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BY E-MAIL

September 9, 2025

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**RE: Comment on CEQA Addendum for San Francisco Rezoning Plan.
Planning Commission, September 11, 2025, Agenda Items 14a, 14b, 14c.**

Dear President So, Vice-President Moore and Honorable Members of the Planning Commission:

I am writing on behalf of Neighborhoods United SF, a consortium of San Francisco neighborhood and community groups representing thousands of San Francisco residents, concerning the proposed San Francisco Rezoning Plan ("Rezone"), also known as the "Family Zoning Plan." We request that the Planning Commission defer any decision on the Rezone until the City Planning Department prepares a Supplemental Environmental Impact Report ("SEIR") to analyze the Rezone's environmental impacts and to propose feasible mitigation measures and alternatives.

I. INTRODUCTION

The Rezone will forever change the face of the City. It will allow new development to accommodate 54,000 new housing units in so-called "well-resourced" areas of the city. While the City prepared an environmental impact report ("EIR") for its Housing Element in 2022 (2022 EIR), the proposed Rezone is vastly different from the zoning studied in the 2022 Housing Element and its associated 2022 EIR. Nevertheless, the Planning Department proposes to rely on the 2022 EIR. A rezoning of this magnitude requires

thorough environmental review under the California Environmental Quality Act (“CEQA”) so that the City’s residents and decision-makers can be aware of its impacts, can consider all feasible mitigation measures and alternatives, and can have a robust and open discussion prior to making irreversible changes to San Francisco’s landscape for all time.

The Rezone will have myriad significant new impacts that were not analyzed in the 2022 EIR or included in the Housing Element.

- The Rezone, unlike the Housing Element, will allow new, high-rise development in the historic districts of Telegraph Hill, North Beach and the Northern Waterfront, including Fisherman’s Wharf– something not allowed or analyzed the 2022 EIR or Housing Element.
- The Rezone, unlike the Housing Element, includes amendments to base zoning and base height limits, and creating new zoning for some areas.
- The Rezone, unlike the Housing Element, establishes a housing sustainability district.
- The Rezone will allow the construction of buildings up to 350-feet taller than anything analyzed in the 2022 EIR, resulting in new wind, aesthetic, biological and shadow impacts not analyzed in the 2022 EIR.
- The Rezone will create significant new wind impacts from vastly taller buildings, while at the same time the Rezone ordinance proposes to weaken the City’s wind ordinance to eliminate the requirement for mandatory wind mitigation, and to redefine significant wind impacts from 1-hour to 9-hours – all of which will conspire to create significant new wind impacts far greater than anything analyzed or contemplated in the 2022 EIR.
- The Rezone will result in the displacement of rent-controlled tenants and legacy businesses, by replacing rent-controlled and existing affordable units with luxury, high-rise condos and allowing development in the areas within the Priority Equity Geographies Special Use District – something avoided in the 2022 Housing Element.
- The Rezone will create significant airborne cancer risks in newly identified APEZ zones (air pollutant exposure zones).
- The Rezone will allow development on contaminated sites not analyzed in the 2022 EIR.
- The Rezone will create new significant air quality impacts from increased vehicle miles travelled (VMT), and from construction emissions.
- The City has failed to analyze new changed circumstances, particularly the closure of the Great Highway, which will exacerbate significant traffic and public transit impacts on the Rezone, which adds thousands of new residential units to the Sunset and Richmond neighborhoods.

It is legally improper for the City to bypass CEQA review for the Rezone. Addenda are only allowed where ‘(2) Only **minor technical changes** or additions are necessary to make the EIR under consideration adequate under CEQA; and (3) The changes to the EIR made by the addendum do not raise important new issues about the significant effects on the environment.’ ([Guideline] 15164, subd. (a).) *Save Our Heritage Organization v. City of San Diego*, 28 Cal. App. 5th 656, 664–65 (2018) (emphasis added). Courts have held that a SEIR, and not an addendum, is required for even a 10- to 15-foot increase in height over levels approved in prior planning documents. (*Save Our Access v. City of San Diego*, (2023) 92 Cal. App. 5th 819, 844, (increase in 10-feet requires SEIR, not addendum); *Ventura Foothills Neighbors v. City of Ventura* (2014) 232 Cal. App. 4th 429, 434 (increase of 15-feet requires SEIR)). Yet, the Proposed Rezone in this case allows **increased height of up to 350-feet above those analyzed in the 2022 EIR**. (Addendum No. 1 to 2022 Housing Element Environmental Impact Report, (“Addendum”) at p. 11). The 2022 EIR analyzed building heights of up to 300 feet for proposed buildings, which the Rezone allows building heights of up to 500 to 650 feet – 350 feet taller than anything analyzed in the 2022 EIR. (Addendum 11).

