-needed affordable housing.

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Arguably, the proposed Transbay action will result in a direct effect on the 80 Natoma Project especially in light of the reality that the 80 Natoma Project will almost certainly be completed and occupied before any Transbay Terminal. However, in any event, NEPA requires that an EIS identify all reasonably foreseeable indirect effects and make a good faith effort to, at minimum, explain and evaluate them.

Therefore, because the CEQ Regulations unequivocally state that effects related to population density necessitate discussion as a social or economic impact, the Transbay EIS/EIR is defective because of its failure to evaluate the impact of the loss of the 80 Natoma Project's residential units and the ensuing detrimental effect on the City's housing supply if the units are lost as a result of the Transbay project.

Section 5.2 of the Final EIS/EIR discusses Displacement and Relocation and identifies the 80 Natoma property as a necessary acquisition for the construction of the Transbay Terminal. (5-22). Moreover, Section 5.2.5 briefly acknowledges that construction on the Transbay Terminal could result in the displacement of 60 residential units on other sites, thereby creating the need to relocate roughly 120 persons. (5-32). However, the Final EIS/EIR completely ignores the 423 residential units that will be lost at the 80 Natoma site. The mere identification of 80 Natoma as one of the properties to be acquired does not in any way disclose the social and economic effects such a displacement of residential units would have on the human environment for purposes of NEPA.

Such a glaring omission of environmental effects renders the Transbay EIS/EIR fundamentally flawed under NEPA. At minimum, the EIS must discuss economic or social effects when interrelated to effects on the physical environment—to ignore such a discussion in the face of the City's housing shortage and severe lack of affordable housing clearly contravenes the letter and spirit of NEPA and does not rise to the "hard look" standard required to ensure an agency's appropriate level of consideration. Oregon Natural Resources Council v. Lowe, 109 F.3d 521, 526 (9th Cir. 1997).

C. Remedy

Pursuant to CEQ NEPA Regulations § 1502.9(c)(1)(ii), federal agencies shall prepare supplements to final environmental impact statements if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. 40 C.F.R. 1502.9. Therefore, because the Transbay EIS/EIR fails to analyze the impacts of the new Transbay Terminal on the 80 Natoma Project and its housing, before taking any action to adopt the Transbay Terminal on the 80 Natoma Project and its housing, prepare and circulate a supplement to include analysis of the 80 Natoma Project so as to address the significant new circumstances that the 80 Natoma Project poses for the Transbay Terminal.

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IV. Conclusion

MDC has always been a strong supporter of the plan to develop a new Transbay Terminal. MDC believes, based on considerable analysis, that a minor realignment of the proposed track routing (and a decision to return the configuration of the new Terminal to the location addressed in the Draft EIR/EIS) would allow both projects to proceed, and almost certainly result in a substantial savings of the public funds that would be needed to acquire the 80 Natoma Site by eminent domain. MDC's good faith efforts to develop such a solution thus far have been repeatedly rebuffed by TJPA staff. Until such a mutually beneficial solution is reached, the Transbay Terminal configuration and precise track alignment identified in the Final EIR/EIS would have a significant environmental impact by either preventing the construction of 80 Natoma or requiring that the building be demolished when or if the construction of the new Transbay Terminal begins.

The Final EIR/EIS that fails to identify this housing impact, and acknowledge the significance of this housing loss, is deficient under NEPA, as it is under CEQA. The only legitimate solutions under NEPA to this deficiency are either to revise the EIR/EIS to identify and discuss this impact, or perhaps preferably to defer any action on the Final EIR/EIS, and any approvals based on the document, to allow development of an engineering solution that would eliminate the Transbay Terminal Project's impact on the 80 Natoma Project.

Sincerely,



Timothy A. Tosta

cc (w/o attachment): Mayor Gavin Newsom
San Francisco Board of Supervisors
Chairman Mike Nevin and TJPA Board of Directors
Maria Ayerdi, Executive Director, TJPA
Michael Scanlon, Executive Director, Peninsula Corridor Joint Powers
Board
Joan Kugler, Planning Department
Jose Campos, San Francisco Redevelopment Agency
Jerome Wiggins, FTA

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Law Offices of
JOSEPH J. BRECHER
436 14th STREET, SUITE 1300
OAKLAND, CALIFORNIA 94612-2703

(510) 832-2800
FAX: (510) 496-1366
e-mail: brecher@pacbell.net

Ms. Gloria L. Young
Clerk, San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

*re: Appeal from San Francisco Planning commission certification of EIR/EIS for the
Transbay Terminal /Caltrain Downtown Extension/Redevelopment Project*

Dear Ms. Young:

Enclosed is an appeal to the Board of Supervisors from the Planning Commission's certification of the Environmental Impact Report/Environmental Impact Statement for the above-referenced project. The appeal indicates that the project description and alternatives analysis in that document were severely flawed. In addition, it did not properly analyze a number of potentially significant environmental impacts.

As required by §31.22 of the Administrative Code, the filing fee of \$209.00 is also enclosed.

Please place this item on the Supervisors' agenda for early consideration.

Yours truly,


Joseph J. Brecher

JJB: gr
Encls.

INTRODUCTION

This document serves as an appeal to the Board of Supervisors regarding the Certification of the EIR/EIS for the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project.

We are excited about the prospect of having a state of the art transit hub in San Francisco, and about the benefits it will bring to the entire Bay Area. However, there are two issues that we are appealing: 1) The proposed bus storage facility to be located at the 2nd/ 3rd/ 4th/ Stillman, and 2) The failure to properly notify property owners, who therefore did not have time to research and respond to the proposed Transbay Terminal Project and its impact on their buildings.

Attached you will find the certification document from the planning commission as well as reference material.

BUS STORAGE FACILITY

We are appealing the bus storage facility for the following reasons:

ISSUE 3.A
Alternate Site Evaluation: There was not adequate analysis of alternative sites for the bus storage facility. Although significant objections were raised to the proposed site (2nd/3rd/4th & Stillman Street) throughout the entire EIR process, there was only a *cursory* effort put into analyzing alternative locations (see pages 80-84, V.II of the EIR).

ISSUE 3.B
For example, there wasn't any significant analysis of utilizing available space inside the terminal for the layover of buses that need to loop through or pass adjacent to the terminal. In the design of the terminal, the upper bus level uses only half of the space available. As stated in the response section 2.6.10, page 49, VII of the EIR, "The option of building a full level at the top of the terminal should future demand warrant has been and will continue to be considered in the design of the terminal." What better place to layover buses that need to loop through the terminal than on the top (bus level) of the terminal itself? There would be significant savings in operating costs and a reduction in emissions as there would be no additional travel time. It would also match site usage (layover buses on the bus level of the terminal).

ISSUE 3.C
The current EIR proposes to export what it recognizes as "blight" from within the Transbay District to an area immediately outside it. The City does indeed consider bus storage to be a "blight," as shown in it's response on page 82, Vol II of the EIR "...as outdoor, observable bus parking in the proposed redevelopment area is considered as contributing to blight." If observable bus storage is blight within the District, it is also blight outside of it. The best solution to avoid "observable bus parking" in any area is to store *buses in or near the transit hub*, rather than storing them in a neighborhood outside the boundaries of the transit redevelopment area. The area for the proposed bus storage facility is not, like the Transbay redevelopment district, an area envisioned as a *future*, potential residential area; the EIR proposes placing the facility within what is *already* a lively, substantial residential neighborhood.

Issue
3.D

In its responses to comments, Volume II of the EIR (pp. 81-84) mentions (and rejects) some of the suggested alternate locations for the bus storage facilities, but does not deal, at all, with the idea of building out the top level of the terminal for that purpose. Storing buses within the terminal would eliminate the severe adverse effects of air pollution, noise, and traffic impacts associated with the currently-proposed location. It would also result in operational efficiencies, since the needed buses would be located right inside the terminal. The EIR acknowledges (p. 49) that such a solution would be feasible: "The option of building a full level at the top of the terminal . . . has been and will continue to be considered in the design of the terminal." (See also p. 2-14.) CEQA obligates an agency to adopt feasible mitigation measures. The EIR not only fails to adopt such a measure, it has not even analyzed it.

