

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
MICHAL HABDANK-KOLACZKOWSKI,)
Appellant(s))
vs.)
SAN FRANCISCO PUBLIC WORKS)
BUREAU OF URBAN FORESTRY,)
Respondent

Appeal No. **21-060**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on June 30, 2021, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on June 17, 2021, to Paramount Estate LLC, of a Public Works Order (approval to remove one street tree with replacement of at least three BUF approved trees; the tree is unhealthy, has poor structure, and is hazardous) at 4512 23rd Street.

APPLICATION NO. Order No. 204945

FOR HEARING ON August 11, 2021

Address of Appellant(s):

Address of Other Parties:

Michal Habdank-Kolaczkowski, Appellant(s) 11 Argent Alley San Francisco, CA 94131	Paramount Estate LLC, Determination Holder(s) c/o Ryan Patterson, Attorney for Determination Holder Zacks Freedman & Patterson, P.C. 601 Montgomery Street, Suite 400 San Francisco, CA 94111
---	---



Date Filed: June 30, 2021

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 21-060

I / We, **Michal Habdank-Kolaczowski**, hereby appeal the following departmental action: **ISSUANCE of Tree Removal Order No. 204945** by the **San Francisco Public Works, Bureau of Urban Forestry** which was issued or became effective on: **June 17, 2021**, to: **Paramount Estate LLC** , for the property located at: **4512 23rd Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **July 22, 2021**, (**no later than three Thursdays prior to the hearing date**). The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, pm@maanglobal.com, anders@maanglobal.com and Stephen.keller@sfdpw.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **August 5, 2021**, (**no later than one Thursday prior to hearing date**). The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, 11argentalleyhoa@gmail.com, Stephen.keller@sfdpw.org, pm@maanglobal.com and anders@maanglobal.com.

The Board's physical office is closed to the public and hard copies of the brief do NOT need to be submitted.

Only photographs and drawings may be submitted by the parties at the hearing.

Hearing Date: **Wednesday, August 11, 2021, 5:00 p.m.**, via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment to the preliminary Statement of Appeal.

Appellant or Agent (Circle One):

Signature: Via Email

Print Name: Michal Habdank-Kolaczowski

Dear protectors,

We owners of the 11 Argent Alley HOA are to writing to appeal the findings and decision of **Public Works Order No: 204945** regarding the removal of a healthy tree by a developer, [SIA Consulting](#), that is currently being investigated for continued malfeasance in the local SF permitting process. We'd like to provide the following pieces of evidence to refute the developer's claims that the tree is sick, needs removal, and is a public danger: The Algerian Ivy (*Hedera algeriensis*) has been removed by our arborist and has confirmed that the tree itself is in good health and shows no signs of "poor structure". The tree's location poses no risk to anyone, pedestrians or otherwise, as it is far more than 20 feet from any walkway. The canopy has been confirmed by the Peninsula Humane Society as [sanctuary to the American Badger](#) which listed on [California's Department of Fish & Wildlife](#) latest [Animals of Special Concern](#) and which can be corroborated by Jeff Christner, wildlife supervisor at the Peninsula SPCA, reachable at jeff@phs-spca.org or [\(888\)334-2258](tel:(888)334-2258) who was *"quite excited to see a badger captured on video."* We're also in touch with the Wildlife Foundation to identify each of the birds (including the known Hawks) that live in the tree. It will be literally impossible to be the only tree (in a canopy of over 5 trees) needing removal for the development of a 13 unit building using a 10-foot driveway that was only constructed in 1970 when parking spaces were necessary -- a feature that this 0 parking building will have no use for. As builders of the abutting building, our concern is not just about this tree, but about the entire canopy and ecosystem of animals and birds that is danger of being removed "if necessary." We have maintained the entire hillside since 1970 and there has never been any indication of illness or disease.

Please let us know what else we can provide to ensure a fair and transparent planning process for fair and transparent development in our Twin Peaks nook and how we can help make sure we balance construction with local habitat protection. Thank you for your time, consideration, and attention to this matter.



San Francisco Public Works
General – Director’s Office
49 South Van Ness Ave., Suite 1600
San Francisco, CA 94103
(628) 271-3160 www.SFPublicWorks.org

Public Works Order No: 204945

The Director of Public Works held a Public Hearing on Monday, May 24, 2021, commencing at 5:30 p.m. via teleconference to consider several items related to tree removals. In accordance with Gov. Gavin Newsom’s statewide order for all residents to shelter in place and the numerous local and state proclamations, the hearing was held through videoconferencing to allow remote public comment.

The hearing was to consider Order No. 204757, the removal of one (1) street tree with replacement adjacent to 4512 23rd St. Staff approved the removal, and the public has protested.

Findings:

The applicant stated that the tree is unhealthy and that it needs to be removed to provide access and minimize disturbance to the area for a proposed driveway to a new residential building.

The applicant’s arborist testified that the tree is indeed unhealthy, has poor structure, covered in ivy, and is in poor condition.

BUF testified that the tree is in poor condition, suppressed by neighboring trees and is considered a hazard. BUF is considering the trees health and not the building permits associated with the project.

Most public comments and neighbors opposed removal of the tree to oppose project development. Public comments included that that tree is healthy, how the community uses the area as open space and removal will negatively impact wildlife habitat.

Other members of the public supported the removal of the tree because it was deemed hazardous by BUF and the applicant’s arborist.

Recommendation

After consideration of correspondence and testimony provided, based on the fact that the tree is unhealthy, has poor structure, and is hazardous, the decision is to approve the removal of the tree with replacement of at least three (3) BUF approved trees if the project is permitted.

Appeal:

This Order may be appealed to Board of Appeals within 15 days of June 17, 2021.

Board of Appeals

49 South Van Ness Ave. suite 1475 (14th Floor)

San Francisco, CA 94103

Phone: 628.652.1150 Email: Boardofappeals@sfgov.org

NOTE: Board of Appeals office is closed until further notice, due to COVID-19

Due to COVID-19 social distancing measures, more information about how to file an appeal can be obtained by calling 628-652-1150 or by emailing the Board of Appeals at Boardofappeals@sfgov.org. For additional

information on the San Francisco Board of Appeals and to view the Appeal Process Overview, please visit their website at <http://sfgov.org/bdappeal/>

X

DocuSigned by:

Olivia D'Agli

Degrainned 148877307FDE...
84404A5...

Acting Director

APPELLANT DID NOT SUBMIT A BRIEF

BRIEF SUBMITTED BY THE DETERMINATION HOLDER(S)

1 RYAN J. PATTERSON (SBN 277971)
2 BRIAN J. O'NEILL (SBN 298108)
3 ZACKS, FREEDMAN & PATTERSON, PC
4 601 Montgomery Street, Suite 400
5 San Francisco, CA 94111
6 Tel: (415) 956-8100
7 Fax: (415) 288-9755
8 ryan@zfplaw.com
9 brian@zfplaw.com

10 Attorneys for Permit Holder,
11 PARAMOUNT ESTATE, LLC

12 **SAN FRANCISCO BOARD OF APPEALS**

13 MICHAL HABDANK-KOLACKOWSKI,

14 Appellant,

15 v.

16 SAN FRANCISCO DEPARTMENT OF
17 PUBLIC WORKS – BUREAU OF URBAN
18 FORESTRY

19 Respondent.

20 _____
21 PARAMOUNT ESTATE, LLC,

22 Permit Holder.

Tree Removal Order No.: 204945
Appeal No. 21-060

PERMIT HOLDER'S BRIEF

Date: October 6, 2021
Time: 5:00 p.m.

23 **I. INTRODUCTION**

24 Our office represents Paramount Estate, LLC, owner of 4512 23rd Street and the Permit
25 Holder in this tree removal appeal. The subject tree is a 14-inch diameter New Zealand Christmas
26 tree located in the public right-of-way adjacent to Permit Holder's property. There are six trees in
27 this right-of-way area, but only one tree is proposed for removal. The Bureau of Urban Forestry
28 (BUF) confirmed that the tree is in poor health and a public hazard, and therefore approved the tree
removal application. The BUF findings and approval were upheld by the Director of Public Works
after a public hearing.

1 The Permit Holder has provided substantial evidence to verify that the tree is in poor health
2 and should be removed, including an arborist report from Tree Management Experts and a peer-
3 review report by Davey Tree Experts. (See **Exhibit A** and **Exhibit B**.) Both arborists confirmed that
4 the tree is structurally unsound and prone to branch failure, which poses a significant risk to the
5 public who actively use this area. The Permit Holder has also provided a biological report from
6 Coast Ridge Ecology to confirm that removal of one unhealthy, hazardous tree in this heavily
7 urbanized area would have no impact on wildlife or native habitat. (See **Exhibit C**.) The Planning
8 Department has also confirmed that the project site has no value as habitat for endangered, rare, or
9 threatened species. (See **Exhibit D**.) The tree would be replaced with three new healthy BUF-
10 approved trees that would be a net benefit to wildlife and the City.

11 The Appellant lacks any evidence to support the claims made in his appeal, and many of the
12 contentions are simply unrelated to the tree removal. We therefore respectfully request that the
13 Board uphold the Department of Public Works' decision to approve the removal of the unhealthy,
14 hazardous tree and reject the appeal.

15 II. ARGUMENT

16 A. There is Overwhelming Evidence the Tree is in Poor Condition.

17 Certified arborist Roy Leggitt of Tree Management Experts visited the site on February 2,
18 2021 and found that the tree was in very poor condition. Mr. Leggitt's report states that the tree has
19 less than 30 percent of the normal foliage, the internal branches are completely devoid of foliage,
20 and many of the internal branches are dead or missing. (See **Exhibit A**.) The report also found that
21 the lack of internal branching has caused the tree to be end-heavy and failure-prone. Mr. Leggitt
22 concluded that the tree should be removed due to its poor health and structure.

23 BUF Inspector Bryan Ong also visited the site and confirmed that the tree is in poor health,
24 covered in ivy, and suppressed due to overcrowding from adjacent trees. Mr. Ong concluded that
25 the tree is unhealthy, hazardous, and should be removed. Mr. Ong's conclusions were upheld by the
26 Director of Public Works after a public hearing.

27 After the Public Works hearing, the ivy that was covering the tree was severed and removed
28 from the main trunk, although ivy persists in the crown of the tree. The Appellant submitted a quote

1 from an arborist for ivy removal and pruning. No statement regarding the tree’s health was
2 submitted by the arborist and no other evidence regarding the health of the tree was submitted by
3 the Appellant, beyond his unsubstantiated statements that the tree is healthy.

4 Certified arborist Stephen Howard of Davey Tree Expert Company reviewed Mr. Leggit’s
5 earlier report and conducted a site visit on July 31, 2021, after the ivy had been removed. Mr.
6 Howard concurred with the findings of the prior report and found that the ivy removal revealed that
7 the main two stems of the tree have a narrow attachment, which increases the likelihood of branch
8 failure. (See **Exhibit B.**) Mr. Howard’s report states that the ivy removal had not improved the
9 health of the tree, had not activated any dormant foliage, and recommended the tree be removed.

10 Two certified arborists have submitted reports confirming that the subject tree is in poor
11 condition, prone to failure, and should be removed. A BUF Inspector and the Director of Public
12 Works concur with the arborists’ conclusions. The Appellant has not submitted any evidence to
13 contradict these findings.

14 **B. The Tree Poses A Public Hazard.**

15 As confirmed by two certified arborists and BUF, the tree suffers from poor structure and is
16 prone to branch failure. The Appellant suggests that this risk of failure does not pose a hazard
17 because the tree is not located near a walkway. However, during the Public Works hearing multiple
18 neighbors commented that the area is actively used by the public, including young skateboarders
19 who often hang out in and around the right-of-way. The Director of Public Works’ findings confirm
20 that public comments included “how the community uses the area as open space.” Moreover, the
21 tree is located directly adjacent to the only accessway leading to the Permit Holder’s property. The
22 tree poses a significant risk to the owners and their invitees when accessing the property.