Finally, the Rezone is flatly inconsistent with the General Plan. The 2022 Housing Element Amended the General Plan. The Rezone creates new building heights, density and development intensity that is flatly inconsistent with the 2022 Housing Element. Since zoning must be consistent with the General Plan, the Rezone creates an unlawful General Plan inconsistency.

For these reasons, we ask the City to prepare a Supplement EIR to analyze the Rezone, and to consider feasible mitigation measures and alternative to reduce its myriad impacts.

II. CONTINUANCE REQUEST

On September 4, 2025, we requested a continuance of the September 11, 2025 Planning Commission’s scheduled hearing of the Rezone. The City Planning Department released the 135-page CEQA Addendum for the Rezone on September 3, allowing the public and the Planning Commission only one week to review and comment on the Addendum. There is simply no way for the public to meaningfully review and comment on such a massive document only one week prior to the September 11 meeting. Nor is this a reasonable amount of time for the Planning Commission to consider these voluminous documents. Under the circumstances, we believe that a continuance of 30-days is appropriate to allow the public to have a reasonable opportunity to review and comment on the Rezone and the CEQA Addendum.

III. PROJECT DESCRIPTION

The Rezone proposes to add 54,000 new housing units to San Francisco, above levels that would occur without rezoning. The City contends that the Rezone is necessary to meet state-mandated Regional Housing Needs Assessment (RHNA) goals of 36,200 additional housing units. The 2022 Housing Element provided for 50,000 new units of housing, so the Rezone allows for significantly more housing. However, more

importantly, the Rezone moves the proposed housing to different areas of the city where it will have far greater impacts to historic resources, air quality, transportation, displacement and other resources.

The City largely ignores the Rezone's environmental impacts – or mischaracterizes them. For example, the Addendum does not even mention the fact that the Rezone (unlike the 2022 Housing Element) will allow redevelopment in the Telegraph Hill Historic District. The City also ignores the fact that the City has already approved 71,772 new units of housing that have yet to be built. Nor does the City discuss the fact that the Rezone is likely to displace low-income residents from rent-controlled units, while constructing new market-rate units without rent-control. The net result is likely to be less affordable housing – not more. The City's own calculations show that the Rezone will abjectly fail to meet RHNA's affordable housing goals.

IV. LEGAL STANDARD.

A. CEQA Addendum (Pub. Res. Code section 21166).

The City Planning Department proposes to approve the Rezone based on an Addendum to the 2022 Housing Element EIR. This is entirely inappropriate since the proposed Rezone is vastly different from the project analyzed in the 2022 EIR, and will have significant new environmental impacts that must be analyzed in a Supplemental EIR. (SEIR).

The court of appeal has stated, “The addendum is the other side of the coin from the supplement to an EIR. This section provides an interpretation with a label and an explanation of the kind of document that does not need additional public review.” “It must be remembered that an addendum is prepared where ‘(2) **Only minor technical changes or additions are necessary to make the EIR under consideration adequate under CEQA; and (3) The changes to the EIR made by the addendum do not raise important new issues about the significant effects on the environment.**’ ([Guideline] 15164, subd. (a).) *Save Our Heritage Organization v. City of San Diego*, 28 Cal. App. 5th 656, 664–65 (2018) (emphasis added). Even a 15-foot increase in height for a residential building (increasing height from 75 feet to 90 feet) requires a supplemental EIR, not an addendum. “Accordingly, the appropriate protocol is to have the county draft and recirculate a focused supplemental EIR, limited solely to analysis of height and profile-related impacts of the medical clinic, as built and where built to a height of ninety feet.” *Ventura Foothills Neighbors v. Cty. of Ventura*, 232 Cal. App. 4th 429, 434, (2014).