Issue
3.E

If an expanded top level and the second bus level of the Transbay cannot house the number of buses needed for layover, then the additional buses could park on and below, well-designed, rebuilt bus ramps, and/or use an alternative site such as the 8th & Harrison site (a current Golden Gate Transit site) or the Mission Bay parking lots. There should be further study of the bus transit patterns to see which buses need to pass through, or adjacent to, the terminal, and determine if there are redundancies in routes. A closer look should also be taken to determine the actual number of buses that need to "layover" in San Francisco.

Issue
3.F

8th and Harrison Site: Although this site is several blocks further from the terminal than the Third/Fourth St. location, it is an open lot with no site constraints and has better ventilation patterns. In addition, buses can exit and merge easily with the flow of traffic, reducing delays and idling times, while the lot at Third/Fourth and Stillman will require a mid-block bus light crossing Third St during peak traffic hours (4-7pm).

Issue
10.A

Analysis of the Proposed Site: The Second/Third/Fourth I-80 option (Stillman St. lots), which is the proposed bus storage site, was not accurately or adequately studied. This could have costly consequences if the project is allowed to go forward with this site as the preferred alternative without requiring further, detailed study. This site has poor clearances, especially under the eastbound side of the I-80 overpass, in the lot between 2nd and 3rd street. Currently, a large portion of the lot will not allow a standard pick-up truck to fit under the overpass, and according to the Caltrans Public Information Center, the height will not vary more than two-three feet from the original elevation due to the fact that it will have to align with the rest of the structure. Yet the design on page 2-19, V.1 of the EIR shows buses parking under the eastbound span of the approach and talks in general about a 2 level bus structure on the 2nd street lot. Even one bus would not clear the overpass in this area without significant and costly excavation which could possibly impact the integrity of the Bridge Approach. The westbound side has higher clearances, but would need significant excavation to allow an additional deck of bus parking. When asked about the type of excavation that would have to be done, Caltrans said that it would probably be contaminated soil (lead etc) and thus it would be costly to excavate and dispose of any soil under the overpass. There are also a multitude of structural columns for the overpass, creating tight turning radiuses that have not been well analyzed. In addition, the sidewalks and mature street trees on Stillman Street need to be preserved for pedestrian use and should not be usurped for bus storage or bus circulation. None of this is reflected in the EIR analysis or illustrations.

Issue
10.B

Issue
10.D

Issue
10.C

Issue
10.E

As mentioned above, the feasibility of utilizing a traffic light at the mid-block location to cross 3d St is questionable. *Even with a mid-block light, there will be bus delays during peak circulation times, as both AC and GG transit have similar departure times from the layover site (4-7 pm.) They both plan to utilize the "bus ramp" from the 2nd street to exit the layover facility.* Furthermore, the impact of such a traffic light on traffic flow along 3rd Street has not been adequately or accurately analyzed. See also "Traffic" comments below.

Issue
10.F

When asked for more details about the engineering and design of this site, we were told by the Planning Department that they were not available, as these were just preliminary designs. *But CEQA requires that the public be provided with all the necessary data in time to submit comments, rather than leaving key design elements to be developed later, out of the public eye.* If the feasibility of using this site depends on being able to maneuver buses and have adequate clearances in this difficult site, then more analysis should be done before designating it as the preferred location. Better traffic studies also need to be undertaken. *It is irresponsible to not consider better alternatives as this site has many costly and constrictive issues associated with it that have not been adequately addressed.*

Issue
12

Economic Feasibility: The costs of toxic excavation, toxic disposal, engineering and construction costs were not accurately reflected in the EIR for the bus storage site. It also should be noted that in areas where a large amount of steel is needed, the cost analysis section should be re-evaluated due to the huge increase in steel prices (see attached article from the S.F. Business Times which states that steel prices have tripled in the past year).

Issue
14

"Responses to Comments" are unresponsive. The so-called "Responses to Comments" on most of the crucial issues regarding the bus storage facility do not actually address our comments or those of other concerned residents. The eminently sensible alternative of using the upper deck of the terminal for bus storage is never seriously addressed. And rather than addressing the substance of the criticisms of the air pollution and noise analyses (for example in the letter from Titan Management Group, attached), Volume II of the EIR merely repeated what had already been said in the first volume or performed inadequate studies (see detailed comments below.) *CEQA mandates that there be good faith, reasoned analysis in response to comments.*

Long Term Impacts:

1. Air Quality: The EIR did not adequately or accurately analyze the impact of diesel emissions on the residences, offices, and retail establishments adjacent to the Stillman Lots. Please refer to the attached letter by David Gleeson and article "Health Effects of Diesel". Beyond not adequately studying the impact of the AC and Golden Gate Transit buses, the study did not include the impact of other buses that are mentioned in the EIR which would use the bus storage ramps, "Some bus services, including paratransit operations, Greyhound and other private tour operations, would be able to access the Transbay Terminal from city streets through the bus storage areas." (pg 5-130, paragraph 6, Vol. I, EIR). In addition, there would probably be extended idling time while buses wait to cross 3rd St. at the proposed bus light, and while they wait for access to the bus ramp (both AC Transit and Golden Gate have similar time frames for exiting the layover facility).

Issue
11.A.1

The EIR's air-quality analysis is seriously flawed. First, although the EIR acknowledges that there is now a federal air quality standard for PM_{2.5}, the document contains no analysis of whether this important standard will be violated at the proposed bus parking facility. The PM_{2.5} standard was adopted precisely because the previous PM₁₀ standard did not accurately measure the health impacts of small particles, which tend to be retained in the lung. They are especially injurious to sensitive receptors. Diesel buses produce significant quantities of this pollutant, and, as the comments indicate, the proposed bus parking area is located close by a school site (see Vol. II, p. 62). There is also a large volume of pedestrian traffic in this area. Yet, with federal standards available, there is no attempt to analyze this potentially health-threatening impact.

Issue
11.A.2

There is also a substantial environmental justice issue. These harmful emissions will impact the low-cost housing at Yerba Buena Commons, whose occupants may not have the resources to respond to this proposed bus storage facility.

Issue
11.A.3

Furthermore, the method chosen to model diesel emissions has not been modified to reflect that box-like conditions created by the freeway on top and the sound walls along the sides of the parking area. These constraints will tend to funnel the emissions and concentrate them more than would occur at an unconstrained outdoor facility. *Because of this, the study should be specific to the site.* These site constraints are another reason why the fine particulate matter (PM_{2.5}) should be analyzed.

Issue
11.A.4

Issue
11.A.5

In addition, the analysis is based on 2020 diesel bus emission factors. This underestimates the impact for two reasons – It ignores the situation during the fifteen years before the existing fleet is replaced, when higher emissions will occur. Furthermore, it assumes that the old fleet will be almost entirely retired by that time. But the bus services' perennial budget constraints undoubtedly mean that fleet turnover will be delayed, meaning the older, dirtier buses will remain in service. In fact, at a neighborhood meeting, both AC and GG transit stated that they will not completely replace their fleets to conform with the 2020 standards. A more realistic fleet mix should be assumed, more closely matching the emissions from the *current* bus fleets.

2. Noise and Vibration: The EIR needs to further address the proposed sound walls to ensure that they do not create an echo chamber, since there will be sound walls on three to four sides with the overpass overhead. Are there studies showing that sound absorbing material will adequately handle this problem given these parameters? Are there examples where this has been used in other projects in a similar configuration? Buses will be circulating at least 6 hours each day, and the noise analysis did not adequately or accurately study this cumulative impact. It also did not include the impact of the noise of the other bus services (Greyhound etc) mentioned in the "Air Quality" section of this letter.

The description of the noise mitigation measures set forth in the EIR (p. 5.8) is deficient because it does not contain any quantitative analysis of how successful the attenuation measures will be. Thus, there is no assurance that the noise impacts will be rendered insignificant. Nor is there any quantitative measurement of how much noise would be expected without the sound walls. See Vol. II, p. 54.

The comments regarding the lack of adequate vibration analysis, stated in the letter from Titan Management Group (attached), were never sufficiently addressed. Additional studies need to be made.

3. Traffic Impact: The traffic analysis and the impact of buses crossing 3rd St. mid-block between Harrison and Bryant, at a dedicated light, were not adequately nor accurately evaluated. When the DPT engineering department was contacted prior to the Transbay certification hearing, we were told that no analysis, traffic study or engineering had been done regarding the feasibility of this "bus light". Traffic congestion in this area, especially before and after the weekday and weeknight Giants games, is currently a significant problem, and this bus crossing would only exacerbate the problem. The crossing, which would be used most extensively during the late afternoon and early evening, would impact both the afternoon and evening games as well as commute traffic. Third Street is also a major transit artery, and the impact on the Third St. Light Rail and commuter traffic has not been adequately or accurately analyzed. The neighborhood had tried in the past to get a cross-walk at this same location, and it was turned down due to traffic issues. Why, with increased traffic loads due to the Giants Stadium and other South of Market developments, should buses be allowed to have a mid-block crossing when it was not allowable for pedestrians?