23 There is ample evidence in the record demonstrating that members of the public actively use
24 this area, and the high risk of branch failure poses a significant public hazard. The risk of
25 catastrophic injury far outweighs any benefit of preserving a tree that is in very poor condition.

26 **C. Removal of the Tree Will Not Impact Wildlife.**

27 Biological resource experts Coast Ridge Ecologists conducted a site visit in August 2021
28 and reviewed all relevant biological databases concerning the site. Coast Ridge Ecologists’ report
found that the site is heavily disturbed, no native soils were present, the site is dominated by highly

1 invasive plant species, and no impacts to rare wildlife species are expected to occur. (See **Exhibit**
2 **C.**) The Planning Department concurred with the findings of this report, and concluded in a CEQA
3 Exemption Determination that the property has “no value as habitat for endangered rare or
4 threatened species.” (See **Exhibit D.**)

5 The Appellant makes unsubstantiated claims that the tree is a “sanctuary” for the American
6 badger. With respect to American badgers specifically, Coast Ridge Ecologists’ report found no
7 evidence of badger mounds that are normally associated with badger habitat. The report further
8 found that the site was too small and heavily disturbed to provide suitable badger habitat, and that
9 any badger sighting would be considered an “extremely rare event.”

10 There is no possibility that removal of one unhealthy, hazardous tree would harm any
11 badgers because badgers do not live in, hunt in, or rely on trees. US Fish and Wildlife’s index of
12 species states that a badger’s habitat includes “*treeless areas* including tallgrass and shortgrass
13 prairies, grass-dominated meadows and fields within forested habitats, and shrub-steppe
14 communities,” and Coast Ridge Ecologists’ report notes that in the Bay Area the badger’s typical
15 habitat is grassland. None of those habitat types occurs on the project site. The Planning Department
16 agrees that an American badger is “extremely unlikely” to use the property because of a lack of
17 suitable habitat. (See **Exhibit D.**) Even the website link provided in the appeal states that badgers
18 are “fossorial,” meaning that they live primarily underground, not in trees or tree canopies. The
19 Appellant’s claim regarding the impact of removing one unhealthy tree on badgers is without merit.

20 The appeal also suggests that a badger should be afforded a special level of protection.
21 Badgers do not qualify as an endangered, rare, or threatened species. Badgers are not listed, nor
22 considered a candidate for listing, under either the Federal or State Endangered Species Act. The
23 badger is considered a “least-concern species” by the International Union for Conservation of
24 Nature, including because it does not qualify as threatened or near threatened. (Helgen, K. & Reid,
25 F., *Taxidea taxus*. *The IUCN Red List of Threatened Species*, (2016).) NatureServe Conservancy
26 affords the badger a Global Rank of G-5, the lowest rank possible, and deems it a “secure” species
27 globally and nationally. (NatureServe, *NatureServe Explorer [web application]*, NatureServe
28 (2015), <https://explorer.natureserve.org/>.) Although the badger is on the CDFW’s Special Animals
List, the species is given a state rank of S-3 due to only a moderate level of risk to the species.

1 (CDFW, *Special Animals List*, California Natural Diversity Database (July 2019).) The species is
2 not endangered, nor is it likely to become endangered in the foreseeable future, and it is therefore
3 not afforded any special protections under state or federal law.

4 The Appellant also suggests that there may be hawks or other birds living in the tree, but
5 does not provide any evidence to support this statement. Coast Ridge Ecologists only observed
6 common bird species during their site survey and found no indication of active nests of any kind.
7 Moreover, the Permit Holder is committed to planting a minimum of three BUF-approved
8 replacement trees. Replacing one unhealthy, hazardous tree with three new healthy trees would be a
9 net benefit to local common birds, as well as the members of the public who enjoy the area.

10 **D. Remaining Appeal Contentions are Unrelated to the Tree Removal Permit.**

11 The Appellant makes a series of claims unrelated to the merits of this tree removal permit,
12 including arguments against the design and scope of the proposed residential project at 4512 23rd
13 Street. The Appellant also claims that additional trees will need to be removed to accommodate that
14 future potential project.

15 These claims are not a legally valid basis for denial of this tree removal permit. This appeal
16 is solely related to the merits of removing one unhealthy, hazardous tree. The Permit Holder has no
17 plans to remove any other trees and fully acknowledges that any additional tree removal may
18 require City approval, which would be subject to further public review and separate appeal process.
19 The evidence is clear that removal of this tree is warranted due to its poor condition, regardless of
20 whether the proposed development moves forward.

21 We also note that the appeal includes baseless and defamatory remarks against the Permit
22 Holder and consultants. Such statements have no place in public discourse and should be
23 admonished by this Board.

24 **III. CONCLUSION**

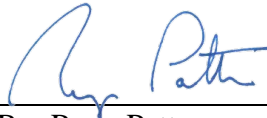
25 Two certified arborists, ecologist experts, BUF, and the Director of Public Works all agree
26 that the tree is unhealthy, hazardous, and should be removed. The Permit Holder has provided
27 overwhelming, unrefuted evidence confirming that the tree should be removed. Removing a tree
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

and replacing it with three new healthy trees would be a net benefit to the public and to the City.
The Board of Appeals should therefore uphold the tree removal permit and reject the appeal.

Dated: September 30, 2020

Respectfully submitted,



By: Ryan Patterson
ZACKS, FREEDMAN & PATTERSON, PC
Attorneys for Permit Holder,
PARAMOUNT ESTATE, LLC

1 RYAN J. PATTERSON (SBN 277971)
2 BRIAN J. O'NEILL (SBN 298108)
3 ZACKS, FREEDMAN & PATTERSON, PC
4 601 Montgomery Street, Suite 400
5 San Francisco, CA 94111
6 Tel: (415) 956-8100
7 Fax: (415) 288-9755
8 ryan@zfplaw.com
9 brian@zfplaw.com

10 Attorneys for Permit Holder,
11 PARAMOUNT ESTATE, LLC

12 **SAN FRANCISCO BOARD OF APPEALS**

13 MICHAL HABDANK-KOLACKOWSKI,

14 Appellant,

15 v.

16 SAN FRANCISCO PUBLIC WORKS –
17 BUREAU OF URBAN FORESTRY

18 Respondent.

19 PARAMOUNT ESTATE, LLC,

20 Permit Holder.

Tree Removal Order No.: 204945
Appeal No. 21060

**DECLARATION OF BRIAN J. O'NEILL,
ESQ. IN SUPPORT OF PERMIT
HOLDER'S BRIEF**

Date: October 6, 2021
Time: 5:00 p.m.

1 I, Brian J. O’Neill, declare as follows:

2 1. I am an attorney at Zacks, Freedman & Patterson, PC, the firm hired to represent
3 Paramount Estate, LLC in this appeal regarding 4512 23rd Street (the “Property”). I make this
4 declaration based on facts personally known to me, except as to those facts stated on information
5 and belief, which facts I believe to be true.

6 2. Attached hereto as **Exhibit A** is a true and correct copy of an Arborist Report from
7 Tree Management Experts dated February 7, 2021.

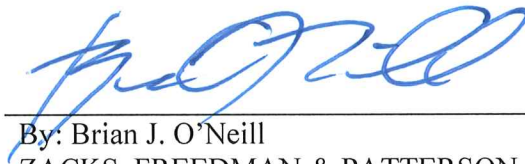
8 3. Attached hereto as **Exhibit B** is a true and correct copy of an Arborist Statement by
9 Davey Tree Expert Company dated July 31, 2021.

10 4. Attached hereto as **Exhibit C** is a true and correct copy of the Focused Biological
11 Resources Assessment from Coast Ridge Ecology dated August 2021.

12 5. Attached hereto as **Exhibit D** is a true and correct copy of the San Francisco
13 Planning CEQA Exemption Determination for Case No. 2019-019698ENV.

14
15 I declare under penalty of perjury under the laws of the State of California that the foregoing
16 is true and correct, and that this was executed on September 30, 2021.

17
18 Dated: September 30, 2020



19 By: Brian J. O’Neill
20 ZACKS, FREEDMAN & PATTERSON, PC
21 Attorneys for Permit Holder,
22 PARAMOUNT ESTATE, LLC
23
24
25
26
27
28

EXHIBIT A

Tree Management Experts

Consulting Arborists

3109 Sacramento Street
San Francisco, CA 94115

Member, American Society of Consulting Arborists
Certified Arborists, Tree Risk Assessment Qualified

email Roy@treemanagementexperts.com

cell 415.606.3610



MAAN Global Development

Attn: Anders Fung

via email: Anders@maanglobal.com

RE: 4512 23rd St, San Francisco

Date: 2/7/21

ARBORIST REPORT

Assignment

- Review email communications from neighbors and from the Bureau of Urban Forestry related to one street tree on 23rd Street, west of Market Street.
- Provide a site visit to inspect the street tree and evaluate the trees condition.
- Provide a review of proposed retaining wall construction within the 23rd Street right-of-way (ROW) for purposes of creating a driveway access onto the subject property.
- Provide an Arborist Report of findings and recommendations.

Background

The subject property is a vacant lot at 4512 23rd Street, located mid-block just to the west of Market Street. Although this is a through lot, the ROW accessible for vehicles is 23rd Street. There are several trees located on the ROW, and several neighbors with concerns over the loss of trees. This Arborist Report is limited to the loss of one specific tree that would be at the edge of excavation for a new retaining wall within the ROW. The wall would be at 20 feet from property line, and falls at the base of this tree. The subject tree is indicated on the attached survey.

Findings and Recommendations

I visited the property and the adjacent ROW on Monday, 2/1/21. The subject tree is a 14-inch diameter New Zealand Christmas tree (*Metrosideros excelsus*). This tree is in very poor condition, with Algerian ivy having grown up into the tree and overtopping all of the interior and lower branching, and most of the upper crown. The tree has an estimated 30 percent of the normal foliage, and maybe even less. A set of 6 photos were taken on the day of my inspection, as attached.

The tree could not grow as quickly as the ivy and was overtaken by it. The overtopping by ivy caused internal foliage to die due to lack of sunlight, and without foliage the branches have died. The only part of this tree still alive is in the northeast part of the crown.

With such a small amount of live crown remaining and with so few branches still alive, the tree is in very poor condition, both health and structure. All remaining branches have lost

Tree Management Experts

Consulting Arborists

3109 Sacramento Street
San Francisco, CA 94115

Member, American Society of Consulting Arborists
Certified Arborists, Tree Risk Assessment Qualified



email Roy@treemanagementexperts.com cell 415.606.3610

their interior branching and are now end-heavy and failure prone, much like branches that have been lion-tailed to have all the interior branches pruned off. Even without any construction impacts I recommend that this tree be approved for removal.

Given that a new driveway approach is needed, replacement of this tree can easily be accomplished. Since there are other similar trees on the ROW, exact placement of a new tree is not determined, but this block could easily accommodate a new tree. The species and placement of the new tree should be determined in concert with the Bureau of Urban Forestry.

