



August 10, 2010

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

Re: Comments on Draft Environmental Impact Report for 800 Presidio Avenue  
Mixed-Use Project Planning Department Case No. 2006.0868E  
State Clearinghouse No. 2008032037

Dear Mr. Wycko:

Please consider the following comments on the Draft Environmental Impact Report for the proposed project at 800 Presidion Avenue (“DEIR”). These comments are for the permanent record and are in addition to comments I and numerous neighbors submitted beginning back in 2007 (copies attached).

**The Project Description is Flawed/Unsure/and Transitory/Public Input was Refused**

The Booker T. Washington organization violated CEQA early on in this process and rather than striving to involve the community as much as possible, sought to exclude community participation and comment. I specifically requested a community scoping meeting in 2007 as provided for in CEQA on controversial projects and Booker T. refused. The Planning Department, to its credit, asked Booker T. to do “community outreach.” Booker T. refused and did none for the first three years after being asked by the Department. Rather than seek community input, Booker T. has preferred back door politics and specifically lobbied the District Supervisor before any community meeting. The first real meeting was in 2010 and it was a mere “presentation.” The project should be ordered back to a community scoping meeting. This is particularly so since the project description is different from the Notice of Preparation of an EIR and is different from what was studied under the HRER. This violates CEQA. The project description is supposed to remain stable and known. This project has been in flux since its inception and each Notice to the community reads differently as does the project description in the DEIR.

In general, as was pointed out by Commissioner Suguya and others, the logic employed in the DEIR is muddy or simply not credible. As the enclosed correspondence to Planner Michael Jacinto confirms, the Department has already determined this project violates the Urban Design Element of the General Plan and yet the DEIR fails to adequately address that fact or support its lack of discussion of the Element and the impacts of the project. The neighborhood is one of the oldest in the City and virtually intact with many buildings dating from the 1870’s-1890’s. Before the project goes forward a complete Historic Resources Survey of the buildings from Geary Street to California and from Divisadero to Presidio should be completed. The DEIR is inadequate and contains insufficient

information to allow the decision makers to reach correct conclusions and findings regarding the project's impact on historical resources and the existing neighborhood. Cumulative impacts and the development of other sites are also completely unstudied based on completely incorrect information. The project calls for a new Special Use District ("SUD") and would relax existing development standards creating new incentives for development of other near-by lots and thereby threatening known and potential historic resources in historically sensitive neighborhoods—that too has not been reviewed or discussed in the DEIR.

### **LAND USE IMPACTS**

The DEIR's bare conclusions that the proposed project would have a less-than-significant impact on the existing character of the project site and vicinity and would not physically divide an established community is completely unsupported by the facts and obvious overwhelming impacts of the building in this modest Victorian neighborhood of two-three story buildings. The immediate neighboring homes, which are not considered or specifically discussed in the DEIR, are one and two stories tall. Similarly, the conclusion that the proposed project would not conflict with an adopted land use plan or policy adopted for the purpose of avoiding or mitigating an environmental effect (The General Plan and its various Elements) is completely unsupported and undiscussed. The conclusions are unsupported as drawing showing the neighboring buildings in scale are not included anywhere in the DEIR.

As the enclosed correspondence confirms, some of the most senior planners in the Department previously acknowledged that the project violates the General Plan and the Urban Design Element, yet these policies are completely ignored in the DEIR and the exact opposite conclusion is reached without adequate discussion or any facts or law to justify these erroneous conclusions.

There is no discussion of the specific policies of the Urban Design Element of the General Plan and how the proposed project satisfies the policies. Pages IV-6, 7, 8, 9 & 10 are devoid of any mention of single specific policy and provides only bare conclusions of "no impact" or less than significant impact. The DEIR should discuss and illustrate how it satisfies a major of the law use objectives and policies to affirmatively demonstrate how the bare conclusions were reached. Discussions of the violated policies should also be added to the DEIR to fully resolve the conclusions reached and how the facts and studies support the conclusions. The conclusions appear erroneous because the project appears to violate, at some level, nearly every aspect of the Urban Design Element. A full discussion in the DEIR of the policies and principals of the Urban Design element and which are satisfied and which violated by the proposed project should be enumerated in the DEIR. The following principals and policies and objectives should be fully discussed in the DEIR: It is insufficient to simply state bare conclusions without a deeper discussion of the elements of the General Plan.