Issue
11.C

In addition, there was mention of routing additional buses (Greyhound etc.) through the storage area to allow access to the proposed storage area bus ramp. This would also increase the traffic load in this area.

- 4. Visual/Aesthetics: The impact of a bus layover facility and a bus ramp spanning 2nd St, the "Gateway to South of Market" was not adequately addressed. There were no renderings showing elevations of the ramp, which cannot be attached to the freeway overpass and thus must have to cross 2nd street at a low elevation, creating additional shadow and blight. This entire south of market area has undergone a transformation over the past decade, and to relocate the buses to this location is transferring a burden or "blight" to this neighborhood. Again, quoting from the EIR, pg 82, Vol. II "...as outdoor, observable bus parking in the proposed redevelopment area is considered as contributing to blight." It would be considered just as much a blight in the Stillman neighborhood, which is not in the Transbay Terminal Redevelopment Area.

Issue
11.D

- 5. Socio-economics: The impact of storing 200+ buses across from residential, commercial and retail establishments was not evaluated. It would decrease the perceived value of the real estate in the area and would significantly decrease the rental rates for apartments and commercial space. There were no mitigation measures mentioned in the EIR for this significant impact.

Issue
11.E

- 6. Land Use: The land use maps used to depict the composition of the neighborhood surrounding the Stillman St. lots (figure 4.1-2, page 4-5, Vol. 1) were not accurate and did not show many of the residential units as well as a State approved school facility with a Uniform Building Code educational occupancy classification located on the 100 block of Stillman St. This area is a thriving neighborhood with hundreds of residences, including the Clocktower Complex and a beautiful, low income housing complex at Perry and 3rd. The existing zoning map (4.1-2, pg. 4-5, Vol. 1) left off the existing zoning for the blocks east of 3rd Street. The entire block (3rd to 4th) for the Golden Gate Transit bus storage facility has been left off the existing zoning map. In addition, bus parking and storage is not a permitted or conditional use in the SLI or SSO zone.

Issue
11.F

The current EIR removes parking from the area, especially parking that is used (and was referenced in the EIR for) the Giants Stadium, for both day and evening games. Meanwhile, the TJPA is proposing parking lots within developments in the Transbay district, many of which will be owned privately with funds going to private developers. In contrast, the funds generated in the parking area proposed for the bus storage facility (one to two million dollars per year currently) have gone and would could continue to go to Caltrans, and through them to public projects. Money going to developers rather than Caltrans represents a transfer from public benefit to private profit. The proposed bus facility site should remain as parking and be used as an exchange for parking requirements for the Terminal or surrounding buildings. Eliminating parking adjacent to a major transit hub is more logical than reducing parking in an area outside that hub that has very little parking.

- 7. Safety and Security: The proposed bus facility would be vacant on evenings and weekends, and the sound walls would encourage encampments and would impair the ability of pedestrians and residents to see if there were unsafe activities occurring in the lots. Secondly, the Bay Bridge is a known "high risk"

Issue
11.G

target for terrorism, and buses are a common target and tool used by terrorists. The safety issue of having 200+ buses, with large fuel tanks, coming into this location under the main approach to the Bay Bridge on a daily basis should be analyzed. It is certainly a more attractive target than a remote bus parking lot or bus ramps.

Issue
11.H

8. Cumulative Impact: The neighborhood bounded by 2nd, 4th, Stillman and Perry Streets is currently undergoing 5 years of tearing down and rebuilding of the Bay Bridge West Approach. It will also have construction of the light rail down 3rd Street and proposed tunneling down 2nd Street. To then put a bus layover facility, with its additional impact of construction, traffic, reduced air quality, and blight, would be placing an undue burden on this community.

Issue
11.I

9. Excavated materials. The EIR indicates (Vol. II, p. 74) that 2-3 feet of material will have to be excavated at the bus parking area. There is some indication that the soil in this area may be contaminated. The EIR makes no attempt to quantify how many cubic yards will be involved, or how this potentially hazardous material will be disposed of.

FAILURE TO NOTIFY PROPERTY OWNERS

Noticing: There has been a noticeable lack of communication from the start of the EIR process. The neighborhood was never properly noticed that this proposed bus layover facility was being considered. (See multiple references to this lack of noticing in Scoping Meeting transcripts and the Comments section following page 236 in V.II of the EIR.) Other building owners also did not receive a notice. For example, The owner of 191 -199 -Second St, owned by Helsten Properties, LLC, was not properly notified. They only found out in April, 2004 in an article in the San Francisco Business Times, that the property was proposed to be condemned due to this project. They are concerned about what mitigation measures are being proposed. They felt that other, more logical routes were not considered.

Issue
15

Noticing – potential loss of Historic Status: Another example of lack of noticing is a property at 583-587 Howard St, owned by Howard St. Partners, which was never notified that there could be an impact to their building. Only by reading through the EIR to find information about the bus storage did the owners come across the fact that it is listed as “adversely affected.” The EIR states that the building would be separated, due to demolition of adjacent buildings, from others in the National Register District and thus could lose its eligibility for the National Register. There needs to be an evaluation of the mitigation measures as well.

Issue
16

SUMMARY

In summary, the Board of Supervisors should direct the Joint Powers Board, the Planning Commission and all other agencies involved, to re-evaluate the location of the bus layover facility due to their lack of sufficient and accurate analysis of the issues summarized above. There have been other issues mentioned in written and oral testimony during the EIR process which we are referencing as background material to support this appeal as well. Finally, the City should review its noticing procedures to ensure that all buildings that would be impacted by this project are notified and given a chance to respond. Thank you for your time and consideration of this important issue.

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners, lessees, or employees of or at property affected by the proposed Transbay Terminal Bus Storage Facility bounded by 2nd/3rd/4th/Stillman and Perry Streets. We have previously submitted comments orally or in writing during the public review period or at a public hearing on the EIR.

Street Address of Property Owned, Leased, or Otherwise Occupied	Printed Name of Owner(s), Lessees, Employees, et al	Original Signature of Owner(s), Lessees, Employees, et al
1. <u>149 Stillman Street</u>	<u>André Custodio</u>	<u>[Signature]</u>
2. <u>461 2ND Street</u>	<u>ELLEN ULLMAN</u>	<u>[Signature]</u>
<u>Member, Board of Directors, Clocktown Lofts</u>		
<u>Homeowner ASSN, representing 127 homeowners</u>		
3. <u>461 Second St</u>	<u>Elizabeth Carny</u>	<u>[Signature]</u>
4. <u>21 Stillman St.</u>	<u>Michael Kenney</u>	<u>[Signature]</u>
5. <u>21 Stillman St.</u>	<u>James Dear</u>	<u>[Signature]</u>
6. <u>461 2ND Street</u>	<u>Molly East</u>	<u>[Signature]</u>
7. <u>25 STILLMAN STREET</u>	<u>Joy Glenwright / 25 Stillman Assoc.</u>	<u>[Signature]</u>
8. <u>51-53 STILLMAN STREET</u>	<u>George YAMAS / Lor Lane</u>	<u>[Signature]</u>
9. <u>585 HOWARD ST.</u>	<u>George YAMAS / SBS Howard St. Assoc.</u>	<u>[Signature]</u>
10. <u>477 Third Street</u>	<u>Francis Matthews</u>	<u>[Signature]</u>
11. <u>35 Stillman</u>	<u>Janice and Francis Matthews</u>	<u>[Signature]</u>
12. <u>169 STILLMAN</u>	<u>BARNES Equipment</u>	<u>[Signature]</u>
13. <u>181 Stillman St.</u>	<u>Speedway Copy</u>	<u>[Signature]</u>
14. <u>31-35 STILLMAN ST.</u>	<u>Jill Dye / STILLMAN ST. TAILORS</u>	<u>[Signature]</u>

April 22, 2004
File No. 2000.048E
Assessor's Block 3719, Lot 003;
Assessor's Block 3720, Lot 001;
Assessor's Block 3721, Lot 006 and
various others

SAN FRANCISCO
CITY PLANNING COMMISSION

MOTION NO. 16773

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED TRANSBAY TERMINAL/ EXTENSION OF CALTRAIN/REDEVELOPMENT PLAN, LOCATED AT THE 425 MISSION STREET (TRANSBAY TERMINAL); THE REDEVELOPMENT PLAN AREA GENERALLY BOUNDED BY MISSION, MAIN, SPEAR, FOLSOM, ESSEX, I-80, SECOND AND MINNA STREETS; AND THE TRACK ALIGNMENT IS UNDER TOWNSEND AND SECOND STREETS.