Tree Management Experts

Consulting Arborists

3109 Sacramento Street
San Francisco, CA 94115

Member, American Society of Consulting Arborists
Certified Arborists, Tree Risk Assessment Qualified

email Roy@treemanagementexperts.com

cell 415.606.3610



Assumptions and Limiting Conditions

1. Any legal description provided to the consultant is assumed to be correct. Title and ownership of all property considered are assumed to be good and marketable. No responsibility is assumed for matters legal in character. Any and all property is appraised or evaluated as though free and clear, under responsible ownership and competent management.
2. It is assumed that any property is not in violation of any applicable codes, ordinances, statutes or other governmental regulations.
3. Care has been taken to obtain all information from reliable sources. All data has been verified insofar as possible. The consultant can neither guarantee nor be responsible for the accuracy of information provided by others.
4. Various diagrams, sketches and photographs in this report are intended as visual aids and are not to scale, unless specifically stated as such on the drawing. These communication tools in no way substitute for nor should be construed as surveys, architectural or engineering drawings.
5. Loss or alteration of any part of this report invalidates the entire report.
6. Possession of this report or a copy thereof does not imply right of publication or use for any purpose by any other than the person to whom it is addressed, without the prior written or verbal consent of the consultant.
7. This report is confidential and to be distributed only to the individual or entity to whom it is addressed. Any or all of the contents of this report may be conveyed to another party only with the express prior written or verbal consent of the consultant. Such limitations apply to the original report, a copy, facsimile, scanned image or digital version thereof.
8. This report represents the opinion of the consultant. In no way is the consultant's fee contingent upon a stipulated result, the occurrence of a subsequent event, nor upon any finding to be reported.
9. The consultant shall not be required to give testimony or to attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services as described in the fee schedule, an agreement or a contract.
10. Information contained in this report reflects observations made only to those items described and only reflects the condition of those items at the time of the site visit. Furthermore, the inspection is limited to visual examination of items and elements at the site, unless expressly stated otherwise. There is no expressed or implied warranty or guarantee that problems or deficiencies of the plants or property inspected may not arise in the future.

Disclosure Statement

Arborists are tree specialists who use their education, knowledge, training, and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or to seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like any medicine, cannot be guaranteed.

Tree Management Experts

Consulting Arborists

3109 Sacramento Street
San Francisco, CA 94115

Member, American Society of Consulting Arborists
Certified Arborists, Tree Risk Assessment Qualified



email Roy@treemanagementexperts.com cell 415.606.3610

Treatment, pruning, and removal of trees may involve considerations beyond the scope of the arborist's services such as property boundaries, property ownership, site lines, disputes between neighbors, and other issues. An arborist cannot take such considerations into account unless complete and accurate information is disclosed to the arborist. An arborist should then be expected to reasonably rely upon the completeness and accuracy of the information provided.

Trees can be managed, but they cannot be controlled. To live near trees is to accept some degree of risk. The only way to eliminate all risk associated with trees is to eliminate the trees.

Certification of Performance

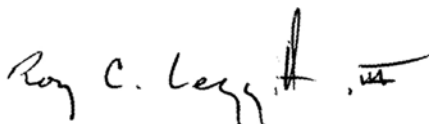
I, Roy C. Leggitt, III, Certify:

- That we have inspected the trees and/or property evaluated in this report. We have stated findings accurately, insofar as the limitations of the Assignment and within the extent and context identified by this report;
- That we have no current or prospective interest in the vegetation or any real estate that is the subject of this report, and have no personal interest or bias with respect to the parties involved;
- That the analysis, opinions and conclusions stated herein are original and are based on current scientific procedures and facts and according to commonly accepted arboricultural practices;
- That no significant professional assistance was provided, except as indicated by the inclusion of another professional report within this report;
- That compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party.

I am a member in good standing of the American Society of Consulting Arborists and a member and Certified Arborist with the International Society of Arboriculture.

I have attained professional training in all areas of knowledge asserted through this report by completion of a Bachelor of Science degree in Plant Science, by routinely attending pertinent professional conferences and by reading current research from professional journals, books and other media.

I have rendered professional services in a full-time capacity in the field of horticulture and arboriculture for more than 30 years.


Signed: _____
Certified Arborist WE-0564A

Date: 2/7/21 _____



SURVEYOR'S STATEMENT
 THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND I AM A LICENSED SURVEYOR IN THE STATE OF CALIFORNIA. I HAVE PERSONALLY CONDUCTED THE SURVEY AND I AM AWARE OF THE CONTENTS OF THIS MAP. I HAVE READ AND UNDERSTAND THE CONTENTS OF THIS MAP AND I AM SURE THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE NOT BEEN AWARE OF ANY FACTS OR CIRCUMSTANCES THAT WOULD MAKE THIS MAP MISLEADING OR INACCURATE. I HAVE NOT BEEN AWARE OF ANY FACTS OR CIRCUMSTANCES THAT WOULD MAKE THIS MAP MISLEADING OR INACCURATE. I HAVE NOT BEEN AWARE OF ANY FACTS OR CIRCUMSTANCES THAT WOULD MAKE THIS MAP MISLEADING OR INACCURATE.

BY: *[Signature]*
 DATE: 1/20/2021

GENERAL NOTES:
 1. ALL DIMENSIONS ARE IN DECIMAL FEET UNLESS OTHERWISE NOTED.
 2. ALL ANGLES ARE IN 90° UNLESS OTHERWISE NOTED.
 3. THIS MAP REPRESENTS THE SITE CONDITIONS ON DATE OF FIELD SURVEY (EXCEPTED 12/2020).
 4. ELEVATIONS ARE BASED ON THE FOUND GYPS CONCRETE CORNER IN THE ELEVATION 559.39M CITY AND COUNTY OF SAN FRANCISCO.

UTILITY NOTE:
 ONLY UTILITIES SHOWN ON THIS MAP ARE THOSE SHOWN BY THE SURVEYOR. ALL UTILITIES ABOVE AND BELOW GROUND MUST BE VERIFIED BY THE OWNER AND/OR RECOMMENDED TO HAVE ALL UNDERGROUND UTILITIES ACCURATELY LOCATED BY THE SURVEYOR FOR THE LOCATION OF UNDERGROUND OPENING UTILITIES.

LEGEND

- PROPERTY LINE
- ▨ BUILDING FOOTPRINT
- ▨ WOODEN FENCE
- ▨ CONCRETE WALL
- ROOF LINE
- MINOR CONTOUR
- MAJOR CONTOUR
- TREE WITH DIA.
- FLOW LINE
- TOP BACK OF CURB
- TOP OF WALL
- T.W.
- R.F.
- SPOT ELEVATION
- TRAFFIC LIGHT
- WATER METER
- POKE UTILITY BOX
- MANHOLE
- UTILITY POLE

GRAPHIC SCALE
 (1 IN FEET)
 1" = 60'

NO. DATE COMMENTS

JOB NO.
 20085

W S
 Westover
 Surveying

336 CLAREMONT BLVD. STE 1
 SAN FRANCISCO, CA 94127
 (415) 242-5400
 www.westoversurveying.com

SITE SURVEY
 4512 23RD STREET
 LOT 005 OF ASSESSORS BLOCK 2800,
 CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA

DRAWN BY: CS
CHECKED BY: PLW
DATE: 12/16/2020
SCALE: 1" = 60'

SHEET
 1













EXHIBIT B



ARBORIST STATEMENT

Tree Condition Assessment • July 31st, 2021

Prepared by:

Stephen Howard

Davey Tree Expert Company • San Francisco

Assistant District Manager

ISA Certified Arborist #WE-10380B

ISA Tree Risk Assessment Qualified

Prepared for:

MAAN Global Development

Attn: Anders Fung

via email: Anders@maanglobal.com

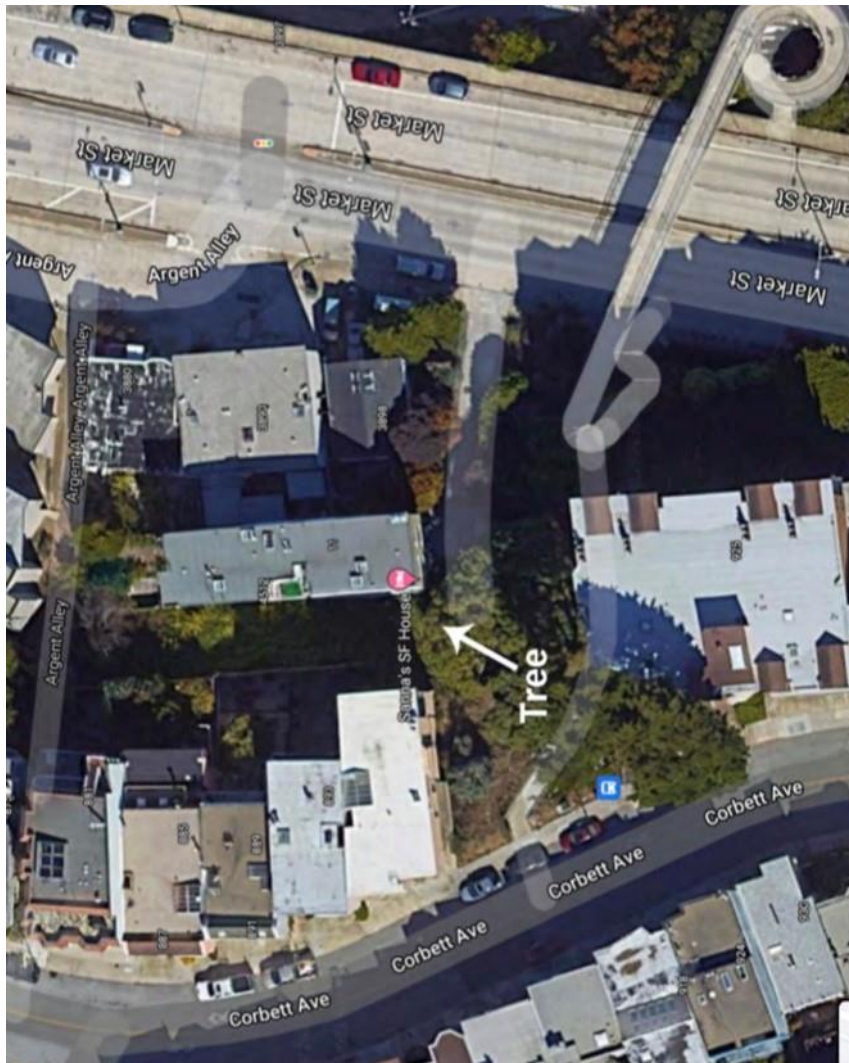
RE: 4512 23rd St, San Francisco

Scope of Work and Limitations

The purpose of this arborist statement is to provide a peer review to the arborist report prepared by Roy Leggitt with Tree Management Experts, dated 2/7/21, and elaborate on any changes in the tree's condition.

Arborists are tree specialists who use their education, knowledge, training, and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk associated with living trees. Clients may choose to accept or disregard the recommendations of the arborist or to seek additional advice. The opinions in this assessment are given based on observations made and using generally accepted professional judgment, however, because trees are living organisms and subject to change, damage and disease, the results, observations, recommendations, and analysis as set out in this assessment are valid only at the date any such observations and analysis took place and no guarantee, warranty, representation or opinion is offered or made by Davey as to the length of the validity of the results, observations, recommendations and analysis contained within this assessment. Conditions can be obscured within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specific period of time. As a result the client shall not rely upon this Assessment, save and except for representing the circumstances and observations, analysis and recommendations that were made as at the date of such inspections. It is recommended that trees be re--assessed periodically.

Site Description and Context



The subject tree is a New Zealand Christmas Tree (*Metrosideros excelsa*) on an open lot, among other *Metrosideros*. The specific tree would be at the edge of excavation for a new retaining wall within the ROW. The wall would be at 20 feet from property line, and falls at the base of this tree, necessitating the it's removal. San Francisco Bureau of Urban Forestry has approved the tree for removal, but the removal permit has been protested by the public and there will be an appeal hearing to determine the outcome.

Description of Subject Tree

I have no objections to the assessment of the tree's condition in the "Findings and Recommendations" section of the arborist report from Tree Management Experts. When I visited the site, the ivy had been severed and removed along the main trunk. Ivy vines persist in the crown but the foliage from the ivy has desiccated. Without the ivy, it is apparent that the two main stems in the middle of the crown have a narrow attachment with included bark. Removal of the ivy has not improved the live crown ratio. The only healthy foliage is still at the far ends of the limb tips with no live interior foliage or recently activated dormant buds in the inner crown.