“OBJECTIVE 2  
CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE,  
CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

New development can enhance and preserve San Francisco's distinctive qualities if it is designed with consideration for the prevailing design character and the effect on surroundings.

To conserve important design character in historic or distinctive older areas, some uniformity of detail, scale, proportion, texture, materials, color and building form is necessary.	
A: Large buildings impair the character of older, small scale areas if no transition is made between small-scale and large-scale elements.”	

The DEIR should set forth extensive discussions of how this project meets this criteria and how it does not create a large “separation” in the existing neighborhood. The present building “fits in” because it is essentially one story and creates a transition from the Victorian structures on Post Street and Presidio Avenue to those on Sutter Street. The proposed building will separate and divide the existing neighborhood just by its sheer size.

“D: Visually strong buildings which contrast severely with their surroundings impair the character of the area.”

There is no discussion of this policy and of the jarring visual impact of the proposed project. The project makes no attempt to “fit in” or to match the character of the neighborhood. Other principals and policies from the Urban Design Element should be discussed and reconciled with the project. The lack of any discussion and reference to the policies in the Urban Design Element makes the DEIR completely inadequate. Other policies which need to be reconciled include the principal that:

“POLICY 2.6

Respect the character of older development nearby in the design of new buildings.

Similar care should be exercised in the design of new buildings to be constructed near historic landmarks and in older areas of established character. The new and old can stand next to one another with pleasing effects, but only if there is a similarity or successful transition in scale, building form and proportion. The detail, texture, color and materials of the old should be repeated or complemented by the new.

Often, as in the downtown area and many district centers, existing buildings provide strong facades that give continuous enclosure to the street space or to public plazas. This established character should also be respected. In some cases, formal height limits and other building controls may be required to assure that prevailing heights or building lines

or the dominance of certain buildings and features will not be broken by new construction.”

The desirability and compatibility of the proposed SUD should be fully discussed. The DEIR is nearly devoid of any discussion of the potential impacts of a dramatic change in the zoning for one lot in a historic neighborhood. The DEIR inadequately discusses any of these important and directly applicable policies.

The DEIR fails to discuss the project as one of “Major New Development” under the Urban Design Element. Placing a new 65 foot building into a 40 foot zone and with a bulk of 70,000 square feet next to buildings of less than 2,000 square feet is overwhelming and the DEIR does not discuss adequately (except to draw the conclusion that it will not create a significant impact) how such a project complies with the General Plan and the Urban Design Element. Major New Development is discussed in the Urban Design Element of the General Plan as follows:

## “MAJOR NEW DEVELOPMENT

### Human Needs

Much of the characteristic pattern of San Francisco has remained the same, and yet change is continuous. New development stands out because it is new and because it is different — sometimes quite different from what the city has known before. The effect upon the pattern of the city and its neighborhoods is often auspicious, but at times it is not. As rebuilding occurs, there may be changes in the city's essential qualities.

The fitting in of new development is, in a broad sense, a matter of scale. It requires a careful assessment of each building site in terms of the size and texture of its surroundings, and a very conscious effort to achieve balance and compatibility in the design of the new building. Good scale depends upon a height that is consistent with the total pattern of the land and of the skyline, a bulk that is not overwhelming, and an overall appearance that is complementary to the building forms and other elements of the city. Scale is relative, therefore, since the height, bulk and appearance of past development differ among the districts of the city.

People in San Francisco are accustomed to a skyline and streetscape of buildings that harmonize in color, shape and details. Much effort has been made in the past to relate each new building to its neighbors at both upper and lower levels, and to avoid jarring contrasts that would upset the city pattern. Special care has been accorded the edges of distinct districts, where transitions in scale are especially important. By tradition in San Francisco, as in other great cities of the world, unusual building forms and monumental scale have been reserved for buildings with the greatest significance to the community. These buildings characterize the mood and institutions of the city and by their quality and nature express the city's aspirations to the world at large.

In questions of scale, the height of buildings has received the greatest and most continuous public attention. San Francisco has established the most extensive system of legislated height controls in any American city, expressing its concern over building height in this manner since as early as 1927. Nevertheless, a citywide plan for building height has not existed prior to this time, and both residents and visitors have experienced stress and concern at the prospect that the appearance of the skyline may continue to change rapidly without further direction.