MOVED, That the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case File No. 2000.048E - Transbay Terminal/Caltrain Extension/Redevelopment Plan(hereinafter "Project") based upon the following findings:

1) The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Sections 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Sections 15000 *et seq.*, (hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

a. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on March 17, 2001. A Notice of Intent to prepare an Environmental Impact Statement was published in the Federal Register by the Federal Transit Administration on March 28, 2001.

b. On October 5, 2002, the Department published the Draft Environmental Impact Statement/Environmental Impact Report (hereinafter "DEIS/EIR") and provided public notice in a newspaper of general circulation of the availability of the document for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.

c. Notices of availability of the DEIS/EIR and of the date and time of the public hearings were posted near the project site by Department staff on October 4, 2002.

d. On October 3, 2002, copies of the DEIS/EIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.

e. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on October 7, 2002.

- 2) The Commission held a duly advertised public hearing on said Draft Environmental Impact Report on November 26, 2002 at which time opportunity for public comment was given, and public comment was received on the DEIS/EIR. The period for acceptance of written comments ended on December 20, 2002.
- 3) The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 77-day public review period for the DEIS/EIR, prepared revisions to the text of the DEIS/EIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIS/EIR. This material was presented in Volumes I and II of a Final EIS/EIR document, published on March 18, 2004 was distributed to the Commission and to all parties who commented on the DEIS/EIR, and was available to others upon request at Department offices.
- 4) A Final Environmental Impact Statement/Environmental Impact Report has been prepared by the Department and the other co-lead agencies, consisting of the Draft Environmental Impact Statement/Environmental Impact Report, any consultations and comments received during the review process, any additional information that became available, and the Summary of Comments and Responses all as required by law.
- 5) In March 2003, the Transbay Joint Powers Authority (TJPA) adopted as its preferred alternative the Locally Preferred Alternative (LPA) as described in the Final EIS/EIR. The LPA consists of the Transbay Terminal West Ramp Alternative, which includes associated bus ramps, circulation, and off-site storage; the Second Street to Main Street track alignment for the Caltrain downtown extension, which includes a "stacked drift" tunneling option for the segment between Townsend Street and Folsom Street; and the "Full Build" Redevelopment Plan.
- 6) Project environmental files have been made available for review by the Commission and the public. These files are available for public review at the Department offices at 1660 Mission Street, and are part of the record before the Commission.
- 7) On April 22, 2004, the Commission reviewed and considered the Final Environmental Impact Report and hereby does find that the contents of said report and the procedures through which the Final Environmental Impact Statement/Environmental Impact Report was prepared, publicized and reviewed comply with the provisions of CEQA, the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code.
- 8) The Planning Commission hereby does find that the Final Environmental Impact Report concerning Case File No. 2000.048E - TRANSBAY TERMINAL/EXTENSION OF CALTRAIN/REDEVELOPMENT PLAN reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Final EIS/EIR documents which include the Comments and Responses contains no significant new information to the Draft EIS/EIR. In addition, since publication of the DEIS/EIR there has been no significant new information that would require recirculation of the document pursuant to

CITY PLANNING COMMISSION

File No. 2000.048E
Assessor's Block 3719, Lot 003;
Assessor's Block 3720, Lot 001;
Assessor's Block 3721, Lot 006 and
various others
Motion No. 16773
Page Three

CEQA Guideline Section 15088.5; and hereby does CERTIFY THE COMPLETION of said Final Environmental Impact Report in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

9) The Commission, in certifying the completion of said Final Environmental Impact Report, hereby does find that the proposed project described in the Final Environmental Impact Statement/Environmental Impact Report and as preferred by the TJPA would have the following significant unavoidable environmental impacts, which could not be mitigated to a level of non-significance:

a. A significant adverse effect on the environment to following intersections under both the baseline plus project and 2020 cumulative conditions: (1) First/Market, (2) First/Mission, (3) First/Howard, (4) Fremont/Howard, (5) Beale/Howard, (6) Second/Folsom, and (7) Second/Bryant. As a result of the constraints at downstream intersections and the I-80/U.S. 101 on-ramps and mainline, mitigation measures for the seven intersections have not been proposed, and the impacts associated with the Project would be considered adverse and unmitigable. Therefore, the project would add vehicles to those movements that would represent a considerable contribution to the baseline and cumulative conditions and the project would have an adverse impact on these intersections.

b. A significant effect on the environment resulting from demolition of historical resources. The present Transbay Terminal and the associated bus ramps and approach structures, which are historic resources as components of a multi-component structure listed in the National Register of Historic Places, would be demolished to construct the new Transbay Terminal aspect of the Proposed Project. In addition three historic properties located at 580 Howard Street (Block 3721, Lots 092 through 106), 165-173 Second Street (Block 3721, Lot 025) and 191 Second Street (Block 3721, Lot 022) would be demolished to construct the Caltrain Downtown Extension component of the Proposed Project.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at a special joint meeting with the Peninsula Corridor Joint Powers Board on April 22, 2004.

Linda Avery
Commission Secretary

Ayes: Commissioners B. Lee, Antonini, Feldstein, Hughes, Boyd, S. Lee and Bradford Bell
Nays: none
Absent: none

David Gleeson
461 2nd Street, # 105
San Francisco,
CA 94107

(415) 243 8234

davidgleeson@mac.com

TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS
201 Mission Street, Suite 1960
San Francisco, California 94105

April 22, 2004

Re: Adopting California Environmental Quality Act Findings for the Transbay Terminal Project, including approval of Mitigation Measures, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations; approving the Project and authorizing the Executive Director to take actions for Project implementation.

The following notes are submitted by way of request that an alternative site for the bus storage facility be chosen; use of the current proposed location will have an extremely adverse effect on the health and well being of residents in what is an established residential neighborhood.

It is further requested the EIS/EIR is not certified pending outcome of more thorough studies to be conducted as described below:

1. Residents have raised concerns (logged in EPA) that local air pollution will be adversely affected local bus storage. Bay Area Air Quality Management District discussed this in its comment letter, specifically identifying diesel exhaust as a Toxic Air Contaminant (TAC). Titan Management Group also discussed the issue. However, the agency did not respond directly to this significant issue. This is a basic violation of California Environmental Quality Act (CEQA).

2. The agency did evaluate some air quality Issues, but only as they relate to the California Ambient Air Quality Standards (CAAQS). This is inadequate because ambient air quality standards do not take into account localized impacts, commonly referred to as Toxic Hot Spots.

3. Furthermore, its evaluation was deficient. It only considered the daily average standard for particulate matter (PM) – they failed to consider the annual average. It could well be that the annual average exceeds the standard.

Issue
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11.A.6
CONT.)

4. More importantly, the bulk of particulate matter in diesel exhaust that is of concern is smaller than 10 microns. Please see attached copy of the Scientific Study in support of the California Air Resources Board (CARB) Resolution identifying diesel exhaust as a Toxic Air Contaminant. About two years ago a regulation was adopted imposing a new CAAQS for PM 2.5 (particulate matter at 2.5 microns). THE EIS/EIR DOES NOT INCLUDE ANY ANALYSIS WHATSOEVER OF PM 2.5. Therefore, even using their own criteria, the evaluation is deficient.

5. A thorough evaluation of air quality impacts would include a risk assessment to determine whether diesel exhaust emissions will create a toxic hot spot. This would entail air modeling to determine likely concentrations of exhaust surrounding the parking structure. That modeling would then include an overlay of the impacted population, including sensitive receptors such as children and the elderly. (Note there is a school building on Stillman and a home for the elderly close to 4th) Based on this, the agency could evaluate the likely maximum rate of exposure to the impacted population. By taking this rate of exposure and multiplying it by a number of years (70 years is the default number), an incremental cancer risk can be calculated. Generally, an incremental cancer risk of 1 in 1 million is considered significant. The problem here is that no analysis was prepared to address localized impacts

6. I request the agency evaluate these impacts before certifying the EIR and approving the project. This is a reasonable request (it is not an attempt at sandbagging – the issues have long been on record). It is common and usual to evaluate the effects of diesel exhaust on the surrounding community. It is common for risk assessments to be prepared. The agency has not done this at all. Without this information, how can the agency satisfy the fundamental mandate of California Environmental Quality Act (CEQA): to promote informed decision-making?