Section 15164(a) of the CEQA Guidelines states that “the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.” Pursuant to Section 15162(a) of the State CEQA Guidelines, a subsequent EIR or Negative Declaration is only required when:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would, in fact, be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The “fair argument” standard applies to analysis under Section 21166 when the proposed project is outside the scope of the prior EIR. As the Court of Appeal recently held:

We similarly apply the **fair argument** test to review an agency’s determination whether to prepare a **new or supplemental EIR** in a later **new project** following certification of a **program EIR**. [Citation.] The Legislature’s use of similar language in sections 21151 and 21094 indicate “it intended to establish a similar **low threshold** for an agency’s determination **whether to prepare a new EIR** on a later new project that follows certification of a program or plan EIR. In other words, if there is **substantial evidence** in the record that the **later project may arguably have a significant adverse effect** on the environment which was **not examined in the prior program EIR, doubts must be resolved in favor of environmental review** and the agency **must prepare a new tiered EIR, notwithstanding** the existence of **contrary evidence**.” [Citation.] (*Save Our Access*, 92 Cal.App.5th at 860 [citing *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1320–1321] [emph. added].)

As the court held in *Save Our Access*, a project that allows development of a greater height than analyzed in a prior programmatic EIR, is outside the scope of the

prior EIR. (*Save Our Access*, 92 Cal.App.5th at 845.) Therefore, the “fair argument” standard applies to subsequent projects that exceed the height limits in the program EIR. (*Id.* at 860). A subsequent project is not within the scope of a previous Program EIR if it is inconsistent with the plan addressed in the Program EIR. (14 CCR § 15168(c)(2); see PRC § 21094(b).) **“If the subsequent project is not consistent with the program or plan, it is treated as a new project and must be fully analyzed in a project—or another tiered EIR if it may have a significant effect on the environment.”** (*Friends of College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.5th 937, 960 [emph. added]; *Save Our Access v. City of San Diego* (2023) 92 Cal.App.5th 819, 845.)

Since the Rezone allows vast swaths of development outside of geographic areas analyzed in the 2022 EIR, allows building heights of up to 350 taller than analyzed in the 2022 EIR, and allows development of historic resources and contaminated sites not analyzed in the 2022 EIR, the “fair argument” standard applies to the City’s use of an Addendum. Under the fair argument standard, an EIR is required if there is a “fair argument” based on substantial evidence that the project may have any significant adverse environmental impacts. Pub. Res. Code § 21080(d).

B. SB 131.

The Addendum briefly argues that the recently passed SB 131 applies to some, but not all, of the Rezone. (Addendum 8). SB 131 exempts several types of actions from CEQA review. One of the exemptions is for “a rezoning that implements the schedule of actions contained in an approved housing element pursuant to subdivision (c) of section 65583 of the Government Code.” The City argues that this exemption applies to all but 3.4 percent of the parcels in the Rezone, which are excluded from SB 131 as “natural and protected lands.” (Addendum 8).

The City is mistaken and misinterprets SB 131. First, the Rezone does not implement the approved 2022 Housing Element. In fact, the Rezone is flatly inconsistent with the 2022 Housing Element. Most obviously, the 2022 Housing Element includes almost no new development in the historic Northeast sector of the city (800 units), while the Rezone allows 5,900 units in that area. (Addendum 19). The 2022 Housing Element provided for negative 1,800 units in Downtown, while the Rezone placed 500 units in the Downtown area. (*Id.*). The Rezone placed 2,800 additional units in the Western Addition. Also, the Rezone allows construction of buildings up to 350 taller than allowed by the Housing Element. Since the Rezone is plainly inconsistent with the 2022 Housing Element, SB 131 does not apply at all.

Second, SB 131 provides that it does not apply to “natural and protected lands,” and the Rezone admittedly includes numerous parcels that meet this definition. (Pub. Res. Code § 21080.085).

(a) This division does not apply to a rezoning that implements the schedule of actions contained in an approved housing element pursuant to subdivision (c) of Section 65583 of the Government Code.

- (b) (1) Subdivision (a) does not apply to either of the following:
 - (B) A rezoning that would allow for construction to occur within the boundaries of any natural and protected lands as defined pursuant to Section 21067.5.
- (2) (A) (i) Subdivision (a) applies to a rezoning that contains within its boundaries any natural and protected lands as defined pursuant to Section 21067.5 if those natural and protected lands are excluded from the rezoning.
- (ii) The definition of “natural and protected lands” described in clause (i) does not include the lands described in subdivision (p) of Section 21067.5.
- (B) The rezoning of any parcel or portions of a parcel that is excluded from a rezoning under this paragraph shall be a separate project that is subject to this division.