Tall buildings are a necessary and expressive form for much of the city's office, apartment, hotel and institutional development. These buildings, as soaring towers in a white city, connote the power and prosperity of man's modern achievements. They make economical use of land, offer fine views to their occupants, and can permit efficient deployment of public services. In recent times, however, new pressures upon the design of these buildings have been produced by increases in technical construction capabilities, in demands for large blocks of floor space, in the breadth of financing methods, and in the image-consciousness of major business firms. As each building becomes larger and the whole city becomes more intensively developed, the challenges for urban design are multiplied.

Exceptional height can have either positive or negative effects upon the city pattern and the nearby environment. A building that is well designed in itself will help to reinforce the city's form if it is well placed, but the same building at the wrong location can be utterly disruptive.

If properly placed, tall buildings can enhance the topographic form and existing skyline of the city. They can orient the traveler by helping to clarify his route and identify his destination. Building height can define districts and centers of activity. These advantages can be achieved without blocking or reduction of views from private properties, public areas or major roadways, if a proper plan for building height is followed. Such a plan must weigh all the advantages and disadvantages of height at each location in the city, and must take into account appropriate established patterns of building height and scale, seeking for the most part to follow and reinforce those patterns. Such a plan must also be applied with recognition of the functional and economic needs for space in major centers for offices, high density apartments, hotels and institutions providing public services.

The remaining aspect of building scale to be considered is that of bulk, or the apparent massiveness of a building in relation to its surroundings. A building may appear to have great bulk whether or not it is of extraordinary height, and the result can be a blocking of near and distant views and a disconcerting dominance of the skyline and the neighborhood. The users of modern building space may find these bulky forms more efficient, and the forms may seem logical for combining several uses in a single development, but such considerations do not measure the external effects upon the city. Neither height limits nor limits upon the amounts of floor space permitted will directly control excessive bulk, and therefore specific attention to this problem is called for.

The apparent bulk of a building depends primarily upon two factors: the amount of wall surface that is visible, and the degree to which the structure extends above its surroundings. Accordingly, a plan seeking to avoid excessive bulkiness must consider the existing scale of development in each area of the city and the effects of topographic form in exposing building sites to widespread view.

The largest potential building sites present the greatest problems and challenges for moderation of building form. On these sites, normal controls over the form and intensity of construction that are intended primarily for smaller sites have less precision, and the external effects of large developments upon the surrounding area and upon the city may be far greater. The stakes are high for both the developers and the future of the city, with a resulting tendency toward controversy and frustration, and unfortunate divisive effects in the community. For these reasons, the larger sites require separate and more intensive consideration in policies relating to building form.

**OBJECTIVE 3**

**MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.**

As San Francisco grows and changes, new development can and must be fitted in with established city and neighborhood patterns in a complementary fashion. Harmony with existing development requires careful consideration of the character of the surroundings at each construction site. The scale of each new building must be related to the prevailing height and bulk in the area, and to the wider effects upon the skyline, views and topographic form. Designs for buildings on large sites have the most widespread effects and require the greatest attention.”

These policies should be discussed in depth and extensive discussions are needed to explain how the new project uses the “Fundamental Principles for Major New Development” as spelled out in the General Plan. The proposed project appears to violate nearly every aspect of this element of the General Plan and there are no discussions at all in the DEIR to explain how the project can violate the guiding principals of the Urban Design Element for Major New Development yet still not cause a significant impact requiring mitigation. Without the discussion, the DEIR is completely inadequate. The DEIR also lacks any discussion or reconciliation of these important design principles:

1.	<p>The relationship of a building's size and shape to its visibility in the cityscape, to important natural features and to existing development determines whether it will have a pleasing or a disruptive effect on the image and character of the city.</p> <p>A. Tall, slender buildings near the crown on a hill emphasize the form of the hill and preserve views.</p>
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	<p>B. Extremely massive buildings on or near hills can overwhelm the natural land forms, block views, and generally disrupt the character of the city.</p> <p>C. Low, smaller-scale buildings on the slopes of hills, at their base and in the valleys between complement topographic forms and permit uninterrupted views.</p>
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4.	<p>The relationship between areas of low, fine-scaled buildings and areas of high, large-scaled buildings can be made more pleasing if the transition in building height and mass between such areas is gradual.</p>
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7.	<p>Buildings which meet the ground and reflect the slope of the hill relate to the land form.</p>	
8.	<p>The use of unusual shapes for tall office, hotel or apartment buildings detracts from the clarity of urban form by competing for attention with buildings of greater public significance. The juxtaposition of several such unusual shapes may create visual disorder.</p>	