Sincerely, David Gleeson

Health Effects of Diesel Exhaust



A fact sheet by
Cal/EPA's Office of Environmental Health Hazard Assessment and
The American Lung Association of California.



Diesel fuel is widely used throughout our society. It powers trucks that deliver products to our communities, buses that carry us to school and work, agricultural equipment that plants and harvests our food, and backup generators that can provide electricity during emergencies. It is also used for many other applications. Diesel engines have historically been more versatile and cheaper to run than gasoline engines or other sources of power. Unfortunately, the exhaust from these engines contains substances that can pose a risk to human health.

In 1998, the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) completed a comprehensive health assessment of diesel exhaust. This assessment formed the basis for a decision by the California Air Resources Board (ARB) to formally identify particles in diesel exhaust as a toxic air contaminant that may pose a threat to human health. The American Lung Association of California (ALAC) and its 15 local associations work to prevent lung disease and promote lung health. Since 1904, the American Lung Association has been fighting lung disease through education, community service, advocacy and research.

This fact sheet by OEHHA and ALAC provides information on health hazards associated with diesel exhaust.

**Diesel exhaust
contains more
than 40 toxic air
contaminants**

What is diesel exhaust?

Diesel exhaust is produced when an engine burns diesel fuel. It is a complex mixture of thousands of gases and fine particles (commonly known as soot) that contains more than 40 toxic air contaminants. These include many known or suspected cancer-causing substances, such as benzene, arsenic and formaldehyde. It also contains other harmful pollutants, including nitrogen oxides (a component of urban smog).

How are people exposed to diesel exhaust?

Diesel exhaust particles and gases are suspended in the air, so exposure to this pollutant occurs whenever a person breathes air that contains these substances. The prevalence of diesel-powered engines makes it almost impossible to avoid exposure to diesel exhaust or its byproducts, regardless of whether you live in a rural or urban setting. However, people living and working in urban and industrial areas are more likely to be exposed to this pollutant. Those spending time on or near roads and freeways, truck loading and unloading operations, operating diesel-powered machinery or

working near diesel equipment face exposure to higher levels of diesel exhaust and face higher health risks.

What are the health effects of diesel exhaust?

As we breathe, the toxic gases and small particles of diesel exhaust are drawn into the lungs. The microscopic particles in diesel exhaust are less than one-fifth the thickness of a human hair and are small enough to penetrate deep into the lungs, where they contribute to a range of health problems.

Diesel exhaust and many individual substances contained in it (including arsenic, benzene, formaldehyde and nickel) have the potential to contribute to mutations in cells that can lead to cancer. In fact, long-term exposure to diesel exhaust particles poses the highest cancer risk of any toxic air contaminant evaluated by OEHHA. ARB estimates that about 70 percent of the cancer risk that the average Californian faces from breathing toxic air pollutants stems from diesel exhaust particles.

Diesel exhaust increases the risk of cancer...

In its comprehensive assessment of diesel exhaust, OEHHA analyzed more than 30 studies of people who worked around diesel equipment, including truck drivers, railroad workers and equipment operators. The studies showed these workers were more likely to develop lung cancer than workers who were not exposed to diesel emissions. These studies provide strong evidence that long-term occupational exposure to diesel exhaust increases the risk of lung cancer. Using information from OEHHA's assessment, ARB estimates that diesel-particle levels measured in California's air in 2000 could cause 540 "excess" cancers (beyond what would occur if there were no diesel particles in the air) in a population of 1 million people over a 70-year lifetime. Other researchers and scientific organizations, including the National Institute for Occupational Safety and Health, have calculated cancer risks from diesel exhaust that are similar to those developed by OEHHA and ARB.

Exposure to diesel exhaust can have immediate health effects. Diesel exhaust can irritate the eyes, nose, throat and lungs, and it can cause coughs, headaches, light-headedness and nausea. In studies with human volunteers, diesel exhaust particles made people with allergies more susceptible to the materials to which they are allergic, such as dust and pollen. Exposure to diesel exhaust also causes inflammation in the lungs, which may aggravate chronic respiratory symptoms and increase the frequency or intensity of asthma attacks.

... And it can cause coughs and aggravate asthma

Diesel engines are a major source of fine-particle pollution. The elderly and people with emphysema, asthma, and chronic heart and lung disease are especially sensitive to fine-particle pollution. Numerous studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks and premature deaths among those suffering from respiratory problems. Because children's lungs and respiratory systems are still developing, they are also more susceptible than healthy adults to fine particles. Exposure to fine particles is associated with increased frequency of childhood illnesses and can also reduce lung function in children.

Like all fuel-burning equipment, diesel engines produce nitrogen oxides, a common air pollutant in California. Nitrogen oxides can damage lung tissue, lower the body's resistance to respiratory infection and worsen chronic lung diseases, such as asthma. They also react with other pollutants in the atmosphere to form ozone, a major component of smog.

What is being done to reduce the health risks from diesel exhaust?

Improvements to diesel fuel and diesel engines have already reduced emissions of some of the pollutants associated with diesel exhaust. However, diesel exhaust is still one of the most widespread and toxic substances in California's air.

ARB's Diesel Risk Reduction Plan, when fully implemented, will result in a 75 percent reduction in particle emissions from diesel equipment by 2010 (compared to 2000 levels), and an 85 percent reduction by 2020. The plan calls for the use of cleaner-burning diesel fuel, retrofitting of existing engines with particle-trapping filters, and the use in new diesel engines of advanced technologies that produce nearly 90 percent fewer particle emissions, as well as the use of alternative fuels.

The use of other fuels, such as natural gas, propane and electricity offer alternatives to diesel fuel. All of them produce fewer polluting emissions than current formulations of diesel fuel. As a result of ARB and local air-quality regulations, public transit agencies throughout California are using increasing numbers of passenger buses that operate with alternative fuels or retrofitted equipment.

**Diesel exhaust
contributes to smog
and fine-particle
pollution**

For further information

Office of Environmental Health Hazard Assessment

1001 I Street, P.O. Box 4010, Sacramento, CA 95812-4010
(916) 324-7572
www.oehha.ca.gov

Air Resources Board

1001 I Street, Sacramento, CA 95814
(800) 363-7664
www.arb.ca.gov

American Lung Association of California

921 11th Street, Suite 700, Sacramento, CA 95814
(916) 442-4446
For your local office, call (800) LUNG-USA
www.californialung.org

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see OEHHA's web site at www.oehha.ca.gov/public_info.html.

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EXCLUSIVE REPORTS

From the March 26, 2004 print edition

Steel price hike nails builders

One company falls, while others teeter

James Temple

Skyrocketing steel prices have the local real estate industry bracing for project delays, product shortages and possible bankruptcies among subcontractors.

Spot prices for steel, which can comprise as much as 20 percent of a project's material costs, have tripled in the last year, from \$100 per ton at the beginning of 2003 to \$302 in February 2004.

It's meant that subcontractors sometimes can't honor quotes they've provided or secure enough materials, said Mike Adler, co-president of Cannon Constructors Inc.

"In some cases, where deals are marginal, this may be the nail in the coffin -- if they can afford the nail," Adler said.

Moreover, there could be worse to come, as steel suppliers are projecting further increases of 30 percent to 40 percent through the year, he said.

The primary cause of the trend is a sharp increase in scrap exports, in large part a result of increasing demand in Asia. In particular, China is consuming over 20 percent of the world's steel supply, by some estimates. Exports rose from 6.3 million tons in 2000 to approximately 12 million tons in 2003, according to Emergency Steel Scrap Coalition, a national organization formed to "address this crisis."

Domestically, strong demand for housing, cars and appliances -- driven by low interest rates and the improving economy -- is further tightening supply. Other factors include a weakening U.S. dollar, increasing energy costs and the lingering effects of tariffs on imported steel.

In the last few months, architecture firm SmithGroup Inc. has watched that translate into a \$5 to \$10 per square foot increase in construction costs estimates, which can range from \$200 to \$400 per square foot depending on the type of project.