Public Resources Code §21067.5 defines “natural and protected land” as follows:

“Natural and protected lands” means sites located within any of the following locations:

(a) The state park system, as described in Article 1 (commencing with Section 5001) of Chapter 1 of Division 5.

...

(i) A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:

(1) The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for the use proposed by the project. This paragraph does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5 of the Government Code.

(2) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code has otherwise determined that the site is suitable for the use proposed by the project.

(j) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

...

(m) An environmentally sensitive area within the coastal zone, as defined in Section 30107.5...

Section 65962.5 of the Government Code refers to the Cortese List, which is the state’s list of contaminated sites. The Upzoning Plan includes several Cortese List contaminated sites. Several of these sites are “active,” meaning that they have not been remediated. We have retained a hazardous materials expert to identify all of the Cortese

List sites covered by the Upzoning. But we have already identified two Cortese List sites in our informal review, 1100 JUNIPERO SERRA BLVD; and 300 W PORTAL AVE. Therefore, SB 131 does not apply to the Upzoning Plan. There also appear to be flood zones within the Upzoned areas. This would also exclude the Upzoning from SB 131.

The Addendum admits that at least 3.4 percent of the Rezone area are “natural and protected lands,” within the meaning of SB 131. Since those parcels have not been excluded from the Rezone, SB 131 does not apply at all.¹

V. CEQA ANALYSIS.

A. HISTORIC RESOURCES.

The Rezone will have significant historic resources impacts that were not analyzed in the 2022 EIR. The 2022 EIR found significant and unmitigated impacts to historic resources, (Addendum 60), but the Rezone’s impacts are far greater and also significant and unmitigated. (Addendum 61). Since “significant effects previously examined will be substantially more severe than shown in the previous EIR,” a Supplemental EIR is required. (CEQA Guidelines 15162(a)(1)(3)(B).)

The Rezone allows high-rise development in the Northeast Sector of the City, including in the historic districts of North Beach and Telegraph Hill. These areas were not included for development in the 2022 Housing Element, and the impacts this development on historic resources was not analyzed in the 2022 EIR. Since this is “one or more significant effects not discussed in the previous EIR,” (CEQA Guidelines 15162(a)(3)(A)), a supplement EIR is required to analyze and mitigate this impact. Since this impact is beyond the scope of the 2022 EIR, it is subject to the fair argument standard.

The Addendum barely mentions historic resources impacts and does not mention the newly proposed development in the Telegraph Hill Historic District at all. The Housing Element EIR Addendum fails to analyze impacts of additional height and density

¹ The city suggests that it can review the Rezone using a hybrid approach – reviewing the natural and protected lands under CEQA section 21166, and the remainder of the Project under SB 131. However, CEQA prohibits such a schizophrenic analysis. Under CEQA, the agency must review the “whole of the action” in a single document. A “project” is “the whole of an action” directly undertaken, supported, or authorized by a public agency “which may cause either a direct physical change in the environment, or a reasonably foreseeable **indirect** physical change in the environment.” (PRC § 21065; CEQA Guidelines, 14 CCR § 15378(a).) A public agency is not permitted to subdivide a single project into smaller individual subprojects in order to avoid the responsibility of considering the environmental impact of the project as a whole. “The requirements of CEQA, ‘cannot be avoided by chopping up proposed projects into bite-size pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.’ [Citation.]” (*Topanga Beach Renters Assn. v. Department of General Services* (1976) 58 Cal.App.3d 188, 195-196 [129 Cal.Rptr. 739].)

increases, as well as changes in zoning use districts, on designated historic resources or historic districts or areas with known concentrations of “A” rated historic resources, but not yet designated as historic districts, including, but not limited to:

- North Beach is a fully documented National Register Historic District awaiting approval by the State Historical Resource Commission.
- Telegraph Hill Historic District, an Article 10 historic district.
- Washington Square, San Francisco Landmark No. 226.
- Powell Street Shops Historic District, a California Register Historic District.
- Washington Square Historic District, a California Register Historic District.
- Upper Grant Avenue Historic District, a California Register Historic District.
- Haslett Warehouse, National Register #75000172 and San Francisco Landmark No. 57.
- Bauer and Schweitzer Malting Company, San Francisco Landmark No. 129.
- Otis Elevator Company, National Register #99001265.
- Beltline Railroad Roundhouse, San Francisco Landmark #114.
- Italian Swiss Colony, San Francisco Landmark #102.
- Independent Wood Company, San Francisco Landmark #104.
- Golden Gate Park National Register of Historic Places Historic District. Fulton Street and Lincoln Boulevard border the north and south sides of Golden Gate Park. The proposed height, density and use changes in the Rezone would have significant impacts on this designated historic district.
- Port of San Francisco Embarcadero National Register Historic District. The increased height and density along the Embarcadero especially Bay, North Point, Beach and Jefferson would impact this designated Historic district.
- Presidio of San Francisco National Historic Landmark Historic District. Development proposed in the Rezone adjacent to the Presidio of San Francisco along Lake, 6 story development allowed on 8,000 square foot parcels in Presidio Terrace and Sea Cliff would negatively impact the designated Presidio Historic District.
- Lower Nob Hill National Register of Historic Places Historic District. Height increases along the edges would impact this designated historic district.
- Veteran’s Affairs Medical Complex Historic District and historic Lincoln Park – The Rezone heights to 65 feet are taller than what was studied in the 2022 EIR.
- Geneva Office Building and Power House, National Register designated and Article 10 Landmark. This site is Rezoned a part of the Special Use District and new development adjacent could result in impacts not studied in the Addendum.
- Cable Car National Register Historic District transit line. The Rezone would impact the City’s Cable Car lines.

- Drastic height increases along Van Ness Avenue. These heights were NOT envisioned in the 2022 EIR and there are many A rated historic buildings along Van Ness that would be impacted by this dramatic increase in heights.
- Ingleside Terraces is now fully documented National Register Historic District waiting for SHPO review. No impacts to this documented historic district have been studied in the Addendum.
- The Ocean Avenue Historic District has been documented, and Planning Department has reviewed this information. The Rezone will have significant impacts to Ocean Avenue historic resources.

The above impacts to historic resources were not analyzed in the 2022 EIR and must be analyzed in a Supplemental EIR.

B. HEIGHT AND RELATED IMPACTS.

The Rezone will allow construction of buildings up to 350-feet taller than analyzed in the 2022 EIR. The 2022 EIR analyzed building height ranging from 55 feet to 300 feet high. (Addendum 11). The Rezone allows building heights up to 500 feet high, and up to 650 feet high in two areas. (Addendum 11). These taller buildings are beyond the scope of the 2022 EIR, triggering the fair argument standard of review.

1. Biological Impacts.

The Addendum admits that taller buildings may have biological impacts by obstructing flight paths of birds and impacting movement of special status species. (Addendum 48-49). The 2022 EIR found biological impacts to be less than significant. Since the Rezone will have significant biological impacts, the project will have “one or more significant effects not discussed in the previous EIR,” (CEQA Guidelines 15162(a)(3)(A),) and a supplemental EIR is required.

2. Wind.

The 2022 EIR concluded that the Housing Element would have significant and unmitigated wind impacts. (Addendum 99). The Addendum admits that the Rezone will have significant unmitigated wind impacts. (Addendum 108). It concluded that buildings over 85-feet tall would have significant wind impacts. (Addendum 104). The Rezone will add taller buildings to more areas of the City, resulting in much greater wind impacts. Since “significant effects previously examined will be substantially more severe than shown in the previous EIR,” (CEQA Guidelines 15162(a)(3)(B)), a supplemental EIR is required.

The Rezone allows buildings of up to 650-feet tall in certain areas. It allows increased heights along Market Street between Castro and Van Ness. Up to 160 feet. (Addendum 100). The Rezone allows 85-feet heights along Geary, and up to 300 feet at Geary and Masonic. (Addendum 101). The height difference between the rezoned blocks

and the surrounding blocks with low heights would result in wind speeds that would likely exceed the hazard criterion. (Addendum 102).

The Rezone includes a change to the City's wind ordinance that requires CEQA review for buildings over 85 feet. The Rezone proposes to change the hazard criterion such that proposed development must not create any net new exceedance of 26 MPH wind speed for nine hours or more in a year, rather than one hour. (Addendum 104). In other words, after the Rezone, a building may cause hazardous wind conditions for a full work day, which is not currently allowed. The Rezone also eliminates an existing code requirement for "landscaping and/or wind baffling measure shall be installed on the windward side .. of the areas of concern.:" (Addendum 109).

By allowing vastly greater building heights, and eliminating previously existing mitigation standards and mitigation measures, the Rezone will have much greater wind impacts that were never analyzed in the 2022 EIR. A supplemental EIR is required to analyze these wind impacts because "significant effects previously examined will be substantially more severe than shown in the previous EIR," (CEQA Guidelines section 15162(a)(3)(B)), and "Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative." (CEQA Guidelines section 15162(a)(3)(D)).