12.	<p>A long or wide building becomes excessively bulky in appearance when its height significantly exceeds that of buildings in the surrounding area.</p> <p>COMMENT: While the Federal Office Building is similar in length and width to many large buildings nearby, it exceeds the prevailing building heights and is a discordant element in the skyline.</p>	
13.	<p>A bulky building creates the most visual disruption when seen from a distance as the dominant silhouette against a background and/or foreground of much smaller structures.</p>	

There is no discussion in the DEIR of the principals noted above from the Urban Design element of the General Plan---merely a conclusion that the building is not disruptive and causes no significant impact—a bare conclusion not supported by the facts, any reasonable discussion or reconciliation of the principals and policies and appears erroneous. An in depth discussion is needed as to how the proposed building is sympathetic to the scale and form of the existing neighborhood so as to reconcile the erroneous conclusions of no impacts or less than significant impacts.

“Visual Harmony

*POLICY 3.1*

*Promote harmony in the visual relationships and transitions between new and older buildings.*

New buildings should be made sympathetic to the scale, form and proportion of older development. This can often be done by repeating existing building lines and surface treatment. Where new buildings reach exceptional height and bulk, large surfaces should be articulated and textured to reduce their apparent size and to reflect the pattern of older buildings.

Although contrasts and juxtapositions at the edges of districts of different scale are sometimes pleasing, the transitions between such districts should generally be gradual in order to make the city's larger pattern visible and avoid overwhelming of the district of smaller scale. In transitions between districts and between properties, especially in areas of high intensity, the lower portions of buildings should be designed to promote easy circulation, good access to transit, good relationships among open spaces and maximum penetration of sunlight to the ground level.

*POLICY 3.2*

*Avoid extreme contrasts in color, shape and other characteristics which will cause new buildings to stand out in excess of their public importance.*

Large buildings are most consistent with the visual unity of the city when they are light in color. The characteristics of San Francisco's climate and the varied effects of sunlight through the day in clear and fog-filled skies make bright but subtle hues a life-giving element in the skyline. Prominent new buildings should reflect this pattern.

Buildings of unusual shape stand out in the skyline. They call attention to themselves and correspondingly reduce the visual significance of other features in the city pattern. Such buildings may also create a jarring disharmony that counteracts the traditional blending of regular rectilinear forms in the San Francisco skyline. Unusual shapes, especially in large buildings, should therefore be reserved for structures of broad public significance such as those providing community-wide services.”

There is no discussion or reconciliation of these important design elements and principals in the DEIR. The DEIR also fails to adequately address the issue of height and bulk as set forth in the Urban Design Element. Given that the height and bulk issues are directly tied to the visual impacts and the issue of aesthetics, the DEIR should necessarily contain extensive discussions of the General Plan policies and elements which deal with such topics. The DEIR lacks any discussion of these issues as follows:

## Height and Bulk

### POLICY 3.4

Promote building forms that will respect and improve the integrity of open spaces and other public areas.

New buildings should not block significant views of public open spaces, especially large parks and the Bay. Buildings near these open spaces should permit visual access, and in some cases physical access, to them.

Buildings to the south, east and west of parks and plazas should be limited in height or effectively oriented so as not to prevent the penetration of sunlight to such parks and plazas. Larger squares and plazas will benefit, in addition, from uniform facade lines and cornice heights around them which will visually contain the open space.

Large buildings and developments should, where feasible, provide ground level open space on their sites, well situated for public access and for sunlight penetration. The location and dimensions of such open space should be carefully considered with respect to the placement of other buildings and open spaces in the area, and with respect to the siting and functioning of the building with which it is provided. Where separation of pedestrian and vehicular circulation levels is possible in provision of such open space, such separation should be considered.