That's an additional \$2.5 million to \$5 million for a 500,000 square foot development.

"What it means is going back and trying to value engineer (costs) out or clients having to dig deeper in their project budgets," said David Martino, a senior vice president at SmithGroup, who is overseeing a significant amount of health-care construction stemming from California's seismic upgrade requirements. "It creates problems for all of us, for clients, for contractors and for designers."

Insurmountable problems, for some: At least one local subcontractor has already filed for bankruptcy after increasing steel prices put its contracts under water, industry sources said. Other companies are said to be similarly teetering.

The price jump isn't bad news for everyone, however.

Portland, Ore.-based Schnitzer Steel Industries, which operates a scrap metal plant in Oakland, has enjoyed a boost to both prices and earnings for new steel and scrap, said Executive Vice President Gary Schnitzer, who would not disclose specifics.

Likewise, several publicly traded steel manufacturers boosted their earnings forecasts last week, including Nucor Corp. and Steel Technologies Inc.

"Frankly, most people aren't feeling a pinch because they're passing it on to other people," Schnitzer said.

But the bucks stop somewhere.

Some construction firms are taking steps to mitigate the risks to themselves and their clients.

To protect itself, Swinerton Builders is asking clients to provide allowances for steel prices, permitting the steel component of the construction firm's project bids to fluctuate with the market. Meanwhile, it's urging clients to buy steel materials as soon as possible and store them, rather than waiting until construction begins and risking further price hikes.

"I think the problem can be taken care of through mitigation measures, because putting the project on hold doesn't help anyone," said Charlie Kuffner, senior vice president and region manager with Swinerton. "Making smart commitments is the real key here ... because who's to say it won't become worse?"

James Temple covers real estate for the San Francisco Business Times.

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Joan Kugler
Environmental Analyst
City & County of San Francisco
1660 Mission St. #500
San Francisco, CA 94103

December 12, 2002

Dear Ms. Kugler.

These comments are submitted on the Transbay Terminal/ Caltrain Downtown Extension/ Redevelopment Project DEIS, DEIR and Draft Section 4(f) Evaluation (the "Environmental Document") on behalf of the Clocktower Lofts Owners Association.

- The Clocktower is an historic building in a historic area.
- The Clocktower is a live/work building providing housing for 127 families including small children.
- The Clocktower is already an area in city with mitigations for the Giants Stadium. Second Street is designated as a pedestrian walkway; Third and Fourth Streets are the bus bridges.
- This area is already subject to extensive disruption during Cal Trans bridge and approach demolition and rebuilding for next 5 years.
- The Clocktower relies on open windows for ventilation as do many of its Stillman Street neighbors.

Bus Storage Facilities

One of the project elements is development of bus storage facilities. 42 or 53 AC Transit Buses would be stored between Second and Third Streets at Stillman, facing our building. 140 Golden Gate Transit buses would be stored between Third and Fourth.

These bus yards would concentrate noise and diesel emissions in a semi-enclosed area near high density residences and businesses.

The Environmental Document is obligated to consider the environmental impacts of the project, including all its components. The Environmental Document does contain a discussion of air quality impacts. It appropriately includes a microscale air quality assessment. The microscale analysis, however, was limited to an assessment of the concentrations of carbon monoxide.

The California Air Resources Board has identified diesel emissions as a carcinogen. In recognition of the health risks to children from diesel exhaust, the ARB has just taken action to prohibit idling of school buses within 100 feet of a school building, see <http://www.arb.ca.gov/newsrel/nr121202.htm>.

The buses utilizing the storage facilities contemplated by this project will undoubtedly be a source of diesel emissions. These emissions could be a significant health risk because of the number of buses involved. The Environmental Document acknowledges that bus engines will be warmed up in these storage areas (page 5-63). The emissions in these storage areas will be more concentrated than they would be in an open area because of the semi-enclosed covering of the freeway structure. In addition to presenting possible health hazards to residents in the surrounding areas, the relative enclosed nature and lack of significant airflow in this area may present substantial health hazards to the bus drivers and associated mass transit employees.

There are numerous residences located in this area that house sensitive populations, including children. There is a residence for the elderly adjacent to this area.

An analysis of the environmental impacts of this project should include an identification of the residences near the bus storage facility, the sensitive populations that would be affected, and an analysis of the potential exposures to diesel exhaust, including a worst case analysis and a cumulative impact analysis.

Diesel engines are also notorious sources of noise. The noise will also be greater because it will be partially contained by the freeway structure. The Environmental Document contains only a four line qualitative discussion of the bus storage facility noise impacts (page 5-63). There is no quantitative analysis presented.

The Environmental Document proposes construction of a sound wall on the south side of the storage areas to mitigate the noise impacts. This appears to be based on a recognition that the noise impacts would be regarded as significant though that is not explicitly stated. There is no analysis of how effective the sound wall would be. A sound wall may not be effective since it would be expected that noise would reflect off the bottom of the freeway structure and escape over the top of a sound wall. A sound wall on the south side of the storage areas will not mitigate the noise impacts on the Clocktower at all.

There are accepted methodologies for conducting a quantitative noise analysis of the operation of these storage facilities. Such an analysis should be performed and presented. If there are significant impacts, they should be acknowledged and mitigated. There should also be an analysis of the effectiveness of any proposed mitigation measures.

Vibration Impacts

The Environmental Document states that "the highest levels of ambient ground-borne vibration were measured at the Clock Tower (sic) building at Bryant and Second Streets. Both exterior and interior vibration was measured. The exterior location was on the sidewalk relatively close to the street. Even at this location, the highest vibration levels were only slightly above what can

Issue
11.B.2

The vibration analysis that was performed showed that vibrations would exceed the FTA impact threshold for residential land uses in the hallway of the Clocktower even with mitigation in the form of a resilient track system. The vibration analysis included projections for 4 additional locations in the Clocktower. Those projections show that vibrations would be very close to exceeding the impact threshold.

The Environmental Document, however, concludes with respect to the Clocktower: "Projected vibration levels exceed the impact threshold only at the hallway site, and therefore no mitigation is indicated." In itself, this is a questionable conclusion since the hallway itself is part of the residential use.

Moreover, vibrations are already a significant problem at the Clocktower. This is apparently because of the building's proximity to the elevated freeway structure. We are very concerned about any vibrations in addition to the ones already experienced. An analysis of the impacts of the project on the Clocktower must include an analysis of the impacts of the project in addition to the impacts already experienced. The explanation of the vibration analysis does not indicate that this has been done.

The Environmental Document also indicates that there are some significant qualifications on the vibration analysis.

In light of the qualifications on the vibration analysis and in light of the results showing that the impact threshold has been exceeded in the hallway and showing that impacts elsewhere are close to the impact threshold, the analysis that has been done should be regarded as a screening level analysis. The results indicate that a more specific and detailed analysis should be performed. Any analysis should include indicate the vibrations that would be experienced if vibrations from the train occurred at the same time as serious vibrations from the freeway.

The Clocktower believes this analysis is legally required. Additionally, if this analysis is not performed and if there is damage to the Clocktower residents or to the building from vibrations, a failure to have performed this analysis could have profound legal consequences.

Construction Period Access

The Environmental Document states that if the cut and cover method of tunnel construction is utilized, there will be block-by-block closures on Second Street. A chart describing the driveways and streets temporarily blocked by construction mistakenly states that only a delivery entrance at the Clocktower would be blocked. Obviously, the Clocktower has not been provided with the detailed plans for the closure of the Second Street, but it would appear that a driveway entrance would be blocked as well. This driveway provides access to parking both in an exterior lot and in an underground interior lot. This driveway also provides emergency access/egress in the event of a fire or other emergency.

The Environmental Document should correctly assess the impacts on the Clocktower. If the street closure will prevent access to parking, even temporarily, that impact must be fully mitigated.

Construction Period Noise and Vibration

The Environmental Document presents a qualitative analysis of the noise impacts, and apparently concludes that the construction phase noise impacts would be significant. The mitigation measures that are proposed, however, are so vague and ambiguous as to be unenforceable. They include such things as "conduct noise monitoring," "conduct inspections and noise testing of equipment," "implement an active community liaison program." Specific quantitative noise limits should be stated for each period during the day.

The Environmental Document states that noise waivers may be obtained to allow nighttime construction. It also states that "it is not anticipated that the construction documents would have specific limits on nighttime construction. (page 5-185)." There will apparently be no limits on the use of jack hammers, hoe-rams and pile drivers before 10 p.m. This will significantly add to the noise in the area. Mitigation measures could easily be developed preventing the use of such extremely noisy equipment unless a specified standard of necessity were met.