Analysis and Recommendations

Narrow attachment and included bark increases the likelihood of failure at the point of attachment. Without interior foliage to prune back to, weight related concerns with scaffold limbs cannot be mitigated through standard pruning. While severing the ivy has removed weight from the stems, the crown dampening effect is reduced and there is more wind exposure to the vertical stems which are essentially lion-tailed. Since the tree has poor structure and a low live crown ratio that has reduced carbon sequestration ability, I support removal and replacement.











EXHIBIT C

***Focused Biological Resources Assessment
For Property at
4512 23rd Street
San Francisco, California***

Prepared for:

***Anders Fung
MAAN Global Development***

Prepared by:

***Coast Ridge Ecology, LLC
1410 31st Avenue
San Francisco, CA 94122***

August, 2021



Table of Contents

I. INTRODUCTION.....	1
PROJECT DESCRIPTION.....	1
PROJECT LOCATION.....	1
II. METHODS	1
III. RESULTS.....	4
SOILS	4
VEGETATION.....	4
WILDLIFE	5
RARE, THREATENED, AND ENDANGERED SPECIES	7
SPECIES DESCRIPTIONS	7
MISSION BLUE BUTTERFLY (<i>ICARICIA ICARIOIDES MISSIONENSIS</i>)	7
AMERICAN BADGER (<i>TAXIDEA TAXUS</i>).....	7
RARE PLANTS	8
CRITICAL HABITAT.....	8
IV. STANDARD CONSERVATION RECOMMENDATIONS	8
VII. REFERENCES.....	10
Representative Photographs	11

Lists of Tables

Table 1. Plant Species Observed During Site Survey.....	4
Table 2. Wildlife Species Observed During Site Survey.....	5
Table 3. Rare, Threatened, and Endangered Species within a 1-mile radius of the Project Site.....	13

List of Figures

Figure 1. Project Location.....	2
Figure 2. Project Site Map.....	3
Figure 3. Rare, Threatened, and Endangered Species within a 1-mile radius of the Project Site.....	6

I. INTRODUCTION

The purpose of this focused biological resources assessment is to identify any rare, endangered, and/or threatened species on the property at 4512 23rd St., San Francisco, California and surrounding area. Standard conservation measures are recommended at the end of the report.

Project Description

The proposed project would develop 4512 23rd St. into a five-story building with thirteen residential units. Additionally, 23rd street will be extended to provide a 25' frontage in front of the building, and the street will be widened slightly to accommodate vehicle and pedestrian access via a concrete path.

Project Location

The project is located at 4512 23rd street. in San Francisco, California. The property is surrounded by multi-story residential buildings to the north, east, and west. To the south, the 23rd Street right-of-way starts as a concrete pathway leading east from the intersection with Market Street, and opens into a small open space area that leads to Corbett Avenue to the west. This block of buildings is bordered by Market Street to the east, Corbett Avenue to the west, Argent Alley to the north, and 23rd Street to the south.

The site is entirely surrounded by urban development. Historical imagery indicates that the property was heavily disturbed when the surrounding area was developed in the 1950's and converted into residential housing (USGS, 2021). This heavy disturbance appears to have completely replaced the native grassland habitat in the project vicinity, with most of the surrounding vegetation currently being dominated by non-native ornamental trees and shrubs. The subject parcel is located on a moderate slope, and the 23rd street concrete access path slopes steeply towards Market Street.

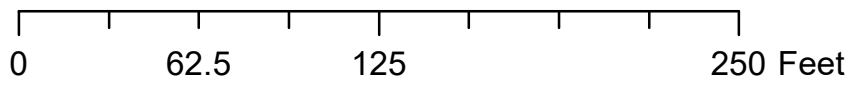
II. METHODS

Coast Ridge Ecology biologists Patrick Kobernus and Alyssa Olenberg-Meltzer conducted a site survey of the project site and surrounding area on August 11, 2021. All plant and animal species observed were documented and plant communities and habitats were assessed for their potential to support rare, Threatened or Endangered species. The California Department of Fish and Wildlife (CDFW) Natural Diversity Database (CNDDDB) was consulted for known occurrences of rare, Threatened or Endangered Species within a one-mile radius of the project site (CNDDDB 2021). Data from CNDDDB, California Native Plant Society (CNPS) On-Line Inventory of Rare and Endangered Plants of California (CNPS 2021a), and other relevant literature and databases; knowledge of regional biota; and observations made during the field survey; were used to evaluate on-site habitat suitability for rare, Threatened or Endangered plant and wildlife species within the project site. Additional documents reviewed include project plans and regulatory documents pertaining to the project.



Figure 1: Project Location Map
4512 23rd St., San Francisco, CA

Service Layer Credits: Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



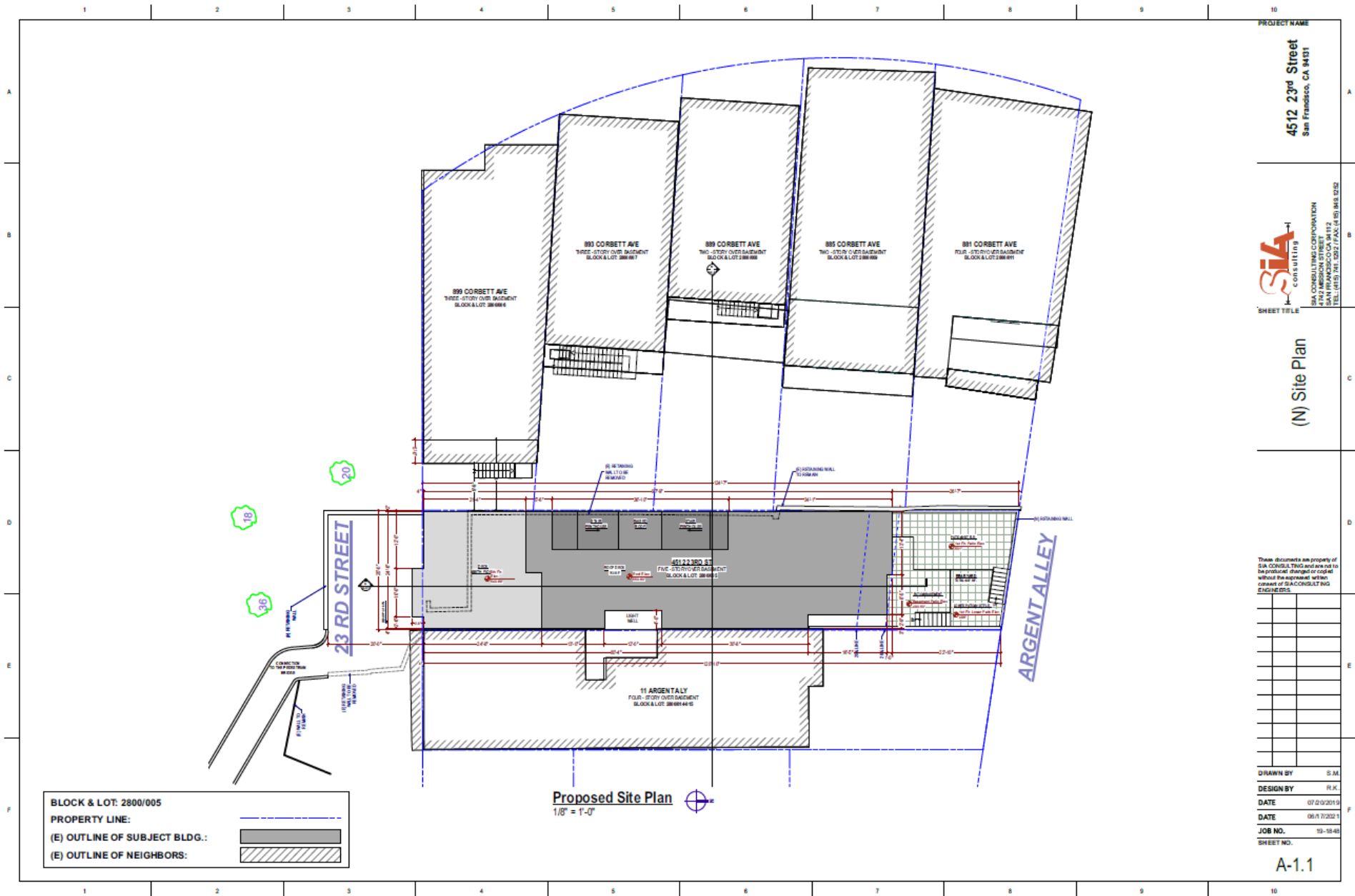


Figure 2: Site Plan for 4512 23rd St.

III. RESULTS

Soils

There is one soil type within the project area shown as mapped by the NRCS Web Soil Survey (2021). The listed soil type for the project area is Orthents, cut and fill-Urban land complex, 5 to 75 percent slopes. This is consistent with the site having been heavily disturbed as part of historical development of the area. There are no serpentine soils or other distinct native soil types present within the project area that could potentially support rare, Threatened or Endangered plant species.

Vegetation

The northern portion of the project site, the rectangular lot situated between 881-889 Corbett Alley to the west and 11 Argent Alley to the east, is dominated by Himalayan blackberry (*Rubus armeniacus*), with patches of pampas grass (*Cortaderia selloana*), sweet fennel (*Foeniculum vulgare*), nasturtium (*Tropaeolum majus*), and English ivy (*Hedera helix*) around the edges. To the south, where 23rd street will be extended to provide a frontage for the building, groundcover is dominated by Panic veldtgrass (*Ehrharta erecta*) and English ivy (*Hedera helix*). Four New Zealand Christmas trees are present in this area, one of which will be removed for the project. The entirety of the project site is dominated by highly invasive plant species that prevent colonization by native species.

A separate arborist report was completed to identify any significant trees on the property as defined in Section 810A of the San Francisco Public Works Code (Tree Management Experts 2021).

Table 1: Plant Species Observed During Site Survey

Common name	Scientific Name	Status
Pampas grass	<i>Cortaderia selloana</i>	NNI
Panic veldtgrass	<i>Ehrharta erecta</i>	NNI
Sweet fennel	<i>Foeniculum vulgare</i>	NNI
White-ramping fumitory	<i>Fumaria capreolata</i>	NN
French broom	<i>Genista monspessulana</i>	NNI
English ivy	<i>Hedera helix</i>	NNI
Shortpod mustard	<i>Hirschfeldia incana</i>	NNI
Common holly	<i>Ilex aquifolium</i>	NNI
Horticultural iris	<i>Iris pseudacorus</i>	NNI
New Zealand Christmas tree	<i>Metrosideros excelsa</i>	NN
Cherry plum	<i>Prunus cerasifera</i>	NNI
Himalayan blackberry	<i>Rubus armeniacus</i>	NNI
Curly dock	<i>Rumex crispus</i>	NNI
New Zealand nightshade	<i>Solanum nigrum</i>	NN
Nasturtium	<i>Tropaeolum majus</i>	NNI

Status: Native(N), Non-native (NN), Non-native Invasive(NNI)