### POLICY 3.5

**Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.**

The height of new buildings should take into account the guidelines expressed in this Plan. These guidelines are intended to promote the objectives, principles and policies of the Plan, and **especially to complement the established city pattern.** They weigh and apply many factors affecting building height, recognizing the special nature of each topographic and development situation.

### POLICY 3.6

**Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.**

When buildings reach extreme bulk, by exceeding the prevailing height and prevailing horizontal dimensions of existing buildings in the area, especially at prominent and exposed locations, they can overwhelm other buildings, open spaces and the natural land forms, block views and disrupt the city's character. Such extremes in bulk should be avoided by establishment of maximum horizontal dimensions for new construction above the prevailing height of development in each area of the city.

The DEIR has no adequate discussion regarding the proposed placement of a tall, bulky building at the most prominent place in the neighborhood which will completely overwhelm and dominant the neighborhood. The DEIR should discuss and reconcile this important design principal and fully explain how the proposed project satisfies the General Plan and will not result in a significant impact. The proposed project not only exceeds the prevailing pattern of the neighborhood, it exceeds the Code mandated limits themselves. The conclusion of no significant impact is erroneous and must be reconciled in the DEIR by an in depth discussion of these guiding principles and policies. The complete lack of such discussions makes the DEIR inadequate.

The DEIR also does not address the design principals and policies relating to the development of a large lot and how the project can be reconciled with the policies and principals intended to guide such developments.

#### “Large Land Areas

##### POLICY 3.7

Recognize the special urban design problems posed in development of large properties.

The larger a potential site for development, the greater are apt to be the size and variety of the urban design questions raised. Larger sites may mean greater visual prominence of development and greater impact upon the city pattern. As more land area is included in a single project, the possibilities are increased that the public resources in natural areas, historic buildings and street space will be affected. Larger developments also have substantial requirements for public services, including transportation.

Under normal land use controls, most large development is governed by a "floor area ratio", which permits floor space to be built in each project in proportion to the amount of land area available. The floor area ratio limit tends to be geared to development of sites of small and moderate size, but not to take account of the impact of occasional developments that take up one or more whole blocks of land. Such developments, under this type of formula, may have a single building of truly massive proportions, or a series of building forms constructed in one or more phases.

These differences in nature and impact require that large sites be given close consideration in urban design planning.

##### POLICY 3.8

Discourage accumulation and development of large properties, unless such development is carefully designed with respect to its impact upon the surrounding area and upon the city.

The height and bulk guidelines of this Plan will help to some extent in reducing the negative effects of development on large sites. They will not, however, deal with all the special problems raised or guarantee good quality of design.

Other measures are available and may be necessary. In some cases, ordinary zoning restrictions might be tightened, or rezoning to permit a large development might be deferred in the absence of adequate assurances of compatible development. New standards might be added to require open space in large projects, and floor area ratios might be reduced or made less advantageous for larger sites.

Because government involvement often occurs as larger sites are developed, through marketing of the site itself, through redevelopment powers, through vacation of streets or in some other manner, the government role might be made more restrictive in such involvement.

There is no substitute, however, for early and frequent communication as to the merits and design of a proposed project between the developer and his architects on the one hand and public urban design professionals and interested citizens on the other. Such communication will give an early and more reasoned assessment of the positive and negative effects of the project upon the city and the surrounding area, and will reduce the chances of later delays and controversies. Processes toward these ends should be employed for all major projects in the city.

#### **POLICY 3.9**

Encourage a continuing awareness of the long-term effects of growth upon the physical form of the city.

Development of large properties, by condensing growth and change in certain areas of the city, emphasizes the effects that long-term growth and change can have upon the physical makeup of San Francisco. There is nothing in the nature of cities that will guarantee the continued livability of this or any other city. The citizens of San Francisco have an uncommon awareness that the environment is finite, and that the advantages of greater size and intensity may have ultimate limits.

That awareness is healthy and progressive and should be fostered. It should be given new outlets to help shape the physical form of the city. As in this Urban Design Plan, it can identify the attributes of the city that need to be protected and enhanced. Good planning, supported by an interested public, can channel growth to the right places in the city, build growth around previously established transportation systems and other services, cause other public costs to be borne in part by the developers who benefit from them, and hold in place the natural regulators of growth such as streets and open spaces. Above all, it can and should control the form of individual buildings so that they will be compatible with the character of the city.