A meaningful noise mitigation program could do much better than this. It could set forth specific showings that must be made in order to justify nighttime construction. The proposed mitigation measures contain none. It could set forth noise limits in the event nighttime construction is necessary. The proposed mitigation measures do not. It could prohibit the use of certain equipment at night. The proposed measures do not.

The mitigation plans states that contractors will be required to "use equipment with effective mufflers." What is an "effective" muffler? This is so vague as to be meaningless. Additionally, there is often an electric alternative to diesel-powered equipment. There is no requirement to use electrically powered equipment when it is available.

The Environmental Document acknowledges that construction vibration effects can damage historic buildings. It states that a study has been done showing that no damage will occur due to construction vibrations. This study is not presented, and so it is impossible to evaluate.

Additional Comments

All in all, the noise, disruption, and other impacts of the cut and cover tunnel construction alternative are so severe that it should be abandoned as a project alternative.

The Clocktower has entered into an agreement with Caltrans to lease the parking lot off Harrison Street behind Marathon Plaza. This lease will run from the completion of the Western Approach Seismic Repair until December 31, 2038. The Environmental Document should analyze whether any of the ramp alternatives would have an impact on this lot and mitigate any impacts that may occur.

The Clocktower has entered into an agreement with Caltrans to use the parking lot at Second and Harrison until completion of the Western Approach Seismic Repair. This lot is identified for future redevelopment. The timing of that redevelopment is not stated. No potential development of that site should interfere with the Clocktower's ability to use that lot in accordance with its agreement with Caltrans.

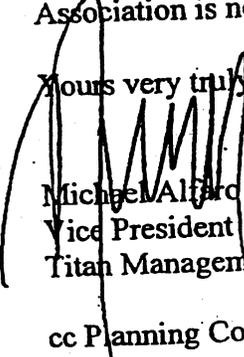
Figure 4.1-1(b) setting forth Existing Land Uses erroneously fails to identify the parking lot at Second and Harrison or the parking lot beneath the existing Harrison Street off-ramp. That figure also identifies the Clocktower as residential, whereas it is a live/work building.

Chapter 4.18 fails to identify the tower containing the clock on the Clocktower Building as a visual resource or as part of the visual character of the area. The Clocktower is one of the most significant and well-recognized landmarks in the area.

We have also stated our concerns at the Public Hearing April, 2001, and in writing, requesting a study of the Effects of Emissions the many residences and businesses. Those comments are all incorporated by reference in these comments.

We are concerned that public health and safety needs are not being met, and we are considering legal action. We feel we have been ignored in the process. The Clocktower Lofts Owners Association is not even on the distribution list for information. Please correct that omission.

Yours very truly,



Michael Alford
Vice President
Titan Management Group

cc Planning Commission



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER
(415) 558-6378

DIRECTOR'S OFFICE
PHONE: 558-6411

4TH FLOOR
FAX: 558-6426

ZONING ADMINISTRATOR
PHONE: 558-6350

5TH FLOOR
FAX: 558-6409

PLANNING INFORMATION
PHONE: 558-6377

MAJOR ENVIRONMENTAL
FAX: 558-5991

COMMISSION CALENDAR
INFO: 558-6422

INTERNET WEB SITE
WWW.SFGOV.ORG/PLANNING

MEMORANDUM

TO: Members of San Francisco Planning Commission
Members of Peninsula Corridor Joint Powers Board

FROM: Joan A. Kugler\City Planning-MEA

DATE: April 22, 2004

SUBJECT: Transbay Certification – Responses to 80 Natoma Letter

The following is text of responses to the 80 Natoma letter that I will summarize in my verbal staff report:

Meyers Development Company (Jack E. Meyers) Environmental document seriously flawed and should be revised and recirculated. Linda Avery e-mailed this letter and attachments to the Commission on Monday April 19th.

The commentator believes that the EIS/EIR is inadequate in three major areas.

1) Document doesn't describe their project therefore the environmental setting is improperly described and is legally deficient.

The CEQA Guidelines as contained in California Code of Regulation detail how to implement CEQA and in a number sections (15002, 15060 (c)(2), 15064 (d), 15125 (a) 15126.2, and 15131 (a)) particularly 15125 (a) when describing the environmental setting as a part of the contents of EIRs says "An EIR must include a description of the physical environmental conditions in the vicinity of the project as they exist at the time of the Notice of Preparation (in our case March 16, 2001) is published." The guidelines go on to state "The environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." As the 80 Natoma project does not physically exist even today, the EIR following the CEQA Guidelines rightly evaluated the existing physical conditions at a vacant site.

Projects that are proposed and/or entitled but not constructed are contained within the regional growth projections formulated by MTC and ABAG which are used for the baseline and cumulative analysis. CEQA recognizes two methods for analyzing cumulative impacts: one is the list-based approach where a list is created of past, present and reasonably foreseeable projects and the other is projections based. The FEIS/EIR explains this difference on page 7-7. In this

case we prepared a joint EIS and a CEQA-based EIR and the Federal Transportation Administration guidelines **require** that regional growth projections from the metropolitan planning organization (MTC in this case) be used for this analytical purpose. Consequently, 80 Natoma, as well as many other projects yet unconstructed, were taken into account in the regional projections.

2) Document is silent with respect to the loss of both market and affordable housing inventory; therefore fails to describe significant environmental impacts.

The 80 Natoma project is not in physical existence therefore no housing exists to be lost. As mentioned before CEQA deals with the physical environment. Chapter 5 Section 2 of the EIS/EIR is the section on Displacements and Relocation and in that section the 80 Natoma site is listed as a potential property acquisition (table 5.2.1). However, on table 5.2-5 (pg.5-33) where the residential displacement is listed the document correctly catalogues all existing housing that would be lost. Because the 80 Natoma site does not currently contain any housing, but rather is vacant, the EIS/EIR properly analyzed the proposed project's impacts on the site.

3) Document fails to discuss a feasible mitigation measure proposed by them which would allow both projects to proceed and would preserve a number of historic resources that would otherwise be demolished.

The proposal mentioned has not yet been determined as feasible by the engineering and operations staff. It is an idea that has been proposed and is still conceptual in nature. It may or may not meet the project sponsor's goals on the engineering and design criteria. These issues are still being explored but haven't been proven feasible yet. there will be continuing meetings between the two parties and if at some time in the future a feasible proposal is arrived at, it would undergo further environmental evaluation and analysis as necessary.

The letter in claiming a need for recirculation looked specifically at the areas of:

Land Use – No reference to loss of 423 housing units; clearly a land use impact; identification as a property to be acquired does not disclose land use effect.

As mentioned above the 423 residential units do not exist and the CEQA Guidelines direct us to look at the physical environmental setting when determining whether an impact is significant or not (Section 15125(a)). Therefore, it is not a flaw in the EIR to not disclose a project that has yet to be constructed and occupied. The EIS/EIR text clearly listed on page 5-22 (table 5.2-1) the 80 Natoma site as a potential acquisition and analyzed it as such.

Visual and Aesthetic impacts – Document makes no mention of the potential for visual effects that could occur with relocation of the terminal about 150 feet to the west. New text says that the west ramps would be in the same foot print.

The proposal to move the terminal was as a result of public comment and was evaluated as a part of the responses to comments. (see page 49 of the C&R document) The team evaluated it and found that the proposal would open views to the east, not bridge over Beale St. creating a lesser visual effect in that area, would reduce project costs, have no apparent loss to terminal utility and have no significant change in significant project impacts.

As to the "same foot print" text, the alignment does follow the same alignment from Harrison Street to Howard St. a distance of about 1,150 feet but does veer off the existing alignment from Howard to Natoma Streets a distance of slightly less than 200 feet as shown in the figures 2.2-1, 2.2-4 and Fig. 5.16-3. To be more absolutely correct, the text should probably have read "would be constructed in substantially the same footprint as the existing west loop ramp." However, this minor technical wordage change -- it does not change the results of the analysis nor does it reach the level of effect to cause a recirculation of the EIS/EIR.

Alternatives – Description of the Alternatives does not include their proposal which could avoid the need to acquire 80 Natoma and associated loss of the proposed 423 residential units and demolition of a historic building at Second and Howard.