3. Shadow.

The vastly taller buildings allowed by the Rezone will have significant shadow impacts exceeding the City's CEQA significance thresholds. The 2022 Housing Element had significant unmitigated shadow impacts on Duboce Park, Larsen Playgrond, and Laurel Hill Playground.(Addendum 110-111). The Rezone creates new significant unmitigated shadow impacts on Noe Valley Town Square and Helen Wills Park. (Addendum 111, 113, 119) and on other parks and open spaces in areas added by the Rezone to the Northeast District including Washington Square, Joe DiMaggio Playground, and Levi Piazza Park. A supplemental EIR is required to analyze these impacts because "significant effects previously examined will be substantially more severe than shown in the previous EIR," (CEQA Guidelines section 15162(a)(3)(B))

C. DISPLACEMENT.

The Addendum admits that the Rezone will result in displacement of low-income residents, small businesses, and legacy businesses. (Addendum 37-38). The Addendum states, "new market-rate housing development may contribute to indirect displacement of lower-income communities in San Francisco." (Addendum 37). It continues, "there could be a connection between market rate housing development and displacement." (Addendum 38). By allowing more market rate housing in the Rezone than in the 2022 Housing Element, this displacement impact will be exacerbated. Also, the Rezone allows increased development in North Beach and the Western Addition (Addendum 19), which include high levels of rent-controlled units and Priority Equity Geographies, which were excluded from development in the 2022 Housing Element. The Rezone shifts 5,100 units

of housing to the Northeast District, (Addendum 19) which is home to the highest percentage of rent-controlled units in the City.

Displacement is an environmental issue under CEQA. (*Save Berkeley Neighborhoods v. Regents* (2020) 51 Cal.App.5th 226, 233 (displacement of tenants is a CEQA impact)). CEQA requires the lead agency to determine whether the “environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly,” (PRC § 21083(b)(3), (d)). CEQA Guidelines Appendix G, Section XII provides that a project will have significant impacts where it will:

- Induce substantial population growth or concentration of population in an area, either directly (for example, by proposing new housing or businesses), or indirectly (for example, through extension of roads or other infrastructure);
- Displace substantial numbers of existing housing necessitating the construction of replacement housing elsewhere; or
- Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. See CEQA Guidelines Appendix G, Section XII.

The Addendum suggests vague mitigation measures such as “advancing equitable housing access, promoting racial and social equity, and eliminating displacement with strategies such as tenant protections, preservation of affordability, production of affordable housing, and advancing equitable access to housing resources and affordable units.” However, these are vague and unenforceable measures. The Addendum fails to propose any binding and enforceable mitigation measures, such as requiring the mandatory construction of affordable housing, requiring payment for the construction of affordable housing, or requiring public lands to be used for 100% affordable housing. In fact, the city is reversing or weakening all of these requirements. A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727.) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (14 CCR § 15364.) Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments. (14 CCR § 15126.4(a)(2).) In fact, proposals to provide benefits to legacy businesses, may not be legally allowable, let alone, legally enforceable. (*City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, 134.)

Since the Rezone will displace both existing housing and people, it will have a significant impact that must be analyzed in a supplemental EIR. The SEIR must consider mitigation measures and feasible alternatives to reduce this impact.

D. AIR QUALITY AND CANCER RISK.

The Addendum admits that the Rezone will create significant air quality impacts, including additional cancer risk from fine particulate matter, known as PM-2.5. (Addendum 95). The Housing Element EIR admitted significant unmitigated PM-2.5

cancer risk (Addendum 90), but the Rezone will have even greater air quality and cancer risks since it allows more development and taller buildings, and will result in more vehicle miles traveled (VMT). (Addendum 90, 92-93).

The 2022 EIR concluded that buildings under 240-feet and 495 units would have less than significant construction air quality impacts. (Addendum 89). Taller buildings have significant PM-2.5 and nitrogen oxide impacts. (Addendum 94). But allowing taller and larger buildings, the Rezone will create more significant construction air quality impacts, including emissions of cancer-cause PM-2.5. The Rezone will have significant unmitigated cancer risk from PM-2.5 and the Rezone will change the distribution of those risks compared to the Housing Element. (Addendum 95).