More should be known as to the long term effects of growth in San Francisco. These effects and the means for moderating them should be studied in a rational manner through the normal processes of planning, and none of the important factors should be overlooked. Ultimately, certain limits upon total growth may prove to be necessary if the integrity of the city is to be preserved

**POLICY 4.15**

**Protect the livability and character of residential properties from the intrusion of incompatible new buildings.**

Whatever steps are taken in the street areas, they may be lost in the changed atmosphere produced by new buildings. Human scale can be retained if new buildings, even large ones, avoid the appearance of massiveness by maintaining established building lines and providing human scale at their lower levels through use of texture and details. If the ground level of existing buildings in the area is devoted to shops, then new buildings should avoid breaking the continuity of retail space.

In residential areas of lower density, the established form of development is protected by limitations on coverage and requirements for yards and front setbacks. These standards assure provision of open space with new buildings and maintenance of sunlight and views. Such standards, and others that contribute to the livability and character of residential neighborhoods, should be safeguarded and strengthened.

The conclusions reached in the Land Use Section of the DEIR are unsupported with facts and devoid of in-depth discussions of how the project satisfies the Urban Design Element of the General Plan

The bare conclusions reached by the DEIR on pages iv-21-27 that the Implementation of the proposed project would alter the visual character of the project site and the immediate vicinity but that such impacts are less than significant is unsupported by any facts or law. The DEIR lacks any serious discussions on the issue and does not adequately reconcile this conclusion with the numerous principals of the General Plan which seeks to guide such a proposed development. The first object of the Urban Design Element singles out views as the most important "city pattern" to be preserved and protected. Figure 14 in the DEIR at page iv-15 makes it clear that the project will have a direct and overwhelming impact on views from City streets and for dozens of homes in the vicinity. An in-depth discussion of how the conclusions are reached of no significant impacts on views and reconciliation with the Urban Design Element should included in the EIR

**OBJECTIVE 1**

**EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE**

**CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.**

San Francisco has an image and character in its city pattern which depend especially upon views, topography, streets, building form and major landscaping. This pattern gives an organization and sense of purpose to the city, denotes the extent and special nature of districts, and identifies and makes prominent the centers of human activity. The pattern also assists in orientation for travel on foot, by automobile and by public transportation. The city pattern should be recognized, protected and enhanced.”

Placing a large out of scale building at the top of the hill is not reconciled or discussed in the DEIR. The conclusion that the project will have no significant impact because it generally fits in with buildings in the “larger project area” must be explained and appears completely erroneous. The surrounding blocks are all modest scale residential buildings. The “larger project area” should be defined and explained in detail. It should not include different zoned areas such as the old Sears building at Masonic and Geary Street or Kaiser Hospital which are both in a major transit corridor and in differing zoning. Even if the comparison is made to the newly constructed Jewish Community Center at California and Presidio, that building is also in a transit corridor and busy commercial center AND, it is much smaller in height and bulk than the proposed project. The new credit union building at the same corner is smaller and shorter. These new development should be discussed in depth and why the proposed project exceeds these projects although it is in a 100 % residentially zoned area. Discussion and reconciliation is needed of the different projects in the nearby commercial corridors and how it can be justified under the General Plan that a larger, taller bulkier building is to be constructed in a RM-1 district.

**Cumulative Impacts**

The DEIR concludes that the project less than two blocks away at the Westside Courts Public Housing site is “too speculative” and need not be considered in conjunction with the proposed project which is the subject of the DEIR. The DEIR specifically states that no massing studies or drawings are available of the Westside Court site. (Page iv-28-29) The DEIR concludes—“No specific building massing studies or proposed architectural designs for the potential redevelopment of the Westside Courts were available at the time of publication of this EIR.

This is simply incorrect. The website, <http://www.westsidecourts.com/> offers at least three different massing studies or “options” which would redevelop the entire two and one-half acre site. The two sites are not “about three blocks apart” as stated in DEIR at page iv-29, the sites are in fact LESS than two blocks apart as the subject site sits on the west end of the 2700 block of Sutter Street and Westside Courts occupies the entire 2500 block of Sutter Street. Further, the subject site will be visible from Westside Courts



This diagram is one of the studies easily available on line for the Westside Court site. A comprehensive study of traffic, aesthetic, population and visual impacts from the cumulative developments is mandated by CEQA.