As noted above under the response to item no. 2, the proposal called an alternative here, has not yet been determined as feasible by the TJPA engineering and operations staff and consultants. It is an idea that has been proposed and is still conceptual in nature. It does not appear meet the project sponsor's goals on the engineering and design criteria. These issues are still being explored but haven't been proven feasible yet. there will be continuing meetings between the two parties and if at some time in the future a feasible proposal is arrived at, it would undergo further environmental evaluation and analysis as necessary.

CEQA states that a EIR should look at a reasonable range of alternatives and that is what the document does in Chapter 2 Description of the Project Alternatives including a section (Section 2.3.2) on alternatives that were considered and withdrawn because engineering or operational constraints or the inability to meet the purpose and need. In addition, the comments and responses document reviewed, analyzed, and ultimately rejected as infeasible, alternatives proposed by members of the public during the public comment period. It also should be noted that the proposals set forth by the Meyers Development were first presented in February and March of this year – more than one year after the close of the public comment period. As with any submission by the public shortly before the proposed certification date for an EIR, it is difficult to provide the same level of critical analysis for such late submissions as we do for public comments submitted during the legally recognized public comment period. It is for this reason that we always urge public commentators to participate in the public hearing and comment process that the City follows under CEQA and its own Chapter 31.

Noise Impacts – The final EIS/EIR includes new significant noise impacts and new mitigation measures (noise wall) but no analysis of potential impact of new mitigation.

The potential for noise at the proposed bus storage facility and the mitigation of the noise barrier wall is not a new impact or mitigation. The Draft EIS/EIR that was released in October of 2002 acknowledged that noise would be generated by operations at the bus storage facilities beneath the freeway and that those noise levels could be mitigated by construction of a sound wall along a portion of the bus storage facility (Sections 5.8.6 and 5.8.7). Comments from the public during the public review of the Draft EIS/EIR requested additional information on this impact. A supplemental noise assessment was preformed using bus source noise levels and noise projection methodology from the FTA noise guidance manual. This expanded information was presented in the comments and responses document beginning on page 76 and led to an expansion of the text in Final EIS/EIR (Sections 5.8.6 and 5.8.7). This additional study allowed the mitigation of the

noise wall to be refined and is proposed for three locations; this is shown on figure 2.2-6 page 2-19 of the Final EIS/EIR.

The project sponsor has committed to all mitigation measures and to working with the community to design appropriate vegetative screening on the sound barriers.

Building Heights – Change to building heights; new development could be taller; inadequate discussion of impacts.

The potential for taller and more slender buildings came about because of the work performed for the Draft Design for Development prepared by the Redevelopment Agency with extensive public input. The Final EIS/EIR does discuss this potential change on page 5-11, however, as of this date, the Redevelopment Agency has not adopted the draft Design for Development. The potential wind effects are noted on page 5-17, shading on page 5-21, and Visual and Aesthetic effects on page 5-121. These Sections explain that because the proposal in the Design for Development would result in an overall less intense (in terms of square footage) and less dense (in terms of the number of towers) development program, wind effects would be less or essentially the same as those analyzed for both the Full Build and Reduced Scope Alternatives. Section 5.1.3.4 explains that because the proposal in the Design for Development would have fewer, more slender towers than the Full Build Alternative, shadowing effects would generally be less than those analyzed and no adverse effects to sites under the jurisdiction of the Recreation and Parks Department were found. Section 5.16.8 explains that all of the visual and aesthetic impacts of the proposal in the Design for Development would be similar to or less than those of the Full Build Alternative because each block would have a maximum of one tower instead of two and the Design for Development proposal would have an overall more varied height pattern than the Full Build Alternative.

Because these letters were received after the public review period and after the Comments and Responses document was distributed, we were not able to include them in the Comments and Responses document. However, the concerns raised in these letters were either covered in my verbal presentation or are similar to concerns already addressed in the Final EIS/EIR and Comments and Responses document.



PLANNING DEPARTMENT

City and County of San Francisco 1660 Mission Street, Suite 500 San Francisco, CA 94103-2414

(415) 558-6378

PLANNING COMMISSION
FAX: 558-6409

ADMINISTRATION
FAX: 558-6426

CURRENT PLANNING / ZONING
FAX: 558-6409

LONG RANGE PLANNING
FAX: 558-6426

June 10, 2004

President Matt Gonzalez and Members
City and County of San Francisco Board of Supervisors
City Hall, Room 244
San Francisco, CA 94102

Subject: Appeal of the Final Environmental Impact Report for the Transbay Terminal/Caltrain
Downtown Extension/Redevelopment Plan Project, Planning Department Case
Number 2000.048E

Dear President Gonzalez and Members of the Board:

Regarding the appeal of the Transbay Terminal/ Caltrain Downtown Extension /Redevelopment Plan Project ("the project"), there were additional letters, both dated June 7, 2004, that were sent to the Board of Supervisors ("Board") from two of the appellants of the Final Environmental Impact Report ("Final EIR") for the project. These letters came from Oliver L. Holmes and Timothy A. Tosta on behalf of Myers Natoma Venture and Myers Development Co.

These letters basically reiterated and expanded on the previous submittals by the appellants. Except for a few minor technical points discussed below, the issues raised in these letters were previously addressed in my letter of June 1, 2004 and the attachments to that letter.

Appellant Timothy Tosta asserts that the loss of housing not yet built or in existence at the site of 80 Natoma is a significant impact under CEQA. This is not correct. For the reasons outlined in the Planning Department's April 22, 2004 memo to the Planning Commission and the Joint Powers Board which was included in our June 1, 2004 submittal to you, CEQA looks at the analyzed project's potential for physical impacts to the environment. This was done in the EIR. To the extent that the proposed Transbay Project would affect existing housing, the Final EIR described the loss of such housing in its sections on displacements and relocation. Contrary to the appellant's claims, the 80 Natoma property is not ignored but is called out very clearly as property that would need to be acquired when the project was adopted.

Appellant Oliver Holmes continues to assert his belief that the environmental documentation failed to consider a reasonable range of alternatives. The CEQA Guidelines sections on alternatives indeed state that an EIR shall discuss "a range of reasonable alternatives which would feasibly attain most of the basic objectives of the project..." There is no requirement in CEQA or the CEQA Guidelines to examine all possible alternatives to a project. Section 15126.6 of the Guidelines states: "An EIR need not consider every conceivable alternative to a project." This section further provides: "An EIR is not required to consider alternatives that are considered infeasible." An alternative almost identical to Mr. Holmes' proposal is discussed in Section 2.3 of the EIR where various alternatives were withdrawn from further consideration (were not considered feasible as part of the scoping process for the EIR) as per CEQA Guideline 15126.6(c). In accordance with CEQA, the Final EIR

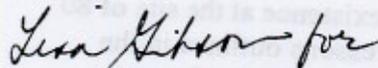
discussed various factors, including the alternative's inability to satisfy the project purpose and need, that led to the rejection of this alternative.

As mentioned in our previous letter, when determining the significance of environmental effects caused by a project, CEQA Guidelines Section 15064(f) states that the decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency. CEQA Guidelines Section 15064(f)(5) offers the following guidance that applies equally well to both documents and appeals: "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not creditable, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions based on facts, and expert opinion supported by facts."

For all of the reasons stated above, in Attachment A to my June 1, 2004 submittal to you, and in the Final EIS/EIR, the Planning Department believes that the EIR portion of the Final EIS/EIR complies with the requirements of CEQA, and provides an adequate, accurate, and objective analysis of the potential impacts of the proposed project. The additional information provided in this letter to respond to the appeal does not constitute "significant new information" that would require recirculation of the document nor does it alter the fundamental analysis and conclusions presented in the EIR. The EIR conclusions regarding the significance of environmental impacts and the need for mitigation measures are accurate, as are the Planning Commission findings to support the Commission's certification motion for the EIR. Please note that the focus of the appeal process is the adequacy and accuracy of the Final EIR not the merits of the project that the Final EIR analyzed.

If you have questions related to this appeal, please call me at 558-5977 or the case planner, Joan A. Kugler, at 558-5983. Thank you for your time and attention to this matter.

Sincerely,



Paul Maltzer
Environmental Review Officer

cc: Lawrence Badiner, Acting Director of Planning
Jean-Paul Samaha, Planning Department
Joan A. Kugler, Senior Planner
John Malamut, Deputy City Attorney
Tim Tosta
Oliver Holmes
Joseph J. Brecher