Also, in 2025 city released a new APEZ (air pollutant exposure zone) map showing areas with high cancer risk. The Rezone allows development in some of these newly identified areas. This is a significant new information and a changed circumstance that was not known at the time of the 2022 EIR. (Addendum 95). The new APEZ areas include Sunset Blvd, and Lake Merced. These areas will receive significant development under the Rezone. This impact must be analyzed. (Addendum 96). The Addendum admits that the cancer risks created by the Rezone in the new APEZ areas are significant and unmitigated. (Addendum 97). The Northeast District is within the APEZ area. By moving over 5000 units of new housing to this area, the Rezone exacerbates cancer risks from airborne pollutants.

A supplemental EIR is required because “significant effects previously examined will be substantially more severe than shown in the previous EIR.” (CEQA Guidelines section 15162(a)(3)(B).) Also, the new APEZ map constitutes, “new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete.” (CEQA Guidelines section 15162(a)(3).)

E. TRANSIT DELAY.

The Addendum admits that the Rezone will create significant impacts related to public transit delay, particularly along the busy 19th Avenue corridor, and on the 38-Geary and 19-Polk lines. (Addendum 71, 78, 84). The Addendum concludes that Rezone would contribute considerably to significant and unavoidable bus loading impacts. (Addendum 84). These impacts, particularly along the 19th Avenue corridor, will be exacerbated by the recent closure of the Great Highway, which has caused congestion on 19th Avenue by closing a major thoroughfare in the Western side of the City. The closure of the Great Highway is a changed circumstance that was unknown at the time of the 2022 EIR.

A supplemental EIR is required because “substantial changes [have] occur[ed] with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.” (CEQA Guidelines §15162(a)(2).) The closure of

the Great Highway is clearly a significant changed circumstance that was not analyzed in the 2022 EIR and that will impact the Transportation analysis for the Rezone.

VI. GENERAL PLAN ANALYSIS.

The Rezone is legally prohibited because it is inconsistent with the General Plan. “The Legislature has mandated that every county and city must adopt a ‘comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency’s judgment bears relation to its planning.’” (*Citizens of Goleta Valley v. Bd. of Sups.* (1990) 52 Cal.3d 553, 570 (quoting Gov. Code §65300).) The Supreme Court has described the general plan as “the constitution for all future developments within the city or county.” *Id.* (internal quotation marks omitted). The “propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.” (*Id. DeVita v. Cty. of Napa*, 9 Cal. 4th 763, 803 (1995).) The “propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.” (*Citizens of Goleta Valley v. Bd. of Sups.* (1990) 52 C.3d 553, 570.)

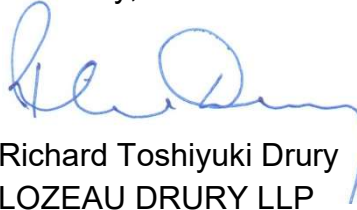
The Rezone is flatly inconsistent with the adopted General Plan, and its adopted Housing Element. The Rezone allows development in historic districts, such as North Beach and Telegraph Hill, which were protected from development in the General Plan. The Rezone allows development in Priority Equity Geographies that were protected from development in the General Plan. The Rezone allows building heights and density throughout the City that vastly exceed limits set forth in the General Plan. As such, the Rezone is legally prohibited unless and until the City amends its General Plan.

In addition, each of these General Plan inconsistencies is a significant impact that must be analyzed in an EIR. Any inconsistencies between a proposed project and applicable plans must be discussed in an EIR. (14 CCR § 15125(d); *City of Long Beach v. Los Angeles Unif. School Dist.* (2009) 176 Cal. App. 4th 889, 918; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal. App. 4th 859, 874 (EIR inadequate when Lead Agency failed to identify relationship of project to relevant local plans).) A Project’s inconsistencies with local plans and policies constitute significant impacts under CEQA. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4.)

VII. CONCLUSION.

For the foregoing reasons, we respectfully request that the Planning Commission direct the Planning Staff to prepare a Supplement EIR to analyze the Rezone and to consider feasible mitigation measures and alternatives to reduce its significant environmental impacts that were not analyzed in the 2022 EIR for the Housing Element. We further request that the Planning Commission conclude that the Rezone is prohibited since it is inconsistent with the City’s General Plan.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Richard Toshiyuki Drury', with a stylized, flowing script.

Richard Toshiyuki Drury
LOZEAU DRURY LLP