### **A HISTORIC SURVEY MUST BE COMPLETED BEFORE CERTIFICATION**

Initially it should be noted that no survey of historic resources in the area in the immediate vicinity of the project was conducted. The methodology of the “reconnaissance” is not explained and is entirely incomplete and incorrect on many points. The DEIR at pages iv-40 -43 miss-identifies the location of important resources in the area. The Department’s initial broad brush analysis was that the project would have no significant impacts on nearby historic resources and that no mitigation measures are necessary, again stands as a bare conclusion without adequate discussion or support. Not only is this position wrong as a matter of law, even to the casual observer, it was obvious from the beginning that it was reasonable to believe that that the project, unless mitigated *may* lead to some adverse impacts.

The DEIR (quoting from the HRE states at page iv-41:

“Throughout these blocks, there are many surviving structures from the period of the late-1880s to 1915, and especially so in the northern half of the vicinity, consisting of four blocks in particular: from Sutter to Pine in the north-south direction, and east-west from Lyon to Broderick. The primary concentration of unique older residential architecture is centered at Baker and Pine

Streets, located two blocks northeast of the project site.”

This is incorrect and moves the focus on the resources away from the project site. There are many more buildings within one block of the site dating from much earlier in the 1870's (not late 1880's as asserted in the DEIR). For example, there is an important group of Victorian Structures less than one block from the site where six homes in a row date from July 3, 1877. These important and un-surveyed buildings include:

2691 Sutter Street—August 24, 1875  
2614-2616 Sutter Street—July 3, 1877  
2616 Sutter Street —July 3, 1877  
2618 Sutter Street—July 3, 1877  
2620-2620 ½ Sutter Street—July 3, 1877  
2622-2622 ½ Sutter Street—July 3, 1877  
2624 Sutter Street—July 5, 1877  
2613 Sutter Street---April 22, 1879

Numerous other buildings date from the 1870's in the vicinity and from the early 1880's making them some of the oldest intact structures in the City as a whole. The unique and interesting thing about this neighborhood is that there are unbroken rows of these structures which have survived. Nearly the entire block face of the 2600 and 2700 block of Sutter and the 2600 and 2500 block of Post Streets have not been broken up with more modern structures. There are no photos included in the DEIR to illustrate these rows of intact resources nor has any explanation of the alleged “evaluation” done in the HRER or the DEIR been explained or documented.

What is required is a comprehensive Neighborhood Historic Resources Survey (Survey), of potentially eligible properties within the larger neighborhood area. The blocks of the “impact zone” of the project area are all fully developed blocks that are characterized by numerous potential and acknowledged historic resources that are predominantly over 100 years of age and some more than 130 years old. These resources represent a variety of important architectural styles from the mid to late 19th and early 20th century. This neighborhood also exhibits a consistent development pattern including height, scale, bulk, massing, rhythm, architectural detail and use of materials that creates cohesive groupings of buildings, districts and neighborhoods.

The DEIR indicates numerous potential and acknowledged historic resources and potential historic districts will not be evaluated but concludes without explanation that no impacts will occur. Therefore, the DEIR and HRER do not meet accepted professional standards. By design, a Survey or HRER is intended to prioritize the evaluation of properties that are directly impacted by the proposed project. The approach used here is inadequate as a matter of law. The full and complete analysis of the impacts of the project can not be deferred or separated from approval and certification of the final EIR. In order to comply with law the DEIR must adequately and completely fully disclose all potential impacts to the historic resources in the area impacted by the project.

The DEIR inadequately identifies or discusses the numerous important known historic resources in the direct area which will be visible and actually shadowed by the new development. There are four buildings included in *Here Today* in the 2600 block of Post Street. There are five buildings in the 2600 block of Sutter Street which are unmentioned. These are KNOWN resources within one block of the subject site. This is an area that is rich beyond imagination in historic resources which have mostly gone untouched and unaltered. A "Sutter Hill Historic District which would include nearly every building on both sides of the 2700 and 2600 block of Sutter and on the 2600 and 2500 block of Post is entirely viable and should be surveyed before this highly visible and disruptive project is allowed to go forward. Without the survey and without the discussion the DEIR is completely inadequate.