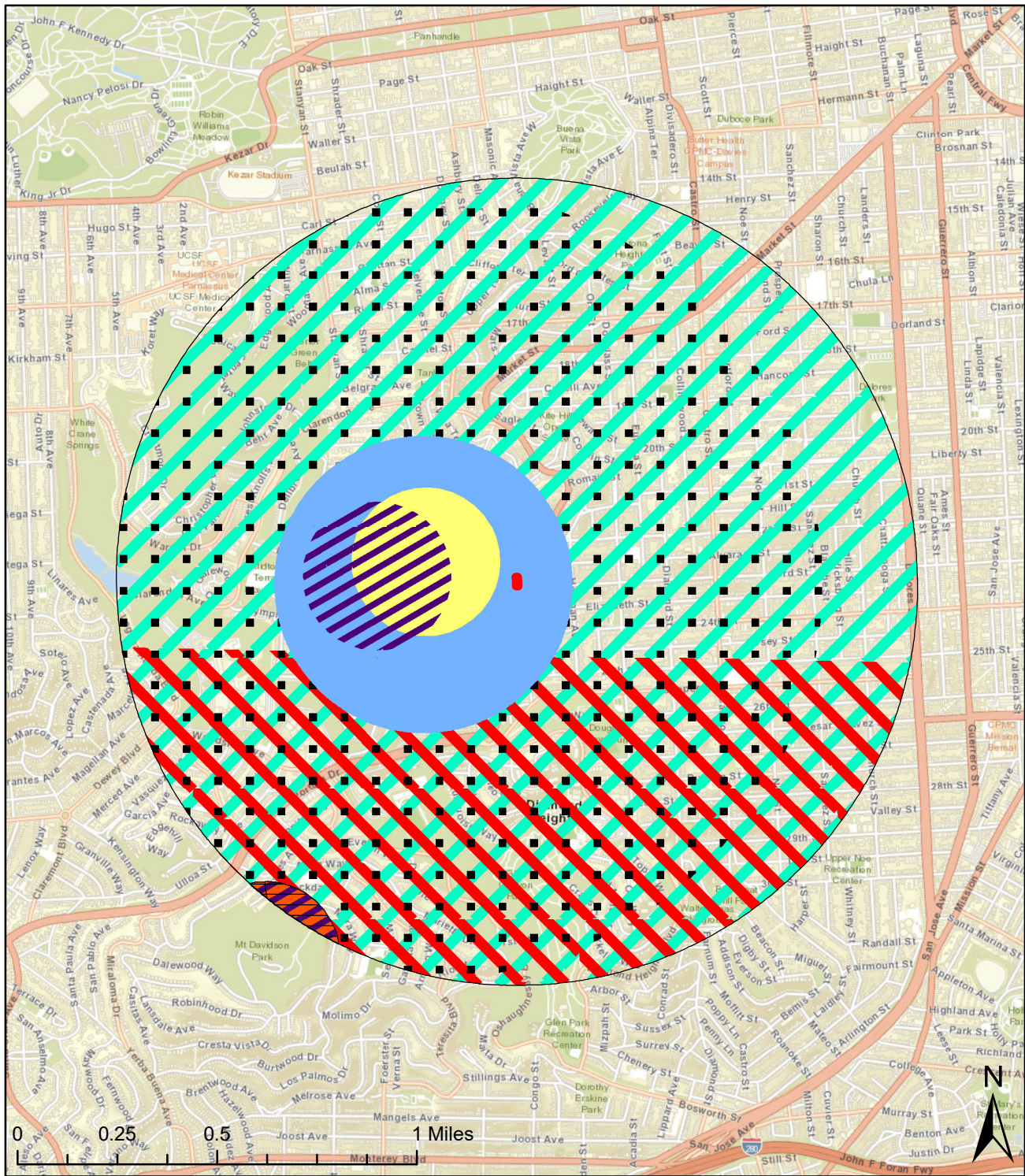
Wildlife

Wildlife observed during the site survey included common bird species. As is typical in August, no nesting was observed during the survey, however the thick Himalayan blackberry brambles and trees on and adjacent to the property could provide potential nesting habitat for common bird species.

No active bat roosts were observed, and trees on site lacked significant bark furrows and/or cavities to provide roosting habitat for bat colonies. No mammals were directly observed. One collapsed /abandoned eastern fox squirrel (*Sciurus niger*) nest was observed in the New Zealand Christmas tree that is proposed for removal. Rat scat, likely Norway rat (*Rattus norvegicus*) was found on a retaining wall adjacent to the site.

Table 2: Wildlife Species Observed During Site Survey

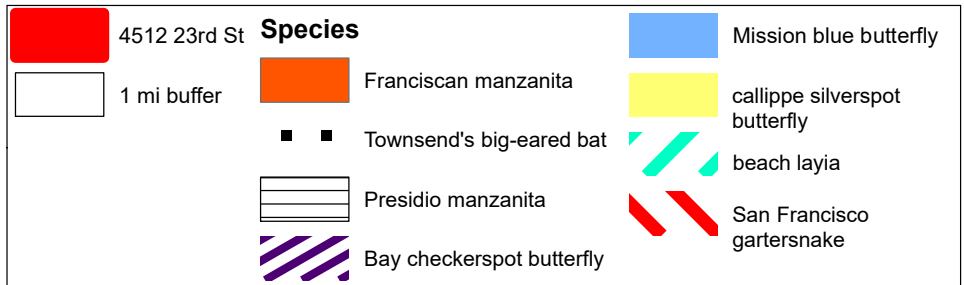
Common Name	Species Name
Birds	
Anna’s hummingbird	<i>Calypte anna</i>
American crow	<i>Corvus brachyrhynchos</i>
Chestnut-backed chickadee	<i>Poecile rufescens</i>
California towhee	<i>Melospiza crissalis</i>
House finch	<i>Haemorhous mexicanus</i>
House sparrow	<i>Passer domesticus</i>



4512 23rd St., San Francisco, CA
 source: CNDDDB, 8/2021

Figure 3: CNDDDB Occurrence Map for Rare, Endangered, and Threatened Species

Service Layer Credits: Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



Rare, Threatened, and Endangered Species

Potential impacts to rare, Threatened and Endangered species were assessed based on known occurrences within one mile of the project area (CNDDDB 2021). **Figure 3** shows rare, endangered, and threatened species (plants and animals) detected within a one-mile radius of the property.

Table 3 shows all species recorded within a one-mile radius of the project location and their potential for occurrence. All rare, endangered, and threatened species reviewed as part of this assessment are not expected to occur. Rare, Threatened or Endangered species not discussed below were excluded based on lack of suitable habitat within the project area.

Species Descriptions

Mission Blue Butterfly (*Icaricia icarioides missionensis*)

The Mission blue butterfly is a federally endangered butterfly species restricted to coastal grasslands in San Francisco, San Mateo, and Marin counties. This small blue butterfly is only known to host on three species of lupines: *Lupinus formosus*, *L. albifrons* var. *collinus*, and *L. littoralis* var. *variicolor*. Mission blue butterflies generally do not stray far from their host plants, and populations exist as a network of discrete colonies around patches of host lupines. The adult flight period is generally from March-June depending on location, while larvae feed for a short period of time before entering diapause and re-emerging the following spring (March-April). Adults nectar on a variety of plant species, particularly native and non-native asters (*Asteraceae*).

The Mission blue butterfly was historically present on Twin Peaks, and recent reintroduction efforts have succeeded in re-establishing a small population. Due to the proximity of the project site to this vulnerable population, particular effort was made during the site survey to locate any potential host plants or associated habitat. No host plants were found during the site survey, and the dense blackberry brambles are highly likely to preclude any natural recruitment of the Mission's blue host plants (*L. formosus*, *L. littoralis* var. *variicolor*, and *L. albifrons* var. *collinus*). which occur on rocky outcrops and in open grasslands. Mission blue butterflies actively avoid areas dominated by trees or tall shrubs, preferring to fly close to the ground in open habitats near their host and nectar plant sources. Potential urbanization barriers also exist between mission blue butterfly habitat at Twin Peaks and the project site, which due to this species' short dispersal distance and avoidance of unsuitable habitat may constitute a barrier to dispersal.

Due to the absence of Mission blue host plants and suitable habitat, as well as barriers to dispersal from known populations, it is extremely unlikely that this species would utilize the property.

American badger (*Taxidea taxus*)

The American badger is a California species of special concern that is limited to large open areas with friable soils. They are burrowing carnivores and require large rodent populations for food sources, such as California ground squirrel or pocket gopher colonies. Badgers frequently excavate burrows to hunt fossorial rodents, as well as for rest during daylight hours, but rarely remain in a burrow for more than 24 hours. Sites that are occupied by badgers are immediately recognizable by their distinct elliptical-shaped burrow openings that are 6-12 inches in width with a minimum depth of 20 inches. They typically have an obvious mound of newly dug dirt at the entrance.

In California, American badgers prefer grasslands, savannas, mountain meadows, and desert scrub, though typical habitat in the San Francisco Bay Area is grassland. They are particularly sensitive to habitat fragmentation, in part due to sensitivity to human land use and high road crossing mortality rates. Individual badgers have home range sizes of 8 to 27 square miles, and dispersing young move as much as 68 miles from their natal habitat (Messick and Hornocker 1981). American badgers studied along the central coast of California were recorded to move up to 1.2 miles per night (Quinn 2008).

The last regular sightings of badgers in San Francisco occurred in the 1940's (CNDDDB 2021), and known populations in the San Francisco Bay Area have severely contracted since then, leaving scattered populations in protected grasslands in the Diablo Range and the Santa Cruz Mountains (Lay 2008). One individual was reportedly observed at the boundary of the project site, but this represents an extremely rare event, and the property's total area of 3,027 square feet is far too small to provide suitable habitat for an individual badger. Furthermore, the site is surrounded by buildings and heavily trafficked streets and does not provide a corridor to suitable habitat. Due to the lack of suitable habitat, it is extremely unlikely that this species would utilize the property, with the exception of a rare event.

Rare Plants

Three rare, threatened, or endangered plant species have been recorded within one mile of the site: Beach layia (*Layia camosa*), Franciscan manzanita (*Arctostaphylos franciscana*), and Presidio manzanita (*Arctostaphylos montana* ssp. *ravenii*), all of which require specific habitat conditions that are not present at the project site. Beach layia is endemic to sand dune systems. Presidio manzanita is typically found on serpentine outcrops, and the known wild population is limited to one individual plant. The site is dominated by invasive plant species, which prevents colonization by native plants.

No rare plants were observed during the site survey. Due to extensive development and disturbance of the project site and surrounding area in the 1950's, most native plant species and habitats appear to have been extirpated. Vegetation on the property consists of ornamental plantings and invasive species and no rare plants were observed or are expected to occur.

Critical Habitat

The project site is not located within any designated Critical Habitat (CH) for federal or state listed species (USFWS 2021b). The project site is located approximately 0.5 miles southwest of Franciscan manzanita CH. However, this species, which is a conspicuous perennial shrub, was not observed during the site survey and is not expected to occur based on a lack of suitable habitat.

IV. STANDARD CONSERVATION RECOMMENDATIONS

The following recommendations are provided to protect biological resources in the area:

1. If work is to occur during the nesting bird season (approximately February 1 – August 31), a nesting bird survey shall be performed by a qualified biologist within 7 days of ground disturbance activities to avoid impacting any active nests.

2. A qualified biological monitor should be on site for the initial vegetation clearing to inspect the property for any large mammal burrows that could be utilized by coyotes, raccoons, badgers, and/or skunks. If any large burrows are identified, CDFW should be contacted to determine suitable actions, if necessary, such as relocation to suitable habitat.

VII. REFERENCES

California Natural Diversity Database (CNDDDB). 2021. California Department of Fish and Wildlife. August, 2021.

City of San Francisco, 2006. San Francisco Public Works Code § 810A. 2006. Accessed: August 13, 2021.

CNPS, 2021a. The Online CNPS Inventory of Rare and Endangered Plants (8th Edition), December 2010. <http://www.rareplants.cnps.org>. Accessed August 16, 2021.

CNPS. 2021b. A Manual of California Vegetation, Online Edition. <http://www.cnps.org/cnps/vegetation/>; searched on July 5, 2021. California Native Plant Society, Sacramento, CA.

Jennings and Hayes, 1994. Amphibian and Reptile Species of Special Concern in California. The California Department of Fish and Game, Inland Fisheries Division. <http://www.elkhornsloughctp.org/uploads/files/1401225720%20382%20%3D%20Jennings%20and%20Hayes.pdf>

Lay, Chris, "The status of the American Badger in the San Francisco Bay Area" (2008). Master's Theses. 3623. Accessed August 11, 2021.

Messick, J. P. & M. G. Hornocker. 1981. Ecology of the badger in southwestern Idaho. Wildlife Monographs. 76:3-53.

National Resources Conservation Service (NRCS), US Department of Agriculture. Web Soil Survey. Available: <http://websoilsurvey.nrcs.usda.gov/app/>. Accessed: August 13, 2021.

Quinn, J. 2008. The ecology of the American badger (*Taxidea taxus*) in California: assessing conservation status on multiple scales. Ph.D. Dissertation. The University of California Davis, Davis, CA. 200pp.

Tree Management Experts, 2021. 4512 23rd St. Arborist Report.

USFWS 2021b. USFWS Online Critical Habitat Mapper. Website accessed August 20, 2021. <https://fws.maps.arcgis.com/home/webmap/viewer.html?webmap=9d8de5e265ad4fe09893cf75b8dbfb77>

USGS, 2021. EarthExplorer. Available: <https://earthexplorer.usgs.gov/>. Accessed July 8, 2021

Williams, D.F. 1986. Mammalian species of concern in California. California Department of Fish and Game Report 86-1. Sacramento, CA: California Department of Fish and Game.

Representative Photographs



Photo 1: Project site looking south from north end. Pampas grass and French broom patches dominate the foreground (8/11/2021)



Photo 2: Project site looking north from southeast end. Sweet fennel and Himalayan blackberry have very high cover here (8/11/2012)



Photo 3: The south end of the lot is dominated by Himalayan blackberry, English ivy, and nasturtium. New Zealand Christmas trees above retaining wall (8/11/2021).



Photo 4: New Zealand Christmas tree to be removed in 23rd Street right-of-way. The groundcover here is dominated by English ivy and panic veldtgrass.

Table 3. Rare, Threatened, and Endangered Species within a 1-mile radius of the Project Site, and their Potential for Occurrence.

Common Name <i>Species Name</i>	Status	Habitat Requirements	Potential to Occur Onsite
Mammals			
<p>American badger <i>Taxidea taxus</i></p>	<p>CSC G5 S3</p>	<p>A large mustelid that inhabits open areas with friable soils within woodland, grassland, savannah and desert habitats. A fossorial mammal that preys predominately on ground squirrels (<i>Ammospermophilus</i> and <i>Spermophilus</i> spp.) and pocket gophers (<i>Thomomys</i> spp.). Mating occurs in late summer; young are born in March and April.</p>	<p>Not expected No suitable habitat present. Recent observation discussed further in report.</p>
<p>Townsend's big-eared bat <i>Corynorhinus townsendii</i></p>	<p>CSC USFS: Sensitive BLM: Sensitive WBWG:H G4 S2</p>	<p>A cave rooster and moth specialist. Inhabits caves and mines, but may also use bridges, buildings, rock crevices and tree hollows in coastal lowlands, cultivated valleys and nearby hills characterized by mixed vegetation throughout California below 3,300 meters. Exhibits high site fidelity and is highly sensitive to disturbance. Forages along edge habitats near water; may travel long distances during foraging bouts. It is a moth specialist with over 90% of its diet composed of lepidopterans.</p>	<p>Not expected No suitable roosting habitat present.</p>

Common Name Species Name	Status	Habitat Requirements	Potential to Occur Onsite
Amphibians and Reptiles			
<p>San Francisco garter snake <i>Thamnophis sirtalis tetrataenia</i></p>	<p>FE CE, CFP G5T2Q S2</p>	<p>The species often occurs near ponds, marshes, streams and other wetlands associated with cattails, bulrushes, and rushes. Species may hibernate in upland habitats near water in fossorial mammal burrows and other refuges, or remain active year-round weather permitting.</p>	<p>Not expected Suitable wetland habitat not present. Closest known historic, now extirpated location over 3 miles south of site (Accord, 2020).</p>
Invertebrates			
<p>Bay checkerspot butterfly <i>Euphydryas editha bayensis</i></p>	<p>FT G5T1 S1</p>	<p>The species is restricted to grasslands with serpentine soils in the San Francisco Bay area. <i>Plantago erecta</i> is the primary host plant, <i>Castilleja densiflorus</i> and <i>C. purpurescens</i> are secondary host plants. Nectar plants include <i>Layia platyglossa</i> and <i>Lasthenia californica</i>. The species is only known from the San Francisco peninsula and the south San Francisco Bay Area.</p>	<p>Not expected Suitable habitat not present. Twin Peaks population apparently extirpated in 1970's. Site is outside the designated critical habitat for this species.</p>
<p>Mission blue butterfly <i>Plebejus icarioides missionensis</i></p>	<p>FE G5T1 S1</p>	<p>Restricted to grasslands within the coastal fogbelt in southern Marin, San Francisco, and San Mateo counties that contain one of more of its larval host plants, <i>Lupinus albifrons</i>, <i>L. formosus</i>, and <i>L. variicolor</i>, as well as a variety of native wildflowers and thistles for nectaring.</p>	<p>Not expected No suitable habitat or host plants present on site.</p>

Common Name <i>Species Name</i>	Status	Habitat Requirements	Potential to Occur Onsite
Plants			
Beach layia <i>Layia camosa</i>	FE, CE CNPS 1B.1 G2 S2	Coastal dunes, coastal scrub. Elevation: 0-30 meters Blooming period: Mar.- July	Not expected Suitable habitat not present.
Franciscan manzanita <i>Arctostaphylos franciscana</i>	FE CNPS 1B.1 GHC S1	Serpentine outcrops in chaparral. Elevation: 30-215 meters Blooming period: Feb.- Apr.	Not expected Suitable habitat not present. Not observed during site survey.
Presidio manzanita <i>Arctostaphylos montana ssp. ravenii</i>	FE, CE CNPS 1B.1 G3T1 S1	Chaparral, coastal prairie, coastal scrub. Open, rocky serpentine slopes. Elevation: 20-215 meters Blooming period: Feb.- Mar.	Not expected Suitable habitat not present.

STATUS CODES:

FEDERAL: (U.S. Fish and Wildlife Service)

FE = Listed as Endangered

FT = Listed as Threatened (likely to become Endangered within the foreseeable future) by the Federal Government.

BCC = Bird of Conservation Concern

FC = Candidate for federal listing

FD = Delisted

FEDERAL: (National Oceanic and Atmospheric Administration)

MMPA = Marine Mammal Protection Act

S = Strategic stock assessment D = Depleted stock assessment

STATE: (California Department of Fish and Wildlife [CDFW])

CT = Listed as Threatened by the State of California

CE = Listed as Endangered by the State of California

CR = Listed as Rare by the State of California

CC = Candidate for state listing

CSC = California Species of Special Concern

CFP = CDFW designated "fully protected"

CWL = CDFW designated "watch list"

CD = State Delisted

§3503.5 = California Fish and Game Code Section §3503.5

This code protects nesting raptors and birds of prey

OTHER:

LS = Locally Significant Species

* = special status species inventoried by CDFW, including: Special Animals List (Nov 2018); Special Vascular Plants, Bryophytes, and Lichens List (Mar 2019)

WBWG: Western Bat Working Group (H: High conservation priority, M: medium conservation priority)

California Native Plant Society (CNPS) Rare Plant Ranks (RPR):

1A = Presumed extirpated in California; Rare or extinct in other parts of its range.

1B = Rare, threatened, or endangered throughout range; Most species in this rank are endemic to California.

2A = Extirpated in California, but common in other parts of its range.

2B = Rare, threatened, or endangered in California but common in other parts of its range.

3 = Need more information about species to assign it a ranking.

4 = Limited distribution and therefore warrants monitoring of status.

.1 = Seriously endangered in California

.2 = Fairly endangered in California

NatureServe Element Ranking

Global Ranking (G-rank)

G1 = Critically Imperiled—At very high risk of extinction due to extreme rarity (often 5 or fewer populations), very steep declines, or other factors.

G2 = Imperiled—At high risk of extinction due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors.

G3 = Vulnerable—At moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.

G4 = Apparently Secure—Uncommon but not rare; some cause for long-term concern due to declines or other factors.

G5 = Secure—Common; widespread and abundant.

State Ranking (S-rank)

S1 = Critically Imperiled—Critically imperiled in the state because of extreme rarity (often 5 or fewer populations) or because of factor(s) such as very steep declines making it especially vulnerable to extirpation from the state.

S2 = Imperiled—Imperiled in the state because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the state.

S3 = Vulnerable—Vulnerable in the state due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors making it vulnerable to extirpation from the state.

S4 = Apparently Secure—Uncommon but not rare in the state; some cause for long-term concern due to declines or other factors.

S5 = Secure—Common, widespread, and abundant in the state.

EXHIBIT D



CEQA Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
4512 23RD ST		2800005
Case No.		Permit No.
2019-019698ENV		202002265479
<input type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input checked="" type="checkbox"/> New Construction
<p>Project description for Planning Department approval.</p> <p>The proposed project includes construction of a five-story over basement, 45-foot, 9 inches-tall (53-feet, 9-inches tall including a roof deck), 11,661 square foot residential building on a 3,068 square foot vacant lot which currently contains concrete remnants of a former residential foundation. The building would provide 13 residential units, including three studios, four one-bedroom units, five two-bedroom units, and one three-bedroom unit. The project would include 13 Class I bicycle parking spaces at the basement level. No off-street vehicle parking is proposed. The project would also provide total of 1,782 square feet of common open space, including a 607 square foot rear yard, a 275 square foot deck on the 5th floor, and a 900 square foot roof deck. The project would remove an existing retaining wall on an adjacent parcel, install two new retaining walls, create a paved connection to the 23rd Street right of way requiring the removal of one tree, and add a new six foot wide paved connection to the adjacent pedestrian pathway. The project would also add an access gate from the rear yard on the first floor to provide a pedestrian connection to Argent Alley. The proposed project would require excavation of about 967 cubic yards of material to a depth of about 10 feet. A mat slab foundation is proposed for the new building.</p> <p>FULL PROJECT DESCRIPTION ATTACHED</p>		

STEP 1: EXEMPTION TYPE

The project has been determined to be exempt under the California Environmental Quality Act (CEQA).	
<input type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input checked="" type="checkbox"/>	<p>Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below:</p> <p>(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.</p> <p>(b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.</p> <p>(c) The project site has no value as habitat for endangered rare or threatened species.</p> <p>(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.</p> <p>(e) The site can be adequately served by all required utilities and public services.</p>
<input type="checkbox"/>	Other _____
<input type="checkbox"/>	Common Sense Exemption (CEQA Guidelines section 15061(b)(3)). It can be seen with certainty that there is no possibility of a significant effect on the environment.