More specifically, the DEIR analysis is inadequate because it fails to include a comprehensive up-to-date historic resources survey of the properties in the impacted project area. Sierra Club v. State Board of Forestry (1994) 7 Cal.4th 1215 held that the Forest Practice Act and CEQA were violated because of a failure to collect adequate information regarding old-growth-dependent species. Said failure to proceed in the manner required by law precluded adequate environmental analysis of the impacts of timber harvesting.

A parallel scenario involving water resources was addressed in Cadiz Land Company v. County of San Bernardino (2000) 83 Cal.App.4th 74, where the Court of Appeal found that it was not possible to assess water supply impacts without full knowledge of the underlying water resources that would be affected. The court concluded that the very purpose of CEQA is to fully inform Public Officials and the public *before* the project is accepted or certified. not only the environment but also informed self-government demands that all of the information be reviewed.' (Laurel Heights Improvement Assn. v. Regents of University of California] [(1988)] 47 Cal.3d [376,] 392 [253 Cal.Rptr. 426, 764 P.2d 278].)" (Citizens of Goleta Valley, supra, at p. 564.)

In this regard the court stated:

"Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. [Citations.] The EIR process protects not only the environment but also informed self government." (Laurel Heights Improvement Assn. v. Regents of University of California, supra, 47 Cal.3d 376, 392; Citizens of Goleta Valley v. Board of Supervisors, supra, 52 Cal.3d at p. 564.)

The DEIR lacks an analysis of impacts on the potential historic resources in the proposed project neighborhood and simply concludes the historic resources are too remote from the site to be impacted. In lieu of the Survey being completed there is no analysis as to how this conclusion is reached. A specific analysis of the impact on the potential historic properties requires that a DEIR be adequate, complete, and a good faith effort at full

disclosure per Guideline 15151. Further, the DEIR needs to have sufficient analysis to provide decision makers with information to make a decision that intelligently takes account all known or potential environmental consequences and evaluates what is reasonably feasible. If the historic resources in the immediate vicinity are not identified, how can an honest assessment of the impacts be completed?

This is an environmental setting problem per Guideline 15151. The lack of a comprehensive survey (or any survey) to determine first what historic resources are in the vicinity and second what impact the project could have makes the DEIR inadequate. Much smaller project in areas of the City with far fewer historic resources have been required to conduct surveys to protect the historic resources nearby. It is unthinkable that this project could go forward without such a survey. The lack of comprehensive survey shifts the burden of monitoring to the neighborhood, creates a reactive process rather than proactively planning for the treatment of historic resources, and leaves open the potential for development decisions to be made about properties without the benefit of knowing whether they are historic resources.

### **THE ALTERNATIVES TO THE PROJECT ARE INADEQUATE**

Finally, the DEIR "no project alternative" acknowledges that the proposed plan policies have the potential to create impacts on historic resources yet said impacts are not quantified and no mitigation is proposed.

The DEIR fails to discuss alternative locations to the project as mandated by CEQA. This project which requires a new SUD and would otherwise violate numerous provisions of the Code is out of place and the alternative location alternative should be fully described. The DEIR also fails to evaluate and compare the impacts of the various alternatives or explain its reasoning for the lack of imaginative alternatives in the DEIR. The use of a matrix of the various alternatives should be used to make clear what is being discussed and what impacts are likely from each.

### **CONCLUSION**

The Department is presenting a DEIR to the public which it acknowledges is incomplete. A request for certification on such a document is directly contrary to CEQA. "The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." (CEQA Guidelines, 15151.)

The ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA.' " (San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus, supra, 27 Cal.App.4th at pp. 721-722, quoting Santiago County Water Dist. v. County of Orange (1981) 118 Cal.App.3d 818, 829 [173 Cal.Rptr. 602].) If the description of the environmental setting of the project site and surrounding area is inaccurate, incomplete or misleading,

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the EIR does not comply with CEQA. Without accurate and complete information pertaining to the setting of the project and surrounding uses, it cannot be found that the EIR adequately investigated and discussed the environmental impacts of the development project.

Sincerely,

Stephen M. Williams