STEP 2: ENVIRONMENTAL SCREENING ASSESSMENT

TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	<p>Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g. use of diesel construction equipment, backup diesel generators, heavy industry, diesel trucks, etc.)? <i>(refer to the Environmental</i></p>
<input type="checkbox"/>	<p>Hazardous Materials: <input type="checkbox"/> Maher or <input type="checkbox"/> Cortese</p> <p>Is the project site located within the Maher area or on a site containing potential subsurface soil or groundwater contamination and would it involve ground disturbance of at least 50 cubic yards or a change of use from an industrial use to a residential or institutional use? Is the project site located on a Cortese site or would the project involve work on a site with an existing or former gas station, parking lot, auto repair, dry cleaners, or heavy manufacturing use, or a site with current or former underground storage tanks? <i>if Maher box is checked, note below whether the applicant has enrolled in or received a waiver from the San Francisco Department of Public Health (DPH) Maher program, or if Environmental Planning staff has determined that hazardous material effects would be less than significant.</i></p> <p>Note that a categorical exemption shall not be issued for a project located on the Cortese List</p>
<input type="checkbox"/>	<p>Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities? Would the project involve the intensification of or a substantial increase in vehicle trips at the project site or elsewhere in the region due to autonomous vehicle or for-hire vehicle fleet maintenance, operations or</p>
<input checked="" type="checkbox"/>	<p>Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeology review is required.</p>
<input type="checkbox"/>	<p>Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? <i>(refer to the Environmental Information tab on https://sfplanningqis.org/PIM/)</i> If box is checked, Environmental Planning must issue the exemption.</p>
<input checked="" type="checkbox"/>	<p>Average Slope of Parcel = or > 25%, or site is in Edgehill Slope Protection Area or Northwest Mt. Sutro Slope Protection Area: Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, or (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i> If box is checked, a geotechnical report is likely required and Environmental Planning must issue the exemption.</p>
<input type="checkbox"/>	<p>Seismic Hazard: <input type="checkbox"/> Landslide or <input type="checkbox"/> Liquefaction Hazard Zone:</p> <p>Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area, or (4) grading performed at a site in the landslide hazard zone? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i> If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</p>
<p>Comments and Planner Signature (optional): Kelly Yong</p> <p>PLEASE SEE ATTACHED</p>	

**STEP 3: PROPERTY STATUS - HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER**

PROPERTY IS ONE OF THE FOLLOWING: (refer to Property Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

**STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input checked="" type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

**STEP 5: ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Reclassification of property status. (Attach HRER Part I) <input type="checkbox"/> Reclassify to Category A a. Per HRER b. Other (specify): <input type="checkbox"/> Reclassify to Category C (No further historic review)
<input type="checkbox"/>	2. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	3. Interior alterations to publicly accessible spaces that do not remove, alter, or obscure character defining features.
<input type="checkbox"/>	4. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	5. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.

<input type="checkbox"/>	6. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	7. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input checked="" type="checkbox"/>	8. Work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties (Analysis required)</i> : This is a vacant lot besides a few structural walls and does not appear to be within a known historic district or within a cohesive collection of buildings that would qualify as an historic district, no built historic resources appear to be present, and no further historic review is needed.
<input type="checkbox"/>	9. Work compatible with a historic district (Analysis required):
<input type="checkbox"/>	10. Work that would not materially impair a historic resource (Attach HRER Part II).
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
<input checked="" type="checkbox"/>	Project can proceed with exemption review. The project has been reviewed by the Preservation Planner and can proceed with exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature: Kelly Yong	

**STEP 6: EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<input checked="" type="checkbox"/>	No further environmental review is required. The project is exempt under CEQA. There are no unusual circumstances that would result in a reasonable possibility of a significant effect.	
	Project Approval Action: Planning Commission Hearing	Signature: Kelly Yong
		09/01/2021
	<p>Supporting documents are available for review on the San Francisco Property Information Map, which can be accessed at https://sfplanninggis.org/PIM/. Individual files can be viewed by clicking on the Planning Applications link, clicking the "More Details" link under the project's environmental record number (ENV) and then clicking on the "Related Documents" link. Once signed or stamped and dated, this document constitutes an exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination to the Board of Supervisors can only be filed within 30 days of the project receiving the approval action.</p>	

Full Project Description

The proposed project includes construction of a five-story over basement, 45-foot, 9 inches-tall (53-feet, 9-inches tall including a roof deck), 11,661 square foot residential building on a 3,068 square foot vacant lot which currently contains concrete remnants of a former residential foundation. The building would provide 13 residential units, including three studios, four one-bedroom units, five two-bedroom units, and one three-bedroom unit. The project would include 13 Class I bicycle parking spaces at the basement level. No off-street vehicle parking is proposed. The project would also provide total of 1,782 square feet of common open space, including a 607 square foot rear yard, a 275 square foot deck on the 5th floor, and a 900 square foot roof deck. The project would remove an existing retaining wall on an adjacent parcel, install two new retaining walls, create a paved connection to the 23rd Street right of way requiring the removal of one tree, and add a new six foot wide paved connection to the adjacent pedestrian pathway. The project would also add an access gate from the rear yard on the first floor to provide a pedestrian connection to Argent Alley. The proposed project would require excavation of about 967 cubic yards of material to a depth of about 10 feet. A mat slab foundation is proposed for the new building. The project is utilizing the Home-SF program for zoning modifications to the rear yard, dwelling unit exposure and open space and development bonuses for a one floor increase in height to the zoning height and bulk district zoning requirements.

Step 2: Environmental Screening Comments

GEOLOGY AND SOILS: A preliminary geotechnical report was prepared by Rockridge Geotechnical on January 29, 2020 finding that the recommended foundation would be adequate and consistent with the requirements of the building code. The project's structural drawings would be reviewed by the building department, where it would be determined if further geotechnical review and technical reports are required. **ARCHEOLOGICAL RESOURCES:** The department's staff archeologist conducted preliminary archeological review on November 17, 2020 and determined that no CEQA-significant archeological resources are expected within project-affected soils. **HAZARDOUS MATERIALS:** The project is not subject to the Maher Ordinance (Article 22A of the Health Code), which is administered by the Department of Public Health. However, the project sponsor enrolled in the Maher Program on February 7, 2020. The project site is not included on the list compiled pursuant to Section 65962.5 of the California Government Code for hazardous materials. **TRAFFIC:** The department's transportation staff reviewed the proposed project on April 20, 2021 and determined that the project would have no significant transportation effects and that further transportation review is not required. **NOISE:** The project would use typical construction equipment that would be regulated by Article 29 of the Police Code (section 2907, Construction Equipment). No impact pile-driving or nighttime construction is required. Construction vibration would not be anticipated to affect adjacent buildings. The proposed project would not generate sufficient vehicle trips to noticeably increase ambient noise levels, and the project's fixed noise sources, such as heating, ventilation, and air conditioning systems, would be subject to noise limits in Article 29 of the Police Code (section 2909, Noise Limits). **AIR QUALITY:** The proposed project's construction would be subject to the Dust Control Ordinance (Article 22B of the Health Code). The proposed land uses are below the Bay Area Air Quality Management District's construction and operational screening levels for requiring further quantitative criteria air pollutant analysis. The project site is not located within an air pollutant exposure zone. **WATER QUALITY:** The project's construction activities are required to comply with the Construction Site Runoff Ordinance (Public Works Code, article 2.4, section 146). Stormwater and wastewater discharged from the project site during operations would flow to the City's combined sewer system and be treated to the standards in the City's National Pollution Discharge Elimination System permit. **NATURAL HABITAT:** A focused biological resources assessment was conducted on August 11, 2021 by Coast Ridge Ecology, LLC which determined that rare, endangered and threatened species are not expected to occur on the site. The report indicates there are no distinct native soil types present within the project area that could potentially support rare, threatened or endangered plant species, the entire project site is dominated by highly invasive plant species that prevent colonization by native species, and wildlife observed during the survey included common birds and no active bat roosts. It is extremely unlikely that the Mission Blue butterfly or American Badger (with the exception of a rare event) would use the property as there are no host plants or suitable habitats. **SHADOW:** A consultant-prepared shadow fan by Fastcast dated July 2020 was prepared for the proposed project. The Planning Department reviewed the report and found no net new shadow will be cast upon Noe Valley Courts or any other public open space; the project is in compliance with Planning Code Section 295. No further shadow analysis is required. **PUBLIC NOTICE:** A "Notification of Project Receiving Environmental Review" was mailed on October 30, 2020 to adjacent occupants and owners of buildings within 300 feet of the project site and to the Twin Peaks neighborhood group.

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Result in expansion of the building envelope, as defined in the Planning Code; |
| <input type="checkbox"/> | Result in the change of use that would require public notice under Planning Code Sections 311 or 312; |
| <input type="checkbox"/> | Result in demolition as defined under Planning Code Section 317 or 19005(f)? |
| <input type="checkbox"/> | Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption? |

If at least one of the above boxes is checked, further environmental review is required

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

- | | |
|--------------------------|---|
| <input type="checkbox"/> | The proposed modification would not result in any of the above changes. |
|--------------------------|---|

If this box is checked, the proposed modifications are exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can

Planner Name:

Date:

BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)



Urban Forestry

urbanforestry@sfdpw.org | T. 628.652.8733 | 49 South Van Ness Ave. Suite 1000, San Francisco, CA 94103

Appeal No. 21-060 Respondent's Brief

Habdank-Kolaczkowski vs. SFPW-BUF

Public Works Order No. 204945 / Tree Removal Permit No. 788156

August 5, 2021

The applicant submitted a tree removal permit application (788156) in February 2021 at the request of the Bureau of Urban Forestry (BUF) because the potential tree removal was flagged by BUF Inspector Steve Keller, during a Street Design Advisory Team (SDAT) meeting. The applicant plans to construct a new residential building at 4512 23rd St which would require an extension of the 23rd Street unaccepted right-of-way (Appendix B). The planned extension of the public right-of-way (PROW) would extend twenty (20) feet South of the property line, into 23rd St, up to, or beyond, the trunk of the proposed tree removal.

The proposed removal is a New Zealand Christmas tree, *Metrosideros excelsa*. BUF approved the tree for removal because the proposed removal was found to be in poor condition. The tree is shaded out by the neighboring trees, and the loss of canopy caused by its removal would be minimal (Appendix C). If the project is approved, the proposed design would excavate up to, or beyond, the tree's trunk.

The public protested the tree removal, and a Public Works Tree Hearing was held on May 24th, 2021. At the hearing BUF staff stated the facts laid out in the previous paragraphs. The Director of Public Works issued Order No. 204945 (Appendix A) upholding BUF's approval of tree removal and required three (3) trees to be planted at the end of construction. The decision also conditioned the issuance of the tree removal permit on final approval of the applicant's Department of Building Inspection (DBI) permits.

Respectfully,

Stephen Keller

Acting Urban Forester

APPENDIX A-- PUBLIC WORKS ORDER 204945

Public Works Order No: 204945

The Director of Public Works held a Public Hearing on Monday, May 24, 2021, commencing at 5:30 p.m. via teleconference to consider several items related to tree removals. In accordance with Gov. Gavin Newsom's statewide order for all residents to shelter in place and the numerous local and state proclamations, the hearing was held through videoconferencing to allow remote public comment.

The hearing was to consider Order No. 204757, the removal of one (1) street tree with replacement adjacent to 4512 23rd St. Staff approved the removal, and the public has protested.

Findings:

The applicant stated that the tree is unhealthy and that it needs to be removed to provide access and minimize disturbance to the area for a proposed driveway to a new residential building.

The applicant's arborist testified that the tree is indeed unhealthy, has poor structure, covered in ivy, and is in poor condition.

BUF testified that the tree is in poor condition, suppressed by neighboring trees and is considered a hazard. BUF is considering the trees health and not the building permits associated with the project.

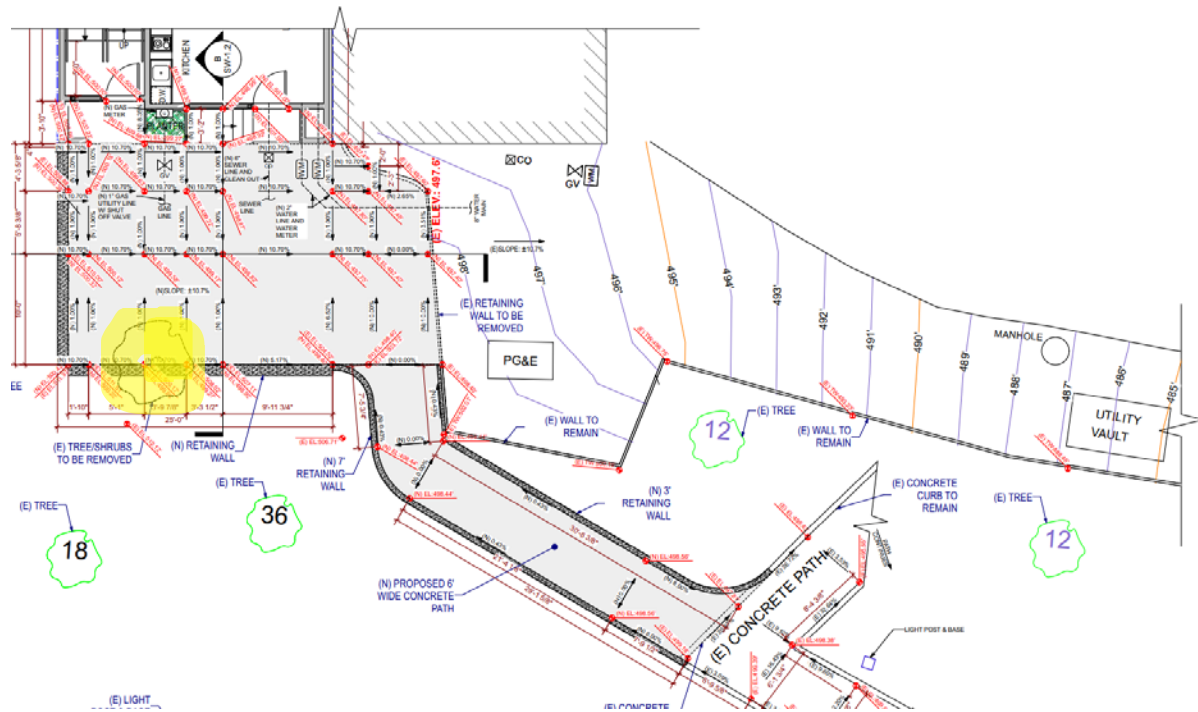
Most public comments and neighbors opposed removal of the tree to oppose project development. Public comments included that that tree is healthy, how the community uses the area as open space and removal will negatively impact wildlife habitat.

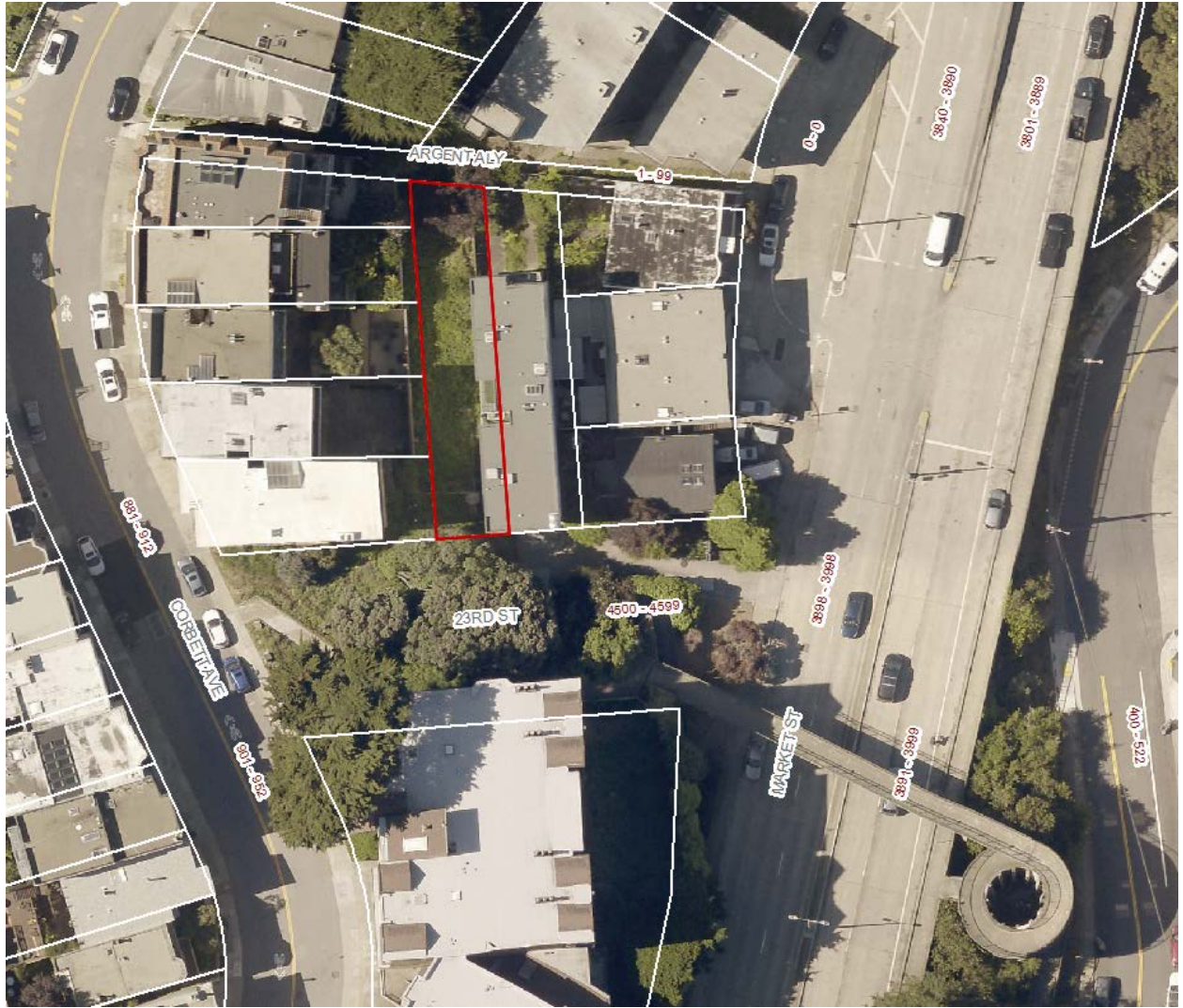
Other members of the public supported the removal of the tree because it was deemed hazardous by BUF and the applicant's arborist.

Recommendation

After consideration of correspondence and testimony provided, based on the fact that the tree is unhealthy, has poor structure, and is hazardous, the decision is to approve the removal of the tree with replacement of at least three (3) BUF approved trees if the project is permitted.

APPENDIX B – Right-of-Way





APPENDIX C – PHOTOS OF TREE

-Photo showing little loss of canopy cover at the site



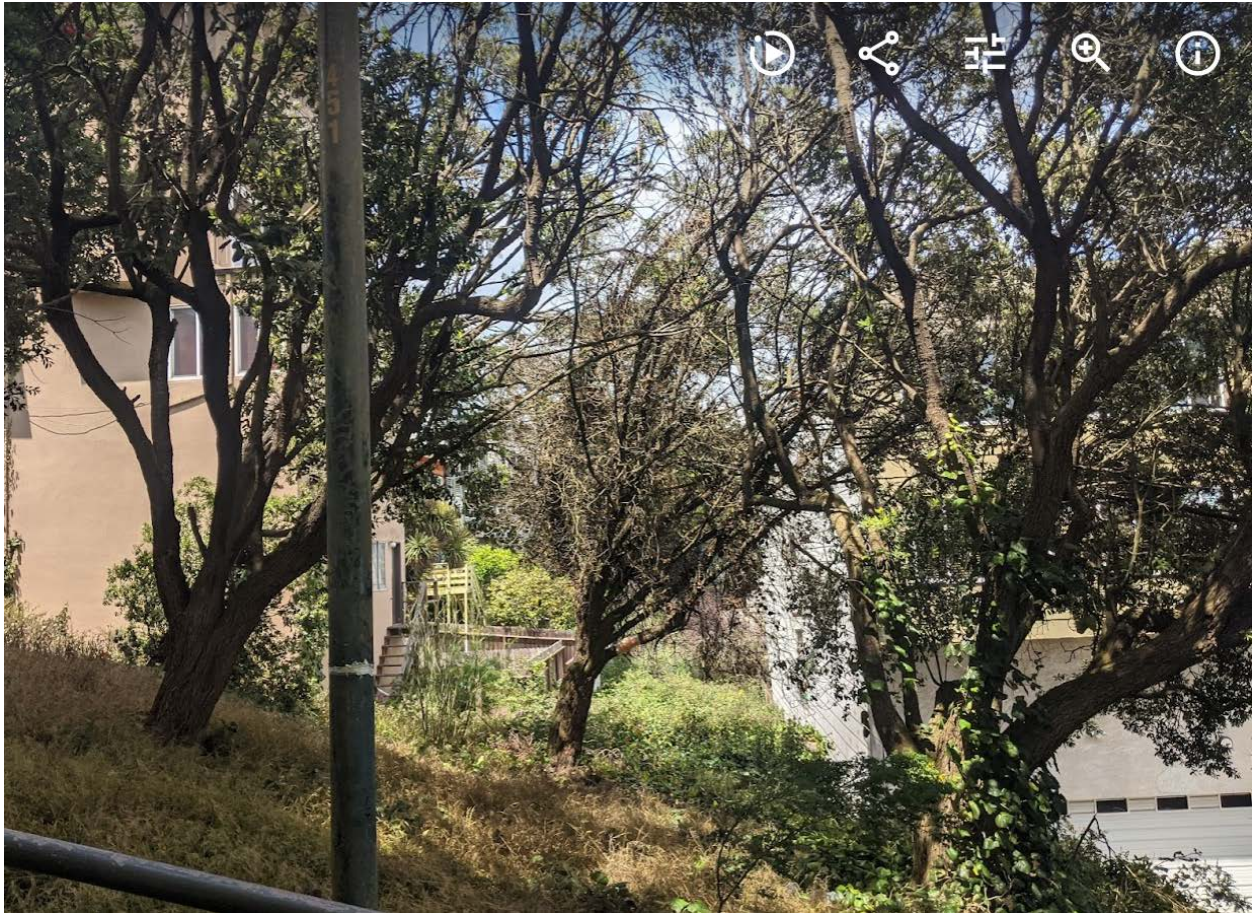
APPENDIX C – PHOTOS OF TREE

-Photo showing the proposed removal out shaded by neighboring trees



APPENDIX C – PHOTOS OF TREE

-Recent photo of tree after appellants removed ivy from the tree



PUBLIC COMMENT

Longaway, Alec (BOA)

From: Corey Smith <corey@sfhac.org>
Sent: Monday, October 4, 2021 11:14 AM
To: Honda, Darryl (BOA); Swig, Rick (BOA); Lazarus, Ann (BOA); Funai, Tina (BOA); Jose.Lopez@sfgov.org
Cc: BoardofAppeals (PAB); Todd David; Laura Clark; Laura Fingal-Surma; Phillip Kobernick; Anders Fung; George Mozingo; L.A. Chung
Subject: Letters Supporting 4512 23rd Street
Attachments: 4512 23rd Letters of Support.xlsx

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Members of the SF Board of Appeals,

On behalf of the Housing Action Coalition, SF YIMBY, and Progress Noe Valley, please see the attached Letters of Support document for the 4512 23rd Street project.

All of these were sent in an email to the SF Planning Commission as well.

Please let me know if you have any questions.

Respectfully,
Corey Smith
Deputy Director, HAC

--

Corey Smith 陈锐 | Pronouns: He/Him

Deputy Director | Housing Action Coalition
95 Brady Street, San Francisco, CA 94103
Office: (415) 541-9001 | Cell: (925) 360-5290



Email: corey@sfhac.org | Web: sfhac.org

To opt out of all HAC emails, respond to this email with "unsubscribe all".

Link to excel spreadsheet attached to email.

<https://app.box.com/s/kmp37uhpa2km2a6l7sn0phrv9ddhhjlo>